THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 22 NUMBER 24
December 17, 1990 Indexed 22 N.J.R. 3667-3896
(Includes adopted rules filed through November 26, 1990)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: OCTOBER 15, 1990
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT NOVEMBER 19, 1990

RULEMAKING IN THIS ISSUE

RULE PROPOSALS

Interested persons comment deadline ........................................ 3668

COMMUNITY AFFAIRS
Full plan of property conversion documents ................................ 3669(a)
Housing and Mortgage Finance Agency: consultation with housing sponsors ........................................ 3669(b)
Housing and Mortgage Finance Agency: investment of surplus funds .................................................. 3670(a)
Council on Affordable Housing: substantive rules ................................................................. 3671(a)

EDUCATION
Governor's Teaching Scholars Program ...................................................... 3672(a)

ENVIRONMENTAL PROTECTION
Sanitary Landfill Facility Contingency Fund: suspension of claims ............................................................ 3675(a)
Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir Complex: schedule of rates ............................................ 3676(a)
Manasquan Reservoir Water Supply System: schedule of rates .......................................................... 3678(a)
NJPDES fee schedule ................................................................. 3679(a)
Bait net and Gill net regulation .......................................................... 3685(a)

HEALTH
Hospital reimbursement ................................................................. 3724(a)

HUMAN SERVICES
Physician's Services Manual .......................................................... 3711(a)
Medical Supplier Manual ............................................................... 3712(a)
Independent Laboratory Services Manual ........................................ 3713(a)

CORRECTIONS
Inspection and identification of incoming correspondence: withdrawal of proposal .................................................... 3714(a)
Adult county facilities ................................................................. 3714(c)
Juvenile population capacity .......................................................... 3714(b)

INSURANCE
Administration: miscellaneous rules .................................................. 3686(a)
Real Estate Guaranty Fund: special assessment .............................................. 3688(a)
Fraud prevention: claim form statement of liability; reporting of automobile theft or salvage ........................................ 3688(b)

LAW AND PUBLIC SAFETY
Division on Civil Rights: practice and procedure .................................. 3689(a)
Victims of domestic violence: eligibility of claims .................................................. 3690(a)
Victims of drunk driving: payment of compensation .......................................................... 3691(a)

PUBLIC UTILITIES
Energy emergency ................................................................. 3692(a)
Demand Side Management Resource Plan .................................................. 3699(a)

TRANSPORTATION
Speed limit zones along U.S. 46 in Dover and U.S. 202 in Morristown and Morris Township ............................................. 3704(a)
Speed limit zones along Route 71-35 ramps in Brielle, Route 138 in Wall Township, and U.S. 9 in Cape May .......................................................... 3705(a)
No stopping or standing zones along U.S. 40 and Route 50 in Atlantic County ............................................. 3706(a)

TREASURY-GENERAL
Public Employees' Retirement System: age determination for enrollment or retirement purposes ........................................ 3707(a)
Police and Firemen's Retirement System: accidental disability and death benefits .............................................. 3707(b)
Capital City Redevelopment Corporation: extension of comment period for project review procedure ........................................ 3708(a)

TREASURY-TAXATION
Petroleum Gross Receipts Tax .......................................................... 3715(a)

CASINO CONTROL COMMISSION
Automated coupon redemption .......................................................... 3708(b)
Patron travel reimbursement .............................................................. 3710(a)
Patron credit verification ................................................................. 3711(a)

RULE ADOPTIONS

COMMUNITY AFFAIRS
Neighborhood Preservation Balanced Housing Program ............................................. 3734(a)

EDUCATION
Education of homeless children and youth .................................................. 3734(b)
Attendance and pupil accounting .......................................................... 3736(a)

(Continued on Next Page)
STATE AGENCY RULEMAKING

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until January 16, 1991. 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.

RULEMAKING IN THIS ISSUE—Continued

ENVIRONMENTAL PROTECTION
Use of water from Manasquan Reservoir water supply system .................................. 3741(a)
1991-92 Fish Code ...................................................... 3746(a)
HEALTH
Catastrophic Illness in Children Relief Fund program ....... 3754(a)
HUMAN SERVICES
Medical day care reimbursement .................................. 3755(a)
Pharmaceutical Assistance to Aged and Disabled: eligibility and renewal ............... 3756(a)
LAW AND PUBLIC SAFETY
Mortuary science: continuing education ....................... 3756(b)
Division of Consumer Affairs administrative rules .......... 3758(a)
TRANSPORTATION
Speed limit zones along U.S. 9W in Bergen County .......... 3759(a)
Restricted parking and stopping along U.S. 22 Alternate in Warren County, Route 71 in Monmouth County, Route 77 in Cumberland County, U.S. 130 in Burlington County, and Route 184 in Middlesex County .................... 3759(b)
Turning prohibitions along U.S. 130 in Brooklawn Borough and Route 27 in Metuchen ........................................ 3760(a)
Autobus operations: zone of rate freedom exemptions ...... 3760(b)
Senior Citizen and Disabled Resident Transportation Assistance Act Program ........ 3761(a)
TREASURY-TAXATION
Railroad Property Tax .................................................. 3762(a)
CASINO CONTROL COMMISSION
Organization of Commission ......................................... 3763(a)
Transportation expense reimbursements ....................... 3764(a)
EMERGENCY ADOPTIONS
HUMAN SERVICES
Home Energy Assistance eligibility criteria: administrative correction .......................... 3766(a)
INSURANCE
Nonrenewal of automobile policies .............................. 3766(b)
Automobile personal injury protection and health insurance plans: order of benefits determination .......................................................... 3777(a)
Automobile insurance rate filings .................................. 3790(a)

Automobile insurance: standard/non-standard rating plans ........................................ 3804(a)
Personal injury protection coverage: medical fee schedules ........................................ 3809(a)
Automobile insurance: eligible persons qualifications and eligibility points schedule .......... 3847(a)
Automobile insurance underwriting rules ........................................ 3856(a)
Automobile physical damage coverage: inspection procedures prior to issuance .......... 3861(a)
Automobile insurance: towing and storage fee schedule ........................................ 3874(a)

PUBLIC NOTICES
EDUCATION
Vocational Education Safety/Health Compendium: grant program ................................ 3878(a)
ENVIRONMENTAL PROTECTION
List of Hazardous Substances: petition to delete certain fluoromethanes and fluoroethanes ........................................ 3881(a)
Liquid hazardous waste: agency response to petition to amend N.J.A.C. 7:26-9 regarding underground storage ........................................................................ 3881(b)
Northeast water quality management: Secaucus .................................................. 3882(a)
Monmouth County water quality management: Holmdel ........................................ 3882(b)
Tri-County water quality management: Medford Lakes ........................................ 3882(c)
NJPDES Annual Fee Report and Fee Schedule: public hearing ..................................... 3882(d)
HEALTH
Major hospital projects: moratorium on certificate of need applications ......................... 3883(a)
TREASURY-TAXATION
Petroleum Products Gross Receipts Tax: filing extension ........................................ 3883(b)
INDEX OF RULE PROPOSALS AND ADOPTIONS ........................................... 3884

(Continued on page 3895)

NEW JERSEY REGISTER


Material published in the New Jersey Register is the property of the State of New Jersey. However, it may be copied, reproduced or republished by any person for any purpose whatsoever without permission, providing that no such reproduction or republication shall bear the title "New Jersey Register" or "Official Rules Publication" without the written permission of the Director, Office of Administrative Law.

The New Jersey Register (ISSN 0300-6069) is published the first and third Mondays (Tuesday, if Monday is a holiday) of each month by OAL Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6606. Subscriptions, payable in advance, are one year, $90 ($180 by First Class Mail); back issues when available, $10 each. Make checks payable to OAL Publications.

POSTMASTER: Send address changes to: New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid in South Plainfield, New Jersey.

The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by OAL Publications of the Office of Administrative Law. Subscription rates for this 45-volume, regularly updated set of State administrative rules are available on request. The Code is sold either in the full set or in one to six volumes depending on the Department coverage desired.

(CITE 22 N.J.R. 3668) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
PROPOSALS

COMMUNITY AFFAIRS

RULE PROPOSALS

DIVISION OF HOUSING AND DEVELOPMENT

Condominium, Fee Simple and Cooperative Conversion and Mobile Home Park Retirement

Full Plan of Conversion

Proposed Amendment: N.J.A.C. 5:24-1.5

Authorized By: Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.


Proposal Number: PRN 1990-621.

Submit comments by January 16, 1991 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment sets forth a required format for full plans of conversion that are filed with the Department and provided to tenants. This format includes: no type of a size less than six point, a front cover identifying the developer and the development, a reasonably detailed table of contents, paper no greater than standard legal size and no less than standard letter size that is of good quality and unglazed, and binding with heavy staples.

The section is also amended to include references to fee simple conversions, thereby making the rules consistent with the statute (P.L. 1975, c.311).

Social Impact

The Department has received complaints from judges hearing conversion eviction cases who have found some full plan of conversion documents filed with them to be difficult to read or to keep together. Legibility is also quite important, both for Department personnel who are required to review the documents, and for tenants who must be able to read and understand the information that they contain. The proposed amendment addresses these concerns.

Economic Impact

Most full plans of conversion filed with the Department already meet these requirements. Those sponsors who do not should not be unreasonably burdened, as the requirements relate to document format.

Regulatory Flexibility Analysis

The full plan of conversion requirement is intended to protect tenants by informing them of their rights and options. The plan must also be reviewed by judges and by the Department. Some of those regulated may also be considered small businesses, as defined by the Social Security Code. The plan is a reasonably detailed table of contents, and it is necessary that the plan be presented in a legible, sturdy form, regardless of the form of organization of the building owner or converter. The proposed amendments provide design standards which allow flexibility in areas which may be cost-sensitive, such as the kind of paper used. The Department has provided no differentiation based upon business size in the rule, since the requirements may be fulfilled within a wide range of cost, and can be done in-house, without specialized services.

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

5:24-1.5 Full plan of conversion

(a) The "full plan of conversion [contains] shall contain the documents and information required in (d) below and in either (b) or (c) below, as may be appropriate, and shall be in compliance with the requirements of (e) and (f) below.

(b) The full plan of condominium or fee simple conversion shall contain the following documents and information:

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3669)

COMMUNITY AFFAIRS

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Actions Regarding Housing Sponsors

Proposed Amendment: N.J.A.C. 5:80-2.2

Authorized By: The New Jersey Housing and Mortgage Finance Agency, Kevin Quince, Executive Director.


Proposal Number: PRN 1990-629.

Submit comments by January 16, 1991 to:
Anthony W. Tozzi
New Jersey Housing and Mortgage Finance Agency
3625 Quakerbridge Road
CN 18550
Trenton, New Jersey 08650-2085

The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency (the "Agency"), pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate, safe and affordable housing in the State. To fulfill its statutory objective, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate or improve housing for low- and moderate-income families. In connection with this objective, the Agency has adopted a comprehensive set of rules governing the operation of housing projects financed by the Agency. One of these rules, N.J.A.C. 5:80-2.2, under Actions Regarding Housing Sponsors, establishes a procedure for consulting with housing sponsors regarding the formation of Agency rules governing the operation of housing projects. The Agency is now proposing to amend N.J.A.C. 5:80-2.2, as explained below.

When the Agency begins the process of adopting a rule, a proposal is submitted to the Agency's Board of Directors for approval. Upon Board approval, the rule is transferred to the Office of Administrative Law for publication in the New Jersey Register for a 30-day public comment period, pursuant to the Administrative Procedures Act (APA). Upon expiration of the comment period, the rule is presented to the Agency Board for final adoption.

Under current version of N.J.A.C. 5:80-2.2, the Agency is required to provide housing sponsors with a 30-day comment period, on rules governing the operation of housing projects. It is unclear, however, whether or not the rule, as presently written, requires the 30-day notice to run prior to the initial Board meeting. The Agency is proposing to amend the rule to make it clear that the 30-day notice is not required prior to the initial Board meeting. Housing sponsors will be given notice of proposed rules after the initial Board meeting such that the 30-day public comment
period required by the APA and the housing sponsor's comment period will run concurrently.

**Social Impact**

The proposed amendment only affects housing sponsors. However, the Agency believes that the proposed amendment does not materially or adversely affect sponsors. Housing sponsors are still given individual notice and afforded adequate opportunity to comment prior to any rule becoming effective.

**Economic Impact**

The only economic impact anticipated would be the time saved by the Agency in adopting rules by having the housing sponsors' comment period running concurrently with the public comment period.

**Regulatory Flexibility Analysis**

The proposed amendment applies to housing sponsors, most of which are small businesses. As such, the Agency has determined that the amendment does not impose any recording or reporting requirements upon housing sponsors. As to compliance requirements, there are none, as it is not mandatory for sponsors to comment on proposed rules. The Agency foresees no increase in capital costs or the need for professional services resulting from the adoption of the proposed amendment. Due to the absence of any recording, recordkeeping or compliance requirements, no differentiation based upon business size is proposed.

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

5:80-2.2 Consultation with housing sponsors

(a) Prior to the adoption, amendment, or repeal of any [regulation] rule governing the operation of Agency-financed housing projects, the Agency shall:

1. Submit a proposed form of the rule to be adopted, amended or repealed to the Office of Administrative Law for publication in the New Jersey Register for a 30 day public comment period, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. However, the amendment does not impose any reporting or record keeping requirements upon housing sponsors. As to compliance requirements, there are none, as it is not mandatory for sponsors to comment on proposed rules. The Agency foresees no increase in capital costs or the need for professional services resulting from the adoption of the proposed amendments. Due to the absence of any reporting, recordkeeping or compliance requirements, no differentiation based upon business size is proposed.

The notice shall be given prior to or simultaneously with the date the proposed rule will be published in the New Jersey Register for public comment.

2. [b] (b) The [30 days] notice to housing sponsors shall consist of a [clear and concise explanation of the purpose and effect of the intended action; copy of the proposed rule to be adopted, amended or repealed and shall indicate the date the 30-day public comment period expires as published in the New Jersey Register.]

3. [c] (c) Any housing sponsor wishing to submit data, views, or arguments concerning the [intended action] proposed rule may do so in writing [not more than 30 days from the date of the notice of intended action] prior to the expiration of the public comment period as established in the New Jersey Register.

4. [d] (d) The Agency will consider all timely submitted data, views or arguments from housing sponsors before [acting; taking final action on the rule to be adopted, amended or repealed.]

5. [e] (e) The Agency shall respond in writing to each housing sponsor, submitting data, views, or arguments concerning the [intended action] proposed rule. [To satisfy this requirement, the Agency may send the housing sponsors the presentation that will be submitted to the Agency Board;]

6. [f] (f) No [regulation] rule governing the operation of a housing project shall be effective unless adopted in substantial compliance with [this policy; N.J.A.C. 5:80-2.]

7. [g] (g) Upon substantial compliance with [this policy] N.J.A.C. 5:80-2.3, the Agency may approve the proposed [regulation shall be submitted to the Agency Board for approval] rule for final adoption. Once the [Board] Agency approves the final version of the [regulation or rule], it will be submitted to the Office of Administrative Law for publication and adoption in the New Jersey Register.

(b) The Agency also shall give direct notice concerning the adoption, amendment or repeal of any rules [and regulations] to any interested party who annually files a request for such information with the Executive Director.

[(c) (i) Whenever feasible, the Agency will circulate to housing sponsors notices of proposed changes in Federal Regulations that would affect the operation of [HMFA] Agency financed [development housing projects] on which the Agency intends to rely. The sponsor may submit comments or opinions on any proposed changes to the Executive Director of the [NJHMFA] Agency for possible inclusion in the Agency comments. All comments will be forwarded to the office or the individual that the Federal Government designates in the notice.]

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**Investment of Surplus Funds**

**Reproposed New Rules: N.J.A.C. 5:80-29**

Authorized By: New Jersey Housing and Mortgage Finance Agency, Kevin Quince, Executive Director.


Proposal Number: PRN 1990-628.

Submit comments by January 16, 1991 to:

Anthony W. Tozzo
New Jersey Housing and Mortgage Finance Agency
3625 Quakerbridge Road
CN 18550
Trenton, New Jersey 08650-2085

The agency proposal follows:

**Summary**

The New Jersey Housing and Mortgage Finance Agency (the "Agency"), pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate and affordable housing in the State. To fulfill its statutory objective, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate or improve housing for low and moderate income families. Housing sponsors which own Agency-financed housing projects are restricted to a specified return on equity. When a project generates more surplus income than the sponsor, by law, may earn, the money remains in the project's operating accounts and is invested. The so-called "phantom income" which is generated from such investments cannot be distributed to the sponsor. As a result, it is taxable to them, as present Agency policy does not permit housing sponsors to invest surplus funds in tax free investments.

In response to this problem, the Agency drafted new rules, N.J.A.C. 5:80-29, which grant housing sponsors the flexibility to invest surplus funds in allowable tax free or taxable investments. These rules were published in the New Jersey Register for public comment on July 2, 1990 at 22 N.J.R. 1974(a). Two comments were received. One housing sponsor noted that the tax free investments in the proposed rules listed only State of New Jersey general obligations and/or New Jersey Housing and Mortgage Finance Agency bonds. The sponsor indicated that the major problem with such investments was the availability of the bonds, as well as the fact that they often are available only in $5,000 to $10,000 denominations. Agency staff believes that there are ample amounts of bonds in both small and large denominations, which will enable sponsors to invest in tax free investments. The Agency has also now provided for investment in instrumentalities or agencies of the State of New Jersey, under certain circumstances. Another housing sponsor raised a question regarding a possible conflict between the type of investments permitted under the proposed new rules and those tax exempt investments permitted by the U.S. Department of Housing and Urban Development ("HUD"). In order to avoid the possibility of conflict in the specific situation raised, as well as any other instance where a HUD program is involved with an Agency financed project, a new section, N.J.A.C. 5:80-29.3, entitled General Applicability, has been added, and differentiation has been provided at N.J.A.C. 5:80-29.2.

In addition, the Agency is proposing revisions which will clarify the permitted investment section. As a result of the revisions made, the Agency is reproposing the new rules for comment.
The proposed new rules will increase the flexibility of housing sponsors to determine the best investment strategy for surplus funds.

**Economic Impact**

The proposed new rules will enable housing sponsors to choose the form of investment that will benefit the project and minimize the sponsor's tax obligations for that income which exceeds the sponsor's return on equity.

**Regulatory Flexibility Analysis**

The proposed new rules allow housing sponsors, most of which are small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., greater flexibility in determining the form of investment for surplus funds. The only reporting or recordkeeping requirement imposed by the proposed rules is that a housing sponsor obtain agency approval prior to the investment of surplus funds. It shall be the Agency’s responsibility, however, at the housing sponsor’s request, to determine the extent and availability of surplus funds. As to compliance requirements, the proposed rules provide greater flexibility for housing sponsors to determine investment strategies for surplus income. The agency foresees no increase in capital costs or the need for professional services in meeting the requirements of the proposed rules. As housing sponsors are predominantly small businesses and because of the minimal nature of the compliance requirements in light of the potential benefits to be derived from the proposed rules, no differentiation in the compliance requirement based upon business size is proposed.

**Full text of the reproposed new rules follows:**

**SUBCHAPTER 29. INVESTMENT OF SURPLUS FUNDS**

5:80-29.1 Definition of surplus funds

“Surplus funds” means funds available after payment of debt service and other project expenses, including operating deficits and the full funding of all required reserve accounts; permitted return on equity distributions; any anticipated or proposed capital improvements; a six month reserve for operating expenses; and any other current obligations of the project.

5:80-29.2 Permitted investments

(a) Housing sponsors whose mortgages are insured by the U.S. Department of Housing and Urban Development (HUD), with prior Agency approval, may invest surplus funds in the following:

1. Taxable or tax-free, interest-bearing instruments which are Triple A rated. The Triple A instruments are limited to U.S. Treasury Notes, U.S. Treasury Bills, and other Federal National Mortgage Association obligations, and Government National Mortgage Association obligations; and/or

2. Bank accounts insured by the Federal Deposit Insurance Corporation.

(b) For housing projects whose mortgages are not insured by HUD, housing sponsors, with prior Agency approval, may invest Surplus Funds in the following:

1. Those investments listed in (a) above;

2. State of New Jersey general obligation bonds;

3. New Jersey Housing and Mortgage Finance Agency bonds which shall be rated A or higher; or

4. Instrumentalities or agencies of the State of New Jersey which shall be rated A or higher and whose rating of A or higher has been confirmed within the past 12 months.

(c) The rating designation shall be from either Standard and Poor’s or Moody’s Investor Services.

(d) The Agency, at the sponsors’ written request, shall determine the extent and the availability of Surplus Funds.

5:80-29.3 General applicability

The rules within this subchapter shall apply to all Agency financed housing projects. In the event the housing project mortgage is insured, directly or indirectly, by the U.S. Department of Housing and Urban Development (HUD), any appropriate HUD rules, regulations or requirements (hereafter HUD directives) shall also apply. In the event that there are any inconsistencies between the rules in this subchapter and applicable HUD directives, the HUD directives shall prevail.

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

**Substantive Rules**

**Proposed Readoption: N.J.A.C. 5:92**

Authorized By: The New Jersey Council on Affordable Housing, Chairman.

Submit comments by January 16, 1991 to:
Douglas V. Opalski, Executive Director
N.J. Council on Affordable Housing
CN 813
Trenton, NJ 08625-0813

The agency proposes allowing housing sponsors to increase the flexibility of how they may invest surplus funds. The new rules would allow sponsors to invest in a wider range of assets, including those not insured by HUD. The rules would also provide for a six-month reserve for operating expenses, and permit investments in other current obligations of the project. The proposed rules include provisions for greater flexibility for housing sponsors to determine investment strategies for surplus income. The agency foresees no increase in capital costs or the need for professional services in meeting the requirements of the proposed rules. As housing sponsors are predominantly small businesses and because of the minimal nature of the compliance requirements in light of the potential benefits to be derived from the proposed rules, no differentiation in the compliance requirement based upon business size is proposed.

**Summary**

The New Jersey Council on Affordable Housing was established pursuant to the Fair Housing Act of 1985. The Council’s primary responsibilities include: establishing housing regions within the State; estimating housing need within each region; developing criteria for determining fair share of the regional need; reviewing municipal housing elements and regional contribution agreements; conducting mediation sessions when a party objects to a municipal housing element; and rendering a decision on a municipal petition for substantive certification. As of this writing, the substantive rules, N.J.A.C. 5:92, have been utilized in the review and certification of 107 communities that have created a realistic opportunity for low and moderate income units. The rules are also used as the basis for the review of exclusionary zoning cases in Superior Court.

The contents of the chapter proposed for readoption are as follows:

- Subchapter 1 contains general provisions, including definitions, housing element, and substantive certification.
- Subchapter 2 contains a delineation of the housing regions.
- Subchapter 3 contains population and household projections.
- Subchapter 4 contains a projection of estimated present and prospective need.
- Subchapter 5 contains requirements for the municipal determination of present and prospective need.
- Subchapter 6 contains provisions for housing credits.
- Subchapter 7 contains standards that alter municipal fair share based on drastic alteration of the established pattern of development.
- Subchapter 8 contains municipal adjustment standards.
- Subchapter 9 contains requirements for prioritizing sites for affordable housing.
- Subchapter 10 contains requirements for the phasing of present and prospective need.
- Subchapter 11 contains regional contribution agreements (RCA) requirements.
- Subchapter 12 contains controls on affordability, covering new, rental, rehabilitated or converted units for low and moderate income residents.
- Subchapter 13 contains the procedure for the granting of a waiver by the Council.
- Subchapter 14 contains inclusionary development requirements.
- Subchapter 15 contains the requirements for affirmative marketing within inclusionary developments.
- Subchapter 16 contains the requirements for accessory apartments.
- Subchapter 17 contains the requirements for the rehabilitation of existing units to meet the current need in a municipality.

The appendices include an approach to the development of low and moderate income housing need estimates; base data for the municipal determination of pre-credited need; growth area allocation index totals; Section 8 income limits by county; average costs of replacing major systems in housing rehabilitation; a county review checklist; and an affordable housing agreement placing restrictions on low and moderate income sales units.

The substantive rules of the Council were adopted in 1986 to regulate housing need from 1987 through 1993. In accordance with Executive Order No. 66 (1978), the rules will expire on June 16, 1991. The Council is now proposing these rules for readoption, after finding them reasonable, necessary and suitable for the purpose for which they were originally promulgated. However, the Council is currently in the process of a
revision of all of its rules, which will result in further rulemaking during mid-1992 to early 1993. Any comments offered by the public regarding the proposed readoption will be considered in the preparation of this future rulemaking.

Social Impact

The Council’s substantive rules form the basis for a planning process designed to accommodate the needs of low and moderate income households. The rules were designed to address the impacts of exclusionary zoning. In 1987, the Council estimated the low and moderate income housing need to be 145,707 units. Plans have been approved by the Council and the court system for approximately one-third of this obligation. The low and moderate income housing obligation is an ongoing obligation imposed by the New Jersey Supreme Court’s interpretation of the State constitution. Therefore, there is still a need for the rules.

The provisions of N.J.A.C. 5:92 affect communities interested in developing housing elements. They also affect low and moderate income people, housing advocates, developers, State funding programs, the court system and the public at large. The public’s reaction to the rules has varied greatly. Some community leaders believe the rules are too detailed. Some housing advocates have indicated that the rules do not adequately protect the interests of low and moderate income people. The Council, in republishing its rules, hopes to elicit more detailed comments on the effectiveness of this chapter.

Economic Impact

The rules have fostered the development of multi-family housing throughout the State. This development has increased the supply of sales and rental housing for low and moderate income households and households who otherwise could not afford to live in various areas of the State. This development has had a positive impact on these households and the building industry. It has also had a positive impact for employers in that the production of housing has made it possible for potential employees to locate closer to places of work.

Most of the housing produced has resulted from changes in municipal land development ordinances. Recent negative developments in the New Jersey economy have retarded the development of affordable housing. However, as long as the land development ordinances permit the construction of low and moderate income housing, the opportunity to build the housing remains present awaiting more positive economic conditions.

Municipalities are required to develop and file a plan with the Council. While the rules do not require that a professional planner develop the plan, most municipalities either have a planner on staff or as a consultant.

Fees for such services vary.

Municipalities may elect to have a developer build the affordable housing. If they build it themselves, they may transfer up to one-half of their obligation to another municipality (typically, an urban center in need of revitalization), and/or may rehabilitate housing. Local contractors gain economically from the new construction and rehabilitation that results from implementation of certified plans. Developers can build housing and make a profit. Housing is generally built in multifamily zones, and the density bonus offered developers can result in more “market rate” housing offered at a lower price than is generally available. Rental housing in the area is increased, helping those who cannot qualify for a mortgage.

The provision of affordable housing increases the labor pool and provides a benefit to employers.

Regulatory Flexibility Analysis

The Substantive Rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:92, for the most part, apply to municipalities directly, although others are affected. Specific provisions apply to developers, some of whom may be considered small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The inclusionary development requirements found in subchapter 14 directly affect developers, as does N.J.A.C. 5:92-8.4, which contains provisions relating to the density bonus. There are no reporting requirements on developers; however, they must build in accordance with the requirements of this chapter. The Council has determined that there should be no differentiation based upon business size in these rules, since to do so may diminish the intended effect of the legislation upon which the rules are based. There are provisions in N.J.A.C. 5:91, the Procedural Rules of the Council, which allow the opportunity for flexibility in the application of the rules to a particular builder’s situation in the development of a particular site.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 5:92.

EDUCATION

PROPOSALS

STATE BOARD OF EDUCATION

Governor’s Teaching Scholars Program

Proposed Readoption with Amendments: N.J.A.C. 6:12

Authorized By: John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.


Proposal Number: PRN 1990-625.

Submit comments by January 16, 1991 to:

Irene Nigro, Rules Analyst
State Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 6:12, Governor’s Teaching Scholars Program, expires on April 2, 1991. These rules were promulgated and are being readopted with amendments to reflect the requirements necessary to administer the Governor’s Teaching Scholars Program (GTSP). The GTSP is designed to attract highly qualified students to the field of teaching by providing a financial incentive to high school seniors to pursue teaching careers. The program offers scholarship loans of up to $7,500 per year for four years of college study. High school seniors in New Jersey’s public and nonpublic high schools who are interested in becoming teachers are eligible to apply for the loans provided they meet rigorous academic and personal criteria. The entire amount borrowed, including accrued interest, may be redeemed upon successful teaching service in New Jersey public schools. A three member committee, two members from the Department of Education and one member from the Department of Higher Education, reviewed the rules governing the GTSP. Readoption of the rules with some changes in language is proposed. Additional explanation of the proposal follows. In general, the proposed language changes reflect more accurately the role of the Department of Higher Education in the process of loan repayment and clarify the responsibility of the scholar who cannot or who chooses not to redeem his or her loan through teaching. Other language changes reflect an attempt to clarify some ambiguous wording in the rules.

Since its inception the GTSP has provided loans to 100 high school seniors in 1986, 160 students in 1987, 160 students in 1988, 160 students in 1989, and 100 scholars students in 1990. In 1990 the first Governor’s Teaching Scholar (GTS) will graduate from college and enter the teaching field in New Jersey. Ninety-three scholars remain in that first group selected. Employment statistics for these scholars will not be available until the fall of 1990.

A detailed summary of the proposed readoption with amendments is presented below:

N.J.A.C. 6:12-1.1 Scope and purpose

No changes are proposed

N.J.A.C. 6:12-1.2 Definitions

For the purposes of these rules “academic progress” in college or university means a minimum grade point average of “B” or 3.0. For the purposes of selection for the program, “academically superior” means in the top fifth of the high school graduating class, with minimum combined SAT scores of 1100.

The definition for “academic year” was changed for purposes of clarification. The word “selected” was changed to “attended” for clarity.

Under “loan redemption schedule” the words “the borrower has taught” were added for clarity.

The “College budget” had not previously been defined but is proposed herein.

Under “full-time high school student”, the words “at the end” and “current” were added to more accurately describe when the applicant may complete high school.

N.J.A.C. 6:12-1.3 spells out the joint responsibilities of the Department of Education and the Department of Higher Education in administering the GTSP. Stylistic and grammatical changes are proposed to this section.

(CITE 22 N.J.R. 3672)
PROPOSALS

At N.J.A.C. 6:12-1.3(a)iv, the proposed wording clarifies the Department of Higher Education’s role in maintaining fiscal records for the program.

N.J.A.C. 6:12-1.4 describes the citizenship requirements, the requirement of a strong interest in teaching and the goal of selecting minority students. Clarifying language is being proposed.

N.J.A.C. 6:12-1.5 provides for the selection criteria for the scholars, including class rank and scholastic aptitude scores. The use of American College Test scores was added.

N.J.A.C. 6:12-1.6 provides the instructions for submitting an application to the GTSP. Information has been written to be more specific concerning the submission of SAT scores and the inclusion of American College Test scores.

N.J.A.C. 6:12-1.7 provides the responsibilities for all participants in the program including providing the Commissioner with information concerning planned or actual academic and career change. Providing this information is mandated for all participants.

N.J.A.C. 6:12-1.8(d) and (e) provide information concerning the loan funds. Proposed new language clarifies that the loan accrues interest at the highest rate established by the U.S. Department of Education at the time of disbursement. This text originally appeared in N.J.A.C. 6:12-1.9 without new language and is recodified here for clarity.

N.J.A.C. 6:12-1.9 provides for the terms of service for the redemption of program loans. Proposed new language provides for a request for deferment of loan redemption if a scholar can document that he or she has been unable to obtain a teaching position. This section also provides criteria for deferment of loan redemption which has been Department practice.

N.J.A.C. 6:12-1.10 provides the terms of repayment for the GTSP loan. Proposed new language at N.J.A.C. 6:12-1.10(a)3 clarifies the number of years permitted for repayment. This paragraph was recodified. It previously appeared at N.J.A.C. 6:12-1.9, and was moved for purposes of clarity.

N.J.A.C. 6:12-1.11 provides for requests to the Commissioner for deferment or forgiveness of loans. Technical changes are being proposed to this section.

N.J.A.C. 6:12-1.12 provides the terms for people who leave the program. A technical change is proposed to this section.

N.J.A.C. 6:12-1.13 permits the State Board of Education to adjust the loan amounts for new students entering the program. Clarifying language is added.

N.J.A.C. 6:12-1.14 provides a method of appeal for students who believe the eligibility or selection process has been unfairly administered. No change is proposed to this section.

Social Impact

The program was designed to assure a supply of qualified public school teachers for New Jersey. The GTSP offers loans to cover tuition, room, board and fees to well qualified high school seniors. The first group of scholars is graduating in 1990; hence, it is still too early to assess the impact of these teachers on New Jersey’s classrooms. However, the quality of scholarship as judged by grades earned, and the diversity of college majors being pursued as well as the quality of institutions being attended, all indicate that within the next few months there will be many well qualified individuals seeking teaching positions in New Jersey. Because the redemption provision of the program encourages employment in urban areas, many of the scholars will seek positions in urban schools. This will have a positive impact on the urban schools because the graduates of the program have good academic records, have studied at a wide variety of institutions of higher education and are highly motivated to teach.

Economic Impact

The rules proposed for readoption with amendments are designed to clarify the basis upon which interest on the loans is determined, thereby assisting students and their parents to understand that the rate of interest on the scholar’s loan is determined by the U.S. Department of Education at the time of disbursement of the loan and again at the start of repayment of the loan if the loan is not redeemed through teaching. The rate of interest will be the same as that charged by the federal government for PLUS and other student loans. The loan plus interest, which begins to accrue at the disbursement of the loan, must be paid within 10 years of college graduation.

The proposed readoption of the program does not change the original provision of loans to academically talented high school seniors who wish to pursue a career in teaching in the amount up to $7,500 per year to a maximum of $30,000. The State of New Jersey has appropriated the sum of $3.6 million in fiscal year (FY) 1990 for the 160 members in each of the classes of 1991, 1992, and 1993 and appropriated $850,000 in FY 91 to provide loans for 100 students in the class of 1994 as well as program administration money.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because these rules do not impose reporting, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules impact solely upon New Jersey school districts, on schools operated by the New Jersey Department of Education and individuals participating in the GTSP Program.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6:12.

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

6:12-1.2 Definitions

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

“Academic progress” means attaining a minimum academic average of “B” or 3.0 grade point average in a full-time college or university program leading to graduation in a four year time period.

“Academic year” means the period between the time school opens [in any school or under any district board of education] after the general summer vacation until the next succeeding summer vacation.

“Academically superior” means that the student has reached a high school class rank in the upper one fifth of the student’s graduating class at the end of the junior year, and has a minimum combined SAT score of 1100.

“Approved program” means a course of study either in teacher training or in a specialized field of study, indicated as an accepted curriculum program by the college or university [selected] attended.

“College budget” means the costs of tuition, room and board, fees, books, travel and personal expenses as provided by the college.

“Full-time high school student” means one who will graduate with the senior class [in June] at the end of the current academic year.

“Loan redemption schedule” means the plan whereby redemption (forgiveness) of the loan is based upon number of years the borrower has taught in a public school in New Jersey and the schedule shall take into account the location of teaching assignment.

“Minority” means any United States citizen [or permanent resident] who is a member of a racial-ethnic group that has been historically disadvantaged in obtaining access to equal educational opportunities as designated by the United States Department of Education, Office of Civil Rights, including Blacks, Hispanics, Native Americans, Asians and Pacific Islanders.

6:12-1.3 Administration of the program

(a) The Governor’s Teaching Scholars Program (GTSP) shall be jointly administered by the Department of Education and the Higher Education Assistance Authority under the auspices of the Department of Higher Education. Their respective responsibilities shall be as follows:

1. The New Jersey Department of Education shall serve as the lender, guarantor and selector of the participants of this loan program and is required to: i.-ii. (No change.)

iii. Convene a committee of at least 12 members appointed by the Commissioner of Education to review and recommend nominations to the GTSP. The [commissioner] Commissioner shall fill any vacancy on the committee in a timely manner. The committee shall be composed of public and private school educators, school administrators, a representative of the Department of Higher Education and a representative from the Department of Education;

iv.-vi. (No change.)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3673)
6:12-1.4 Program eligibility
(a) The GTSP will be open to all high school senior students from public and non-public high schools who are citizens of the United States or its territories and legal residents of the State of New Jersey who plan to attend an accredited college or university in the United States.

(b)(c) (No change.)

6:12-1.5 Academic requirements
(a) To qualify for academic eligibility under the GTSP, an applicant must:
1. (No change.)
2. Attain a combined Scholastic Aptitude Test score of at least 1100 or an American College Test score of 27;
3. (No change.)
(b) (No change.)

6:12-1.6 Loan application and selection process
(a) All high school senior students who are New Jersey residents and citizens of the United States or its territories having attained the level of academic achievement as previously set forth in N.J.A.C. 6:12-1.5 are considered eligible for the loan program. The applicant must submit in packet form:
1. An official transcript complete with grades from the first marking period of the applicant’s senior academic year [and], class rank at the end of the junior [academic] year and Scholastic Aptitude Test scores or American College Test scores. Preliminary Scholastic Aptitude Test Scores are not acceptable. If the applicant’s high school regulations require that this information be submitted directly by high school personnel, the applicant must include a copy of a letter to the high school principal as evidence that the request has been made;
2. S.A.T. scores (P.S.A.T. and A.C.T. scores are not acceptable);]
   Recodify existing 3.-6. as 2.-5. (No change in text.)
(b)(c) (No change.)
(d) The [commissioner] Commissioner shall select a minimum of 100 high school graduates eligible to receive the GTSP loans from the pool of students nominated by the selection committee as meeting the criteria for the GTSP. However, if the appropriation for a fiscal year changes, the number of nominees selected will reflect that change.
(e) The [commissioner] Commissioner shall notify nominees of the selections on or before April 15 each year that the program continues.

6:12-1.7 Program participant responsibilities
(a) Students selected for GTSP participation shall:
1. (No change.)
2. Maintain [satisfactory] academic progress in the college or university selected;
3. (No change.)
4. (No change.)
5. Provide a letter to the [commissioner] Commissioner from the college or university indicating the cost of the schooling, known as the “college budget,” each year that the student participates in the program;
6. Submit an official college or university transcript to the [commissioner] Commissioner for review at the conclusion of each school year that the loan is in effect;
7. Submit an annual letter of intent to the [commissioner] Commissioner to continue as a participant in the program;
8. (No change.)
9. Report immediately in writing to the [commissioner] Commissioner any planned or actual changes in college attendance or career intentions;

(CITE 22 N.J.R. 3674)
ENVIRONMENTAL PROTECTION

ENVIRONMENTAL CLAIMS ADMINISTRATION

Continued Suspension of Claims Against Sanitary Landfill Facility Contingency Fund

Proposed Amendment: N.J.A.C. 7:11-3.3

Authorized By: Judith A. Yaskin, Commissioner, Department of Environmental Protection.


Proposal Number: PRN 1990-623.

Submit comments by January 16, 1991 to:

Samuel A. Wolfe, Esq.
Administrative Practice Officer
Department of Environmental Protection
401 East State Street
CN 402
Trenton, New Jersey 08625-0402

The agency proposal follows:

Summary

In 1988, the Department of Environmental Protection (Department) adopted new rules governing the Sanitary Landfill Facility Contingency Fund, N.J.A.C. 7:11 (see 20 N.J.R. 443(a); 20 N.J.R. 1732(b)). These rules established new procedures for the preparation, submission and review of claims for damages proximately resulting from the operations or closure of a sanitary landfill.

N.J.A.C. 7:11-3.3 provides criteria for claims based on diminution in the value of real property. As promulgated in 1988, subsection (c) provided for claimants who filed claims before March 7, 1988 to inform the Department of their intent to pursue, withdraw or suspend the claims. Suspension of claims under subsection (c) was to expire on December 1, 1990. Upon expiration, suspended claims were to be reactivated automatically, unless a claimant had previously withdrawn his claim.

The Department examined the circumstances affecting the suspended claims, and found that it is appropriate to continue these circumstances to continue the suspension, and to apply the continuation of the suspension to claims which would have been reinstated automatically on December 1, 1990. The Department originally had found that the suspension was necessary to allow time for completion of remediation and of pending legal actions against allegedly responsible parties; orderly processing of claims is difficult while such activities are in progress. This reasoning still applies to many suspended claims. Accordingly, the proposed amendments are intended to forestall such disruptions, particularly N.J.S.A. 13:IE-106 and 13:IE-114.

The Department has examined the circumstances affecting the suspended claims, and found that it is appropriate to continue these circumstances to continue the suspension, and to apply the continuation of the suspension to claims which would have been reinstated automatically on December 1, 1990. The Department originally had found that the suspension was necessary to allow time for completion of remediation and of pending legal actions against allegedly responsible parties; orderly processing of claims is difficult while such activities are in progress. This reasoning still applies to many suspended claims. Accordingly, the proposed amendments are intended to forestall such disruptions, particularly N.J.S.A. 13:IE-106 and 13:IE-114.

In addition, the proposed amendment authorizes the Department to reactivate a claim upon the conclusion of litigation undertaken by the claimant against a party allegedly responsible for the claimed damages. The Department intends that this amendment will preserve the suspension of claims which were suspended as of December 1, 1990, and that those claims will be deemed not to have been reactivated in the interim period beginning December 1, 1990 and ending as of the effective date of the proposed amendment.

Social Impact

The Department expects the proposed amendment to have a positive social impact. Since claims for real property value diminution as a result of the operation or closure of a sanitary landfill are compensable upon sale of the property, claimants with suspended claims have expressed their concern that the imminent reactivation of their claims could force them to sell their homes promptly in order to preserve their claims. Accordingly, the proposed amendments are intended to forestall such disruptions, and allow claimants flexibility in determining when it is appropriate to reactivate their claims. Therefore, the Department believes that it is necessary, reasonable and proper to continue the suspension, to continue to serve the purposes for which the claims were originally suspended.

The proposed amendment will link the expiration of the suspension to completion of the construction phase of landfill remediation. At that time, the Department expects that claims can be processed with less...
ENVIROMENTAL PROTECTION

The proposed amendment will have a positive economic effect upon claimants and their communities. The Department believes that the proposed amendment will have no environmental impact.

Regulatory Flexibility Statement

The proposed amendment preserves the suspended status of claims which were previously suspended, without the need for any action by a claimant. Accordingly, the proposed amendment does not impose any reporting, recordkeeping or other requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and a regulatory flexibility analysis is not required.

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

7:11-3.3 Criteria for claims based on real property value diminution damage

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

(c) The Department shall notify each claimant who filed a claim before March 1, 1988 of the requirements of this chapter. Such claimants shall then have 60 days from receipt of such notice to inform the Department, by certified mail return receipt requested, of their intent to pursue their claim for property value diminution pursuant to this chapter. Immediately, request that the claim be reactivated if the Department determines that the claimant desires to reinstate the claim; or

(d) All claims suspended pursuant to (c) above will remain in suspension until one of the following occurs:

i. The Department receives written notice from the claimant, stating that the claimant desires to reactivate the claim; or

ii. The claimant receives written notice from the Department, stating that the construction phase of the landfill remediation has been completed to the satisfaction of the Department.

(e) Notices provided in (d) above shall be sent by certified mail, return receipt requested, or by other means which provide a receipt for delivery.

(f) The Department may, in its discretion, reactivate a claim upon the conclusion of litigation between the claimant and parties allegedly responsible for the damages which are the subject of the claim, which litigation concerns such damages. For the purpose of this subsection (f), litigation shall be deemed to have concluded upon the occurrence of any of the following: a complete settlement of the litigation; or the entry of a judgment or order completely resolving the litigation, followed by the expiration of time allotted to appeal or otherwise challenge such judgment or order.

(g) The Department may, in its discretion, extend the suspension period set forth in (d) above, or again suspend claims reactivated automatically under (d) above or by the Department's action under (f) above. The Department shall notify all affected claimants of such an extension or re-suspension, either by certified mail, return receipt requested, or by notice published in the New Jersey Register.

Recodify existing (d)-(f) as (h)-(j) (No change in text.)

NEW JERSEY WATER SUPPLY AUTHORITY

Schedule of Rates, Charges and Debt Service Assessments For the Sale of Water from the Delaware and Raritan Canal-Spruce Run/Round Valley Reservoirs System

Proposed Amendments: N.J.A.C. 7:11-2.2, 2.3 and 2.9

Authorized By: Judith A. Yaskin, Chairperson, New Jersey Water Supply Authority and Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 58:1B-7.


Proposal Number: PRN 1990-635.

In accordance with N.J.A.C. 7:11-2.11(a)4, a pre-public hearing meeting concerning this proposal will be held on:

- January 8, 1991 at 10:00 A.M. at Rutgers University Labor Education Center, Auditorium Ryder Lane and Clifton Avenue New Brunswick, New Jersey 08903
- February 7, 1991 at 10:00 A.M. to close of comments at New Jersey Water Supply Authority Administration Building Route 31, Clinton, New Jersey 08809
- A public meeting concerning this proposal will be held on:
  - February 7, 1991 at 10:00 A.M. to close of comments
  - Rutgers University Labor Education Center, Auditorium Ryder Lane and Clifton Avenue New Brunswick, New Jersey 08903

Submit written comments on or before March 19, 1991 to:

- Helene P. Chudzik, Esq., Deputy Attorney General Division of Law
  New Jersey Water Supply Authority
  Clinton, New Jersey 08809
- and
  Rocco D. Ricci, P.E.
  Executive Director
  New Jersey Water Supply Authority
  Clinton, New Jersey 08809
- Submit written comments on or before March 19, 1991 to:
  Helene P. Chudzik, Esq., Deputy Attorney General Division of Law
  New Jersey Water Supply Authority
  Clinton, New Jersey 08809

The Basis and Background document, which is available from the Authority and the Office of Administrative Law at the addresses given below, explains in further detail the financial justification for the proposed revised rate schedule.

- Rocco D. Ricci, P.E.
  Executive Director
  New Jersey Water Supply Authority
  Clinton, New Jersey 08809
- Office of Administrative Law
  Quakerbridge Plaza, Building 9
  Clinton, New Jersey 08809
- Executive Director
  New Jersey Water Supply Authority
  Clinton, New Jersey 08809

The agency proposal follows:

Summary

The New Jersey Water Supply Authority (Authority) is proposing to amend its Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal-Spruce Run/Round Valley Reservoirs System (System), to cover operations and maintenance costs for the fiscal year commencing July 1, 1991. It is also proposing to adjust its existing annual debt service assessments on outstanding loans beginning July 1, 1991. In addition, the Authority is proposing certain deletions to the text of N.J.A.C. 7:11-2.2(b) and 2.9(a) to reflect that the Manasquan Reservoir Water Supply System began supplying water on July 1, 1990.

The General Rate Schedule for Operations and Maintenance in N.J.A.C. 7:11-2.2 was last adjusted effective July 1, 1990 (decreased from $102.78 to $96.45 per million gallons, (mg)) to cover the operation expenses of the System. The Authority is proposing certain deletions to the text of N.J.A.C. 7:11-2.2(b) and 2.9(a) to reflect that the Manasquan Reservoir Water Supply System began supplying water on July 1, 1990.

The General Rate Schedule for Operations and Maintenance in N.J.A.C. 7:11-2.2 was last adjusted effective July 1, 1990 (decreased from $102.78 to $96.45 per million gallons, (mg)) to cover the operation expenses of the System. The Authority is proposing certain deletions to the text of N.J.A.C. 7:11-2.2(b) and 2.9(a) to reflect that the Manasquan Reservoir Water Supply System began supplying water on July 1, 1990.

Projected operating costs for fiscal year 1992 now indicate that an increase in operations and maintenance expenses is needed to cover the operation expenses of the System. The Authority is proposing certain deletions to the text of N.J.A.C. 7:11-2.2(b) and 2.9(a) to reflect that the Manasquan Reservoir Water Supply System began supplying water on July 1, 1990.
employee benefits costs; energy costs; special and professional services costs; and insurance costs. In addition, the operations and maintenance expense component sales base has decreased from 152,362 million gallons per day (mgd) in fiscal year 1991 to 152,296 mgd for Fiscal Year 1992.

The debt service assessment rate for the 1981 water supply bond funds used to finance the removal of sediment from 32 miles of the Delaware and Raritan Canal was previously adjusted effective July 1, 1990 (fiscal year 1991) based on a sales base of 152,292 mgd. The Authority anticipates that the applicable sales base for fiscal year 1992 will be 152,226 mgd. Application of this new sales base coupled with a slight reduction in the required debt service payment results in a decrease (.05) in the per mg rate component from $44.97 to $44.99 per mg for the fiscal year starting July 1, 1991 (see N.J.A.C. 7:11-2.3(d)). This Debt Service Assessment is also projected to increase to $55.07 in fiscal year 1993 and to $56.91 in fiscal years 1994 and 1995 (see N.J.A.C. 7:11-2.3(d)).

Final action on the rate adjustment is scheduled for the April 1, 1991 meeting of the Authority.

Social Impact

The proposed amendments will have minimum social impact. The proposed amendments represent the Authority’s efforts to ensure that rates for raw water withdrawn, diverted or allocated from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir Complex are equitably assessed and sufficient to provide the revenues required by the Authority.

The 11-billion-gallon capacity Spruce Run Reservoir and the 55-billion-gallon capacity Round Valley Reservoir in Hunterdon County in conjunction with the sixty-mile long Delaware and Raritan Canal in Hunterdon, Mercer, Somerset, and Middlesex Counties provide both active and passive recreational opportunities to the public in addition to a basic raw water supply for approximately 1,200,000 individuals living in central New Jersey.

Economic Impact

The proposed adjustments to the rate schedule will result in a net increase in the total charge for the raw water supplied from the System ranging from $18.13 in fiscal year 1992 to $30.05 in fiscal year 1994 per mg. It is estimated that the annual impact of the proposed wholesale water rate increase on the typical household will amount to $1.81 in fiscal year 1992 increasing to $3.01 in fiscal year 1994 provided these increased costs are passed through by the wholesale water customers without further fees.

Environmental Impact

The adequate financing of systems upkeep and operation, which is provided by the proposed amendments, will result in a positive environmental impact. Properly maintained Authority systems and operations protect not only the water users but also the surrounding environment of the Spruce Run/Round Valley Reservoir and Delaware and Raritan Canal.

The reservoirs and canal also provide habitat for many species of waterfowl and wildlife in an increasingly urbanized region of the State. The Authority’s Raritan Base System is capable of supplying a dependable water supply of 225 mg per day throughout a re-occurrence of the worst drought of record while still maintaining adequate river flows through release of stored waters to support the ecological systems and wildlife which are dependent upon adequate stream flows in the River Basin.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Authority has determined that these amendments would not impose reporting, recordkeeping or other compliance requirements on small businesses because the amendments affect only the rates charged to users for water purchased from the Authority. The water companies which contract to purchase water from the Authority and which are impacted by these amendments do not qualify as “small businesses” pursuant to N.J.S.A. 52:14B-16 et seq.

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

7.1-1.2.2 General Rate Schedule for Operations and Maintenance

(a) The General Rate Schedule for Operations and Maintenance per million gallons listed at (b) below is based on estimated annual operations and maintenance expenses consisting of all current costs, obligations and expenses of, or arising in connection with, the operation, maintenance and administration of the System, and minor additions or improvements thereof or thereto, or the performance of any water purchase contract, including, but not limited to, all of the following:

1.-7. (No change.)

8. Any other current costs, expenses or obligations required to be paid by the Authority under the provision of any agreement or instrument relating to bonds, other indebtedness of the Authority or by law. The current sales base of [152.362] 152,296 million gallons per day has been used in setting the rate listed at (b) below.

(b) General Rate Schedule for Operations and Maintenance:

1. If the Manasquan Reservoir System is not supplying water to purchasers by July 1, 1990:

<table>
<thead>
<tr>
<th>Allocation</th>
<th>Rate/Million Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Million Gallons per Day (MGD)</td>
<td>$104.26</td>
</tr>
</tbody>
</table>

2. If the Manasquan Reservoir System is supplying water to purchasers by July 1, 1990:

<table>
<thead>
<tr>
<th>Allocation</th>
<th>Rate/Million Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Million Gallons per Day (MGD)</td>
<td>$[59.45] $114.61</td>
</tr>
</tbody>
</table>

7.1-1.2.3 Debt Service Assessments

(a) (No change.)

(b) The debt service assessment rate for the 1969 Water Conservation Bonds shall be based on a sales base of 151,801 million gallons per day.

<table>
<thead>
<tr>
<th>Period Allocation</th>
<th>Rate/Million Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/90 to 7/1/91</td>
<td>$13.90</td>
</tr>
<tr>
<td>6/30/2002</td>
<td>$33.28</td>
</tr>
<tr>
<td>10/30/2006</td>
<td>$33.23</td>
</tr>
</tbody>
</table>

(c) The 1981 Water Supply Bond funds were borrowed from the State Treasurer to retire the tax exempt commercial paper used for temporary financing of the Delaware and Raritan Canal sediment removal program. The following debt service assessment rate, based on a sales base of [152.292] 152,226 million gallons per day, in addition to that included in (b) above, will be applied to all customers:

<table>
<thead>
<tr>
<th>Period Allocation</th>
<th>Rate/Million Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/90 to 7/1/91</td>
<td>$33.28</td>
</tr>
<tr>
<td>10/30/2006</td>
<td>$56.88</td>
</tr>
</tbody>
</table>

(d) The following Debt Service Assessment rate for the 1988 Water System Revenue Bonds, based on a sales base of [152.292] 152,226 million gallons per day, in addition to that included in (b) and (c) above, will be applied to all customers:

<table>
<thead>
<tr>
<th>Period Allocation</th>
<th>Rate/Million Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/90 to 7/1/91</td>
<td>$56.88</td>
</tr>
<tr>
<td>10/30/2006</td>
<td>$55.07</td>
</tr>
<tr>
<td>6/30/95</td>
<td>$56.91</td>
</tr>
</tbody>
</table>

7.1-1.2.9 Standby Charge

(a) A user classified under standby service, as provided in N.J.A.C. 7:11-2.8 above, shall pay a monthly minimum charge based on the capacity of his withdrawal system as specified below. Said purchaser shall also pay for all water withdrawn during the month in excess of such monthly Standby Charge, based on charges as set forth under N.J.A.C. 7:11-2.2 and 2.3.

Note: MGD = million gallons daily; GPM = gallons per minute.

1. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin,

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/Million Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/90 to 7/1/91</td>
<td>$44.97</td>
</tr>
<tr>
<td>6/30/92</td>
<td>$55.04</td>
</tr>
<tr>
<td>7/1/92 to 6/30/93</td>
<td>$56.88</td>
</tr>
<tr>
<td>7/1/93 to 6/30/94</td>
<td>$55.04</td>
</tr>
<tr>
<td>6/30/94 to 6/30/95</td>
<td>$56.88</td>
</tr>
</tbody>
</table>

2. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin,

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/Million Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/90 to 7/1/91</td>
<td>$44.97</td>
</tr>
<tr>
<td>6/30/92</td>
<td>$55.04</td>
</tr>
<tr>
<td>7/1/92 to 6/30/93</td>
<td>$56.88</td>
</tr>
<tr>
<td>7/1/93 to 6/30/94</td>
<td>$55.04</td>
</tr>
<tr>
<td>6/30/94 to 6/30/95</td>
<td>$56.88</td>
</tr>
</tbody>
</table>
ENVIRONMENTAL PROTECTION

Maximum withdraw capacity
Each MGD (700 GPM) or
fraction thereof.

Proposals

Rocco D. Ricci, P.E.
Executive Director
New Jersey Water Supply Authority
Post Office Box 5196
Clinton, New Jersey 08809

The Basis and Background document, which is available from the Authority and the Office of Administrative Law at the addresses given below, explains in further detail the financial justification for the proposed revised rate schedule.

(a)

NEW JERSEY WATER SUPPLY AUTHORITY
Schedule of Rates, Charges and Debt
Service Assessments For the Sale of Water
From the Manasquan Reservoir
Water Supply System

Proposed Amendments: N.J.A.C. 7:11-4.3, 4.4 and 4.9

 Authorization By: Judith A. Yaskin, Chairperson, New Jersey Water Supply Authority and Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 8:1B-7.

DEP Docket Number: 042-90-11.

Proposal Number: PRN 1990-636.

In accordance with N.J.A.C. 7:11-4.13(a), a pre-public hearing meeting concerning this proposal will be held on:

January 15, 1991 at 10:00 A.M.
New Jersey Water Supply Authority
Manasquan Reservoir System Administration Building
Hospital Road, Wall, New Jersey 07719

A public hearing concerning this proposal will be held on:

February 13, 1991 at 10:00 A.M. to close of comments
Wall Township Municipal Complex, Meeting Room
2700 Allaire Road
Wall, New Jersey 07719

Submit written comments on or before March 25, 1991 to:
Helene P. Chudzik, Esq., Deputy Attorney General
Department of Law and Public Safety
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

You're viewing an archived copy from the New Jersey State Library.
Environmental Impact

The adequate financing of upkeep and operation of the Manasquan Reservoir System, which is provided by the proposed amendments, will result in a positive environmental impact. Sixty percent of the existing water supply in Monmouth County was derived from stressed ground water resources. The Manasquan Reservoir System relieves the use of a portion of the existing ground water supply and meets the needs of a developing area. This new water supply system will have a very important and positive environmental impact since its operation reduces the stress on the valuable ground water resources of the region by providing an alternate surface water supply. By reducing the pumping of ground water, salt water intrusion will be limited and present ground water levels will not be further reduced.

The 30 million gallon per day water supply which the system can provide will help to ameliorate the urgent need to protect the region's threatened ground water resources from further depletion. In addition, the 740 acre Manasquan Reservoir provides for the protection of waterfowl and wildlife in the region through several protected wetland sites for the rearing of waterfowl and wildlife.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Authority has determined that these amendments will not impose reporting, recordkeeping, or other compliance requirements on small businesses, because the amendments affect only municipalities and major water purveyors, all of which fail to qualify as small businesses as defined in N.J.S.A. 52:14B-16 et seq.

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

7:11-4.3 Operations and Maintenance Expense Component
(a)-(b) (No change.)
(c) Operations and Maintenance Expense Component:
  Effective Date  Rate/Million Gallons
  (based upon a [14.905] 16,097 mg per day sales base)  [$345.09] $314.75
  July 1, [1990] 1991

7:11-4.4 Debt Service Cost Component
(a) (No change.)
(b) The following Debt Service rates based on a sales base of [14.905] 16,097 million gallons per day, [will be applied] apply to all [persons] water purchasers who enter into a water purchase contract before July 1, 1990, the date upon which the Authority [commences] commenced operation of the Manasquan Reservoir System (Initial Water Purchase Contract) and [begins] began to make uninterrupted service available to the purchasers ("System Operation Date").

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/Million Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>[7/1/90 to 1/31/91]</td>
<td>[$654.91]</td>
</tr>
<tr>
<td>[2/1/91] 7/1/91 to 1/31/92</td>
<td>[$687.66] $686.11</td>
</tr>
<tr>
<td>(Coverage 105 percent)</td>
<td>[$720.52] $718.78</td>
</tr>
<tr>
<td>2/1/92 to 1/31/93 (Coverage 110 percent)</td>
<td>[$753.39] $751.61</td>
</tr>
<tr>
<td>2/1/93 to 1/31/94 (Coverage 115 percent)</td>
<td>[$796.29] $784.35</td>
</tr>
<tr>
<td>2/1/94 (Coverage 120 percent)</td>
<td>[$839.17] $827.43</td>
</tr>
</tbody>
</table>
| (c) A delayed water purchase surcharge will be assessed to all [persons] water purchasers who enter into a water purchase contract for an uninterrupted service commencing subsequent to the system operation date (delayed water purchase contract). This includes a purchaser under an initial water purchase contract which provides for an increase in the amount of uninterrupted service effective subsequent to the system operation date. (No change.)

7:11-4.9 Standby charge
A purchaser classified under standby service shall pay a monthly minimum charge based on the capacity of the purchaser's withdrawal system as specified below. Said purchaser shall also pay for all water withdrawn during the month in excess of such monthly standby charge based on charges as set forth under N.J.A.C. 7:11-4.3 and 4.4.

Maximum withdrawal capacity  Charge per month
Each 1 MGD (700) GPM   $[345.09] $314.75 plus annual debt service assessment rate established in N.J.A.C. 7:11-4.4.

DIVISION OF WATER RESOURCES

New Jersey Pollutant Discharge Elimination System Fee Schedule for NJPDES Permits and Applicants

Proposed Amendment: N.J.A.C. 7:14A-1.8

Authorized By: Judith A. Yaskin, Commissioner, Department of Environmental Protection.

DEP Docket Number: PRN 1990-637.

A public hearing concerning this proposal will be held on:
January 24, 1991 at 10:00 A.M.
New Jersey Records Storage Center
2300 Stuyvesant Avenue
Trenton, New Jersey

Submit written comments by January 28, 1991 to:
Samuel Wolfe, Administrative Practice Officer
Department of Environmental Protection
Office of Legal Affairs
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection ("Department") is responsible for administering a program that regulates the discharge of pollutants to the surface and ground waters of the State. The Department's authority is derived from the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. ("State Act"), pursuant to which New Jersey qualified for and has primary enforcement responsibility under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) for the administration of the New Jersey Pollutant Discharge Elimination System ("NJPDES") permitting program. The NJPDES rules are set forth at N.J.A.C. 7:14A. Pursuant to Section 9 of the State Act, the Department is authorized to "establish and charge reasonable annual administrative fees, which fees shall be based upon, and shall not exceed, the estimated cost of processing, monitoring and administering the NJPDES permits." The Department assesses fees to provide funds for the review of NJPDES permit applications, the development of specific permit terms and conditions (including wasteload allocations, water quality based effluent limitations, stream monitoring and computer modelling), conducting compliance and 24-hour sampling inspections, ground water compliance sampling, bioassay testing, supervising the installation of ground water monitoring wells, evaluating and approving ground water remediation alternatives, evaluating compliance with the terms and conditions of each NJPDES permit, and providing for the general administrative costs of the NJPDES program. N.J.S.A. 58:10A-10 provides the Department with the authority to seek civil and administrative penalties for failure to pay assessed NJPDES permit fees.

The Department is proposing to amend N.J.A.C. 7:14A-1.8 based on comments received during the pre-proposal comment period (see 27 N.J.R. 1652(a)). In general, the proposed changes will provide for a more equitable distribution of the cost of managing the NJPDES program. In N.J.A.C. 7:14A-1.8(a), the annual fee for all dischargers is calculated through the application of the following equation: the environmental impact of the discharge to surface water or ground water multiplied by the rate established by the Department for the category of discharge plus a base minimum fee.

In N.J.A.C. 7:14A-1.8(a), the Department has redefined, in simple language, the term "rate" used in the fee calculation formula. Rate, as now defined, is the cost for each unit of environmental impact. It is determined by dividing the total budget less the amount paid as minimum fees by the total environmental impact for the category. This is much simpler than the complex formula in the current rule.
ENVIRONMENTAL PROTECTION

In N.J.A.C. 7:14A-1.8(a)(10), the Department has eliminated all references to a square root function in the environmental impact calculations. A maximum permit fee has been added to prevent any one permittee from paying a greatly disproportionate share of the NJPDES program costs. The maximum fee will represent 10 percent of the category budget. Establishing a maximum fee will continue to distribute the program costs based on environmental impact. The maximum fee performs a similar function as the prior cube root and square root in the fee assessment process. The few facilities that have reached the 10 percent maximum contribute over 60 percent of the environmental impact. To select a lower percentage would significantly increase costs paid by the facilities which discharge less than 40 percent of the environmental impact. Selecting a percentage greater than 10 percent would effectively distribute the program costs based on environmental impact. Therefore, using the maximum fee preserves the integrity of the environmental impact calculations.

In N.J.A.C. 7:14A-1.8(c), procedures for calculating the total pollutant load when pollutants have been reported as below the minimum detection limit has been added. The more recent permits issued by the Department include discharge limitations for total volatile organics analyzed through a process which identifies both detected and undetected constituents. The Department has determined that volatile organic compounds, acid extractable organic compounds, base-neutral organic compounds, pesticides, and PCB’s analyzed for but not detected through these types of tests should not affect a permittee’s fee. These pollutants will not be counted into the total pollutant load if never detected in any samples during the monitoring period or for all other pollutants and where total or more times during the monitoring period. Samples reported concentrations above the minimum detection limit, the Department will calculate the total pollutant load using one-half the minimum detectable concentration. Where applicable, net loads which are reported as a negative value will be considered as a zero load. The removal of one pollutant such as total suspended solids (TSS) does not counteract the discharge of another pollutant. Effectively, this loophole is being eliminated.

The proposed amendments delete the date reference for the New Jersey Water Quality Inventory Report at N.J.A.C. 7:14A-1.8(c)(iv). The New Jersey Water Quality Inventory Report to be used will be specified in the Annual Fee Report. This will allow the Department to use the most recent available report without the need to revise the rule.

In N.J.A.C. 7:14A-1.8(d), the permeability rating for those permittees conducting corrective action is based upon the material which is contaminated. The Department has determined that a permeability rating of 10 will be applied to those facilities conducting ground water remediation which can demonstrate through piezometers that ground water flow has been reversed and no contamination is leaving the site. The rating of 10 represents the Department’s evaluation that the permittee’s remedial activity is preventing further migration of contamination. The rating of 10 is the lowest rating assigned at N.J.A.C. 7:14A-1.8(d)(iii)(i).

In N.J.A.C. 7:14A-1.8(d)(2), the Department has also amended the procedure for calculating the total weighted concentration. The revised procedure is similar to the new procedure described above and used to calculate the total weighted load for surface water discharges. Volatile organic compounds, acid extractable organic compounds, base-neutral organic compounds, pesticides, and PCB’s will not be counted into the total weighted concentration if never detected in any samples during the monitoring period. As stated above, if a limited pollutant is detected one or more times during the monitoring period, the half of the minimum detectable concentration will be used to calculate the total weighted concentration.

The Department is also proposing to completely revamp the environmental impact calculation for Significant Industrial Users (SIUs). The proposed environmental impact will be based upon the total weighted load of all limited pollutants. Chemical Oxygen Demand (COD) was the only pollutant used, along with a risk which was based on the type of wastewater discharged, and a pass-thru rate at the Publicly Owned Treatment Works (POTW). Risk factors have been developed by the Department and represent the degree of risk the pollutant poses to the POTW, the POTW’s sludge, the receiving stream the POTW discharges to, and the air. These risk factors are presented in Table I of the rule as the third category of risks, “Indirect Dischargers”. The POTW pass-thru factors have been eliminated as a result of incorporating pollutant specific risk factors which evaluate the impact of each pollutant on the air, water and sludge. For additional background information on the risk factors for indirect dischargers, please refer to the FY1991 Annual Fee Report and Fee Schedule.

The Department is again adjusting the minimum fees for ground water fees. The proposed amendments affect only those facilities classified as Hazardous Waste Facilities (HWFs) and Industrial Waste Management Facilities (IWDFs) regulated pursuant to N.J.A.C. 7:26, and N.J.A.C. 7:14A-4. Federal and State laws have singled out these types of facilities for greater regulation. Currently, all hazardous waste facilities analyzed for using method 418.1 for petroleum hydrocarbons cited in 40 CFR Part 136. At this time, the risk factor for Petroleum Hydrocarbons has been changed in Table I—Surface Water Risk Factors. The Department has reduced the risk factor for petroleum hydrocarbons from 10,000 to 100. This is the same risk factor for Oil and Grease. Oil and Grease effluent limitations are required pursuant to N.J.A.C. 7:14A-4, and the same control limits are required for both oil and grease and petroleum hydrocarbons. The specified analytical method is based on the source of the discharge. Discharges that are petroleum based are required to be analyzed using method 418.1 for petroleum hydrocarbons and analyzed in Methods for Chemical Analysis of Water and Wastes. Nonpetroleum based discharges are analyzed through the oil and grease method referenced in 40 CFR Part 130. At this time, the risk factor for Petroleum Hydrocarbons has been changed within the confines of the existing risk factor system. An overall evaluation of the risk factor system presented in Table I is required and will be completed in the future. Several pollutants which were not clearly listed in Table I have been included.

Social Impact

The Department’s proposal to amend the NJPDES rules to provide for a more equitable distribution of the assessed fees will have a positive social impact. The Department, in amending the fee schedule, is acting to ensure that those who do the most to affect the environment bear a greater share of the administrative cost. The revised environmental impact calculation for Significant Indirect Users (SIUs) base NJPDES fees on the quantity of all limited pollutants discharged to a Publicly Owned Treatment Works (POTW) and the risk associated with the indirect discharge of those pollutants, insuring that facilities which pose the greatest impact on POTW’s are assessed a proportionate share of the NJPDES program costs. The revised minimum fee schedule for hazardous waste facilities will encourage hazardous waste facilities to...
quickly implement corrective action programs. A procedure to exclude volatile organics, acid extractable organic compounds, based neutral organic compounds, pesticide and PCBs from environmental impact calculations if consistently reported as being below the minimum analytical detection limit, should minimize objections to extensive sampling because of the increase in permit fees. Further, this process insures that permittees are assessed their fair share of the program costs based on the impact of their discharge without the added cost of monitoring for non-detectable pollutants.

The enactment of the Clean Water Enforcement Act, with the addition of the monitoring requirements imposed by this legislation, will insure that those permittees who violate the conditions of their NJPDES permit are assessed mandatory penalties. This will result in a positive social impact as non-complying NJPDES permittees will be deterred from this unacceptable conduct and stay in compliance with the conditions of their NJPDES permit. Penalties assessed pursuant to the Clean Water Enforcement Act will be returned to the Department of Environmental Protection to be used to implement the requirements of the Water Pollution Control Act.

The Department's action reflects the opinion of the Appellate Division of the New Jersey Superior Court in Public Service Electric & Gas v. Dep't of Environmental Protection, 193 N.J. Super. 676 (App. Div. 1984), aff'd 101 N.J. 95 (1985) and GAF Corp. v. New Jersey Dep't of Environmental Protection, 214 N.J. Super. 446 (App. Div. 1986), that the fee schedule assesses a greater portion of the cost of the NJPDES program to those facilities which create the need for regulation. Consistent with the Court's opinion, the Department is proposing to implement a fee schedule which graduates fees in proportion to the deleterious impact of the permittee's discharge.

Economic Impact
The proposed amendment is not intended to increase the revenue generated through the annual NJPDES fee assessment process. The amendment will allow the Department to calculate an environmental impact for a Significant Industrial User (SIU) based on the total pollutant load and the risk associated with the discharge of the specific pollutants. Under the existing rule, SIU fees are based on the quantity of Chemical Oxygen Demand discharged and a risk associated with the waste type classification. This amendment will also distribute a proportional share of the administrative costs associated with the NJPDES program to those facilities which have impacted ground water quality but no longer discharge wastewater to the ground waters of the State. Establishing a maximum permit fee will better distribute the costs associated with the NJPDES permit program among NJPDES permittees. A maximum fee will preserve the environmental impact basis for cost distribution. While only very large dischargers will benefit directly, this is a more equitable system than existed with the cube root and square root functions. These previously used functions compressed all environmental impacts. A facility that discharged 100 units of environmental impact would pay only 10 times more than the facility that discharged one unit. Administratively, the Department will determine the annual rate, and evaluate if any permittees exceed the maximum fee of 10 percent. The total amount paid as maximum permit fees will be subtracted from the adjusted budget for the category and a new rate will be established. For example, if the budget is $1 million and one permittee has a calculated annual fee of $120,050, $100,000 would be subtracted from the adjusted budget and the rate would be reduced. The added cost to all permittees in the category would be $20,050.

The fees imposed by N.J.A.C. 7:14A-1.8 are expected to provide approximately $22.4 million in fiscal year 1991. The total cost of the NJPDES program is $46.6 million more than FY90. These fees will cover the costs for 217 professional and clerical positions currently filled to process, monitor and administer the NJPDES permit program. The average current salary cost for each position in the NJPDES program is $33,542. This budget also includes 40 vacancies within the Surface Water program. The cost associated with these vacant positions is $2.4 million. In FY91, the added cost of the Clean Water Enforcement Act is $2.59 million. This assumes that DEP and DOL also will have staff assigned to this work during FY91. Surface Water fees will be increased $2.2 million, while Ground Water fees are increased $0.4 million. This distribution is based upon the increased activity anticipated in each program. The projected costs of the added Clean Water Enforcement Act for categories within the Surface and Ground Water programs will be distributed based upon the number of current NJPDES work years.

The Department has prepared the FY91 Annual Fee Report and Fee Schedule which contains more detailed information concerning the NJPDES program budgets for FY91. This report includes NJPDES work plans for each major discharge category. Copies of the FY91 Annual Fee Report and Fee Schedule may be obtained from the Division of Water Resources—NJPDES Fee Management Section, CN029, Trenton, New Jersey 08625.

FY91 NJPDES personnel costs have been estimated for the fiscal year and include annual cost of living increases, promotions, and overtime. The fringe benefit rate of 26.65 percent has been established by Treasury in their OMB Circular Letter. The indirect rate of 32.7 percent of salary plus fringe, has been established by the Department of Environmental Protection for FY91. The positions to be funded in FY91 and the associated costs as follows:

<table>
<thead>
<tr>
<th>NJPDES Program Staff</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Director</td>
<td>2</td>
</tr>
<tr>
<td>Bureau Chief (Manager IV)</td>
<td>6</td>
</tr>
<tr>
<td>Section Chief</td>
<td>8</td>
</tr>
<tr>
<td>Administrative Analyst I</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Analyst II</td>
<td>3</td>
</tr>
<tr>
<td>Administrative Assistant III</td>
<td>3</td>
</tr>
<tr>
<td>Environmental Scientist I</td>
<td>4</td>
</tr>
<tr>
<td>Research Scientist I</td>
<td>1</td>
</tr>
<tr>
<td>Geologist Trainee</td>
<td>1</td>
</tr>
<tr>
<td>Assistant Geologist</td>
<td>3</td>
</tr>
<tr>
<td>Senior Geologist</td>
<td>9</td>
</tr>
<tr>
<td>Principal Geologist</td>
<td>12</td>
</tr>
<tr>
<td>Supervising Geologist</td>
<td>7</td>
</tr>
<tr>
<td>Environmental Engineer Trainee</td>
<td>4</td>
</tr>
<tr>
<td>Assistant Environmental Engineer</td>
<td>7</td>
</tr>
<tr>
<td>Senior Environmental Engineer</td>
<td>5</td>
</tr>
<tr>
<td>Principal Environmental Engineer</td>
<td>11</td>
</tr>
<tr>
<td>Supervising Environmental Engineer</td>
<td>9</td>
</tr>
<tr>
<td>Environmental Specialist Trainee</td>
<td>4</td>
</tr>
<tr>
<td>Environmental Specialist</td>
<td>18</td>
</tr>
<tr>
<td>Senior Environmental Specialist</td>
<td>23</td>
</tr>
<tr>
<td>Principal Environmental Specialist</td>
<td>10</td>
</tr>
<tr>
<td>Supervising Environmental Specialist</td>
<td>5</td>
</tr>
<tr>
<td>Compliance Investigator I</td>
<td>5</td>
</tr>
<tr>
<td>Compliance Investigator II</td>
<td>2</td>
</tr>
<tr>
<td>Supervising Compliance Investigator</td>
<td>2</td>
</tr>
<tr>
<td>Computer Operator I</td>
<td>1</td>
</tr>
<tr>
<td>Computer Operator III</td>
<td>1</td>
</tr>
<tr>
<td>Data Processing Programmer II</td>
<td>1</td>
</tr>
<tr>
<td>Geographic Information Specialist</td>
<td>1</td>
</tr>
<tr>
<td>Assistant Technician MIS</td>
<td>1</td>
</tr>
<tr>
<td>Technician MIS</td>
<td>10</td>
</tr>
<tr>
<td>Senior Technician MIS</td>
<td>5</td>
</tr>
<tr>
<td>Principal Technician MIS</td>
<td>9</td>
</tr>
<tr>
<td>Secretarial Assistant II</td>
<td>1</td>
</tr>
<tr>
<td>Secretarial Assistant III</td>
<td>5</td>
</tr>
<tr>
<td>Clerk, FY91 permit fees</td>
<td>4</td>
</tr>
<tr>
<td>Senior Clerk Typist</td>
<td>4</td>
</tr>
<tr>
<td>Principal Clerk Typist</td>
<td>8</td>
</tr>
<tr>
<td>Supervisor of Accounts</td>
<td>1</td>
</tr>
</tbody>
</table>
ENVIRONMENTAL PROTECTION

PROPOSALS

Operating Costs $535,500

Overtime

OTIS Data Processing

Computer Equipment

CLEAN WATER ENFORCEMENT $2,207,176

Gas and Oil

Office Supplies

Telephones

Total Personnel Costs 10,835,894 5,334,770

Copiers

83,000

77,000

System/36 Maintenance 16,000

16,000

PCS Data Processing 35,000

35,000

Telephones 75,000

80,370

Postage 34,510

63,145

Deputy Attorneys General 125,945

96,024

Laboratory Services 439,000

339,400

OTIS Data Processing 534,000

150,000

Vehicles 21,200

22,500

Central Motor Pool Rent 131,581

125,236

Office Supplies 36,036

15,500

Gas and Oil 46,187

13,150

Data Processing Supplies 42,940

38,340

Scientific Supplies 5,614

4,500

Professional Services 193,100

15,000

Travel, Conferences, Seminars 60,975

19,900

Training, Tuition Aid 35,785

43,300

Temp. Services 204,049

105,000

Legal Advertising 35,700

35,000

Building Maintenance -0.0

-1,000

Equipment Maintenance 16,200

5,400

Pagers 4,100

2,860

Equipment, Furniture 21,085

23,400

Computer Equipment 51,558

98,800

Total Operating Costs $2,484,208

$1,416,825

Existing PROGRAM COST $13,084,102

$6,751,595

Clean Water Enforcement:

Salaries 979,200

172,800

Fringe Benefits (28.65%) 280,541

49,507

Indirect Costs (32.7%) 411,935

72,694

Total Personnel Costs $1,671,676

$295,001

Operating Costs $535,500

$94,500

CLEAN WATER ENFORCEMENT $2,207,176

$389,501

TOTAL NJPDES BUDGET WITH CLEAN WATER

$22,432,374

ENFORCEMENT ACTIVITIES

Facilities which discharge industrial waste, sanitary wastewater, noncontact cooling water, decontaminated ground water, stormwater runoff or other types of treated and untreated types of wastewater to the surface waters of the State will be assessed a surface water discharge permit fee. The total of the NJPDES program budget to be distributed to industrial/commercial surface water permittees is $6.9 million. Sanitary surface water dischargers will be assessed $6.9 million of the total NJPDES program cost. Facilities classified as a Significant Indirect User ("SIU") will be assessed $1.5 million of the total NJPDES program cost. Fees are assessed based on the facility’s potential impact on the environment. The average fee for a surface water discharge will be approximately $11,250. Surface water permittees which receive a NJPDES permit to construct a treatment works that have not begun discharging will be assessed the minimum fee of $500.00.

Facilities which actively discharge sanitary wastewater, industrial process wastewater, non-contact cooling water, filter backwash, treated ground water, stormwater runoff, or other types of wastewater to the ground waters of the State will be assessed a fee based on the potential environmental impact of the discharge plus a base minimum fee of $500.00. Where the Department has issued a ground water detection monitoring permit to evaluate the impact of a past discharge activity, only a minimum fee of $500.00 will be assessed.

Once environmental impact has been established through a detection monitoring program or other ground water assessment program, the permit fee will be assessed based on the magnitude of ground water contamination as measured by the area of the site and the maximum concentration of all pollutants detected in the monitoring wells and the risk associated with each pollutant plus a ground water fee. The Department will use the area of the plume and the average pollutant concentrations after the permittee has defined the extent of ground water impact in accordance with their NJPDES permit requirements.

The base minimum fees for facilities which institute corrective action to mitigate further environmental impact is $1,500 while the base minimum fee for facilities in the compliance monitoring phase is $5,000. This proposed amendment requires that only facilities which have been issued a NJPDES ground water permit for a RCRA unit will be subject to the higher minimum fees for hazardous waste. Also, minimum fees for hazardous waste facilities are now based upon the ground water monitoring status of the facility. Those facilities which pose the greatest risk, will be assessed the highest base minimum fee.

Permittees with ground water permits for discharges from sources other than landfills will be assessed a total of $5.2 million. Landfill permittees will be assessed $1.9 million.

Environmental Impact

The proposed amendment reflects the Department’s policy of funding the NJPDES program with fees assessed to dischargers. The fees provide the Department with the financial means to protect, through enhanced technical evaluation, inspection and monitoring, the quality of the State’s surface and ground waters. The additional monitoring requirements imposed by the Clean Water Enforcement Act will insure that those permittees who violate the conditions of their NJPDES permit do not benefit from their actions. Under the Clean Water Enforcement Act, facilities which violate their NJPDES permit will be assessed mandatory penalties which will be returned to the Department of Environmental Protection to be used to implement the requirements of the Water Pollution Control Act. This program will be funded through penalties paid under the Act and NJPDES permit fees. Only those activities required by the Clean Water Enforcement Act that are directly related to processing, monitoring and administering NJPDES permits, such as the processing of adjudicatory hearings on NJPDES permit conditions, increased compliance and sampling inspections, and data management are included in the NJPDES budget and fees schedule. If the Department realizes more penalties than originally projected, the cost of the NJPDES permit program may be reduced.

The proposed amendment to N.J.A.C. 7:14A-1.8 is designed to proportionally assess the cost of the NJPDES program to those facilities whose activity has the greatest negative impact on the environment. The proposed fee schedule will have a positive environmental impact and encourage ground water remediation and proper landfill closure. The inclusion of a procedure to handle non-detectable pollutants, will minimize the objections to monitor for pollutants which may not be detected. This will provide more information on the complex nature of wastewater discharges.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that this proposed amendment, not including reclassification or other compliance requirements on small businesses because the Department, in establishing each discharger’s fee, will use the information currently reported by each discharger on discharge monitoring reports ("DMRs"), monitoring report forms and/or information submitted to the Department as part of the NJPDES permit application or any other permit issued by the Department as required at N.J.A.C. 7:14A. The Department’s use of the existing permitting process allows all NJPDES permittees to fully comply with these fee requirements without the administrative burden or financial expense of retaining any additional professional services.

The fees will be assessed to all NJPDES permittees, including the estimated 225 permittees which are considered to be small business as defined by N.J.S.A. 52:14B-16 et seq. The fee schedule takes into consideration the negative environmental impact of the permittee’s discharge; those permittees who do the most to create a negative impact on the environment or do not remediate the negative environmental impact will bear the greater share of the Department’s administrative costs.

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

7:14A-1.8 Fee schedule for NJPDES permittees and applicants

(a) The general conditions and applicability of the fee schedule for NJPDES permittees and applicants are as follows:

1.-2. (No change.)

(CITE 22 N.J.R. 3682) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
3. All NJPDES permittees/applicants that are issued a draft or final NJPDES permit shall submit payment within 30 days of assessment of the fee by the Department.

i. Upon receipt of a completed application, the Department shall assess the minimum fee as set forth in (h) below.

ii. Upon issuance of the final permit, the annual fee shall be calculated and pro-rated for the period of the fee year remaining. The minimum fee already paid shall then be subtracted from the pro-rated assessment. In no case, however, will such payment of a pro-rated fee result in a fee that is less than the minimum fee for the category of discharge. The permittee may request a fee recalculation as provided at (a)8 below, once the first required monitoring report has been completed.

4.-8. (No change.)

9. The annual fee for all discharges is calculated by applying the formula: Fee = (Environmental Impact X Rate) + Minimum Fee, where:

i. Environmental Impact is the Department's assessment of potential risk of discharge to the environment as derived under (c) through (g) below.

ii. Rate is the dollar cost for each weighted unit of Environmental Impact. Rate is calculated as follows:

\[
\text{Rate} = \frac{B \times E_i}{\sum A + (B \times E_i)}
\]

where:

- \(n\) = Sum of the fees for all facilities
- \(i\) = Minimum fee
- \(A\) = Minimum fee
- \(B\) = Rate
- \(E_i\) = Environmental Impact for facility.

iii. Minimum fee is a base cost which is added to the calculated individual fee. The minimum fees are set forth in (h) below.]

\[
\text{Rate} = \left(\frac{\text{Budget} - \text{Sum of Minimum Fees}}{\text{Total Environmental Impact}}\right)
\]

(1) Budget is the total budget for the category of Discharge.

(2) The Sum of Minimum Fees is the total amount of minimum fees to be paid by all dischargers in the category of discharge. The minimum fee is a base cost added to the calculated individual fee. The minimum fees are set forth in (h) below.

(3) Total Environmental Impact is the sum of environmental impact for all dischargers in the category.

10. The Department shall [take either the square root of] use the total pollutant load as calculated in (c)1i below for surface water discharges, the quantity discharged as calculated in (d)2i below for permittees subject to (d) below, or the total weighted concentration as calculated in (d)2ii below for permittees subject to (d)2 below to calculate environmental impact. [for the period July 1, 1989 to June 30, 1990. The Department shall use the total pollutant load, total weighted concentration or quantity discharged in all subsequent fee years.] The maximum fee to be assessed for any category of discharge shall be 10 percent of the budget for the category of discharge.

(b) (No change.)

(c) The annual fee for discharges to surface water is calculated by using the following Environmental Impact in the annual fee formula:

i. The Environmental Impact of a Discharge to Surface Water is derived by applying the formula: Environmental Impact = (Total Pollutant Load + Heat Load) \times (Bioassay Factor + Stream Factor), where:

- \(i\) = Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I.

(1) Net loadings will be used if a net limit has been established in the NJPDES permit. If a permittee reports a pollutant load less than zero, a zero will be used to calculate the Total Pollutant Load.

(2) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

ii.iii. (No change.)

iv. Stream factor is the sum of the reported Water Quality Index (listed in the New Jersey [1986] Water Quality Inventory Report, prepared by the Division of Water Resources and available from the Department) divided by 100, the reported Water Use Index (listed in the New Jersey [1986] Water Quality Inventory Report) divided by 50, and the Designated Use Index (derived from the New Jersey [1986] Water Quality Inventory Report) assigned by the Department as follows:

<table>
<thead>
<tr>
<th>Designated Use</th>
<th>Uses met in the Stream Segment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00</td>
<td>Segment does not meet designated uses.</td>
</tr>
<tr>
<td>0.75</td>
<td>Sometimes meets one use, or a small portion of the watershed meets designated uses.</td>
</tr>
<tr>
<td>0.50</td>
<td>Segment meets one designated use.</td>
</tr>
<tr>
<td>0.25</td>
<td>A small portion of the watershed does not meet or seasonally does not meet all designated uses.</td>
</tr>
<tr>
<td>0.00</td>
<td>All designated uses are met in the watershed.</td>
</tr>
</tbody>
</table>

Note: Designated uses are established by N.J.A.C. 7:9-4. The Department shall use the most recent edition of New Jersey Water Quality Inventory Report.

2. (No change.)

(d) The annual fee for discharges to ground water, except for residuals and landfills covered in (e) and (f) below, is based upon the level of monitoring and/or remedial activity required by the Department at the permitted site. Permittees not required to conduct ground water monitoring shall use the Environmental Impact in d(1) below in the annual fee formula. Permittees required by the Department to conduct ground water monitoring, which is defined as monitoring performed by the permittee to determine whether current or past discharges have resulted in environmental impact, shall use the Environmental Impact in d(1) below in the annual fee formula. Permittees which are required by the Department, in a NJPDES permit, administrative order, administrative consent order, directive letter, or other form of notice, to conduct compliance monitoring in accordance with N.J.A.C. 7:14A-6.15, source removal, and/or ground water remediation, shall use the Environmental Impact in d(2) below in the annual fee formula.

1. The Environmental Impact of a Discharge to Ground Water for permittees not required to conduct ground water monitoring or permittees required to conduct detection monitoring is derived by applying the formula: Environmental Impact = (Risk X Quantity X Ground Water Rating Factor) where:

i.ii. (No change.)

iii. Ground Water Rating Factor is the sum of the Ground Water Monitoring Status Factor, the Aquifer Factor, Ground Water Use Factor and Permeability Rating divided by 10 where:

(1)-3. (No change.)

4. Permeability Factor is the rating number, based on hydraulic conductivity in centimeters per second, of the geological formation immediately beneath or facility liner material. Facilities assigned a Ground Water Monitoring Status Factor of 10, that have demonstrated control of the plume of ground water contamination shall be assigned a permeability factor of 10. Where permeability is not provided to the Department by the permittee, the Department shall assume a permeability factor of 10. The rating numbers are assigned as follows:

<table>
<thead>
<tr>
<th>Rating</th>
<th>Permeability</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>11</td>
<td>100^6</td>
</tr>
<tr>
<td>12</td>
<td>100^4</td>
</tr>
<tr>
<td>14</td>
<td>100^2</td>
</tr>
<tr>
<td>18</td>
<td>100^3</td>
</tr>
<tr>
<td>20</td>
<td>100^2</td>
</tr>
<tr>
<td>22</td>
<td>100^2</td>
</tr>
</tbody>
</table>
ENVIRONMENTAL PROTECTION PROPOSALS

2. The Environmental Impact for a Discharge to Ground Water for permittees required to conduct compliance monitoring, source removal, and/or ground water remediation is derived by applying the formula: Environmental Impact = (Area \times \text{Total Weighted Concentration} \times \text{Ground Water Rating Factor}) where:

i. (No change.)

ii. Total Weighted Concentration is the sum of all pollutant concentrations limited in the NJPDES permit and converted to milligrams per liter (mg/l) multiplied by their associated risk as listed in Table I. The highest average pollutant concentration detected in any well during the monitoring period selected by the Department in (a)7 above shall be used unless the permittee has delineated the extent of plume as required by their NJPDES permit. Where plume has been delineated, the Department shall use the average pollutant concentration for all wells for the monitoring period selected by the Department in (a)7 above.

(i) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB’s will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB’s detected once, the Department shall calculate the Total Weighted Concentration using one-half the reported minimum detection limit for pollutant concentrations.

iii. (No change.)

(c)(i) (No change.)

(g) The annual fee for discharges by a significant indirect user to a domestic treatment works is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a Discharge by a significant indirect user (SIU) to a domestic treatment works (DTW) is derived by applying the formula: Environmental Impact = (Total Pollutant Load)

[Toxicity Factor x (COD Load) where:

i. Toxicity Factor is the rating number, based on the degree of hazard, assigned by the Department to each industrial category. The rating numbers are assigned as follows:

<table>
<thead>
<tr>
<th>Rating</th>
<th>Industrial Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Food Products</td>
</tr>
<tr>
<td>2</td>
<td>Brewery/Yeast, Glass</td>
</tr>
<tr>
<td>3</td>
<td>Coffee, Soap and Detergent, Foundry, Pulp, Paper and Paperboard, Glue, Coil Coating</td>
</tr>
<tr>
<td>4</td>
<td>Explosives, Machine and Mechanical (Roller Bearing)</td>
</tr>
<tr>
<td>5</td>
<td>Electroplating, Leather Tanning, Tank Storage, Inorganic Chemicals</td>
</tr>
<tr>
<td>6</td>
<td>Organic Chemicals, Pharmaceuticals</td>
</tr>
<tr>
<td>7</td>
<td>Ground water decontamination, Hazardous Waste Facilities that recover and recycle hazardous waste</td>
</tr>
<tr>
<td>8</td>
<td>Landfill leachate</td>
</tr>
<tr>
<td>9</td>
<td>Hazardous Waste Facilities that treat and discharge hazardous waste, Industrial Waste Management Facilities</td>
</tr>
</tbody>
</table>

ii. COD Load is the quantity of Chemical Oxygen Demand discharged by the DTW (in kilograms per day) and is derived by multiplying the COD load discharged by the SIU (in kilograms per day) by the DTW’s discharge rate (DTW effluent ÷ DTW influent).

i. Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I.

(i) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB’s will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB’s detected once, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations. The Department shall use one-half the reported detection limit for pollutant concentrations reported as non-detectable to calculate the Total Pollutant Load.

(h) Minimum fees are as follows:

i. (No change.)

2. The minimum fee for Discharge to Ground Water (DGW) permits, except for residuals and landfills covered in (h)3 and 4 below, shall be assessed as follows:

i. (No change.)

v. Hazardous Waste Facilities regulated by N.J.A.C. 7:26, Industrial Waste Management Facilities (IWMF) regulated by N.J.A.C. 7:14A-4, facilities that have been issued a NJPDES DGW/IWMF permit (and), facilities with a DGW/IWMF permit-by-rule and facilities with a NJPDES ground water permit for a Resource Conservation Recovery Act (RCRA) unit assigned a Ground Water Monitoring Status of 1 or 2 shall be assessed a minimum fee of $[20,000] 10,000;

vi. Hazardous Waste Facilities regulated by N.J.A.C. 7:26, Industrial Waste Management Facilities (IWMF) regulated by N.J.A.C. 7:14A-4, facilities that have been issued a NJPDES DGW/IWMF permit and facilities with a DGW/IWMF permit-by-rule and facilities with a NJPDES ground water permit for a RCRA unit assigned a Ground Water Monitoring Status of 5 shall be assessed a minimum fee of $20,000; and

vii. Hazardous Waste Facilities regulated by N.J.A.C. 7:26, Industrial Waste Management Facilities (IWMF) regulated by N.J.A.C. 7:14A-4, facilities that have been issued a NJPDES DGW/IWMF permit and facilities with a DGW/IWMF permit-by-rule and facilities with a NJPDES ground water permit for a RCRA unit assigned a Ground Water Monitoring Status of 10 shall be assessed a minimum fee of $40,000.

3. (No change.)

8. The minimum fee for land based soil treatment operation shall be $1,500 except for a RCRA unit which shall be subject to the minimum fee of $20,000.
RISK CATEGORIES

<table>
<thead>
<tr>
<th>Risk Factor</th>
<th>TDS</th>
<th>Chloride</th>
<th>Sulfate</th>
<th>Fluoride</th>
<th>Iron</th>
<th>Molybdenum</th>
<th>Bismuth</th>
<th>Manganese</th>
<th>Zinc</th>
</tr>
</thead>
<tbody>
<tr>
<td>10'</td>
<td>TSS</td>
<td>Phosphorus</td>
<td>Phthalic Acid</td>
<td>Sulfide</td>
<td>Manganese</td>
<td>Antimony</td>
<td>Sulfide</td>
<td>Oil &amp; Grease</td>
<td>Surfactants</td>
</tr>
<tr>
<td>10'</td>
<td>TSS</td>
<td>Aluminum</td>
<td>Antimony</td>
<td>Barium</td>
<td>Oil &amp; Grease</td>
<td>Surfactants</td>
<td>Nitrates</td>
<td>Nitrates</td>
<td>Oxidizable Matter</td>
</tr>
<tr>
<td>10'</td>
<td>TSS</td>
<td>Styrene</td>
<td>Nickel</td>
<td>Copper</td>
<td>Silver</td>
<td>Cobalt</td>
<td>Phosphorus</td>
<td>Cyanide</td>
<td>Selenium</td>
</tr>
<tr>
<td>10'</td>
<td>TSS</td>
<td>Petroleum hydrocarbons</td>
<td>Arsenic</td>
<td>Beryllium</td>
<td>Asbestos</td>
<td>Acid fraction compounds</td>
<td>Base-Neutral</td>
<td>PCB</td>
<td>Compounds</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOD</th>
<th>TDS</th>
<th>Iron</th>
<th>Bismuth</th>
<th>Antimony</th>
<th>Tin</th>
<th>Manganese</th>
<th>Inorganic Sulfur Compounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>TSS</td>
<td>I, 1-Dichloroethylene</td>
<td>Copper</td>
<td>Zinc</td>
<td>Chromium-Trivalent</td>
<td>Barium</td>
<td>Cyanide</td>
<td>Dimethyl phthalate</td>
</tr>
<tr>
<td></td>
<td>1,1,1-Trichloroethane</td>
<td>Nickel</td>
<td>Silver</td>
<td>Asbestos</td>
<td>Cobalt</td>
<td>Selenium</td>
<td>1,2-Dichloroethane</td>
</tr>
<tr>
<td></td>
<td>Lead</td>
<td>1,1,1-Trichloroethane</td>
<td>Mercury</td>
<td>Cadmium</td>
<td>Asbestos</td>
<td>Acid fraction compounds</td>
<td>Dichlorodifluoromethane</td>
</tr>
</tbody>
</table>

**Unlisted
**Not Itemized

DIVISION OF FISH, GAME AND WILDLIFE
Marine Fisheries Administration
General Net Regulations
Proposed Amendment: N.J.A.C. 7:25-18.5

Authorizes By: Judith A. Yaskin, Commissioner, Department of Environmental Protection.


Proposal Number: PRN 1990-615.

Submit comments by January 16, 1991 to:
Samuel A. Wolfe, Esq.
Administrative Practice Officer
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 7:25-18.5(g)4 defines and limits the types of gear that shall be allowed under the provisions of N.J.S.A. 23:5-24.2. These gear definitions were part of the bait net rule proposal in the April 18, 1988 New Jersey Register at 20 N.J.R. 866(a), but were inadvertently omitted on adoption on June 20, 1988 at 20 N.J.R. 1345(a). These definitions are required to allow proper enforcement of this section.

The proposed amendment to N.J.A.C. 7:25-18.5(g)5 and (g)6 standardizes the means by which Gill nets are marked while fishing by increasing...
the number and types of markings required so as not to conflict with the requirements of the State of Delaware. It has been the experience of the Division that the current marking practice is insufficient to protect the nets even from other commercial fishermen, who are familiar with the industry in their area. A fortiorti, other boaters have caused a great deal of damage to their own vessels as well as the commercial fishing industry through accidental contact with these nets.

Social Impact
Adoption of this amendment will have a positive social impact. The provision concerning the marking of gill nets will make them more noticeable in the water during the day and at night and make New Jersey and Delaware gear marking requirements uniform. This will have a positive social impact by decreasing public confusion regarding gill net identification and by decreasing the likelihood of boats’ running into gill nets which may result in damage to both nets and boats or in personal injury. Because the amended bait net definitions and limits reflect current practice, no adverse social impact is anticipated as a result of that portion of this amendment.

Economic Impact
Adoption of this amendment should have no major economic impact. The provision concerning bait net licenses will have no additional economic impact, since the gear defined is that currently in use by those fishermen taking fish for bait purposes, and this section reflects current Department licensing practices.

The provision regarding marking gill nets will cause a slight increase in the initial cost of gill net fishing due to the extra floats required by this amendment. However, anticipated reduction in the incidence of damage to gill nets by better day and night visibility of the gear and reduced confusion by the boating public will result in cost savings to the commercial fishery and to all segments of the boating community.

Environmental Impact
Adoption of this amendment will have a positive environmental impact. The provision concerning permitted types of bait nets is designed to prevent over-harvesting of various resources by reducing the by-catch of species whose harvests are regulated elsewhere in this Chapter or pursuant to Title 52 of New Jersey Statutes Annotated and to protect sensitive ecosystems as, for example, benthic habitats or submerged aquatic vegetation beds, that could be badly damaged by the use of inappropriate gear.

Regulatory Flexibility Analysis
This amendment applies to bait net and gill net fishermen. It is estimated that, of the total number of 600 licensees affected by this proposal, about 400 are "small business" as defined in the New Jersey Regulatory Flexibility Act (N.J.S.A. 52:14B-19) and will be affected. In order to comply with these amendments, gill-net fishermen will have to alter the markings on their nets. It is expected that the initial capital costs for each small business would be up to $20.00.

In developing this amendment, the Department has balanced the need to protect the environment against the economic impact of the proposed amendment and has determined that to minimize the impact of the rule would endanger the environment, public health and public safety and, therefore, no exemption from coverage is provided.

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

7:25-18.5 General net regulations
(a)-(f) (No change.)
(g) Persons intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the Commissioner for a license. Upon receipt of the application and the prescribed license fee, the Commissioner may, in his discretion, issue single season licenses as specified for each net type for the taking of fish with nets only as follows:
1.-3. (No change.)
   i. Bait nets shall be limited to one or more of the following types:
   (1) Dip nets 24 inches in diameter or less.
   (2) Bait seines not exceeding 150 feet and mesh not exceeding 2.5 inches stretched;
   (3) Cast nets not exceeding 30 feet in diameter;
   (4) Lift or umbrella nets not exceeding four feet square; and
   (5) Killipots not exceeding 10 inches in diameter or 25 inches in length if cylindrical or 2,000 cubic inches for any other conformation for the taking of killifish (Cyprinodontidae spp.) only;
   [i.] ii. No person shall take more than 35 alewife or blueback herring in the aggregate per day with any dip net, cast net, lift or umbrella net or bait seine; and
   [iv.] iii. The simultaneous possession of greater than 35 alewife or blueback herring in the aggregate and any dip net, cast net, lift or umbrella net or bait seine shall constitute prima facie evidence of the violation of this rule.
5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched, beginning February 12 through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15.
   These nets shall not individually exceed 200 fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February 12 through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.
   i. (No change.)
   ii. Separate drifting gill nets or a series of joined drifting gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches [square] by 12 inches and suspended at least [two] three feet above the water, measured from the surface of the water to the bottom of the flag.
   No less than 24 square inches of any reflective material shall be attached and maintained on each end marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;
   iii.-vi. (No change.)
   6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. Staked or anchored gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length from the beginning of the season through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15.
   i. (No change.)
   ii. Separate staked or anchored gill nets or a series of joined staked or anchored gill nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches [square] by 12 inches and suspended at least [two] three feet above the water, measured from the surface of the water to the bottom of the flag.
   No less than 24 square inches of any reflective material shall be attached and maintained on each end marker. A white float measuring at least eight inches in diameter shall be located approximately 20 feet inside of each end marker;
   iii.-ix. (No change.)
   7.-12. (No change.)
(h) (No change.)

INSURANCE

DIVISION OF LEGISLATIVE AND REGULATORY AFFAIRS

Administration

Proposed Readoption: N.J.A.C. 11:1
Authorized By: Samuel F. Fortunato, Commissioner,
Department of Insurance.
Authority: N.J.S.A. 17:1C-6(e).
Proposal Number: PRN 1990-633.
The agency proposal follows:

Summary

Pursuant to Executive Order 66(1978), the Commissioner of Insurance proposes to readopt N.J.A.C. 11:1, entitled Administration. This chapter is due to expire on February 3, 1991.

This chapter includes rules related to different areas of insurance, including life/health and property/casualty, and the organization of the Department of Insurance ("Department"). Rules concerning the following subjects are codified in this chapter:

1. Organization of the Department;
2. Filings of rates, manual rules, rating plans, policy forms and endorsements;
3. Unfair discrimination;
4. Administrative orders and declarations;
5. New Jersey Property-Liability Insurance Guaranty Association surcharge;
6. Admission requirements for foreign and alien property and casualty insurers;
7. Conduct constituting violations by brokers and agents;
8. Corporate and partnership licensee requirements;
9. Petitions for rules;
10. Requirements for filing a downward deviation in currently approved rates;
11. Cancellation and nonrenewal of commercial insurance policies;
12. Loss reserve opinions;
13. Prohibition of certain cancellation and nonrenewal activity;
14. Official Department mailing lists; address information;
15. Annual publication of insurer profitability information; and
16. Formation of a domestic property and casualty insurance corporation (stock or mutual) or reciprocal insurance exchange.

The rules in this chapter were promulgated to implement many of the statutory requirements in Titles 17 and 17B of the New Jersey Statutes. The Department has undertaken a review of these rules at several levels to determine their current effectiveness and viability. The rules continue to provide the insurance industry and the consumer with vital information and useful standards concerning many aspects of insurance. The Department believes that the original purpose for each rule, as stated in the rule itself, continues to exist.

The rules in this chapter primarily serve two general purposes in implementation of statutory law. First, they protect the consumer by addressing issues such as unfair discrimination, cancellation and nonrenewal, temporary licensing of life, health and annuity agents, and unweightiness and bad faith by brokers and agents. Secondly, they provide guidance to the insurance industry respecting such business-related matters as form filing approvals, admission requirements for foreign and alien property and casualty insurers, filing revised rates, general requirements of loss reserve opinions and formation of domestic insurers.

The public is further advised that the Department has proposed rules for this chapter which have been published in the New Jersey Register but which have not yet been adopted.

Social Impact

As noted above, the rules address several areas of concern to consumers and protect them from potential unfair trade practices concerning insurance and its solicitation. The rules concerning agent and broker avoidance of debts to insureds help ensure that consumers are protected from any bad faith practices on the part of insurance agents. The rules concerning cancellation and nonrenewal of commercial insurance policies protect insureds from invalid nonrenewals and cancellations, while nevertheless providing insurers with the flexibility to cancel and nonrenew policies due to conditions that warrant such actions.

The insurance industry also relies on the presence and effectiveness of these rules in its operation. Insurers are provided with guidance in filing of rates, manual rules, rating plans, policy forms and endorsements. The industry is also informed of the admission procedures, requirements and standards governing the application of a foreign or alien insurer to do property/casualty insurance business in this State. Also, insurers are aided by the rules in the submission of loss reserve opinions acceptable to the Department. Finally, insurers are guided by the rules in filing for a certificate of authority to transact business as a domestic property and casualty insurance corporation or reciprocal insurance exchange.

The rules in this chapter enable the Department to fulfill its regulatory duties under law. Failure to readopt these rules would impair the Department's regulatory powers and would unsettle established relations between insurers and the general public and between these two groups and the Department.

The protections that these rules afford the consumer and the operational guidance that they afford the insurance industry mandate their continued existence both to implement statutory provisions and to foster and promote a sound regulatory policy.

Economic Impact

The failure to readopt this chapter would require the insurance industry to perform many significant statutory functions without guidance from the Department. This would impose significant costs on the industry since current compliance requirements would not be readily available to the industry, requiring it to implement procedures which may not be acceptable to the Department. The industry has invested a great amount of time and resources in operating in compliance with the Department's current procedures and this results in benefits for both the insurer and the general public.

The rules may impose significant costs to insurers who must file for rate and form approval pursuant to Department guidelines. Foreign and alien insurers will also incur significant costs in seeking admission to do business in this State. In addition, additional cost would be incurred in the application for a certificate of authority as a domestic insurer in this State.

The rules clearly impact on the consumer public. The rules concerning bad faith actions on the part of brokers and agents help ensure that a consumer is not treated unfairly. In addition, rules concerning nonrenewal and cancellation require provisions for notice to insureds of such actions and acceptable reasons for cancellation and nonrenewal, thereby providing a reasonable degree of assurance that an insured that coverage will be maintained.

The readoption of the current rules will enable the Department to continue to monitor insurance matters in a manner which appropriately meets its current fiscal resources and capabilities. The use of current procedures that have been proven effective over time has economies of procedures for the Department.

Throughout the years, the Department has carefully monitored, and continues to monitor, the impact of the rules in this chapter through communication with the insurance industry and the public. The Department is unaware of any provisions of these rules that impose undue or unnecessarily onerous financial burdens on the insurance industry.

Regulatory Flexibility Analysis

Few, if any, insurers regulated by the rules in this chapter are "small businesses" as defined by N.J.S.A. 52:18B-16 et seq., the Regulatory Flexibility Act. Several rules (for example, conduct constituting violations by brokers and agents) relate to the conduct of insurance producers, most of whom are "small businesses".

Significant recordkeeping and reporting requirements imposed by this chapter include the requirement concerning rate and form filings, loss reserve opinions, and the provision of information to the Department for its annual publication of insurer profitability information.

The Department has determined that all such compliance, recordkeeping and reporting requirements continue to be necessary. The rules apply to all insurers or insurance producers, as the case may be, without regard to size since they implement statutory provisions and/or regulatory policies which allow for no such exceptions. The Department is unaware of any provisions of these rules that are excessively onerous to "small businesses" or unnecessary.

Future annual costs of compliance with these rules are not expected to differ from current annual cost, as explained in the Economic Impact statement. The use of professional services currently required by the rules will continue to be necessary.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 11:1.
DIVISION OF THE REAL ESTATE COMMISSION

Real Estate Guaranty Fund

Proposed Amendment: N.J.A.C. 11:5-1.36

Authorized By: the New Jersey Real Estate Commission, Micki Greco Shillito, Executive Director.


Proposal Number: PRN 1990-626.

Submit comments by January 16, 1991 to:
Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with N.J.S.A. 45:15-40, the New Jersey Real Estate Commission has proposed to amend N.J.A.C. 11:5-1.36 so as to impose a special assessment upon all licensees in order to replenish the Real Estate Guaranty Fund. It is necessary to impose this assessment at this time because over the period of approximately the last 18 months, payments made from the fund have resulted in more than a 50 percent reduction in the operating balance of the fund. In addition, as a result of pending claims against the fund, anticipated payments over the course of the next year exceed the remaining balance in the fund. Consequently, the Commission is required by law to impose an assessment upon licensees in order to maintain an adequate balance in the fund. As provided in N.J.S.A. 45:15-35 and N.J.S.A. 45:15-40(a), the amount of the assessment upon all broker licensees shall be $10.00 and the amount of the assessment upon all salesperson licensees shall be $5.00.

All licenses renewed by the Commission in 1990 will expire on June 30, 1991. All initial licenses issued by the Commission after July 1, 1990 will expire on June 30, 1991. Thus this amendment will affect all licensees who renew their licenses on July 1, 1991, regardless of whether they hold a license which was renewed on July 1, 1990 or a new license issued between July 1, 1990 and June 30, 1991.

Social Impact

The proposed amendment will have a beneficial social impact, as the replenishment of the Real Estate Guaranty Fund will assure that members of the public who have suffered losses as the result of the embezzlement, conversion or unlawful obtaining of money or property by a licensed real estate broker or salesperson, or an unlicensed employee of a real estate broker will continue to be afforded the protections provided by the Real Estate Guaranty Fund. The fund permits such persons to obtain a recovery of their losses up to a maximum of $10,000 for each claim filed.

Economic Impact

The proposed amendment will have a beneficial economic impact upon parties to real estate transactions who suffer economic losses as a result of the dishonest conduct of real estate licensees. The minimal amount of the assessments will impose only a very minor detrimental economic impact upon real estate licensees. However, by permitting aggrieved persons to recover up to $10,000 from the fund, many real estate licensees ultimately benefit from the fund’s existence. This is true because a person’s ability to recover from the fund may enable them to consummate a transaction which they otherwise might not have been able to complete, had they not been able to rely upon reimbursement from the fund of monies which had been wrongly diverted by dishonest real estate licensees. By providing the wherewithall for such parties to complete real estate transactions, honest members of the licensee community benefit economically.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required because this proposed amendment does not impose reporting, record keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., other than the requirement that all brokers, regardless of the size of their business, pay the $10.00 assessment. The amount of the assessment cannot be varied based upon the size of a broker’s business because the $10.00 amount is established by statute at N.J.S.A. 45:15-35 and N.J.S.A. 45:15-40(a).

(c) 22 N.J.R. 3688  NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
You're viewing an archived copy from the New Jersey State Library.

PROPOSALS

Interested Persons see Inside Front Cover

LAW AND PUBLIC SAFETY

Division on Civil Rights

Rules of Practice and Procedure

Proposed Readoption with Amendments: N.J.A.C. 13:4

(a) Regulatory Flexibility Analysis

The proposed readoption of these rules may affect “small businesses” as this term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the effect is primarily associated with the underlying legislation which requires reporting to and reimbursement of the NATB. The proposed readoption of these rules merely clarifies that such reporting and reimbursement cannot be accomplished without an insurer first securing the status of either a member of a service company or the NATB. Since the underlying legislation does not so allow, there is no small business exception to the reporting and reimbursement requirement. Similarly, there is no exception in the time or other requirements of the proposed new rules since all companies, regardless of size, should be able to comply with the requirements of the proposed readoption. Moreover, the size of an insurer should not be permitted to impede the statutory purpose of frustrating automobile theft and related insurance fraud schemes. No additional professional services will be necessary to abide by the requirements of the proposed readoption.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 11:16.

LAW AND PUBLIC SAFETY

DIVISION ON CIVIL RIGHTS

Rules of Practice and Procedure

Proposed Readoption with Amendments: N.J.A.C. 13:4

Authorized By: C. Gregory Stewart, Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-6; 10:5-8(g), (h); 10:5-12(g), (b), (k).

Proposal Number: PRN 1990-631.

Submit comments by January 16, 1991, to: C. Gregory Stewart, Director Division on Civil Rights 383 West State Street Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Division on Civil Rights’ Rules of Practice and Procedure, N.J.A.C. 13:4, expire on January 21, 1991. The Division has reviewed these rules and proposes to readopt N.J.A.C. 13:4 with amendments. The Division proposes technical amendments to existing rules under subchapters 1, 2, and 9 in order to clarify provisions under these subchapters. The Division has reviewed the rules in subchapters 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 and has determined them to be necessary, reasonable and proper for the purpose for which they were originally intended. Therefore, the Division proposes to readopt these subchapters without amendment.

The Division has found its Rules of Practice and Procedure to be essential to the maintenance of orderly procedures by which the Division satisfies its mandate to enforce the Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq. Likewise, these rules provide critical procedural guidance to complainants, respondents, attorneys and others who interface with the agency.

The following is a summary of the provisions of and proposed amendments to N.J.A.C. 13:4:

N.J.A.C. 13:4-1. This subchapter provides that the Division’s Rules of Practice and Procedure shall govern all proceedings in the Division and shall be liberally construed by the Director. N.J.A.C. 13:4-1.4, which sets forth definitions of words and terms used in this chapter, is amended to provide the correct addresses of all Division offices within the definition of “Office of the Division”. Also, the term “field investigator” has been changed to “investigator” to comport with Department of Personnel designations.

N.J.A.C. 13:4-2. This subchapter sets forth rules governing investigations conducted by the Division, and details the powers of the Director in the conduct of Director’s investigations. The first line of N.J.A.C. 13:4-2.1(a) is amended to correct a typographical error, changing “N.J.S.A. 10:5-6.1” to “N.J.S.A. 10:5-6.” Similarly, N.J.A.C. 13:4-2.3(a) is amended to change “settlements” to “settlement”. N.J.A.C. 13:4-2.3 governs the conduct of fact-finding conferences as part of the Division’s investigation of discrimination complaints.

N.J.A.C. 13:4-3. This subchapter governs the manner by which actions before the Division are commenced, and sets forth rules for the preparation, filing, form and contents, and service of complaints. No amendments are proposed to this subchapter.

N.J.A.C. 13:4-5. This subchapter governs pleadings before the Division, and requires that respondents answer within 20 days of receiving the verified complaint, and include specific denials of designated allegations within the complaint. No amendments are proposed to this subchapter.

N.J.A.C. 13:4-6. This subchapter governs other pleadings in the Division. N.J.A.C. 13:4-6.1 authorizes the Director to cause an investigation to be made respecting the allegations in a complaint, and provides that the Director shall then determine whether or not probable cause exists. Subsequent sections govern motions before the Division, amended pleadings, Director’s orders, and motions to intervene. No amendments are proposed to this subchapter.

N.J.A.C. 13:4-7. This subchapter provides that prior to a case being transmitted to the Office of Administration Law, every order and subsequent pleading to the original complaint, every motion and written notice, and every brief or memorandum of law shall be served by mailing copies to all parties, by registered or certified mail, within three days of filing. No amendments are proposed to this subchapter.

N.J.A.C. 13:4-8. This subchapter generally controls investigatory depositions and interrogatories within the Division. The subchapter authorizes the Director to serve interrogatories when necessary to aid an investigation, and provides that parties may receive discovery after issuance of a finding of probable cause or any final determination, or after transmittal of the case to the Office of Administrative Law, or after any other agency closure. N.J.A.C. 13:4-8.3 establishes an interrogatory default procedure which provides that, if a respondent fails within a specified time to answer interrogatories served pursuant to a verified complaint, the Director may enter an order requiring the respondent to answer the interrogatories within 10 days, and warning that subsequent failure to respond will cause a default to be entered in the case. This section further provides that if after the expiration of this period the respondent has failed to fully answer the interrogatory, the Director shall order an entry of default on the docket of the Division, which shall constitute a waiver of respondent’s right to an investigation, and result in matters about which questions were asked being taken as established in accordance with the claim of the complainant. N.J.A.C. 13:4-8.4 governs the taking of testimony by deposition by the Director. No amendments are proposed to this subchapter.

N.J.A.C. 13:4-9. This subchapter governs the issuance of subpoenas by the Director, including whom and what evidence may be subpoenaed, and how subpoenas shall be served. This subchapter also provides that any person failing to comply with a subpoena shall be subject to the appropriate enforcement provisions of N.J.S.A. 10:5-8(i), 10:5-19, and 10:5-26, as well as the provisions of N.J.A.C. 13:4-8.3, Interrogatory default procedure. The Division proposes a technical amendment to N.J.A.C. 13:4-8.1(d) by inserting “Subpoena” for “Subpoenas”.

N.J.A.C. 13:4-10. This subchapter provides that the Director may consolidate or sever complaints instituted with the Division. The Division proposes no amendment to this subchapter.

N.J.A.C. 13:4-11. This subchapter provides that a conciliation conference shall be scheduled after a finding of probable cause, and that the respondent shall have at least five days notice of the time and place of the conciliation conference. The Division proposes no amendments to this subchapter.

N.J.A.C. 13:4-12. This subchapter provides that the Director shall determine when a hearing is necessary in any matter, either before or after conciliation, except that a complainant may file a request to present an action before the OAL any time after 180 days from the filing of a verified complaint with the Division unless the Division has found no probable cause or otherwise dismissed the complaint. This subchapter also provides that the Director may seek temporary injunctive relief in the Superior Court of New Jersey if he or she determines that the interests of the complainant may be irrevocably harmed by the lapse of time before a hearing or between a hearing and the ultimate disposition of the matter. The Division proposes no amendments to this subchapter.

N.J.A.C. 13:4-13 is reserved.

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3689)
The Division does not propose to amend this subchapter.

Social Impact
The provisions of N.J.A.C. 13:4 that are proposed for readoption either without amendment or with only technical amendments are expected to continue to have a positive social impact. The Legislature enacted the LAD to reflect the belief that "discrimination threatens not only the rights and proper privileges of the inhabitants of the State, but menaces the institutions and foundations of a free democratic state". NJ.S.A. 10:5-3. New Jersey courts have recognized that the eradication of the cancer of discrimination has long been one of our State's highest priorities. Peper v. Princeton, 77 N.J. 55 (1978). Since the Division's rules govern virtually every aspect of practice and procedure within the Division ranging from the filing of a complaint to the issuance of a final Director's order, they are essential to the Division's fair and effective enforcement of the LAD. Moreover, the rules provide procedural predictability which facilitates interactions with the Division by complainants, respondents, attorneys, and others. Thus the rules proposed for readoption have had and will continue to have a positive social impact.

Economic Impact
The rules proposed for readoption have had no significant economic impact since they primarily govern procedures before the Division, and represent no change in the substantive legal obligations of those covered by the LAD. The rules are expected to continue to have little or no economic impact.

Proposals

VIOLENT CRIMES COMPENSATION BOARD

Eligibility of Claims
Victims of Domestic Violence

Proposed Amendment: N.J.A.C. 13:75-1.6

Authorized By: Violent Crimes Compensation Board, Jacob C. Toporek, Chairman.
Proposal Number: PRN 1990-603.
Submit comments by January 16, 1991 to:
Cindy R. Merker, Esq.
Violent Crimes Compensation Board
60 Park Place
Newark, New Jersey 07102

The agency proposal follows:

Summary
The proposed amendment removes portions of N.J.A.C. 13:75-1.6(c) which no longer apply after passage of P.L. 1990, c.64. The amendment also clarifies the Board's handling of domestic violence claims arising after the passage of P.L. 1990, c.64.

The purpose of the Board's proposed amendment is to have the Board in compliance with the 1988 amendment to 42 U.S.C.A. 10601 et seq., which states that a state crime victim compensation program is an eligible program if it offers compensation to victims of domestic violence.

Social Impact
The addition of this amendment to the Board's rules will allow a new class of victims to apply to the Board for compensation and benefit from its provisions. Domestic violence victims had not been specifically included as eligible victims.

Economic Impact
The proposed amendment allows the Board to comply with the dictates of the 1988 amendment to 42 U.S.C.A. 10601 et seq. Therefore, the Board can be ensured it will continue to receive its yearly grant under the Federal Victims of Crime Act and can pay more claims in a given fiscal year. Victims of domestic violence may now be eligible for compensation from the Board.

Regulatory Flexibility Statement
The Violent Crimes Compensation Board's rules govern the process by which victims of violent crimes, and their attorneys, may make claims for compensation. The proposed amendment imposes no reporting, re-
Full text of the proposed amendments follows (additions indicated in boldface type; deletions indicated in brackets [thus]):

13:75-1.6 Eligibility of claims (a)-(b) (No change.)
(c) Any claimant who is held to be responsible for the crime upon which a claim is based, or is held to have been an accomplice or conspirator of the offender or is injured while participating in an illegal activity, or is a relative of the offender or living with the offender as a member of his family relationship group, as defined by N.J.S.A. 52:4B-2, is not eligible for compensation. For incidents occurring after March 3, 1983 and continuing through (the effective date of the amendment), a relative of the offender or a victim living with the offender as a member of the offender’s family relationship group may recover, if, subsequent to the incident giving rise to the claim, the claimant no longer resides in the same household as the offender and the claimant cooperated in the prosecution of the offender.

1. For incidents and injuries occurring on or after (the effective date of this amendment), the Board will apply the same standards that are applied to claims filed by victims of other violent crimes regardless of the familial relationship of the offender and the victim or the fact that they share a residence. However, no award will be made if compensation to the victim proves to be substantial unjust enrichment to the offender. Where the enrichment is inconsequential or minimal, compensation shall not be denied nor reduced. The factors to be considered in determining whether the unjust enrichment is substantial include, but are not limited to:

i. The amount of the award and whether it is made directly to the victim;
ii. Whether the offender has access to any cash payments coming into the household on behalf of the victim;
iii. Whether the award is essential to the well-being of the victim and other innocent and dependent family members;
iv. The amount of living expenses paid by the offender before and during the pendency of the claim;
v. If a significant portion of the award will be used directly by the offender for living expenses;
vi. The legal responsibilities of the offender to the victim;
vii. Collateral resources available to the victim from the offender which resources include, but are not limited to, court-ordered restitution or support and insurance and pension benefits. In evaluating collateral resources the Board may consider whether the offender has a legal responsibility to pay, whether the offender has resources to pay, and whether payment is likely. The victim will not be penalized for failure of the offender to meet his or her obligation to pay for the costs of the victim’s recovery; and
viii. The offender’s cooperation in providing the Violent Crimes Compensation Board with information concerning medical insurance coverage and any other information necessary for the Board to make a determination.

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

(a)

VIOLENT CRIMES COMPENSATION BOARD

Eligibility of Claims and Compensable Damages for Victims of Drunk Driving

Proposed Amendments: N.J.A.C. 13:75-1.6 and 1.7

Authorized By: Violent Crimes Compensation Board, Jacob C. Toporek, Chairman.


Proposal Number: PRN 1990-601.

13:75-1.6 Eligibility of claims
(a)-(d) (No change.)
(e) No compensation shall be awarded if the victim is injured as the result of the operation of a motor vehicle, boat, or airplane unless the same was used as a weapon in the deliberate attempt to run the victim down [or], if the same was used in the commission of a crime as defined by N.J.S.A. 52:4B-11 and the victim was injured by the same during the commission of said crime, or as provided in N.J.A.C. 13:75-1.7(i).
(f) (No change.)

13:75-1.7 Compensable damages
(a)-(h) (No change.)
(i) No passenger in a motor vehicle who knew or reasonably should have known that the driver was operating the vehicle while under the influence of alcohol or drugs is eligible for compensation.

2. In order for a victim to be eligible for compensation it is not necessary that the offender be convicted of a violation under N.J.S.A. 39:4-50 nor that a blood alcohol test be administered to the offender. However, the victim or claimant must demonstrate by a preponderance of the credible evidence that the incident involved driving under the influence of alcohol or drugs.

i. “Under the influence” as used in this subsection means a substantial deterioration or diminution of mental faculties or physical capabilities of a person whether due to intoxicating liquor, narcotic, hallucinogenic or habit-producing drugs.

ii. In any matter involving a violation of N.J.S.A. 39:4-50 relating to driving a vehicle while under the influence of intoxicating liquor, the following factors will be taken into account:

(1) A blood alcohol reading of .10 percent is prima facie evidence of a violation of N.J.S.A. 39:4-50;

Submit comments by January 16, 1991 to:
Cindy R. Merker, Esq.
Violent Crimes Compensation Board
60 Park Place
Newark, New Jersey 07102

The agency proposal follows:

Social Impact
The addition of these amendments to the Board’s rules will allow a new class of victims to apply to the Board for compensation and benefit from its provisions. Drunk driving victims had previously not been eligible for compensation.

Economic Impact
The proposed amendments allow the Board to comply with the 1988 amendment to 42 U.S.C.A. 10601 et seq. Therefore, the Board will be able to continue to receive its yearly grant under that Act which will enable the Board to pay more claims in a given fiscal year. Victims of drunk driving may now be eligible for compensation from the Board.

Regulatory Flexibility Statement
The Violent Crimes Compensation Board’s rules govern the process by which victims of violent crimes, and their attorneys, may make claims for compensation. The proposed amendments impose no reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., since they establish compensation eligibility criteria for individual victims. Therefore, a regulatory flexibility analysis is not required.

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

13:75-1.6 Eligibility of claims
(a)-(d) (No change.)
(e) No compensation shall be awarded if the victim is injured as the result of the operation of a motor vehicle, boat, or airplane unless the same was used as a weapon in the deliberate attempt to run the victim down [or], if the same was used in the commission of a crime as defined by N.J.S.A. 52:4B-11 and the victim was injured by the same during the commission of said crime, or as provided in N.J.A.C. 13:75-1.7(i).
(f) (No change.)

13:75-1.7 Compensable damages
(a)-(h) (No change.)
(i) No passenger in a motor vehicle who knew or reasonably should have known that the driver was operating the vehicle while under the influence of alcohol or drugs is eligible for compensation.

1. In order for a victim to be eligible for compensation it is not necessary that the offender be convicted of a violation under N.J.S.A. 39:4-50 nor that a blood alcohol test be administered to the offender. However, the victim or claimant must demonstrate by a preponderance of the credible evidence that the incident involved driving under the influence of alcohol or drugs.

i. “Under the influence” as used in this subsection means a substantial deterioration or diminution of mental faculties or physical capabilities of a person whether due to intoxicating liquor, narcotic, hallucinogenic or habit-producing drugs.

ii. In any matter involving a violation of N.J.S.A. 39:4-50 relating to driving a vehicle while under the influence of intoxicating liquor, the following factors will be taken into account:

(1) A blood alcohol reading of .10 percent is prima facie evidence of a violation of N.J.S.A. 39:4-50;
LAW AND PUBLIC SAFETY

(2) A blood alcohol reading in excess of 0.05 percent but less than 0.10 percent shall not give rise to any presumption that the offender was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence; and

(3) A blood alcohol reading of 0.05 percent or less shall give rise to the presumption that the offender was not under the influence of intoxicating liquor.

2. The Board may deny or reduce an award if the Board finds the victim was not wearing protective equipment such as a safety belt or if the victim is the operator of a second vehicle and does not have automobile insurance as required by law.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Energy Emergency

Reproposed New Rules: N.J.A.C. 14A:2

Authorized By: Board of Public Utilities, Scott A. Weiner, President.


BPU Docket Number: AX900809.

Proposal Number: PRN 1990-638.

Submit comments by January 16, 1991 to:

Edward Beslow, Esq.
Office of the President
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

On June 15, 1989, Governor Thomas A. Kean issued a Reorganization Plan (No. 002-1989) to provide for the increased coordination and integration of the State's energy regulation, planning and policy formation by the State through the transfer of the Division of Energy Planning and Conservation (Division) from the Department of Commerce, Energy and Economic Development to the Board of Public Utilities (Board) (see 21 N.J.R. 1937).

Pursuant to the plan, the Division, together with all its existing functions, powers and duties, was continued and transferred to the Board. Among the functions, powers and duties transferred was the responsibility and authority requiring the periodic reporting by energy industries of energy information, set forth in P.L. 1977, c.146, §16 (N.J.S.A. 52:27F-18) and the responsibility and authority for energy emergency planning and preparedness.

These administrative rules provide the Board with the authority to allocate various sources of energy within the State after gubernatorial declaration of an energy emergency. The specific energy sources are electricity, natural gas, regulation and control of the sale of motor gasoline, the State set-aside for major refined petroleum based fuels and supplies of motor gasoline. The rules proposed below are essentially identical to proposed rules that were published for comment in the September 17, 1990, New Jersey Register at 22 N.J.R. 2950(a), except as noted. As indicated in that notice, the Board conducted a public hearing concerning this proposal on October 11, 1990. At that time, oral testimony was presented only by Public Service Electric and Gas Company.

Written comments which were due on or before October 17, 1990, were received from:

New Jersey Petroleum Council
Public Service Electric and Gas Company
Atlantic Electric Company
South Jersey Gas Company
Elizabethtown Gas Company
East Orange General Hospital
Francis E. Parker Memorial Home.

The current proposal supersedes the proposal at 22 N.J.R. 2950(a) and is based on the public comments received. On November 7, 1990 the Board determined that the major change proposed herein is of a substantive nature requiring republication. The Board further decided to repropose these rules in toto in recognition of the substantial nature of the amendments and to avoid adoption without the opportunity for further public comments. The major change between the former proposal and the current one is the reversion to the curtailment plan which was based on Appendix A of the Board's Order in Docket No. 748-639 which was the basis for the rules formerly at N.J.A.C. 14A:2.2 which expired on April 17, 1989. Further changes include the dropping of references to gasohol because it is not sold in the State and the inclusion of a category of "natural gas" at N.J.A.C. 14A:2-2.3(a)3 because it had been inadvertently left out of the prior proposal. At N.J.A.C. 14A:2-4.2(a), specific percentage reduction was deleted from this proposal in order to correctly reflect both Board policy and standards established by the Pennsylvania Jersey Maryland Power Pool.

A more specific summary by subchapter is provided below:

SUBCHAPTER 1. GENERAL PROVISIONS

This subchapter contains the scope of the rules, definitions, provisions regarding exemptions and a reservation of the Board's right to modify emergency plans.

SUBCHAPTER 2. END-USE ENERGY REDUCTION

This subchapter provides for several steps in resolving an impending supply in the State. First, a public appeal is issued through the news media requesting end-users to voluntarily reduce their use of electricity, natural gas and petroleum products. Should the public appeals not result in sufficient reduction of energy consumption, direct mandatory reductions or limitation of energy uses and reductions of hours of operation are specified.

SUBCHAPTER 3. NATURAL GAS

In the event that a significant shortage of natural gas is forecast over a period in which public appeals, mandatory reductions or limitations of energy uses and reductions of hours of operation do not provide sufficient relief, a Priority Plan involving a sequence of involuntary curtailments is specified. This curtailment plan is identical to that contained in Appendix A of the Board's Order in In the Matter of the Board's Investigation into the Natural Gas Supply and the Priority Plan for Involuntary Curtailments in the State of New Jersey, Docket No. 748-639.

SUBCHAPTER 4. ELECTRICITY

In the event that a significant shortage of electricity is forecast over a period in which public appeals, mandatory reductions or limitation of energy uses and reductions of hours of operation voluntary reductions do not provide sufficient relief, steps to maintain reliable service are specified.

SUBCHAPTER 5. STATE SET-ASIDE FOR PETROLEUM PRODUCTS

This subchapter would be implemented if the Governor finds that there is an existing or impending petroleum supply shortage of a dimension which imperils the public health, safety and welfare. A State Set-Aside Program would require a prime supplier of motor gasoline, aviation gasoline, kerosene, diesel fuel oil, distillate fuel oil, No.4 fuel oil, residual oil and propane to set aside mandated percentages of product volume. The set aside percentages would be determined by the Board prior to the implementation of this subchapter. The subchapter sets a ceiling on the percentages for various covered products. The Board may designate certain geographic areas of the State as suffering from an intrastate supply imbalance and may issue an order releasing all or part of a prime supplier's set-aside volume through normal distribution channels.

SUBCHAPTER 6. REGULATION AND CONTROL OF SALE OF MOTOR FUEL

This subchapter contains the procedures which would be implemented during a period when there is a significant shortage of motor fuel. The key provisions of the procedure are limitations on the quantity of motor fuel to be sold to any one purchaser and days of access to retail dealers, commonly known as the "odd/even" system.

SUBCHAPTER 7. SUPPLIER OF PETROLEUM PRODUCTS

This subchapter requires each supplier of petroleum products to retail dealers submit the New Jersey posted dealer tank wagon price, posted reseller tank car price, or other posted price for each covered product for each class of customer to the Board within 24 hours of a price change.
social services such as medical care in the event of a declared state of
evergency. Exemption mechanisms are provided in the programs which
would otherwise restrict access to motor fuels to school, hospital and
emergency vehicles amongst others. The public utility emergency plans
as well as the State emergency plans provide that facilities which provide
critical social services will be kept on firm service to the maximum extent
practicable.

Economic Impact
These emergency procedures will have a positive economic impact in
the event of an energy emergency. In particular, the State Set-Aside for
petroleum products is designed to give the State the maximum degree of
flexibility to redirect fuels to geographical parts of the State which
would otherwise suffer disproportionate economic disruption. The overall
goal of all of these procedures is to provide a system which minimizes
economic disruption across the State.

Environmental Impact
These emergency procedures will not have an adverse impact on the
environment. Although it is not an intended outcome of the procedures,
it may be anticipated that restricted access to motor fuels and increased
ridesharing may result in improved air quality in all or part of the State.

Regulatory Flexibility Analysis
These rules will impose requirements on small businesses, as defined
under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., particu-
larly the retailers of motor fuels (see N.J.A.C. 14A:2-6). These require-
mements relate to the quantities and manner in which motor fuels are sold.
No capital cost or professional services should be incurred or required
to comply. The impact on businesses would be felt only during a period
of declared emergency energy. Such a state of energy emergency has not
been implemented since 1979.

These rules do provide for exceptions upon presentation to the Board
of a documented hardship. However, no business-size hard exemption
or differentiation is provided by the rules due to their emergency nature.

Full text of the reproposed new rules follows:

CHAPTER 2
ENERGY EMERGENCY

SUBCHAPTER 1. GENERAL PROVISIONS

14A:2-1.1 Scope
The following rules, with the exception of N.J.A.C. 14A:2-2.2, shall
be implemented when the Governor, by Executive Order, has
proclaimed a state of energy emergency under N.J.S.A. 52:27F-17. The
declaration of an emergency shall be based upon a finding by
the Board that there impends or exists a serious shortage of energy
which poses a grave threat to the public health, safety or welfare in
all or any part of the State. In making such a finding, the Board
shall set forth whether the emergency shall be limited to a specific
energy form or to any specific area of the State in which such a
shortage exists or impends.

14A:2-1.2 Definitions
The following words and terms, when used in this chapter, shall
have the following meanings unless the context clearly indicates
otherwise:

"Alternate fuel capability" means a situation where an alternate
fuel could have been utilized whether or not the facilities for such
use have actually been installed; provided, however, that when the
use of natural gas is for plant protection, feedstock, or process uses,
and the only alternate fuel is propane or other gaseous fuel, then
the consumer will be treated as if he had no alternate fuel capability.

"Ambulatory handicap" means any physical condition which sig-
nificantly impairs mobility requiring confinement to a wheelchair, or
other disability where compliance with the provisions of this chapter
would have the likelihood of seriously impairing or harming the
health of the person.

"Authorized emergency vehicles" means vehicles of fire depart-
ments, utilities, police vehicles, ambulances, and such other vehicles
as are approved by the Director of the Division of Motor Vehicles
in the Department of Law and Public Safety pursuant to the
provisions of Title 39 of the Revised Statutes.

"Board" means the New Jersey Board of Public Utilities.

"Boiler fuel" means natural gas used as a fuel for the generation
of steam or electricity, including the utilization of gas turbines for
the generation of electricity.

"Commercial" means a classification of service to customers en-

gaged primarily in the sale of goods or services, including institutions
and local, State and Federal government agencies for uses other than
those involving manufacturing or electrical power generation.

"Commercial vehicle" means motor vehicles not designed for the
transportation of passengers and motor vehicles, designed but not
used for the transportation of passengers, which either bear com-
mercial plates or bear the name and address of the owner of the
vehicle affixed to the exterior of the vehicle in the manner prescribed
for commercial vehicles in chapter 4 of Title 39 of the Revised
Statutes.

"Covered product" means any petroleum product subject to the
State Set-Aside.

"Electric utility" means all public utilities, municipal electric de-
partments and electric cooperatives engaged in the distribution of
electricity within the State of New Jersey.

"End-user" means any person who is an ultimate consumer of
energy.

"Energy emergency" means a shortage in the supply of a particular
source of energy of a dimension which endangers the public health,
safety or welfare in all or any part of the State of New Jersey.

"Farm vehicle" means any vehicle registered under the provisions
of N.J.S.A. 39:3-24 (self-propelled farm tractors, traction equipment,
and farm machinery) and N.J.S.A. 39:3-15 (farm trucks) which bear
farmer, farm use, or tractor plates.

"Feedstock gas" means natural gas used as raw material for its
chemical properties in creating an end product.

"Firm" means a classification of energy service from schedules or
contracts under which seller is expressly obligated to deliver specific
energy units within a given time period and which anticipates no
interruptability, but which may permit unexpected interruption in case
the supply to higher priority customers is threatened.

"Gas utility" means all public utilities engaged in the distribution
of gas within the State of New Jersey.

"Heat recovery system" means a system which uses previously
wasted heat for useful purposes such as space heating, process
heating, and so forth. It may involve the use of heat rejected from
motors, processes, or other heat generating equipment which would
otherwise be wasted or lost by being vented to the atmosphere or
recaptured.

"Industrial" means a classification of energy service to customers
engaged primarily in a process which creates or changes raw or
unfinished materials into another form or product, including the

generation of electric power.

"Interruptible" means a classification of energy service from sched-
ules or contracts under which seller is not expressly obligated to
deliver specific energy units within a given time period, and which
anticipates permits interruption on short notice, or service under
schedules or contracts which expressly or impliedly require installa-
tion of alternative fuel capability.

"Motor fuel" means a mixture of volatile hydrocarbons such as

gasoline or diesel fuel used in motor vehicles.

"Motor vehicle" means any vehicle propelled other than by
muscular power, excepting such vehicles as run only upon rails or
tracks.

"Omnibus" means buses, taxicabs and all other motor vehicles
used for the transportation of passengers for hire, except school buses
if the same are not otherwise used in the transportation of passengers
for hire.

"Operating reserve" means electric generating capability and/or
equivalent generation in excess of forecast system peak load which
must be available within 30 minutes or less to provide for load
variations and forecasting errors, frequency regulation, area protec-
tion and equipment failure or malfunction.

"Passenger automobile" means any motor vehicle used and de-
signated for transportation of passengers, except omnibus, school bus,
and authorized emergency vehicle.
"Person" means and includes natural persons and partnerships, firms, associations, joint stock companies, syndicates and corporations, and any receiver, trustee, conservator, or other officer appointed pursuant to law or by any court, State or Federal; also counties, municipalities, authorities and other political subdivisions of this State, singular or plural, and the State of New Jersey.

"Plant protection gas" means minimum volumes required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of an alternate fuel. This includes the protection of such material in process as would otherwise be destroyed, but shall not include deliveries required to maintain plant production. For the purpose of this definition propane and other gaseous fuels shall not be considered alternate fuels.

"Prime supplier" means supplier, or producer who makes the first sale of petroleum products into the State distribution system for consumption within the State.

"Process gas" means gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics. For the purpose of this definition propane and other gaseous fuels shall not be considered alternate fuels.

"Purchase" means and includes, in addition to its ordinary meaning, any acquisition of ownership or possession.

"Residential" means a classification of energy service to all buildings and structures, or parts thereof, in which families or households live, or in which sleeping accommodations are provided for individuals with or without dining facilities.

"Retail dealer" means any person who engages in the business of selling motor fuel from a fixed location such as a service station, filling station, store, or garage directly to the operator of a motor vehicle by dispensing such motor fuel into the service tank of the motor vehicle.

"Sale" means and includes, in addition to its ordinary meaning, any exchange, gift or other disposition. In every case where motor fuel is exchanged, given, or otherwise disposed of, it shall be deemed to have been sold.

"School bus" means any motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education which complies with the regulations of the Department of Education affecting school buses.

"Spinning reserve" means that portion of primary reserve synchronized to the system and under unrestricted control of the turbine governor.

"Supplier of motor fuel" means any refiner, importer, marketer, jobber, distributor, terminal operator, firm, corporation, wholesaler, broker, cooperative or other person who supplies, sells, consigns, transfers or otherwise furnishes motor fuel to a retail dealer.

"Truck stop" means any retail dealer who provides service predominantly to trucks and truck tractors, as defined in chapter I of Title 39 of the Revised Statutes.

"Wholesale purchaser-consumer" means any person that is an ultimate consumer who, as part of its normal business practices, purchases or obtains a covered product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which purchased or obtained more than 50,000 gallons of that covered product in the completed calendar year prior to the declaration of the emergency.

"Wholesale purchaser-reseller" means any person who purchases, receives through transfer, or otherwise obtains (as by consignment) a covered product and resells or otherwise transfers it to other purchasers without substantially changing its form. They are designated in the trade as distributors, jobbers, resellers, retailers or service station operators.

### 14A-2-1.3 Exemptions

(a) Any person who is aggrieved by the implementation of any provisions of this chapter may apply for and shall be granted a review of whether compliance places an unreasonable burden upon that person in light of the prevailing conditions of emergency.

(b) Such application shall contain, as a minimum, the name, address and telephone number of the aggrieved party and a concise statement of the grievance.

### 14A-2-1.4 Reservation

The Board reserves the right to modify any of the various emergency measures set out in this chapter and to implement said measures in whole or in part.

### SUBCHAPTER 2. END-USE ENERGY REDUCTION

#### 14A-2-2.1 Scope

The provisions of this subchapter shall apply to all energy end-users within the State of New Jersey.

#### 14A-2-2.2 Public appeal

In the event of an impending supply shortage, the Board may make public appeals or require electric and gas utilities to make public appeals through appropriate news media requesting end-users to reduce their use of electricity, natural gas, and petroleum products.

### 14A-2-2.3 Energy reduction measures

(a) Upon declaration of an energy emergency, the Board may require energy users to implement in whole or in part various energy reduction measures or limitations of energy uses and reductions of hours of operation described in this subsection.

1. Measures for all energy users are as follows:
   i. Heating energy sources shall not be used to maintain all temperatures within public buildings of State, county, local government and school boards, including educational institutions, all industrial and commercial establishments, warmer than 65 degrees Fahrenheit during business hours, including start-up and preparation time, and not more than 55 degrees Fahrenheit during non-business hours.
   ii. Where separate thermostats for heating and cooling are in use, air conditioning thermostats shall be at 80 degrees Fahrenheit or at some other level such that cooling energy is not used to achieve prescribed heating levels.
   iii. Temperatures within all single and multiple family dwellings shall be set at 65 degrees Fahrenheit from 6:00 A.M. to 11:00 P.M. and 60 degrees Fahrenheit from 11:00 P.M. to 6:00 A.M.
   iv. Portable space heaters and threshold heaters used as supplementary heating sources shall be prohibited.
   v. Where applicable, window draperies and blinds shall be used to cut down heat losses by setting them to the closed position during the nighttime hours and on cold, cloudy days, and setting them to the open position during periods of sunshine.
   vi. Thermostat control devices for hot water shall be set to maintain a maximum temperature of no more than 110 degrees Fahrenheit.
   vii. Steps shall be taken to eliminate heating in all unused and seldom used areas, such as stairwells, where economically feasible.
   viii. Work schedules for building cleaning, maintenance, re-stocking, and so forth, which would require offices or industrial facilities to be open beyond normal working hours, shall be minimized.
   ix. Nighttime sports, entertainment and recreational activities shall be curtailed.
   x. All public museums, art galleries and historic buildings shall be closed.
   xi. Retail establishments shall be closed on Sunday except for those providing essential services to the public.
   xii. Retail establishments shall be closed from 7:00 P.M. to 9:00 A.M., except those essential services to the public.
   xiii. Swimming pool water heating is prohibited.
   xiv. All nonessential energy uses shall be prohibited.

2. Measures for electricity users are as follows:
   i. All outdoor flood and advertising lighting shall be eliminated, except for the minimum level to protect life and property and, where feasible, a single illuminated sign identifying commercial facilities that are open after dark.
   ii. General lighting levels in stores and offices shall be reduced as close to minimum safety levels as possible.
   iii. Show window and display lighting shall be eliminated.

(CITE 22 N.J.R. 3694) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
1. The number of elevators operating in office buildings during non-peak hours shall be reduced by at least 50 percent.

2. Reducing energy use and improving energy efficiency.

3. Measures for natural gas users as follows is are:
   i. All aesthetic, ornamental gas lights shall be extinguished.
   ii. All exterior gas lighting, except for essential safety and security purposes, shall be eliminated.

14A:2-4.1 Scope

The provisions of this subchapter shall apply to all electric utilities within the State of New Jersey.

14A:2-4.2 Programs to reduce energy consumption

(a) In the event that N.J.A.C. 14A:2-2.2, 2.3 and 2.4 do not provide sufficient relief, the following actions shall be instituted:
1. The electric utilities, insofar as is feasible, shall operate on a one-system basis, utilizing available fuel resources to produce electrical energy to supply the load of all electric utilities of the power pool to which they belong.
2. Departures from normal operating procedures, which have an acceptable impact on reliability and economy, shall be made. These include, but are not limited to, the following. These steps may be used in any sequence as judged necessary by an electric utility, the PJM Interconnection Dispatcher or the New York Power Pool Dispatcher.
   i. Rescheduling of maintenance, to permit best use of the available fuel supply.
   ii. Maximum practicable use of generation having the more abundant fuel supply from other areas, even when this is not in accord with economic dispatch.
   iii. After careful analysis, opening of limiting transmission lines to avoid operation of capacity with limited fuel availability that would otherwise be required to control line loading.
   iv. Reduction of the spinning component of the systems’ operating reserve requirement, to avoid operation of capacity with limited fuel availability so long as quick-start units are available for operation.
   v. Reliance on manual tripping of pumped storage hydro units, operating as pumps, to limit use of capacity with limited fuel availability that would otherwise be required to control line loading following a contingency.
   vi. Voluntary customer energy reduction programs, as agreed upon from time to time by an electric utility and its customers, shall be placed in effect; and
   vii. A five percent voltage reduction is to be made effective on a continuous basis.
3. Loads are to be interrupted on a rotating basis every two hours, as determined by each electric utility. Where particular manufacturing or processing operations do not permit interruptions of service, or where such interruptions would cause severe hardship or would have an unacceptable impact on continuous operations, the electric utility shall, if reasonably feasible, secure the equivalent reduction in use from the customers that might otherwise be interrupted by some method other than the prescribed rotating interruptions.

14A:2-4.3 Implementation

The electric utilities shall inform the Board as soon as reasonably feasible and, if possible, prior to implementation of N.J.A.C. 14A:2-4.2, consistent with the interconnection agreements to which they are signatories.
SUBCHAPTER 5. STATE SET-ASIDE FOR PETROLEUM PRODUCTS

14A:2-5.1 Scope and purpose
(a) Upon declaration of an energy emergency the Board may establish a State Set-Aside for the following petroleum products: gasoline, aviation gasoline, kerosene, diesel fuel oil, distillate fuel oil, No. 4 fuel oil, residual fuel oil and propane.
(b) The Board shall utilize the State Set-Aside to meet hardships and emergency requirements of wholesale purchaser-consumers, end-users, and wholesale purchaser-resellers including wholesale purchaser-consumers and end-users which are part of any governmental organization.

14A:2-5.2 State Set-Aside volume
(a) Upon establishment of a State Set-Aside, a prime supplier shall report to the Board, on a form prescribed by the Board, on or before the 20th of each month;
1. The estimated volume of each covered product to be sold into the State's distribution system for consumption within the State during the next month;
2. The State Set-Aside volume available during the next month, using the formula in (c) below; and
3. The actual volume of each covered product sold into the State's distribution system for consumption within the State during the previous month.
(b) When appropriate, the Board will determine the State Set-Aside percentage level for each covered product which set aside shall not exceed the levels as follows:
1. Gasoline: five percent;
2. Aviation gasoline: five percent;
3. Kerosene: four percent;
4. Diesel fuel oil: four percent;
5. Distillate fuel oil: four percent;
6. No. 4 fuel oil: three percent;
7. Residual fuel oil: three percent; and
8. Propane: three percent.
(c) The State Set-Aside volume available to the Board for a particular month shall be the amount calculated by multiplying the State Set-Aside percentage level by each prime supplier's estimated volume of each covered product to be sold into the State's distribution system for consumption within the State during that month.
(d) The State Set-Aside for a particular month may not be accumulated or deferred. It shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

14A:2-5.3 Applications for State Set-Aside
(a) All hardship and emergency applications for assignment from the State Set-Aside and appeals shall be filed with the Board.
(b) Applications shall be in writing on a form prescribed by the Board. Applications may first be made by telephone, but must be confirmed in writing within five days.
(c) If the applicant does not have a supplier, it shall identify two suppliers whom the applicant has contacted and who could provide the covered product.
(d) The information to be supplied shall be sufficient to enable the Board to act properly on the application. Applications shall include, but are not limited to, name of applicant, address, telephone number, name of contact person, type of business, type of fuel requested, amount to be received in month of application, amount requested, justification for application, inventory, storage capacity, amount that was received in each month of the previous year from all prime suppliers or wholesale purchaser-resellers (if applicable) and their names.

14A:2-5.4 Assignments from State Set-Aside
(a) If the Board approves a hardship or emergency application, it shall assign a prime supplier and amount from the State Set-Aside to the applicant. Any prime supplier to the State may be assigned regardless of whether its brand, if any, is different from the brand of the applicant. To determine the appropriate prime supplier, the Board may coordinate with the State representative of the prime supplier.
(b) In order to facilitate relief of any hardship and meet the emergency requirements of wholesale purchaser-consumers and end-users, the Board may direct that a wholesale purchaser-reseller be supplied from the State Set-Aside, so that the wholesale purchaser-reseller can supply the wholesaler purchaser-consumers and end-users experiencing such hardship or emergency.
(c) The Board shall issue an authorizing document to an applicant upon receipt of an assignment from State Set-Aside. The Board shall provide a copy of the authorizing document to the prime supplier's designated State representative.
(d) An authorizing document issued by the Board pursuant to this section is effective upon issuance and represents a call on the prime supplier set-aside volumes for the month of issuance, irrespective of the fact that delivery of the product subject to the authorizing document cannot be made until the following month.

14A:2-5.5 Responsibilities of wholesale purchaser-resellers
The assigned products specified in the authorizing documents shall be made available to the wholesale purchaser-consumer or end-user at prices prevailing for similar classes of purchases in the locality of the wholesale purchaser or end-user at the time of the sale of the product.

14A:2-5.6 Prime suppliers
(a) Each prime supplier shall designate a representative to act on behalf of the prime supplier with respect to the State Set-Aside. Each prime supplier shall notify the Board in writing of such designation within 15 days of said designation.
(b) All prime suppliers shall supply products from their State Set-Aside volume each month, as directed by the Board, not to exceed the total State Set-Aside volume for each product for that month. That portion of a prime supplier's State Set-Aside volume for a particular month which is not assigned by the Board during that month, or which is not subject to an authorizing document issued no later than the last day of that month, shall become a part of the prime supplier's total supply for the subsequent month.
(c) The assigned products specified in the authorizing document shall be made available to the wholesale purchaser-consumer, end-user, or wholesale purchaser-reseller at prices prevailing for similar classes of purchasers in the locality of the wholesale purchaser-consumer, end-user, or wholesale purchaser-reseller at the time of the sale of the product.

14A:2-5.7 Releases of State Set-Aside
(a) At any time during the month, the Board may issue an authorizing document releasing part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.
(b) The Board may designate certain geographical areas within the State as suffering from an intrastate supply imbalance. At any time during the month, the Board may issue an authorizing document to some or all of the prime suppliers with purchasers within such geographical areas releasing part or all of their set-aside volume through their normal distribution systems to increase the supply of the prime supplier's purchasers located within such areas.
(c) Authorizing documents issued pursuant to this subsection (c) shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Such authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month.

14A:2-5.8 Penalties
(a) Any person who violates the provisions of these rules shall be liable for a penalty of not more than $500.00 for the first offense and not more than $5,000 for the second or any subsequent offense, to be collected in a civil action by a proceeding under the penalty enforcement law (N.J.S.A. 2A:58-1 et seq.), or in any case before a
court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall also have jurisdiction to enforce the penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

(b) The Board may compromise and settle any claim for a penalty under this section in such amount at the discretion of the Board as may appear appropriate and equitable under all of the circumstances.

SUBCHAPTER 6. REGULATION AND CONTROL OF SALE OF MOTOR FUEL

14A:2-6.1 Scope

In the event that the Board determines there is a significant shortage of motor fuel, this subchapter shall apply to the sale of all motor fuel made by retail dealers to operators of motor vehicles.

14A:2-6.2 Days of access to retail dealers — odd/even measure

(a) No retail dealer shall sell any motor fuel for use in a service tank in a passenger automobile except as set forth in the following schedule:

1. Operators of passenger automobiles bearing license plates the last number of which is an even number shall be permitted to purchase motor fuel for use in the service tank of said passenger automobile on even numbered days of each month.

2. Operators of passenger automobiles bearing license plates the last number of which is an odd number or containing no number shall be permitted to purchase motor fuel for use in the service tank of said passenger automobile on odd numbered days of each month.

3. Operators of passenger automobiles bearing license plates from any other state or foreign nation shall be permitted to purchase motor fuel on the same basis as any regulation in effect in their state.

4. For the purpose of determining the last number of the license plate, any number preceded by a hyphen or dash shall not be used in determining the right to purchase motor fuel described in this section.

5. The provisions of this section shall not be applicable on the 31st day of any month.

14A:2-6.3 Quantity of motor fuel

The Board may establish minimum or maximum quantities of motor fuel to be sold to any purchaser including limitations on the number of gallons to be sold and/or limitations on the number of dollars of motor fuel to be sold.

14A:2-6.4 Methods for notifying public

(a) Every retail dealer of motor fuel shall conspicuously display a flag, so that it is easily visible to the public, during such time that his place of business is open, as follows:

1. A red flag shall be displayed when motor fuel is not available for sale to members of the general public;

2. A green flag shall be displayed when all grades of motor fuel are available for sale to members of the general public without limitations in regard to the maximum amount which may be purchased;

3. A yellow flag shall be displayed when motor fuel is available to members of the general public but such sales are limited in regard to the maximum amount which may be purchased, or there is a grade of motor fuel which is unavailable for sale to members of the general public.

(b) Whenever a retail dealer displays a yellow flag, he shall post in a conspicuous place and manner the limitations applicable to sales of motor fuel.

(c) Every retail dealer of motor fuel shall post in a conspicuous place and manner the hours during which he shall be selling motor fuel to members of the general public;

(d) All signs posted by a retail dealer relating to the price of motor fuel being sold shall be properly maintained and accurately reflect the current selling price.

(e) Every retail dealer shall prominently indicate the last motor vehicle eligible to receive motor fuel from the retail dealer prior to closing.

(f) If a minimum purchase or minimum sale requirement is in effect, every retail dealer of motor fuel shall post in a conspicuous place and manner the requirement which is in effect at that time.

14A:2-6.5 Exemptions; self-implementing

(a) The following persons shall be exempt from N.J.A.C. 14A:2-6.2, Days of access to retail dealers — odd/even measure:

1. Operators of motor vehicles bearing license plates with "MD" identification marks in which a physician is riding on medical business;

2. Operators of commercial vehicles, farm vehicles, omnibuses, and school buses;

3. Operators of authorized emergency vehicles;

4. Operators of motor vehicles bearing license plates or handicap parking sticker which identify the operator as a disabled or handicapped driver;

5. Operators of motor vehicles which are being used as van pools recognized by the New Jersey Department of Transportation bearing a sticker issued by the Board. Operators of motor vehicles which are being used as van pools may apply to the Board for such an exemption sticker. The Board may require operators of van pools to furnish such proof as the Board may prescribe in order to establish a right to such an exemption; and

6. Operators of motor vehicles with weekday exemption stickers shall only be exempt from Monday through Friday inclusive.

14A:2-6.6 Exemptions on application

(a) In the absence of identifying license plates, persons who can establish to the satisfaction of the Board that they suffer from an ambulatory handicap or disability, and require the use of a passenger automobile for business, or in connection with their employment, or to obtain medical care or the necessities of life, shall be issued a sticker in the form prescribed by the Board, which when affixed to said automobile in the manner prescribed, shall exempt such persons from the provisions of N.J.A.C. 14A:2-6.2. Such persons shall be required to furnish such proof as may be required by the Board in the form and manner as the Board may prescribe in order to establish such right to exemption.

(b) Any person who can demonstrate to the satisfaction of the Board that an exemption is necessary for the health and welfare of the general public may receive an exemption sticker.

(c) An operator of a motor vehicle, who can demonstrate to the satisfaction of the Board that an exemption is necessary for employment, may receive a weekday exemption sticker.

1. The Board will consider an exemption necessary for an individual's employment when the individual demonstrates that:

   i. A motor vehicle is required in pursuing his or her employment;

   ii. The motor vehicle used for pursuit of his or her employment is supplied with motor fuel exclusively from a retail dealer;

   iii. Alternative means of transportation to pursue his or her employment are unavailable;

   iv. The individual travels a minimum of 125 miles per day at least four days a week, exclusive of commuting to and from work; and

   v. The individual travels a minimum of 25,000 miles per year in the conduct of his or her employment.

2. To receive an exemption under this subsection, an individual shall submit a completed and notarized application on a form provided by the Board. This form shall be accompanied by a declaration of employment by the individual's employer on the stationery of the employer. Additionally, an individual may be asked to document all information submitted to the Board. The Board reserves the right to require that all applicants submit documentation in any requested form, including, but not limited to, Internal Revenue Service forms.

3. An individual in compliance with the requirements of this subsection will receive a weekday exemption.

14A:2-6.7 Arrangements permitted

(a) Any retail dealer who, prior to the declaration of emergency, had a bona fide agreement or written contract with a commercial account for the periodic sale of motor fuel to commercial vehicles,
omnibuses, school buses, or authorized emergency vehicles shall be allowed to continue those sale practices, notwithstanding the provisions of N.J.A.C. 14A:2-6.2 and 6.3.

(b) Provisions concerning special arrangements for emergency services are as follows:

1. The governing body of any New Jersey county or municipality or the senior officer of any Federal agency, the jurisdiction of which includes New Jersey or any portion thereof, which utilizes the services of a volunteer or professional fire department, police department, rescue squad, ambulance service, or the hospital administrator of any New Jersey hospital which utilizes the services of emergency medical personnel may enter into a written contract or agreement with designated retail dealer(s) to permit the sale of motor fuel at any time to such persons that provide said emergency services, notwithstanding any of the provisions of these regulations.

2. Said contracts or agreements shall designate by name those persons who provide said emergency services and shall designate by license plate number the motor vehicle used by said persons when responding to a call to provide said emergency services. Said contracts or agreements shall be submitted to the Board for approval consistent with a policy of motor fuel conservation and equitable allocation and the providing of essential emergency services.

3. Designated retail dealers shall obtain from persons purchasing motor fuel under the provisions of this subsection a signed and dated receipt declaring the motor fuel gallonage purchased. Said designated dealers shall, on a monthly basis, submit all such receipts to the appropriate governing body, senior officer or hospital administrator.

4. The governing body, senior officer, hospital administrator or authorized representative thereof shall conspicuously post in the appropriate municipal building, county office building, agency office building or hospital the names of all persons designated in any said contracts or agreements and the motor fuel gallonage purchased on a monthly basis, if any, by each said designated person. Said governing body, senior officer or hospital administrator shall retain a record of all purchases made under the provisions of this subsection and submit same, upon demand, for review by the Board.

(c) A retail dealer, who, prior to the effective date of this rule, qualified as a truck stop, may, at the dealer's option, restrict its sales of motor fuel to the operators of trucks and truck tractors only. Said options does not include the right to sell at the dealer's discretion to the operators of preferred customer passenger automobiles to the exclusion of all other passenger automobiles, and any such dealer who elects to sell to any operator of a passenger automobile after the effective date of this rule shall be required to sell to all operators of passenger automobiles subject to this subchapter. A retail dealer electing to sell only to the operators of trucks and truck tractors under the terms of this section shall post in a conspicuous place such restriction.

14A:2-6.8 Police authority to waive regulations in cases of emergency

(a) Notwithstanding any of the provisions of this subchapter, police departments of the Division of State Police in the Department of Law and Public Safety and police departments of any New Jersey municipality may, in cases of bona fide emergency, waive any of these rules and permit a retail dealer to sell motor fuel at any time to the operator of a motor vehicle who would otherwise not be entitled to purchase motor fuel. In every instance where a waiver of these rules is granted, the name of the person requesting such waiver, the waiver granted and the reasons therefor shall be entered onto the police blotter of the police department involved. A bona fide emergency exists where a police officer determines that the use of a motor vehicle is necessary for the life, health or safety of an individual or community.

(b) Any person procuring motor fuel by falsely claiming bona fide emergency shall be deemed to be in violation of this section.

(c) A retail dealer who sells motor fuel pursuant to a waiver as described in (a) above shall not be deemed to be in violation of this subsection.

14A:2-6.9 Privileged vehicles

(a) Notwithstanding any of the provisions of this subchapter, an operator of an authorized emergency vehicle shall be entitled to sold motor fuel immediately upon demand by a retail dealer at any time including those hours when a retail dealer is not open for the sale of motor fuel to the general public.

(b) A retail dealer who sells motor fuel in accordance with (a) above shall not be deemed to be in violation of this subchapter.

14A:2-6.10 Pre-emption

All local and county regulations, statutes, ordinances and proclamations dealing with the subject matter of this subchapter are hereby superseded.

14A:2-6.11 Interference with compliance

(a) No person shall threaten, interfere, or attempt to interfere with the retail dealer with respect to compliance with the provisions of this subchapter.

(b) No person shall knowingly or willfully misrepresent a motor vehicle as one entitled to an exemption from this subchapter or a priority thereunder. Such misrepresentation includes, but is not limited to, falsely identifying a motor vehicle as a commercial vehicle. If such misrepresentation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. Penalties imposed resulting from a violation of this section shall not preclude the application of any other penalties, civil or criminal, as prescribed by law.

14A:2-6.12 Modification or suspension of regulations

The Board may, from time to time and for such period as it deems appropriate, modify or suspend the operation and/or enforcement of any portion of or all of this subchapter, in whole or in part. Such modification or suspension may be made immediately effective without prior notice.

14A:2-6.13 Preferred customers; sale on first-come, first-served basis

(a) No retail dealer shall give preferential treatment including, but not limited to, separate pumps, separate pump lines, separate hours of sale, or sale by appointment to preferred or regular customers.

(b) All sales of motor fuel shall be on a first-come, first-served basis.

14A:2-6.14 Sale of motor fuel in containers

(a) No person shall, for other than commercial or farm purposes, purchase or attempt to purchase from a retail dealer by distribution directly into a container unrelated to an internal combustion engine more than one gallon of motor fuel.

(b) No retail dealer shall, for other than commercial or farm purposes, sell, or attempt to sell, by distribution directly into a container unrelated to an internal combustion engine more than one gallon of motor fuel.

SUBCHAPTER 7. SUPPLIER OF PETROLEUM PRODUCTS

14A:2-7.1 Scope

This subchapter shall govern the periodic reporting of energy information by persons who supply petroleum products to retail dealers.

14A:2-7.2 Reporting

(a) Each supplier of covered products shall submit to the Board the New Jersey posted dealer tank wagon price, posted reseller tank car price, or other posted price for each covered product for each class of customer within 24 hours of a price change. Submissions postmarked within 24 hours of a price change shall be deemed to be in compliance with this subsection.

(b) The above information shall be sent to:

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102
Attention: Office of the Economist
BOARD OF PUBLIC UTILITIES
Demand Side Management Resource Plan

Proposed Repeal: N.J.A.C. 14A:20
Proposed New Rules: N.J.A.C. 14:12

Authorized By: Board of Public Utilities, Scott A. Weiner, President.

Authority: N.J.S.A. 48:2-12, 13; N.J.S.A. 52:27F-1(g) and (q) and 27F-18.

BU Docket Number: EX90040304.
Proposal Number: PRN 1990-639.

A public hearing concerning this proposal will be held on:

Thursday, December 20, 1990 at 10:00 A.M.
Board of Public Utilities Hearing Room
Two Gateway Center, 10th Floor
Newark, New Jersey 07102

Submit written comments by January 16, 1991 to:
Robert Chilton, Director
Electric Division
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

A rulemaking pre-proposal entitled: Limiting Barriers to Effective Conservation Progress and Implementing Conservation Ratemaking Incentives, Docket No. EX90040304, was published in the June 4, 1990 New Jersey Register at 22 N.J.R. 1692(a). This pre-proposal identified the existence of certain barriers to more extensive investment in energy conservation by consumers and utilities in the State. It also outlined possible utility rate making incentive mechanisms to remove some of the existing barriers and encourage energy conservation investments. The pre-proposal posed questions regarding the aforementioned subjects to elicit comments.

A public hearing was held by the Board of Public Utilities (Board) at its offices in Newark, New Jersey on June 25, 1990. A certified court reporter was present at the hearing and a complete transcript was produced and was made a part of the record of this proceeding. The hearing record remained open for written comments until July 9, 1990.


The comments received, both written and oral, including discussions at a number of informal meetings convened by Board staff on this matter were considered in drafting these proposed rules. These written comments as well as transcripts from the public hearings are available at the Board’s offices in Newark for review by the public.

It was the view of the majority of the commenters to the pre-proposal that the provision of some form of financial incentives to the utilities would foster an increased utilization of installed load management and energy efficiency (demand side management or “DSM”) measures in the homes and businesses of the State. It was generally agreed that given the existing barriers to the full development of cost-effective energy efficiency technologies, including lack of information, lack of available capital and insufficient payback periods for many customers, utilities can play an important role in expanding the role of DSM in meeting the State’s energy needs.

The Board recognizes the potential for an increased proactive role on the part of electric and gas utilities in assisting customers in their end-use decisions. As a result of this expanded role, these utilities must be considered more as energy service companies than as merely providers of energy.

It is also noteworthy that a number of other states, including New York, California, Wisconsin, Florida, Massachusetts, Washington and Rhode Island, have instituted programs designed to provide some form of incentives for utilities to actively encourage the installation of DSM measures in their service territories. These programs were considered in preparing the proposed rules. While a conclusive finding on the ultimate success of these programs is impossible because of their relatively short lives, it is clear that DSM activity has increased dramatically in those states where incentive programs have been implemented.

The concept of least cost utility planning (LCUP) has gained widespread acceptance in utility regulatory jurisdictions throughout the country in recent years. The principles of LCUP hold that utilities should pursue those resources which permit them to continue to provide safe and reliable service at the lowest possible cost. For example, in addition to the myriad of supply-side technologies available to utilities to meet growing customer demands for energy, DSM measures offer an alternative resource which can be tapped to offset the need for new electric generating and transmission plant or natural gas supply sources and transmission facilities, and the concomitant environmental impacts. In short, imbalances between projected customer demands and electric and natural gas supplies can be addressed in one of two general ways: either by increasing supply or by reducing customer demands through installation of DSM measures. LCUP requires that the utility pursue the combination of supply and demand side resources which allows the maintenance of safe and reliable service at the lowest overall cost. Moreover, to the extent practicable, the determination of the overall cost of various resources should reflect the impact of each on environmental quality.

In order to encourage an increased emphasis of DSM technologies as a viable alternative to construction and procurement of new supply-side facilities, the Board has previously instituted initiatives which foster the application of utility least cost planning principles. Specifically, the Board has approved conservation plans for the implementation of certain projects designed to provide energy information, perform energy audits, provide appliance rebates, provide subsidized loans, provide grants and to accomplish numerous additional DSM objectives. Further, in 1988 the Board adopted a bid solicitation procedure for New Jersey electric utilities (Docket No. 8010-687B). Under this procedure, electric utilities annually identify a block of future capacity which is met through an integrated competitive bid solicitation for DSM and non-utility generator projects. The procedure is designed to foster the selection of the combination of supply and demand side projects which, subject to certain environmental, project viability and reliability and other criteria, minimize the ultimate cost to ratepayers. A Request for Proposals (RFP) is approved for release by the Board which provides project weighting criteria for supply and demand side bids. Price bids are capped at the utility’s avoided cost, and points are awarded on a sliding scale for bid prices below avoided cost. In addition to price, other weighting criteria include environmental impacts, fuel diversity and project viability, as well as others. Payments by the utilities to the projects under approved power purchase agreements are permitted to be recovered from customers on a one-for-one basis through annual fuel charges. This differs from the treatment of utility-constructed plant, which is placed in rate base and recovered over its useful life with an opportunity for the utility to earn a return on its investment.

The bid solicitation process has led to increased integration of the utility resource planning process, wherein supply and demand-side projects are considered on an equal and competitive basis and the outcome...
PUBLIC UTILITIES

produces a combination of the two which maximize the benefits to utility ratepayers and society at large. In order to further enhance the integrated resource planning process in the State, the Board is of the view that a ratemaking plan should be instituted which would provide the electric and gas utilities in New Jersey with at least the same level of financial incentive which now exists for the addition of new supply-side resources. The Board has received widespread support in the comments received concerning the pre-proposal for the concept of providing financial incentives for utilities to implement DSM programs, that is, to provide utilities with the opportunity to earn a return on investments in DSM measures. Indeed, the utilities in response to the pre-proposal set forth an outline for incentive programs which they would propose in response to rules permitting such activities. The diversity of the program outlines provided underscores the need for flexibility in the promulgated rules to afford utilities some latitude in fashioning programs to meet the needs of their respective service territories. The proposed rules provide that flexibility. Nonetheless, there is also a need for a regulatory model to ensure that the various initiatives designed by the utilities conform with public policy goals. The rules set forth herein will serve as that model. The proposed rules provide for the electric and gas utilities in the State to file, biennially, a Demand Side Management Resource Plan (Plan) for review and approval by the Board. Within the Plan the utilities are required to propose an overall savings target for the Plan, and a series of "Performance-Based DSM Programs" based on the actual performance of the programs. Each utility with the opportunity to earn returns on investments in energy efficiency measures based upon the actual performance of the programs. Performance will be evaluated by comparing the costs associated with each program to the avoided cost savings to the utility. Along with the program descriptions, the utility will be required to file a program implementation plan, a performance measurement and verification plan for each performance-based program, an avoided cost study, and a proposed cost recovery mechanism to permit the timely recovery of program expenses through rates. The avoided cost studies utilized in developing the incentives must be consistent with studies used to evaluate other utility resource acquisitions. It is recognized that there has been less experience to date with calculation of the avoided costs for natural gas utilities in the State than for electric utilities. The gas savings valuation methodologies employed in the August 1990 New Jersey Conservation Analysis Team (CAT) Report represent a substantial effort toward the development of avoided cost studies for gas and should provide guidance to the gas utilities and the Board in preparing and reviewing the DSM Plans. Specifically, the framework for utility incentives provided for in the proposed rules is as follows. The utility will be allowed the opportunity to earn a foundation level of return on investments in Performance-Based Programs. In addition to the foundation level of return, the utility can earn incentives based upon a shared savings of a portion of the program’s net benefits. As described earlier in the Summary, the net benefits are defined as the net present value of avoided costs less the present value of program costs. The definition of net benefits which are subject to shared savings can be expanded to include incidental savings of other fuels (for example, heating oil) to the extent the utility can adequately demonstrate such additional savings. In order to introduce a degree of risk sharing and allocation considerations for the opportunity for earning incentives, the proposed rules provide for negative incentives to be deducted from the foundation level of return to the extent that the program results in negative net benefits. The rules also provide a framework to reflect the potential environmental benefits associated with DSM technologies. This is accomplished by setting the base return on investment for DSM program costs, and permitting the utility to earn the base return on programs with savings of at least 80 percent of total costs. In this manner, a proxy weighting for up to 20 percent of the utility’s avoided cost is provided to capture public benefits such as environmental externalities which would not otherwise be reflected. Incentives can be earned in addition to the base return when program net benefits exceed zero. Net benefits are defined as the difference between the present value avoided cost savings and net present value program costs. While the proposed rules do not include a direct quantification of public benefits, such as environmental externalities, the Board reiterates the important role which demand side management technologies play in improving the quality of the environment. As emphasized throughout these rules, DSM provides the most environmentally benign approach to meeting growing energy needs. A number of states have taken the approach of placing a specific value on environmental externalities for inclusion in program net benefit calculations. For instance, the New York Public Service Commission adopted a value of 1.4 cents per kilowatthour as the value for environmental savings due to conservation. The use by the Board at this time of the proxy valuation for public benefits is provided for in the proposed rules to result in a more precise quantification which can be incorporated as part of these rules. Moreover, the Board is confident that the avoided cost shared savings available as a result of potential program initiatives will provide substantial incentive to the utilities to vigorously pursue DSM measures. However, by providing the proxy 20 percent weighting, these rules are not intended to preclude or discourage, strictly on the basis of insufficient calculable avoided utility cost savings, programs which may have substantial public benefit. The rules also specify a number of specific conservation programs which the utilities are required to undertake in an attempt to maximize potential public benefits and in recognition of the difficulty in accurately quantifying the full benefits of such programs. These programs are designated as "Performance-Based DSM Programs" and are provided for in the proposal to incorporate any of the specified programs in the Core section into the incentive-based program section if it can be demonstrated that said programs are cost-effective and that savings can be adequately measured. The present system for an annual integrated DSM and supply-side bidding process for procurement of additional capacity and energy provides an opportunity for energy service companies (ESCOs) to compete for the ability to install energy efficiency measures in the homes and businesses located in each electric utility’s service territory, and to receive payments for same. This process provides a setting in which DSM markets may expand and flourish in the State, and also fosters a healthy competitive environment. It is of great importance to the long-run development of DSM technologies in New Jersey that the vitality of the ESCO industry not be stifled by the utility conservation incentive programs. Rather, it is the Board’s opinion that sufficient potential exists for all players in the energy market, utility and non-utility alike, to create business opportunities which foster energy efficiency in the State. It is undeniable that the New Jersey electric and gas utilities enjoy a unique access to this State’s energy consumers by virtue of the operation of their business and the existence of franchise areas. As well, this unique access affords the utilities the ability to obtain detailed customer usage and operations information which likely provides the utility with a competitive advantage over third-party ESCOs in identifying and approaching potential customers and procuring arrangements for the installation of energy-saving technologies at the facilities of utility customers. This potential conflict between utilities and ESCOs will present challenges which may require transitional planning. One possible solution to this dilemma is to require utilities to release customer information to all competing ESCOs. However, the Board agrees with the comments presented by some of the utilities that an uncontrolled widespread release of such information could lead to misuse or compromise individual customers’ interests. An alternative solution is to establish separate procedures for utility-run programs and the process for soliciting projects to be designed, installed and operated by ESCOs. Under such an approach, the utility incentive-based program and the existing integrated bidding system employed by the electric utilities could coexist on parallel tracks. However, the Board recognizes that problems with this approach could arise if the DSM efforts being targeted by both programs overlap and undercut their respective effectiveness. A solution to this problem could be addressed by creating separate bidding procedures for individual programs. The proposed rules provide utilities with the flexibility to propose different combinations of incentive-based programs and separate bidding procedures. However, the Board allows the ESCOs an opportunity to compete in a competitive market; the utility will be required to provide a mechanism so that no less than 25 percent of total DSM savings will be achieved via direct participation by third parties in the installation of conservation measures. This set aside for direct ESCO involvement can include a separate bidding system for turnkey planning and installation by ESCOs or a mechanism whereby ESCOs playing the role of subcontractors for utility-sponsored programs.

(CITE 22 N.J.R. 3700) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
The proposed rules also provide each utility the opportunity to file, for review and approval by the Board, a proposed revenue adjustment mechanism to account for revenue erosion associated with DSM efforts. The loss of revenues and resultant loss in contribution towards fixed cost resulting from conservation measures has the potential to create a short-term disincentive for utilities, to the extent that earnings are negatively impacted. However, the addition of new customers as the result of growth in the service territory as well as added sales from existing customers can serve to offset these revenue erosions. The potential earnings enhancement related to increases in sales creates an inherent incentive for the utilities to promote increased sales. While efficient growth in energy demand resulting from economic expansion in the State is to be encouraged, increased sales resulting from the promotion of increased overall usage from existing customers or new applications for consumption of energy at new or existing customer sites must be examined carefully for compliance with state energy and environmental goals. One utility proposed during the pre-proposal comment period that, in lieu of a specific adjustment mechanism to compensate the utility for lost revenues, it be permitted to offset revenue erosion by promoting off-peak sales. As previously indicated, such a policy raises concerns with respect to consistency with goals to reduce growth in energy consumption and resultant environmental problems, to the extent that such sales are unnecessary, inefficient, or result in an increase in utility costs or environmental degradation.

The Board recognizes that there may be sufficient revenue growth resulting from increases in efficient sales due to economic expansion in the territory to offset some or all DSM-related revenue erosion. Accordingly, the utilities will be required to present proposals for a DSM lost revenue adjustment which address such factors. The proposals are subject to the Board's approval. Each utility will be required to file a “Transition Strategy” which describes the utility’s planned merger of existing DSM efforts with the proposed DSM Plan.

Finally, the proposed rules require each gas utility to file a proposed pilot procedure for the implementation of a competitive bid solicitation process for procurement of demand side load reductions. The Board recognizes that currently there is no established procedure for the implementation of a competitive bid solicitation for DSM measures by natural gas utilities in the State similar to the present integrated bidding system for electric utilities. The structure and nature of the natural gas supply industry in 1990 is such that a competitive bidding procedure which includes solicitations for purchases from third party gas suppliers is not necessary or appropriate, since there already exists substantial competition for wellhead supplies. However, the implementation of a bidding system for procurement of DSM measures in natural gas customer and use applications holds promise for fostering the development of a natural gas ESCO market much as the electric bidding system has done. There is no inherent reason that a bid solicitation for natural gas DSM measures should prove substantially more problematic than bidding for electric DSM applications on the natural gas side than with electricity. There is, however, a smaller universe of potential DSM applications on the natural gas side than with electricity. Nonetheless it is the belief of the Board that, a smaller potential universe, while effecting the possible size and scope of bid solicitations, should not preclude the implementation of such a procedure. As a result, the proposed rules require each gas utility to prepare a pilot DSM bidding procedure. It is recognized that the long-term coexistence of separate DSM bidding procedures and utility-based incentive programs is still in question. The pilot nature of the natural gas bidding procedure reflects the need to gain more experience in this regard.

The rules proposed herein represent a more current and comprehensive regulatory model concerning the implementation of conservation programs by utilities in the State than the existing conservation rules in N.J.A.C. 14A:20 which had been promulgated by the former Department of Energy. On June 15, 1989, then Governor Thomas A. Kean issued a Reorganization Plan (No. 002-1989) to provide for the increased coordination and integration of the State’s energy regulation, planning and policy formation by the State through the transfer of the Division of Energy Planning and Conservation (Division) from the Department of Commerce, Energy and Economic Development to the Board (see 21 N.J.R. 1937). Pursuant to the plan, the Division, together with all its existing functions, powers and duties, was continued and transferred with the responsibility and authority to design, implement and enforce a program for the conservation of energy in commercial, industrial and residential facilities. Because the proposed new rules would render the continued application of N.J.A.C. 14A:20 duplicative, N.J.A.C. 14A:20 is proposed for repeal.

Social Impact

The proposed rules are intended to lead to the accelerated implementation and installation of energy efficiency measures in the homes and businesses in New Jersey, by providing electric and natural gas utilities incentives to take a proactive role in encouraging energy conservation. The accelerated proliferation of energy efficiency on the part of electric and gas utilities and their customers is intended to, among other things, reduce customer bills, reduce the need for siting and construction of new energy supply facilities and reduce the combustion of fossil fuels, thereby improving the environmental quality of the State, as well as to reduce the State’s reliance on imported energy sources. The proposed rules are also intended to ensure that activities to assist low income energy consumers will continue and even expand.

Economic Impact

The rules will have a positive economic impact on the State’s investor-owned electric and gas utilities by creating opportunities for earning returns on investments in energy conservation activities which presently do not exist, and for mitigating the potential negative effects which now exist relating to sales erosion from energy conservation. The proliferation of utility-sponsored conservation activities will have a positive impact on the State’s economy by reducing the overall utility bills of energy consumers and therefore enhancing the State’s competitive position. It is further anticipated that the affected utilities will realize a net benefit through the economic incentives for the successful implementation of conservation activities and the cost recovery mechanisms provided for in the rules.

Finally, the rules are intended to create significant business opportunities for independent entities such as energy service companies and energy efficiency equipment suppliers and installers.

Regulatory Flexibility Statement

The proposed rules do not require a regulatory flexibility analysis since they do not specifically apply or impact on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-6 et seq. The proposed rules place requirements only on large businesses, that is, investor-owned electric and natural gas utilities in the State, all of which are large businesses in that they are the major energy utilities in the State and employ individually over 100 employees. Indeed, the rules require that the utilities take steps to create business opportunities for energy service companies and equipment suppliers and installers, many of which will likely be small businesses and will be positively impacted.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14A:20.

Full text of the proposed new rules follows:

CHAPTER 12
DEMAND SIDE MANAGEMENT

SUBCHAPTER I. PUBLIC UTILITY PROGRAMS

14:12-1.1 Purpose and scope

The rules in this chapter are designed to provide financial incentives to electric and gas utilities for investment in demand side management initiatives. These incentives are intended to foster the increased penetration of end-use energy efficiency technologies into the homes and businesses of the State. Increased energy efficiency is regarded as a viable alternative to the construction or procurement of new electric and gas supply sources. These rules are designed to put in place mechanisms which permit utilities to earn financial returns equivalent to, or in recognition of the potential positive impact on the environment, greater than the returns provided on supply side projects. It is further the intent of the rules to create an environment for utilities to utilize their unique position as major energy providers in the State to foster increased energy efficiency while stimulating the further development and opportunities for independent energy service companies, contractors and suppliers to competitively compete for Demand Side Management (DSM) business opportunities.

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3701)
14:12-1.2 Definitions
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Avoided cost savings” means the level of fuel, operation and maintenance, labor costs, capital costs, taxes and any other costs which the utility avoids having to incur as a result of displacement of customer demands through demand side management efforts.

“Core Programs” means a set of conservation programs required to be performed by the utilities and which are not subject to the incentive ratemaking formulæ established in N.J.A.C. 14:12-3. The Core Programs shall constitute activities undertaken by the utility in order to foster the dissemination of energy efficiency information to the public as well as to accomplish certain socially desirable or other public benefit goals.

“Demand Side Management (DSM)” means the control of a public utility’s energy needs through the development of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures in the homes and businesses of the State.

“Demand Side Management Resource Plan (DSM Plan)” means a comprehensive presentation of a utility’s demand side management activities over a specified period as well as mechanisms for DSM program cost and revenue erosion recovery and incentive mechanisms to encourage DSM activities as specified in N.J.A.C. 14:12-2, 3 and 4.

“Energy service company” means a company not affiliated with the utility sponsoring particular programs and which provides energy services to end user customers.

“Free rider effects” means energy and capacity savings resulting from measures which would have been implemented even in the absence of the utility program.

“Fuel Adjustment Clause” means a mechanism through which a utility may recover its fuel costs on an annual basis. When used in this chapter, the term means specifically an electric utility’s Levelized Energy Adjustment Clause (LEAC) or a gas utility’s Raw Materials Adjustment (RMA) or Levelized Purchase Gas Adjustment (LPGA).

“Participant Test” means a comparison of participant utility bill reductions, incidental savings and incentive payments as benefits to the participant costs.

“Penetration levels” means the amount of customer participation in a particular program relative to the eligible universe of customers for that program.

“Program measure” means the particular end use device, technology or service being offered by the utility for a particular program to be installed in the targeted customers’ premises or in the utilities energy delivery system.

“Public utility” or “utility” means all electric and natural gas public utilities as defined by N.J.S.A. 48:2-13, but does not mean municipally owned electric or natural gas public utilities.

“Ratepayer Impact Test” means a comparison of the avoided cost savings as benefits to the incentive payments to customers, utility program cost and the utility revenue loss as costs.

“Test year sales” means the level of sales utilized by the Board to set rates in the utility’s most recent base rate proceeding.

“Total Resource Test” means a comparison of the avoided cost savings and incidental savings as benefits to the utility program and participant costs.

SUBCHAPTER 2. DEMAND SIDE MANAGEMENT RESOURCE PLAN
14:12-2.1 Filing
Every New Jersey electric and gas public utility subject to the jurisdiction of the Board shall initially file within 30 days of the effective date of this rule and by March 1, 1993 and every two years thereafter, a “Demand Side Management Resource Plan” (DSM Plan) for review and approval by the Board.
14:12-2.2 Plan elements
(a) The DSM Plan shall consist of the following elements, each of which shall be accompanied by technical support sufficient to provide the Board with a basis to evaluate the DSM Plan:
1. A target which establishes and specifies an overall energy and capacity savings goal in terms of kilowatthours (kwh) and kilowatts (kw) for electric utilities and therms for gas utilities to be achieved by virtue of the DSM Plan, as well as a specified time frame for attaining the goal;
2. An assessment of the effect of the Plan on the overall peak load and energy demand forecasts, construction plans, fuel purchase plans, capacity expansion plans and the future capital additions of the utility;
3. A list and description of “Performance-Based DSM Programs” which shall present the DSM efforts which the utility intends to implement over the succeeding two years and for which performance-based incentives will be sought pursuant to N.J.A.C. 14:12-3. DSM program efforts proposed by the utility may include investments in increased energy delivery system efficiency in addition to end use efficiency;
4. A list, description and proposed budget for Core Programs which will be offered by the utility. As the benefits to be achieved from Core Programs may transcend a strict economic benefit/cost analysis or be difficult to accurately quantify, the Core Programs shall not be subject to the mechanisms applied to the Performance-Based DSM Programs as set forth in N.J.A.C. 14:12-3. Instead, the utilities will be permitted to expense the costs related to operation of the Core Programs on a timely basis through the DSM Cost Recovery Mechanism, as set forth in N.J.A.C. 14:12-4.

i. Unless otherwise directed by the Board, a utility’s Core Programs shall include the following:
(1) The Home Energy Savings Program (HESP) as described in N.J.A.C. 14A:21. However, in order to increase the overall effectiveness of the Program, the utility may incorporate features such as target marketing, and prescreening of applicants to ensure that the applicant has not had a prior utility-sponsored energy audit within a specified number of years at his or her present location;
(2) A Low Income Direct Grant and/or Seal-Up Program;
(3) A Commercial and Apartment Conservation Service (CACS) energy audit program;
(4) A Home energy efficiency rating system program;
(5) A program encouraging the energy efficient design of new construction;
(6) Informational programs designed to foster conservation awareness;
(7) Educational programs designed to enhance the understanding of energy efficiency in the school systems;
(8) A program or package of programs offered by each electric utility directed at those residential customers within its service territory who utilize energy sources other than natural gas for space heating purposes; and
(9) Other programs as proposed by the utility or interested party and as deemed appropriate by the Board.

ii. In filing its DSM Plan, each utility shall have the opportunity to propose one or more Core Programs as a performance-based program, it being the intent of this section not to preclude the opportunity to earn incentives if an adequate measurement plan is provided by the utility.

5. For each Performance-Based DSM Program and Core Program, the DSM Plan shall include the following:
i. A program implementation plan, which shall include:
(1) The anticipated manner for the marketing and installation of program measures;
(2) Indications as to whether or not utility personnel or third parties are anticipated to actually perform the marketing, supply of materials or installation; and
(3) In the event that third parties will be utilized, a description of the selection process to be employed, and the standards to which the third parties will be held in performing work;
ii. The customer base which the program will target;
iii. The DSM program measures to be offered;}
iv. The commitments or contributions which will be expected of customers; and
v. The penetration levels and overall energy and capacity savings expected to be achieved by each program.

SUBCHAPTER 3. INCENTIVES
14:12-3.1 Basis for incentives
Unless otherwise directed by the Board, each utility shall propose a base percentage return on investment for each Performance-Based Program. To the base return, the utility may add additional incentives based upon the achieved net benefits associated with the individual programs set forth in its Plan.

14:12-3.2 Net benefits
(a) Net benefits of the program shall be defined as the difference between the net present value of avoided energy and capacity costs associated with the program and the net present value of program costs as recovered from ratepayers.
(b) The net benefits calculation can be expressed utilizing the following formula:

\[ NB = NPV_{AC} - NPV_C \]

where

\[ NB = \text{net benefits} \]

\[ NPV_{AC} = \text{net present value of the energy and capacity savings,} \]

\[ NPV_C = \text{net present value of total program costs as recovered from ratepayers} \]

\[ t = \text{years} \]

\[ L = \text{length of program measure} \]

\[ E = \text{kilowatt-hours (electric utilities) or therms (gas utilities) of energy avoided in year t by virtue of the DSM measures} \]

\[ C = \text{kilowatts (electric utilities) or peak therms (gas utilities) of demand avoided in year t by virtue of the DSM measures} \]

\[ AEC = \text{avoided energy cost (cents per kwh or cents per therm) as approved by the Board} \]

\[ ACC = \text{avoided capacity cost (cents per kwh or cents per therm) as approved by the Board} \]

\[ DR = \text{discount rate} \]

\[ L \sum_{t=1}^{n} \frac{(E \times AEC)}{(1 + DR)^t} + \frac{(C \times ACC)}{(1 + DR)^t} \]

(c) Each electric and gas utility shall, at the time it submits its DSM Plan, file an avoided cost study which demonstrates the energy and capacity cost avoided by the utility by virtue of the existence of reductions in load growth from conservation and load management. Except for matters related to the timeliness of data, the avoided cost which forms the basis for utility incentives shall be consistent with that used as the cap for price offers available for non-utility supply project developers or third party energy service companies through utility bid solicitation or other supply and demand side procurement procedures, as reviewed and approved by the Board.

1. In preparing the avoided cost study filings, utilities shall reflect the capacity as well as commodity/energy costs avoided by virtue of displaced supply purchases and/or facilities.
2. Valuation of avoided energy and capacity shall be time-differentiated in order to permit a more accurate valuation of those DSM measures which are designed to shift and reduce customer usage during certain times of day, days of week or seasons of the year.

14:12-3.3 Incidental savings
(a) Subject to the express approval of the Board, a utility may request to receive additional incentives in excess of those established in N.J.A.C. 14:12-3.1 and 3.2 conditioned upon a demonstration of incidental savings related to a particular program. For purposes of this mechanism, incidental savings are defined as savings of energy sources other than that which the utility provides (for example, heating oil savings related to an electric utility program).

1. In the event that an electric utility requests additional incentives for particular programs related to incidental savings, the utility may propose a modification to the net benefits formula specified in N.J.A.C. 14:12-3.2(a) which reflects those savings.
2. A measurement and verification plan for the incidental savings shall accompany all proposals for receipt of additional incentives.

14:12-3.4 Shared savings
(a) Incentives to be provided to the utilities shall be based upon a shared savings of the net benefits as determined in N.J.A.C. 14:12-3.2.
(b) The incentives shall be calculated as a retention by the utility of a percentage of the net benefits achieved by virtue of each program.

(c) In order to provide increased incentive to achieve and surpass the overall DSM Plan savings goals established in N.J.A.C. 14:12-2.2(a), the actual percentage of net benefits from each program to be retained by the utility as specified in (b) above shall be tied to the overall savings achieved as a result of the DSM Plan. To that end, for actual achievement within a bandwidth of plus or minus 10 percent of the Plan’s overall savings goal as established in N.J.A.C. 14:12-2.2(a), the utility shall be permitted to retain a specified percentage as established pursuant to (b) above, of each program’s net benefits.
(d) In the event that the overall savings achieved by the DSM Plan are less than 90 percent of the savings goal established in N.J.A.C. 14:12-2.2(a), the utility portion of shared savings shall be reduced from the percentage established in (b) above. Conversely, in the event that the overall savings achieved by the DSM Plan are greater than 110 percent of the savings goal established in N.J.A.C. 14:12-2.2(a), the utility portion of shared savings shall be increased from the percentage established in (b) above.
(e) Actual net benefits which are realized by virtue of each program will be tallied after the completion of measure installation and measurement verification. The level of energy and capacity savings assumed in these calculations shall be based upon the most recent measurement plan approved by the Board pursuant to N.J.A.C. 14:12-3.6. As a result, the critical variables in the actual net benefit calculation will be the program penetration levels, verified performance and the level of actual program costs. Actual program costs shall include an appropriate allocation of program support from general utility operations.
(f) In the event that achieved net benefits of individual programs are less than zero, negative incentives shall result. These negative incentives shall be based upon poor performance resulting from such factors as poor penetration levels, program cost overruns and substandard actual performance of measures, and not upon after-the-fact changes in the measurement criteria.

(g) Notwithstanding the provisions of (f) above, negative incentives for programs that do not have net present value avoided cost benefits which exceed net present value costs shall not be applied within a range below the break even point (NPV_{AC} = NPV_C) where the ratio of present value savings to present value cost is between .80 and 1.0. Accordingly, in order to provide an accounting for environmental benefits available as a result of certain programs, any program which achieves net present value savings of at least 80 percent of net present value costs shall not be subject to negative incentives.
(h) A base level of return shall be established and provided for investments in each of the programs. The base level of return shall represent the percentage return on program investment to be provided the utility. Incentives (or negative incentives) achieved for realized program net benefits greater than zero (or achieved benefit/cost ratio of less than .80) as established in (b) above shall be added to (subtracted from) the base return.
(i) Proposals for specific shared savings percentages to be added to (subtracted from) the base return, as well as proposed base returns, shall be included in the filed DSM Plans. Such proposals shall
provide an adequate balance between risks and incentives for DSM initiatives as determined by the Board.

(j) During the initial DSM Plan filing and review process and each filing and review process subsequent thereto, the Board will consider mechanisms by which to more directly quantify environmental and other externalities. The utility or other interested parties may propose such mechanisms for the Board's approval. Any such proposals shall address the issue of whether the utility should share in a portion of such external benefits, in addition to the issue of quantification of such benefits for purposes of establishing a range within which negative incentives will not apply pursuant to (g) above.

14:12-3.5 Measurement plan
(a) A measurement plan for each DSM Performance-Based Program shall be filed as part of the Plan.
(b) The measurement plan for each program shall set forth the basis for energy and capacity savings estimates for each program as well as the specific mechanism to be employed for verifying the actual savings produced.
(c) Where practicable, the preferred measurement methodology shall be implemented through a metering arrangement, with appropriate adjustments for weather normalization and/or other factors influencing usage levels. In the alternative, engineering estimates or other appropriate methods may be utilized if demonstrated to be accurate and reliable.
(d) Estimates of energy and capacity savings shall expressly reflect deductions for any free rider effects.
(e) Program net benefits established in N.J.A.C. 14:12-3.2 shall be periodically reviewed by the Board to ensure that they reflect implementation experience as well as advances in measurement techniques. Said review shall be undertaken at least every two years concurrently with the filing and review process related to succeeding DSM Plans filed pursuant to N.J.A.C. 14:12-2, at which time the utility must demonstrate that the existing measurement plan remains the most appropriate. In the event of the development of new technologies, the Board, on its own motion or at the request of an interested party, may review an existing DSM Plan in less than two years to reconsider measurement techniques. Once a program savings measurement plan is approved by the Board, it shall remain the basis for evaluation until a revision is approved. Revised measurement criteria shall only apply prospectively to subsequent measure installations.

14:12-3.6 Additional Tests
In addition to the net benefit calculations described in N.J.A.C. 14:12-3.2, the utility shall include for each program an analysis of the expected performance of the program as measured by the Total Resource Test, the Ratepayer Impact Test, and the Participant Test. Said test results shall be utilized by the Board in its evaluation of the appropriateness of the programs provided, however, none of the additional tests will individually provide the sole basis for a decision by the Board to approve a particular program.

SUBCHAPTER 4. ADDITIONAL ELEMENTS OF THE DSM PLAN

14:12-4.1 Cost Recovery Mechanism
(a) A Demand Side Management Cost Recovery Mechanism proposal shall be filed, as part of the DSM Plan, by each electric and gas utility to permit the timely recovery of program expenses.
(b) The DSM Cost Recovery Mechanism shall be a deferred accounting mechanism which shall be adjusted on an annual basis concurrent with implementation of each utility's fuel adjustment clause to reconcile the difference between actual program expenditures and the level of expenditures recovered in rates for the most recent annual period.
(c) The expenditures subject to the adjustment mechanism shall be limited to costs incurred for implementing programs which have been previously approved by the Board pursuant to these rules.

14:12-4.2 Program transition strategy
As part of the initial DSM Plan filed pursuant to this chapter, each utility shall file a DSM Program Transition Strategy which describes the utility's proposed plan to merge its existing DSM program efforts into the DSM Plan. Such strategy shall address the proposed future status of each of the utility's existing programs, that is, whether an existing program is proposed to be rolled into the Performance-Based Programs or the Core Program established in N.J.A.C. 14:12-2, or whether it is proposed to be eliminated based upon a finding of non-cost-effectiveness and insufficient public benefits. A supporting rationale shall be included which underlies the proposed status of each program.

14:12-4.3 Third party participation
(a) The utilities' DSM Plan shall be designed in a manner that third party energy service companies and other contractors and suppliers are provided with an opportunity to participate in the provision of DSM services at customer premises. To that end, the utility must demonstrate, as part of its DSM Plan, that the achievement of at least 25 percent of the overall DSM savings during the period in which the Plan is in effect will be set aside for direct participation by third party energy service companies or contractors/suppliers.
(b) The set-aside required by (a) above may include either work performed by third parties as subcontractors under the DSM Plan, or demand side projects resulting from a separate competitive bidding process such as that employed by the electric utilities under procedures approved by the Board.

14:12-4.4 Revenue adjustment mechanism
(a) Along with the filing of its DSM Plan, each utility may propose for consideration by the Board a mechanism for addressing the impact of DSM initiatives on the overall level of revenues collected by the utility. Such proposals shall address:
  1. The erosion of fixed cost contributions resulting from lower than test year sales to customers participating in DSM programs; and
  2. Potential offsets to some or all of the revenue erosion established in (a) above resulting from sales at levels higher than established in the most recent test year.

14:12-4.5 DSM bidding for gas utilities
(a) As part of its initial DSM Plan filing, each gas utility shall file a proposed pilot DSM bidding procedure.
(b) The proposed procedure shall include proposed weighting criteria for economic factors, most notably price, as well as additional factors such as project viability, environmental, measurement plan, marketing plan and site control.
(c) The proposed procedure shall also include proposed minimum criteria for acceptance of bids as well as a proposed avoided cost ceiling price.
(d) The procedure may address a particular DSM measure or be more broad in scope.
(e) The filing shall also identify a specific bid block size to be targeted.
(f) Review by the Board of bidding procedures in subsequent DSM Plan filings shall be based upon the experience with the pilot bidding procedure.

TRANSPORTATION

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Speed Limits
Routes U.S. 46 including Route U.S. 1, 9, and 46, and U.S. 202 in Morris County

Proposed Amendments: N.J.A.C. 16:28-1.10 and 1.67

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.
Proposal Number: PRN 1990-616.
Submit comments by January 16, 1991 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary
The proposed amendments will establish revised "speed limit" zones along Routes U.S. 46 including Routes U.S. 1, 9, and 46, in the Town of Dover and U.S. 202 in Morristown Town and Morris Township, Morris County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

As part of a review of current conditions and upon requests from the local governments, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted surveys and traffic investigations. The investigations and surveys proved that the establishment of "speed limit" zones along Routes U.S. 46 including Route U.S. 1, 9, and 46 in the Town of Dover and U.S. 202 in the Town of Morristown and Morris Township, Morris County, were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.10 and 1.67 based upon the requests from the local governments, the surveys, and the traffic investigations.

The Department is proposing to amend the speed zones on Routes U.S. 46 and U.S. 202, changing their locations and designating them by mileposts, in addition to other landmarks.

Social 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 any additional "speed limit" signs as necessary. The costs involved in the installation and procurement of signs vary depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule", issued under New Jersey Court Rules 7:7-3.

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 any additional "speed limit" signs as necessary. The costs involved in the installation and procurement of signs vary depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule", issued under New Jersey Court Rules 7:7-3.

Regulatory Flexibility Statement
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. The amendments primarily affect the motoring public.

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

16:28-1.10 Route U.S. 46 including Route U.S. 1, 9, and 46
(a) The rate of speed designated for the certain parts of Route U.S. 46 described in this subsection shall be established and adopted as the maximum legal rate of speed:
1.-3. (No change.)
4. For both directions of traffic:
1.-xi. (No change.)
[xii. Zone 22: 35 mph to Maple Avenue, Town of Dover (milepost 38.77), except:
(1) School zone: 25 mph in the Dover middle school zone, during recess or while children are going to or leaving school, during opening or closing hours; and]
xiii. Zone 23: 40 mph between Maple Avenue and the Rockaway Township line (George Street) (milepost 38.77 to 309.5); thence
(1) School zone: 25 mph in the East Dover elementary school zone, during recess or while children are going to or leaving school, during opening or closing hours.]

1.67 Based upon the requests from the local governments, the surveys, and the traffic investigations, the revised speed zones provide the motoring public specific areas and locations within the various municipalities to which they are applicable and provide some clarity within the rules. Appropriate signs will be erected to advise the motoring public.

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
Speed Limits
Routes N.J. 71-35 Ramps (Ashley Avenue) in Monmouth County; N.J. 138 in Monmouth County; and U.S. 9 in Cape May County

Proposed Amendment: N.J.A.C. 16:28-1.41

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local AID.
Proposal Number: PRN 1990-619.

Submit comments by January 16, 1991 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary
The proposed amendment and new rules will establish "speed limit" zones along Routes N.J. 71-35 Ramps (Ashley Avenue) in Brielle Borough, Monmouth County; N.J. 138 in Wall Township, Monmouth County; and U.S. 9 in Lower Township, Cape May County, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safety of children while leaving school during opening or closing hours and during recess.

Submit comments by January 16, 1991 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary
The proposed amendments will establish revised "speed limit" zones along Routes U.S. 46 including Routes U.S. 1, 9, and 46, in the Town of Dover and U.S. 202 in Morristown Town and Morris Township, Morris County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.
TRANSPORTATION

Based upon requests from the local governments in the interest of safety, and as part of a current review of conditions the Department’s Bureau of Traffic Engineering and Safety Programs conducted traffic investigations and surveys. The investigations and surveys proved that the establishment of “speed limit” zones along Routes N.J. 71-35 in Monmouth County, N.J. 138 in Wall Township, Monmouth County; and U.S. 9 in Lower Township, Cape May County were warranted. Route U.S. 9 is being amended in Zone 1 to add a school zone speed limit and indicate new location by mileposts.

The Department therefore proposes to amend N.J.A.C. 16:28-1.41 and add new rules N.J.A.C. 16:28-1.39 and 1.40 based upon the requests from the local governments, the traffic investigations and surveys.

Social Impact

The proposed amendment and new rules will establish “speed limit” zones along Routes N.J. 71-35 Ramps (Ashley Avenue) in Brielle Borough, Monmouth County; N.J. 138 in Wall Township, Monmouth County; and U.S. 9 in Lower Township, Cape May County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace, and the safety of children when their presence is clearly visible from the roadway or while going to or leaving school, during opening or closing hours. 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. The costs involved in the procurement of signs vary, based upon size, material used, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine, in accordance with the “Statewide Violations Bureau Schedule,” issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment and new rules 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. The amendment and new rules primarily affect the motoring public and the governmental agencies responsible for enforcement of the rules.

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

16:28-1.39 [(Reserved)] Route 71-35 Ramps (Ashley Avenue)
(a) The rate of speed designated for the certain parts of State Highway Route 71-35 Ramps (Ashley Avenue) described in this subsection shall be established and adopted as the maximum legal rate of speed:
1. For both directions of traffic:
i. In Brielle Borough, Monmouth County:
(1) 25 miles per hour between Higgins Avenue and Evergreen Avenue.

16:28-1.40 [(Reserved)] Route N.J. 138
(a) The rate of speed designated for the certain parts of State Highway Route 138 described in this subsection shall be established and adopted as the maximum legal rate of speed:
1. For both directions of traffic:
i. In Wall Township, Monmouth County:
(1) 55 miles per hour between Route N.J. 34 and Route N.J. 35 (approximate mileposts 0.00 to 3.50).

16:28-1.41 Route U.S. 9
(a) The rate of speed designated for the certain parts of State Highway Route U.S. 9 described in this subsection shall be established and adopted as the maximum legal rate of speed:
1. For both directions of traffic:
i. Lower Township:
(1) Zone 1: 50 miles per hour between Route 109 and Cresse Lane except, for 35 miles per hour when passing through the LOWER CAPE MAY REGIONAL HIGH SCHOOL zone (mileposts 4.18 to 4.47), during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 3.00 to [3.81] 5.81), thence
ii. Zone 2: 40 miles per hour between Cresse Lane and the Lower Township—Middle Township Corporate line (mileposts [3.81] 5.81 to 6.63); thence
ii.-iv. (No change.)

2. (No change.)
(b) (No change.)

(a) DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Restricted Parking and Stopping Routes U.S. 40 and N.J. 50 in Atlantic County

Proposed Amendments: N.J.A.C. 16:28A-1.28 and 1.100

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.


Proposal Number: PRN 1990-618.

Submit comments by January 16, 1991 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will establish “no stopping or standing” zones along Routes U.S. 40 and N.J. 50 in Hamilton Township, Atlantic County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Based upon requests from the local governments in the interest of safety, and as part of a current review of conditions the Department’s Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of “no stopping or standing” zones along Routes U.S. 40 and N.J. 50 in Hamilton Township, Atlantic County, were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.28 and 1.100 based upon the requests from local governments and the traffic investigations.

Social Impact

The proposed amendments will establish “no stopping or standing” zones along Routes U.S. 40 and N.J. 50 in Hamilton Township, Atlantic 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 “no stopping or standing” zone signs. The costs for signs will vary, based upon numerous factors, including, but not limited to, size, location and method of installation. Motorists who violate the rules will be assessed the appropriate fines, in accordance with the “Statewide Violations Bureau Schedule,” issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

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. The amendments primarily affect the motoring public and governmental agencies responsible for enforcement of the rules.

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

16:28A-1.28 Route U.S. 40
(a) The certain parts of State highway Route U.S. 40 described in this subsection [are] shall be designated and established as “no stopping or standing” zones where stopping or standing is prohibited at all times.

16:28A-1.28 Route U.S. 40
(a) (The certain parts of State highway Route U.S. 40 described in this subsection [are] shall be designated and established as “no stopping or standing” zones where stopping or standing is prohibited at all times.

1-4. (No change.)
5. No stopping or standing in Hamilton Township, Atlantic County:
   i. Along both sides:
      (1) (No change.)
      (2) Beginning at the easterly side of Old Harding Highway and extending 1,500 feet west therefrom.
   ii. (No change.)
   6. (No change.)
   7. (No change.)
   8. (No change.)

16:28A-1.100 Route 50
(a) The certain parts of State [Highway] highway Route 50 described in this [section] subsection shall be designated and established as “no parking” stopping or standing 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 Hamilton Township, Atlantic County:
   i. Along both sides beginning 200 feet south of the southerly curb line of Third Street to the northerly curb line of Fourth Street.

TREASURY-GENERAL

(a)
DIVISION OF PENSIONS
Public Employees' Retirement System
Nearest Attained Age; Enrollment; Retirement
Proposed New Rule: N.J.A.C. 17:2-1.13
Authorized By: Board of Trustees, Public Employees Retirement System, Janice Nelson, Secretary.
Proposal Number: PRN 1990-609.
Submit comments by January 16, 1991 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary
The proposed new rule attempts to clarify the current procedures of the Division of Pensions in determining the age of a person regarding enrollment and retirement within or from the Public Employees' Retirement System. For enrollment or retirement purposes, if a person is beyond six months or more into his or her chronological age (for example, 25 years and eight months old), such a person will be treated for enrollment purposes as if he or she had reached his or her next birthday (for example, 26 years old in the previous example).

Social Impact
This proposed new rule may affect present and future members of the Public Employees' Retirement System who enroll or retire from that system. It is not anticipated that the proposed new rule will adversely affect any such persons. Because this age computation method is currently utilized by the System, no net change to any person's situation is anticipated.

Economic Impact
Since the proposed new rule reflects the current policy and procedure of the Division of Pensions, the individuals who might be affected by the rule will not be adversely affected. The rule is essentially codifying present practices and accepted standards that have been developed over the years. The method of computing age is used for payment into the System and for retirement. Therefore, there is no net change to any individual's situation.

Regulatory Flexibility Statement
A regulatory flexibility analysis is not required because this proposed new rule does not impose reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the rules of the Division of Pensions only impact upon public employers and/or public employees, this new rule will not have any effect upon small business or private industry in general.

Full text of the proposed new rule follows:
17:2-1.13 Nearest attained age; enrollment; retirement
(a) An individual who is six months or more than his or her current age at the time of his or her enrollment will have his or her pension contribution rate and retirement factor based upon the age on his or her next birthday.
(b) Retired members and survivors will have their benefits calculated upon the basis of the factors applicable to their age as set forth in (a) above.

(b)
DIVISION OF PENSIONS
Police and Firemen's Retirement System
Work-Related Travel; Accidental Disability and Accidental Death Benefits
Proposed New Rule: N.J.A.C. 17:4-6.17
Authorized By: Police and Firemen's Retirement System, Janice Nelson, Secretary.
Proposal Number: PRN 1990-610.
Submit comments by January 16, 1991 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary
The proposed new rule attempts to clarify the eligibility for accidental disability benefits and accidental death benefits for persons on work-related travel who are enrolled in the Police and Firemen's Retirement System. The new rule is almost identical to the same type of rule governing members of the Public Employees' Retirement System and an attempt is being made to have uniform rules throughout all State-administered retirement systems, when feasible.

Social Impact
The proposed new rule will affect present and future members of the Police and Firemen's Retirement System who may suffer injuries or death during work-related travel that qualifies for either accidental disability or accidental death benefits. The rule clarifies when members are covered for such benefits, liberally defining the circumstances and situations under which coverage is provided.

Economic Impact
The proposed new rule clarifies eligibility for benefits payable in accordance with N.J.S.A. 43:16A-10, two-thirds of the employee's annual salary. (Ordinary disability is payable at a rate of one and one-half percent per year of service.)

By itself, the proposed new rule will not have any adverse economic effect upon the persons who may be affected by it. In effect, the new rule merely reflects the current procedures or policies used to determine the eligibility of accidental death or accidental disability benefits for members injured during work-related travel. The accidental death and disability benefits are higher than the normal death or disability benefits, but the proposed rule does not change the current requirements; it merely clarifies and codifies current procedures for eligibility determination.

Regulatory Flexibility Statement
A regulatory flexibility analysis is not required because this proposed new rule does not impose reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the rules of the Division of Pensions only impact upon public employers and/or public employees, this new rule will not have any effect upon small business or private industry in general.

Full text of the proposed new rule follows:
(a) A member whose duties include regular or occasional travel in the course of employment will be considered in the "performance of his regular or assigned duties" for the purposes of accidental disability retirement and in the actual performance of duty.

(b) If a member's duties require or authorize the member to travel between a regularly assigned office or workplace and other locations, or among other locations, the member is in performance of duty when he or she completely leaves the property of his or her residence and begins to travel to the other location, or until he or she begins entry to the property of residence after travel from the other location, and all expenses of the travel are paid for by the employer. A member's duties are considered to authorize or require travel from the place of residence to a location other than a regularly assigned office or workplace of the employer to which the member is regularly assigned or near to the regularly assigned office or workplace to perform the duties of the employment.

3. The member is authorized or required by his or her employer and the place of residence of the member is not considered part of the member's duties.

2. The member's regular or assigned duties are usually performed at an office or workplace to which the member is regularly assigned but occasionally require or authorize travel to other locations.

(c) If a member's duties require or authorize the member to travel between his or her place of residence and a location other than an office or workplace of the employer to which the member is regularly assigned or near to the regularly assigned office or workplace to perform the duties of the employment, the member is in performance of duty when he or she completely leaves the property of his or her residence and begins to travel to the other location, or until he or she begins entry to the property of residence after travel from the other location, and all expenses of the travel are paid for by the employer. A member's duties are considered to authorize or require travel from the place of residence to a location other than a regularly assigned office or workplace of the employer in the following situations:

1. The member's regular or assigned duties involve field work which requires or authorizes the member to travel to locations other than a regularly assigned office or workplace of the employer to perform his or her duties and do not require the member to report to a regularly assigned office or workplace before or after traveling to other locations. Travel by the member between a regularly assigned office or workplace of the employer and the place of residence of the member is considered part of the member's duties.

2. The member is traveling to a location other than a regularly assigned office or workplace of the employer, regardless of whether the expenses of the travel are paid for by the employer or the member. Where there are social or recreational activities associated with the work-related activity or attendance requires living accommodations, only travel to and from the general activity and participation in and travel to and from the work-related functions of the activity are considered part of the duties of the member. Activities related to social or recreational functions or living accommodations are not considered part of the duties of the member.

4. The member is attending a meeting, seminar, convention or a similar type of work-related activity as authorized or required by the employer at a location other than a regularly assigned office or workplace, regardless of whether the expenses of the travel are paid for by the employer or the member. Where there are social or recreational activities associated with the work-related activity or attendance requires living accommodations, only travel to and from the general activity and participation in and travel to and from the work-related functions of the activity are considered part of the duties of the member. Activities related to social or recreational functions or living accommodations are not considered part of the duties of the member.

(d) In all cases, a certification from the employer is required and must include a copy of the member's job description, a statement of the member's work schedule on the day of the travel in question, and proof of or a statement by the employer that the travel was authorized or required by the employer and indicating who paid the travel expense.

CAPITAL CITY REDEVELOPMENT CORPORATION
Notice of Extension of Public Comment Period
Project Review Procedures
Proposed New Rules: N.J.A.C. 17:41
Notice that the Capital City Redevelopment Corporation is extending the public comment period for its proposed project review procedures, N.J.A.C. 17:41, until December 28, 1990. The notice of proposal for these new rules appears in the November 19, 1990 New Jersey Register at 22 N.J.R. 3475(a).

Submit comments by December 28, 1990 to:
Robert M. Litke, Executive Director
Capital City Redevelopment Corporation
4 North Broad Street
CN 203
Trenton, NJ 08625-0203
Telephone: (609) 984-5664

OTHER AGENCIES

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Definitions; Slot Booths; Accounting Controls Within the Slot Booths
Procedure for Control of Coupon Redemption and Other Complimentary Distribution Programs
Procedures and Requirements for the Use of an Automated Coupon Redemption Machine (New Rule)
Proposed Amendments: N.J.A.C. 19:45-1.1, 1.34, 1.35 and 1.46
Proposed New Rule: N.J.A.C. 19:45-1.46A

Proposed Amendments to N.J.A.C. 19:45-1.1, 1.34, 1.35 and 1.46

Proposed Amendments: N.J.A.C. 19:45-1.1, 1.34, 1.35 and 1.46

Proposed Amendments: N.J.A.C. 19:45-1.46A

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.
Proposal Number: PRN 1990-613.

Submit comments by January 16, 1991 to:
Deno R. Marino
Deputy Director—Operations
Casino Control Commission
CitiCenter Building, 4th Floor
1300 Atlantic Avenue
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 19:45-1.1, 1.34, 1.35 and 1.46 and the proposed new rule N.J.A.C. 19:45-1.46A would permit casino licensees to utilize an automated coupon redemption machine for the purpose of redeeming coin coupons on the casino floor. The proposed amendments and new rule would further provide guidelines for the operation of the automated coupon redemption machines, including, but not limited to, the requirements for the coupons and the reconciliation of funds and coupons. A 90-day experiment commencing on August 27, 1990 through November 25, 1990 is being conducted to determine the feasibility of using an automated coupon redemption machine (see 22 N.J.R. 2542(a)). The proposed amendments also define the term "change machine."

Social Impact

It is anticipated that the use of automated coupon redemption machines will provide gaming patrons with better service, and therefore, the proposed amendments and new rule will have a positive social benefit for the gaming patrons.
PROPOSALS

Economic Impact
The utilization of automated coupon redemption machines will have little or no economic impact initially. The cost of the machine(s) along with the cost of servicing the machine(s) will probably offset the cost of labor now required to redeem coin coupons. However, in the long run, cost savings are expected because of a reduction in labor costs.

Regulatory Flexibility Statement
These proposed amendments and new rule will only affect the operations of New Jersey casino licensees, and therefore, will not impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.1 Definitions
The following words and terms, when used in this chapter, shall have the following meanings unless the context indicates otherwise.

"Automated coupon redemption machine" means any mechanical, electrical or other device which operates independently of a slot machine and which upon insertion of a valid casino coupon or currency will dispense an amount of coin or slot tokens equivalent to the face value of the coupon or currency and shall immediately upon exchange cancel the coupon.

"Change machine" means any mechanical, electrical or other device which operates independently of a slot machine which, upon insertion of currency therein, shall dispense an equivalent amount of loose or rolled coin or slot tokens. Change machines shall be governed by the accounting and internal control procedures pursuant to N.J.A.C. 52:14B-16 et seq.

19:45-1.34 Slot booths
(a) Each establishment may have on or immediately adjacent to the gaming floor a physical structure known as a slot booth to house the slot cashier and to serve as the central location in the casino for the following:
1. (No change.)
2. The issuance of Payouts in conformity with N.J.A.C. 19:45-1.40. [and]
9. The issuance of coin or slot tokens to automated coupon redemption machines in exchange for proper documentation; and [9.10]. (No change in text.)
(b)-(c) (No change.)
19:45-1.35 Accounting controls [within the] for slot booths and change machines
(a)-(d) (No change.)
(e) The slot booth inventory may be used to supply automated coupon redemption machines with an impress identification number of coin or slot tokens.

19:45-1.46 Procedure for control of coupon redemption and other complimentary distribution programs
(a)-(b) (No change.)
(i) Coupons redeemable for cash or slot tokens shall only be redeemed by changepersons or at the slot change booths or the cashier's cage located on the casino floor. A changeperson, slot cashier or general cage cashier shall accept the coupons in exchange for the stated amount of cash or slot tokens and shall cancel the coupons upon acceptance. Cancellation of coupons by changepersons shall be in a manner that will permit subsequent identification of the individual who accepted and cancelled the coupon. Redeemed coupons shall be maintained by the slot or general cashier and shall be exchanged with the Main or Master Coin Bank for a like amount of cash at the conclusion of gaming activity each day, at a minimum. Changepersons shall exchange redeemed coupons with slot booths for a like amount of cash at the conclusion of each shift, at a minimum. Notwithstanding the above, an automated coupon redemption machine may be utilized to accept coupons, provided that the acceptance of coupons by an automated coupon redemption machine complies with the procedures and requirements established by this section and N.J.A.C. 19:45-1.46A.
(j)-(n) (No change.)

19:45-1.46A Procedures and requirements for the use of an automated coupon redemption machine
(a) All coupons utilized with or accepted by an automated coupon redemption machine shall be accounted for and controlled pursuant to N.J.A.C. 19:45-1.46 unless otherwise authorized by the Commission.
(b) All coupons accepted by an automated coupon redemption machine shall have encoded thereon, in addition to the requirements of N.J.A.C. 19:45-1.46(d), a bar code which contains the dollar value of the coupon and a unique code or other security measure as approved by the Commission, that is readable only by the automated coupon redemption machine to ensure that the coupon is valid.
(c) Each automated coupon redemption machine shall have the capability of establishing the validity of the coupon by comparing the unique code programmed into the machine to the bar code on the coupon referenced in (b) above. Each automated coupon redemption machine shall also have the capability to read the dollar value of the bar coded coupon.
(d) The method or methods utilized to comply with the requirements referenced in (c) above shall be submitted to and approved by the Commission.
(e) Each automated coupon redemption machine shall, at a minimum, accumulate the following data on a meter or a computer generated tape:
1. The total amount of coin or slot tokens dispensed by the automated coupon redemption machine; and
2. The total dollar amount of coupons accepted by the automated coupon redemption machine.
(f) Each automated coupon redemption machine shall have imprinted, affixed or impressed on the outside of the machine a unique asset identification number. Each automated coupon redemption machine shall contain a lockable coupon storage box which retains the coupons accepted by the machine. Each coupon storage box located inside the machine shall also have imprinted, affixed or impressed thereon the asset identification number of the corresponding machine.
(g) Each automated coupon redemption machine shall have, at a minimum, the following:
1. One lock securing the compartment housing the coupon storage box and one lock securing the coupon storage box within the compartment, the keys to which shall be different from each other. Such keys shall be controlled by two separate departments;
2. Two separate locks securing the compartment housing the coin storage container, the keys to which shall be different from each other. Such keys shall be controlled by two separate departments; and
3. One lock securing the contents of the coupon storage box, the key to which shall be different from the keys referenced in (g)1 and 2 above. Such key shall be controlled by a department independent of the two departments controlling the keys referenced in (g)1 and 2 above.
(h) On a daily basis, a slot cashier, accompanied by a security department representative, shall remove the coupons accepted by the automated coupon redemption machine. Any coin or slot tokens removed from the automated coupon redemption machine during the removal of coupons or during any other time shall be placed in a secured container, as approved by the Commission, with the automated coupon redemption machine asset identification number attached or recorded thereon. Upon removal of the coupons and/or coins or slot tokens from the automated coupon redemption machine, a serially prenumbered three-part form, at a minimum, shall be prepared by the slot cashier. Each series of forms shall be used in sequential order, and the series numbers of all forms received by a casino shall be accounted for by employees with no incompatible functions. All original, duplicate and triplicate void forms shall be marked "VOID" and shall require the signature of the preparer. The following copies shall contain, at a minimum, the following information:
1. The original, duplicate and triplicate:
   i. The date and time of preparation;
   ii. The denomination of the automated coupon redemption machine;
   iii. The automated coupon redemption machine asset identification number;

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3709)
iv. The total number of coin or slot tokens appearing on the meter or computer generated tape as dispensed by the automated coupon redemption machine;

v. The total dollar amount of coupons or the converted value of coupons appearing on the meter or computer generated tape as accepted by the automated coupon redemption machine;

vi. The signature of the slot cashier who removed the coupons and/or coin or slot tokens from the automated coupon redemption machine; and

vii. The signature of the security department representative who witnessed the removal of coupons and/or coin or slot tokens and who escorted the coupons and/or coin or slot tokens to the slot booth or master coin bank.

2. The original form shall contain the following additional information:

i. The total dollar amount of coupons received from the security representative referenced in (h) vii above and counted by a master coin bank cashier or a slot cashier, other than the slot cashier who removed the coupons from the machine;

ii. The total dollar amount of coin or slot tokens received from the security department representative referenced in (h) vii above and counted by a master coin bank cashier or a slot cashier, other than the slot cashier who removed the coins from the machine;

iii. Any additional information as may be required by the Commission to reconcile the coupons removed from the automated coupon redemption machine; and

iv. The signature of the master coin bank cashier or slot cashier who received and counted the coupons and/or coin or slot tokens.

(l) After meeting the signature requirements as described in (h) vi and vii above, the coupons and any coin or slot tokens removed from the automated coupon redemption machine and the original and duplicate copies of the form referenced in (h) above shall be transported directly to a slot booth or master coin bank by the slot cashier in the presence of the security department representative. The triple copy of the form referenced in (h) above shall be placed in the automated coupon redemption machine until forwarded to accounting at the end of the gaming day. The duplicate copy of the form shall be given to the security department representative upon arrival at the slot booth or master coin bank. The security department representative shall immediately deposit the duplicate copy of the form into a locked accounting box maintained at the security podium.

(j) A master coin bank cashier or a slot cashier, other than the slot cashier who removed the coupons and any coin or slot tokens from the automated coupon redemption machine, shall count the coupons and coin or slot tokens and reconcile the amounts recorded on the form as described in (h) vi and vii above and sign the original form as required for the reconciliation. The original copy of the form shall be maintained by the slot cashier or master coin bank cashier who verified the amounts until forwarded to accounting at the end of the gaming day.

(k) All coupons accepted by an automated coupon redemption machine shall be immediately cancelled in a manner which anyone can visually ascertain so that they are not redeemable in accordance with N.J.A.C. 19:45-1.34(a) or acceptable by another automated coupon redemption machine.

(I) A slot cashier shall prepare a form to authorize the distribution of coins or slot tokens to an automated coupon redemption machine. The slot cashier shall deliver all parts of the form to the master coin bank cashier for preparation of the funds. The form shall be, at a minimum, a serially prenumbered three-part form. Each series of forms shall be used in sequential order, and the series numbers of all slips received by a casino shall be accounted for by employees with no incompatible functions. All original, duplicate and triplicate void forms shall be marked "VOID" and shall require the signature of the preparer. The following information, at a minimum, shall be recorded on all copies of the form:

1. The date and time of preparation;

2. The automated coupon redemption machine asset identification number;

3. The number of bags and the dollar amount of each bag to be distributed;

4. The total dollar amount of the fill; and

5. The signature of the master coin bank cashier who prepared the coins or slot tokens for distribution to the automated coupon redemption machine.

(m) Upon meeting the signature requirements as described in (l) above, the master coin bank cashier shall retain the original copy of the form. The duplicate and triplicate copies of the form shall be given to the slot cashier filling the machine. A security department representative shall escort the slot cashier or above along with the funds and the duplicate and triplicate copies of the form to the automated coupon redemption machine and shall observe the filling of the machine. The security department representative and the slot cashier shall sign the duplicate and triplicate copies of the form. The duplicate shall be given to the security department representative who shall immediately deposit the duplicate form into a locked accounting box at the security podium. The triplicate shall be placed in the automated coupon redemption machine until forwarded to accounting at the end of the gaming day.

(n) At the end of the gaming activity each day, at a minimum, the original, duplicate and triplicate copies of the forms referenced in (h), (i) and (m) above shall be forwarded to the accounting department for agreement and shall be used to reconcile each automated coupon redemption machine in a manner as approved by the Commission.

Notwithstanding this section, in addition to accepting coupons, an automated coupon redemption machine may accept currency provided the procedures governing the control and reconciliation of coupons and currency removed from the machine are submitted to the Commission for approval.  

(a) CASINO CONTROL COMMISSION

Internal Controls

Procedures for Transportation Expense Reimbursements

Proposed Amendment: N.J.A.C. 19:45-1.9A

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-69 and 102m.

Proposal Number: PRN 1990-627.

Submit comments by January 16, 1991 to:

Mary S. LaMantia, Assistant Counsel
Casino Control Commission
3131 Princeton Pike, Building 5
CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to subsection 102m of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., a casino licensee may reimburse its gaming patrons for documented transportation expenses provided that the licensee complies with Casino Control Commission (Commission) regulations to ensure that such expenses are paid for or reimbursed only once (see N.J.S.A. 5:12-102m(2)). On November 22, 1989, the Commission adopted a new rule, effective December 18, 1989, at N.J.A.C. 19:45-1.9A, to implement subsection 102m(2) of the Act by establishing documentation procedures for the issuance of transportation expense reimbursements (see 21 N.J.R. 3931(b)).

The current rule requires that the tickets, invoices or receipts evidencing the transportation expense be in the name of the requesting patron, or, if an explanation is noted on the Travel Disbursement Voucher (Voucher), in the name of a person accompanying such patron (see N.J.A.C. 19:45-1.9A(b)3). On September 27, 1990, Trump's Castle Casino Associates (Trump's Castle) filed a petition for rulemaking pursuant to N.J.S.A. 5:12-69c, requesting that the Commission promulgate an amendment to N.J.A.C. 19:45-1.9A(b)3 to permit transportation reimbursement of $250.00 or less for tickets, invoices or receipts which do not indicate the purchaser's name, if an explanation thereof is noted on the Voucher (see 22 N.J.R. 3407(d)).
The proposed amendment will benefit casino patrons who have, in the past, been precluded from receiving travel reimbursement where the requisite tickets, invoices or receipts do not indicate the name of the individual incurring the transportation expense. The amendment accommodates these situations, where the amount of reimbursement is $250.00 or less, while ensuring adequate documentation of such expenses in accordance with N.J.S.A. 5:12-102m.

**Economic Impact**

The proposed amendment is not expected to result in any significant economic impact on the casino industry, since the documentation procedures in N.J.A.C. 19:45-1.9A have already been implemented and no additional costs of compliance should be incurred. The proposed amendment will provide an economic benefit to casino patrons who have been unable to receive travel reimbursements where the documentation issued by the transportation provider does not indicate the name of the individual incurring the transportation expense.

**Regulatory Flexibility Statement**

The proposed amendment affects only the operation of casino licensees, and therefore does not impact on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.9A Procedures for transportation expense reimbursements

(a) (No change.)

(b) Whenever a patron requests a casino licensee to reimburse transportation expenses, a Travel Disbursement Voucher ("Voucher") shall be prepared. Vouchers shall be maintained in a receipt file prepared pursuant to N.J.A.C. 19:45-1.27. [to ensure the patron's identity and] Each casino licensee shall maintain documentation supporting that examination or verification.

3. Be in the name of the requesting patron, [or] provided, however, that the tickets, invoices or receipts may be in the name of a person accompanying said patron, or contain no name if the amount of reimbursement is $250.00 or less, [provided that] as long as an explanation thereof is noted on the Voucher; and

4. (No change.)

(c)-(h) (No change.)

**HUMAN SERVICES**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

Manual for Physician's Services

Proposed Readoption: N.J.A.C. 10:54

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(5); 30:4D-7, 7a, b and c; 30:4D-12.

Proposal Number: 90-P-21.

Submit comments by January 16, 1991 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN-712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

The proposed readoption to N.J.A.C. 10:54 would provide a patron presenting a cash equivalent or casino check. More specifically, the casino would be permitted to compare the presenting patron's signature and physical description to that previously recorded and verified in the patron's credit file.

**Social Impact**

The proposed amendment would provide casino licensees with an alternate method of verifying a patron's identity thereby accommodating patrons who have previously established casino credit with the licensee, but who may not be carrying identification.

**Economic Impact**

The proposed amendment would permit casino licensees to accept cash equivalents or casino checks they may otherwise not have been able to accept, and therefore, the casinos may experience a slight economic benefit if the patron elects to use the money in their casino.

**Regulatory Flexibility Statement**

This proposed amendment will only affect the operations of casino licensees, and therefore, will not impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.25 Procedure for exchange of checks submitted by gaming patrons

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

(e) Cash equivalents and casino checks, as defined in N.J.A.C. 19:45-1.1, shall only be accepted at the cashiers' cage by general cashiers. Prior to the acceptance of any cash equivalent from a patron, the general cashier shall determine the validity of such cash equivalent by performing the necessary verification for each type of cash equivalent and such other procedures as may be required by the issuer of such cash equivalent. In order to ensure the patron's identity, [Prior] prior to the acceptance of a cash equivalent made payable to a presenting patron or of a casino check pursuant to N.J.S.A. 5:12-101(g), the general cashier shall be required to examine that patron's identification credentials or verify that the patron's signature recorded on the casino equivalent or casino check and the patron's physical description agree with the information recorded in the patron's credit file prepared pursuant to N.J.A.C. 19:45-1.27. [to ensure the patron's identity and] Each casino licensee shall maintain documentation supporting that examination or verification.

1. (No change.)

i.-iv. (No change.)

(5)-(p) (No change.)
An administrative review has been conducted, and a determination made that all subchapters should be continued because the rules are necessary, reasonable, adequate, efficient, and responsive for the purposes for which they were promulgated.

Subchapter 1 contains relevant information pertaining to physicians who are treating Medicaid patients. For example, certain services require prior authorization from the Division’s Medical Consultant. These services, and procedures, are listed in N.J.A.C. 10:54-1.5. There are also requirements for physicians’ services in various settings, such as hospitals, long-term care facilities (now called nursing facilities), radiology services, etc., listed under “scope of service” at N.J.A.C. 10:54-1.2. The subchapter also describes Medicaid policies regarding physical medicine and rehabilitation services (N.J.A.C. 10:54-1.7), environmental equipment (N.J.A.C. 10:54-1.8), issues related to the prescribing of pharmaceuticals (N.J.A.C. 10:54-1.10, 1.12 through 1.18), and policies governing sterilization (N.J.A.C. 10:54-1.20).

Subchapter 2 describes the billing procedures, including the requirements for timely claim submission, the need to attach prior authorization documents, as appropriate, and the procedures for the use of automated data exchange if the physician elects to use this method of billing.

Subchapter 3 is reserved.

Subchapter 4 references the Health Care Financing Administration (HCFA) Common Procedure Coding System, which is the basis of reimbursement for the majority of fee-for-service providers, including physicians. The HCPCS codes are referenced, but not reproduced, in the New Jersey Administrative Code.

Appendix A is a list of brand name drugs and their generic nomenclature.

There are no textual changes associated with this readoption.

Social Impact
This proposed readoption potentially affects all Medicaid recipients who may need physicians’ services in the event of illness. Those recipients who are directly affected are those that are treated by physicians practicing in the New Jersey Medicaid Program.

The proposed readoption affects Doctors of Medicine and Osteopathy that are licensed by the New Jersey Board of Examiners and that participate in the New Jersey Medicaid Program. The rules also apply to physicians licensed in other states that treat New Jersey Medicaid recipients.

The rules describe the conditions of Medicaid participation for physicians, the method of billing, the basis of reimbursement, and an indication of any limitations imposed (by Medicaid) on services, including, but not limited to, prior authorization, second opinion, etc.

Economic Impact
The economic impact of the rules proposed for readoption is as follows:
The cost of physicians’ services provided by the New Jersey Medicaid Program was approximately $72,276,136 (Federal-State share combined) in State Fiscal Year 1990.

The basis of reimbursement for physicians is the Health Care Financing Administration Common Procedure Coding System (HCPCS Codes), which is referenced, but not reproduced, at N.J.A.C. 10:54-4. There is no change in physician reimbursement associated with this readoption; therefore, there is no change affecting Medicaid providers.

There is no cost to the Medicaid patient for physicians’ services.

Regulatory Flexibility Analysis
This readoption pertains to physicians, some of whom might have practices that qualify as small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are no changes in reporting, record keeping or other compliance requirements associated with this readoption. Pursuant to N.J.S.A. 30:4D-12, physicians are already required to keep sufficient records to indicate the name of the recipient being treated, date the service or treatment was rendered, nature and extent of the service or treatment, and any additional information as required by regulation. These requirements apply equally to all physicians because the standard of practice is the same whether the physician is a solo practitioner or is one of the members of a group practice. Therefore, there is no differentiation based upon size. There are no capital costs associated with the rules proposed for readoption. The proposed readoption does not require the physician to hire the services of a nurse to assist with his/her practice unless he or she chooses to do so. Physicians are not required to hire an accountant unless he or she chooses to do so. The proposed readoption is designed to minimize the adverse economic impact on physicians by requiring them to maintain only those patient records which would be part of regular medical practice and are necessary for the health, safety, and welfare of Medicaid patients receiving treatment. With respect to billing, the timely submission of a claim form accurately completed will facilitate provider reimbursement.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:54.

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Medical Supplier Manual

Proposed Readoption: N.J.A.C. 10:59
Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4D-6b(2), (6); 30:4D-7, 7a, b and c; 30:4D-12; 42 C.F.R. 440.70, 120.
Agency Control Number: 90-P-24.
Proposal Number: PRN 1990-611.
Submit comments by January 16, 1991 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN-712
Trenton, NJ 08625-0712
The agency proposal follows:

Summary
The purpose of this proposal is to readopt the entire Medical Supplier Manual, N.J.A.C. 10:59, which is due to expire March 3, 1991, pursuant to Executive Order No. 66(1978).

The Medical Supplier Services manual was promulgated to set forth the basic policies and procedures (of the Medicaid program) relating to medical supplies and durable medical equipment (DME).

An administrative review has been conducted, and a determination made that the rule is necessary, adequate, reasonable, efficient and responsive for the purpose for which it was promulgated. The rule should be continued to enable Medicaid patients to continue receiving assistance with medical supplies and durable medical equipment.

Subchapter 1 of N.J.A.C. 10:59 contains such topics as policies and procedures governing medical supplies and equipment (called item(s)), such as wheelchairs, hospital beds and oxygen equipment. Additional topics covered in subchapter 1 include the qualifications for becoming a provider in the New Jersey Medicaid Program, prescription policies, prior authorization, non-covered items, and policies governing purchase and/or rental, and repairs.

A Medicaid patient who has a medical need for supplies and/or equipment must initially obtain a prescription form an authorized practitioner. The prescription accompanies the request for prior authorization which is submitted to the Medicaid District Office for review. If the request is approved, the patient receives the item and the provider submits a claim to the fiscal agent for reimbursement. If the request is denied, the patient is advised of his or her right to request a hearing.

Subchapter 2 concerns billing procedures for medical suppliers who participate in the New Jersey Medicaid Program. Topics included are verification of patient eligibility, submission of claim forms (HCFA-1500), and direct (computer) data exchange billing.

Subchapter 3 references the Health Care Financing Administration (HCFA) Common Procedure Coding System (HCPCS Codes). The HCPCS Codes, which are referenced but not reproduced in subchapter 3, are the basis for Medicaid reimbursement. The most significant amendment since the last readoption was the incorporation of the HCPCS Codes into N.J.A.C. 10:59-3 (see R.1986 d.52, at 18 N.J.R. 478(a)).

There are no textual changes associated with this readoption.

Social Impact
The rules have enabled Medicaid patients to obtain medical supplies and/or equipment, in order to remain in the community. The rules should be continued because the need for such supplies and equipment has not changed.

The rules impact upon medical supply providers by defining those items and services the Division is permitted to provide, the scope of Medicaid

(CITE 22 N.J.R. 3712)
services, and those procedures which medical suppliers must follow in order to submit claims for services rendered to Medicaid eligibles.

**Economic Impact**

The economic impact of the rules proposed for readoption is as follows. There is no cost to recipients for services rendered through the Medicaid Program. The rules enable Medicaid recipients who have a medical need for medical supplies and equipment to receive such items as hospital beds, wheelchairs and oxygen equipment. The rules make no change in recipient eligibility, nor do they make any alteration in the covered items and services.

The rules establish a fee schedule which defines the items and services the Division is permitted to provide. The rules make no change in the fee schedule; hence, there is no change in economic impact upon Medicaid providers. The basis of reimbursement for items and services provided to Medicaid recipients are the HCPCS Codes, which are referenced, but not reproduced, at N.J.A.C. 10:59-3.

The Division spent approximately $20,640,343. on Title XIX (Medicaid) Medical Supplies and Durable Medical Equipment Services in State Fiscal Year 1990 (Federal-State share combined).

**Regulatory Flexibility Analysis**

This proposed readoption could impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules apply to medical suppliers who participate in the New Jersey Medicaid Program. N.J.S.A. 30:4D-12(d) defines documentation for Medicaid services, requiring that the provider's records disclose the name of the recipient to whom the service was rendered, the date of the service and the nature and extent of the service rendered. The purpose of this documentation requirement is to enable verification of medical services for which the provider has billed the Program, that those services were performed and that they constituted quality medical care. This proposed readoption does not impose any additional reporting, record keeping and other compliance requirements. There is no differentiation among providers based upon size of the provider entity because the regulatory requirements and standards of care are the same for all medical suppliers. The New Jersey Medicaid Program does not require Medicaid providers to contract for outside professional services, although providers may find it desirable or useful to do so. There are no capital costs associated with the rules proposed for readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:59.

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Independent Laboratory Services Manual**

**Proposed Readoption: N.J.A.C. 10:61**

**Author: Alan J. Gibbs, Commissioner of Human Services.**

**Authority: N.J.S.A. 30:4D-6a(3), 30:4D-7, 7a, b and c; 30:4D-12; 42 C.F.R. 440.30.**

**Agency Control Number:** 90-P-25.

**Proposal Number:** PRN 1990-620.

Submit comments by January 16, 1991 to: Henry W. Hardy, Esq., Administrative Practice Officer, Division of Medical Assistance and Health Services, CN-712, Trenton, NJ 08625-0712.

The agency proposal follows:

**Summary**

The purpose of this proposal is to readopt the entire Independent Laboratory Services Manual, N.J.A.C. 10:61, which is due to expire March 3, 1991, pursuant to Executive Order No. 66(1978). The Independent Laboratory Services Manual was promulgated to set forth the policies and procedures (of the Medicaid program) relating to diagnostic tests. An administrative review has been conducted, and a determination made that the rules are necessary, adequate, reasonable, efficient and responsive for the purpose for which they were promulgated. Medicaid patients sometimes require laboratory services in order to enable attending physicians to render accurate diagnoses of their illnesses or injuries. The rules should be continued to enable Medicaid patients to continue receiving this type of service.

Subchapter 1 contains such topics as definitions and qualifications relating to medical tests; limitations on laboratory services, scope of services and basis of laboratory payment; laboratory relocations; out-of-state laboratories, and right of inspection. Requirements for participation in New Jersey Medicaid as an independent laboratory include licensure and/or approval by the New Jersey State Department of Health and the State Board of Medical Examiners; certification as an independent laboratory under the Title XVIII Medicare program; a consistent practice to charge all patients for services provided; and approval for participation as an independent laboratory provider by the New Jersey Health Services Program.

All requests for laboratory services require a signed order from the attending physician, indicating the specific test requested. Such laboratory orders must be retained by the laboratory for a period of at least five years, along with the results of the tests billed.

Subchapter 2 concerns billing procedures for laboratory services under New Jersey Medicaid. Included in subchapter 2 are timeliness of claim submission and claim inquiry, combination Medicare/Medicaid claims, and instructions for completing the claim form and submitting it to the fiscal agent. Conditions for automated data exchange claims submissions are defined in the subchapter.

Subchapter 3 references the Health Care Financing Administration (HCFA) Common Procedure Coding System (HCPCS Codes). The HCPCS Codes are the basis for Medicaid reimbursement, and as such, HCPCS Codes comprise the fee schedule for laboratory services provided through New Jersey Medicaid. The most significant amendment since the last readoption was the incorporation of the HCPCS Codes into N.J.A.C. 10:61-3. These codes are referenced, but not reproduced, in subchapter 3. (See R.1986, d.52, at 18 N.J.R. 478(a)).

There are no textual changes associated with this readoption.

**Social Impact**

The rules have permitted Medicaid patients to obtain laboratory services in order to enable attending physicians to render accurate diagnoses and to evaluate the success of their therapies. The rules should be continued because the need for such testing has not changed.

The rules impact upon independent laboratory service providers by defining the requirements associated with those services, the scope of Medicaid services, and those procedures which such providers must follow in order to submit claims for laboratory services rendered to Medicaid eligibles.

**Economic Impact**

The economic impact of the rules proposed for readoption is as follows. There is no cost to recipients for services rendered through the Medicaid Program. Reimbursement for services rendered to Medicaid recipients is based upon HCPCS Codes which are referenced, but not reproduced, at N.J.A.C. 10:61-3. The rules proposed for readoption make no change in the fee schedule; hence, there is no change in economic impact upon Medicaid providers.

The Division spent approximately $4,881,621 on Title XIX (Medicaid) Independent Laboratory Services in State Fiscal Year 1990 (Federal-State share combined).

**Regulatory Flexibility Analysis**

This proposed readoption could impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules apply to independent laboratory providers who participate in the New Jersey Medicaid Program. N.J.S.A. 30:4D-12(d) defines documentation for Medicaid services, requiring that the provider's records disclose the name of the recipient to whom the service was rendered, the date of the service and the nature and extent of the service rendered. The purpose of this documentation requirement is to enable verification of medical services for which the provider has billed the Program, that those services were performed and that they constituted quality medical care. This proposed readoption does not impose any additional reporting, record keeping and other compliance requirements. There is no differentiation among providers based upon size of the provider entity because the regulatory requirements and standards of practice are the same for all providers. Laboratory providers are required to hire or retain the services of qualified medical personnel in order to meet licensure standards. The rules do not require that

Medicaid providers engage the services of non-medical professionals, such as accountants, but providers who desire to use such services may do so. There are no capital costs associated with the rules proposed for readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:61.

CORRECTIONS

(a)

THE COMMISSIONER

Inspection and Identification of Incoming Correspondence
N.J.A.C. 10A:18-2.6

Notice of Withdrawal of Proposal

The Commissioner of the Department of Corrections has requested that the proposed amendment to N.J.A.C. 10A:18-2.6, Inspection and Identification of incoming correspondence, which appeared in the January 16, 1990, New Jersey Register at 22 N.J.R. 147(a), be withdrawn.

This proposal is being withdrawn since the New Jersey Supreme Court, in In the Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials and News Media Representatives, 120 N.J. 137 (1990), concluded that the existing “N.J.A.C. 10A:18-2.6 is constitutionally valid, under the standards set forth in Turner and Thornburgh.”

(b)

THE COMMISSIONER

Juvenile Detention Facilities

Juvenile Population Capacity

Reproposed Amendment: N.J.A.C. 10A:32-4.2

Authorized By: William H. Fauver, Commissioner, Department of Corrections.


Proposal Number: PRN 1990-612.

Submit comments by January 16, 1991 to:
Elaine W. Ballai, Esq.
Supervisor, Standards Development Unit
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

An amendment was proposed to N.J.A.C. 10A:32-4.2 and published in the June 18, 1990, issue of the New Jersey Register at 22 N.J.R. 1895(a). The proposed amendment was necessitated by a ruling of the Court in County of Monmouth v. Department of Corrections, Docket No. A-6351-88T3F (App. Div. November 16, 1989). The Court remanded this matter to the Commissioner, New Jersey Department of Corrections, with the direction that the Commissioner establish regulations under which the Department of Corrections will promptly comply with court ordered commitments of juveniles to State correctional facilities by removing sentenced juveniles from county detention facilities to State correctional facilities as expeditiously as possible upon notification of the court's disposition. Comments on the proposed amendment were received from the Camden County Freeholders along with a request for a Public Hearing. A Public Hearing was conducted on September 5, 1990, at which representatives from several counties expressed their concerns regarding the proposed amendment. As a result of written comments received, concerns expressed at the Public Hearing and further consideration of this matter, the New Jersey Department of Corrections is reproposing this amendment. This repropose requires a juvenile, who receives a State sentence of incarceration, to be transferred from a county juvenile detention facility to the intake unit of the New Jersey Training School for Boys within three working days after the county notifies the Department of Corrections of the juvenile's sentence in the form of a signed commitment order and a presentence or predisposition report.

Social Impact

The Division of Juvenile Services, New Jersey Department of Corrections, has experienced a 91 percent increase in the number of juveniles assigned to the Division's custody from December 1984 to May 1989, from 908 commitments to 1,445 commitments. In addition, lengths of sentences have increased and are a major contributory factor to the current shortage of bed space.

The Division of Juvenile Services is committed to creating alternative programs to incarceration for appropriate juveniles committed to Division custody. Although three such projects are underway, which will increase the capacity of the Division by 95 beds, these are long-term solutions which cannot as yet alleviate the crowding in correctional facilities expected to be exacerbated by the Appellate Division's Order. Other ongoing projects, including renovation of a building at the New Jersey Training School for Boys with 40 beds, will not be completed for 12 to 18 months.

Thus, while relieving somewhat the stress being experienced by overcrowded county juvenile detention facilities, this amendment will increase the stress on State juvenile correctional facilities.

Economic Impact

The economic impact of this amendment can be assessed only in retrospect because it is dependent on the number of juveniles committed to State correctional facilities, the number of juveniles who can be placed in existing or newly created community programs, and the court's approval of a three-working-day grace period for transfer of juveniles from juvenile county detention facilities to the New Jersey Training School for Boys.

It is, however, anticipated that costs will increase in proportion to population and bed space increases due to the need for expanded services.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment impacts on juvenile inmates and the New Jersey Department of Corrections and has no effect on small businesses.

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

10A:32-4.2 Juvenile population capacity

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

(d) A juvenile who receives a State sentence of incarceration shall be transported to the juvenile intake unit at the New Jersey Training School for Boys no later than three working days after the Department of Corrections receives notification, in the form of a signed commitment order and a presentence or predisposition report, from the county where the juvenile has been sentenced. The three working days shall be exclusive of the date on which the Department of Corrections receives the appropriate and necessary documentation.

(e) The county official who is responsible for transporting the juvenile shall contact the New Jersey Department of Corrections, Division of Juvenile Services, to ascertain the date on which such transfer may be effected.

(c)

THE COMMISSIONER

Adult County Correctional Facilities

General Conditions; Separation of Inmates

Proposed Amendments: N.J.A.C. 10A:31-3.5 and 22.2

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1990-596.
The present rule at N J .A.C. 10A:31-3.5 requires that correctional facilities be designed in such a way as to provide for the separation of certain types of inmates. The present rule at N J .A.C. 10A:31-22.2 governs the classification of inmates and establishes the types of inmates to be separated. Both rules apply exclusively to Adult County Correctional facilities.

The proposed amendment to N J .A.C. 10A:31-3.5 deletes the listing of types of inmates who should not be confined in the same cells or living areas. The proposed amendment to N J .A.C. 10A:31-22.2 modifies the listing of the types of inmates who should not be confined in the same cells or living areas. The proposed changes to the list at N J .A.C. 10A:31-22.2 are based in part on a need to correct terms that have become legally obsolete, such as "misdemeanors" and "felons." Also it is necessary to build into the rules a certain amount of discretion by the use of the terms "serious" and "less serious" offenders. The proposed amendments are in response to a comment received at the December 5, 1989, public hearing on N J .A.C. 10A:31 in which a commenter pointed out that the listing of the types of inmates is redundant and inappropriately codified in the section having to do with the design of correctional facilities. The object of these amendments is to avoid the repetition of listing classification and separation criteria in two separate subchapters.

In case of separation of inmates, the rule requiring separation in N J .A.C. 10A:31-3.5 should more properly be found in N J .A.C. 10A:31-22.2.

Social Impact
Since current practices regarding separation of inmates are not being changed, the proposed amendments will have no new social impact other than the ongoing maintenance of security and safety within the correctional facility, which is enhanced by careful separation of certain types of inmates. The Department of Corrections does not anticipate any change in classification practices as a result of these amendments.

Economic Impact
Adult County Correctional Facilities may have incurred some costs, over the years, in providing for the separation of certain types of inmates. However, it would be difficult to assess exactly what the costs might be separate and apart from overall budgeted costs of operation. It should be noted that the proposed amendments represent the codification of longstanding practice and therefore no new costs are anticipated by these amendments.

Regulatory Flexibility Statement
A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, record keeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N J .S.A. 52:14B-16 et seq. The proposed amendments impact on adult county correctional facilities, inmates assigned to these correctional facilities and the New Jersey Department of Corrections and have no significant effect on small businesses.

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

10A:31-3.5 General conditions
(a)-(e) (No change.)
(f) The design of the correctional facility shall provide for the secure confinement of inmates and for adequate separation of inmates of one classification from inmates of another (see N J .A.C. 10A:31-22.2). [Inmates of the following classification shall not be confined in the same cells or living areas:
1. Material witnesses and persons committed for crimes;
2. Male and female inmates;
3. Sentenced inmates and unsentenced inmates;
4. Serious offenders and less serious offenders;
5. Inmates in the Work Release Program and inmates in the general population; and
6. Inmates classified as trustees and inmates in other classifications.]
(g)-(w) (No change.)
10A:31-22.2 Separation of inmates
(a) The following types of inmates shall be maintained separately insofar as space permits:
1.-4. (No change.)
5. [Misdemeanors and felons; and] Serious offenders and less serious offenders; and
6. [First offenders and habitual criminals.] Sentenced inmates and detainees.
(b) (No change.)

TREASURY-TAXATION

DIVISION OF TAXATION
Petroleum Gross Receipts Tax

Authorized By: Benjamin J. Redmond, Acting Director, Division of Taxation.
Proposal Number: PRN 1990-632.
Submit comments by January 16, 1991 to:
Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

The proposed new rules contain definitions to supply guidance to taxpayers. In particular, the rules define important terms and concepts under the statute, including "exportation," "first sale of petroleum products within this State, ""gross receipts," "petroleum products," "residential building" and "use."

Under the proposed rules, licensed motor fuels distributors and other companies applying for and receiving direct pay permit authority are authorized to remit tax directly to the Division of Taxation.

The proposed new rules supply examples to illustrate the application of principles in particular instances. The application of the proposed rules is in accordance with relevant principles of administrative law including those set forth in Sorensen v. Taxation Division Director, 184 N J . Super. 393, (Tax Ct., 1981).

Subchapter 1 describes the scope of the rules and supplies definitions for the application of the tax.

Subchapter 2 sets forth the tax rate and supplies examples for the application of the tax on certain receipts and on imports.

Subchapter 3 sets forth the mechanism for obtaining direct payment authorization and supplies the good faith standard for accepting the direct payment certificate.

Subchapter 4 sets forth details for the use of an export certificate and supplies examples. It also provides a good faith standard and sets forth accounting methods to be used under the statute.

Subchapter 5 sets forth provisions applicable to heating oil dealers and propane dealers.

Subchapter 6 sets forth provisions applicable to blenders.

Subchapter 7 sets forth administrative provisions dealing with including record retention, assessments, refunds claims and credit for similar taxes imposed by other jurisdictions.

Subchapter 8 deals with filing and the applicability of The State Tax Uniform Procedure Law.

The Appendix sets forth the application for the Direct Payment Permit, instructions for the use of the Direct Payment Certificate, and a facsimile of the certificate.
Social Impact

The purpose of the proposed new rules is to supply clear guidance to taxpayers and the affected members of the public under the Petroleum Products Gross Receipts Tax Act. The Division has received considerable input from various segments of the public and the industry which will be greatly impacted by the statute. The rules attempt to provide an administrative framework that will permit the administrator and the affected members of the public to operate as effectively as possible.

Economic Impact

P.L. 1990, c.42 (N.J.S.A. 54:15B-1 et seq.) was enacted for the purpose of raising $50 million dollars in Fiscal Year 1991. The amount of revenue generated in a particular period relates to market conditions. Political events may also affect prices, which in turn will have an effect on tax revenues. The rules implement the underlying statute.

Regulatory Flexibility Analysis

The proposed new rules describe qualifications and place filing and payment requirements on those companies subject to the Petroleum Products Gross Receipts Tax. The rules also contain requirements for obtaining a direct payment certificate, the use of an export certificate, and requirements for record retention, assessments, refund claims and credit. Some of the companies subject to the Petroleum Products Gross Receipts Tax may be small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the Division does not believe that any differentiation based on business size is appropriate in the proposed new rules, since the rules simply clarify and implement the concepts contained in the statutes. The Division anticipates that the proposed new rules will not increase small business’ capital costs or their need for certain professional services. However, there may be some additional costs or accountants’ fees related to the need to monitor certain accounts and/or to file returns with the Division.

Full text of the proposal follows:

CHAPTER 18A
PETROLEUM GROSS RECEIPTS TAX

SUBCHAPTER 1. SCOPE AND DEFINITIONS

18:18A-1.1 Purpose and scope

The rules contained in this chapter are for the purpose of describing and explaining the application and implementation of the Petroleum Products Gross Receipts Tax Act, N.J.S.A. 54:15B-1 et seq. (P.L. 1990, c.42). The scope of the rules is derived from the statute and the chapter is proposed and adopted pursuant to it.

18:18A-1.2 Definitions

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


“Blending” means combining, compounding, or mixing one or more petroleum products with additives or other substances resulting in a new or enhanced petroleum product.

“Book transfer” means:

1. An accounting procedure for simultaneously settling multiple petroleum delivery obligations in which the following occurs:
   i. Three or more petroleum companies have sequential product supply obligations to each other for the same volume of product;
   ii. Each customer of its supplier in the sequence agrees to release its supplier from its delivery obligation in consideration for that customer’s supplier causing (directly or indirectly) its customer to be released from its delivery obligation to the next party in the sequence;
   iii. The sequential releases continue down the chain until the first party in the delivery chain, which has been released from its delivery obligation, becomes the last party in the chain by releasing the penultimate party from its delivery obligation;
   iv. No physical volume of product is ever transferred; and
   v. All parties book identical volumes from beginning to end.

2. In addition, and for purposes of this chapter only, a book transfer may also mean and include a sale from a qualified distributor or direct payment permit holder to another qualified distributor or direct payment permit holder.

“Company” means a corporation, partnership, limited partnership association, individual, or any fiduciary or other person or entity engaged in activities subject to the Petroleum Products Gross Receipts Tax Act.

“Direct payment permit holder” means a company which has registered with the Director pursuant to these rules and engages in blending, manufacturing, in the sale of No. 2 heating oil used for residential heating purposes or propane used for residential heating purposes, or consumes bunker fuels in interstate or foreign commerce, or is a common carrier consuming aviation fuel in interstate or foreign commerce. Direct payment permit holders are authorized to file reports and remit applicable tax directly to the Director.

“Director” means the Director of the Division of Taxation in the Department of Treasury.

“Distributor” means and includes every company, wherever resident or located, which imports into this State petroleum products for use, distribution, storage or sale in this State after the same shall reach this State; and also every company who produces, refines, manufactures, blends or compounds petroleum products and sells, uses, stores or distributes the same within this State, and which holds a distributors license under the New Jersey Motor Fuels Tax Act (see N.J.S.A. 54:39-3 and N.J.A.C. 18:18-1).

“Exchange agreement” means the loaning of a petroleum product by one company to another company to facilitate supply needs at a particular location. An exchange balance settlement is a common method used to balance out the product receivable at a specified time. An exchange balance settlement is an economic value established for the volumes involved and booked accordingly by each party to the exchange.

“Exportation” or “export” means the conveyance of petroleum products as a commodity from New Jersey to a location outside New Jersey for the purpose of sale or use outside the State.

“First sale of petroleum products within this State” means the initial sale of petroleum products delivered to a location in New Jersey and sold to a purchaser which is not a distributor or the holder of a direct payment permit. A “first sale of petroleum products within this State” does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.

“Gross receipts” means all consideration derived from first sales of petroleum products within this State as herein defined. Gross receipts shall not include:

1. Consideration derived from sales of petroleum products within this State sold for exportation from this State;
2. Consideration derived from sales of number 2 heating oil to be used exclusively for residential heating or sales of propane gas used for residential heating. Residential heating includes all forms of heating including, for example, the heating of air, water, or food; or

“Petroleum products” means:

1. Refined products made from crude petroleum and its fractionation products through straight distillation of crude oil or through redistillation of unfinished derivatives but does not mean the products commonly known as number 2 heating oil and propane gas to be used exclusively for residential heating.
2. Petroleum products include, for example, and without limitation: acid oil, alkylates, aromatic chemicals, asphalt and asphaltic materials (liquid and solid), benzene, butadiene, butylene, coke (petroleum), ethylene, fractionation products of crude petroleum, gas (refinery or still oil), gases (liquefied petroleum), gasoline, greases (liquefied), hydro-carbon fluid, jet fuels, kerosene, mineral jelly, mineral oils (natural), mineral waxes (natural), naphtha, napthenic acids, oils, partly refined sold for rerunning, oils and fuel (lubricating and illuminating), paraffin wax, petroleums (non-medicinal), propylene, road materials (bituminous), road oils, solvents, and tar of residuum.

“Residential building” means a single or multi-family dwelling, nursing home, trailer, condominium, board ing house, apartment house or other structure designed primarily for use as a dwelling

You're viewing an archived copy from the New Jersey State Library.
including a hospital, barracks, dormitory, or prison but not including a hotel, motel or like establishment offering shelter on a transient basis of less than 90 days.

"Sale for exportation" means a sale of petroleum products to a purchaser who itself exports the product as defined in this section.

"Use" means the exercise of any rights or power over a petroleum product by a purchaser or importer thereof including but not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation or affixation to real or personal property, combustion or incorporation into a product for sale which product is not an identifiable petroleum product. The term "use" does not include blending, compounding, or packaging where the resulting product is also a petroleum product.

**SUBCHAPTER 2. TAX RATE; RECEIPTS AND IMPORTS**

18:18A-2.1 Rate of Tax
The tax is imposed at a rate of two and three quarters percent (2 3/4%) multiplied by a company's gross receipts derived from first sales of petroleum products within this State as herein defined.

Example: Taxpayer has gross receipts of $100.00. Gross receipts plus tax is $102.75 ($100.00 + .0275 X 100). This is the selling price. The tax due from the taxpayer, which is based on gross receipts net of the tax, is computed thus:

\[
\text{Tax Due} = \frac{\text{Gross Receipts}}{1 + \text{Tax Rate}}
\]

Example: A New Jersey municipality purchases fuel oil from a Pennsylvania dealer not licensed in New Jersey. The municipality is required to pay the tax directly to the State of New Jersey if purchases exceed $100,000 per quarter since the Act contains no provision which would exempt the purchase price from sales to municipalities from the tax.

Example 4: Company G purchases motor oil and paint in Pennsylvania. It has the motor oil and paint delivered to its warehouse in Union, New Jersey. From the warehouse it distributes paint and motor oil to its 15 retail outlets in New Jersey and exports the remainder as a commodity for sale in its New York stores. The paint is not considered a petroleum product. Therefore, consideration from sales of paint are not taken into account in a tax calculation. Since the purchase price of lubricating oil purchased by Company G and stored within New Jersey exceeded $100,000, Company G pays tax on the consideration for lubricating oil sold in its New Jersey stores even if such amount may be less than $100,000 for the quarterly period after deducting from the total consideration for petroleum products imported the consideration for petroleum products exported for sale in New York State.

(b) Receipts from first sales of petroleum products within this State are subject to tax although the purchaser will use or consume the product outside the State.

18:18A-2.4 Imports
(a) Purchases of petroleum products outside New Jersey for use in New Jersey are subject to tax. Purchases of petroleum products from outside New Jersey are subject to a $100,000 threshold per quarterly period in arriving at consideration subject to tax. Imports by the United States Government are not subject to tax. The term "use" does not include blending or compounding (see N.J.A.C. 18:18A-6.1).

Example 1: A construction company purchases asphalt in Philadelphia for use in paving several roads and a parking lot for a Burlington County municipality. The construction company must pay a tax on the price of its purchase of asphalt if purchases exceed $100,000 per quarter since, in this case, it is considered the user of the petroleum product.

Example 2: The United States Government purchases gasoline in Pennsylvania which it imports into New Jersey for use in a motor pool in Camden County. Since the State of New Jersey has no authority to impose tax reporting requirements upon the federal government, and no jurisdiction to require collection and remittance of the tax from the seller outside New Jersey, no tax is due on the transaction.

Example 3: A New Jersey municipality purchases fuel oil from a Pennsylvania dealer not licensed in New Jersey. The municipality is required to pay the tax directly to the State of New Jersey if purchases exceed $100,000 per quarter since the Act contains no provision which would exempt the purchase price from sales to municipalities from the tax.

Example 4: Company G purchases motor oil and paint in Pennsylvania. It has the motor oil and paint delivered to its warehouse in Union, New Jersey. From the warehouse it distributes paint and motor oil to its 15 retail outlets in New Jersey and exports the remainder as a commodity for sale in its New York stores. The paint is not considered a petroleum product. Therefore, consideration from sales of paint are not taken into account in a tax calculation. Since the purchase price of lubricating oil purchased by Company G and stored within New Jersey exceeded $100,000, Company G pays tax on the consideration for lubricating oil sold in its New Jersey stores even if such amount may be less than $100,000 for the quarterly period after deducting from the total consideration for petroleum products imported the consideration for petroleum products exported for sale in New York State.

18:18A-2.3 Receipts from sales subject to tax
(a) receipts from first sales of petroleum products within this State as herein defined are subject to tax. Certain receipts from sales for exportation, sales of No. 2 heating oil, propane for residential use and the tax imposed by the act are not included in arriving at gross receipts subject to tax. The Act contains no exemption or exclusion for receipts from sales to the Federal, State, or municipal governments, their agencies or instrumentalities.

Example 1: Company R collects used oil from various generators and produces a recycled fuel. Subsequent sales of its petroleum product by company R are considered to produce gross receipts subject to tax under the Act. The statute contains no exemption for sales of recycled oil.

Example 2: Company S sells petroleum products to Hudson County, Jersey City, the U.S. Government, and the New Jersey Transit Authority. The gross receipts of Company S attributable to such sales are subject to tax. The taxing statute does not contain an exemption for a company's gross receipts derived from sales to governmental agencies or authorities.

Example 3: Company Q sells asphalt to Company M to make shingles, such sales result in taxable receipts whether or not the shingles are exported from New Jersey. The shingles are considered a manufactured product, not a petroleum product, under the statute.

**SUBCHAPTER 3. DIRECT PAYMENT**

18:18A-3.1 Direct Payment Authority
(a) A distributor as herein defined or holder of a direct payment permit issued under these rules may, upon request, refer its seller to either a copy of its listing contained in the official listing of New Jersey Licensed Motor Fuel Distributors or issue a direct payment certificate, respectively. A seller shall retain such listing reference or direct payment certificate on file for the inspection of the director or his agents. A direct payment certificate, properly executed by the buyer, once issued, shall remain valid unless voided by the Director. A company which is a distributor or the holder of a direct payment certificate which receives a direct payment certificate properly executed by the buyer, once issued, shall remain valid unless voided by the Director. A company which is a distributor or the holder of a direct payment certificate which receives a direct payment certificate properly executed by the buyer shall maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales to the customer issuing the certificate and attributable to the certificate. Such records shall include date of sale, price, location of the delivery of the product, quantity of product, and type of product sold. Such supporting documentation shall be made available to the Director or his or her agents upon request. A properly documented sale to the issuer of a valid direct payment certificate or to a distributor is not a first sale of petroleum products within this State as defined in this chapter. When the purchaser who has issued such
within-and outside this State. A distributor or other direct payment permit holder for exportation to a destination outside this State.

(b) An export certificate may take the form of a blanket certificate. The gross receipts of the selling company resulting from sales to a customer properly issuing an export certificate shall be referenced to that certificate. The seller shall maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales for export for a given customer's account and attributable to the certificate. Such records shall include date of sale, price, quantity, type of product, and destination of the product. Such supporting documentation shall be made available to the Director or his or her agents upon request.

Example 1: Distributor X makes sales of gasoline to Whiz Bang Oil Company (WBOC). WBOC delivers gasoline within and outside New Jersey. X may set up two accounts for WBOC. Purchases charged to one account for fuel delivered to customers in New Jersey result in taxable gross receipts for X. Sales to the second account (export account) for fuel delivered entirely outside New Jersey by WBOC, do not result in taxable gross receipts for X provided a proper export certificate has been issued to it.

Example 2: A Pennsylvania company makes purchases by truck at a New Jersey terminal. If the purchaser certifies that the product purchased will be exported outside the state as defined in these rules for sale outside the state, the seller is not required to pay any tax upon the transaction. A blanket transaction certificate may be issued from the buyer to the seller, provided that the seller's records document each transaction for export to the buyer.

Example 3: A West Virginia company purchases 500,000 gallons of unleaded gasoline at Linden for use in New Jersey. Fifteen days later due to market conditions, the company decides to export the gasoline to its facility in North Carolina. Since the original sale was not the purchase of a commodity for exportation, the seller must record the gross receipts as subject to tax. The West Virginia company may not issue an export certificate to its seller.

18:18A-3.2 Good faith; direct payment certificate

If the seller of petroleum products makes a sale to a customer in reliance upon the direct payment certificate, the seller must believe in good faith that the transaction is properly referenced to the exemption certificate and must have no reason to doubt the authenticity or propriety of the referenced transaction, otherwise such transaction results in taxable gross receipts to the seller.

18:18A-3.3 Permit application

A company seeking recognition as a direct payment permit holder shall file a completed application (see Appendix I) at the following address: New Jersey Division of Taxation, Miscellaneous Tax Branch, 50 Barrack Street, CN 243, Trenton, New Jersey 08646. Following review by the Division, the applicant shall be issued a Direct Payment Permit or, if such permit is not issued, shall be advised of the reason(s) why not. A holder of a direct payment permit may issue a direct payment certificate to its suppliers as provided for in the rules.

SUBCHAPTER 4. EXPORT TRANSACTIONS; ACCOUNTING METHODS

18:18A-4.1 Export certificates

(a) A company making a purchase of petroleum products from a distributor or other direct payment permit holder for exportation from this State may issue a properly executed export certificate to a selling company evidencing a sale for exportation to a destination outside this State.

(b) An export certificate may take the form of a blanket certificate. The gross receipts of the selling company resulting from sales to a customer properly issuing an export certificate shall be referenced to that certificate. The seller shall maintain records in computerized format, or such other format as the Director shall authorize, identifying all sales for export for a given customer's account and attributable to the certificate. Such records shall include date of sale, price, quantity, type of product, and destination of the product. Such supporting documentation shall be made available to the Director or his or her agents upon request.

Example 1: Distributor X makes sales of gasoline to Whiz Bang Oil Company (WBOC). WBOC delivers gasoline within and outside New Jersey. X may set up two accounts for WBOC. Purchases charged to one account for fuel delivered to customers in New Jersey result in taxable gross receipts for X. Sales to the second account (export account) for fuel delivered entirely outside New Jersey by WBOC, do not result in taxable gross receipts for X provided a proper export certificate has been issued to it.

Example 2: A Pennsylvania company makes purchases by truck at a New Jersey terminal. If the purchaser certifies that the product purchased will be exported outside the state as defined in these rules for sale outside the state, the seller is not required to pay any tax upon the transaction. A blanket transaction certificate may be issued from the buyer to the seller, provided that the seller's records document each transaction for export to the buyer.

Example 3: A West Virginia company purchases 500,000 gallons of unleaded gasoline at Linden for use in New Jersey. Fifteen days later due to market conditions, the company decides to export the gasoline to its facility in North Carolina. Since the original sale was not the purchase of a commodity for exportation, the seller must record the gross receipts as subject to tax. The West Virginia company may not issue an export certificate to its seller.

18:18A-4.2 Good faith; export certificate

If the seller of petroleum products makes a sale to a customer in reliance upon the export certificate, the seller must believe in good faith that the transaction is properly referenced to the certificate and must have no reason to doubt the authenticity or propriety of the referenced transaction, otherwise such transaction results in taxable gross receipts to the seller.

18:18A-4.3 Accounting methods

Where a company using petroleum products in New Jersey makes purchases in New Jersey and also imports petroleum products into the State, and if, subsequently, it exports petroleum products outside the State by pipeline, barge or tank wagon, for example, such company shall use a "first in, first out" (FIFO) accounting method for petroleum products commingled in storage in New Jersey and subsequently exported from the State.

SUBCHAPTER 5. HEATING OIL AND PROPANE DEALERS

18:18A-5.1 No. 2 heating oil dealers

(a) Companies in the business of selling No. 2 heating oil for residential use and/or commercial use shall apply to the Director for a direct payment permit, in accordance with N.J.A.C. 18:18A-3.3. Upon registration with and authorization from the Director, heating oil dealers shall be registered to report and pay directly to the Director the tax applicable on their gross receipts from taxable sales of No. 2 heating oil. Such companies, when registered, would qualify to purchase No. 2 heating oil in nontaxable transactions from registered sellers.

(b) Gross receipts from sales of No. 2 heating oil for residential use are not subject to tax. If a company sells and dispenses fuel into a single fuel tank which operates a heating system of a building containing residential and commercial units, the entire sale shall result in gross receipts subject to tax unless the purchaser furnishes a certification, under oath, that a portion of the fuels purchased shall be used for nontaxable purposes.

1. The taxable portion of the sale shall be computed by multiplying the total selling price of the petroleum product by a fraction, the numerator of which shall be the number of square feet in the building which are devoted to office, retail or other nonresidential use including stairwells and halls and denominator of which shall be the total number of square feet in the building.

Example: A West Virginia company purchases 500,000 gallons of unleaded gasoline at Linden for use in New Jersey. Fifteen days later due to market conditions, the company decides to export the gasoline to its facility in North Carolina. Since the original sale was not the purchase of a commodity for exportation, the seller must record the gross receipts as subject to tax. The West Virginia company may not issue an export certificate to its seller.

18:18A-5.2 Propane dealers

(a) Companies in the business of selling propane for residential use and/or commercial use shall apply to the Director for a direct payment permit, in accordance with N.J.A.C. 18:18A-3.3. Upon registration with and authorization from the Director, propane dealers shall be registered to report and pay directly to the Director the tax applicable on their gross receipts from taxable sales of propane for residential or commercial use. The following year the taxpayer obtains a new commercial account which produces additional gross sales receipts. The Director remits the gross receipt tax on 30 percent of his total receipts.

Example: Company T in New Jersey deals in gasoline and No. 2 heating oil but is not a licensed distributor. Company T obtains a direct payment for its sales of No. 2 heating oil. Its purchases of gasoline, however, result in the taxable gross receipts to its seller.

18:18A-5.3 Heating oil and propane dealers

(c) Gross receipts from the sale of No. 2 heating oil to a customer for use at the motor pool for nontaxable purposes.

(d) The selling company evidencing a sale for exportation to a destination outside the State shall file a completed application (see Appendix I) at the following address: New Jersey Division of Taxation, Miscellaneous Tax Branch, 50 Barrack Street, CN 243, Trenton, New Jersey 08646. Following review by the Division, the applicant shall be issued a Direct Payment Permit or, if such permit is not issued, shall be advised of the reason(s) why not. A holder of a direct payment permit may issue a direct payment certificate to its suppliers as provided for in the rules.

SUBCHAPTER 6. PROPOSEALS
(b) Gross receipts from sales of propane for residential use are not subject to tax.
Example: A fill station may register to pay the tax directly to the Division of Taxation. Its sales of propane for residential use are not subject to tax.

SUBCHAPTER 6. BLENDING

18:18A-6.1 Blending
If a company acquires petroleum products, blends them and later sells the blended petroleum product, the sales of the blended product result in gross receipts subject to tax. A blender may apply to the Director for a direct payment permit. When the blender issues a Direct Payment Permit to its seller, the seller will not pay gross receipts tax upon petroleum products sold to the blender and which become an ingredient of a second petroleum product which is later sold. Tax would be calculated upon receipts from sales of the final product to New Jersey destinations.

SUBCHAPTER 7. RECORDS, ASSESSMENTS AND CLAIMS

18:18A-7.1 Record retention
Taxpayers under the Act shall retain records for a period of five years. Such records shall be made available to the Director or his or her agents for inspection upon request.

18:18A-7.2 Assessment
(a) The Director may assess a tax under the Act at any time until five years have elapsed after the date of the receipt by him or her of a report or return filed pursuant to the Act. A taxpayer may consent to a longer period of time in a particular instance.
(b) In the event of fraud, no limitation period is applicable for an assessment by the Director.

18:18A-7.3 Refund claim
A taxpayer may claim a refund of an overpayment of tax as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:49-14.

18:18A-7.4 Credit
A credit will be permitted against a taxpayer’s New Jersey liability for a similar tax on gross receipts paid previously to another state on the same petroleum products. Such credit shall not exceed the tax that the taxpayer would have been required to pay to New Jersey. Credit shall not be taken against a New Jersey liability more than two years after the transaction for which credit is being claimed.

SUBCHAPTER 8. FILING DATES

18:18A-8.1 Filing
A tax return on the form and in the manner required by the director together with payment of applicable tax due shall be filed at the Division of Taxation on or before January 20, April 20, July 20, and October 20 reflecting gross receipts for the quarterly periods ending on the last day of December, March, June, September respectively.

18:18A-8.2 Applicability of State Tax Uniform Procedure Law
The tax imposed under the Act is governed in all respects by the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., except to the extent that a specific provision of the Act is in conflict therewith and in such event the provisions of the Act shall govern.

18:18A-8.3 Effective date
These rules shall be effective on and after July 1, 1990.
**APPLICATION FOR DIRECT PAYMENT PERMIT**

**GENERAL INFORMATION**

A Direct Payment Permit, Form PPT-6, is evidence that the buyer designated thereon is authorized to issue a Direct Payment Certificate, Form PPT-6A, in certain cases, in lieu of payment of the Petroleum Products Gross Receipts Tax at the time of purchase, and subsequently to file reports and remit the tax directly to the Director.

When the purchaser who has issued the Direct Payment Certificate in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a buyer which is not a distributor or the holder of a Direct Payment Permit, the consideration from such sale results in gross receipts subject to tax unless the sale otherwise qualifies for exemption, exclusion, or deduction. Such seller must report and remit the tax to the Director.

Taxpayers who could qualify for the Direct Payment Authority include (a) those selling number 2 fuel for residential heating purposes, (b) those selling propane for residential heating purposes, and (c) blenders of petroleum products where the final product is a petroleum product.

<table>
<thead>
<tr>
<th>1. FID #</th>
<th>OR Soc. Sec. # of Owner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Trade Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Business Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street</td>
</tr>
<tr>
<td>City</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Zip Code</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Mailing Name and Address - (if different from business address)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Street</td>
</tr>
<tr>
<td>City</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Zip Code (Give 9-digit Zip)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Beginning Date For This Business In New Jersey</th>
</tr>
</thead>
<tbody>
<tr>
<td>month/day/year</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Type of Ownership (check one):</th>
</tr>
</thead>
<tbody>
<tr>
<td>NJ Corporation</td>
</tr>
<tr>
<td>Sole Proprietor</td>
</tr>
<tr>
<td>Partnership</td>
</tr>
<tr>
<td>Out-of-State Corporation</td>
</tr>
<tr>
<td>Limited Partnership</td>
</tr>
<tr>
<td>Other - explain</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. Telephone Numbers: Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime: (____) ______ - ______ Ext</td>
</tr>
<tr>
<td>Evening: (____) ______ - ______ Ext</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9. IF A CORPORATION, complete the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Incorp. ______ / ______ / ______</td>
</tr>
<tr>
<td>State of Incorp.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Provide the following information for the owner, partners or responsible corporate officers. (If more space is needed, attach rider).</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME (Last Name, First, M.I.)</td>
</tr>
<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3720) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
NOTE: On a separate sheet of paper provide the name of stockholders owning 10% or more of the outstanding shares of stock in the corporation.

11. List parent company, wholly owned subsidiaries, and/or any affiliates

12. Give name, title and address of agent in New Jersey or registered New Jersey agent on whom service may be made.

13. List all suppliers of petroleum products.

14. Is applicant registered with the Division of Taxation for any other New Jersey State taxes? 
   YES ☐ NO ☐
   If yes, list the taxes

15. Type of business activity (check one):
   - Number 2 heating oil dealer (companies in the business of selling No. 2 heating oil for residential use)
   - Propane dealer (companies in the business of selling propane for residential use)
   - Blenders (companies in the business of acquiring petroleum products, blending them, and later selling the blended petroleum product)
   - Other (please explain)

16. Describe in detail your business operation and reason why you would qualify for a Direct Payment Permit.

17. If a blender, describe types of petroleum products to be blended and the percentage of the final product which is a petroleum product.

18. The undersigned applicant states, (under penalty of perjury), that all the information contained in this application is true and accurate in every particular.

Name of Applicant
Signature of Owner, Partner or Officer
Title
Date

The information submitted will assist this office in the processing of your permit request.
The Division of Taxation reserves the right to conduct a thorough investigation prior to issuing this permit.

FOR DIVISION USE ONLY

Permit No._________________________ Investigation initiated_________________________
Effective Date______________________ Investigation completed_______________________
Approved__________________________
Recommendations:_____________________

PPT-6-B (11-90)
STATE OF NEW JERSEY
DIVISION OF TAXATION

PETROLEUM PRODUCTS GROSS RECEIPTS TAX
CN 269
Trenton, NJ 08646-0269

DIRECT PAYMENT CERTIFICATE

BUYER INFORMATION

Name of Buyer
Employer Identification Number

Address (Number and street or rural route)
City State Zip Code

This certificate covers transactions beginning _____________, 19__

CERTIFICATION OF BUYER

The undersigned certifies that:

1. The issuer of this certificate is registered with the New Jersey Division of Taxation, holds a valid Direct Payment Permit, and is authorized to file reports and remit the applicable Petroleum Products Gross Receipts Tax directly to the New Jersey Division of Taxation.

2. The issuer of this certificate is principally engaged in the following (indicate nature of business)

3. The petroleum products being purchased are described as follows:

4. I agree to make my books and records available to the New Jersey Division of Taxation for audit so that it may verify that the sales, use, and/or consumption of the petroleum products purchased are properly reported.

5. I, the undersigned purchaser, have read and complied with the instructions and rules promulgated pursuant to the New Jersey Petroleum Products Gross Receipts Tax Act with respect to the use of the Direct Payment Certificate, and it is my belief that the seller named herein is not required to pay or remit the Petroleum Products Gross Receipts Tax on receipts from the transaction or transactions covered by this Certificate. The undersigned purchaser hereby swears (under penalties for perjury and false swearing) that all of the information shown on this Certificate is true.

Signature of buyer
Title
Date

A COPY OF THE BUYER’S DIRECT PAYMENT PERMIT MUST BE ATTACHED

SELLER INFORMATION

Name of Seller

Address (Number and street or rural route)
City State Zip Code

FORM MAY BE REPRODUCED

(CITE 22 N.J.R. 3722) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
GENERAL INFORMATION

A Direct Payment Permit, Form PPT-6, is evidence that the buyer designated thereon is authorized to issue a Direct Payment Certificate, Form PPT-6A, in certain cases, in lieu of payment of the Petroleum Products Gross Receipts Tax at the time of purchase, and subsequently to file reports and remit the tax directly to the Director.

When the purchaser who has issued the Direct Payment Certificate in turn makes a sale of petroleum products delivered to a location in New Jersey and sells to a buyer which is not a distributor or the holder of a Direct Payment Permit, the consideration from such sale results in gross receipts subject to tax unless the sale otherwise qualifies for exemption, exclusion, or deduction. Such seller must report and remit the tax to the Director.

1. **Good Faith** - In general, a seller who accepts an exemption certificate in "good faith" is relieved of liability for payment of tax upon transactions covered by the certificate. The question of "good faith" is one of fact and depends upon a consideration of all the conditions surrounding the transaction. A vendor is presumed to be familiar with the law and the regulations pertinent to the business in which he deals.

In order for "good faith" to be established, the following conditions must be met:

(a) The certificate must contain no statement or entry which the seller knows, or has reason to know, is false or misleading.

(b) The certificate must be an officially promulgated certificate form or a substantial and proper reproduction thereof.

(c) The certificate must be dated and executed in accordance with the published instructions, and must be complete and regular in every respect.

The seller may, therefore, accept this "good faith" Direct Payment Certificate as a basis for exempting sales to the signatory purchaser provided that:

(d) The purchaser's Employer Identification Number, indicating that the purchaser is registered with the New Jersey Division of Taxation, is entered on the face of the Certificate as reflected on the Petroleum Products Gross Receipts Tax Certificate of Authority.

(e) The purchaser has entered all other information required on the form.

(f) A copy of the purchaser's Direct Payment Permit is attached to the form.

(g) The seller has no reason to believe that the petroleum product to be purchased is of a type not ordinarily used in the purchaser's business for the purpose described in this certificate.

2. **Improper Certificate** - Transactions which are not supported by properly executed direct payment certificates shall be deemed to result in taxable gross receipts to the seller. The burden of proof that the consideration received may be deducted from gross receipts and that the tax was not required to be paid is upon the seller.

3. **Correction of Certificate** - In general, sellers have 60 days after date of sale to obtain a corrected certificate where the original certificate lacked material information to be set forth in said certificate or where such information is incorrectly stated.

4. **Documentation of Sale** - Records shall be maintained identifying all sales to the customer issuing the certificate and attributable to the certificate. Such records shall include date of sale, price, location of the transfer of the product, quantity of product, and type of product sold.

5. **Additional Purchases by Same Purchaser** - This Certificate will serve to cover additional purchases by the same purchaser of the same product. However, each subsequent sales slip or purchase invoice based on this Certificate must show the purchaser's name, address, and Direct Payment Permit number for the purposes of verification.

6. **Retention of Certificates** - Certificates must be retained by the seller for a period of not less than five years from the date of the last sale covered by the certificate. Certificates must be in the physical possession of the seller and available for inspection on or before the 60th day following the date of the transaction to which the certificate relates.

7. **Restrictions** - A Direct Payment Certificate may be issued, (and subsequently accepted by a seller), only by the holder of a valid Direct Payment Permit.
You're viewing an archived copy from the New Jersey State Library.

HEALTH

HOSPITAL REIMBURSEMENT

Hospital Reporting of Uniform Bill—Patient
Summaries (Inpatient)

Procedural and Methodological Regulations
Financial Elements and Reporting

Proposed Amendments: N.J.A.C. 8:31B

Authorized By: Frances J. Dunston, M.D., M.P.H.,
Commissioner, Department of Health (with approval of the
Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and
26:2H-18d.

Proposal Number: PRN 1990-608

Submit comments by January 16, 1991 to:
Beatrice E. Manning, Ph.D., Director
Reimbursement Systems Development,
Evaluation and Research
Room 602, CN 360
Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

These proposed amendments to N.J.A.C. 8:31B are the first step in
implementing the recommendations of the Governor's Commission on
Health Care Costs. These changes increase the prospectivity of Chapter
83 reimbursement by providing automatic rate adjustments issued at the
beginning of each rate year and restructuring the hospital rate appeal
process as it now exists.

For payment of indirect costs, the Department proposes replacing the
existing peer group standard unit payment with a DRG specific peer
group amount based on the average length of stay within each DRG.
This change, described in N.J.A.C. 8:31B-3.24, is proposed in response to
suggestions that the indirect payment methodology be more sensitive
to case-mix.

Another proposal is that a hospital's rates be automatically increased
by a new update factor, the prospective operating adjustment. It will be
equal to two percent of total direct and indirect costs, calculated after
these costs have been incurred by the economic and technology factors
excluding the Capital Facilities Allowance. This prospective operating
adjustment shall replace the current accept incentive of one percent of
the Direct Patient Care portion of the rates, the operating margin (see
N.J.A.C. 8:31B-3.38), and numerous rate adjustments that result from
accept option appeals.

An additional increment of 0.5 percent is proposed in lieu of Statewide
legal and clinical appeals. Like the prospective operating adjustment, its
calculation shall be based on total direct and indirect costs, and increased
by the economic and technology factors.

The Department proposes that upon receipt of the rate package, two
options shall be open to hospitals: implement their rates including all the
update factors described above, or request revised rates and undergo a
full rate review. For hospitals electing a full rate review, the Department
shall consider the hospital's entire cost base, and all aspects of their
performance in recent years, including comparison to state and/or
national norms. The Department shall recommend to the Hospital Rate
Setting Commission new rates as well as appropriate organizational and
functional rearrangements. This recommendation, as approved by the
Rate-Setting Commission, shall take the place of all automatic rate in­
creases.

The proposed new indirect methodology is found in N.J.A.C.
8:31B-3.24. The prospective operating adjustment and the increment
in lieu of Statewide legal and clinical appeals are addressed in new text at
N.J.A.C. 8:31B-3.26. The proposed new text regarding rate implementa-
tion and full rate review is found in N.J.A.C. 8:31B-3.51 and 3.52,
respectively. It should be noted that sections N.J.A.C. 8:31B-3.51, 3.52,
3.56, 3.58 and 3.59 have been deleted in their entirety, and proposed new
text inserted for N.J.A.C. 8:31B-3.51 and 3.52.

Other regulatory changes are conforming changes, or deletions of
the existing appeal procedures which these options would replace, as in
N.J.A.C. 8:31B-3.9, 3.11(b), 3.32, 3.55, 3.57, and 3.63. Absent the current
appeal process, certain issues must be addressed in other ways; the trans­
fer of residents (N.J.A.C. 8:31B-3.22(b)(9 through 11) and certain capital
cost adjustments (N.J.A.C. 8:31B-3.27) become automatic, given sub­
mission of specified documentation. Changes to N.J.A.C. 8:31B-3.31
preserve necessary language from N.J.A.C. 8:31B-3.51, proposed for de­
letion.

Another proposed amendment, at N.J.A.C. 8:31B-3.73, is that re­
ociliation be based on the lower of aggregate charges or approved
revenue for the rate year. This change should encourage hospitals to set
charges closer to expected revenue, thus reducing confusion over patient
bills and outpatient undercollections.

Certain timeframes have been changed in order to expedite the proposed
new process. A 30-day notification period for data base closure is
proposed, after which time additional cases will not be accepted for
reconciliation. Rate implementation is changed to the first day of the
month following 30 days after receipt of a Schedule of Rates, rather than
the previous 30 working days (N.J.A.C. 8:31B-3.43). The proposed time
for submitting exceptions to proposed audit adjustments is 60 days. In
order to facilitate these processes and schedules, hospitals are now re­
quired to observe the timeframes, as in N.J.A.C. 8:31B-2.5, 3.16(d), and
3.17(c).

Finally, additional changes have been made in terminology. Because
these changes move toward a Certified Revenue Base for hospitals, that
language has been added in N.J.A.C. 8:31B-3.2. Clarifying language is
also proposed at N.J.A.C. 8:31B-3.7 and 3.17(a). The treatment of gains
on pension reversions has been specified in N.J.A.C. 8:31B-4.66 in con­
formance with Commission-established precedent.

Social Impact

New Jersey faces a health crisis due to the high and escalating cost
of health care and health insurance, and the increasing numbers of those
without health insurance. In April 1990, Governor Jim Florio appointed
a Commission on Health Care Costs to study the components of New
Jersey's health care system as they relate to cost and access and to
recommend corrective strategies. One of the components he charged the
Commission to examine was the overly complicated and burdensome
hospital rate setting system, which had produced a serious and growing
backlog of unsettled hospital rate appeals. This system was established
in the early 1980s to contain the rising cost of health care services and
to promote financial solvency of efficient, effective, and needed hospitals.

On October 1, 1990, the Governor's Commission on Health Care Costs
presented Governor Florio with a report containing 92 recommendations
for restructuring New Jersey's health care system. Areas addressed in­
clude access to health insurance programs, financing of health care for
the uninsured, health facilities planning, health promotion and illness
prevention, and cost containment.

Fifteen of these recommendations addressed reform of the hospital
rate-setting and appeal system to better fulfill the original legislative
mandate. Implementation of these 15 recommendations shall be phased
in over a two-year period. These proposals represent the 1991 phase of
implementation.

The proposed regulatory changes will provide increased prospectivity
and predictability to the Chapter 83 system. The present system, in
attempting to be responsive to hospitals, has become cumbersome and
retrospective, with a backlog of rate appeals that prevent the system from
being timely. These changes will replace retrospective adjustments based
on appeals with automatic rate adjustments. For hospital patients, a more
stable rate structure will result in hospital bills that no longer vary with
the month of hospitalization. Administrative resources will be reallocated
from numerous small and time-consuming rate and patient appeals, to
full rate review of truly exceptional cases and refinement of the rates
themselves.

Economic Impact

The two percent prospective discretionary adjustment and the 0.5 per­
cent factor to replace statewide legal and clinical appeals, as well as the
once-a-year establishment of rates shall allow hospitals and payers to
predict revenue and expenditures with greater certainty prospectively. The
automatic increase of direct and indirect rates by 2.5 percent as compared
to the prospective margin and accept incentive, results in hospitals' rates
(except capital) being increased automatically by approximately 1.5
percent above the automatic adjustment now received by hospitals accept­
ing their rates. As a result, hospitals shall have the financial resources
to meet obligations that, under the current system, might have necessi­
tated cash flow requests and rate appeals.

(CITE 22 N.J.R. 3724)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
These proposed amendments will assist in minimizing both large revenue undercollections for hospitals and the need for significant midyear insurance premium increases for third party payers. The two percent discretionary adjustment shall reduce the administrative time spent adjudicating numerous small appeals, and provide the time needed to address more significant payment issues. The full rate review shall allow the Department to identify potentially insolvent hospitals which need help to contain costs and return to solvency.

Reimbursements hospitals the lower of aggregate charges or approved revenue will provide financial incentives for hospitals to set realistic charges for both inpatient and outpatient services.

Regulatory Flexibility Statement

The proposed rules apply only to the 83 hospitals that have rates established by the Hospital Rate Setting Commission. Each of these hospitals employs more than 100 full-time employees and, therefore, does not fall into the category of small business as defined in Section 2 of New Jersey Regulatory Flexibility Act. (P.L. 1986, c.169).

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

SUBCHAPTER 1. GENERAL PROVISIONS

8:31B-1.2 Definitions

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

“Full Rate Review” means an examination of a hospital’s entire cost base and operating structure in order to evaluate proposed payment.

“Prospective Operating Adjustment” means that amount by which hospital payment rates are increased if hospitals choose to implement their rates upon issuance and not undergo a full rate review. This adjustment is not related to an operating margin as defined in Generally Accepted Accounting Principles.

8:31B-2.5 Health data submissions to the Department of Health

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

(g) Data shall be submitted to the Department of Health as follows:

1. (No change.)

2. Records not received by the Department of Health (including corrections of fatal errors), within the time frames specified, [may] shall not be included in the hospital’s Final Reconciliation, and the direct costs associated with them [may] shall be foregone by the hospital [unless a penalty is paid to the Hospital Rate Setting Commission]. The Department shall provide 30 days notice of its intent to close the data base, and no additional cases shall be added after that time, except under the provisions cited in N.J.A.C. 8:31B-3.73.

[i. The amount of the penalty may be up to $200.00 times the number of working days from the date the patient billing and abstract records were due to the date the last record is received by the Department of Health.

ii. The imposition of the penalty, and amount to be paid (within the state limit), shall be at the discretion of the Commissioner.

iii. Under no circumstances shall data be allowed to be submitted after June 30 of the year following the close of the rate year without the imposition of a fine.]

3. (No change.)

(b) (No change.)

8:31B-3.2 Derivation of Preliminary Cost Base (PCB)

(a) For a group of hospitals the Commissioner, on or before January 31 of the rate year shall propose to the Commission a Preliminary Cost Base /Certified Revenue Base (PCB/CRB); for the initial rate period. For hospitals on a fiscal year beginning other than January 1, but before July 1, the rate year shall be the year the fiscal year begins; for hospitals on a Fiscal Year beginning between July 1 and December 31, the rate year shall be the year the fiscal year ends. A PCB/CRB for fiscal year hospitals shall be proposed to the Commission at least 30 days prior to the hospital’s “Fiscal” rate year. The proposed Preliminary Cost Base for each hospital shall include:

1.-7. (No change.)

8:31B-3.5 Development of standards

(a) (No change.)

(b) The median cost per case, the Efficiency Standard, shall be used to identify presumptively excess cost; however, supplementary standards including, but not limited to, the lowest cost per case at any institution which has treated more than ten patients in a given December related Group during the current cost base year, shall be used to identify potential areas for management review and action,

and may be used by all parties in [appeals] a full rate review. The Commissioner shall also calculate the mean cost per case, the Incentive Standard, which shall be used in developing the Proposed Schedule of Rates. Standards so developed and issued for a rate year shall remain unaffected [during the rate period by any appeals] and no adjustments, modifications or any other changes to the standards shall be made [during a rate period, unless so ordered by the Commissioner]. All standards developed herein may be used in evaluating effectiveness and efficiency of the health care system taken as a whole.

8:31B-3.7 Incentive standard, Preliminary Cost Base: Proposed Schedule of Rates

(a) Consistent with the purposes and intent of Chapter 83, P.L. 1978, the Commissioner shall propose for each institution a Preliminary Cost Base using the reasonable direct cost per case for each DRG as described in N.J.A.C. 8:31B-3.23. The Preliminary Cost Base shall be adjusted for reasonable indirect patient care costs, net income from other sources, and update factors to adjust for cost increases since the base year. These adjustments are described in N.J.A.C. 8:31B-3.24 through 3.26.

In order to determine reasonable physician costs, hospitals shall report to the Commissioner any significant changes in the contractual basis of any and all physician compensation arrangements which may have occurred since the Current Cost Base. Hospitals that fail to report such changes prior to the issuance of the Proposed Schedule of Rates or during the course of the rate year shall have said amount removed (plus interest thereon) from their Preliminary Cost Base at final reconciliation. [Unless appealed the] The dollar amount of indirect patient care cost so derived shall remain fixed for the rate period, except as adjusted for inflation or deflation as described in N.J.A.C. 8:31B-3.71 through 3.86.

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

8:31B-3.9 Conditional proposal

The Commissioner may issue an otherwise prospective Proposed Schedule of Rates in which particular aspects of the rates are made conditional. Any such aspects shall be specified and, with respect to these aspects, the rate shall be considered interim and may be implemented pursuant to N.J.A.C. 8:31B-3.44 through 3.45. A hospital may [accept] implement the rate; however, such [acceptance] implementation shall be considered conditional [acceptance and with respect to those aspects shall be appealable by any party under N.J.A.C. 8:31B-3.51 through 3.62] until final rates are issued.

8:31B-3.10 Extraordinary expense

If supported by adequate documentation, the Proposed Schedule of Rates may include an appropriate adjustment for items of extraordinary expense of nonrecurring nature which occurred in the Current Cost Base, and which are reported to the Commissioner by [October 15] April 15, of the year prior to the issuance of the Proposed Schedule of Rates. Conversely, failure to report extraordinary items of a nonrecurring nature which were included in costs reported to the Department of Health shall entitle the Commissioner to [an appeal] recommend an adjustment under N.J.A.C. [8:31B-3.35] 8:31B-3.52.

8:31B-3.11 Same Day Surgery

(a) (No change.)

(b) Hospitals shall report to the Commissioner in writing the existence, removal or other change in status of same day surgery programs and a description of the type of procedures performed and a list of the affected DRGs no later than November 15 of the year prior to the issuance of the Proposed Schedule of Rates or Adjusted Rate Order. [Hospitals found by the Commissioner to have duly designated programs may petition the Commission for an adjustment]
to their Schedule of Rates in accordance with N.J.A.C. 8:31B-3.51 through 3.62).

8:31B-3.15 Certified Revenue Base
[Beginning in 1984, hospitals shall be able to obtain a Certified Revenue Base (CRB)]. A Certified Revenue Base is [shall be defined as] the preliminary cost base as approved by the Hospital Rate Setting Commission which is sufficient to meet a hospital's needs in providing adequate and appropriate health care. A hospital may elect to request a CRB, and remain on that CRB adjusted by [economic factor] update factors (see N.J.A.C. 8:31B-3.26), for as long as the hospital determines the CRB meets its needs or until such time as the Hospital Rate Setting Commission re-establishes rates for all hospitals. N.J.A.C. 8:31B-3.51 [Notification appeal and review] Rate notification, approval, and implementation, provides the procedures for determining the CRB.

8:31B-3.16 Current Cost Base
(a) (No change.)
(b) The Current Cost Base is used to develop the Preliminary Cost Base and Schedule of Rates through:
1.-3. (No change.)
4. Calculation of update factors as defined in N.J.A.C. 8:31B-3.26. [economic factor cost component as defined in N.J.A.C. 8:31B-3.26(a);
5. Calculation of the technology factor as described in N.J.A.C. 8:31B-3.26(b);
6. The costs used to set rates for the 1990 rate year shall be based on 1988 costs so as to meet an implementation date of January 1, 1990. If a total rebase to 1988 costs is not possible in order to meet this implementation date, the rebase shall be simulated based on best available data. 1990 rates shall be based on severity of illness-adjusted DRGs if agreement is reached upon an effective methodology for adjusting DRG rates.]
(c) (No change.)
(d) [Hospital’s] Hospitals’ actual cost reports cannot be substituted or rearranged once the Department has determined that the actual cost submission is suitable for entry into the data base. The Department shall provide 30 days’ notice of its intent to close the data base. [In no case shall a hospital be allowed to revise the cost reports of a base year that have been used to establish payment rates for two or more years. Hospitals may then only revise their cost reports prior to the closing of the data base before the first and second years that the data is used to establish rates. Rearrangement of data after the first year but before the second year shall not be used to recalculate first year rates.]

8:31B-3.17 Financial Elements Reporting Audit Adjustments
(a) The aggregate Current Cost Base is developed from financial elements reported to New Jersey State Department of Health and includes:
1. (No change.)
2. Less net income from specified sources (as defined in N.J.A.C. 8:31B-3.25);
3. (No change.)
4. Adjustment to [working cash] prompt payment discount (as defined in N.J.A.C. 8:31B-3.40) [if approved by the Commission].
(b) (No change.)
(c) Hospitals shall submit a complete list of exceptions to the proposed audit adjustments, together with appropriate written documentation, within 60 days of receipt of the Department’s written summary of these adjustments, or these adjustments shall be implemented in accordance with (b) above. Consideration shall be given only to documentation submitted in accordance with this schedule. Items previously reviewed under final reconciliation and other rate appeals shall not be included in this list of exceptions. Adjustments approved by the Rate Setting Commission shall be implemented in subsequent years’ rates.
(d) The Department must obtain Commission approval to make additional recommendations regarding any audit that has received final approval by the Commission. Reasons for obtaining Commission approval include, but are not limited to, fraud and material misrepresentation.

8:31B-3.20 Preliminary Cost Base
The proposed Preliminary Cost Base is the reasonable cost of the Financial Elements of the Current Cost Base, as adjusted for [projected economic] update factors and the Capital Facilities Allowance and settlement Commission pursuant to N.J.A.C. 8:31B-3.63 through 3.70.

8:31B-3.21 Reasonable Cost of Services Related to Patient Care
(a) (No change.)
(b) The Reasonable Cost of Services Related to Patient Care shall be adjusted by the [application of economic] update factors and changes approved by the Commission pursuant to N.J.A.C. 8:31B-3.63 through 3.70.

8:31B-3.22 Standard costs per case
(a) (No change.)
(b) Classification of Teaching (Major and Minor) and Non-Teaching Hospitals for purposes of determining indirect costs shall be as follows:
1.-4. (No change.)
5. Hospitals, because of their specialized acute nature, having a majority of active medical staff in specialties which have an Accreditation Council for Graduate Medical Education (ACGME) approved residency may apply to the Commissioner for teaching status pursuant to N.J.A.C. 8:31B-3.51 [through 3.62] and 3.52.
6.-8. (No change.)
9. The transfer of residents and associated costs between hospitals is permitted under the following conditions:
   i. The number of positions transferred does not exceed the number relinquished;
   ii. Both parties to the transfer must submit letters of agreement to the DOH; and
   iii. The Advisory Graduate Medical Education Council of New Jersey (AGMEC) must have recommended the transfer as being consistent with maintenance or improvement of program quality.
10. An addition of resident positions by transfer may not result in a change to higher teaching status peer group. A reduction of resident positions by transfer may result in a change to a lower teaching status peer group. The approved costs associated with a transferred resident position may not increase solely as a result of the transfer.
11. Beginning in rate year 1992, the changes in number of residents and associated costs shall be reflected in each hospital’s rates for the following rate year if the Department is so advised on or before April 15.
(c)-(d) (No change.)
(e) Calculation of standards shall be as follows:
1. The calculation of standards shall be based on [the group of hospitals first receiving a PCB or other] an appropriate sample of hospitals [thereafter] and/or cases submitted pursuant to N.J.A.C. 8:31B-2.5. The cost per case of each hospital’s patients with UB-PS records categorized by inpatient DRGs is multiplied by each hospital’s DRG factor (see N.J.A.C. 8:31B-3.24(c)) and for the appropriate DRGs and hospitals, reduced by a rate expressing the amount and type of graduate medical education (see Appendix XI) for the hospital pertaining to each DRG. The mean equalized cost of all such records in all hospitals calculated after teaching costs have been removed from hospitals’ Preliminary Cost Bases, is the incentive standard for each DRG.
2. (No change.)
8:31B-3.24 Reasonable indirect patient care costs
(a)-(b) (No change.)
(c) The reasonable amount of indirect costs (exclusive of skilled nursing apportionment) shall be determined for those hospitals that shall receive an initial PCB/CRB. Disincentive amounts shall be calculated in the Physician and Teaching Related Centers, according to N.J.A.C. 8:31B-3.22. The screening methodology shall compare base year actual cost data. Screens shall not be applied to sales and real estate taxes, outside collection costs, employee health insurance, malpractice insurance, PCC (Phy), EDR (Non-Phy) and OGS. The above indirect costs are not considered volume variable and are therefore included in the Preliminary Cost Base/Certified Revenue
Equalized peer group standard unit cost. An adjusted admission of goods or services used by hospitals, changes in service mix, capital consultations with representatives of hospitals, payers, and other factors shall be composed of the proportion of PAC.

Greater, or physical plants older than 10 years, may appeal that may arise subsequent to the base year, including,..

...inpatient discharges multiplied by the standard rate. Projected total indirect costs shall be collected during the year through the use of the overhead mark-up factor. Outpatient indirect costs shall remain fixed except for same-day surgery patients. Outpatient costs are calculated by multiplying the hospital unit cost by the outpatient equivalent cost, defined as the difference between adjusted admissions and admissions. Same day surgery indirect costs shall be volume variable, subject to a unit cost which represents the pro rata portion of outpatient indirect costs which were attributable to same day surgery in the base year. [The Department shall examine additional refinements to the methodology for reimbursement of indirect costs, for possible implementation in the 1990 rate year.

For part of an entire reimbursement reform package, the Department shall recognize an operating margin for hospitals. When full standard reimbursement is in effect, then the phase-in of an operating margin shall begin.

8:31B-3.26 Update factors.

(a) (No change.)

(b) Technology Factor: Base-year direct patient care and indirect rates shall be multiplied in succeeding years by a technology factor to provide prospective funds to support hospital adoption of quality-enhancing technologies. The technology factor shall be based on the Scientific and Technological Advancement Allowance recommended annually to the Secretary of the United States Department of Health and Human Services by the Prospective Payment Assessment Commission (ProPAC). The factor shall be composed of the proportion of incremental operating costs associated with ProPAC's identified cost-increasing technologies, and ProPAC's allowances for technologies not included in the technology-specific projections, less the proportion of incremental operating costs of cost-decreasing technologies identified by ProPAC.

1. (No change.)

2. For each year that a hospital accepts its rates, some portion of that rate year's rate shall be updated prospectively by the technology factor calculated for that year.

(c) Prospective Operating Adjustment: For hospitals not receiving a full rate review, an additional two percent of direct and indirect costs shall be added to their current cost base.

1. The purpose of this adjustment is to compensate hospitals prospectively for expenses that may arise subsequent to the base year, including, but not limited to, the purchase of equipment, unusual cost increases in goods or services used by hospitals, changes in service mix, capital improvements, costs of mergers, acquisitions, and consolidations, and operating costs associated with Certificates of Need.

2. For direct patient care and indirects, if a portion of payment is based on standard, this adjustment shall assume 100 percent standard; if there is no standard in the rate, it shall be based on 100 percent of the payment rate. The rates thus generated shall be increased by the applicable factors as described in (c) above.

For 1991 only, payment for patients in CN-approved child/adolescent psychiatric units shall be based on average costs for the hospitals reporting rates in base year 1988, inflated by the appropriate economic factors described in (a) above.

(e) For 1991 only, payment for patients in CN-approved short-term care facility beds shall be in accordance with the Hospital Rate Setting Commission approved methodology for 1990 based on FTE cost per closed bed. The amounts shall be inflated by the appropriate economic factors as described in (a) above.

(f) For 1991 only, payment for patients in CN-approved child/adolescent psychiatric units shall be based on average costs for the hospitals reporting rates in base year 1988, inflated by the appropriate economic factor as described in (a) above, and in an appropriate DRG adjustment.

(g) For 1991 only, educational costs related to sickle cell disease shall be based on 1990 annualized Commission-approved adjustments inflated by the economic factor as described in (a) above. (h) Beginning in 1991, on or before July 1 of each year, the DOH, in consultation with representatives of hospitals, payers, and other interested parties, may recommend to the Hospital Rate Setting Commission other adjustments to hospital rates if it is determined that
changes in the hospital environment that affect a significant number of hospitals have been so extraordinary as to substantially exceed the update factors described in (a) through (d) above. Taking into account the effectiveness and efficiency of the health care system as a whole, the Commission may approve such adjustments for inclusion in the following year’s Preliminary Cost Base/Certified Revenue Base.

(i) Once a hospital has had its rates determined by a full rate review, those rates shall not be increased by any of the update factors described in (a) through (h) above. Rates for years subsequent to the full rate review shall be adjusted by annual update factors. If additional full rate reviews are undertaken only update factors for the rate years after the most recent full rate review shall be used in calculating rates until a new base year is used.

8:31B-3.27 Capital Facilities
(a) Capital Facilities as defined in N.J.A.C. 8:31B-4.42, shall be included in the Preliminary Cost Base/Certified Revenue Base in the following manner:
1. Building and fixed equipment:
   i-vii. (No change.)
   viii. Reimbursement for capital facilities which does not require Certificate of Need approval, or which requires Certificate of Need approval but does not require Batching, incurred on or after January 1, 1988 shall be in accordance with the following requirements.
   (1) (No change.)
   (2) Hospitals with costs per Adjusted Admission below the calculated limit capital cap, or costs below their 1988 costs per Adjusted Admission, will be reimbursed their actual costs for additional Capital Facilities Allowance in accordance with (a) i through v above.
   (3) Hospitals with costs per Adjusted Admission, based on the most recent available financial data, that are above the [calculated limit] capital cap, and also above their 1988 capital cost per adjusted admission, will receive the higher of their 1988 capital costs per adjusted admission, or the capital cap calculated for the rate year. Such hospitals may [appeal] request an increase to [the Hospital Rate Setting Commission to add the additional capital costs to their Capital Facilities Allowance by submitting to the Department, at least 30 days prior to the beginning of a rate year, documentation substantiating their costs. Increases deemed reasonable by the Department shall be recommended for action by the Hospital Rate Setting Commission.
   (A) Where the Commission approves such amounts, in whole or in part, they shall be reimbursed in accordance with (a)i through v above;
   (B) Absent Commission approval, no additional Capital Facilities Allowance reimbursement shall be permitted.
2. (No change.)

8:31B-3.31 Commission adjustments and approvals
(a) (No change.)
(b) [The Commission] Prior to the issuance of rates each year, the Department shall also [approve] determine prospective adjustments to hospitals’ Schedules of Rates for 1988 and subsequent years as necessary to subtract approved costs associated with residents not meeting the minimum requirements as defined in N.J.A.C. 8:31B-3.22(b)(6); for any costs associated with residents or participating in programs which have lost accreditation as defined in N.J.A.C. 8:31B-3.22(b)(7);. Similar adjustments shall be made for any costs associated with residents in excess of the total number of FTE residents approved by the Commission for payment for the period beginning July 1, 1985, plus or minus subsequent adjustments as approved by the Commission; and for any costs associated with previously approved but now vacant residency positions which are unfilled as a result of a hospital’s inability to recruit residents meeting these minimum standards. These costs shall include, but not be limited to, resident salaries and fringes, faculty salaries, malpractice and supplies. In the case of a transfer of residents between hospitals, the procedures described in N.J.A.C. 8:31B-3.22 shall apply.
   [c] The Commission may approve hospital appeals to transfer Commission approved resident positions and associated costs between hospitals. A hospital may appeal under any option to reduce or increase the number of resident positions by transfer. An addition of resident positions by transfer may not result in a change to a higher teaching status peer group. A reduction of resident positions by transfer may result in a change to a lower teaching status peer group. The approved costs associated with a transferred resident position may not increase solely as a result of the transfer.
   (d) The Hospital Rate Setting Commission shall decide the hospital to which approved resident positions and associated costs may be transferred.

8:31B-3.32 Overspending challenge
Hospital base year costs [shall] may be adjusted to eliminate any costs expended in excess of Hospital Rate Setting Commission total approved revenues for rate setting purposes should the hospital elect [to not accept] a full rate review or implementation of the Certified Revenue Base (N.J.A.C. 8:31B-3.15). The actual costs of the hospital shall be used, however, in the calculation of standards for rate setting purposes. The overspending challenge shall be applied as an indirect adjustment net of the estimated percent of standard for direct patient care to the hospital’s approved revenue.

8:31B-3.38 Derivation from Preliminary Cost Base
(a) Apportionment of full financial elements based on direct costs shall be as follows:
   1. - 2. (No change.)
   3. An operating margin shall be calculated and added to hospital rates as follows:
      [i] Standard per unit indirect reimbursement as defined in N.J.A.C. 8:31B-3.24 shall be multiplied by 1.01.
      [ii] The standard amount in each DRG shall be multiplied by 1.01 in rate years 1989, 1990 and 1991. For 1991 and subsequent rate years, the 1 percent operating margin shall be replaced by the 2 percent prospective operating adjustment as described in N.J.A.C. 8:31B-3.26(c). For 1991 only, the 1 percent operating margin that is included in direct standard cost shall be netted from the 2 percent prospective operating adjustment. After that time, the 1 percent operating margin shall be removed from direct standard costs and shall no longer be netted from the prospective operating adjustment. The 1 percent operating margin shall be removed from indirect standards for 1991, and shall therefore not be netted from the prospective operating adjustment for 1991 or beyond.
(b) Revenue requirements: Definition and calculation:
   1. Revenue requirements shall be defined as the Gross Revenue Related to Patient Care estimated to produce New Revenue Related to Patient Care equal to an institution’s Preliminary Cost Base as defined in N.J.A.C. 8:31B-3.20. Gross Revenue Related to Patient Care shall be projected by each hospital based upon the hospitals’ projections of volumes and projected price increases, uncompensated care, Commission approved [payer] payer differentials and [working capital requirements] prompt payment discounts for each hospital in order to set payment rates. Appendix IV illustrates the calculation of gross revenue requirements relative to the Preliminary Cost Base for Commission approved deductions from revenue. Once the gross revenue requirements have been established (i.e., Revenue Budget) hospitals shall be required to align charges in direct patient care volume and case-mix as estimated by each hospital as reported on Appendix V.
   2. Appendix IV shall be produced for each hospital at the time the Schedule of Rates is issued by the Commission, detailing the relationship of Commission approved gross to net revenue requirements. All approved deductions from revenue shall be shown on Appendix IV at Current Cost Base levels. Hospitals may project increases or decreases in these levels (except for increases in working capital) prompt payment discounts subject to the Commissioner’s review.
   3. - 4. (No change.)
   (c)-d) (No change.)

8:31B-3.42 Schedule of rates—effective date
(a) Subject to N.J.A.C. 8:31B-3.71 through 3.86 Reconciliation, all rates issued pursuant to this subchapter, as approved or modified, shall be effective as of January 1[] of the rate year except for fiscal year hospitals whose rates shall be effective as of the first day of the “fiscal” rate year. However, except where a substantial inequity may
such cases the hospital must demonstrate that a decline in the services equal to the technology factor as described in N.J.A.C. 8:31B-3.26 shall also include an increase to direct patient care and indirect costs adjustments as approved by the Commission, and is offset cor-

one percent of all direct patient care costs. The amount shall be fixed Schedule of Rates, shall notify the Commissioner of any calculation

Commissioner that the error is of substantive value, a revised rate following 30 [working] days after receipt of the Schedule of Rates. Following Commission pursuant to these regulations shall be implemented pro-

8:31B-3.55 Notification appeal and review

(a) All hospitals within 15 working days of receipt of the Proposed Schedule of Rates, shall notify the Commissioner of any calculation errors in the rate schedule. If upon review it is determined by the Commissioner that the error is of substantive value, a revised rate shall be issued to the hospital within 10 working days. If the dis-

crepancy is determined to be substantive and a revised Schedule of Rates is not issued by the Department within 10 working days, notification time frames above shall not become effective until the hospital received a revised Schedule of Rates.

(b) Within 45 working days of receipt of the Proposed Schedule of Rates issued pursuant to N.J.A.C. 8:31B-3.2 through 3.15, hospita-

I. Accept the Certified Revenue Base or Preliminary Cost Base whichever is appropriate: Acceptance is contingent upon approval by the Commission of the Schedule of Rates. Following Commission approval, rates accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. Rates accepted shall include an additional one percent of all direct patient care costs. The amount shall be fixed and included as an indirect cost in the mark-up factor. Rates accepted shall also include an increase to direct patient care and indirect costs equal to the technology factor as described in N.J.A.C. 8:31B-3.26 and the operating margin as described in 8:31B-3.38. Prior to obtain-

ing a Certified Revenue Base, a hospital with an overall direct patient care disincentive shall be required to present to the Hospital Rate Setting Commission a proposal to reduce its rates and have the Commission approve this proposal prior to the hospital being allow-

ed to accept the Certified Revenue Base. The reduction in its rates shall reflect the hospital’s plan to eliminate inefficiencies. A hospital accepting the Schedule of Rates may appeal only the costs associated with the following:

i. Changes in number of residents:

(1) An increase in the number of residents that does not exceed the statewide number approved by the Commissioner for the 12 month period beginning July 1, 1985, plus or minus subsequent adjustments as approved by the Commission, and is offset cor-

corresponding decreases in resident costs in other New Jersey hospitals:

(2) A decrease in the number of approved residency positions caused by the hospital’s inability to meet accreditation requirements as specified in N.J.A.C. 8:31B-3.22(b)(1) through 3, its inability to hire residents meeting the criteria specified in N.J.A.C. 8:31B-3.22(b), or its voluntary reduction of its number of residency positions. In such cases the hospital must demonstrate that a decline in the services needed by the area population shall occur as the result of such reductions. In no case may the amount of revenue appealed for or the amount approved by the Hospital Rates Setting Commission exceed the costs associated with residency positions that were lost. Adjustments shall be limited to a maximum of two rate years.

ii. Statewide legal and clinical appeals as defined in N.J.A.C. 8:31B-3.58.

iii. Capital and MME projects subject to the requirements and limits as defined in N.J.A.C. 8:31B-3.27 and meeting all the following criteria:

(1) The costs result from approved certificates of need;

(2) Capital costs of the hospital do not exceed the applicable statewide limit as defined in N.J.A.C. 8:31B-3.27(a) and (b); and

(3) Major Moveable equipment costs satisfying the Certificate of Need application and review process as defined in N.J.A.C. 8:33-27(a) through 3 and the definitions of "major moveable equipment" and "equipment unit" or "equipment systems" as defined in N.J.A.C. 8:33-16. Adjustments shall be net of any disincentive. No more than the total disincentive shall be removed for all appeals granted while rates are calculated using the same base-year. Replace-

ment equipment costs are excluded from appeal under this option.

iv. Mergers, acquisitions or consolidations, provided that projections are savings exceeding the appealed dollars can be demon-

strated for one or more subsequent rate years or the Commission determines there is a quantifiable economic benefit to the system as a whole. If required, certificate of need approval must be granted. Adjustments shall be limited to operating costs for a maximum of two years.

v. Capital Facilities Formula Allowances as defined in N.J.A.C. 8:31B-3.25.

vi. Revenue adjustments as defined in N.J.A.C. 8:31B-3.56.

vii. Physician Compensation Arrangements which are defined as a change in the method of reimbursement of physicians from/to hospital compensation basis to/from a direct billing basis. Change in compensation due to salary or fee increases and/or the addition of personnel is not appealable for a hospital which has accepted its proposed Schedule of Rates.

viii. Indirect standard unit costs if the criteria in N.J.A.C. 8:31B-3.24(c)(c) are met.


x. Operating costs associated with Certificates of Need provided that:

(1) The costs were submitted by the hospital as part of its CN application as defined in N.J.A.C. 8:33 and as approved by the Commissioner of Health.

(2) The costs are for services added since the base year.

(3) The costs are not associated with a regionalized service as defined in N.J.A.C. 8:31B-3.58(a).

(4) In evaluating operating costs related to new technologies, the overall adequacy of the technology factor to cover these costs shall be considered.

2. Not Accept the Certified Revenue Base or Preliminary Cost Base whichever is appropriate: A hospital not accepting the Proposed Schedule of Rates or adjusted Rate Order retains the right to appeal all issues subject to the guidelines described in (b)ii below.

i. In evaluating appeals brought under this section, the Com-

mission shall consider the relative efficiency of the hospital in the Current Cost Base year. The Commission shall examine in detail the degree to which cost increases between the Current Cost Base year and rate year can be attributed to activities intended to be covered by the update factors.

ii. A hospital not accepting its Proposed Schedule of Rates shall retain the operating margin and economic factor components of the rates. The one percent Accept option bonus and the rate year tech-

nology factor shall not be included in the rates. If a hospital chooses the Accept option in years subsequent to not accepting its rates, the technology factor for the year not accepted shall be included in future compounding.
iii. Under this option:

1. Hospitals may not appeal indirect costs that are reimbursed on a volume-variable basis except as described in N.J.A.C. 8:31B-3.24(c).

2. Appeals of issues described in sections 8:31B-3.55 through 3.59 are also subject to the criteria described in those sections.

3. Notwithstanding the above, effective for the 1986 Proposed Schedule of Rates, hospitals may only appeal under the not accept option for Statewide increases in costs associated with numbers of graduate medical residents in excess of the total number of FTE residents approved by the Commission for reimbursement for the period beginning July 1, 1985, plus or minus subsequent adjustments as approved by the Commission.

8:31B-3.51 Rate notification, approval, and implementation

(a) Within 30 days of receipt of the Proposed Schedule of Rates issued pursuant to N.J.A.C. 8:31B-3.2 through 3.15, hospitals shall notify in writing both the Commissioner and the Commission, of their decision to:

1. Implement rates as initially issued

   i. Rates set prospectively in accordance with N.J.A.C. 8:31B-3.26 through 3.38, and approved by the Commission, shall constitute the hospital's Certified Revenue Base or Preliminary Cost Base, whichever is appropriate, and shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45.

   ii. Hospitals electing implementation of rates as initially issued shall have added to their rates a rate year technology factor and a prospective operating adjustment of two percent, calculated and implemented as described in N.J.A.C. 8:31B-3.26. Also added shall be 0.5 percent in lieu of statewide clinical and legal adjustments.

iii. Implementation of rates precludes a full rate review (as defined in N.J.A.C. 8:31B-3.52), unless initiated by the Department.

   iv. Within 30 days of the hospital's notification of intent to implement initial rates, the Commission shall take action on the initial rates.

2. Undergo a full rate review and not implement rates as initially issued

   i. If a hospital elects not to implement its initial rates, it shall receive neither the technology factor, the prospective operating adjustment, the 0.5 percent adjustment in lieu of statewide clinical and legal adjustments as described in N.J.A.C. 8:31B-3.26(b)-(d), nor, for rate years 1992 and subsequently, the economic factor.

   ii. The hospital shall automatically undergo a full rate review, as defined in N.J.A.C. 8:31B-3.52, that shall include total review of hospital operations, including but not limited to management structure, service components, efficiency, and finances.

iii. As part of the process of the full rate review thus initiated, the Department shall determine the appropriateness of an adjustment to the hospital's Preliminary Cost Base/Certified Revenue Base. This adjustment shall take the place of all update factors described in N.J.A.C. 8:31B-3.26.

   iv. Based on the results of a full rate review, the Department shall make a recommendation to the Hospital Rate Setting Commission regarding the need for a rate adjustment and any related conditions. The Commission shall take action on the rates prior to implementation.

   (b) Should a hospital fail to notify the Department of its decision within the allotted time, it shall be assumed to have elected implementation of rates as initially issued.

8:31B-3.52 Submission of exceptions

(a) Within 60 working days of receipt of the Proposed Schedule of Rates, hospitals shall submit in writing one copy to the Commission and two copies to the Commissioner, a list of exceptions, including Statewide appeals as defined in N.J.A.C. 8:31B-3.58, organized pursuant to the subsections immediately below, together with written documentation concerning all exceptions. Unless otherwise directed by the Commission, the Commissioner shall schedule a detailed review to be conducted by the Department not more than 45 working days following receipt of exceptions and documentation.

(b) Exceptions under either option shall be justified by a full presentation of the dollar value of the cost, the dollar value of the benefit and a complete explanation of any other benefits which cannot be given a dollar value. This documentation shall specify each exception, the costs associated with each exception, and the hospital's rationale for the request. Should the hospital fail to submit its appeal document within the allotted time or fail to appeal at the scheduled detailed review on the established date, it shall have forfeited its right of appeal and the Commissioner's Proposed Schedule of Rates shall have been accepted by the hospital.

(c) At the detailed review, the Analyst shall indicate which exceptions are not supported by the sufficient documentation to permit a resolution, and the hospital shall be permitted 10 working days in which to submit such documentation. Any adjustments to the Proposed Schedule of Rates shall be proposed to the Commission within 30 working days. The Analyst may give consideration only to documentation submitted pursuant to the deadline set forth immediately above in deciding upon any proposed exceptions. Should the hospital pursue any further appeal, the hospital may not submit documentation other than that provided to the Analyst unless the hospital can demonstrate to the satisfaction of the Commission the existence of good cause for failure to provide the documentation to the Analyst within the deadline set forth above.

(d) Any changes to the Proposed Schedule of Rates which may be approved by the Commission shall be implemented in accordance with N.J.A.C. 8:31B-3.63 through 3.70, and are subject to the procedures set forth in N.J.A.C. 8:31B-3.71 through 3.86.

8:31B-3.53 Full rate review

(a) A full rate review may be initiated by a hospital or by the Department of Health.

(b) A hospital which believes that the proposed rates are inadequate to support operation of an efficient and needed institution may request a full rate review. A hospital must submit a request for a full rate review, together with all information required in (d) below, within 30 days of receipt of the proposed Schedule of Rates. The hospital shall submit two copies to the Department of Health, and one to the Hospital Rate Setting Commission.

(c) A full rate review shall consist of an evaluation of the hospital's total operations, including its management, services, and finances in order to assess the adequacy of proposed payment and to determine the reasons for any shortfall. Specific components to be evaluated shall include, but not be limited to financial stability, role of the hospital in relation to identified patient care needs in the region, efficiency of operations, management structure, relationship with affiliated organizations, payment issues, service mix, and management initiatives. Specific areas in which a hospital experiences shortfalls shall be considered only in the context of total operations, including all areas in which revenues exceed costs.

(d) A full rate review shall include, but not be limited to, an evaluation of the following information:

1. Audited financial statements for the hospital and all related entities:
   2. Financial ratios;
   3. Efficiency indexes;
   4. Current budget, income statements, cash flow, and liabilities;
   5. Current incentives and disincentives in proposed schedule of rates;
   6. Debt structure;
   7. Occupancy, case-mix, acuity, and LOS information;
   8. Occupancy and services in the surrounding area;
   9. Changes in revenue, costs, services;
10. Comparison to appropriate state and national norms; and
11. Analysis of patient care needs in the geographic area.

(e) Based on its assessments using the data listed in (e) above, the Department may propose an adjustment in the Preliminary Cost Base/Certified Revenue Base for an efficient and needed facility. The adjustment may represent an increase or a decrease in payment, compared to the initial rates. This adjustment shall consider the extent to which any payment shortfall has a significant negative impact on total hospital operations. The Department may use the overspending challenge at N.J.A.C. 8:31B-3.32 in recommending a rate adjustment; it may also make recommendations regarding Certificate of Need restrictions, expense reductions, service composition changes, or any other aspect of hospital operations, and may pursue further review and monitoring of hospital operations as a condition of any recommended adjustment.
PROPOSALS

8:31B-3.55 Capital facilities
(a) (No change.)

[(b) At any time during the rate period, a hospital may petition the Commission regarding the Capital Facilities Formula Allowance approved in the hospital's Preliminary Cost Base.]

[(c) (No change in text.)
[(d) Under the "Not Accept" option (N.J.A.C. 8:31B-3.51(b)2), a hospital may petition the Commission to include in its Certified Revenue Base or Preliminary Cost Base, whichever is appropriate, the interest expense associated with the purchase of major movable equipment as set forth in N.J.A.C. 8:31B-4.66(e).]

8:31-3.56 [Revenue Adjustments] (Reserved)

[Any hospital may contest the adequacy of the revenue adjustment for working capital, income from other sources or expense recoveries and for uncompensated care, by providing adequate documentation with respect to reasonably expected changes affecting these elements. A hospital requiring an initial infusion of working capital cash shall submit the necessary information in accordance with the Uniform Cost Report Regulation. Any hospital receiving payment for uncompensated care in the Proposed Schedule of Rates, or requesting an adjustment pursuant to this section, shall supply adequate documentation to the Commissioner by February 1, of the rate year that its historic practices meet or surpass the appropriate collection procedures specified by the Commissioner in N.J.A.C. 8:31B-4.40. The Commission or any other party may propose, for hospitals failing to produce adequate documentation, an appropriate prospective offset, or mandatory year-end reconciliation. All changes authorized pursuant to this section shall be implemented in accordance with N.J.A.C. 8:31-3.60, Interim Adjustments Following Appeal, and are subject to the penalties set forth in N.J.A.C. 8:31B-3.71 through 3.86.]

8:31-3.57 Same Day Surgery

[(a) Hospitals may appeal the reasonableness of their DRG rates due to trim point exclusion of those patients who have undergone same day surgery as defined in N.J.A.C. 8:31B-3.11. Where appropriate, the Commission shall establish a reasonable charge for same day surgical services. The ancillary charges and the Same Day Surgical services constitute the reasonable payment for Same Day Surgical services. The Same Day Surgical charges shall be comprised of an incentive reward for the provision of Same Day surgical services, as approved by the Commission. Additionally, the Commission shall adjust the inpatient DRG cost per case to reflect the effect of those hospitals not performing same day surgery on the standard cost per case.]

[(b) The Commission or the Commissioner may inquire why hospitals that do not provide same day surgical services are not providing these services and the Commission may make appropriate adjustments to the inpatient DRG rates in such hospitals.] 8:31B-3.58 [Statewide legal and clinical appeals] (Reserved)

[(a) A Statewide appeal is either a legal appeal or a clinical appeal as defined below:
1. A legal appeal is a request for an adjustment in reimbursement for costs associated with changes in statutes and regulations since the base year. Under the accept option, a hospital must demonstrate that each statutory or regulatory change affects the cost of delivering health care, including reasonable costs of reporting fees related to these statutes or rules, and it must meet a materiality standard of $10,000 per issue. Hospital-specific adjustments shall be considered if the hospital submitted the issue in its rate appeal document and demonstrated reasonable costs meeting the materiality standard. For each rate year, the hospital accepting its rates shall receive a legal appeal adjustment for only those dollars exceeding 0.1 percent of its direct patient care rates.
2. A clinical appeal is a request for adjustment in the non-physician patient care costs resulting from a change in the treatment program or the relative frequency of a medical practice, or the use of new technologies defined as scientific advances in drugs, devices and medical surgical procedures used in medical care. A statewide clinical appeal must be minimized by 35 percent of the hospitals or apply to 35 percent of the patients within the affected DRGs, or be associated with an approved Certificate of Need for a regionalized service as defined in planning rules or designated or recognized by the Department in the State Health Plan as a regionalized service. It may be raised under the Accept or Not Accept options in accordance with N.J.A.C. 8:31B-3.51 and 3.52. If the Statewide clinical appeal relates to a new technology, it must:
   (a) Not be addressed in the technology specific portion of the technology factor.
   (b) Exceed in aggregate the portion of the technology factor that accounts for technologies not included in the technology-specific projections of the Prospective Payment Assessment Commission (ProPAC).
   (c) Be made within 35 percent of the patients within the affected DRGs, or be associated with an approved Certificate of Need for a regionalized service as defined in planning rules or designated or recognized by the Department in the

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3731)
HEALTH

(b) For issues that are common to more than one institution, [Where appropriate, the Commission may direct that the appellant’s arguments be consolidated and that the issue be heard by an administrative law judge. Following issuance of the report of the Administrative Law Judge, the hospital and the Department shall have 10 days in which to petition the Commission concerning objections to the report. Such a petition should state what issues the petitioner wishes to have reviewed and what relevant facts were not addressed fully by the Administrative Law Judge in reaching his recommendation. The Commission shall review the petitions in reaching its final determination, and, at its discretion may recall witnesses from the hospital, the Department of Health, and any other parties involved to hear additional testimony on the issues. Final Determination by the Commission on all issues shall be made within 45 days of receipt of the recommendations from the Administrative Law Judge.

(c) Final determination on all issues other than those heard by a Law Judge shall be made by the Commission after receipt of the recommendations from the Commissioner following the detailed review. The hospital shall have 10 working days after issuance of the Department’s recommendation in which to petition the Commission concerning its objections to the report. Such a petition should state what issues the hospital wishes to have reviewed and what relevant facts were not addressed fully by the Department in reaching its recommendations. The Commission shall review the petitions in reaching its final determination on the documents submitted.

(d)(b) The Commission shall render its final decision within [140] 120 working days of receipt of notification by the appellant, except for matters referred to an Administrative Law Judge and except where a hospital fails to submit financial, statistical, or patient information required by law, or to fully document its appeal without demonstrating good cause for its failure to provide the information.

8:31B-3.65 [Interim adjustment following appeal] Schedule of Rates Adjustments

(a) For 1991 [Rates] rates issued pursuant to these regulations, except as modified, shall be effective as of January 1 of the rate year, except for fiscal year hospitals whose rates shall be effective as of the first day of the “fiscal” rate year. Unless a substantial inequity shall result, adjustments or modifications which may be approved as a result of appeals determined during the rate period shall be implemented through an appropriate [interim] adjustment to the Schedule of Rates for a given hospital, group of hospitals, DRG or group of DRGs, and shall take effect in 30 days or on the first of the month following the Commission’s Order at the beginning of the following rate year. At the direction of the Commission, the Commissioner shall make an appropriate [interim] adjustment to the Schedules of Rates for affected Diagnosis Related Group(s), indirect costs, revenue, or [payer] payer adjustments. The hospital(s) shall make an appropriate adjustment to their charge master(s), and third party [payor] payers shall make appropriate adjustments to their case-mix adjusted periodic intermittent payment. However, where appropriate, the Commission may order lump sum, pro rata, automatic, periodic or deferred adjustments. All adjustments shall be made prospectively. (See also N.J.A.C. 8:31B-3.42).

(b) [No change.]

8:31B-3.72 Periodic adjustments

(a) Certain periodic adjustments are made to the Schedule of Rates which are not dependent upon new submissions of reports. These adjustments are made independently of the yearly reconciliations of the Schedule of Rates, but shall affect the calculation of Commission Approved Revenue. Periodic adjustments are made for any adjustments explicitly ordered by the Commission pursuant to N.J.A.C. 8:31B-3.46, Modification of Proposed Schedule of Rates. The following periodic adjustments shall be implemented by the Commission and the affected hospitals pursuant to N.J.A.C. 8:31B-3.42, [Implementation] and shall become effective in the subsequent rate year, unless a substantial inequity shall result.

1.-2. [No change.]

3. Application of periodic adjustments to Schedule of Rates: Pursuant to N.J.A.C. 8:31B-3.42 through 3.45, on January 1 of each year (staggered as appropriate for hospitals with other than a calendar year reporting period), direct and indirect patient care costs (as offset by the previous year’s net income from other sources) shall be adjusted, as appropriate, for the new projection of the [economic factor] for that rate year and any other adjustments. [Initial Working Cash Adjustment and] The Capital Facilities Allowance [portions] portion of the Schedule of Rates are also adjusted accordingly, and a compliance adjustment to the Rate Order determined by the Commissioner and implemented by the hospitals and [payors] payers.

8:31B-3.73 Reconciliation: Hospitals

(a) Following receipt of actual patient specific information pursuant to Rules on Hospital Reporting for Uniform Bill-Patient Summaries (inpatient), as described in N.J.A.C. 8:31B-2, or N.J.A.C. 8:31B-10.7] 8:31A-8.1, whichever is appropriate: determination of actual case-mix as determined by the same GROUPER used to establish rates; and calculation of the actual economic factor, the Commissioner shall determine consistent with the Commission’s Order, for each hospital, for the calendar year or rate period, whichever is appropriate, reconciliation for:

1. Variable financial elements:
   i. Except as specified above, reconciliation for direct patient care costs shall be made on the basis of the approved Schedule of Rates for Diagnosis Related Groups and outpatient visits. Hospitals shall be reconciled to the lower of aggregate charges or approved revenue for the rate year, utilizing the UB-82 data submitted pursuant to N.J.A.C. 8:31B-2.5. The Department shall provide 30 days’ notice of its intent to close the data base. This notice shall be given no earlier than the end of the second quarter following the rate year. No additional cases shall be added after the closing of the data base. The Schedule of Rates so developed and approved, adjusted to actual measured economic inflation, shall be multiplied by the hospital’s actual case-mix and volume which was necessary and appropriate. Outliers, subject to appropriateness review by an approved utilization review, shall be included in the calculation of reconciliation.

ii.-v. [No change.]

2. Fixed financial elements:
   i. Indirect patient care costs: The indirect patient care revenue requirements as initially determined or [as approved through appeal] shall remain fixed during the rate period except for actual inflation for those components of indirect costs not included in (a)ii above. Any under or over collection of indirect patient care revenue from revenue centers which are not volume variable as indicated in N.J.A.C. [3:1B] 8:31B-3.24 shall be compensated by a Schedule of Rates Variance as described below.

ii. Capital costs: Only capital indebtedness incurred before September 1, 1986 (as defined in N.J.A.C. 8:31B-3.27(a)) is considered a fixed financial element. With the exception of the Capital Facilities Formula Allowance and Major Moveable Equipment, these costs shall be reconciled to actual certified amounts, provided that any increase from the prospective amount approved by the Commissioner to the actual amount is related to Capital Facilities as defined in N.J.A.C. 8:31B-3.42.

3.-5. [No change.]

8:31B-3.75 Schedule of rates reconciliation

(a) Except for adjustments among payers and required bad debt reconciliation which may be made appropriately on a lump sum or prospective basis, all other adjustments will be calculated as a result of appeals implemented on an interim basis, such as under or over collection, audit, or other reconciliation procedures here required shall be made prospectively through an appropriate adjustment in the following rate year. The reconciliation adjustment shall be calculated so as to compensate for the required amount over a specified period approved by the Hospital Rate Setting Commission.

(b) To the extent that an institution’s actual Net Revenues Related to Patient Care differ from the Commission approved Preliminary Cost Base/Certified Revenue Base, an adjustment to the current year PCB/CRB shall be calculated. A compliance adjustment to the Rate Order shall then be issued to include this adjustment and adjustments for actual uncompensated care, payer differentials, and net income from other sources, in order to align gross revenue and payers’ payments with net revenue requirements for the new prospective year.

(CITE 22 N.J.R. 3732) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
1. Commission approved revenue: On an annual basis, within 90 days of receipt of all reports set forth in N.J.A.C. 8:31B-3.42 through 3.45, the Schedule of Rates, as adjusted for [economic factors and other] update factors and adjustments issued by the Commission [during the year], shall be calculated for the hospital's [actual] discharges and patient visits for a reported period pursuant to N.J.A.C. 8:31B-2.5 and 3. Reasonable direct patient care costs per case, including the DRG-specific indirect rate, shall be multiplied by the number of cases in each DRG, to determine reasonable [direct] patient care costs for patients assigned to a DRG. The aggregate charges for those same cases shall also be calculated. Actual outpatient volumes for Emergency Services (EMR), Clinics (CLN), Home Health Agency (HHA), Ambulatory Surgery, and Same Day Psychiatry shall be determined from the Uniform Cost Reporting Regulations. Outlier cases shall be reconciled to the appropriate rate and/or per diem as described in N.J.A.C. 8:31B-3.38.

2.-4. (No change.)

3.1B-4.66 Administrative items
(a)-(d) (No change.)
(e) Interest Expense for Major Moveable Equipment is excluded from Costs Related to Patient Care and treated as Case C unless approved as part of a full rate review. [However, hospitals under the "Conditional Accept" or "Not Accept" options (N.J.A.C. 8:31B-3.51(b)2., 3.), may appeal to the Commission, pursuant to 8:31B-3.63(c) to have this interest expense or the interest expense in (d) above included in their PCB.]
(f) Gains on pension reversions are included as Services Related to Patient Care and, as such, shall be treated as Case B and offset against Costs Related to Patient Care, except in the case of restricted gains used to offset future pension costs in excess of the pension economic proxy.
RULE ADOPTIONS

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

Readoption: N.J.A.C. 5:14

Proposed: June 4, 1990 at 22 N.J.R. 1700(b).
Adopted: November 7, 1990 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.
Filed: November 9, 1990 as R.1990 d.604, without change.
Expiration Date: November 9, 1995.

SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSES:

COMMENT: A comment was received from Morris County Department of Community Development endorsing the readoption of the program, but recommending that the period of owner-occupancy required for a balanced housing loan be forgiven be reduced from 10 to 6 years, so as to be consistent with COAH requirements and encourage greater use of the program.

RESPONSE: In response, the Department states that balanced housing funds are limited and there is greater benefit to be derived from using the funds to encourage longer term owner occupancy. There is no shortage of applicants who are prepared to commit themselves to living in the housing assisted by the program for 10 years.

Full text of the adoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:14.

EDUCATION

COMMUNITY AFFAIRS

ADOPTED NEW RULES: N.J.A.C. 6:3-7

Adopted: November 7, 1990 by John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.
Filed: November 26, 1990 as R.1990, d.615, with technical and substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Effective Date: December 17, 1990.
Expiration Date: July 8, 1993.

SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSES:

COMMENT: A commenter requested additional language concerning the importance of parental preference among criteria governing educational placement.

RESPONSE: The Department declines to make this change since the rules require documentation of parental consultation in writing.

COMMENT: A commenter requested additional language to prevent overcharging for tuition for homeless students.

RESPONSE: The Department declines to make this change. The rules clarify the exact amount to be charged for tuition for homeless students.

COMMENT: A commenter suggested deletion of the word “youth” from the body of the rules because “child” would cover those under age 18.

RESPONSE: Public schools shall be free to persons over five and under 20 years of age by statute, necessitating the word youth in the rules.

COMMENT: A commenter suggested elimination of the word “adequate” from the homeless definition in the rules with the substitution of “compliance with building codes.”

RESPONSE: This cannot be changed because “adequate” is taken from the statute from which these rules are written.

COMMENT: A commenter suggested elimination of several examples of homeless situations from the rules.

RESPONSE: The Department disagrees with this suggestion. The data collected and technical assistance rendered regarding homeless students have found homeless students living in all the examples cited.

SUMMARY OF CHANGES UPON ADOPTION:

At N.J.A.C. 6:3-7(a), the agency added a comma after the word “guardian(s)” which was omitted in error.

At N.J.A.C. 6:3-7(b), the agency added the following words after the word “residing”: “or the school district of last attendance.”

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*).

SUBCHAPTER 7. PROVISIONS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH

6:3-7.1 Purpose

The purpose of this subchapter is to establish uniform Statewide policies and procedures for ensuring that homeless children and youth have access to a free and appropriate public education. Specific rules have been established to determine the educational placement of these students and to respond to appeals made by parents or other parties. These rules will implement N.J.S.A. 18A:38-1 and N.J.S.A. 18A:7B-12.

6:3-7.2 Definitions

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

“District liaison for the education of homeless children” means the person identified in each school district who facilitates all of the activities needed to ensure the timely educational placement of homeless children and youth.

“District of residence” for a homeless child whose parent(s) or guardian(s) temporarily move from one school district to another as the result of being homeless pursuant to N.J.S.A. 18A:38-1, N.J.A.C. 6:20-5.5(g) and N.J.S.A. 18A:7B-12 means the district in which the parent(s) or guardian(s) last resided prior to becoming homeless.

“Homeless” child or youth means one who lacks a fixed, regular, and adequate residence.

“Parent” means the natural parent(s) or legal guardian(s), foster parent(s), surrogate parent(s), person acting in the place of a parent such as the person with whom the pupil legally resides and/or a person legally responsible for the pupil’s welfare. Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent(s) retains all rights under this chapter.

6:3-7.3 Determination of homelessness

(a) A child or youth shall be considered homeless for purposes of this program if he or she resides in any of the following:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including:
i. Welfare hotels;
ii. Congregate shelters;
iii. Transitional housing for families; and
iv. Transitional housing for the mentally ill.
2. An institution that provides a temporary residence for individuals intended to be institutionalized; or
3. A public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

(b) Additionally, a child or youth shall be considered homeless if he or she is:

1. Living with a parent in a domestic violence shelter;
2. A runaway living in a shelter;
3. A school-aged mother residing in a home for adolescent mothers;
4. Sick or abandoned and residing in a hospital and would otherwise be released if he or she had a permanent residence;
5. The child of a homeless family who is out of necessity living with relatives or friends; or
6. The child of a migrant family who lacks adequate housing.

6:3-7.4 Responsibilities of the district of residence
(a) The district of residence for a homeless child shall be responsible for the education of the child, shall determine the educational placement after consulting with the parent(s) or guardian(s), shall pay the costs of tuition and transportation when the child attends school in another district, and shall provide transportation when a child attends school in the district of residence while residing in another district.

(b) The determination of a homeless child’s district of residence shall be made by the school districts involved as described in N.J.A.C. 6:3-7.5 based upon information received from the Department of Human Services, shelter providers, school districts, involved agencies, case managers or parents.

(c) The school district which has been determined to be the district of residence for a homeless child shall be the district of residence for as long as the parent(s) or guardian(s) remains homeless.

(d) When a dispute occurs regarding the determination of the district of residence, the involved districts shall immediately notify the county superintendent of schools, who will resolve the dispute. When the dispute involves districts in different counties, the county superintendent(s) will collectively resolve the dispute. If the county superintendent(s) is unable to resolve the dispute, an appeal may be made to the Assistant Commissioner, Division of Finance, pursuant to N.J.A.C. 6:20-5.3(d), (e), and (f).

(e) When the district of residence cannot be determined for a homeless child or if the district of residence is outside of the State, the State shall assume fiscal responsibility for the tuition of the child pursuant to N.J.S.A. 18A:7B-12(d). The Department of Education shall pay the amount to the school district in which the child is currently enrolled for as long as the parent(s) or guardian(s) remains homeless.

6:3-7.5 Responsibilities of the district liaison
(a) The superintendent of each school district shall identify a district liaison for the education of homeless children.

1. The liaison shall facilitate communication and cooperation between the district of residence and the district where the homeless child is temporarily residing.

2. The liaison shall develop a system to ensure that any homeless child residing in the district is enrolled and attending school according to the placement options described in N.J.A.C. 6:3-7.6(a).

(b) When a child becomes homeless and is living temporarily in a school district, the liaison of that district, upon receiving notification from the Department of Human Services, shelter directors, involved agencies, case managers, or parent(s) or guardian(s), shall notify the liaison of the district of residence within 24 hours. This procedure shall also apply to those children identified as homeless pursuant to N.J.A.C. 6:3-7.3 and who may not be receiving services through a social service agency.

(c) When the liaison in the district of residence of a homeless child receives notification of the need for educational placement, that person shall coordinate placement procedures immediately based on the best interest of the child and criteria set forth in N.J.A.C. 6:3-7.6(c).

6:3-7.6 Educational placement
(a) The district of residence shall decide the educational placement of the homeless child according to criteria described in this section. The options for placement are:

1. To continue the child’s education in the school district of last attendance;
2. To enroll the child in the district of residence if the district of residence is not the district of last attendance; or
3. To enroll the child in the school district where the child is temporarily living.

(b) When the district of residence for a homeless child cannot be determined, the district in which the child is temporarily residing shall enroll the child immediately.

(c) The district of residence shall consider the following in the placement decision process:

1. The preference of the parent(s) or guardian(s) to where the child should attend school;
2. The continuity of the child’s educational program with consideration given to the child continuing in the same school, the length of time the child attended a particular school, the time remaining in the school year, graduation requirements and district policies regarding the number of credits needed for graduation, and geographical location where the family plans to seek permanent housing;
3. The eligibility of the child for special instructional programs, such as bilingual, compensatory, gifted and talented, special education and vocational programs; and
4. The distance, travel time, and safety factors in coordinating transportation services from the temporary residence to the school.

(d) When a decision is made to enroll an educationally handicapped homeless child in a district other than the district of residence and an immediate review of the placement options available to implement the pupil’s current individualized educational program cannot be conducted, the child shall be placed in a program consistent with the goals and objectives of the current individualized educational program for a period not to exceed 30 calendar days. Within this 30 day period the district of residence must assure that the individualized educational program is reviewed and revised pursuant to N.J.A.C. 6:28.

(e) The district of residence shall determine the educational placement in a timely manner and only after consultation with the parent(s) or guardian(s) as described below:

1. Placement decisions shall be made by the superintendent of the district of residence or his or her designee within three school days of notification of the need for educational placement. Once the decision is made, the child shall be placed immediately.

2. Consultation with the parent(s) or guardian(s) regarding the placement decision and their right to appeal that decision shall be documented by the superintendent or his or her designee in writing.

3. When there is a dispute regarding the placement decision, the child will be enrolled when the county superintendent determines the educational placement pursuant to N.J.A.C. 6:3-7.7.

(f) When a decision is made to enroll the child in a district other than the district of residence, the district where the child last attended school shall forward to the new district all relevant school and health records. When the parent(s) or guardian(s) is homeless due to conditions of domestic violence, the transfer of pupil records shall be subject to the provisions of N.J.A.C. 6:3-2.6.

6:3-7.7 Disputes and appeals
(a) If the parent(s) or guardian(s), involved school district officials, involved agencies, case managers, or shelter providers object to the educational placement decision made by the district of residence, the superintendent or designee of the district of residence shall immediately notify the county superintendent of schools. The county superintendent shall determine the placement of the child within 48 hours.
EDUCATION

STATE BOARD OF EDUCATION

Adopted Amendments: N.J.A.C. 6:20-1.1, 1.2, 4.1-4.4 and 4.7-4.10


Adopted: November 7, 1990 by John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.
Filed: November 20, 1990 as R.1990 d.610, without change.
Effective Date: December 17, 1990.
Expiration Date: July 16, 1995.

Summary of Public Comments and Agency Responses:

The Department received one written comment concerning the criteria for auditor independence, N.J.A.C. 6:20-4.8(a), a letter from the American Institute of Certified Public Accountants (AICPA).

COMMENT: The commenter questions the new provision which restricts the auditor to performing only the year-end audit and tax return functions to remain independent. The AICPA’s Code of Professional Ethics provides that as long as the member follows the specified criteria, his or her independence would not be compromised or impaired by the performance of write-up work and management advisory services for an attest client as long as the CPA does not assume the role of employee or of management conducting the operations of an enterprise.

RESPONSE: The Department recognizes that the accounting profession currently operates under the AICPA’s Code of Professional Ethics but these standards are subjective and in most cases self-policing. The audit requirement contained in the rules is specialized and for the specific governmental purpose of the certification of tuition rates which is different than a standard audit of a corporation. Any additional work beyond the audit function and tax return may impact on the auditor’s independent judgment. The performance of special services by an auditor can compromise the auditor’s independence and even the AICPA recognizes the potential for conflict. While the AICPA does not prohibit the performance of such services it cautions that the degree of involvement in any one other service could in fact present either an actual or appearance of conflict. While the Department recognizes the AICPA’s Code of Professional Ethics, it views the functions of write-up work and management advisory services as possible conflicts concerning an auditor’s independence and took steps to establish an objective criteria.

Full text of the adoption follows.

6:20-1.1 School register
(a) The Commissioner shall prepare and distribute a school register which shall be known as the New Jersey School Register, for recording pupil attendance in all public schools of the State operated by district boards of education, except adult high schools.
(b)-(d) (No change.)

6:20-1.2 School enrollment
(a) The enrollment in a class, a school or a school district shall be the total number of original entries plus the number of re-entries, less the number of transfers, withdrawals or dropouts in any such unit during a school year. The total number of original entries and re-entries, less the number of transfers, withdrawals or dropouts, in all the classes and schools of a school district shall constitute the school enrollment for that district board of education during any school year.
(b)-(c) (No change.)
(d) Within 10 days of the start of the school year, a school district must determine whether any re-entering student who has not at-

(CITE 22 N.J.R. 3736) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
ACTIONS

6:20-4.1 Tuition rate procedures
(a) The term "actual cost per pupil" referred to in N.J.S.A. 18A:46-21, for the purpose of this subchapter shall be defined as the certified actual cost per pupil. For determining the tuition rate(s) for a 10 month school year or an extended school year for approved private schools for the handicapped located in New Jersey, the certified actual cost(s) per pupil shall mean the actual allowable cost for the year plus the applicable maximum surcharge/working capital fund divided by the average daily enrollment for a 10 month school year or total per diem days for an extended school year. Based on the certified actual cost(s) per pupil, the school’s management shall determine the actual tuition rate(s) charged which is an amount less than or equal to the certified actual cost(s) per pupil. The certified actual cost(s) per pupil and actual tuition rate(s) charged shall be identified in the certified audit submitted pursuant to N.J.A.C. 6:20-4.8.

1. Actual allowable costs for the 10 month school year program shall be based on a minimum of 180 days of pupil instruction between September 1 and June 30 and for the extended school year program on the days of pupil instruction between July 1 and August 30. Such costs shall be consistent with the individualized education program of a handicapped pupil and shall be reasonable, that is, ordinary and necessary, and not in excess of the cost which would be incurred by an ordinarily prudent person in the administration of public funds.

2. "Average daily enrollment" for the purpose of determining the actual cost per pupil shall be the sum of the days present and absent of all school pupils enrolled in the register(s) of the school divided by the number of days the approved private school for the handicapped was actually in session rounded to the nearest four decimal places, except in no event shall the divisor be less than 180 days. A pupil enrolled in a preschool program (10 hours per week of pupil instruction), a half-day program or enrolled in a full day program on a shared time basis shall not have a maximum average daily enrollment in excess of 0.5.

(b) Whenever possible, direct costs which can be identified specifically with an approved private school facility, 10 month school year program or extended school year program shall be recorded in the prescribed bookkeeping and accounting system and used in determining the respective actual cost per pupil.

(c) Indirect costs are costs which are incurred for a common or joint purpose and not readily assignable to an approved private school facility, 10 month school year program or extended school year program. Indirect cost pools may be established as appropriate for allocation between common or joint purposes at the end of the fiscal year. Indirect costs shall be included on a consistent basis in the respective actual cost per pupil in accordance with an equitable allocation plan approved by the Commissioner in accordance with either of the following ratios:

1. Direct costs for each program determined pursuant to (b) above to total direct costs; or
2. Average daily enrollment for each program to total average daily enrollment.

(d) Whenever a facility used by an approved private school for the handicapped is also used for unrelated activities and/or enterprises by related or unrelated parties, all costs, direct or indirect, associated with such facilities and operations shall be charged accordingly to the associated activities and/or enterprises which they benefit. Indirect cost pools may be established as appropriate for allocation between common or joint purposes at the end of the fiscal year. Indirect costs shall be distributed in accordance with an equitable allocation plan approved by the Commissioner as follows:

1. For joint activities and enterprises which have a common purpose of educating pupils, the indirect costs shall be allocated consistent with the methods contained in (c) above.
2. For joint activities and enterprises which do not have a common purpose of educating pupils, indirect costs for the approved private school for the handicapped shall be based on the ratio of the revenues for the approved private school to the total of all revenues for all purposes.

(e) A tentative tuition rate shall be established by written contractual agreement between the approved private school for the handicapped and the sending district board of education. The tentative tuition rate shall be an amount not in excess of the approved private school’s estimated actual cost per pupil for the ensuing school year. The written contract shall be on a form prepared by the Commissioner and shall be executed prior to the enrollment of a pupil.

1. - 2. (No change.)
3. The contractual agreement shall require the sending district board of education to pay the approved private school for the handicapped the tentative tuition charge on a mutually agreed upon date but not later than 60 days after receipt of the monthly tuition bill and attendance report.

(f) The Commissioner shall determine the estimated actual cost per pupil for each approved private school for the handicapped for the ensuing school year and its tentative tuition rate no later than January 1 preceding the beginning of the ensuing school year. Upon request, the approved private school for the handicapped shall submit to the sending district board of education a copy of the Commissioner’s calculation to determine the estimated actual cost per pupil for the ensuing school year.

1. - 3. (No change.)
4. The Commissioner may approve a higher tentative tuition rate for any year in which the approved private school for the handicapped can prove to the satisfaction of the Commissioner that the tentative tuition rate for the year is not adequate and would cause an undue financial hardship on the private school.

1. In the event of such hardship, the approved private school for the handicapped shall be required to submit its request for a higher tentative tuition rate for the entire school no later than January 31 preceding the beginning of the ensuing school year. The request shall be forwarded to the Assistant Commissioner, Division of Finance and include, but not be limited to, the following information:

i. A budget, by major account category, reflecting projected costs, working capital fund or surcharge, estimated enrollment and the requested tuition rate based on this information;

ii. A detailed explanation, by major account category, of the need for increases in excess of those already provided in the tentative tuition rate calculation (twice the increase in state average net current expense budget); and

iii. A financial report which is properly completed and in the format prescribed by the Commissioner for the six months of operations ended December 31 immediately preceding the school year for such request. This report format is available at the Division of Finance, 225 West State Street, CN 500, Trenton, New Jersey.

2. Whenever a district board of education agrees to pay for a pupil’s extraordinary services, the board shall notify the Commissioner within 30 days of such agreement. The notification shall include the pupil’s initials, the private school, the type of extraordinary service(s) and the cost of the additional service(s).

(h) The Commissioner shall certify the actual tuition rate(s) charged according to these rules.

(i) If the Commissioner determines that the tentative tuition rate(s) for a 10 month school year or an extended school year established by written contractual agreement is greater than the actual tuition rate(s) charged for the school year, the private school for the handicapped may charge each sending district board of education the difference no later than June 30 of the school year in which the actual tuition rate(s) charged is received from the Commissioner or not more than 30 days after an appeal on a certified amount is finally resolved.

(j) If the Commissioner determines that the tentative tuition rate(s) for a 10 month school year or an extended school year established by written contractual agreement is less than the actual tuition rate(s) charged for the school year, the approved private school for the handicapped may charge each sending district board of education all or part of the difference owed. The district board of education shall pay the difference on a mutually agreed upon date but not later than
the end of the second school year following the year for which the actual cost per pupil is certified.

(k) The Commissioner shall prepare the contract and the form to establish the tentative tuition rate for the ensuing school year.

(1) The Commissioner shall calculate and publish a list of maximum salaries by job title and county. Maximum salaries shall be based on the highest contracted salaries of certified staff in local public school districts for any prior year indexed by the Statewide average increase in salary between the two preceding school years for each job title. Under no circumstances shall the maximum salary calculated be less than the corresponding salary in the prior year for the same job title and county. For the purpose of this list, the maximum salary of the private school director shall be based on the title, chief school administrator/district superintendent. Other unrecognized job titles shall be correlated to similar job titles in public schools based on their functional activities.

6:20-4.2 New private schools for the handicapped

(a) For the first two years of operation of an approved private school for the handicapped which was first in operation after the 1985-86 school year, the estimated actual cost per pupil and per diem rate at each site or in each program shall be established annually and be based on budgeted allowable costs. These estimated cost(s) shall be submitted to the Commissioner for approval or disapproval no later than 90 days preceding the beginning of each school year. The proposed budget shall be on a form prepared by the Commissioner which shall provide for, but not be limited to, the following:

1.-6. (No change.)

(b) If the Commissioner approves the estimated actual cost(s) per pupil, each sending district board of education shall pay tentative tuition charges based upon the approved estimated costs per pupil for the first two years of operation.

(c) If, after each year of operation, the Commissioner determines that the actual cost per pupil or per diem rate differs from the estimated cost per pupil or per diem rate, the tentative tuition charges shall be adjusted in accordance with the provisions of N.J.A.C. 6:20-4.1.

6:20-4.3 Bookkeeping and accounting

(a) An approved private school for the handicapped shall maintain accounting and bookkeeping systems as prescribed in a publication issued by the Department of Education in accordance with the following standards:

1.-2. (No change.)

3. Fixed asset expenditures of $1,000 or more shall be capitalized and depreciated using the straight line method and a useful life consistent with current Federal tax law except for real property which may be depreciated using a useful life of 15 years or the term of the original mortgage, whichever is greater.

4.-5. (No change.)

6. A chart of accounts issued by the Commissioner shall be maintained by each approved private school for the handicapped. Each expenditure or revenue account utilized shall be reflected on the approved private school's general ledger. The approved private school shall be restricted to those account categories listed in the chart of accounts.

7. If multiple facilities for a private school have been approved, financial information shall be segregated by facility in the bookkeeping records. If both a 10 month school year program and an extended school year program have been approved, financial information shall be segregated by program in the bookkeeping records. Bookkeeping records shall include, but not be limited to:

i.-vi. (No change.)

8. (No change.)

9. A payroll shall be prepared and supported by the employee time record in a format prescribed or approved by the Commissioner, signed by the employee and supervisor, prepared in the time period in which the work was done and completed at least semi-monthly.

10. A financial report prescribed by the Commissioner shall be prepared at a minimum each quarter for the 10 month program and once at the end of the session for the extended school year program.

This report shall be submitted to the school's governing body. Acceptance of the financial report shall be documented in the minutes of the meetings.

11. (No change.)

12. An approved private school shall use the contract prescribed by the Commissioner for each pupil received from a local school district.

13. An approved private school which incurs contingent pay increases shall have in place an employee contract which contains the criteria by which the increase shall be paid. The payment of such increase must be paid if the contractual contingencies are met. The contract shall contain at least the following items:

i. The date and signature of both the staff member and authorized school representative;

ii. The specific performance or contingency which shall be met to generate the increase;

iii. The specific dollar amount or percentage of original contracted salary to be paid.

14. An approved private school for the handicapped which incurs merit pay increases shall have adopted a formal board policy which outlines the criteria of the merit pay plan(s). The plan(s) shall be filed with the Commissioner who may exclude from tuition any merit award(s) if the sole purpose of the award(s) is to avoid returning unexpended tuition funds to public schools. The plan(s) shall include the following:

i. Eligibility for all employees;

ii. Basis by which the pay is earned;

iii. The amount of the awards by plan(s);

iv. The maximum number of awards to be given by plan(s) for each year;

v. The date of board approval and date of initiation of the plan(s).

15. A petty cash fund shall be approved by the governing body and supported by documentation. The fund shall not exceed $1,500 and, except in the case of an emergency, no disbursement shall exceed $150.00.

Recodify existing 14.-15. as 16.-17. (No change in text.)

16. A mileage record shall be maintained for each school-owned vehicle, leased vehicle or vehicle contained in a related party transaction involving the purchase of transportation services in a format prescribed by the Commissioner.

17. Upon request from the Commissioner, a profit-making approved private school shall provide a copy of the Internal Revenue Service (I.R.S.) corporate tax return to the Department of Education. A non-profit approved private school shall provide a copy of I.R.S. form 990.

20. An approved private school shall maintain all pertinent financial record(s) for a period of seven years.

21. A non-profit approved private school for the handicapped shall file a copy of its corporation dissolution papers with the Commissioner within 90 days of dissolution. Such papers shall include the total dollar amount transfer of the working capital fund (public school placement restricted fund balance) and the name of the recipient non-profit corporation.

(b) An approved private school for the handicapped which receives a refund(s) from a current or prior year expenditure or cancels an accounts payable shall apply such refund or accounts payable as a reduction to the general expenditure account charged, which will reduce the current year expenditure account. If the original expenditure account charged is not charged in the current school year, such amount(s) shall be used to reduce total expenditures in the current year.

6:20-4.4 Non-Allowable costs

(a) A cost which is not allowable in the calculation of the certified actual cost per pupil includes the following:

1.-2. (No change.)

3. Costs other than those governed by (a)52 below associated with lobbying in an attempt to influence:

i. The outcome(s) of any Federal, State, or local referendum, initiative or similar activity; or
ii. The introduction of Federal legislation, State legislation or State rulemaking or the enactment or modification of any Federal legislation, State legislation or State rulemaking.

4. The salary of a professional staff member who is not certified but is functioning in a position requiring certification in accordance with N.J.A.C. 6:11;

Recodify existing 4.-5. as 5.-6. (No change in text.)

7. A salary in excess of the associated maximum salary determined in N.J.A.C. 6:20-4.1(1) for a certified employee. Part-time or split-time positions shall be prorated;

8. The salary of the director of an approved private school in excess of the maximum salary determined in N.J.A.C. 6:20-4.1(1);

9. A salary of an employee not covered by (a)7 or 8 above, who does not hold a professional license or certificate or a bachelor's degree from an accredited institution commensurate with the job function, in excess of the lowest maximum salary in the same county according to the list of maximum salaries determined in N.J.A.C. 6:20-4.1(1) when such employee is in a position which does not require certification or such employee, pursuant to a “save harmless” provision, is serving in a position requiring certification without such certification. The Bureau of Teacher Certification will determine if the individual meets the requirements;

10. A salary of an employee in a position covered by (a)9 above, who holds a professional license, or certificate or bachelor's degree from an accredited institution commensurate with the job function, in excess of the maximum salary in the same or similar job title in the same county according to the list of maximum salaries determined in N.J.A.C. 6:20-4.1(1). The Bureau of Teacher Certification will determine if the individual meets the requirements;

11. The cost of fringe benefits which are based on a non-allowable salary;

12. A legal, accounting or consultant fee resulting from a frivolous challenge to a State audit or financial review or the prosecution of a claim against the State. The Commissioner shall determine whether the challenge is frivolous by considering at least the following factors:

i. Overall merit of the claim; and

ii. (No change.)

13. A consultant fee for professional services which does not include at least a detailed list of the nature of the professional services provided, the number of days worked, the charge per day and the product or outcome of the consultation. Professional services are services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which requires knowledge of an advanced type in a field of learning and is acquired by a prolonged, formalized course of specialized instruction and study. The consultant shall hold the appropriate school certification when such certification exists;

Recodify existing 10. as 14. (No change in text.)

15. Depreciation unacceptable under N.J.A.C. 6:20-4.3(a)3 and depreciation on:

i.-ii. (No change)

iii. A single item costing below $1,000; and

iv. Autos in excess of the dollar or percentage limitation contained under Internal Revenue Service Code Section 280F;

16. An investment expense associated with the purchase/sale of stock, securities, other investment instruments or other investments not associated with the education of handicapped children;

17. Total annual costs in excess of $500.00 incurred for the entertainment of school employees, school officers, consultants and/or individuals providing professional services;

Recodify existing 14. as 18. (No change in text.)

19. The cost of a fine or penalty which results from a violation of or failure by the school to comply with a Federal, State and/or local law or rule;

Recodify existing 16. as 20. (No change in text.)

21. Fringe benefits when the benefits are determined in an arbitrary or capricious manner rather than on an existing written uniform policy based on an equitable standard of distribution, such as years of service or education or when the benefits are not an initial inducement for employment;

Recodify existing 18.-19. as 22.-23. (No change in text.)

24. Interest costs on loans when:

i. (No change.)

ii. The loan is a less-than-arm's length/related party transaction which has not been previously approved by the department;

iii. (No change.)

Recodify existing 21.-28. as 25.-32. (No change in text.)

33. The cost associated with a professional conference and/or meeting for a non-employee or employee whose position would not warrant attendance at the event;

34. The cost of travel involving the difference between first-class air accommodations and less than first-class air accommodations, except when less than first-class accommodations are not reasonably available which shall be documented by the airline or travel agent;

Recodify existing 29.-30. as 35.-36. (No change in text.)

37. The cost of staff salary, supplies or printing and reproduction of a material for a research activity;

Recodify existing 32.-33. as 38.-39. (No change in text.)

40. Transportation costs for a pupil to and from school;

41. Any costs associated with a school-owned vehicle, leased vehicle or vehicle contained in a related party transaction involving the purchase of transportation services where a mileage log was not maintained;

Recodify existing 36.-38. as 42.-44. (No change in text.)

45. Costs related to transactions between related parties in which one party to the transaction is able to control or substantially influence the actions of the other. Such transactions are defined by the relationship of the parties and include, but are not limited to, those between divisions of an institution; institutions or organizations under common control through common officers, directors, or members; and an institution and a director, trustee, officer, or key employee of the institution of his or her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. Such costs shall include, but not be limited to:

i. Rental costs for buildings and equipment in excess of the actual allocated costs of ownership (such as straight line depreciation, mortgage interest, real estate taxes, property insurance and maintenance costs) incurred by the related property owner including a 2.5 percent return calculated on the actual costs of ownership incurred by the related party. The lease agreement shall include a list of anticipated costs to be incurred by the property owner, prepared in the format supplied by the Commissioner, signed by the property owner and notarized;

ii.-iii. (No change.)

iv. Cost of personal services paid to a related party when such services are provided by an employee or consultant of the approved private school acting as an employee or agent of the related party. Cost of personal services includes all remuneration, paid or accrued, for services rendered during the school year including, but not limited to wages, salaries, management fees and fringe benefits;

v. Cost of the purchase of services in excess of the actual allocated costs of ownership (such as salaries, fringe benefits, insurance, operation, maintenance, straight line depreciation) incurred by the related party owner including a 2.5 percent return calculated on the actual costs of ownership incurred by the related party. The purchase agreement shall include a list of anticipated costs to be incurred by the related party, prepared in the format supplied by the Commissioner, signed by the property owner and notarized;

46. Cost of a less-than-arm's length/related party transaction when the related party does not provide documentation to support the actual costs of ownership to the Commissioner when requested and does not allow the Commissioner access to such information for review and audit during normal business hours. Documentation shall include, but not be limited to:

i. The related parties' tax returns; and

ii. The related parties' paid bills and cancelled checks concerning the transaction.

47. Rental costs under sale and leaseback arrangements in excess of the amount that would be incurred had the organization continued to own the property.

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3739)
48. Costs of a salary increase or merit pay award when such amount(s) were not in accordance with N.J.A.C. 6:20-4.3(a)13 or 14 or the merit pay award(s) are not consistent with the plan(s) on file with the Commissioner.

49. Indirect and direct costs associated with unrelated activities or enterprises as defined in N.J.A.C. 6:20-4.1(d).

50. Cost of the year-end certified audit prepared by an individual who does not meet the requirements contained in N.J.A.C. 6:20-4.8(a). (CITE 22 N.J.R. 3740)

51. Costs charged to account categories other than those reflected in the chart of accounts issued by the Commissioner in accordance with N.J.A.C. 6:20-4.3(a)6.

52. Costs for membership in civic, business, technical and professional organizations when the cost is:
   i. Not reasonably related to the value of the services or benefits received;
   ii. For membership in an organization which devotes any activities to influencing legislation or state regulation(s) not directly related to the educational instruction program of handicapped pupils and such activities are not subsidized by sources other than membership fees from private schools for the handicapped;
   iii. Not an established annual rate charged to all members but one which is periodically adjusted during the year; or
   iv. Not supported by an annual affidavit signed by the organization's board of directors indicating that all legal and lobbying costs not directly associated with the educational instruction programs for handicapped pupils were funded by sources other than dues from private schools for the handicapped.

53. Salary of a staff member which is not properly supported by the employee time record in a format prescribed or approved by the Commissioner in accordance with N.J.A.C. 6:20-4.3(a)9; and

54. A cost found to be patently unreasonable by the Commissioner or his or her representative(s) or the independent auditor/accountant.

6:20-4.7 Calculation of pupil attendance
   (a) Each approved private school for the handicapped shall maintain a public school register for recording pupil attendance in accordance with N.J.A.C. 6:20-1.3.
   (b) Each approved private school for the handicapped shall submit the school summary register annually to the Commissioner by September 1 to verify the average daily enrollment for the previous school year.

6:20-4.8 Audit requirements
   (a) Regardless of the fiscal year of the school, each approved private school for the handicapped shall, by November 1 of each year, submit to the Commissioner a certified audit based on the July 1 to June 30 school year. The audit shall be prepared by an independent certified public accountant of New Jersey; the accountant shall hold an uncancelled registration license as a public school accountant of New Jersey; the accountant shall file a certified copy of the audit with the Commissioner in accordance with N.J.A.C. 6:20-4.3(a)6.
   (b) The audit shall follow audit standards and a format established and published by the Commissioner.
   (c) The certified audit shall determine the certified actual cost(s) per pupil and actual tuition rate(s) charged at the end of the school year.
   (d) The auditor and school management shall discuss the results of the auditor’s determination of the certified actual cost per pupil in order for management to determine the actual tuition rate charged as a result of the audit. The actual tuition rate charged shall be an amount equal to or less than the certified actual cost per pupil. The audit report shall contain a letter signed by both the school auditor and an authorized school representative indicating that both parties met and discussed the audit and that the determination of the actual tuition rate charged was a management decision.

6:20-4.9 Appeals
   (a) The decision of the Commissioner, regarding the calculation of the tentative tuition rate pursuant to N.J.A.C. 6:20-4.1(g), regarding the approval of a tentative tuition rate pursuant to N.J.A.C. 6:20-4.2(b) and regarding conditional approval status pursuant to N.J.A.C. 6:20-4.8(i), may be appealed in accordance with N.J.S.A. 18A:6-9 and N.J.A.C. 6:24.
   (b) The decision of the Commissioner in regard to certification may be appealed to the State Board of Education in accordance with N.J.S.A. 18A:6-27.

6:20-4.10 Out-of-State approved private schools for the handicapped
   (a) Out-of-State approved private schools for the handicapped shall be approved to provide special education programs by the department of education of the state in which they are located. Exceptions to this requirement may be made only at the discretion of the Division of Special Education, the New Jersey Department of Education in accordance with N.J.A.C. 6:28-7.1(f).
   (b) The Commissioner shall abide by the tuition regulations for approved private schools for the handicapped adopted by the department of education or other regulatory agency in the state in which the private school for the handicapped is located. The approved private school for the handicapped shall submit verification of the tuition rate to the Commissioner either on prescribed forms or verification from the out-of-State department of education or other regulatory agency.
   (c) If the out-of-State approved private school for the handicapped is located in a state in which the department of education or other regulatory agency does not approve or sanction tuition rates such tuition rates shall be determined in the following manner:
      1. The approved private school for the handicapped and the sending school district or state agency that determined the placement shall mutually agree to the tuition rate. The tuition rate must be agreed upon prior to the child’s placement and a letter indicating agreement of such rate shall be forwarded to the Commissioner.
      2. An approved private school for the handicapped which is licensed as a child care facility by the New Jersey Department of Human Services shall determine a tuition rate through mutual agreement between the approved private school, the sending school district and the Department of Human Services, Office of Education. The tuition rate must be agreed upon prior to the child’s placement and documentation of such rate shall be forwarded to the Commissioner.
      3. If a tuition rate cannot be mutually agreed upon in accordance with (c)1 or 2 above, the approved private school shall file a budget in a format prescribed by the Commissioner to determine a tentative tuition rate and shall comply with the provisions of this subchapter in order to collect tuition from a New Jersey school or agency. The
ADOPTIONS

ENVIRONMENTAL PROTECTION

NEW JERSEY WATER SUPPLY AUTHORITY

Use of Water from the Manasquan Reservoir Water Supply System


Adopted: November 19, 1990 by Judith A. Yaskin, Chairperson,
New Jersey Water Supply Authority, and Commissioner,
Department of Environmental Protection.
File: November 26, 1990 as R.1990 d.629, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
DEP Docket Number: 051-89-10.
Effective Date: December 17, 1990.
Operative Date: July 1, 1990.
Expiration Date: May 13, 1993.

Summary of Public Comments and Agency Responses:

The New Jersey Water Supply Authority (hereafter “Authority”) is adopting rules at N.J.A.C. 7:11-5. The Authority held a pre-public hearing meeting with the Authority’s contractual water purchasers and interested parties to present and explain the proposed regulations embodied in these rules. Notice of the pre-public hearing meeting was provided to the contractual water purchasers and interested parties including the Public Advocate’s Office and the Board of Public Utilities. This meeting was held on December 12, 1989 at the Allaire State Park Headquartes Building conference room, Farmingdale, New Jersey, and was attended by 24 parties. Representatives from the Public Advocate, Division of Rate Counsel and the Board of Public Utilities did not attend.

A public hearing concerning these rules was held on January 11, 1990 at the Allaire State Park Headquarters Building Conference Room, Farmingdale, New Jersey, to provide interested persons the opportunity to present testimony. Notice of the public hearing was published in the Trenton Times, Newark Star Ledger, and Asbury Park Press. The notice was also mailed to the contractual water purchasers and 384 interested parties on the Authority’s mailing list including the Public Advocate’s Office and the Board of Public Utilities. Two individuals attended the public hearing and one attendee presented comments. Two letters were also received during the public comment period which closed on February 13, 1990. The written and oral comments received are summarized below:

COMMENT: N.J.A.C. 7:11-5.5(b). The time allowed for the purchaser to pay its quarterly water usage bill when due should be 30 days and not 10 days.
RESPONSE: The water purchase contracts which were negotiated specifies 10 days for cash flow reasons. It should be noted that the Manasquan Reservoir System contracts require quarterly payments as requested by the contract parties whereas the Raritan Basin System customers must pay on a monthly basis.

COMMENT: N.J.A.C. 7:11-5.5(d). The phrase “... or by any failure by the Authority to perform its obligations under the water purchase contract ...” should be deleted.
RESPONSE: The important exception, relative to the Authority’s obligations, specifies that the purchaser shall not be required to pay for any water which the Authority does not make available to the purchaser.

COMMENT: N.J.A.C. 7:11-5.5(e). The quarterly water payments under the Water Purchase Contract should be in equal installments. If unequal quarterly payments are required by the Authority, the maximum quarterly amount may coincide with a minimum quarterly gross income for the purchaser, which may strain the purchaser’s cash flow.
RESPONSE: The Authority expects quarterly payments to be equal. However, notification of any difference in quarterly payments due will not be a problem. In fact, the water purchase contracts state that “The Authority shall notify the Purchaser not later than thirty days prior to the beginning of each Annual Payment Period of the amount of the Purchaser’s Annual Payment for Uninterruptible Service hereunder,” and, if the Authority determines that the Quarterly Water Payments under this Contract and other Water Purchase Contracts should be made on a basis other than in equal installments, in order to permit the Authority to meet its obligations as they become due, it shall, concurrently with such notice, provide the Purchaser with a schedule of the amounts of each of the Quarterly Water Payments to be made by the Purchaser.” Therefore, should unequal installments become necessary, purchasers will have advance notice annually.

COMMENT: N.J.A.C. 7:11-5.5(e). The proposed rule gives the Authority the right to vary the payment schedule on 30 days notice to purchasers. Thirty days is far too short a notice provision, and the rule does not give purchasers any opportunity to challenge the Authority’s proposal. At least six months notice should be given so that purchasers can plan for their cash flow needs. In addition, the rule permits the Authority to switch to an unequal billing method only if the Authority determines that unequal payments are necessary in order to permit the Authority to meet its obligations as they become due. This determination by the Authority appears to be at the sole discretion of the Authority, without any opportunity for system purchasers to be heard prior to the implementation of the change. Any proposal to switch to an unequal billing method should be made only on notice to system purchasers and after a hearing in order that a justification for the proposed change can be made.

RESPONSE: N.J.A.C. 7:11-5.5(e). does not make provision for a variation in the quarterly payment upon 30 days notice. It provides for notification not later than thirty days prior to the beginning of each annual payment period. The annual payment period is defined in the proposed rate schedule and the Water Purchase Contracts as commencing on July 1 and ending on the next ensuing June 30. In the Water Purchase Contracts, the Authority agrees that it will adhere to at least a six-month period for official notice of any proposed rate adjustments. As a matter of discretion, the proposed quarterly payments are presented by the Authority as a part of the rate setting process which commences during the previous fall (six to eight months advance notice). The rate setting process has ample opportunities for the purchasers to evaluate the proposed quarterly payment schedules and to have input in the final recommendations of the Authority’s Hearing Officer.

COMMENT: N.J.A.C. 7:11-5.5(e). The late payment charge should be reduced from 18 percent per annum to 12 percent per annum. The 18 percent is commonly applied in commercial billing or transactions. This is not a commercial transaction. The purchasers or purveyors are not commercial institutions guided by profit making. On the contrary most of them are non-profit utility companies to serve the public.

RESPONSE: The rate which is not to exceed 18 percent was previously negotiated with the water purchasers and is a part of their contracts.

COMMENT: N.J.A.C. 7:11-5.5(h). Will any late payment interest charges be pro-rated per day?
RESPONSE: Yes.

COMMENT: N.J.A.C. 7:11-5.5(i). The purchaser should NOT be obligated to send all payments, notices, communications, requests, replies, and correspondence by Registered or Certified Mail. The purchaser should be free to decide whether it wishes to send anything by regular mail or certified mail.

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3741)
ENVIRONMENTAL PROTECTION

RESPONSE: This provision, which is also included in all water purchase contracts, was drafted by bond counsel and agreed to by the contract parties.

COMMENT: N.J.A.C. 7:11-5.5(i). Is it three days or three working days before notice becomes effective?

RESPONSE: Three working days.

COMMENT: N.J.A.C. 7:11-5.7(a). A provision for an uninterrupted service is the maximum amount to be withdrawn in any 24-hour period. This is too inflexible, especially at the present time when the reservoir system is operating only at 50 percent of its capacity. There should be some permissible tolerance over the daily withdrawal rate and the withdrawal should be averaged over a time period, for example 30 days, before there is any charge for excessive withdrawals.

RESPONSE: Under Section 6C of the Water Purchase Contracts, the Authority has pledged to operate the System such that it will not exceed the Safe Yield of the System or exceed the output capacity of the System. To assure that this commitment is met, the rates of flow and daily use must both be managed. The management parameters used for each individual user therefore consists of an instantaneous rate of flow based upon 110 percent of the specified daily rate of flow. Without these provisions the Authority would have no effective control on the total demand on the System at any point in time. In addition, uncontrolled peaking would also have an adverse impact on the electrical energy budget for the Reservoir System.

COMMENT: N.J.A.C. 7:11-5.9(c). The phrase "... until a new agreement is signed," should be added at the end of the paragraph.

RESPONSE: The Authority agrees that the following words should be added at the end of the last sentence of N.J.A.C. 7:11-5.9(c): "... until the effective date of any new agreement.

COMMENT: N.J.A.C. 7:11-5.11(a) and (c). The Force Majeure provision appears to contain a conflict; (a) states that obligations shall be suspended while (c) requires quarterly payments to be made.

RESPONSE: The complete text of the "Force Majeure" provisions can be found in Section 8 of the water purchase contracts which have been negotiated. It should be noted that this provision does not require the purchaser to pay for any water which the Authority does not make available.

COMMENT: N.J.A.C. 7:11-5.14(a) and (b). The water purchasers should be permitted to withdraw more than the daily contract amounts if needed.

RESPONSE: The response to the comment on N.J.A.C. 7:11-5.7(a) applies to these provisions as well. It should also be noted that an optional water use schedule is permitted under the terms of the Water Purchase Contracts. This optional schedule will be permitted as long as the total of all withdrawals is equal to or less than 25 mgd. The criteria for this optional water use schedule is to be found in Exhibit C of the Water Purchase Contract.

COMMENT: N.J.A.C. 7:11-5.14(c). This provision establishes the methodology by which the Authority would allocate the supply among system purchasers in the event of rationing. The rule proposal specifies that these calculations would then be used to curtail or suspend the Purchaser's withdrawal of water from the System, in which event Purchaser's payment obligation shall be reduced as provided in Section 5.8 hereof.

Therefore, the Authority recommends the addition of the following new section to N.J.A.C. 7:11-5.14: "The event of rationing, natural or otherwise, where practicable, after public notice and hearing in accordance with the "Administrative Procedure Act," P.L. 1968, c.410, as amended (N.J.S.A. 52:14B-1 et seq.), the Authority reserves the right temporarily to curtail or suspend the Purchaser's withdrawal of water from the System, in which event Purchaser's payment obligation shall be reduced as provided in Section 5.8 hereof."

The Water Purchase Contract sets forth the basis for allocation of the available supply during an emergency or drought. The method proposed to be applied for a given situation would be presented for public input. The proposed allocation method would vary depending upon such things as the nature of the emergency, severity of the drought, availability of alternative supplies and the contractual obligation to distribute the available supply equitably among all System Water Purchasers.

COMMENT: N.J.A.C. 7:11-5.14(g). The Authority should provide at least 60 days prior notice of the elimination of any restrictions due to rationing.

RESPONSE: Rationing due to emergency conditions would normally be for short term periods and therefore could not be subject to long term notification of the removal of restrictions. Notification of the removal of restrictions due to drought conditions is also contingent upon the uncertainties of rainfall patterns. Therefore, it is not possible to stipulate a date, or any other specific time frame for the removal of restrictions. The Authority will make every reasonable effort to provide advance notice of the removal of drought related restrictions.

COMMENT: N.J.A.C. 7:11-5.18(c). The Authority should remove the part of this rule that states that the Authority may order suspension of withdrawal for failure to comply with orders to repair the flow meters.

RESPONSE: This provision is consistent with the operating rules for the Authority's Raritan Basin System. The Authority's judgment is that it must retain this provision to assure corrective actions by the purchaser.

COMMENT: Why are we going through a public hearing process if indeed most of these matters are already set in the executed water purchase contracts?

RESPONSE: The water purchase contracts require the Authority to operate a system that serves various interconnected systems. During the contract negotiations the water purchasers insisted on including in the contracts many detailed requirements which would normally only have been presented as a part of a set of rules and regulations for the use of the water. Since these details are included in the executed contracts the Authority must include them unchanged in the rules and regulations. The process is also helpful in clearing up any misunderstandings and it also allows the Authority to change certain provisions which are not fixed by the contracts.

COMMENT: Do the contracts provide for relief if the water is unusable?

RESPONSE: No; however, studies throughout the engineering phase indicate that this should not be a problem.

COMMENT: What is the range of interest that would accrue to any purchaser?

RESPONSE: The tidal effect in the Manasquan River is 3/4 mile downstream of the intake facilities.

COMMENT: What is the status of towns that have not entered into purchase agreements?

RESPONSE: Keansburg MUA has an interim solution through the purchase of emergency water from New Jersey-American. To date, the Borough of Keyport has not complied with the NJDEP mandate. Freehold is expected to purchase water in the future. Some current customers may also increase their purchases before July 1, 1990 and this will reduce the O & M rate for all purchasers. The sales base may approach 15 mgd by July 1, 1990. Water purchased after that date will involve a surcharge. This will add a cost of borrowing to the system.

A new customer in the first three years or thereafter will pay principal plus additional interest accruing during the first three years, according to a different debt service schedule or they may elect to pay the full surcharge amount up front. This option would be available in the case of a new development in the community.

COMMENT: Is the DEP authority under Title 58?

RESPONSE: Yes, under the Water Supply Management Act.

COMMENT: What is the range of interest that would accrue to any new customers?

RESPONSE: The project was financed with two loans. The initial loan carried a cost of borrowing of 7.15 percent and the completion loan carried a cost of borrowing of 7.16 percent. Customers purchasing system water after July 1, 1990 must pay their proportionate share of the initial and completion loans at 7.15 percent and 7.16 percent respectively.

COMMENT: When is the start of the surcharge interest charges?

RESPONSE: July 1, 1990.

COMMENT: If the contract was under negotiation on June 1, 1990, would it be subject to additional interest charges?

RESPONSE: Not if it was under contract by July 1, 1990.

Summary of Agency-Initiated Changes

N.J.A.C. 7:11-5.9(c) provides for a penalty to be assessed if a water purchaser fails to properly renew its water purchase contract. However,
the proposed rule does not specify when the penalty will end. The Authority proposes to remedy this concern by stipulating that the penalty will be in effect until the effective date of the new agreement.

N.J.A.C. 7:11-5.14(e) establishes the methodology by which the Authority would allocate the available water supply amongst system purchasers in the event of rationing or other cause. However, the proposed rule does not provide a mechanism for input to the Authority's decision making process by the affected system purchasers. The Authority proposes to remedy this concern by adding a paragraph to the proposed rule which provides for public notice and hearing where practicable.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *(thus*)).

SUBCHAPTER 5. RULES FOR THE USE OF WATER FROM THE MANASQUAN RESERVOIR WATER SUPPLY SYSTEM

7:11-5.1 Application for water supply

Application for withdrawal of water from the Manasquan Reservoir System shall be submitted to the New Jersey Water Supply Authority (Authority) on an “Application for Water Supply” form, copies of which will be furnished by the Authority upon request. Any application for water from the Manasquan Reservoir System shall be accompanied by a water allocation permit approval from the New Jersey Department of Environmental Protection, stating the specific amount which is to be allocated to the applicant.

7:11-5.2 Definitions

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

“Authority” means the New Jersey Water Supply Authority established pursuant to N.J.S.A. 58:1B-1 et seq.

“Force Majeure” means acts of God, strikes, lockouts or other industrial disturbances, orders of the Government of the United States or the State or any agency or instrumentality thereof or of any civil or military authority, acts of terrorism, insurrections, riots, epidemics, landslides, lighting, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, explosions, breakage or accidents to machinery, pipelines, dams or canals, partial or entire failure of water supply, arrests, civil disturbances, acts of any public enemy, and any other causes not reasonably within the control of the party claiming inability to timely comply with its obligations.

“Manasquan Reservoir System” means the water supply system constructed by the Authority in Monmouth County, the major components of which are a 740 acre, four-billion gallon reservoir facility in Howell Township, a raw water intake facility and pump station located adjacent to the Manasquan River in Wall Township, and a five mile transmission pipeline connecting the reservoir and the intake facility, together with all component plants, structures and other real or personal property, and additions and improvements thereto.

“Point of delivery” means the location where the Manasquan Reservoir System’s delivery equipment interconnects with the purchaser’s interconnection system.

“Purchaser” means the party who contracts with the Authority to purchase water from the Manasquan Reservoir System.

“Purchaser interconnection system” means the building, structures, piping, valves, meters and other control apparatus and equipment, to the extent located on properties or facilities owned by the Authority, to be installed by or on behalf of, and owned by, the purchaser to connect purchaser’s water supply system with the Manasquan Reservoir System.

“Short-term service” means the supply of Manasquan Reservoir System water for interim or short-term uses, such as growing agricultural or horticultural products or meeting extraordinary requirements in consumer demand for potable water, provided on a non-guaranteed or interruptible basis.

“Standby service” means the supply of Manasquan Reservoir System water for certain occasional uses, such as fire protection or other emergencies, natural or otherwise.

“Uninterruptible service” means the supply of Manasquan Reservoir System water which the purchaser is authorized to continuously withdraw without interruption, for public water supply purposes.

7:11-5.3 Water purchase contract

(a) Water shall be withdrawn from the Manasquan Reservoir System only in accordance with the terms of this subchapter and a formal water purchase contract between the Authority and the purchaser.

(b) The water purchase contract shall be executed by the purchaser within 60 days after transmittal by the Authority; otherwise, the application for water withdrawal shall be null and void.

7:11-5.4 Rates, charges and debt service assessments

(a) The rates, charges and debt service assessments to be applied to water supplied from the Manasquan Reservoir System shall be the most current schedule of rates, charges and debt service assessments.

(b) The Authority reserves the right from time to time to adopt adjustments to the rate schedule in accordance with applicable laws and rules, including the public notice and hearing requirements and other requirements set forth in the rate schedule. If as a result of any such adjustments the annual payment for uninterruptible service is adjusted by the Authority subsequent to the notice given as provided in the rate schedule, the Authority shall notify the purchaser of the adjustment and of any revised schedule of quarterly water payments required to reflect such adjustment.

(c) The Operation and Maintenance Expense component of all rates shall be based upon point of delivery being located at the Authority’s Manasquan River intake facility and any purchaser taking delivery of Manasquan Reservoir System water at a different point of delivery will be assessed an additional charge to cover additional operation and maintenance expense associated with establishment of and making delivery at such point of delivery. Such additional charges may include, but need not be limited to, in the case of any purchaser establishing a point of delivery on the transmission line between the Manasquan River intake facility and the reservoir, an additional charge to cover the cost of pumping water to the reservoir to replace water delivered from the reservoir to such purchaser.

7:11-5.5 Payments

(a) The purchaser shall pay the Authority for all raw water taken from the Manasquan Reservoir System in accordance with the most current rate schedule.

(b) The purchaser shall make quarterly water payments for uninterruptible service not later than the 10th day of January, April, July and October in each year, with the last payment required to reflect such adjustment.

(c) As provided in (d) below, payments for uninterruptible service made with respect to all quarters of the same fiscal year shall be equal whether or not:

1. The purchaser elected to utilize the optional water use schedule as defined in the water purchase contract; or

2. The purchaser actually withdraws the full amount of water available pursuant to uninterruptible service.

(d) The purchaser is not required to make payment to the extent that the Authority does not make water available under such uninterruptible service (whether by reason of rationing or otherwise) except for an event of default by the purchaser. In all other cases, purchaser’s obligations under the terms of the water purchase contract are absolute and unconditional, and shall not, except as expressly provided for under the terms of the water purchase contract, be affected by fluctuations in consumptive use by purchaser’s customers or by any failure by the Authority to perform its obligations under the water purchase contract or be subject to any other defense or to any reduction, whether by offset, counterclaim or otherwise except for any reductions or credits provided for in the water purchase contract or in the current rate schedule.

(e) The Authority shall notify the purchaser no later than 30 days prior to the beginning of each annual payment period as defined in the rate schedule or the water purchase contract of the amount of the purchaser’s annual payment for uninterruptible service and, if the
ENVIRONMENTAL PROTECTION

Authority determines that the quarterly water payments under the water purchase contract should be made on a basis other than in equal installments, in order to permit the Authority to meet its obligations as they become due, it shall, concurrently with such notice, provide the purchaser with a schedule of the amounts of each of the quarterly water payments to be made by the purchaser.

(f) Payment for water provided to purchaser pursuant to either short-term service or standby service as defined in N.J.A.C. 7:11-5.2 or the water purchase contract, as well as for any other charges payable by reason of excessive withdrawals, shall be made within 30 days following receipt of the Authority's invoice therefore and shall be based upon Manasquan Reservoir System water actually consumed, or in the case of standby service, the demand charge referred to in the rate schedule.

(g) Payments shall be made as billed, at such place as the Authority may designate.

(h) All amounts not paid when due shall be subject to a late payment charge at two percent above the prime rate of the First Fidelity Bank, N.A., prevailing on the due date, but not to exceed 18 percent per annum, from the date when due until paid.

(i) Unless otherwise provided in the water purchase contract, any payment, notice, communication, request, reply or advice to be provided or permitted to be given, made or accepted by the Authority or purchaser to each other shall be given or be served either by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified.

1. Notice deposited in the mail in the manner described in paragraph (i) above shall be conclusively deemed to be effective, from and after the expiration of three days after it is so deposited.

2. Notice given in any other manner shall be effective only if and when received by the party to be notified.

7:11-5.6 Sale of excess water
(a) The purchaser may notify the Authority that for a period of not less than 60 days nor more than one year (surplus period) specified amounts of water available to it under the uninterrupted service provided for in the water purchase contract (surplus water) will be surplus to the needs of the purchaser, which notice shall be given not less than 30 days nor more than 90 days prior to commencement of the surplus period.

(b) Following receipt of such notice, the authority shall notify each other purchaser of the availability for purchase of the surplus water (and any surplus water under any other water purchase contract) on the same basis as provided for short-term service in the most current rate schedule.

(c) To the extent that the Authority shall receive purchase requests from purchasers for surplus water (which are in addition to and not in substitution for purchases of water on a short-term or standby service basis under existing water purchase contracts), it will use its best commercially reasonable efforts to provide such surplus water (on a pro rated basis if other surplus water is also available) to such purchasers.

(d) The Authority shall pay over to the purchaser, or credit against the amounts due or to become due from the purchaser under the water purchase contract, the amounts received from the sale of the surplus water arising under the water purchase contract after first deducting therefrom all costs and expenses (pro rated as appropriate) incurred by the Authority in carrying out this section.

7:11-5.7 Peak demand
(a) The water purchase contract shall specify the uninterrupted service which will be provided in terms of million gallons per day (mgd). This represents the maximum amount to be withdrawn in any 24 hour period except as otherwise permissible under the optional water use schedule.

(b) The maximum permitted withdrawal rate shall be specified by the Authority in the water purchase contract.

7:11-5.8 Period of contract
(a) The effective date, period of contract, and date of commencement of charges shall be set forth in the water purchase contract.

(b) The water purchase contract shall expire at the end of the specified period or unless renewed as provided for in the water purchase contract.

7:11-5.9 Renewal
(a) If the Department of Environmental Protection approves an apportionment of Manasquan Reservoir System water to the purchaser for an additional period beyond the term of the existing water purchase contract, the purchaser shall immediately give notice to the Authority.

(b) If the purchaser desires to continue withdrawal of water from the Manasquan Reservoir System beyond the expiration date specified in the current water purchase contract, the purchaser shall submit to the Authority notification of intent to renew not less than 90 days in advance of the expiration date of the current water purchase contract.

(c) If the purchaser has not submitted a notification of intent to renew as provided in (b) above, the Authority shall notify the purchaser of the expiration date of the water purchase contract. If, after such notification by the Authority, the purchaser continues withdrawal, the charge for such withdrawal will be twice the rate per million gallons as specified in the Authority's rate schedule in effect at that time until the effective date of any new agreement.

7:11-5.10 Temporary curtailment or suspension of service
In the event of an emergency, natural or otherwise, and where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Authority may temporarily curtail or suspend the purchaser's withdrawal of water from the Manasquan Reservoir System, in which event the purchaser's payment obligation shall be reduced as provided in N.J.A.C. 7:11-5.5.

7:11-5.11 Force Majeure
(a) If by reason of Force Majeure either the Authority or purchaser shall be rendered unable wholly or in part to satisfy its obligations under the water purchase contract, the obligation of that party, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed.

(b) The party claiming to be affected by the Force Majeure shall provide the other party with written notice of the facts and circumstances of the Force Majeure and how they impact upon contract performance.

(c) The existence of an element of Force Majeure shall in no event affect the obligation of the purchaser to make the quarterly water payments and other payments required under the water purchase contract (subject to the provisions of N.J.A.C. 7:11-5.5(b)), but nothing in this subchapter shall require the purchaser to make any payment for water which the Authority does not make available to the purchaser.

7:11-5.12 Assignment
(a) Neither party to the water purchase contract may assign its contractual rights or obligations without the consent of the other party or parties entitled to the benefit of such rights or obligations except for any assignment by a purchaser under the terms of a three party water purchase contract to New Jersey-American Water Company, Inc.

(b) In the case of New Jersey-American Water Company, Inc., upon any such assignment, and the delivery to the Authority of an instrument of assumption of the liabilities of the purchaser by New Jersey-American Water Company, Inc., the purchaser shall be relieved of all further liability under the terms of the water purchase contract.

7:11-5.13 Withdrawal scheduling
(a) Prior to withdrawal of Manasquan Reservoir System water, the purchaser shall submit in writing to the Authority a schedule for the normal withdrawal of water from the Manasquan Reservoir System, presented in terms of instantaneous withdrawals of water at specified gallons per minute and gallons per daily period.
You're viewing an archived copy from the New Jersey State Library.

You're viewing an archived copy from the New Jersey State Library.

(b) If the purchaser elects to utilize the optional water use schedule, it shall submit to the Authority the water use plan required by the optional water use schedule.

(c) The purchaser shall notify the Authority 48 hours in advance of any proposed departure from said schedule or plan.

(d) If an unanticipated emergency, natural or otherwise, necessitates the withdrawal of more water than contemplated by said schedule or plan, purchaser shall promptly notify, and to the extent feasible, secure prior approval of the Authority and notify the Authority of the proposed time of resumption of normal consumption.

(e) If the purchaser fails to notify the Authority, purchaser shall reimburse the Authority for any loss or expense occasioned thereby.

7:11-5.14 Withdrawal limitation

(a) The purchaser shall not withdraw any quantity of water on any day in excess of the amount in the schedule or plan submitted to the Authority pursuant to N.J.A.C. 7:11-5.13.

(b) The purchaser shall not, without the consent of the Authority, withdraw water at rates greater, in the aggregate for all supplies provided under the water purchase contract, than the maximum gallons per minute and total gallons in any daily period, as specified in the water purchase contract. These amounts shall be appropriately adjusted to reflect fluctuations in water use permissible under the optional water use schedule.

(c) The purchaser shall not withdraw any water under short-term service provisions of the water purchase contract without first giving notice to the Authority of its proposed utilization of the short-term service, and receiving approval for such utilization from the Authority, in accordance with the procedures established in N.J.A.C. 7:11-5.13.

(d) Subject to the provisions of uninterruptible service and/or short-term service as specified in the water purchase contract, purchaser may withdraw water under standby service without prior notification to the Authority.

(e) *In the event of an emergency, natural or otherwise, and, where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, P.L. 1968, c.410, as amended (N.J.S.A. 52:14B-1 et seq.), the Authority reserves the right to temporarily curtail or suspend the use of the System.* If the Authority determines that rationing Manasquan Reservoir System water is necessary, the Authority may make such modifications and repairs and the purchaser shall reimburse the Authority for any loss or expense occasioned thereby.

1. Pro rata in accordance with the volume of water available to each system water purchaser under the interruptible service provided for in the relevant water purchase contract.
2. Pro rata in accordance with the volume of water actually provided each system water purchaser during the last preceding annual payment period in which rationing of water was not necessary; or
3. Upon such other basis as shall be, in the judgment of the Authority, appropriate to distribute equitably among all system water purchasers the burden of such rationing.

(f) If the event of an emergency, natural or otherwise, and, where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, P.L. 1968, c.410, as amended (N.J.S.A. 52:14B-1 et seq.), the Authority reserves the right to temporarily curtail or suspend the use of the System.

(g) *In the event of an emergency, natural or otherwise, and, where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, P.L. 1968, c.410, as amended (N.J.S.A. 52:14B-1 et seq.), the Authority reserves the right to temporarily curtail or suspend the use of the System.* If the Authority determines that rationing Manasquan Reservoir System water is necessary, the Authority may make such modifications and repairs and the purchaser shall reimburse the Authority for any loss or expense occasioned thereby.

(h) Purchaser shall notify the Authority of the terms upon which it arranges for such alternate supply of water.

7:11-5.15 Withdrawal system

(a) Water shall be withdrawn from the Manasquan Reservoir System at purchaser's sole cost and expense. Title to all water supplied from the Manasquan Reservoir System shall be in the Authority up to the point of delivery, at which point title shall pass to the purchaser upon its withdrawal of such water.

(b) The Authority shall grant to the purchaser an easement for the term of the water purchase contract permitting access for the purchaser's staff and equipment upon, over and under Manasquan Reservoir System property as may be necessary to install and construct the purchaser's interconnection system at the point of delivery and on adjoining Manasquan Reservoir System property at or near the point of delivery, and to replace, repair, operate and maintain purchaser's interconnection system, at all purchaser's sole cost and expense.

(c) Purchaser shall submit its engineering plans for purchaser's interconnection system to the Authority and shall commence construction of such interconnection system as soon as final approval of such plans by the Authority. Purchaser shall allow the Authority to test the interconnection system prior to operation of the interconnection system. Failure to complete construction of the purchaser's interconnection system shall not affect the obligation of purchaser to make the quarterly water payments and the other payments provided for under the water purchase contract.

(d) The purchaser shall make no material alterations in purchaser's interconnection system without the prior written approval of the Authority.

(e) The purchaser shall make such changes in its withdrawal system as may from time to time be ordered by the Authority.

(f) The Authority or its designated representative shall have the right at any time to examine purchaser's interconnection system. The purchaser shall, at its sole cost and expense, within 10 days (or such longer period as may be required by law) after receipt of written demand from the Authority, make such modifications or repairs to purchaser's interconnection system as, in the opinion of the Authority, may be required to eliminate leakage of water from, or potential damage to, the System. On purchaser's failure to do so, the Authority may make such modifications and repairs and the purchaser shall reimburse the Authority promptly after demand for the Authority's cost and expense in so doing.

7:11-5.16 Meter requirements

(a) The purchaser shall purchase or construct, install, operate, maintain and repair, as part of purchaser's interconnection system, a flow meter or measuring device of a type and in a location approved by the Authority.

(b) The purchaser shall have said flow meter tested for accuracy at its own sole cost and expense before installation, by a testing firm approved by the Authority, and shall furnish a certified report of such test to the Authority.

(c) The purchaser shall have such test repeated and furnish a report of such test to the Authority.

1. At least once each year no later than the anniversary date of the meter installation;
2. Following meter repairs; and
3. At such other reasonable times as the Authority may reasonably request at purchaser's sole cost and expense.

(d) In the event that any test required pursuant to (c) above establish that the meter does not vary more than two percent from actual, such test shall be at the sole cost and expense of the Authority.

(e) In the case of a joint allocation to be operated through a single agent designated as the purchaser, there shall be provided by the purchaser in addition to the meter at the point of withdrawal, meters to measure the distribution to each of the several parties to the allocation.

7:11-5.17 Meter readings

(a) The purchaser shall meter all water withdrawn from the Manasquan Reservoir System.
ENVIRONMENTAL PROTECTION

(b) Monthly meter readings shall be taken by the purchaser on the last day of each month, unless otherwise approved by the Authority, or if that day falls on Sunday or a legal holiday, on the first working day thereafter.

(c) The purchaser shall keep a daily record of flow rates and cumulative daily water withdrawal totals and shall submit to the Authority, not later than the tenth business day of each such month, copies of such records for the preceding month.

(d) The Authority or its designated representative shall have the right at any time to examine the flow meter or other measuring device and the above mentioned records, as well as to order tests pursuant to N.J.A.C. 7:11-5.16, and repairs or replacements pursuant to N.J.A.C. 7:11-5.18.

7:11-5.18 Meter failure

(a) In the event of meter malfunction involving variances greater than two percent from actual, the Authority may estimate the amounts of water actually withdrawn and base charges upon such estimates rather than meter readings, without prejudice to the right of the purchaser in the event of any dispute to pursue any legal remedy in connection therewith. Such estimates shall be based on the purchaser's average daily withdrawals, with due consideration of the scale of plant operation before and during the breakdown period, or on such other method as the Authority shall select.

(b) In the event of repeated or prolonged failure of any meter or measuring device to operate properly, the purchaser shall, upon Authority order, repair or replace the meter or other measuring device at the purchaser's cost and expense.

(c) In the event of failure of the purchaser to comply with the order set forth in (b) above, the Authority may order suspension of withdrawal until the faulty meter or other measuring device has been repaired or replaced provided that such suspension shall not excuse the purchaser from payment of charges set forth in the applicable rate schedule.

7:11-5.19 Assistance to be furnished by purchaser

The purchaser, at his or her own expense, shall furnish the Authority such assistance as it may require for the purpose of examining the purchaser's withdrawal system, making meter tests, taking samples, or performing other duties in connection with the water purchase contract.

7:11-5.20 Water quality

(a) The water to be supplied by the Authority shall be raw, untreated water which the Authority shall supply to all system water purchasers without distinction as to source or quality of the water supplied.

(b) The Authority shall establish and maintain a system of such design as the Authority shall, in its sole discretion, deem appropriate, to monitor the water quality of ground water and surface water from which Manasquan Reservoir System water is derived and to provide the information derived from such system to the purchaser.

(c) Water withdrawn for potable use shall be treated by the purchaser to meet the standards contained in N.J.A.C. 7:10.

7:11-5.21 Disposition of facilities

Within 90 days after termination of the water purchase contract or such longer period as may reasonably be required, the purchaser shall remove from Manasquan Reservoir System property purchaser's interconnection system and any other facilities installed by purchaser on Manasquan Reservoir System property, and shall restore said property to its former condition as nearly as may be and in a manner satisfactory in the reasonable judgment of the Authority and shall release and convey any easement granted pursuant to N.J.A.C. 7:11-5.15. On purchaser's failure to do so, the authority may make such removal and restoration at the sole cost and expense of the purchaser, which cost and expense the purchaser agrees to pay on demand. The Authority also reserves the option to sell purchaser's interconnection system and other facilities to assist in defraying the cost and expense of removal and restoration. Purchaser may, within 30 days after termination of the water purchase contract, submit a written offer to sell or donate such systems and/or facilities to the Authority, which the Authority shall accept or reject in writing within 60 days.

DIVISION OF FISH, GAME AND WILDLIFE
Fish and Game Council
1991-92 Fish Code

Adopted Amendments: N.J.A.C. 7:25-6
Adopted: November 21, 1990 by the Fish and Game Council,
Cole Gibbs, Chairman.
Filed: November 26, 1990 as R.1990 d.617, with technical changes
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3).
Authority: N.J.S.A. 13:1B-29 et seq. and 23:1-1 et seq.
DEP Docket Number: 023-90-06.
Effective Date: December 17, 1990.
Operative Date: January 1, 1991.
Expiration Date: February 18, 1991.

Summary of Public Comments and Agency Responses:

Secondary notice was achieved by mailing news releases to 72 newspapers of general circulation and approximately 50 outdoor writers and specialty publications.

A public hearing concerning the proposal was held on August 14, 1990 at the Assunpink Wildlife Conservation Center of the Division of Fish, Game and Wildlife (Division) located on Eldridge Road within the Assunpink Wildlife Management Area, Robbinsville, New Jersey. Notice of the hearing was filed with the Secretary of State on August 9, 1990, was posted on the Secretary of State's bulletin board and was delivered to the Newark Star-Ledger and Atlantic City Press. The hearing was attended by 14 members of the general public of which seven presented verbal comment. There were no written comments received by the Department during the public comment period which closed on August 20, 1990.

General

COMMENT: We should continue to look at protection of species as well as exploitation—we have not done nearly enough.

RESPONSE: The Fish and Game Council is charged by statute (see N.J.S.A. 13:1B-28 and 13:1B-30) with formulating policies for the protection and propagation of fish, birds and game animals and the propagation and distribution of food fish and the keeping up of the supply thereof in the waters of this State. It is the function of the Department of Environmental Protection (Department) through the Division to ensure through scientific investigation that these functions are performed in a manner that gives due regard to the ecology, of which hunting and gathering Homo sapiens is an integral part (see N.J.S.A. 13:1D-4 and 13:1D-9). The Fish Code is designed to allow the angler to assume his natural place in the food chain, so that he is no more exploitive of the resource than any other natural predator.

N.J.A.C. 7:25-6.3(f)(1)

COMMENT: Expansion of trout-stocking to the Mulberry Street area of the Delaware-Raritan Canal in Trenton should not be undertaken because the water is not conducive to trout survival. The waters are polluted and too hot in the summer, which results in a lot of dead fish. Moreover, trout which previously would have been stocked in better native waters should not have to be diverted here—it would be better just to reset the boundary at Mulberry Street without reallocation of fish from other areas.

RESPONSE: The portion of the Delaware-Raritan Canal which is adjacent to the Mulberry Street expansion in Trenton and therefore shares its water quality is currently stocked. No fishkills in that area have been reported, and the Division has no experience of fish mortality. Moreover the proposed area has excellent access because of its relatively urban character. The adjacent portion of the canal attracts heavy angler usage and the proposed expansion is expected to provide for a significant increase in recreational opportunity, while the number of trout reallocated from other areas will be insignificant.

(CITE 22 N.J.R. 3746) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
N.J.A.C. 7:25-6.3(f)11 and 13

COMMENT: Trout should not be reallocated from one place to another in order to add to the list of trout-stocked streams. Pequest Hatchery can raise only so many fish. If they come from the Musconetcong, conservationists will be disappointed.

RESPONSE: The Division has instituted a new method of allocation for the purpose of equitably distributing fish among all trout-stocked waters. This is achieved using a formula which takes into account such factors as width, flow, angler access and capacity of the waters in question. Although this will result in some slight downward adjustments in trout stocking in some waters, the effect will not be one of removing fish from one area to supply another. Moreover, the continued success of the Wild Trout Stream Program will have the opposite effect—that of increasing the stock of trout available to other waters.

N.J.A.C. 7:25-6.3(f)21

COMMENT: It is good that Columbia Lake is no longer on the closure list, but its upstream limit which comprises the boundary between Columbia Lake and the Paulinskill River should be defined because of separate regulations regarding stocking in the lake and in the Paulinskill River.

RESPONSE: The Council felt that the distinction between Columbia Lake and the Paulinskill River was self-evident. The Warrington Road bridge which is the most downstream of the bridges in that area is the downstream limit of the Paulinskill River and the upstream limit of Columbia Lake. The Council acknowledges the support of this commenter.

N.J.A.C. 7:25-6.4

COMMENT: Fly-fishing-only regulations on State-owned waters should be replaced with lure-fishing-only restrictions. The lure-only restriction is sufficient to accomplish the objective of reducing hooking mortality in catch and release programs. Applying a fly-fishing-only restriction to State-owned waters is denying something for which they have paid.

RESPONSE: Research findings support the commenter's contention with regard to hooking mortality. All newly proposed special regulation trout fishing areas will be limited to artificial lures only—those which include fly-fishing—as opposed to fly-fishing-only regulations. Since only a few miles of stream remain restricted to fly-fishing only, the Division and Council have elected to maintain the status quo in those areas in order to provide for the traditional practice of the sport and the strong support for that opportunity as provided by these regulations. Thus, all segments of the fishing community may be accommodated.

COMMENT: Pequest Trout Conservation Area should not be extended by 0.7 miles and the “closure” date should not be extended to include the fall and the winter. Trout cannot be stocked in that area and there are very few trout there in the summer.

RESPONSE: The current half-mile Trout Conservation Area is insufficient to provide for the number of people wishing to use it. This stretch also did not include the portion of river adjacent to the fish hatchery which, because of its high-quality waters and resultant ability to support native trout, was of primary concern to the Division when it originally proposed the area. It is the extremely high-quality of these trout waters which enable the stream to support a trout fishery during the summer and justifies extension of its length to approximately 1.2 miles.

The closed season (from March 17 to April 6, 1991) is not extended, but rather the designation of Trout Conservation Area (where only one 15-inch fish may be retained) is applied from May 20, 1991 to March 16, 1992. These dates are chosen to allow the eighth and last spring stocks to be added to the already existing stocks and still permit fishing through most of the season. The new trout conservation area is to be extended to include the entire remaining length of the river.

Thus, this redesignation not only allows anglers to keep most of the fish they catch before May 20, 1991, but also provides increased angling opportunity during the summer and, incidently, opens up the fishery to those seeking access from the Pequest Hatchery parking lot.

N.J.A.C. 7:25-6.5 to 6.7

COMMENT: There is no mention of spray-on scents that can be applied to artificial lures—specifically, “power bait,” which is deadly to brook and rainbow trout. It should be prohibited in all conservation areas and natural areas.

RESPONSE: Consideration of power bait is beyond the scope of the proposal. However, regulation of biologically or chemically enhanced baits is under consideration by the Council and the Division as the subject of possible future regulation.

N.J.A.C. 7:25-6.6

COMMENT: The Wild Trout Stream Program should be discontinued. These streams contain no native trout but rather stocked trout that have escaped. Cessation of stockings in these waters has eliminated 19 waters from public use.

RESPONSE: The primary objective of the Wild Trout Stream Program, adopted in 1989, was the preservation and enhancement of the State's limited naturally reproducing trout resources. These include both native brook trout and naturally reproducing non-native trout of other species. Although these may be formerly introduced species that have escaped into the wild, they now fill a niche in the existing ecosystem;

In order to preserve this ecosystem, it is necessary to halt the practice of stocking hatchery-raised trout on top of the native trout population to eliminate competition between stocked and naturally reproducing trout for the same habitat, including food sources, and predation by fully grown stocked trout upon naturally reproducing trout fry or fingerlings.

Although the use of these streams cannot be as great as it would be if the stocking were to continue, this decrease in use is not so great as to remove these waters from public use and is necessary to preserve the naturally reproducing trout fishery.

COMMENT: The concept of the Wild Trout Stream Program is one of the best things the Division and the Council have ever come up with. As a result, New Jersey has had remarkable fishing both in terms of quality and quantity in the past year. In the areas we have trout waters, we have fishing that is the equal of any place on the East Coast.

RESPONSE: The Council and the Division acknowledge the support of this commenter.

N.J.A.C. 7:25-6.7(b)3

COMMENT: If there is to be a 15-inch one-fish limit on trout in Trout Conservation Areas, there should be one hatchery pond set aside to raise the fish to 15 inches from which to take fish to stock these streams.

RESPONSE: This section remains unchanged and is beyond the scope of the proposal.

Moreover, as noted above (see Response to N.J.A.C. 7:25-6.3(f)11 and 13 Comment), trout stocks are allocated according to a formula which takes a number of factors into account. If additional hatchery resources are diverted to raising larger trout for Trout Conservation Areas, other waters will not receive an equitable share of stocked fish, particularly since adherence to the minimum size limit will allow these fish to obtain that size in the Trout Conservation Areas as well.

N.J.A.C. 7:25-6.19(a)

COMMENT: Increase in the size limits for smallmouth bass from nine to 12 inches and for walleye from 15 to 18 inches, as well as a decrease in the daily creel limit from five to three fish for walleye in the Delaware River, are good proposals.

RESPONSE: The Council acknowledges this support of these commenters.

N.J.A.C. 7:25-6.19(a)

COMMENT: The Council should distinguish between striped bass and hybrid striped bass and should provide for a hybrid striped bass season in the Delaware River. Also, the creel limit for striped bass should not be increased from one to two.

RESPONSE: The creel limit for striped bass had been two fish. However, amendment of the Striped Bass Act, N.J.S.A. 23:9-1 et seq., to include all waters, instead of just marine waters of this State, has removed the striped bass fishery from the ambit of regulation under this Chapter (N.J.A.C. 7:25-6).

Hybrid striped bass is provided for in N.J.A.C. 7:25-6.13(n). In order to clarify the application of this section to the section governing the Delaware River between New Jersey and Pennsylvania, a reference to N.J.A.C. 7:25-6.13 has been included in N.J.S.A. 7:25-6.19 on adoption.

N.J.A.C. 7:25-6.19(b)

COMMENT: New Jersey and Pennsylvania should have a reciprocal agreement to allow licensees of either state to fish from the shores of the other along the Delaware River without being required to obtain a non-residents' license in that state.

RESPONSE: Such an agreement is legislatively prohibited by N.J.S.A. 23:9-1, which requires a non-residents' and aliens' fishing license for fishing in the Delaware River throughout its entire length within the jurisdiction of this State.
ENVIRONMENTAL PROTECTION

Summary of Agency-Initiated Changes
N.J.A.C. 7:25-6.21 is recodified N.J.A.C. 7:25-6.2 and moved to the appropriate position. A reference to N.J.A.C. 7:25-6.13(e) to (n) is added to N.J.A.C. 7:25-6.19 to avoid the impression that the exceptions listed in N.J.A.C. 7:25-6.13(a) to (d) apply to N.J.A.C. 6.13(e) to (n). Additionally, the reference to the Game Code was removed from N.J.A.C. 7:25-6.19(a) as confusing and inaccurate.

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

**SUBCHAPTER 6. 1991-92 FISH CODE**

7:25-6.1 (No change.)

*7:25-6.2 Definitions*

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Creel or possession limit" means the total number of fish that are legally retainable. Most normally this is expressed on a daily basis.

"Baitfish" shall include the following species:

1. Alewife (landlocked form) *Alosa pseudoharengus*
2. Golden shiner *Notemigonus crysoleucas*
3. Banded killifish *Fundulus diaphanus*
4. Mummichog *Fundulus heteroclitus*
5. Spotfin killifish *Fundulus luciae*
6. Rainwater killifish *Lucania parva*
7. American brook lamprey *Lampetra lamottei*
8. Fathead minnow *Pimephales promelas*
9. Bluntnose minnow *Pimephales notatus*
10. Stonecat *Noturus flavus*
11. Tadpole madtom *Noturus gyrinus*
12. Margined madtom *Noturus insignis*
13. All shiner, dace, *Notropis, Rhinichthys*, and
and minnows of the following genera: *Semotilus*.

"Closures" (closed waters) means those waters in which angling is not permitted, particularly in reference to time (also Closed Season).

"Code" means the State Fish Code.

"Creeled trout" shall mean any trout which a fisherman has in his possession.

"Director" means Director of the Division of Fish, Game and Wildlife.

"Division" means the Division of Fish, Game and Wildlife.

"Foodfish" for purposes of N.J.A.C. 7:25-6.11 only, means the following species:

1. Atlantic sturgeon *Acipenser brevirostrum*
2. White sucker *Catostomus commersoni*
3. Carp *Cyprinus carpio*
4. American eel *Anguilla rostrata*
5. Blueback herring *Alosa aestivalis*
6. Hickory shad *Alosa aestivalis*
7. American shad *Alosa sapidissima*
8. Gizzard shad *Dorosoma cepedianum*
9. Alewife (anadromous form) *Alosa pseudoharengus*
10. Yellow perch *Perca flavescens*
11. White perch *Morone americana*
12. White catfish *Ictalurus catus*
13. Black bullhead *Ictalurus melas*
14. Brown bullhead *Ictalurus nebulosus*
15. Yellow bullhead *Ictalurus natalis*
16. Channel catfish *Ictalurus punctatus*
17. Bowfin *Amia calva; and*

Any other marine fish species that is legal for taking with net in marine waters.

"Natural bait" means any bait that in its live, preserved or original form would be consumed by fish.

"Open waters" (all sections except N.J.A.C. 7:25-6.9) means those waters in which angling is permitted, particularly in reference to time.

"Open waters" (N.J.A.C. 7:25-6.9) means those waters not covered with ice.

7:25-6.3 Trout Season and Angling in Trout-Stocked Waters

(a) Except as provided in N.J.A.C. 7:25-6.4, 6.6 to 6.9, 6.18, 6.19, and (c) below; the trout season for 1991 shall commence 12:01 A.M. January 1, 1991 and extend to midnight March 17, 1991. The trout season shall re-open at 8:00 A.M. Saturday, April 6, 1991 and extend to include March 16, 1992.

(b) Except as provided in N.J.A.C. 7:25-6.4, 6.6 and 6.7 and (i) below, it shall be unlawful to fish for any species of fish from midnight of the 17th of March to 8:00 A.M. on April 6, 1991 in ponds, lakes or those portions of streams that are listed herein for stocking during 1991.

(c) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, waters with listed stocking dates shall be closed to all fishing from 5:00 A.M. to 5:00 P.M. on listed dates; included in these waters are all feeder

(CITE 22 N.J.R. 3748) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
ADOPTIONS

(d) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, in trout-stocked waters from which in-season closures will be in force, waters will be closed from 5:00 A.M. to 5:00 P.M. on dates indicated, provided that in the event of emergent conditions, the Division may suspend stocking of any or all of the following:

1. Big Flat Brook—100 ft. above Steam Mill Bridge on Crigger Road in Stokes State Forest to Delaware River—April 12, 19, 26; May 3, 10, 17, 24.
2. Black River—Route 206, Chester, the posted Black River Fish and Game Club property at the lower end of Hacklebarney State Park—April 11, 18, 25; May 2, 9, 16, 23.
3. Manasquan River—Route 9 bridge downstream to Bennetts Bridge, Manasquan Wildlife Management Area—April 8, 15, 22, 29; May 6, 13, 20.
4. Metedeconk River, N. Br.—Aldrich Road Bridge to Ridge Avenue—April 8, 15, 22, 29; May 6, 13, 20.
5. Metedeconk River, S. Br.—Bennetts Mills dam to twin wooden footbridge, opposite Lake Park Boulevard, on South Lake Drive, Lakewood—April 8, 15, 22, 29; May 6, 13, 20.
6. Musconetcong River—Lake Hopatcong Dam to Delaware River including all main stem impoundments, but excluding Lake Musconetcong, Netcong—April 12, 19, 26; May 3, 10, 17, 24.
7. Paulinskill River and E. Br. and W. Br.—County Route 468 Bridge on E. Br., Sparta Township, and Warbasse Junction Road, Route 663, on W. Br., Lafayette Twp., to Columbia Lake—April 11, 18, 25; May 2, 9, 16, 23.
8. Pequest River—Source to Delaware River—April 12, 19, 26; May 3, 10, 17, 24.
9. Pohatcong Creek—Route 31 to Delaware River—April 9, 16, 23, 30; May 7, 14, 21.
10. Ramapo River—State line to Pompton Lake—April 11, 18, 25; May 2, 9, 16.
11. Raritan River, N. Br.—Peapack Road Bridge in Far Hills to Jct. with S. Br. Raritan River—April 10, 17, 24; May 1, 8, 15, 22.
12. Raritan River, S. Br.—Budd Lake dam through Hunterdon and Somerset Counties to Jct. with N. Br. Raritan River—April 9, 16, 23, 30; May 7, 14, 21.
13. Rockaway River—Longwood Lake dam to Jersey City Reservoir in Boonton—April 8, 15, 22, 29; May 6, 13, 20.
14. Toms River—Ocean County Route 528, Holmansville, to confluence with Maple Root Branch and Route 70 to County Route 571—April 8, 15, 22, 29; May 6, 13, 20.
15. Walkill River—W. Mt. Road to Route 23 Hambur—April 8, 15, 22, 29; May 6, 13, 20.
16. Wanakee Creek—Greenwood Lake Dam to Jct. with Pequannock River, excluding Wanakee Reservoir, Monksville Reservoir and Lake Inez—April 12, 19, 26; May 3, 10, 17, 24.

(e) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, no person shall take, catch, kill or possess trout during the closed period (5:00 a.m. to 5:00 p.m.) on any of the waters listed for in-season closures.

(f) Trout stocked waters for which no in-season closures will be in force. Figure in parentheses indicates the anticipated number of stockings to be carried out from April 8 through May 31, provided that in the event of emergent conditions, the Division may suspend stocking of any or all of the following:

1. (No change.)
2. Bergen County
   Hackensack River—Lake Tappan to Harriot Avenue, Harrington Park—(4)
   Hobokun Brook—Forest Road to Whites Pond—(4)
   Indian Lake—Little Ferry—(4)
   Mill Pond—Park Ridge—(3)
   Passaic Creek—Orchard Street, Hillsdale, to Lake Street, Westwood—(4)
   Saddle River—State Line to Grove Street, Ridgewood—(5)
   Tienekill Creek—Closter, entire length—(3)
   Whites Pond—Waldwick—(4)

3. (No change.)
4. Hunterdon County
   Amwell Lake—Linnvale—(3)
   Beaver Brook—Clinton Township, entire length—(2)
   Capoeloon Creek—Pittstown, entire length—(5)
   Delaware-Raritan Feeder Canal—Bulls Island to Hunterdon—Mercer County line—(6)
   Everett township—Everittstown, entire length—(1)
   Frenchtown Brook—Frenchtown, entire length—(2)
   Hakhohake Creek—Holland Township, entire length—(5)
   Lockatong Creek—Opdyke Road Bridge, Kingwood Township to Delaware-Raritan Feeder Canal—(5)
   Mulhockaway Creek—Patterson, source to Spruce Run Reservoir—(5)
   Neshanic River—Kuhl Road to Hunterdon County Route 514—(2)
   Rockaway Creek—Readington Township, entire length—(4)
   Rockaway Creek, S. Br.—Lebanon to Whitehouse, entire length—(5)
   Round Valley Reservoir—Lebanon—(3)
   Spring Mills Brook—Spring Mills, entire length—(2)
   Spruce Run—Glen Gardner and Lebanon Township, entire length—(5)
   Spruce Run Reservoir—Clinton—(3)
   Sydney Brook—Sydney, entire length—(1)
   Wickecheoke Creek—Covered Bridge, Searsandville, to Delaware River—(2)

5. Mercer County
   Assunpink Creek—Assunpink Site 5 dam upstream of Rt. 130 Bridge to Carnegie Road, Hamilton Township—(4)
   Colonial Lake—Lawrence Township—(3)
   Delaware-Raritan Canal—Mulberry Street Trenton, to Alexander St., Princeton—(4)
   Delaware-Raritan Feeder Canal—Hunterdon-Mercer County line to Upper Ferry Road Bridge—(6)
   Rosedale Lake—Rosedale—(3)
   Stony Brook—Woodville to Port Mercer—(4)
   (No change.)

6. Monmouth County
   Big Brook—Clove Hill, Route 34 to Swimming River Reservoir—(2)
   Englishtown Mill Pond—Englishtown—(3)
   Garvey's Pond—Navesink—(3)
   Hoockhocksen Brook—Hoockhocksen Road to Garden State Parkway Bridge (northbound)—(5)
   Holmdel Park Pond—Holmdel—(5)
   Manasquan Reservoir—Howell Township—(3)
   Mingamahone Brook—Farm indulge, Hurley Pond Road to Manasquan River—(5)
   Mohawk Pond—Red Bank—(4)
   Pine Brook—Tinton Falls, Jersey Central Railroad to Hoockhocksen Brook—(2)
   Shark River—Hamilton, Route 33 to Rensselaer Road—(5)
   Spring Lake—Spring Lake—(3)
   Takanessee Lake—Long Branch—(4)
   Topenemus Lake—Freehold—(3)
   Yellow Brook—Heyers Mill Road to Muhlenbrink Rd., Colts Neck Township—(2)

7. Morris County
   Beaver Brook—Rockaway, entire length—(3)
   Burnham Park Pond—Morristown—(4)
   Drakes Brook—Flanders, entire length—(5)
   Hibernia Brook—Hibernia, entire length—(5)
   India Brook—Mountainside Ave. to Route 24, Ralston—(5)
   Lake Hopatcong—Lake Hopatcong—(3)
   Lake Musconetcong—Netcong—(3)
   Mill Brook—Center Grove, entire length—(6)
   Pompton River—Pequannock Township (see Pequannock Co.)—(4)
ENVIRONMENTAL PROTECTION (CITE 22 N.J.R. 3750)

Lower Echo Park Pond—Mountainside—(2)
Milton Lake—Madison Hill Road Bridge to Milton Lake Dam, Rahway—(4)
Rahway River—Route I-78 Bridge, Springfield, to St. George Ave. (Route 27), Rahway—(4)
Seeleys Pond—Berkeley Heights—(3)
21. Warren County
Barker’s Mill Brook—Vienna, entire length—(1)
Beaver Brook—Silver Lake Dam to Pequest River—(5)
Blair Creek—Hardwick Center to Blair Lake—(2)
Blair Lake—Blairtown—(3)
Buckhorn Creek—Roxburg, entire length—(2)
Columbia Lake and Gatehole—Knowlton Township—(3)
Dunnfield Creek—Delaware Water Gap National Recreation Area, entire length—(2)
Furnace Brook—Oxford, entire length—(2)
Furnace Lake—Oxford—(3)
Honey Run—Swayne’s Mill Road to Route 519, Hope Township—(2)
Jacksons Creek—Jacksonburg, entire length—(2)
Lopatcong Creek—Route 519 to South Main Street, Phillipsburg—(5)
Merrill Creek—Stewartsville, below reservoir—(2)
Merrill Creek Reservoir—Stewartsville—(3)
Mountain Lake—Buttzville—(3)
Pohatcong Creek—Mt. Bethel to Route 31—(2)
Pophandusing Creek—Oxford Road, Hazen, to Delaware River—(2)
Roaring Rock Brook—Brass Castle, entire length—(2)
Trout Brook—Hackettsown, entire length—(2)
Trout Brook—Hope, entire length—(2)
(g) There shall be no minimum size prescribed for brook trout, brown trout, rainbow trout or hybrids thereof except as designated in N.J.A.C. 7:25-6.5 to 6.9.
(h) A person shall not take, kill, or have in possession in one day more than six in total of brook trout, brown trout, rainbow trout, lake trout or hybrids thereof during the period extending from 8:00 A.M. April 6, 1991 until midnight May 31, 1991 or more than 4 of these species during the periods of January 1, 1991 to midnight March 17, 1991 and June 1, 1991 through midnight March 16, 1992 except as designated in N.J.A.C. 7:25-6.4 to 6.9.
(i) Spruce Run Reservoir in Hunterdon County will remain open to angling year-round. Trout, if taken during the period commencing at midnight, March 17, 1991 extending to 8:00 A.M., April 6, 1991 must be returned to the water immediately and unharmed.
7:25-6.4 Special Regulation Trout Fishing Areas—Fly Fishing Waters
(a) From 5:00 A.M. on Monday, April 15, 1991 to and including November 30, 1991 the following stretches are open to fly-fishing only, and closed to all fishing from 5:00 A.M. to 5:00 P.M. on the days listed for stocking:
1. -2. (No change.)
(b) Beginning January 1, 1991 to midnight March 17, 1991 and from 8:00 a.m. on April 6, 1991 to midnight March 16, 1992 the following stretch is open to fly-fishing only, but is closed to all fishing from 5:00 A.M. to 5:00 P.M. on days listed for stocking:
1. (No change.)
(c) (No change.)
(d) The following rules shall apply to the above designated fly-fishing waters:
1. (No change.)
2. Not more than 6 trout may be killed daily during the April 6 through May 31 portion of the season; at other times the limit is four. Trout in excess of the creel limit may be caught provided such trout are immediately returned to the water unharmed.
3. No bait or lures of any kind may be used except artificial flies which are expressly limited to dry flies, wet flies, bucktails, nymphs and streamers. Expressly prohibited are metal, plastic or wooden lures, plugs, spinners and flies with spinners attached, or any multiple-hooked device. In the Musconetcong “no kill” area, only single pointed barbless hooks may be used.

(CITE 22 N.J.R. 3750)
ADOPTIONS

4. Also expressly prohibited are spinning reels or any type of angling whereby the fly is cast directly from the reel.

5. No person may have in possession while engaged in angling on the waters designated as fly waters, any natural bait, live or preserved, in that period of time during which fly-fishing only is in effect.

7:25-6.5 Special Regulation Trout Fishing Areas—Seasonal Trout Conservation Areas

(a) The following stretch of the Pequest River is designated as a Seasonal Trout Conservation Area: An approximate 1.0 mile portion of the Pequest River, within the Pequest Wildlife Management area, extending from the County bridge on Pequest Furnace Road at Pequest upstream to the Conrail Railroad Bridge upstream of the Pequest Trout Hatchery Access Road.

(b) During the period of May 20, 1991 through March 16, 1992 the following regulations shall apply to the above designated Pequest River Trout Conservation Area:

1. -5. (No change.)

7:25-6.6 Special Regulation Trout Fishing Areas—Wild Trout Streams

(a) The following streams, or portions thereof, are designated as “Wild Trout Streams.” Listing of streams in this category does not convey the right to trespass or fish on private lands without the landowner’s permission. These waters will not be stocked with trout. Unless otherwise noted, the entire length of the stream is included in the designation:

1. -5. (No change.)

6. Dark Moon Brook, also known as Bear Brook (Johnsonburg)

7.-12. (No change.)

13. Lomerson Brook, also known as Herzog Brook (Pottersville)

14.-28. (No change.)

29. Willoughby Brook, also known as Buffalo Hollow Brook (Clinton Twp.)

(b) The following shall apply to the wild trout streams designated at (a) above:

1. -3. (No change.)

4. During the period extending from 8:00 A.M. April 6, 1991 to September 15, 1991, a person shall not have in possession any more than two legally sized dead, creelied or otherwise appropriated trout. No trout may be killed or possessed during other times of the year. Any number of trout may be caught provided they are immediately returned to the water unharmed; and

5. (No change.)

7:25-6.7 (No change in text.)

7:25-6.8 Special Regulation Trout Fishing Areas—Trophy Trout Lakes

(a) (No change.)

(b) The following rules apply to the Trophy Trout Lake designated at (a):

1. -3. (No change.)


5. (No change.)

7:25-6.9 Special Regulation Trout Fishing Areas—Major Trout Stocked Lakes

(a) (No change.)

(b) The following regulations apply to the above designated Major Trout Stocked lakes.

1. -2. (No change.)

3. A person shall not take, kill or have in possession, in one day, more than 6 in total of brook trout, brown trout, rainbow trout, lake trout or hybrids thereof during the period extending from 8:00 A.M. April 6, 1991 until May 31, 1991 or more than 4 of these species during the periods of January 1, 1991 to midnight March 17, 1991 and June 1, 1991 through midnight March 16, 1992. Trout, if taken during the period commencing at midnight, March 17, 1991 and extending to 8:00 A.M., April 6, 1991 must be returned to the water immediately and unharmed.

4. (No change.)

ENVIRONMENTAL PROTECTION

5. In Merrill Creek Reservoir, the season for lake trout shall extend from 12:01 A.M. January 1, 1991 to midnight September 15, 1991 and from December 1, 1991 to midnight September 15, 1992.

7:25-6.10 Baitfish

(a) Except as provided for in trout-stocked waters listed in N.J.A.C. 7:25-6.3, 6.11, and (b) and (c) below, up to 35 baitfish per person per day may be taken from the freshwaters of the state with a seine not over 50 feet in length in all ponds and lakes which have an area of over 100 acres, and in all other waters with a seine not over 30 feet in length, year-round. Minnow traps not larger than 24 inches in length with a funnel mouth no greater than 2 inches in diameter or an umbrella net no greater than 3.5 feet square may be used in any of the freshwaters of the state.

(b) In waters listed in N.J.A.C. 7:25-6.3 to be stocked with trout, it is prohibited to net, trap or attempt to net or trap baitfish from March 17 to June 15th except where the taking is otherwise provided for. For the remainder of the year, up to 35 baitfish per person per day may be taken with a seine not over 10 feet in length and 4 feet in depth or a minnow trap not larger than 24 inches in length with a funnel mouth no greater than 2 inches in diameter or an umbrella net no greater than 3.5 feet square.

(c) (No change.)

(d) Baitfish may be taken from the freshwater of the State in number greater than 35 per day under special permit issued by the Division in its discretion.

7:25-6.11 Nets

(a) (No change.)

(b) In the tidal freshwaters of New Jersey other than the Delaware River, its tributaries and tributaries to Delaware Bay:

1. No person shall catch or take or attempt to catch and take fish of any kind or description by means of a net, or use a net of any character except for fyke nets and nets commonly used for the purpose of taking of baitfish, from Saturday at 2:00 P.M. until the following Sunday at 12 midnight.

2. It shall be legal to take baitfish by means of a bait seine not more than 150 feet in length or a dip net not to exceed 24 inches in diameter.

3. It shall be legal to take foodfish as defined in N.J.A.C. 7:25-6.2 by the following means:

   i.-iii. (No change.)

   iv. Drifting gill nets, the smallest mesh of which shall be five inches while being fished, and shall not exceed 50 fathoms in length, for all species excepting striped bass. March 1 to June 15.

(c) In the tidal waters of the tributaries of the Delaware River, in New Jersey, between Trenton Falls and Birch Creek:

1. No person shall catch or take or attempt to catch and take fish of any kind or description by means of a net, or use a net of any character, except for fyke nets and nets commonly used for the purpose of taking baitfish, from Saturday at 2:00 P.M. until Sunday at 12 midnight next ensuing in each week.

2. It shall be legal to take baitfish by means of minnow seine not more than 100 feet in length; a dip net not more than five feet square; a minnow trap, the opening of which shall not be more than 1¼ inches in diameter; or a scoop net with a single handle and a diameter or not more than two feet.

3. It shall be legal to take foodfish as defined in N.J.A.C. 7:25-6.2 by means of a seine, gill net, eel pot or fyke net, each without wings, or a parallel net at the edge of low water.

4. It shall be illegal to take or attempt to catch and take Atlantic sturgeon by means of a seine or gill net the meshes of which are less than 13 inches stretched measure while being fished, or to catch and take or attempt to catch or take any other food fish with a seine the meshes of which shall be less than 2½ inches stretched measure while being fished, or any gill net the meshes of which shall be less than 5¼ inches stretched measure while being fished, provided that gill nets with a mesh not smaller than three inches may be used from March 1 through June 10 in each year, for the purpose of taking herring only. No persons shall catch and take or attempt to catch and take any foodfish, except Atlantic sturgeon, by means of a seine or gill net between June 10 in each and every year, and March 1 next
ensuing. Suckers may be taken with seine only from October 15 in each and every year to March 15 next ensuing.

5. No person shall catch and take or attempt to catch and take fish of any kind, with a pound net, or net of any character, which is anchored or staked or fastened down in any manner, permanently or otherwise, or any net so anchored or fastened down in any manner, except for a parallel net set at the edge of low water, but no such net shall be set within 500 feet of a sluice, breach or intake emptying into the Delaware River or its tributaries.

6. Eelpots and fyke nets, each without wings, may only be used from July 1 to May 31, both dates inclusive, each year for the purpose of catching carp, catfish, eels, and suckers only, provided that the entrance of said eelpot and fyke net shall not be more than six inches in diameter and the outside diameter not more than 30 inches. All other species of fish which may be caught in said nets must be returned unharmed immediately to the waters from which taken.

7. Parallel nets whose meshes are not less than 3½ inches stretched measure, when being fished, may be used from September 1 to May 31, next ensuing in each year for the purpose of taking carp only. No such net shall be set in a manner that will impede navigation.

8. Seines with meshes not smaller than 2 ½ inches, and case nets may be used from September 1 to May 31 for the purpose of taking catfish and carp only. All fish other than catfish and carp shall be returned unharmed to the water below low-water mark.

9. Fyke nets and nets commonly used for the purpose of taking carp, catfish, eels and suckers only, provided that the minimum size of largemouth bass in lakes, ponds and reservoirs shall be 12 inches and in rivers, streams and other waters it shall be nine inches, except that in Lake Hopatcong during the period of April 1 through June 15, an 18-inch minimum size limit shall be in effect. There shall be no size limit on largemouth bass in Round Valley Reservoir.

10. The daily creel and possession limit for largemouth bass and smallmouth bass shall be five in total except that in Lake Hopatcong during the period of April 1 through June 15, the limit for largemouth bass is one.

(g) Warmwater fish in excess of the daily limit may be caught provided they are returned to the water immediately and unharmed.

(b) (No change in text.)

(i) The minimum length prescribed for northern pike shall be 24 inches and 30 inches for the muskellunge and tiger muskie. The daily creel and possession limit for these species shall be two in aggregate.

(j) Fishing for all species of freshwater fish is permitted 24 hours daily except on those days that certain trout waters are closed for stocking during April and May.

(k) The daily creel and possession limit for chain pickerel shall be five.

(l) The minimum length prescribed for walleye shall be 15 inches, except for Monksville Reservoir, Wanaque Reservoir and the Wanaque River between Greenwood Lake and Monksville Reservoir, where it shall be 18 inches.

(m) The daily creel and possession limit for walleye shall be five, except for Monksville Reservoir, Wanaque Reservoir and the Wanaque River between Greenwood Lake and Monksville Reservoir, where it shall be two with a closed season during the period of March 1, 1991 to April 30, 1991.

(n) The minimum length for striped bass x white bass hybrid shall be 16 inches. The daily creel and possession limit shall be two.

7:25-6.14 Ice fishing

(a) Except as provided in N.J.A.C. 7:25-6.3, ice fishing shall be permitted whenever ice is present.

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

7:25-6.15 Bow and arrow fishing

(a) Except as provided in N.J.A.C. 7:25-6.3, 6.18 and 6.19, it shall be legal to take any species of fish except brook trout, lake trout, brown trout, rainbow trout, landlocked Atlantic salmon, largemouth bass, smallmouth bass, striped bass, chain pickerel, northern pike, walleye, muskellunge, or any hybrids of any of these species, at any time by use of bow and arrow with line attached, provided a person has a proper fishing license. For the purpose of this section a bow means any longbow, recurved bow or compound bow that is hand-held and hand-drawn.

7:25-6.16 Closed waters

(a) It is illegal to fish, place any contrivance for the taking of fish, or attempt to catch or kill fish by any manner or means in any fish ladder or within 20 feet of any fish ladder entrance or exit.

(b) It is illegal to fish or attempt to catch or kill fish by any manner or means in waters within the boundaries of the State Fish Hatcheries, except where specifically permitted, that is, the Musconetcong River and Pequest River.

7:25-6.17 Emergency closure notice

It shall be illegal to fish or attempt to catch or kill fish by manner or means in any waters for which the Director of the Division of Fish, Game and Wildlife, upon approval of the Fish and Game Council, issues an Emergency Closure Notice. Such notice shall be effective and/or rescinded immediately upon public notification. It shall be based upon imminent threat to the well-being of the fishery resource and/or its users, and may include any exceptions to the total ban on fishing that the Director deems practical.
**AD SpoTIONS**

### 7:25-6.18 Greenwood Lake

(a) In cooperation with the New York State Department of Environmental Conservation, Division of Fish and Wildlife, the following rules for Greenwood Lake, which lies partly in Passaic County, shall be enforced on all of Greenwood Lake unless the context clearly indicates otherwise.

<table>
<thead>
<tr>
<th>Species</th>
<th>Season</th>
<th>Size Limit</th>
<th>Creel Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trout</td>
<td>April 6-Sept. 30</td>
<td>No minimum</td>
<td>5</td>
</tr>
<tr>
<td>Largemouth bass &amp; smallmouth bass</td>
<td>No closed season</td>
<td>12&quot; minimum</td>
<td>5</td>
</tr>
<tr>
<td>Chain pickerel</td>
<td>No closed season</td>
<td>15&quot; minimum</td>
<td>5</td>
</tr>
<tr>
<td>Muskellunge &amp; any hybrid thereof</td>
<td>No closed season</td>
<td>30&quot; minimum</td>
<td>1</td>
</tr>
<tr>
<td>All other species</td>
<td>No closed season</td>
<td>No minimum</td>
<td>No limit</td>
</tr>
</tbody>
</table>

(b) On Greenwood Lake, fishing will be permitted 24 hours a day.

c. Either New York or New Jersey fishing licenses will be honored.

d. Bow and fishing for carp, suckers, herring, catfish and eels will be permitted on Greenwood Lake by properly licensed fishermen.

2. (No change.)

3. On Greenwood Lake, fishing will be permitted 24 hours a day.

4. Either New York or New Jersey fishing licenses will be honored on all of Greenwood Lake.

5. Bow and fishing for carp, suckers, herring, catfish and eels will be permitted on Greenwood Lake by properly licensed fishermen.

### 7:25-6.19 Delaware River between New Jersey and Pennsylvania

(a) In cooperation with the Pennsylvania Fish Commission, except as provided in N.J.A.C. 7:25-6.13(e) to (n), the following regulations for the Delaware River between New Jersey and Pennsylvania are made a part of the New Jersey State Fish and Game Code and will be enforced by the conservation authorities of each state.

<table>
<thead>
<tr>
<th>Species</th>
<th>Season</th>
<th>Size Limit</th>
<th>Daily Creel Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trout</td>
<td>April 6-Sept. 30</td>
<td>No minimum</td>
<td>5</td>
</tr>
<tr>
<td>Largemouth bass &amp; smallmouth bass</td>
<td>No closed season</td>
<td>12&quot; minimum</td>
<td>5</td>
</tr>
<tr>
<td>Walleye</td>
<td>No closed season</td>
<td>18&quot; minimum</td>
<td>3</td>
</tr>
<tr>
<td>Chain pickerel</td>
<td>No closed season</td>
<td>12&quot; minimum</td>
<td>5</td>
</tr>
<tr>
<td>Muskellunge &amp; any hybrid thereof</td>
<td>No closed season</td>
<td>30&quot; minimum</td>
<td>2</td>
</tr>
<tr>
<td>Northern pike</td>
<td>No closed season</td>
<td>24&quot; minimum</td>
<td>2</td>
</tr>
<tr>
<td>Baitfish, fish bait</td>
<td>No closed season</td>
<td>No minimum</td>
<td>50</td>
</tr>
<tr>
<td>Shortnose sturgeon</td>
<td>Closed-endangered species</td>
<td>No minimum</td>
<td>No limit</td>
</tr>
</tbody>
</table>

2. Fishing licenses of either New Jersey and Pennsylvania will be recognized in the Delaware River from water’s edge to water’s edge and fishermen will be permitted to take off in a boat from either shore and on returning, to have in possession any fish which may be legally taken in New Jersey and Pennsylvania, however, any person fishing from the shore must obtain a license in New Jersey and Pennsylvania on whose shore fishing is done. Residents of Pennsylvania must possess a New Jersey non-resident license if they fish from the New Jersey bank.

3. Angling may be done with two rods each with one line or two lines or one of each. Not more than three single hooks or three burrs of lines or one of each may be used per line.

4. Ice fishing shall be legal whenever ice is present. Open (unfrozen) water creel and size limits shall apply. The maximum size of the ice hole shall not exceed 10 inches in diameter. Five tip-ups or any combination of five devices that will include tip-ups of not more than two rods and lines or two hand lines or one of each may be used.

5. Spears (not mechanically propelled) and longbows may be used to take shad, eels, carp, suckers, herring and bullheads by properly licensed fishermen, except within 50 rods (825 feet) of an eel weir.

6. Bait fish may be taken and possessed for personal use only but not to exceed 50 per day.

7. Eel weirs for the catching of carp, catfish, eels, and suckers only, may be operated under permit from the Division of Fish, Game and Wildlife at any time of the year and at any time of day.

### 7:25-6.20 Fresh tidal tributaries of the Delaware River and Bay

The minimum length prescribed for Atlantic sturgeon shall be 60 inches with no daily creel limit.

### 7:25-6.21 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

- "Creeled trout" shall mean any trout which a fisherman has in his possession.
- "Creeled" means the State Fish Code.
- "Cod" shall mean the State Fish Code.
- "Closures" (closed waters) means those waters in which angling is not permitted, particularly in reference to time (also Closed Season).
- "Director" means Director of the Division of Fish, Game and Wildlife.
- "Division" means the Division of Fish, Game and Wildlife.
- "Foodfish" for purposes of N.J.A.C. 7:25-6.11 only, means the following species:
  1. Atlantic sturgeon
  2. White sucker
  3. Carp
  4. American eel
  5. Blueback herring
  6. Hickory shad

- "Largemouth bass & smallmouth bass" means the following species:
  1. Alewife (landlocked form)
  2. Golden shiner
  3. Banded killifish
  4. Mummichog
  5. Spotfin killifish
  6. Rainwater killifish
  7. American brook lamprey
  8. Fathead minnow
  9. Bluntnose minnow
  10. Stonecat
  11. Tadpole madtom
  12. Margined madtom
  13. All shiner, dace, Notropis, Rhinichthys, and minnows of the following genera: Semotilus.

- "American brook lamprey" means Lampetra lamottei.
- "American brook lamprey" means Lampetra lamottei.
- "American brook lamprey" means Lampetra lamottei.
- "American brook lamprey" means Lampetra lamottei.
- "American brook lamprey" means Lampetra lamottei.
- "American brook lamprey" means Lampetra lamottei.
ENVIRONMENTAL PROTECTION

in marine waters.
forms would be consumed by fish.
with ice.
not covered with ice.
strains thereof:
and strains thereof, which are provided for by the provisions of this Code, either directly or implied, are as follows:

1. Shortnose sturgeon Acipenser brevisrostrum
2. Atlantic sturgeon Acipenser oxyrhynchus
3. Striped bass hybrid Morone saxatilis x Morone chrysops
4. White sucker Catostomus commersoni
5. Creek chubsucker Erimyzon oblongus
6. American eel Anguilla rostrata
7. Blueback herring Alopa aestivialis
8. Hickory shad Alopa mediocris
9. American shad Alopa sapidissima
10. Gizzard shad Dorosoma cepedianum
11. Alewife (anadromous form) Alopa pseudoharengus
12. Chinook salmon Oncorhynchus tshawytscha
13. Black bullhead Ictalurus melas
14. Brown bullhead Ictalurus nebulosus
15. Yellow bullhead Ictalurus natalis
16. Channel catfish Ictalurus punctatus
17. Bowfin Amia calva
18. Any other marine fish species that is legal for taking with net in marine waters.

“Natural bait” means any bait that in its live, preserved or original form would be consumed by fish.

“Open waters” (all sections except N.J.A.C. 7:25-6.8) means those waters in which angling is permitted, particularly in reference to time.

“Open waters” (N.J.A.C. 7:25-6.8) means those waters not covered with ice.

“Other fish species”, and all hybrids and strains thereof, which are provided for by the provisions of this Code, either directly or implied, are as follows:

1. Brook trout Salvelinus fontinalis
2. Lake trout Salvelinus namaycush
3. Brown trout Salmo trutta
4. Rainbow trout Oncorhynchus mykiss

“Unattended” means user not available for questioning by officer at the time of inspection.

“Warmwater fish” includes the following species and all hybrids and strains thereof:

1. Largemouth bass Micropterus salmoides
2. Smallmouth bass Micropterus dolomieu
3. Black crappie Pomoxis nigromaculatus
4. White crappie Pomoxis annularis
5. Rock bass Ambloplites rupestris
6. Redbreast sunfish Lepomis auritus
7. Green sunfish Lepomis cyanellus
8. Pumpkinseed Lepomis gibbosus
9. Bluegill Lepomis macrochirus
10. Longear sunfish Lepomis megalotis
11. Redear sunfish Lepomis microlophus
12. Yellow perch Perca flavescens
13. Walleye Stizostedion vitreum vitreum
14. White perch Morone americana
15. White catfish Ictalurus catus
16. Black bullhead Ictalurus melas
17. Brown bullhead Ictalurus nebulosus
18. Yellow bullhead Ictalurus natalis
19. Channel catfish Ictalurus punctatus
20. Redfin Esox americanus americanus
21. Northern pike Esox lucius
22. Maskellunge Esox masquinongy
23. Chain pickerel Esox niger
24. Bowfin Amia calva
25. Carp Cyprinus carpio

HEALTH

DIVISION OF COMMUNITY HEALTH SERVICES

Catastrophic Illness in Children Relief Fund Program

Adopted Amendments: N.J.A.C. 8:18-1.2, 1.5, 1.6, 1.8, 1.18 and Appendix I

Adopted: November 21, 1990 by the Catastrophic Illness in Children Relief Fund Commission, with the approval of Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health.

Filed: November 26, 1990 as R.1990 d.619, without change.

Expiration Date: November 6, 1994.

Summary of Public Comments and Agency Responses:
The proposed amendments were published on September 4, 1990. During the comment period, nine comments in support of the proposed amendments were received from various agencies and interested parties. None were received from agencies or interested parties opposing the proposed amendment.

COMMENT: New Jersey State School Nurses Association, Monmouth County Office of Social Services Foundation, Bergen and Cumberland County Special Child Health Services Case Management Units and the County Office of Social Services Foundation, Bergen and Cumberland County Special Child Health Services Case Management Units support the proposed amendments.

RESPONSE: The Department appreciates their support, and will consider these additional comments at a later date.

COMMENT: Camden County Special Child Health Services Case Management Unit remarked on various issues that were non-specific to the proposed amendments.

RESPONSE: The Department will consider these additional comments at a later date.

COMMENT: Cape May, Mercer and Morris County Special Child Health Services Case Management Units support the proposed amendments which would enable the Program to help families with a greater portion of their out-of-pocket medically-related expenses. The agencies also remarked on other aspects of the program, which were not specific to the proposed amendments.

RESPONSE: The Department appreciates their support, and will consider these additional comments at a later date.

COMMENT: Camden County Special Child Health Services Case Management Unit remarked on various issues that were non-specific to the proposed amendments.

RESPONSE: The Department will consider these additional comments at a later date.

Full text of the adoption follows.

8:18-1.2 Definitions

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

Eligibility standard" means that dollar amount equal to 30 percent of the family's income.

"Family responsibility" means the amount equal to 10 percent of the family's income.

8:18-1.5 State Office and Commission review process

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

(d) In a cycle of batch reviews, the Commission shall review the applications and the State Office's disbursement schedule for each

(CITE 22 N.J.R. 3754) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
application based on the annual cap and the sliding payment schedule and make a decision on the Fund’s level of assistance for each case. The calendar for the batch reviews shall be made available to the public by the State Office in advance of each year.

8:18-1.6 Eligibility standard

Incur a sliding payment schedule that is adjusted for the outcome of the batch reviews. The calendar for the batch reviews shall be made available to the public by the State Office in advance of each year.

8:18-1.8 Sliding payment schedule

If adequate funds do not exist in the Fund at the point in time when a particular batch is being considered by the Commission to pay all applicants the amount of their expenses below the annual cap, a sliding payment schedule shall be used in an effort to distribute the available monies to applicants in an equitable way that considers a family’s income, assets and other factors which impact the ability to pay for care.

8:18-1.18 Special cases

In special cases in which a family has more than one child, a sliding payment schedule shall be used in an effort to distribute the available monies to applicants in an equitable way that considers a family’s income, assets and other factors which impact the ability to pay for care.

APPENDIX I

EXAMPLES OF CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND PROGRAM

8:18-1.2 and 1.7

The examples below illustrate the extent to which the Fund would assist two families with different income levels.

AGENCY NOTE: The following examples are to be added to the New Jersey Administrative Code.

FAMILY #1 (with income of $30,000)

Family Income: $30,000

Eligibility Standard (30% of Family Income): $9,000

Amount of Eligible Medical Expenses Not Covered by Insurance: $15,000

Family Responsibility (10% of Family Income): $3,000

Amount of Fund’s Financial Assistance to Family: $12,000

Amount for which Family remains responsible: $3,000

FAMILY #2 (with income of $80,000)

Family Income: $80,000

Eligibility Standard (30% of Family Income): $24,000

Amount of Eligible Medical Expenses Not Covered by Insurance: $15,000

Family Responsibility (10% of Family Income): $8,000

Amount of Fund’s Financial Assistance to Family: $0

Amount for which Family remains responsible: $15,000

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Medical Day Care Manual

Reimbursement Methodology

Adopted Concurrent Amendment: N.J.A.C. 10:65-2.1


Adopted: November 19, 1990, by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: November 19, 1990 as R.1990 d.609, without change.

Authority: N.J.S.A. 30:4D-6b(16), 7, 7a, b and c; 30:4D-12.

Effective Date: November 19, 1990.


Summary of Public Comments and Agency Responses:

There were two comments. One commenter was Richard R. Speranza, Vice President, HUBCO Health Care Group. The commenter requested that the Division establish a cost-based reimbursement methodology that would yield a more equitable way of determining rates and might increase provider participation. The Division’s response is that it is not prepared to develop and monitor such a methodology at this time due to staffing constraints. The other commenter was James E. Cunningham, New Jersey Association of Health Care Facilities, who was concerned that the 43 percent rate might not be equivalent to the “previous formula of 55 percent of the ICFB rate.” The Agency’s response is that the rate was increased to 45 percent in a proposal that appeared in the November 5, 1990 issue of the New Jersey Register at 22 N.J.R. 3327(b). There is also a provision for a one-time retroactive adjustment back to October 1, 1990. However, the Agency needs to adopt this proposed amendment because the “previous formula” is no longer valid after September 30, 1990 because there is no more ICFB rate.

Full text of the adoption follows.

10:65-2.1 General billing procedures

(a) (No change.)

(b) This subchapter contains basic information and instructions necessary for the proper completion and submission of a claim. Included are exhibits to be utilized by Medical Day Care Centers for use in submitting claims for covered items or services. All forms to be completed by the facility are available from Prudential Insurance Company.

1. (No change.)

2. Reimbursement: The center participating in the Medical Day Care Program shall agree to accept the reimbursement rate established by the Division as the total reimbursement for services provided to the Medicaid recipient and to the beneficiary enrolled in the Home Care Expansion Program. In a nursing facility, the Medical Day Care per diem rate is 43 percent of that nursing facility’s per diem rate. In free-standing centers, the medical day care per diem rate is based on an average of the rates paid to nursing facility medical day care providers or a percentage of nursing facility rates in effect as of July 1 and January 1 each year. For hospital-affiliated centers, the medical day care rate is a negotiated per diem rate which shall not exceed the maximum medical day care per diem rate paid to nursing facility-based providers. The reimbursement rates set for a Medicaid recipient in medical day care centers may not exceed...
charges for non-Medicaid participants. The per diem reimbursement shall cover cost of all services listed in N.J.A.C. 10:65-1.4 with the following exceptions:

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

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Assistance to the Aged and Disabled

Eligibility Factors, Including Income Exclusion, Renewals

Adopted Amendments: N.J.A.C. 10:69A-5.3, 6.1, 6.2 and 6.10

Proposed: August 6, 1990 at 22 N.J.R. 2218(a).
Adopted: November 20, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.
Filed: November 20, 1990 as R.1990 d.614, without change.
Effective Date: December 17, 1990.
Expiration Date: April 20, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

10:69A-5.3 Eligibility effective date
(a) (No change.)
(b) A PAAD beneficiary shall renew his/her eligibility every year unless his/her annual income is below $11,000 for single persons or $14,000 for married persons. In that case, he/she would renew every two years. Approximately four months prior to his/her eligibility expiration date, PAAD will advise the beneficiary if he/she is eligible for biennial eligibility, or if he/she will be required to complete a renewal form.
1.-2. (No change.)

10:69A-6.1 Age
(a) To be eligible for PAAD, the applicant shall be 65 years of age or older or shall be under 65 and over 18 years of age and receive Social Security Title II disability benefits. Individuals under age 65 who receive disability benefits on behalf of someone other than themselves are ineligible. The applicant shall be able to document his or her age upon request by the Division of Medical Assistance and Health Services. The Division will require that the applicant submit a photocopy of his or her certificate or other acceptable proof of age if over 65 years of age.
(b) (No change.)

10:69A-6.2 Income standards
(a) (No change.)
(c) All income, from whatever source derived, is considered in determining eligibility for the purposes of PAAD. Jointly owned income sources will be allocated according to degree of ownership.
1. (No change.)
2. Sources of income which are excluded in considering eligibility for PAAD are as follows:
1.-iv. (No change.)
v. Stipends from the Volunteers to Service in America (VISTA) and Foster Grandparents programs;
vi. Agent Orange payments.
(d)-i (No change.)

10:69A-6.10 Eligibility period
(a) A PAAD eligibility card is effective for one year. The PAAD beneficiary shall renew his/her eligibility every year unless his/her income is below $11,000 for single persons or $14,000 for married persons. In that case, he/she would receive an updated eligibility card automatically for the second year, and would complete a renewal application every two years.
(b) (No change.)

(b)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF MORTUARY SCIENCE

Continuing Education

Adopted New Rules: N.J.A.C. 13:36-10

Adopted: November 15, 1990 by the State Board of Mortuary Science, Michael Petrolle, President.
Filed: November 19, 1990 as R.1990 d.608, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Effective Date: December 17, 1990.
Expiration Date: September 27, 1994.

The Board of Mortuary Science afforded all interested parties an opportunity to comment on the proposed new rule, N.J.A.C. 13:36-10, relating to continuing education. The official comment period ended on December 20, 1989. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on November 20, 1989 at 21 N.J.R. 3655(a). Announcements were also forwarded to the New Jersey State Funeral Directors Association, the Star Ledger, the Trenton Times and Mark Samuel Ross, Esq.

A full record of this opportunity to be heard can be inspected by contacting the Board of Mortuary Science, 1207 Raymond Boulevard, Newark, New Jersey 07102.

Summary of Public Comments and Agency Responses:

COMMENT: The only comment on these proposed rules was from Mark Samuel Ross, a licensee of this Board and also an attorney at law of this State. It is Mr. Ross' position that the Board has no legal authority to establish a program of continuing education other than that which is provided for by N.J.S.A. 45:7-72, which statute directs the Board to provide and hold at the annual State Funeral Director's Association meeting, a course of lectures and practical demonstrations, subject to appropriations.

RESPONSE: Authority for the Board to adopt the proposed rules is found in N.J.S.A. 45:7-38 and 45:7-33. The first cited statute grants the Board authority to adopt rules and regulations for the promotion or improvement of the standards of service, . . . protection and practice . . . of mortuary science, embalming and funeral directing . . . for and in the interest, preservation and improvement of the public health, morals, safety and welfare. In 1960, that statute was amended whereby the Board was granted power specifically to adopt rules and regulations which are set forth in paragraph 2, (a) through (f), (A), (b), (e) and (f) serve as additional authority for the Board to adopt continuing education regulations.

N.J.S.A. 45:7-33 provides further authorization for adoption of these rules by deeming the practice of mortuary science, embalming and funeral directing to be occupations charged with a high degree of public interest and subject to strict regulation and control.

The statute cited by Mr. Ross, N.J.S.A. 45:7-72, as well as N.J.S.A. 45:7-38, were enacted by chapter 340 of the laws of 1952. However, as previously stated, N.J.S.A. 45:7-38 was amended in 1960 by adding a second paragraph which specifically empowered the Board to adopt the proposed rules. It is the Board's conclusion that these two statutes are not mutually exclusive, but rather that N.J.S.A. 45:7-38 may be considered supplemental to N.J.S.A. 45:7-72. It should be noted that the last cited statute speaks only to those licensees who are members of the State Funeral Director's Association, membership of which is voluntary and not mandatory, and by enacting the amendment to N.J.S.A. 45:7-38 the
SUBCHAPTER 10. CONTINUING EDUCATION

13:36-10.1 Purpose and scope
(a) The rules established by this subchapter were designed to ensure that the practitioners of mortuary science maintain the highest degree of quality in their profession.
(b) The requirements set forth under this subchapter apply to all Board licensees actively participating in the practice of mortuary science within the State of New Jersey except where the rules provide for exemption or waiver.

13:36-10.2 Definitions
The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Continuing education" means any planned, structured educational experience amongst its licensees, thereby making it necessary for every licensee to take continuing education courses.

"Board" means the New Jersey State Board of Mortuary Science, *1207* Raymond Boulevard, Newark, New Jersey 07102.

"Committee" means the standing Credentials Committee established by N.J.A.C. 13:36-10.5.

"Division" means the Division of Consumer Affairs, *1207* Raymond Boulevard, Newark, New Jersey 07102.

"Person" means any person as defined in N.J.S.A. 56:8-1.

"United States Armed Forces" means the United States Army, United States Navy, United States Air Force, United States Marine Corps, and the United States Coast Guard.

13:36-10.3 Minimum amount of credit hours
(a) By the completion of each biennial licensing period, every licensee shall, as a condition of license renewal, successfully complete 10 credit hours of approved continuing education courses, seminars or programs recommended by the Credentials Committee and approved by the Board.
(b) No licensee shall be permitted to carry over excess credit hours from one licensing period to the next.
(c) New licensees shall not be required to comply with the continuing education requirements during their first biennial licensing period.

13:36-10.4 Exemptions and waivers
(a) The following groups of licensees will be exempt from complying with the continuing education requirements:
1. Licensees serving on active duty in the United States Armed Forces;
2. Licensees in their first biennial licensing period immediately following successful completion of the Board’s examination requirements.
(b) The Board may, for good cause, waive all or part of the continuing education requirement for any biennial licensing period. A licensee may request that the Board grant a waiver. Such requests shall be in writing and accompanied by any documentation verifying the reasons for the request. Waivers shall be granted only for one biennial licensing period at a time. However, should the situation for which the waiver was granted continue past the specified biennial period, the licensee must apply in writing to the Board for an extension of the waiver no less than three months prior to the expiration of the specified biennial period.

13:36-10.5 Credentials Committee
(a) The Director of the Division of Consumer Affairs shall annually appoint a standing committee to be known as the Credentials Committee to assist the Board in establishing guidelines and criteria for the approval of continuing education courses, seminars, and programs.
1. The Director shall receive from the Board a list of nominees for consideration, and shall make the appointments in consultation with the Board.
2. The Committee shall consist of no fewer than four members, at least two of whom are members of the Board; the remaining members shall be either members of the Board or Board licensees.
3. At least one member of the Committee shall be an educator with a degree in mortuary science who is currently teaching or working in the mortuary science area.
(b) The Committee’s responsibilities shall include:
1. Making recommendations to the Board as to approval of specific continuing education programs;
2. Developing procedures for the internal operation of the Committee;
3. Developing criteria for continuing education credit which shall include courses:
   i. Concerning professional competency and ethics, as well as legal aspects relating to the practice of mortuary science;
   ii. Designed to examine and train licensees in the utilization and application of new techniques, and scientific and clinical advances related to mortuary science;
   iii. Dealing with business management concepts as they relate to the delivery of efficient and professional services to consumers.
4. Developing standards for determining which, if any, out-of-State courses, seminars or programs qualify for the credit hour requirement of these rules; and
5. Reviewing and monitoring of all approved courses, seminars or programs. Upon evidence that the courses, seminars or programs fail to meet the criteria established by the Committee, the sponsoring institution or agency shall lose its approved status and shall be required to reapply for such approval.

13:36-10.6 Program and sponsor approval
(a) Any person desiring approval as a sponsor of a continuing education course, seminar or program shall apply to the Credentials Committee. Such application shall be supplied by the Board upon written request and shall include:
1. The person’s educational history;
2. Approximate dates that the course, seminar or program is to be offered;
3. The subject of the course, seminar or program;
4. The total hours of instruction and credit; and
5. The names and educational qualifications of instructors.
(b) All sponsors shall secure Board approval prior to representing that any course, seminar or program fulfills the requirements of this subchapter.
(c) The Board may, at its discretion, grant credit to licensees who attend or participate in an educational course, seminar or program which is not approved or which is conducted by a non-approved sponsor. Licensees seeking such credit shall submit to the Board, within 30 days of completing the course, seminar or program, a written application setting forth:
1. The date and place where the course, seminar or program was given;
2. The subject matter covered;
3. The total hours of instruction; and
4. The names and educational qualifications of the instructors.

13:36-10.7 Credit hour reporting procedure
(a) The Board shall accept verification of credit hours accumulated by the licensee provided the licensee, at the time of license renewal,
submits appropriate evidence of the successful completion of an approved course, seminar or program, in the form of an original certificate or similar official record of completion, signed by the approved sponsor.  
(b) The licensee shall also complete and sign the continuing education report card provided to the licensee by the Board. The licensee shall list on the report card all approved courses, seminars or programs which he or she successfully completed, as well as the number of hours of credit earned by the licensee.  
(c) For those licensees registered in the New Jersey State Funeral Directors Association educational organization's continuing education reporting system, the Board shall recognize written verification from the Association stating the number of credit hours the licensee has accumulated during the biennial license renewal period.  
(d) Where the Board denies a licensee's application for continuing education credit, either in whole or in part, the licensee may appeal the denial to the Board.

**DIVISION OF CONSUMER AFFAIRS**  
**Administrative Rules of the Division of Consumer Affairs**  
**Adopted with Amendments: N.J.A.C. 13:45A**  
**Adopted Repeal: N.J.A.C. 13:45A-17**

**Proposed: August 20, 1990 at 22 N.J.R. 2396(a).**
Adopted: November 5, 1990 by Patricia A. Royer, Director, Division of Consumer Affairs, and October 25, 1990 by Robert J. DeTulfo, Attorney General.
Filed: November 9, 1990 as R.1990 d.606, without change.

**Authority: N.J.S.A. 56:8-4 and 45:17A-15 (applicable to N.J.A.C. 13:45A-17 only).**

**Effective Date: November 9, 1990, Readoption; December 17, 1990, Amendments and Repeal.**

**Expiration Date: November 9, 1995.**

The Division of Consumer Affairs afforded all interested parties an opportunity to comment on the proposed readoption of N.J.A.C. 13:45A, the administrative rules of the Division of Consumer Affairs, and the proposed repeal of N.J.A.C. 13:45A-17, entitled sale of advertising in journals relating or purporting to relate to police, firefighting or charitable organizations. The official comment period ended on September 19, 1990. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on August 20, 1990 at 22 N.J.R. 2396(a). Announcements were also forwarded to the Star Ledger, the Trenton Times, the Asbury Park Press, the Bergen Record, the Better Business Bureau, Direct Selling Association, Direct Marketing Association, New Jersey Auto Dealers Association, Consumer Product Safety Commission, Electronic Industries Association, New Jersey Retail Merchants Association, Consumers League of New Jersey, National Motorists Association, Major Appliance Consumer Action Panel, National Tire Dealers Association, Racquet and Fitness Association, New Jersey Food Council, American Association of Fundraising Councils, Central New Jersey Fundraising Forum, Alliance of New Jersey Kosher Caterers, and various additional businesses, special interest groups and professional associations with an interest in the rules proposed for readoption.

A full record of this opportunity to be heard can be inspected by contacting the Division of Consumer Affairs, Room 504, 1100 Raymond Boulevard, Newark, New Jersey 07102.

**Summary of Public Comments and Agency Responses:**  
During the 30 day comment period, the Division received two comments.

**COMMENT: The New Jersey Chapter Coordinator of the National Motorists Association, whose stated goal is to minimize the number and extent of regulations, expressed the Association's support for the readoption of specific subchapters of the Division's administrative rules. The chapter coordinator stated that he had reviewed the proposed rules as they relate to motorists and found subchapters 2, 6, 7, 8 and 26 appropriate for the Association's comment. While expressing concern about the cost/benefit relationship of the Division's task force operations, he agreed that the readoption of the stated subchapters will enable the Division's Office of Consumer Protection to continue to respond to motorist complaints. The chapter coordinator also stated that while the Association could not help but wonder whether the competitive marketplace would weed out dishonest businesses, the Association agreed that the regulations place reasonable responsibilities on the businesses affected and that most of these responsibilities represent good, honest business practice.**

**RESPONSE: The Division acknowledges and appreciates the Association's comments in support of the readoption of the stated subchapters. The Division believes that well-reasoned regulations reinforce marketplace competition by reducing improper practices related to automotive merchandising.**

**COMMENT: A comment on the proposed readoption was also received from an administrative staff member of the Office of Consumer Protection. This individual detailed suggestions for improving the Division's rules governing merchandise advertising, N.J.A.C. 13:45A-9.**

**RESPONSE: The Division appreciates these suggestions and will undertake a study of the entire subchapter. However, because a thorough review cannot be accomplished prior to the expiration of these rules, the Division has determined to readopt this subchapter without change. Necessary revisions will be proposed in a future issue of the Register.**

Division Note:

In reexamining the Summary Statement contained in the preamble of the rule proposal, the Attorney General noted minor inaccuracies relating to the history of the enactment of subchapter 17, which is now being repealed. While these inaccuracies do not affect the underlying basis for the repeal of subchapter 17, the Division nevertheless wishes to clarify this statement. Accordingly, the following is a restatement of the second and third paragraphs of the Summary Statement:

Subchapter 17, entitled sale of advertising in journals relating or purporting to relate to police, firefighting or charitable organizations, has been deleted in its entirety. The subchapter existed primarily because police organizations were permitted to solicit only on a face-to-face basis and were not permitted to benefit from the sale of advertising in journals or to engage professional fundraisers or solicitors who might sell such advertising. Fundraising activities of police and auxiliary or fraternal organizations were mainly regulated by N.J.S.A. 2A:170.20 et seq. specifically. On chapter 17 was promulgated jointly under the Consumer Fraud Act, N.J.S.A. 56:8-4, and the Charitable FundraisingAct, N.J.S.A. 45:17A-1 et seq., in order to protect the consumer from unethical conduct by paid solicitors working for a private enterprise, particularly to protect the contributor from being misled to believe that the profits of the enterprise would inure to the benefit of police or firefighters. There was, however, a provision, N.J.A.C. 13:45A-17.3(b) which permitted endorsement or affiliation with the publication if a written agreement was entered into expressly authorizing the representation to be made. This is especially important in connection with the sale of advertising in journals relating or purporting to relate to police or firefighting organizations where the potential exists for abuse or the appearance of coercion.

However, as a result of the recent opinion by the Honorable Dickinson R. Deboevoe of Federal District Court, Newark, in Telco Communications, Inc. v. James J. Barry, Jr., et al., Dkt. No. 89-3393 (D.N.J. filed March 5, 1990), police organizations in the State of New Jersey may now solicit for contributions and engage professional fundraisers and solicitors for both charitable and non-charitable fundraising and may, if they wish, benefit by the sale of advertising in journals. According to the regulations in Subchapter 17 are now redundant since protective mechanisms are provided by the Charitable Fundraising Act and regulations as well as the balance of N.J.S.A. 2A:170-20.1 through 20.10 and including 20.12 which was not challenged nor found to be unconstitutional by the District Court. In addition, the consumer continues to be generally protected against fraud and misrepresentation under the Consumer Fraud Act.

**Full text of the adopted amendments follows.**

**13:45A-21.3 Display and handling requirements**

(a) A Kosher food or food product sold by a restaurant, hotel, store, catering facility or other place which advertises, represents or holds itself out as selling, serving or offering for sale exclusively...
Kosher food or food products or both Kosher and Non-Kosher food or food products may be falsely represented to be Kosher within the meaning of N J.A.C. 13:45A-21.2 unless the following display and handling requirements are observed.

1.3. (No change.)

13:45A-22.1 Definitions

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

"Properly identified Kosher meat" means Kosher meat which is obtained from animals which are approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion and which has affixed thereto the Kosher plumba placed on such Kosher meat at the slaughterhouse where the animal was slaughtered.

"Properly identified Kosher poultry" means poultry which is approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion and which has affixed thereto the Kosher plumba placed on such poultry at the slaughterhouse where the poultry was slaughtered.

TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Routes U.S. 9W in Bergen County

Adopted Amendment: N.J.A.C. 16:28-1.123

Adopted: November 15, 1990, by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.
Filed: November 20, 1990 as R.1990 d.612, without change.
Effective Date: December 17, 1990.
Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.123 Route U.S. 9W

(a) The rate of speed designated for the certain parts of State highway Route U.S. 9W described in this subsection shall be designated and established as the maximum legal rate of speed:

1. For both directions of traffic
   i. In Bergen County:
      (A) 50 mph between the Tenafly Borough-Alpine Borough line and the New-York-New Jersey State Line (approximate mileposts 5.26 to 11.15).

   (b)

   DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

   BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

   Restricted Parking and Stopping

   Routes U.S. 22 Alternate in Warren County; N.J. 71 in Monmouth County; N.J. 77 in Cumberland County; U.S. 130 in Burlington County; and N.J. 184 in Middlesex County

   Adopted Amendments: N.J.A.C. 16:28A-1.14, 1.38, 1.41 and 1.46

   Adopted: November 15, 1990, by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.
   Filed: November 20, 1990 as R.1990 d.611, without change.
   Effective Date: December 17, 1990.
   Expiration Date: June 1, 1993.

   Summary of Public Comments and Agency Responses:

   No comments received.

   Full text of the adoption follows.

   16:28A-1.14 Route U.S. 22 Alternate

   (a) The certain parts of State highway Route U.S. 22 Alternate described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

   1. No stopping or standing along both sides:
      i. In Warren County:
         (1) Pohatcong Township:
            (A) Within the corporate limits, including all ramps and connections thereto under the jurisdiction of the Commissioner of Transportation.

            (b) The certain parts of State highway Route 77 described in this subsection shall be designated and established as "Time Limit Parking" zones, where parking is prohibited except as specified. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established time limit parking zones:

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

   16:28A-1.38 Route 71

   (a) (No change.)

   16:28A-1.41 Route 77

   (a) (No change.)

   (b) The certain parts of State highway Route 77 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3759)
provisions of N.J.S.A. 39:4-199, permission is granted to erect approp­riate signs at the following established bus stops: 1. In the City of Bridgeton, Cumberland County: i. Along the southbound (westerly) side: (1) Far side bus stop: (A) Washington Avenue—Beginning at the southerly curb line of Washington Avenue and extending 105 feet southerly therefrom. ii.-iii. (No change.) 2.-4. (No change.) (c) (No change.) 16:28A-1.46 Route U.S. 130 (a) (No change.) (b) The certain parts of State highway Route U.S. 130 described in this subsection shall be established and designated as “no parking bus stop” 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.-11. (No change.) 12. In Burlington Township, Burlington County: i. Along the southbound (northerly) side: (1) Near side bus stop: (A) La Gorce Boulevard—Beginning at the northerly curb line of La Gorce Boulevard and extending 105 feet northerly therefrom. ii. Along the northbound (easterly) side: (1) Near side bus stop: (A) La Gorce Boulevard—Beginning at the southerly curb line of La Gorce Boulevard and extending 135 feet southerly therefrom. (c) (No change.) 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted. 16:28A-1.111 Route 184 (a) The certain parts of State highway Route 184 described in this subsection shall be designated and established as “no stopping or standing” zones. 1. No stopping or standing: i. In Middlesex County: (1) Woodbridge Township: (A) Along both sides of the entire length within the corporate limits of Woodbridge Township, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official township resolution has been submitted; (2) City of Perth Amboy: (A) Along both sides of the entire length within the corporate limits of Perth Amboy City, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking zones. Signs to be posted only in areas where an official city resolution has been submitted.
ADDITIONS

rulemaking proposal. The Department will adopt the other amendments to the rule at N.J.A.C. 16:53D-1.3(a), which were not the subject of comment. The adopted revision introduces a provision that charter, special and casino bus operators make an annual filing by January 2nd of their then current schedules of rates, fares and charges. Such a provision serves as a procedure to update the tariffs of these operators that are kept on file with the Department.

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

16:53D-1.3 Exemptions
(a) The Commissioner hereby exempts casino or regular route in the nature of special, charter and special autobus operations from the rate regulation provisions set forth in N.J.A.C. 16:53D-1.1 and 16:53D-1.2 and in any other chapter of Title 48. Notwithstanding the rate regulation exemption, casino or regular route in the nature of special, charter and special autobus operators shall annually file with the Department by January 2 the then current schedules of their rates, fares or charges for such operations.

*(b) Notwithstanding the aforementioned exemption, any casino or regular route in the nature of special, charter or special autobus carrier which seeks to adjust its rates, fares or charges shall be required to:
1. Notify the Department by filing a complete schedule of all current rates, fares and charges, and all rates, fares and charges to be adjusted, at least 30 days prior to the effective date of the new adjustment; and
2. Post a public notice in all autobuses used in the service to be affected by the adjusted rates, fares and charges and in all bus termini served by said autobuses, at least 30 days prior to the effective date of the new adjustment. The autobus carrier shall verify to the Department by filing a copy of said public notice and an affidavit that it has in fact posted such public notice, at least 30 days prior to the effective date of the new adjustment.)*

NEW JERSEY TRANSIT CORPORATION
Senior Citizen and Disabled Resident Transportation Assistance Act Program
Guidelines and Procedures
Adopted New Rules: N.J.A.C. 16:78
Proposed: September 17, 1990 at 22 N.J.R. 2911(a).
Adopted: November 19, 1990 by the New Jersey Transit Corporation, Shirley A. DeLibero, Executive Director.
Filed: November 26, 1990 as R.1990 d.616, without change.
Effective Date: December 17, 1990.
Expiration Date: December 17, 1995.

Summary of Public Comments and Agency Responses:
The Eastern Paralyzed Veterans Association (EPVA) filed the only comment on NJ TRANSIT's proposal to readopt and amend the Senior Citizen and Disabled Resident Transportation Assistance Act Program Guidelines and Procedures.

The EPVA has requested the term "special project account" be defined so that the money placed in the account cannot be used for services that have already been allocated to the county.

NJ TRANSIT does not believe it is necessary to attempt to define the use of these monies because:
1. Before any county will be approved for any funds in this account, the county would have had to certify that the existing Maintenance of Effort has been achieved and that these funds will not be used to offset previously committed dollars from other funding sources.
2. The county which has not expended the funds will have first priority regarding their use. The guidelines were made more specific in this area in order to provide NJ TRANSIT a mechanism to solicit more concrete descriptions from the counties of anticipated expenditures. It was also NJ TRANSIT's feeling that if the counties were aware that unexpended funds were not automatically made available in the next contract period there would be a greater impetus to spend the dollars as originally programmed in a more expedient manner.
3. The projects to be funded can only be used in accordance with the statute and regulations governing the Senior Citizen and Disabled Resident Transportation Assistance Act Program. It is NJ TRANSIT's hope that by making counties reapply for previous unexpended funds each county will better plan the service they provide and that every dollar available will be directed to where it is needed most; and
4. As with every application, NJ TRANSIT's Special Services Citizens Advisory Committee will have an opportunity to review and comment on the county's proposals.

Accordingly, the EPVA's comment has not been incorporated in the proposed readoption with amendments.

In addition, the rules proposed for readoption with amendments are adopted herein as new rules, in accordance with N.J.A.C. 1:30-4.4(f), since N.J.A.C. 16:78 expired October 7, 1990, pursuant to Executive Order No. 66(1978).


Full text of the adopted amendments to the rules proposed for readoption, adopted herein as new rules, follows.

16:78-1.2 Definitions
The following words and terms, as used in this chapter, shall have the following meanings.

"Eligible counties" means counties, or the recipient designated by a county, submitting a proposal meeting the program guidelines.

16:78-2.2 Formula
(a) (No change.)
(b) The amount of money which each eligible county may receive will be based upon the number of persons 60 years of age and older residing in that county expressed as a percentage of the whole number of persons in this State of 60 years and older, as provided by the U.S. Bureau of Census. As similar data becomes available for the disabled population, such data will be used in conjunction with the senior citizens data to determine the county allocation formula. No eligible county will receive less than $150,000 nor more than 10 percent of the total funds available for allocation to the counties during a fiscal year under this program. NJ TRANSIT's Office of Special Services shall establish a minimum and maximum allocation at the start of each fiscal year. No matching funds are required.

16:78-2.3 Funds availability
(a) Available funds must be committed by December 31 of each year or they will revert back to the General Casino Fund.
(b) (No change.)
(c) The funds will be committed to a county upon notification of a grant awarded by NJ TRANSIT to the designated recipient.

1. The county or its designated recipient shall submit an application to NJ TRANSIT prior to May 15 for funds available for the calendar year starting the following January 1.
2. County contracts will run from January 1 through December 31 and require at least quarterly financial reports to be submitted within 30 days of the end of the quarter. This is a reimbursement program. Requests for reimbursement may be submitted monthly. When warranted, monthly advances may be given, but payments will be withheld if financial reports are not received when due.

3. Starting with the contract period which ends December 31, 1990, the balance of county funds remaining unexpended and/or unobligated by the county will be returned to NJ TRANSIT. Unexpended county funds at the end of the contract period will be reallocated as specified in N.J.A.C. 16:78-2.4.

16:78-2.4 Transfer of allocations
Any unexpended funds remaining at the end of the contract period will, after appropriate close-out and audit, be placed into a special project account. Each county will be eligible to submit an application.
for any and/or all available funds in this account. Applications will be reviewed on a competitive basis by NJ TRANSIT.

16:78-3.4 Coordination plan requirements
(a)-(d) (No change.)
(c) The application for funds must comply with a comprehensive planning document as described in (d) above. The plan must be updated annually or as needed and a copy of the updated plan included in subsequent applications for funding.
(f)-(h) (No change.)

16:78-4.1 General
NJ TRANSIT in conjunction with the NJ TRANSIT Special Services Citizen Advisory Committee, its other advisory bodies, representatives and associations of counties, and other interested parties, has developed these regulations for transportation assistance to senior citizens and the disabled. The instrumentalities of local government, particularly the counties of this State, should play a major role in facilitating the provision of that transportation assistance. NJ TRANSIT and the counties should coordinate existing transportation services provided at the local level including, but not limited to, those services funded by any other State agency, and establish coordinated inter-county transportation services.

16:78-5.3 Budget
The application must contain a program budget which identifies expense categories as identified in Coordinating Transportation Services for the Elderly and Handicapped, Volume 2, A Model Uniform Billing and Accounting System for Coordinated Transportation Systems. This publication is sponsored by the United States Department of Transportation and is available from the National Technical Information Service, Springfield, Virginia 22161. These categories must be aggregated into Administration, Planning, Operation, and Capital expense functions. Two budgets should be submitted. The first should include program expenses. The second budget should only reflect the Senior Citizen and Disabled Resident Transportation Assistance Program expenses. Both budgets should be prepared using a January 1 to December 31 calendar year.

16:78-5.4 Coordination
(a) The application must include a description of the means by which the applicant will coordinate intra-county transportation, inter-county transportation and existing accessible fixed route services described in (b) through (d) below. This description should show that the recipient is implementing the comprehensive planning document described in N.J.A.C. 16:78-3.4.
(b)-(d) (No change.)

TREASURY-TAXATION

DIVISION OF TAXATION

Railroad Tax

Adopted Amendments: N.J.A.C. 18:23-1.1, 3.6, 5.6, 6.3, 8.1, 8.2, 8.6, 11.2, 11.3, Appendix I

Adopted: November 26, 1990 by Benjamin J. Redmond, Acting Director, Division of Taxation.

Filed: November 26, 1990 as R.1990 d.630, with substantial and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).


Effective Date: December 17, 1990.

Expiration Date: February 24, 1994.

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

(CITE 22 N.J.R. 3762)
(d) On or before April 1 of the tax year, each taxpayer must file with the Director, through the Local Property Branch, at its own expense, a sworn and complete copy of its Railroad Annual Report for the pre-tax year, which has been filed or will be filed with the Interstate Commerce Commission or with the Department of Transportation of the State of New Jersey.

(e) Furthermore, all taxpayers must complete and file Local Property Branch Forms R.R. 551 through 556 with such Branch, together with such supplemental statements and schedules as may from time to time be required by the Director or the State Superintendent of the Local Property Branch, acting in his behalf.

18:23-8.2 Monthly statistics report
All taxpayers shall submit monthly reports of net railway operating income to the Local Property Branch, as soon as such information is available or projected. Such report shall include the monthly net railway operating income, and the complete net railway operating income for the year up to the month reported.

18:23-8.6 Payment
All checks shall be made payable to the New Jersey State Treasurer, and mailed or delivered to the Division of Budget and Accounting, 33 West State Street, Trenton, New Jersey 08625.

18:23-11.2 Taxpayer's right to informal conference
Where, under *N.J.A.C. 18:23-5.6,* a taxpayer requests an informal hearing, a conference will be held before the Local Property Branch to be conducted on an informal basis, with or without representation on behalf of the taxpayer or other party in interest.

18:23-11.3 Taxpayer's right to formal hearing
(a) (No change.)
1.-3. (No change.)
4. The Director or any employee of the Division of Taxation he may designate, may conduct hearings, administer oaths to, and examine under oath, any taxpayer and the directors, officers, agents, and employees of any taxpayer, and all other witnesses relative to the liability of the taxpayer for any taxes pursuant to the provisions of the act.
(b) (No change.)

APPENDIX I
CALENDAR OF TAX EVENTS
PRE-TAX YEAR (No change.)
TAX YEAR
January 1 (No change.)
January 1 (No change.)
April 1 (On or before) (No change.)
June 1 (On or before) (No change.)
June 1 (After) (No change.)
June 10 (On or before) (No change.)
June 15 (No change.)

OTHER AGENCIES
(a)
CASINO CONTROL COMMISSION
General Provisions
Organization of the Casino Control Commission
Adopted Amendment: N.J.A.C. 19:40-2.1
Adopted: November 21, 1990, by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: November 26, 1990, as R.1990 d.618.
Authority: N.J.S.A. 5:12-54(a), 5:12-69(a) and 52:14B-4(b).
Effective Date: November 26, 1990.
Expiration Date: August 24, 1994.
Take notice that the Casino Control Commission has adopted an amendment to N.J.A.C. 19:40-1.2.

The proposed amendment is organizational in nature and, as such, in accordance with N.J.S.A. 52:14B-4(b), may be adopted without prior notice or hearing and is effective upon filing.

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

19:40-2.1 Organization
(a) (No change.)
(b) The officers of the Commission shall include a Chair and a Vice-chair who shall be members of the Commission, and an Executive Secretary who shall not be a member of the Commission.
1.-2. (No change.)
3. The Executive Secretary shall be appointed by the Commission and shall serve at the pleasure of the Commission. Under the supervision of the Chair, the Executive Secretary shall act as the Chief of Staff of the Commission; be responsible for the conduct of the operational and administrative affairs of the Commission and shall have custody of the Commission's seal and its official records. The Executive Secretary shall keep a record of the proceedings at all meetings of the Commission in a minute book and a resolution book or both, to be kept for the purpose, which shall be open at all reasonable times to inspection by any member of the Commission. He or she shall cause a verbatim transcript to be made of the public meetings of Commission, according to law. He or she shall affix the seal of the Commission to all papers authorized to be executed by the Commission requiring such seal to be affixed. He or she shall cause copies to be made of the verbatim transcript of the public meetings, and of all minutes, resolutions and other records and shall cause such copies to be filed with the appropriate authorities according to law. He or she shall give certificates under the seal of the Commission to the effect that such copies are true copies and all persons dealing with the Commission may rely on such certificates. He or she shall perform such other duties as are incident to his or her office or as may be assigned, from time to time, by the Commission or by the Chair.
(c) The Commission's staff [is] shall be comprised of the [following] divisions [and units]: set forth below. Each division shall be organized into such operational units, and each unit shall have such assigned positions, as the Chair shall direct.
1. The Administrative Division shall provide[s] the personnel, budget, data processing and administrative services necessary for operation of the Commission[; and] maintain[s] the official records of the Commission and a record of all Commission proceedings; and serve as the central filing location for petitions and submissions submitted to the Commission. [The Administrative Division consists of the following units:]
i. Budget and Fiscal Office;
ii. General Administrative Services Unit;
iii. Personnel Office; and
iv. Systems Analysis and Design Unit
2. The Affirmative Action and Planning Division monitors compliance by casino licensees, gaming schools and casino service and construction industries, with State equal employment, affirmative action, and minority and women's business enterprise requirements and evaluates the environmental, social, economic, and demographic impact of casinos on the Atlantic City region. The Affirmative Action and Planning Division consists of the following units:
i. Casino Unit;
ii. Industry and Construction Unit; and
iii. Planning Unit.
}[3.1] 2. The Division of Financial Evaluation [and Control reviews and evaluates petitions and submissions related to accounting and internal controls, gaming equipment and rules of the game:] shall conduct[s] casino gross revenue audits[,] analyze[s] the financial position and operating performance of casino licensees[; and] assess[es] and collect[es] fees and gross revenue taxes[; monitors compliance with regulations regarding accounting and internal controls, gaming equipment and rules of the games and receives casino patron complaints. The Division of Financial Evaluation and Control consists of the following units:
i. Accounting Unit;
ii. Audit Unit;
iii. Casino Operations Unit;
iv. Financial Evaluation Unit; and
v. Inspection Unit.

4. The Legal Division acts as legal counsel to the Commission and staff; represents the Commission in litigation; drafts and reviews proposed legislation and regulations; participates in license issuance and renewal hearings; and processes contested case matters. The Legal Division consists of the following units.

1. Hearings and Litigation Unit;
2. Legal Advisory Unit;
3. Legislation and Regulation Unit;
4. License Advisory Unit; and
5. Special Projects Unit.

5. The License Division shall process and review casino, disbursement shall examine the original tickets, invoices or receipts presented by the patron in support of the request for valid transportation expense reimbursement, an individual authorized to approve transportation expense reimbursement, an individual authorized to approve the disbursement shall examine the original tickets, invoices or receipts presented by the patron in support of the request for valid transportation expense reimbursement. Such tickets, invoices or receipts shall:

1. Be dated within 30 days of the request for reimbursement:
2. Be dated within 30 days of the request for reimbursement:
3. Be dated within 30 days of the request for reimbursement:
4. Be dated within 30 days of the request for reimbursement:
5. Be dated within 30 days of the request for reimbursement:
6. Be dated within 30 days of the request for reimbursement:
7. Be dated within 30 days of the request for reimbursement:
8. Be dated within 30 days of the request for reimbursement:
9. Be dated within 30 days of the request for reimbursement:

Full text of the adoption follows.

19:45-1.9A Procedures for transportation expense reimbursements
(a) All transportation expense reimbursement transactions, except as otherwise provided in (b) below, shall be performed at the casino cage.
(b) Whenever a patron requests a transportation expense reimbursement, a Travel Disbursement Voucher ("Voucher") shall be prepared. Vouchers shall be maintained in a secure location approved by the Commission. Access to Vouchers, prior to use, shall be restricted to those individuals authorized by the license to approve such disbursements. Prior to the transportation expense reimbursement, an individual authorized to approve the disbursement shall examine the original tickets, invoices or receipts presented by the patron in support of the request for valid transportation expense reimbursement. Such tickets, invoices or receipts shall:
1. Be dated within 30 days of the request for reimbursement;
2. Be dated within 30 days of the request for reimbursement:
3. Be dated within 30 days of the request for reimbursement:
4. Be dated within 30 days of the request for reimbursement:
5. Be dated within 30 days of the request for reimbursement:
6. Be dated within 30 days of the request for reimbursement:
7. Be dated within 30 days of the request for reimbursement:
8. Be dated within 30 days of the request for reimbursement:
9. Be dated within 30 days of the request for reimbursement:

Full text of the adoption follows.
ADOPTIONS

i. Record the information noted in (d)1 and (d)3 through (d)5 above;
ii. Sign the Voucher; and
iii. Present the original and duplicate Voucher, and original ticket, invoice, receipt or other documents to the general cashier.

4. The general cashier shall complete the Voucher in accordance with (g) above and sign the Voucher; provided, however, that the general cashier shall attach the cancelled ticket, invoice, receipt or any other additional documentation provided in accordance with (b)4 above, to the original Voucher, and shall return such documentation to the patron upon request; and the general cashier shall mail the corresponding reimbursement check to the requesting patron.

5. Any partially completed Voucher which is not completed within 60 days from the date of request for reimbursement shall be voided in accordance with (c) above.

Recodify as (i) (No change in text.)
HUMAN SERVICES

EMERGENCY ADOPTIONS

HUMAN SERVICES

(a)

DIVISION OF ECONOMIC ASSISTANCE

Notice of Administrative Correction

Home Energy Assistance Handbook

Eligibility Requirements; Income Eligibility Guidelines

Adopted Emergency Amendments: N.J.A.C. 10:89-2.2 and 2.3

Take notice that the Office of Administrative Law has discovered an error in the computation of the expiration date for the emergency amendments to N.J.A.C. 10:89-2.2 and 2.3 published in the November 19, 1990 New Jersey Register at 22 N.J.R. 3590(a). The correct date for the expiration of the emergency amendments is December 29, 1990, being 60 days from the date of filing (October 30, 1990) with the Office of Administrative Law. This notice of administrative correction is published in accordance with N.J.A.C. 1:30-2.7.

INSURANCE

(b)

DIVISION OF ADMINISTRATION

Nonrenewal of Automobile Insurance Policies

Adopted Emergency Repeals and New Rules and Concurrent Reproposed Repeals and New Rules: N.J.A.C. 11:3-8.4, 8.5, 8.7 and Appendix A and B


Adopted Emergency Amendment and Concurrent Reproposed Amendment: N.J.A.C. 11:3-8.3.


Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): November 26, 1990.


Concurrent Proposal Number: PRN 1990-646.

Emergency Adoption Effective Date: November 26, 1990.

Operative Date: April 1, 1991.

Emergency Adoption Expiration Date: January 25, 1991.

Submit written comments by January 16, 1991 to:

Verne M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
20 West State Street
CN 325
Trenton, NJ 08625-0325

These new rules, repeals and amendment are adopted on an emergency basis and became effective upon filing by the Office of Administrative Law (see N.J.S.A. 54:14B-4(c) as implemented by N.J.A.C. 1:30-4.5). Concurrently, the provisions of the emergency adopted new rules, repeals, and amendment are being reproposed in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted new rules, repeals and amendment become effective upon acceptance of the notice of adoption for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.5(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent reproposal follows:

Summary

These reproposed new rules, repeals and amendment changes as the result of amendments to N.J.S.A. 17:29C-7.1 and the enactment of the Fair Automobile Reform Act of 1990 (FAIR Act), N.J.S.A. 17:33B-1 et seq. The Department of Insurance (Department) previously proposed rules implementing these statutory changes on August 6, 1990 (see 22 N.J.R. 2224(b)). The Department has determined to make substantive changes based on public comments received and continuing Department review. The proposal therefore replaces and supersedes the prior proposal. Those comments and the Department's responses are summarized below.

COMMENT: One commenter objected to proposed N.J.A.C. 11:3-8.3(f) which requires nonrenewal notices to be mailed no less than 60 days and no more than 90 days prior to the expiration of the current policy. The commenter stated that the 60- to 90-day notice requirement presents significant time problems relative to the assessment of eligibility points. The commenter believed that more time will be needed for occurrences to be recorded by the Division of Motor Vehicles (DMV) for insurers to order the Motor Vehicle records and review them. The commenter argued that if not given additional time, undertakings defining eligibility will be held for a year. The commenter recommended amending this section to provide the nonrenewal notice be mailed no less than 30 days and no more than 75 days prior to the expiration of the current policy. Additionally, the commenter suggested that the operative period for eligibility points be changed to a 36-month period ending 105 to 120 days prior to the expiration date of the current policy.

RESPONSE: The Department believes that insurers will have sufficient time to review DMV's records and to determine if someone is ineligible. Eligibility points for motor vehicle violations accrue when recorded by the DMV, and for accidents when claim payments are made (see N.J.A.C. 11:3-34). The Department notes that the 60- to 90-day provision was not proposed for change.

COMMENT: One commenter questioned whether the Department will interpret the term “date and other facts” necessary for identification of particular incidents in N.J.A.C. 11:3-8.3(f) on a case-by-case basis.

RESPONSE: The term “date and other facts” is not meant to be interpreted on a case-by-case basis. The terms require that sufficient information be stated on the notice of nonrenewal so that the insured can identify the incident and appeal the action if necessary. For example, if an insurer issues a notice of nonrenewal based upon a person accruing 10 automobile insurance eligibility points as a result of two at-fault accidents, the insurer shall provide the dates of those accidents, the claim payments made and the number of points accrued.

COMMENT: One commenter objected to N.J.A.C. 11:3-8.3(f) and stated that this section creates unduly burdensome informational requirements on insurers. The commenter argued that including the full text of the rule does not aid the understanding of the policyholder of his rights or the reason for the insurer’s action. The commenter believed that providing the required information to the policyholder will only lead to confusion. The commenter suggested that insurers be permitted to provide a summary of the applicable provisions.

A second commenter objected specifically to the provision which provides that when “notice of nonrenewal is based on eligibility points, notice must identify the number of points and the events.” This commenter suggested that the factual background be permitted to be stated in a simple format, and requested that the Department not insist on an exhaustive factual justification.

RESPONSE: The Department has revised N.J.A.C. 11:3-8.3(b)1. Insurers will not be required to provide the “text” on the notice of nonrenewal but must provide the designated provisions under which the action was taken. Insurers are required to provide the number of eligibility points and the events on which they were based so that the insured can understand the reason for being nonrenewed, and determine whether an appeal should be taken.

COMMENT: One commenter questioned what is meant by the term “sources” in proposed N.J.A.C. 11:3-8.3(f)1. The commenter stated that...
EMERGENCY ADOPTIONS

INSURANCE

this is already covered by the Information Practices Act, N.J.S.A. 17:23A-1 et seq. The commenter further questioned why it is necessary to provide for this in this rule.

RESPONSE: The term "sources" refers to where the insurer obtained the information used to nonrenew someone. The Department believes this requirement is necessary in case there is a mistake made (for example, DMV abstract has the wrong number of motor vehicle point violations). The information will enable the insured to identify the source of the mistake.

COMMENT: One commenter believed proposed N.J.A.C. 11:3-8.3(iii) needed clarification and suggested the following language: "In the event action is being taken under N.J.A.C. 11:3-8.4(b) to nonrenew a policy of an insured, etc."

RESPONSE: The Department does not believe that the amendment is appropriate. Insurers may issue notices of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34 (proposed published elsewhere in this issue of the Register). The insurer may, however, be obligated to offer to renew other persons insured under the policy.

COMMENT: One commenter objected to proposed N.J.A.C. 11:3-8.3(iii) because his company writes automobile insurance on a countrywide basis. The commenter stated that it uses an automated system for sending notices in order to keep costs down; the system requires that notices be as uniform as possible. The commenter believed that specific changes would require his company to cite on their notices of nonrenewal the specific underwriting rule relied upon, which would require a costly change in their countrywide system. The commenter argued that such a drastic change might require them to manually issue such notices in New Jersey. These costs would be passed on to New Jersey consumers. The commenter believed that this provision serves no real regulatory purpose, and should be eliminated from the rule.

RESPONSE: This requirement is necessary in order to link the facts with the action taken, since the company's decision will be fact-based on the consistent application of its underwriting rules. The insurer could provide all of the underwriting rules to the insured and note which specific one applies.

COMMENT: Several commenters objected to proposed N.J.A.C. 11:3-8.3(iii) and iv, which require nonrenewals based on the "two percent" or "two for one" rules to be consecutively numbered. The commenters argued that this requirement is onerous, unnecessary and unmanageable for a significant number of companies. The commenters stated that if the Department needs to determine whether an insurer has exceeded the two percent barrier, then there are less intrusive ways to accomplish this goal.

A second commenter stated that they do not have a system to issue numbered nonrenewal notices that are consecutively numbered by territory. The commenter argued that to put such a system in place would be costly and burdensome. In support of his position, the commenter stated that nonrenewal notices sent out today may be effective later than a nonrenewal notice sent out tomorrow or a nonrenewal sent out a week from tomorrow. Therefore, notices that were consecutively numbered when sent out may not be consecutively numbered as to their effective date. The commenter argued that the consecutively numbered notices will not correspond with the number of nonrenewals effective on a given date and will not provide the Insurance Department with useful information.

A third commenter recommended deleting this requirement since the Department will receive the data in the summary reports submitted under proposed N.J.A.C. 11:3-8.7.

RESPONSE: This provision gives the Department an avenue to provide immediate relief to people who have been improperly nonrenewed under the "two percent" or "two for one" rules. This rule allows the Department to identify when a company has reached the maximum number of "two percent" or "two for one" allowances for that year. This system also permits insurers to keep track of the number of permissible nonrenewals.

COMMENT: One commenter stated that the proposed format of N.J.A.C. 11:3-8.3 is confusing. The commenter objected to the order in which the proposed rules address nonrenewals based on ineligible persons, the "two percent" rule and the "two for one" rule. The commenter believed that the rules would be clearer if structured in a different order.

RESPONSE: The Department believes that the intent of the proposed rules and the basis for nonrenewals are sufficiently conveyed in the present format.

COMMENT: One commenter suggested amending proposed N.J.A.C. 11:3-8.3(2) (Consumer Complaint Notice). The commenter believed that

in order to quickly resolve such complaints, the consumer should indicate the factual basis for the consumer's dispute with the insurer. The commenter stated the complaint should indicate, for example, that the insurer was in error in citing an accident or violation, or the insurer made a mistake in adding eligibility points, etc. Additionally, the commenter suggests the following amending language:

Your written complaint should indicate the facts on which you are basing your complaint.

RESPONSE: The Department agrees and has revised this section accordingly.

COMMENT: One commenter objected to the current provisions of N.J.A.C. 11:3-8.4 (which has been repealed) concerning accident involvement, convictions and the like. The commenter believed that these provisions were inconsistent with the definition of an eligible person.

RESPONSE: The Department has deleted this provision.

COMMENT: One commenter noted that the proposed new rules on nonrenewal indicates that under proposed N.J.A.C. 11:3-8.3(i), subsection (i) should remain unchanged. The commenter believed this section should be updated to reflect the numbering changes. Additionally, the commenter stated that the language does not fit with the statutory nonrenewal right under N.J.S.A. 17:29C-7.1.

RESPONSE: The proposed amendment does not affect the provisions of (g) through (i) and is consistent with the numbering system. Additionally, the Department believes that the language used is consistent with the statutory provisions under N.J.S.A. 17:29C-7.1.

COMMENT: Two commenters expressed concern with proposed N.J.A.C. 11:3-8.4(a)1. One commenter stated that this section implies that an insurer may not issue a notice of nonrenewal to someone who is an "eligible person." Yet, under the "two percent" and "two for one" rules, an insurer may in fact nonrenew "eligible persons.", The commenter suggested that this section be clarified.

The second commenter stated that this section is in conflict with N.J.S.A. 39:6-A-9, which states nonrenewal notices to be sent to the named insured. The commenter argued that insurers should be advised of their rights with respect to policies that have ineligible persons insured thereunder.

RESPONSE: An insurer may nonrenew eligible persons under the "two percent" and "two for one" provisions of N.J.S.A. 17:29C-7.1 and N.J.A.C. 11:3-8.5, and this section has been revised to clarify that point.

COMMENT: A number of commenters strongly objected to proposed N.J.A.C. 11:3-8.4(a)2. This section provides that the drive record of a member of a household may not form the basis for an adverse underwriting decision unless that person accounts for 10 percent or more of the use of the vehicle insured.

A second commenter argued that the 10 percent requirement establishes a subjective, objective and completely unverifiable standard. The commenter stated that to the extent that an "ineligible driver" designation presents a major price and coverage availability problem to any insured, this sets up both a temptation to misrepresent and a potential for many insured-insurer disputes. The commenter believed that this rule is wholly subjective, since few multi-driver and/or multi-car families know actual mileage driven by each driver. This commenter suggested permitting driver exclusion endorsements at least in situations where insurers are advised that an eligible driver in a household will not drive a specific vehicle.

A third commenter argued that it will be virtually impossible for a company to prove that a household resident uses the vehicle 10 percent or more of the time. The commenter argued that the occasional driver could, during the term of the policy, exhibit driving conduct of a consequence severe enough to warrant nonrenewal despite his or her limited time behind the wheel.

A fourth commenter objected to this provision, because it fails to address the nonrenewal of policies, only the nonrenewal of people. The commenter argued that it does not provide guidance as to what an insurer can do when faced with a policy with both eligible and ineligible persons insured under it.

A fifth commenter believed that there was no statutory basis for requiring that ineligible drivers be insured in the voluntary market. This commenter also believed that the Department has no authority to mandate that an insurer provide insurance in a mandatory market.

A sixth commenter argued that the restriction of nonrenewals is contrary to the FAIR Act and forces good drivers to subsidize bad drivers. The commenter argued that the definition of an insured in an auto insurance policy includes all resident relatives in the household (N.J.S.A. 39:6-A-4). The commenter stated the regulation encourages fraud, because

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3767)
households will be encouraged to state that an otherwise ineligible driver in their household drives less than 10 percent on all vehicles in the household. The commenter believed that household underwriting should be permitted to continue.

RESPONSE: The Department believes that this standard reasonably effects the intent of the FAIR Act. The FAIR Act requires insurers to provide coverage in the voluntary market for "eligible persons," namely, the owner or registrant of a vehicle who does not have certain negative characteristics (see N.J.S.A. 17:33B-13). The Department believes that the 10 percent minimum use of vehicle is a reasonable measure for a threshold at which a particular driver's risk characteristics should impact renewal or nonrenewal of the vehicle. The Department notes that, but for this standard, N.J.S.A. 17:33B-15 would appear to require an insurer to provide nonmarket coverage to an "eligible" person applicant for all owned or registered vehicles, even if all other drivers in the applicant's household were not eligible.

COMMENT: Several commenters expressed concern with proposed N.J.A.C. 11:3-8.4(a)3 and suggested that this section be clarified. The commenters believed that this section could be interpreted to disallow two percent nonrenewals since it prohibits the nonrenewal of any person qualified to be renewed in accordance with the insurer's filed and approved underwriting rules.

One commenter suggested amending this section to read: "Except in accordance with the provisions of 11:3-8.5 no insurer shall issue a notice of nonrenewal . . ." The commenter believed this amendment is necessary "to clarify that nonrenewals may be issued even to people who meet the insurer's underwriting criteria, under the provisions of N.J.S.A. 17:29C-7.1." The Department disagrees. The proposed amendments and new rules do not prevent an insurer from using the "two percent" and "two for one" nonrenewal rules. An insurer's filed and approved underwriting rules must provide that an insurer will write eligible persons in accordance with N.J.A.C. 11:3-34 and 11:3-35 (proposed published elsewhere in this issue of the Register).

RESPONSE: The commenters are concerned that under the rule insurers could not renew only one policy for every two newly insured vehicles voluntarily written. The proposed regulation, however, only permits an insurer to nonrenew one automobile for every two newly insured vehicles voluntarily written. The Department notes that, because the comments are focused on the proposed regulation, the Department will take into account those problems and may address them in the Order closing the assigned risk plan, should such action become necessary.

COMMENT: Several commenters expressed concern with proposed N.J.A.C. 11:3-8.4(a)3 and suggested that this section be clarified. The comments noted that the "two-for-one" credit as of each date set forth in the statute. Once the period ends, the insurer is issued a new quota. In order to nonrenew an insured as the result of two newly insureds, the insurer will have to establish systems to calculate whether it has insured two additional automobiles.

RESPONSE: The Department believes that the regulation may improperly limit an insurer's ability to nonrenew policies. The commenter stated that the insurer should be permitted to accumulate nonrenewal credits for use in future months. The current requirement of writing and nonrenewing policies during the "Calendar Year Period" could limit the insurer who had written policies in December from nonrenewing policies at a later date, based on those December writings. The commenter believed that the removal of the term "Calendar Year Period" could provide insurers with the ability to accumulate nonrenewal credits.

RESPONSE: The Department disagrees. This provision is consistent with N.J.S.A. 17:29C-7.1. An insurer will not be permitted to accumulate and store nonrenewal credits for use in future years because this would disrupt the market. Additionally, the Department notes that depopulation is scheduled to end in 1992.

COMMENT: Several commenters expressed concern with proposed N.J.A.C. 11:3-8.4(a)3 and suggested that the proposal does not address the problem insurers and insureds will face if the assigned risk plan is closed by the Commissioner. The commenter noted that the proposed regulation requires insurers to renew any policy, even policies of ineligible insureds. This commenter questioned what happens when a company has sent a customer a nonrenewal notice and the Commissioner closes the assigned risk plan before the nonrenewal notice is effective.

As other commenters have specifically noted, most of their policies are issued to cover more than one automobile. It is not unusual for a single policy to cover as many as four automobiles. To interpret the statutory language literally would permit an insurer to nonrenew a policy containing as many as four automobiles simply as the result of adding a single automobile to each of two existing policies. It seems clear that the legislative intent was to encourage insurers to expand their business by covering more automobiles, while providing additional underwriting flexibility and a credit for the voluntary expansion of business. To construe the language of the statute literally, as urged by the commenters, may in fact encourage insurers to reduce the number of vehicles they cover. The Department therefore believes that the Legislature used the terms "automobile" and "policy" interchangeably, and so proposes the language in this rule. The reproposed rule uses "automobile" as the appropriate unit in calculating the "two-for-one" credit. While some insurers write a separate policy for each automobile, many insurers cover all household vehicles on a single policy. To use "one policy nonrenewed" for "each two new insurance policies" would likewise misstate the Legislature's intent. It would mean an insurer could nonrenew a policy covering four automobiles for two new policies each of which covered a single automobile. The Department further notes that all new data collected is, automobiles, and that to use the "policy" as the unit would unduly prejudice those companies that write each vehicle on a separate policy.

COMMENT: One commenter questioned how the "credit" will be determined. If an insurer has exceeded its most recent depopulation quota, the commenter inquired whether the excess amount becomes the basis for counting "newly insured." The commenter argued that a strict reading of the statute seems to indicate that any new risk would count for a credit as long as insurers were not deficient on depopulation and making up a specific deficiency. The commenter stated that while each depopulation period has a future target, insurers should be able to take credit either based on exceeding the prior target or when the insurer believes it has exceeded the future target. The commenter stated that if the department-wide targets and this rule applies by territory, it could not see how this can be converted from one to another.

RESPONSE: The Department will determine an insurer's depopulation credit as of each date set forth in the statute. Once the period ends, the insurer is issued a new quota. In order to nonrenew an insured as the result of two newly insureds, the insurer will have to establish systems to calculate whether it has insured two additional automobiles.

RESPONSE: The Department will determine an insurer's depopulation quota as of each date set forth in the statute. Once the period ends, the insurer is issued a new quota. In order to nonrenew an insured as the result of two newly insureds, the insurer will have to establish systems to calculate whether it has insured two additional automobiles.
The Department agrees and has revised this exhibit for one nonrenewal rule, then for one nonrenewals. This way, the Department would know that the insurer is in compliance with the nonrenewal rules on May 15, 1989 (see 21 N.J.R. 1306(a)). As a result of public comments received, that proposal was modified and reproposed in 22 N.J.R. 19 (see 22 N.J.R. 108). Earlier this year the Legislature enacted the Fair Automobile Insurance Reform Act of 1990 ("Fair Act"), N.J.S.A. 17:33B-1 et seq. The Fair Act creates new rights to obtain and renew automobile insurance policies in the voluntary market for defined "eligible persons". The Department is reproposing these new rules, amendments and repeal to implement statutory changes.

The Department proposes a new rule, N.J.A.C. 11:3-8.2, which provides definitions for terms used in this subchapter. This reproposed new rule requires a recodification or renumbering of subsequent rules. Further references to rules in this Summary shall refer to the renumbered rules included in this reproposal.

The Department reproposes an amendment to N.J.A.C. 11:3-8.3, which sets forth the requirements of the notice of nonrenewal which insurers are required to provide. Amendment is necessary to make N.J.A.C. 11:3-8.3 consistent with the new statutory bases for nonrenewal, which are described in the subsequent sections. This reproposed amendment does not affect the requirement that an insurer notify the insured in writing that the policy will not be renewed, but rather be written by another insurer. The Department proposes to repeal N.J.A.C. 11:3-8.4 (formerly N.J.A.C. 11:3-8.3). This rule contained specific duties upon which an insurer was permitted to renew an automobile insurance policy. Many of the specific provisions dealt with adverse events of driving behavior; others set forth special factual circumstances that may warrant nonrenewal. The FAIR Act provides, however, that insurers shall renew the policies of defined eligible persons. Adverse events of driving behavior are subsumed into the definition of "eligible person" as set forth in the Fair Act, N.J.S.A. 17:33B-13, and reproposed rules N.J.A.C. 11:3-34, published elsewhere in this issue of the Register. The other specific factual circumstances set forth in the prior rule no longer appear to be necessary as a basis for nonrenewal in view of the general authority granted insurers by N.J.S.A. 17:33B-13. Reproposed new rules N.J.A.C. 11:3-34(a) incorporates the insurer's duty to renew all eligible persons by providing that an insurer may renew insurance if it is the definition of an eligible person. The reproposed subsection further provides that the date for accrual of eligibility points in connection with the nonrenewal of a person who is not an eligible person shall be based upon the eligibility points accrued in the 36-month period ending 90 days prior to the policy expiration date. This is consistent with past practice and permits an insurer to issue the notice of nonrenewal in the 60-day period required by N.J.A.C. 11:3-8.3. Consistent with the reproposed new rules concerning insurer underwriting rules,
N.J.A.C. 11:3-35, published elsewhere in this issue of the Register, the reproposed rule prohibits issuance of a notice of nonrenewal when a member of the household is ineligible unless the ineligible member of the household accounts for more than 10 percent of the use of the insured vehicle. Furthermore, since an insurer may in its underwriting rules choose to renew some insureds who are not eligible persons, reproposed N.J.A.C. 11:3-8(a3) provides that an insurer shall renew all persons who qualify in accordance with its approved underwriting rules. The reproposed rule also provides that insurers may nonrenew those who are not eligible persons and who no longer qualify for the non-standard rating plan.

The reproposed rule also permits insurers to nonrenew up to two percent of the policies in each territory, and to nonrenew in each territory one automobile for each two newly insured automobiles.

These reproposed rules were thoroughly discussed in the prior proposals.

The Department reproposes new rule N.J.A.C. 11:3-8.6 to set forth a provision of the FAIR Act regarding renewals, N.J.S.A. 17:33B-25. Insurers shall not nonrenew any automobile insurance policies when the new assigned risk plan is not accepting new applications for coverage as the result of the Commissioner's certification that the number of insureds in the assigned risk plan exceeds 10 percent of the private passenger automobile insurance market.

The Department also reproposes the repeal of N.J.A.C. 11:3-8.7 and a new rule concerning recordkeeping and reporting requirements. These requirements are necessary in order to permit the Department to monitor and oversee the nonrenewal of automobile insurance policies.

Existing Exhibits A and B are reproposed for repeal. They are no longer necessary because of the repeal of N.J.A.C. 11:3-8.3 to which they relate.

As a result of the public comments received and further review by the Department, these rules contain substantive changes from the previous proposal that affect nonrenewals.

The Department has revised N.J.A.C. 11:3-8.5 to permit insurers to nonrenew "two percent" per territory and one automobile for each two newly insured automobiles.

**Social Impact**

The reproposed new rules and amendment will affect automobile insurance purchasers and automobile insurers. They implement recent legislative changes to the automobile insurance laws, and thus will have the positive social impact on the automobile insurance market as determined by the Legislature. They will prevent unfairly discriminatory nonrenewals.

**Economic Impact**

The proposed new rules and amendment will economically affect the Department, as the increase in automobile insurance nonrenewals is likely to increase the number of consumer complaints received and to which the Department must respond. If this proves correct, additional intensification must be added to the current staff. The number required cannot be determined at this time.

The reproposed new rules and amendment will also affect automobile insurers, which may be required to amend their current procedures for nonrenewal of policies to provide additional information on their nonrenewal notices. This change will be a minor one and the cost should be more than offset by the increased competitive flexibility regarding nonrenewals permitted by the legislation and the reproposed rules and amendment. The rules also require that a report summarizing the number of automobiles nonrenewed and specifying the reason for nonrenewal shall be submitted. This will involve some minimal expenditure by insurers, but is necessary for proper oversight.

**Regulatory Flexibility Analysis**

The reproposed new rules and amendment may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 etc seq. These "small businesses" consist of insurance companies authorized to write the insured passenger automobile insurance, a maximum of five automobile insurers may qualify as "small businesses."

The reproposed new rules and amendment impose requirements on these businesses in connection with the nonrenewal of automobile insurance policies. They permit nonrenewals for specified reasons, but require the regulatory bases be provided on the notice of nonrenewal to the insured. Overall the reproposed new rules and amendment increase the underwriting flexibility of all companies.

**Definitions**

These reproposed new rules and amendments require companies to maintain records of nonrenewals so as to provide a basis for regulatory oversight. These records must be maintained for the five-year period as provided in the rule prior to amendment. The records to be maintained are different, however, because they are to track nonrenewals based on the additional criteria now permitted by statute. The Department believes that this obligation has been minimized in the reproposed rule and the kinds of records required to be kept made clear by the report form. Reporting requirements have likewise been minimized, as set forth on this request form.

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

11:3-8.2 Definitions

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

- "Automobile insurance eligibility points" or "eligibility points" means points calculated under the schedule set forth in N.J.A.C. 11:3-34.
- "Commissioner" means the Commissioner of the New Jersey Department of Insurance.
- "Department" means the New Jersey Department of Insurance.
- "Eligible person" means an individual that meets the qualifications set forth in N.J.A.C. 11:3-34.
- "Insurer" includes a group of affiliated companies.
- "Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/ non-standard rating plan.
- "Standard/non-standard rating plan" means a rating system used by an insurer that provides different base rates for different risks to those insureds who qualify in accordance with the insurer's approved underwriting rules, which has been filed and approved in accordance with N.J.A.C. 11:3-19.

11:3-[8.2] 8.3 General provisions

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

(f) No notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, setting forth the reason(s) for such nonrenewal.

- No notice of nonrenewal shall be valid unless it includes the text of the provision(s) of this subchapter under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents. [In the event action is being taken under N.J.A.C. 11:3-8.4(c), the text of the exceptions under N.J.A.C. 11:3-8.4(c) must be included together with a statement that none of these exceptions are applicable.]

i. In the event action is being taken under N.J.A.C. 11:3-[8.3]8.4(a) [1, (b) or (c), the text of (ineligible person), the notice shall [include both the number of accidents or claims where the insurer's nonrenewal is contingent thereon, and the number of automobiles in the household] provide the basis by which the insured fails to qualify as an eligible person. When notice of nonrenewal is based on automobile insurance eligibility points, the notice shall identify the number of eligibility points and the events and sources which resulted in their assessment.

ii. In the event action is being taken under N.J.A.C. 11:3-8.4(b) (underwriting rules) to nonrenew an insured who is not an eligible person.
in accordance with the approved underwriting rules applicable to the non-standard rate level of an approved standard/non-standard rating plan, the notice shall provide the basis by which the insurer fails to qualify as an eligible person and shall reference the specific underwriting rule by which the insurer is disqualified. The notice shall set forth the specific facts upon which the insurer relied to determine that the insured is not an eligible person and is no longer qualified to be insured in accordance with the insurer's approved underwriting rules.

iii. In the event action is being taken under N.J.A.C. 11:3-8.5(a), the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)(2) (two percent territorial nonrenewal) and shall be consecutively numbered in each territory.

iv. In the event action is being taken under N.J.A.C. 11:3-8.5(a)(2), the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)(2) (one nonrenewal for each two newly insured automobiles) and shall be consecutively numbered in each territory.

2. Each notice of nonrenewal shall include or be accompanied by the statement prescribed in [left blank] below which shall be clearly and prominently set out in boldface type or other manner which draws the reader's attention.

i. Each notice of nonrenewal must set forth: "If you have reason to believe that our decision to nonrenew [or conditionally renew, as appropriate] your policy is not in compliance with New Jersey Regulation N.J.A.C. 11:3-8, you should file a written complaint with the New Jersey Department of Insurance, Division of Enforcement and Consumer Protection, CN 23 1015 Trenton, New Jersey 08625-0329. Your written complaint should include the facts on which you are basing your complaint."

[3. The notice of nonrenewal shall also include or be accompanied by a statement advising the insured of his possible eligibility for coverage through the New Jersey Automobile Full Insurance Underwriting Association.]

   (g) through (i) [No change.]

ii. An insurer may issue notice of nonrenewal based upon one or more of the following reasons:

   1. Accident involvement: The named insured or any operator who customarily operates the automobile has been involved during the 36-month period which ended 90 days prior to the expiration of the current policy in:
      i. Two or more bodily injury accidents if there is one car in the household or three or more accidents if there are at least two cars in the household, provided a loss payment has been made or a loss reserve has been established for such accidents other than a payment for the personal injury protection benefits; or
      ii. Two or more accidents involving damage to any property including his own of $300.00 or more for which accidents a payment was made if there is one car in the household, or three or more such accidents if there are at least two cars in the household, provided that loss payments under the comprehensive physical damage coverage shall not be counted; or
      iii. A bodily injury and a physical damage accident as described in i. and ii. above if there is one car in the household. Two bodily injury and one physical damage accident or two physical damage and one bodily injury accident if there are at least two cars in the household.

   2. Exceptions: Accidents under i. to iii. above shall not be counted if the accident occurred under the following circumstances:
      i. The accident resulted in a claim or payment only under the Personal Injury Protection Coverage;
      ii. The automobile was lawfully parked at the time of the accident (an automobile rolling from a parked position shall not be considered as lawfully parked, but shall be considered as in the operation of the last operator);
      iii. The named insured or anyone customarily operating the automobile, has been reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such persons;
      iv. The automobile of the named insured or other customary operator was struck in the rear by another vehicle, and the operator has not been convicted of a moving traffic violation in connection with the accident;
      v. The operator of another automobile involved in such accident was convicted for a moving traffic violation and the named insured or other customary operator was not convicted of a moving traffic violation in connection therewith;
      vi. The automobile operated by the named insured or anyone who customarily operates the automobile is damaged as a result of contact with a "hit and run" driver, provided that the accident has been reported to legal authorities within a reasonable time thereafter;
      vii. The accident resulted from contact with animals or fowl.

3. Convictions concerning motor vehicle law: The named insured or any operator who customarily operates the automobile:
      i. Has been convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for any one of the following motor vehicle law violations during the 36 months ended 90 days prior to the expiration date of the current policy:
         (1) Driving while intoxicated or under the influence of drugs;
         (2) Leaving the scene of an accident;
         (3) Criminal negligence or assault arising out of the operation of a motor vehicle;
      (4) Driving while license is suspended or revoked.
      ii. Has been convicted, entered a plea of guilty or nolo contendere, or forfeited bail bond or other security for other moving traffic violations during the 36 months period ended 90 days prior to the expiration of the current policy which result in the accumulation of an average of nine points or more, as defined in the New Jersey Motor Vehicle Law, per car in the household or which result in an accumulation of nine or more points for any one such operator, provided that any operator who has been involved in such motor vehicle law violations continues to be an operator of the automobile at the time of renewal.

4. Convictions other than motor vehicle laws: The named insured or anyone customarily operating the automobile is convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for obtaining or attempting to obtain from any other person, any insurer, company or the Unsatisfied Claim and Judgment Fund any money or any other thing of value by falsely or fraudulently representing that such person is entitled to such consideration under the automobile insurance policy, or falsely or fraudulently making statement or presenting documentation in order to obtain such consideration, or by cooperating, conspiring or otherwise acting in concert with any person seeking to obtain or attempting to obtain falsely or fraudulently such consideration.

5. Use of the automobile in professional racing.

6. Physical or mental impairment of the named insured or anyone customarily operating the automobile which adversely affects the ability to operate the automobile safely, unless a physical disability is compensated for by corrective measures.

i. A nonrenewal premised upon physical or mental impairment must be supported by a current medical examination. The medical examination report must clearly state the nature of the impairment and, in the case of a physical disability, the extent to which such disability adversely affects the ability to safely operate the automobile. In the event such a current medical examination report is not otherwise available, it must be secured by the insurer at its own expense.

7. Refusal to submit to a medical examination at company expense where there is reason for the company to doubt an operator's ability to operate the automobile safely.

8. Addition of an operator of the automobile during the policy term or for the new policy term with respect to whom any of the above causes for nonrenewal would apply.

9. In the case of companies which limit their writing to members of a church, profession or occupation or similar group, loss of the qualification for such group by the owner of the automobile. In such case an additional 12 months of nonrenewal notice shall be given. The membership of an automobile or travel club does not constitute a qualified group subject to this paragraph.
10. Failure by an insured under the policy to comply with the cooperation or subrogation clause of the policy, subject to reasonable rules established by the Commissioner.

11. Written request by a producer of record not to renew the policy. The producer's request shall include a certification that the policy has been replaced with like coverage at approved rates in the voluntary market with an admitted insurer and shall specify the name of the replacing insurer. The producer's request shall also certify that the insured has been informed in writing of his or her right to renewal and has agreed in writing to the nonrenewal because the producer has obtained comparable coverage with an insurer. The producer's request not to renew the policy shall be submitted to the insurer not less than 90 days prior to the expiration date of the policy and a copy thereof shall be simultaneously sent by the producer to the named insured.

i. Upon receipt of such request from the producer, the transferor carrier shall advise the insured in writing of his or her right to renewal in the same company before obtaining the insured's consent to transfer and also of the insured's right to renew the policy if he or she is cancelled by the new insurer for reason other than nonpayment of premium or suspension or revocation of the registration or driver's license. Exhibit A appended to this subchapter is approved for this purpose. A nonrenewal based on such request shall be invalid and the original company shall renew the policy at the request of the insured through an active agent and/or broker, or directly if the replacement policy is cancelled by the new carrier for any reason other than the reasons allowed for cancellation by N.J.S.A. 17:29C-7 (nonpayment of premium or suspension or revocation of registration or driver's license).

ii. Failure by a terminated agent to request renewal during the period of nine months from the effective date of termination as provided in N.J.S.A. 17:22-6.14(a) shall be construed as a request not to renew in the context of this subchapter. In such event, the insurer shall in writing advise the insured of the status of the agent and that the agent's failure to request renewal denotes that replacement coverage as specified in 11 and 11ii above has been obtained. The written notice shall also set forth the insured's right to renewal in the same company as set forth in 11i above. Exhibit B appended to this subchapter is approved for this purpose. The insurer's notice shall be sent to the insured not less than 60 days prior to the expiration date of the policy.

iii. Insurance companies and producers shall maintain copies of all correspondence required pursuant to 11, 11i and 11ii above for a period of three years.

iv. Notices to insureds set forth in Exhibits A and B shall be sent by certified mail or first class mail. If at the time of such mailing the insurer has obtained from the Post Office Department a date stamped proof of mailing showing the name and address of the insured, the insurer shall also maintain documentation of the mailing.

(b) An insurer may issue notice of nonrenewal with respect to comprehensive physical damage coverage, including towing and labor coverage, if the insurer, during the 12-month period ended 90 days prior to the expiration of the current policy, has paid under such coverage claims each of which involve a loss payment by the insurer of at least $100.00, as specified in paragraphs 1 and 2 below:

1. Four or more such claims if there is one car in the household or six or more such claims if there are at least two cars in the household.

2. For any policy which covers more than one car, an insurer may nonrenew comprehensive physical damage coverage, including towing and labor coverage for one of the covered cars, if that single car has four or more claims.

(c) An insurer may issue notice of nonrenewal with respect to towing and labor coverage if the insurer, during the 12-month period ended 90 days prior to the expiration of the current policy, has paid claims under such coverage as specified in 1 below:

1. Four or more such claims if there is one car in the household or six or more claims if there are at least two cars in the household.

(d) Except as provided at N.J.A.C. 11:3-8.4, any refusal to renew a policy or coverage, as applicable, which is not based upon the standards set forth in (a) through (c) above shall be submitted to the Commissioner of Insurance for review no later than 120 days prior to the expiration of the policy. The Commissioner shall, in writing, acknowledge receipt of any refusal to renew submitted pursuant to this subsection. The Commissioner shall, within 45 days of receipt, either disapprove or authorize issuance of any nonrenewal submitted by an insurer for review and acknowledged by the Commissioner pursuant to this subsection. If the Commissioner shall fail to either disapprove or authorize issuance of the nonrenewal within such 45-day period, issuance of the nonrenewal shall be deemed to be authorized.

(a) An insurer may issue a notice of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34.

1. For the purpose of determining whether a person is an eligible person who must be renewed, an insurer shall consider those eligibility points accrued only in the 36-month period ending 90 days prior to the expiration of the current policy.

2. An insurer shall not issue a notice of nonrenewal for the reason that a member of the insured's household is not an eligible person unless the member of the insured's household usually accounts for 10 percent or more of the use of the vehicle insured.

3. No insurer shall issue a notice of nonrenewal to any person qualified to be renewed in accordance with the insurer's underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35.

(b) An insurer which has filed a standard/non-standard rating plan pursuant to N.J.A.C. 11:3-19 may issue notices of intention not to renew any insured who is not an eligible person and who no longer qualifies for any rate level in accordance with its approved underwriting rules.

11:3-8.5 Additional nonrenewals [based on underwriting guidelines]

(a) An insurer may issue notice of nonrenewal based upon a failure to meet current underwriting standards as specified in such insurer's underwriting guidelines provided that such nonrenewals may be issued only with respect to a policy:

1. Issued by the insurer to any policyholder who was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter; or

2. Issued by the insurer to any policyholder who was last insured through a statutorily mandated residual market mechanism; or

3. Issued by the insurer to any policyholder who is a first-time applicant for automobile coverage.

For the purpose of this section, the term "first-term applicant" shall mean a person seeking automobile insurance for the first-time, including a child applying for a policy in his or her own name after being on their parent's policy.

(b) Pursuant to the provisions of N.J.S.A. 17:22-6.14 a1., an insurer's underwriting guidelines shall not be arbitrary, capricious or unfairly discriminatory.

1. Nonrenewals based upon one or more of the following reasons are specifically prohibited:

i. The race, religion, nationality or ethnic group of an insured;

ii. Solely upon the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer, agent, broker which limits its market to one lawful occupation or profession, or to several related lawful occupations or professions;

iii. The principal location of the insured motor vehicle, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination. The insurer shall state the business purpose for such nonrenewal and provide the Department with documentation of such purpose on request;

iv. Solely upon the age, sex or marital status of an insured, except that this subparagraph shall not prohibit rating differentials based upon age, sex or marital status;

v. The insured previously obtained insurance coverage through a residual market insurance mechanism;

vi. Another insurer previously declined to insure the insured or terminated an existing policy of the insured.

(c) When policies are written subject to nonrenewal pursuant to this section, the company shall document that the insured is a first time applicant, was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter or was last insured through
a statutorily mandated residual market insurance mechanism. Insurance companies shall maintain copies of such documentation for a period of not less than five years. Such documentation shall be available to the Department on request.

(d) Issuance of a notice of nonrenewal pursuant to this section shall be limited to a period of three years from the date as of which the policy becomes effective after first issuance.

(a) Any insurer may:

1. For each calendar year period, issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed two percent of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest whole number, which are in force at the end of the previous calendar year in each of the insurer's territories; and

2. For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, issue a notice of intention not to renew one additional automobile in that territory. For the purpose of this subsection, "voluntarily writes" shall not include any exposure voluntarily written by or assigned to an insurer to meet any quota established pursuant to N.J.S.A. 17:30E-14 and N.J.S.A. 17:33B-11 and shall not include any new business cancelled by the insurer pursuant to N.J.S.A. 17:29C-7.

(b) Any insurer that does not write its apportionment share of any quota established by the Commissioner pursuant to N.J.S.A. 17:30E-14 and N.J.S.A. 17:33B-11 within the applicable time shall be precluded from nonrenewing automobile insurance policies pursuant to (a) above during the following year.

(c) Nothing in this rule shall be construed to authorize insurers to act in contravention of any applicable State or Federal law prohibiting discrimination on impermissible bases.

11:3-8.6 Suspension of nonrenewals

(a) Notwithstanding the provisions of this subchapter, if the plan for automobile insurance established pursuant to N.J.S.A. 17:29D-1 is not accepted for new applications for coverage pursuant to N.J.S.A. 17:29D-1(d), no insurer transacting automobile insurance in this State shall refuse to renew any private passenger automobile insurance policy in this State.

11:3-8.5[8.7] Reporting requirements

(a) The Commissioner will review and monitor the operation of this subchapter to ensure compliance with its provisions, and further, to determine whether depopulation of the residual market is being effected through the utilization of the nonrenewal procedures specified at N.J.A.C. 11:3-8.4.

(b) In order to review and monitor the operation of this subchapter as indicated in (a) above the Commissioner may require the filing of such reports as he or she deems necessary.

1. Insurance companies shall maintain records of nonrenewals for not less than five years which shall include a copy of the notice of nonrenewal, data concerning the allowable number of nonrenewals in each territory computed in accordance with N.J.A.C. 11:3-8.5(a1), and data concerning the actual number of newly insured automobiles and nonrenewals in each territory for each category, computed in accordance with N.J.A.C. 11:3-8.5(a2). Such records and data shall be made available to the Department upon request. In addition, each insurer shall file summary reports of its nonrenewals as follows:

1. For insurers with approved standard/non-standard rating plans, in the form of report set forth as Exhibit A of the Appendix incorporated herein by reference; or

2. For all other insurers, in the form of report set forth as Exhibit B of the Appendix, incorporated herein by reference.

(b) An insurer shall submit summary reports of their nonrenewals for the year to date on or before February 15 and August 15 of each year to the following address:

- New Jersey Department of Insurance
- Division of Enforcement and Consumer Protection
- 20 West State Street
- CN-329
- Trenton, New Jersey 08625-0329

Recodify existing N.J.A.C. 11:3-8.6 and 8.7 as 8.8 and 8.9 (No change in text).
**APPENDIX**

**EXHIBIT A**

**NONRENEWAL REPORT—A**

Standard/Nonstandard Rating System

<table>
<thead>
<tr>
<th>Insurer Group Name:</th>
<th>NAIC Group No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name:</td>
<td>NAIC Company No.</td>
</tr>
</tbody>
</table>

(list all companies in standard/nonstandard plan)

<table>
<thead>
<tr>
<th>Vehicles N/R for cause</th>
<th>Vehicles N/R Underwriting 2% Rule</th>
<th>Vehicles N/R 2:1 Rule</th>
<th><em>Vehicles Depopulation</em></th>
<th>Vehicles Insured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicles Insured</td>
<td>N.J.A.C. 11:3-8.4(a)1</td>
<td>N.J.A.C. 11:3-8.4(b)</td>
<td>N.J.A.C. 11:3-8.5(a)2</td>
<td>N.J.A.C. 11:3-8.5(a)2</td>
</tr>
<tr>
<td>Territory</td>
<td>12/31/—</td>
<td>Cancelled by Insured</td>
<td>Insured</td>
<td>Insured Market</td>
</tr>
</tbody>
</table>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21

*Does not include a vehicle cancelled within the first 60 days.*
EMERGENCY ADOPTIONS

Insurer Group Name: ____________________________ NAIC Group No. __________
Company Name: ________________________________ NAIC Company No. __________
(list all companies in ____________________________
standard/nonstandard plan) ____________________________

<table>
<thead>
<tr>
<th>Territory</th>
<th>Vehicles Insured</th>
<th>Vehicles N/R</th>
<th>Vehicles N/R for cause</th>
<th>Underwriting 2% Rule</th>
<th>2:1 Rule</th>
<th><em>Vehicles Newly Depopulation</em></th>
<th>Vehicles Insured</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/31/___</td>
<td>Cancelled by Insured</td>
<td>N.J.A.C. 11:3-8.4(a)1</td>
<td>N.J.A.C. 11:3-8.4(b)</td>
<td>N.J.A.C. 11:3-8.5(a)1</td>
<td>N.J.A.C. 11:3-8.5(a)2</td>
<td>Insured Market* Quota</td>
<td>-/-</td>
</tr>
<tr>
<td>22</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Totals: __________ __________ __________ __________ __________ __________ __________ __________

Notes: Column (1) shall be numbered in accordance with insurer's approved rating plan. Column (2) shall be dated as of previous year. Columns (3) through (11) shall contain information as of date in column (11). No cancellation or nonrenewal shall be double counted by including it in more than one column. Renewals within standard/nonstandard system are not to be reported as nonrenewals or cancellations. Nonrenewals for underwriting (column 6) do not qualify for highest rated tier of standard/nonstandard plan. Column (7) cannot be greater than .02 x column (3). Report total only for column (10). Column (11) equals column (2) plus column (9) minus columns (3), (4), (5), (6), (7) and (8).

*Columns (4), (5), (6), (7) and (8) may be reported together as a single number for each territory, but if the insurer is eligible to do 2% or 2:1 nonrenewals, then the single number reported cannot exceed the permissible total of 2% and 2:1 nonrenewals for that territory.*

*Does not include a vehicle cancelled within the first 60 days.

Date Submitted
## EXHIBIT B

**NONRENEWAL REPORT—B**

**Individual Company**

<table>
<thead>
<tr>
<th>Company Name:</th>
<th>NAIC Company No.:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Territory</th>
<th>Vehicles Insured</th>
<th>Vehicles N/R for cause</th>
<th>Vehicles N/R 2% Rule</th>
<th>Vehicles N/R 2.1 Rule</th>
<th>Newly Insured</th>
<th><em>Voluntary Depopulation</em></th>
<th>Vehicles Insured</th>
<th>Quota</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/31/-</td>
<td>Canceled</td>
<td>N.J.A.C. 11:3-8.4</td>
<td>N.J.A.C. 11:3-8.5a1</td>
<td>N.J.A.C. 11:3-8.5a12</td>
<td>Insured</td>
<td>Market</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Does not include a vehicle cancelled within the first 60 days.*
### EMERGENCY ADOPTIONS

#### NONRENEWAL REPORT—B

**Individual Company**

<table>
<thead>
<tr>
<th>Territory</th>
<th>Vehicles Insured</th>
<th>Vehicles N/R for case</th>
<th>N/R Insured</th>
<th>N/J, A,C. 11:3-8,4</th>
<th>N/J, A,C. 11:3-8,5a1</th>
<th>N/J, A,C. 11:3-8,5a2</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Totals:**

<table>
<thead>
<tr>
<th>Column (1)</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

- Column (1) shall be numbered in accordance with insurer’s approved rating plan.
- Column (2) shall be dated as of previous year.
- Columns (3) through (10) shall contain information as of date in column (10).
- No cancellation or nonrenewal shall be double counted by including it in more than one column.
- Column (6) cannot be greater than .02 X column (2).
- Report total only for column (9).
- Column (10) equals column (2) plus column (8) minus column (3), (4), (5), (6), and (7).

*Columns (4), (5), (6), (7), and (8) may be reported together as a single number for each territory, but if the insurer is eligible to do 2% nonrenewals of 2:1 nonrenewals, then the single number reported cannot exceed the permissible total of 2% and 2:1 nonrenewals for that territory.*

---

### DIVISION OF ACTUARIAL SERVICES

#### Order of Benefit Determination Between Automobile Personal Injury Protection and Health Insurance

**Adopted Emergency Amendments and Concurrent Reproposed Amendments: N.J.A.C. 11:4-16.4, 16.5, 28.2 and 28.5**


**Emergency Amendments and New Rules Adopted and Concurrent Reproposed Amendments and New Rules Authorized:** November 26, 1990 by Samuel F. Fortunato, Commissioner, Department of Insurance.

**Gubernatorial Approval (see N.J.A.C. 152:14B-4(c)):** November 26, 1990.

**Emergency Amendments and New Rules Filed:** November 26, 1990 as R.1990 d.625.

**Authority:** N.J.S.A. 17:1-8, 17:1C-6(e) and 39:6A-4.3.

**Concurrent Proposal Number:** PRN 1990-645.

**Emergency Amendment and New Rules Effective Date:** November 26, 1990.

**Emergency Amendment and New Rules Expiration Date:** January 25, 1991.

Submit written comments by January 16, 1991 to:

- Verice M. Mason, Assistant Commissioner
- New Jersey Department of Insurance
- Division of Legislative and Regulatory Affairs
- 20 West State Street
- CN-325
- Trenton, New Jersey 08625

**Procedures Act, N.J.S.A. 52:14B-1 et seq.**

**Summary**

The emergency adopted and concurrently reproposed amendments and new rules are intended to effectuate the purpose and intent of Section 6 of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8 ("FAIR Act"), which becomes operative January 1, 1991. Section 6 of the FAIR Act amends the personal injury protection option selections set forth at N.J.S.A. 39:6A-4.3. Section 6 requires that a new option be provided in automobile policies which would allow named insureds to choose the primary coverage provider for medical expenses incurred for the treatment of injuries resulting from an automobile-related accident ("medical expenses").

Currently, medical expenses are covered through an insured's personal injury protection benefits ("PIP") which are part of the required benefits for automobile insurance policies sold in New Jersey. Prior to January 1, 1991, New Jersey residents were permitted to choose, on new or renewing automobile policies, whether primary coverage for medical expenses will be provided by the automobile insurer through the automobile policy's PIP provisions ("traditional coverage"), or by a health benefits provider through one or more health benefits plans ("alternative coverage"). When the alternative coverage selection is made, Section 6 (hereafter, N.J.S.A. 39:6A-4.3d) requires that the automobile insurer reduce the PIP provision premiums in recognition of the reduced potential for exposure with respect to payment of medical expenses.

N.J.S.A. 39:6A-4.3d also provides that if an insured who is subject to the alternative coverage option selection does not have health coverage at the time an accident occurs, then the automobile carrier will provide PIP benefits for that insured as if the alternative coverage selection had not been made. However, PIP benefits will be subject to a $750.00 deductible in addition to the deductible selected on the policy and the statutory copayment requirement of 20 percent for amounts up to $5,000.

The new rules and rule amendments are designed to address: (1) the order of benefit determination under either the traditional or alternative coverage option selections; (2) the provision of benefits for the insured when a dispute exists on the issue of primary of coverage, or when an insured is eligible for coverage under more than one PIP plan; and (3) the calculation of benefits payable by the automobile insurer and health.
EMERGENCY ADOPTIONS

provides were always secondary, covering the PIP plan’s deductibles and copayments, and other remaining uncovered allowable expenses, if any. N.J.A.C. 11:3-37 is essentially the same as N.J.A.C. 11:4-28, except that it provides for the automobile insurance PIP plan to now pay benefits from the secondary payor position under certain circumstances. N.J.A.C. 11:3-37 contains the polarization of health benefits plans and PIP plans found in N.J.A.C. 11:4-28, in order to make coordination of benefits for the auto insurer as easy as may reasonably be expected, given the complexity of coordination of benefits, in general. N.J.A.C. 11:3-37 appears to be more exhaustive and complex than N.J.A.C. 11:4-28 because N.J.A.C. 11:3-37 states the underlying principles of coordination of benefits more explicitly, and in greater detail, than does N.J.A.C. 11:4-28. This detail is provided for the benefit of auto insurers. Additional differences between the two sets of rules are necessary to accommodate the use of the medical fee schedules by auto insurers, and to incorporate nongroup health benefits plans, which are not subject to the rules of coordination set forth at N.J.A.C. 11:4-28. Otherwise, however, N.J.A.C. 11:4-28 and 11:3-37 are substantially similar in concept.

COMMENT: One commenter suggests an alternative coordination of benefits clause by which the secondary coverage provider would examine the expenses eligible under the secondary coverage, subtract from that amount the benefits which were paid by the primary benefits provider, take the unpaid amount and apply any deductible or copayment provision of the primary insurance, and pay the balance to the insured. The commenter provides the following example (which is based on the Department’s example, and thus contains similar computation and typographical errors):

Medical Bills: $2,000 + $2,000 + $500 + $250 + $250 = $5,000
Health insurer: $200 Deductible and 20% coinsurance
Eligible expenses per health insurer: $1,800 + $1,750 + $450 + $230 + $200 = $4,380
Health insurer payment: ($4,380 - $200) = $3,380
PIP insurer: $250 deductible and 20% co-pay of first $5,000 of expenses
Eligible expenses per PIP insurer: $1,800 + $1,750 + $450 + $230 + $200 = $4,380
If PIP is secondary coverage, the PIP insurer would pay as follows:
$4,380 - $3,380 = $1,052—unpaid eligible expenses
($1,052 - $250) = $802—PIP payment

The same procedure would be utilized by the health insurer if PIP were primary coverage.
The health insurer would pay as follows:
$4,360 - $3,304 = $1,056—unpaid eligible expenses
($1,056 - $200) = $854.80—health insurance payment

RESPONSE: The Department disagrees. The alternative method the commenter proposes is commonly referred to as “benefits minus benefits,” and has been rejected for use under N.J.A.C. 11:4-28 by this Department. Additionally, this method is not one which is recognized as acceptable by the NAIC for its model coordination of benefits rules. This method does not promote cost containment in the traditional sense. Instead, the cost containment is created by shifting more of the covered expenses onto the insured. This is in direct opposition to the theory that an insured with additional insurance should be receiving additional coverage of allowable expenses, up to 100 percent. Under the method provided by the commenter, there is $1,000 of expenses left uncovered, even though both insurers owed the insured benefits of more than $3,000 each.

It is unclear from the commenter’s example whether the commenter has made the eligible expenses for both the health benefit plan and the PIP plan the same for the sake of simplicity, or in advocacy of abandonment of the medical fee schedule by the auto insurer when secondary. In any event, the method proposed is unacceptable.

COMMENT: Two commenters state that reimbursement of a plan’s deductible and copayment requirements defeats the built-in cost containment features of the plans. One commenter suggested that benefits be calculated in such a way that the insured is not reimbursed for the lesser of the two deductible and copayment provisions between a health benefits provider and auto insurer’s PIP plan.

RESPONSE: The Department acknowledges that reimbursement of deductibles and copayment tends to reduce the impact of the cost containment provisions of a plan. However, it is a generally accepted principle among health insurance regulators at this time that reimbursements of...
deductibles and copayments should occur, generally, when coordinating benefits. The theory is that, if two or more coverages are being purchased, the beneficiary of those coverages has the right to expect up to 100 percent of allowable expenses to be covered, within the benefit limits of each plan.

COMMENT: One commenter questions whether it is correct to interpret the rules as treating the deductible and copayment requirements of health benefits providers and automobile insurers differently, and in a manner more favorable to the health benefits provider. The commenter interprets N.J.A.C. 11:3-37.9 as allowing health benefits providers, when secondary, to reduce actual benefits payable by the deductible and copayment requirements of the plan, while N.J.A.C. 11:3-37.7 does not allow the automobile insurer to reduce actual benefits payable by its deductible and copayment requirements.

RESPONSE: The commenter is correct. Health benefits providers will be incurring increased expenses at all levels, both as a primary coverage provider and as a secondary coverage provider (as auto insurers begin using the medical fee schedules). The Department determined that, at this point, health benefits providers should have some means of alleviating at least a portion of the large shift in expenses. Application of their deductibles and copayments in all circumstances is the means offered.

COMMENT: Two commenters questioned whether a conflict or incongruity exists between N.J.A.C. 11:3-37.3(c) and 11:3-37.5. N.J.A.C. 11:3-37.3(c) prohibits health benefits providers from excluding coverage on the grounds that the expenses could be covered under PIP, while N.J.A.C. 11:3-37.5 suggests that there may be health benefits providers which exclude coverage on those grounds.

RESPONSE: There is no conflict between the two rules. All health benefits providers subject to the regulatory jurisdiction of New Jersey must comply with N.J.A.C. 11:3-37.3(c). However, not all health benefits providers providing coverage to New Jersey residents are subject to regulation by this State. N.J.A.C. 11:3-37.5 acknowledges that there may be some health benefits providers which will choose not to comply with N.J.A.C. 11:3-37.3(c), and are not in violation of any laws.

COMMENT: Several commenters suggest that the Department promulgate a list of qualifying policies (that is, policies which provide primary benefits) based on the health insurance policy forms filed with the Department.

RESPONSE: Promulgation of such a list at this time is a practical impossibility, but the suggestion will be taken under advisement. Automobile insurers should be aware of two things, however. First, all health benefits plans filed with or by the Department are "qualified" plans, by law. Second, even if such a list of "qualified" plans were to be promulgated, the list would be incomplete, because it would not be a comprehensive list of policies or contracts providing coverage to New Jersey residents, some of which may "qualify," and some of which may not.

COMMENT: One commenter states that the inclusion of self-insured welfare plans which are ERISA-exempt makes the definition of "health benefits provider" overly broad, as does the Department's attempt to apply its provisions to sponsors of self-insured welfare benefits plans covering only employees. The commenter suggests that clarification of the Department's position on such plans might resolve this issue expeditiously.

RESPONSE: To the extent that any plan is a qualified ERISA plan, it may be exempt from compliance with N.J.A.C. 11:3-37. However, the Department notes that not all plans which claim to be, or present themselves as being ERISA-exempt are actually qualified under ERISA.

To be an employee welfare benefit plan qualifying for ERISA exemption, the plan must provide benefits as set forth at section 3(l) of Title 1 of ERISA. Additionally, the plan must be established or maintained by an employer, an employee organization, or both, among other criteria. The terms of "employee organization" and "employer" are defined in sections 3(4) and 3(5) of Title 1 of ERISA, respectively.

Even if a plan is an employee welfare benefit plan, if it also qualifies as a multiple employer welfare arrangement ("MEWA") within the meaning of section 3(40) of Title 1, it is subject to State regulation to the extent provided in subsection 514(b)(6)(A). Fully insured MEWAs are subject to State regulations in accordance with subsection 514(b)(6)(A)(i). For other MEWAs, State insurance law may apply to the extent such laws are not inconsistent with Title 1 (see subsection 514(b)(6)(A)ii). The FAIR Act and N.J.A.C. 11:3-37 are not inconsistent with Title 1 of ERISA.

The Department is of the opinion that, until an employee welfare benefit plan located in this State provides the Department with an advisory opinion under ERISA Procedure 76-1 from the Pension and Welfare Benefits Administration, United States Department of Labor, stating that the plan, trust, or arrangement is exempt from compliance with some or all State insurance regulation, that employee welfare benefit plan must comply with N.J.S.A. 39:6A-4.3d, and N.J.A.C. 11:3-37.

COMMENT: Four commenters question whether publicly-funded plans, such as Medicare and Medicaid, will become primary coverage providers.

RESPONSE: Pursuant to a letter received from the Health Care Financing Administration, United States Department of Health and Human Services, the Department is advising that Medicare and Medicaid should not be elected as primary coverage providers at this time. The Automobile Insurance Buyer's Guide and the Coverage Selection Form contain a notation to Medicare and Medicaid recipients that Medicare and Medicaid will not provide primary coverage for auto accident-related injuries.

With regard to other public-funded plans, coordination and the acceptance of primary coverage provider status will depend upon interpretations of the plan's contracts and by-laws. The State Health Benefits Plan has indicated that it will allow for primary coverage provider status when its new contract becomes effective in July of 1991. The Department has not actively pursued contact with any other publicly-funded plans.

COMMENT: One commenter suggests that the Department review health benefits plans of the largest employers and unions in New Jersey, if such plans are not on file. The commenter suggested that the FAIR Act provides the Commissioner with the general authority to do so.

RESPONSE: The Department does not interpret this authorization statement as one providing the Commissioner with the right to review health benefit plan forms not otherwise required to be filed. Rather, the Department interprets the authorization statement as requiring the Commissioner to establish a means by which a named insured provides the automobile insurer proof of health benefits coverage. This has been done via the Coverage Selection Form.

COMMENT: Several commenters are concerned that the rules do not provide that health benefits plans must meet specified minimum benefit standards before "qualifying" as a primary coverage provider subject to the selection provided on the Coverage Selection Form. These commenters suggested that the Department should promulgate such minimum benefit standards to include major medical, hospitalization and per person deductibles of no more than $1,000 combined with copayment requirements of no more than 25 percent.

RESPONSE: The Department did consider inclusion of minimum benefit standards for health benefits plans selected as primary coverage providers by a named insured. The idea was rejected for several reasons. First, verification of plan benefits by automobile insurers would be difficult: much more so than verification of the existence of a plan and the insured's eligibility for coverage. Promotion of a list of "qualified" plans would be impractical and inconclusive. As discussed earlier, many plans which pass certification by the Department, and properly so. Thus, many qualified plans might never appear on the list.

Second, most people are covered by health benefits plans which provide at least the minimum benefits suggested by the commenters. Most limited benefit plans, or plans which appear to be benefit-poor, are purchased by people who have other coverage and are trying to fill gaps, or who simply feel more secure with some additional coverage. Thus, the imperative to establish minimum benefit standards is not that great.

Third, most people have employment-related health coverage. The Department was concerned that, by establishing minimum benefit standards, many employers and benefits consultants would have the guidelines, and the incentive, by which to design plans which avoid qualifying for the N.J.S.A. 39:6A-4.3d option selection. Plans not qualified for the option selection because of inadequate benefits would provide significantly fewer benefits than most employees currently receive. The Department does not want to see a flood of such plans coming into the marketplace. The Department considers the social and economic implications of reduced benefits in health coverage among large portions of the population. In other words, to the extent that the benefit-poor plans may have upon automobile insurers' costs for PIP.

COMMENT: One commenter suggests that N.J.A.C. 11:3-37 should specify certification procedures to validate that health coverage is in force.

RESPONSE: The Department has provided for certification similar to that suggested by the commenter, under a separate regulation. N.J.A.C. 11:3-14.5(b) states that insureds or prospective insureds must identify
their health benefits provider(s) on the Coverage Selection Form. The Coverage Selection Form is set forth under N.J.A.C. 11:3-15. The Coverage Selection Form provides for insureds to list their health benefits providers and policy, group or certificate number. The commenter has suggested that the named insured also provide the mailing address of health benefits providers and the group's name, if coverage is through a group contract. The Department will take the suggestion under advisement.

COMMENT: Several commenters request a confirmation that the selection made by a named insured is binding upon a resident relative who is not a named insured under another policy. One commenter questioned what would happen if a man, who is a husband and father, chooses his health benefits provider to be the primary coverage provider for auto accident-related medical expenses, but such health benefits plan does not also provide benefits for his wife and children.

RESPONSE: The N.J.S.A. 39:6A-4.3d selection of a named insured is binding upon all resident relatives who are not named insureds on another auto insurance policy. In the instance where only the named insured is eligible under a health benefits plan, then other insureds will receive benefits from the PIP plan subject to the statutory $750.00 deductible in addition to satisfying the personal injury medical expense deductible selected on the Coverage Selection Form.

If, however, the mother and children had health coverage under a separate health benefits plan, subject to New Jersey regulation, then that health benefits plan would also become a primary coverage provider, pursuant to the named insured's selection. If the wife and children are covered under a separate health benefits plan not subject to New Jersey regulation, which refuses to provide primary coverage for auto accident-related injuries, then again, coverage will be provided by the PIP plan, after satisfaction of the selected deductible and the additional $750.00 deductible. Deductibles for the PIP plan are subject to a per accident basis, not per person.

If any one commenter suggests that the definition of named insured is made too broad by including a spouse who ceases to be a resident of the named insured's household (for the duration of the automobile policy period). The commenter states that, in essence, a person could obtain a divorce, remarry and be the spouse of another person, living in the other person's household, and yet be covered under the former spouse's policy.

RESPONSE: The Department restated N.J.S.A. 39:6A-2g in setting forth the definition of "insured" at N.J.A.C. 11:3-37.2. A named insured under N.J.S.A. 39:6A-2g includes a spouse who leaves the household, until the policy period, in which cessation of residency occurred, expires.

COMMENT: One commenter questions whose responsibility it is to inform employees and covered individuals about their health coverage, pursuant to the named insured's selection. If the employer is providing health benefits plans not subject to New Jersey regulation, which refuses to provide primary coverage for auto accident-related injuries, then again, coverage will be provided by the PIP plan, after satisfaction of the selected deductible and the additional $750.00 deductible. Deductibles for the PIP plan are subject to a per accident basis, not per person.

RESPONSE: The Department believes that, essentially, it is the responsibility of each insured to find out whether their health benefits plan will provide primary coverage. For insureds under a group health benefits plan, the terms of the policy may not be readily available to the certificate holders, the Department believes that it is incumbent upon policy holders to provide the assistance necessary for a certificate holder to make the appropriate determination of coverage.

The Automobile Insurance Buyer's Guide and Coverage Selection Form urge all insureds and applicants to speak with their health benefits provider(s) or their employer's personnel representative(s) who normally provide assistance on issues related to the health benefits plan, to determine ahead of time the appropriateness of making a health benefits provider the primary coverage provider for automobile accident-related medical expenses.

COMMENT: One commenter suggests that consumers be apprised that they may be subject to satisfaction of an additional $750.00 deductible before receiving PIP benefits, if the consumer chooses to make his or her health benefits provider primary, but does not have health coverage at the time of an accident, or has health coverage which will not be primary.

RESPONSE: The Automobile Insurance Buyer's Guide and the Coverage Selection Form provide such information.

COMMENT: One commenter questions how consumers would be made aware that automobile insurance PIP plans contain a per person, per accident maximum benefit of $250,000, while health benefits plans typically have per benefit period and lifetime maximums.

RESPONSE: This information is provided to consumers in the Automobile Insurance Buyer's Guide and the Coverage Selection Form. Automobile policies also contain provisions setting forth the coverage provided under the policy. Health policies and certificates also typically state the upper benefit limits, or this information may be available through a personnel office.

COMMENT: One commenter questions whether consumers will be protected from or compensated for inadequate coverage.

RESPONSE: The Department is uncertain what is meant by the term "inadequate coverage." Consumers will, in all instances, have some amount of coverage for their injuries, assuming all required automobile insurance premiums are paid. When benefits under a health benefits plan and/or an automobile policy are exhausted, the injured party may become eligible for coverage under publically-funded programs. The question of other avenues for compensation remains with the courts.

It must be remembered that consumers are not the best resources in determining whether or not they have coverage which meets their anticipated needs. Automobile Insurance Buyer's Guides are required to be delivered with Coverage Selection Forms, both providing explanations on coverage and options. Most employers have personnel to assist employees with health coverage questions. Many health insurers provide consumers with telephone numbers to call for answers to coverage questions. Many consumers purchase their health coverage through an agent. Proper use of these resources rests with the consumer.

COMMENT: Numerous comments have been received concerning N.J.A.C. 11:3-37.5(b), which provides for verification of the PIP-as-secondary selection option (that is, that the named insured does have health coverage which will be a primary coverage provider). Several commenters suggest that the 35 day time limit in which to verify the existence and primacy of a health benefits plan is inadequate. One commenter states that by requiring that cancellation for nonpayment of premium be delayed until the 60th day following a notification, a bias is created in favor of insurers failing to pay appropriate PIP premiums, as opposed to other insureds failing to pay other types of coverage premiums. One commenter states that the enabling statute allows for recovery of premium at any time, and thus, N.J.A.C. 11:3-37.5 is not authorized. One commenter suggests that N.J.A.C. 11:3-37.5 is deficient because it does not seem to contemplate that a named insured may provide false proof of health coverage, and should be revised to also apply when health coverage is not in effect. One commenter states that application of N.J.A.C. 11:3-37.5(b) will be complex to administer in addition to equity cancellation, and 30-day provisions for other nonpayment cancellations.

RESPONSE: The Department tends to disagree with the majority and agree with a minority of the comments. The Department has determined, however, to revise N.J.A.C. 11:3-37.5(b) substantially for the reasons set forth below.

When originally drafted, N.J.A.C. 11:3-37.5(b) was intended to provide protection for insurers while not infringing upon the consumer's rights, and certainty in the terms of the contract. Upon reflection, however, the Department has determined that N.J.A.C. 11:3-37.5(b) may result in lesser consumer protection. Decreased consumer protection was not an objective behind the rule, and 30-day provisions for other nonpayment cancellations.

The Department has determined that it is in the consumer's best interests not to restrict verification to the 35th day. It is more reasonable for an insurance contract to be amended whenever it is discovered that a health benefits plan will not be primary, or that there is no health coverage, rather than to wait until an accident which results in medical expenses. It is more reasonable for the insured to repay the premium reduction amount and return to the PIP-as-primary coverage condition whenever an error is discovered in the coverage election, than to wait until the insured must pay both the premium reduction amount and the $750.00 statutory deductible in addition to the selected PIP deductible, because of the occurrence of an auto accident.

Moreover, although the Department did not intend to imply that the 60 day noncancellation period should replace equity cancellations, it became apparent from the comments received that some commenters were making that inference. The language of the rule did not make that inference unreasonable. Obviously, consumers will be provided greater protection in most instances if the equity cancellation provision of N.J.A.C. 11:3-37.5(b) is eliminated only if an error occurs on the 96th day of a policy for nonpayment of a premium reduction amount. To avoid any possible confusion in this matter, the 60 day requirement is being withdrawn, and an equity cancellation provision is being substituted for it.

Auto insurers will be required to abide by the equity cancellation rule, but will not be permitted to invoke equity cancellations without having
COMMENT: Two commenters questioned why auto insurers should not be allowed to recover premium reduction amounts for prior periods, when it is discovered via an auto accident or verification procedures that an insured does not have a health benefits plan which will provide primary coverage, or has not health benefits plan coverage. The Department determined the revision would ease administration of credits, and billing.

COMMENT: Two commenters questioned why auto insurers should not be allowed to recover premium reduction amounts for prior periods, when it is discovered via an auto accident or verification procedures that an insured does not have a health benefits plan which will provide primary coverage, or has not health benefits plan coverage. The Department determined the revision would ease administration of credits, and billing.

RESPONSE: The Department assumes that the term "prior periods" is meant to refer to prior contracts with that insured. Once a contract is completed and obligations on that contract have been discharged on both sides according to the terms of the contract, based on the facts then known to exist, it is no longer appropriate to amend that contract retroactively to recover premiums believed to be owed. The risk which that contractual arrangement was intended to insure against no longer exists.

COMMENT: One commenter suggests that the rules should clarify whether automobile insurers and health benefits providers are subject to the same fee schedules, or different fee schedules.

RESPONSE: The Department believes the rules are clear on this issue. The uninsured automobile is subject to use of the medical fee schedules set forth at N.J.A.C. 11:3-29. Health benefits plans are subject to whatever fee schedule(s) they normally use, or any participating provider agreements they may have in force.

COMMENT: One commenter states that the proposed rules are complicated by the existence of "two" fee schedules: the medical fee schedules, and whatever fee schedules health benefits providers may use. The commenter suggests that one fee schedule—the health benefits provider’s fee schedule—would eliminate the administrative problems associated with the secondary coverage provider calculating the benefits due.

RESPONSE: N.J.S.A. 39:6A-4.6 requires use of the medical fee schedules by the auto insurer when providing primary coverage, and, in the Department’s opinion, when providing secondary coverage as well. Furthermore, if a health benefits plan neglects the possibility that a multiple number of health benefits plans coordinating benefits prior to the PIP plan, each with its own schedule of fees or participating provider agreements. In such instances, which schedule should be used?

It is best, for sake of continuity, that each plan uses its own set schedule of fees both when it is primary or secondary. This will provide the greatest administrative relief.

COMMENT: One commenter questioned whether the health benefits provider, when designated as a secondary payor, must pay up to the level of participating provider agreements, or whether the health benefits provider may pay in accordance with the automobile insurer’s assumption of paying up to the medical fee schedule.

RESPONSE: Health benefits providers must pay in accordance with their own contractual arrangements. Although the Department had indicated in the proposal which appeared at 22 N.J.R. 264(a) that, in some instances, a health benefits provider might reasonably rely on the automobile insurer’s use of the medical fee schedule as a cap on allowable expense amounts, the Department has reconsidered the situation. A short discussion is provided under the Summary of Agency Initiated Changes.

The FAIR Act clearly intends to prohibit a health care provider from demanding payment from any person in excess of charges permitted under the medical fee schedules. Interpretation of the terms “person” and “demanding,” and the extent of the application of the medical fee schedules in opposition to any existing contractual arrangements, will have to be provided through a forum other than this rulemaking process.

COMMENT: One commenter suggests that health care providers be required to code their bills, preferably using the CPT-4 coding system.

RESPONSE: Although the Department does not agree, the Department does not have the authority to set forth such a requirement.

COMMENT: One commenter states that N.J.S.A. 39:6A-4.3d provides for subrogation if a subrogation fee is added. If the Provider is primary, an automobile insurer is liable for “reasonable medical expenses not covered by the health insurance coverage,” but that the proposed rules translate this concept into “secondary coverage,” a broader term which is beyond the scope of the enabling legislation.

RESPONSE: The Department disagrees. “Secondary coverage” is not a translation of remaining “reasonable medical expenses.” “Secondary coverage provider” is a label designating a payment position in accordance with the coordination of benefits under N.J.A.C. 11:3-37. The term has nothing to do with payable amounts; these are determined via N.J.A.C. 11:3-37.7 or 37.9. Those two rules are the translation of remaining “reasonable medical expenses” and are within the authority of the statute.

COMMENT: One commenter suggests that in mandating the claims payment procedures, the Department has confused “reasonable expenses not covered by the health insurance coverage” with expenses for which an insured does not receive 100 percent reimbursement because of deductible and copayment requirements.

RESPONSE: There is no confusion on the part of the Department. The Department has followed normal principles of coordination in developing its claim payment procedures (benefit determinations), as required by the statute. There is no inherent discrepancy between the requirement that the automobile insurer should be liable for all reasonable expenses not covered by the health insurer, and the possibility that an insured may receive 100 percent coverage of allowable expenses. The statute does not require that insureds be reimbursed less than 100 percent for expenses which are considered reasonable (that is, allowable expenses). The principles of coordination anticipate that 100 percent coverage of allowable expenses is possible and acceptable.

COMMENT: Two commenters suggest that the Department should provide time limitations for health benefits providers in responding to automobile insurers, to assure that automobile insurers are able to meet the required 60 day payment standard.

RESPONSE: The Department disagrees. The commenters assume that health benefits providers will be slow and uncooperative in working with auto insurers, but the Department does not agree with that assumption. If health benefits providers prove to be uncooperative, then the situation may be addressed.

The 60 day period does not begin to run until the insured submits the claim amount to the automobile insurer. This applies whether the auto insurer is a primary coverage provider or a secondary coverage provider.

In the event a claim is submitted by the insured simultaneously to the health benefits provider and the auto insurer, the auto insurer may deny the claim coverage until disposition of the claim by the health benefits provider (assuming the auto insurer is the secondary coverage provider). Notice of disposition of the claim may be provided by the insured or the health benefits provider.

Simultaneous submissions are not likely to occur in great frequency.

COMMENT: Two commenters request a clarification of the term “ineligible” under N.J.A.C. 11:3-37.4. That is, does the phrase mean no health insurance in place at the time of an accident, or that an in-force plan does not provide coverage for a specific medical expense incurred?

RESPONSE: “Ineligible” means that no health coverage is in place at the time of an accident, or that an effective health benefits plan refuses to become a primary coverage provider because PIP benefits would have been available (but for the N.J.S.A. 39:6A-4.3d option section). “Ineligible” does not refer to the lack of coverage by a health benefits plan for a more specific medical expense.

COMMENT: Two commenters question whether the health benefits provider would be permitted to be involved in actions for subrogation. If not, one commenter questions whether the auto insurer would be allowed to seek subrogation of the full amount of benefits paid (with reimbursement to the health benefits provider) or to seek only subrogation of amounts actually paid by the automobile insurer.

RESPONSE: The Department is uncertain how broadly the commenters may be using the term “subrogation.” Health benefits providers are not prohibited from seeking reimbursement when collateral sources are involved. With respect to recovery from collateral sources, since group health benefits plans, workers’ compensation, temporary disability benefits usually must not enter into a single policyholder/trustee, there is seldom any collateral source problem. Individual health benefits plans generally provide for exclusion of benefits or reductions in benefits when the same expenses are payable by a collateral source. Even so, individual health benefits providers are not precluded from seeking return of benefits paid when other source benefits have been recovered by the insured. Although not entitled to initiate an action for payment of collateral source benefits pursuant to N.J.S.A. 39:6A-6, a health benefits provider arguably would be permitted to join an auto insurer in pursuing such an action.

In regard to subrogation in accordance with N.J.S.A. 39:6A-9.1, the statute has been amended to allow health benefits providers to join in or initiate such actions. Normal legislative construction principles dictate that this amended statute serves as an exception to the general prohibition
against health benefits providers in subrogation actions. N.J.S.A. 39:6A-9.1, which provides for subrogation in very limited circumstances, read in conjunction with N.J.S.A. 39:6A-4.3, suggests that health benefits providers are entitled to seek recovery of all amounts paid when subrogation is permitted under N.J.S.A. 39:6A-9.1, except for reimbursements of those expenses which may have been covered by the health benefits provider. These issues, however, ultimately may require judicial interpretation.

COMMENT: One commenter requests clarification as to whether the FAIR Act and the proposed rules mandate that all health benefits providers offer coverage for injuries sustained in an automobile accident. The commenter questions whether an authorized health benefits provider which does not currently offer coverage for health services resulting from an automobile accident must rewrite its contracts to include such coverage.

RESPONSE: Yes, the contract (forms) will have to be rewritten. The commenter should note that there is no requirement that benefits change, only that the provision (payment) of benefits change. If a treatment modality, a health specialist or services provided by a specific type of health care facility are not normally covered by the contract, the revised contract is not required to cover these treatments or services either. However, payment of benefits may no longer be premised upon whether the injury was sustained in an auto accident, or be based upon the possible coverage of medical expenses by an auto insurer. The Department issued Bulletin No. 90-9 to health benefits providers in October informing them that language changes are necessary.

COMMENT: One commenter notes that whether it is correct to interpret N.J.A.C. 11:3-37.9(d) as requiring a hospital expense benefits only contract to provide benefits for medical expenses as well when coordinating from a secondary coverage provider, position, and, if so, the commenter questions whether such an interpretation is in conflict with N.J.A.C. 11:3-37.9(b) which states that nothing in the subchapter shall be construed as requiring any health benefits provider to provide coverage for any treatment or services not otherwise covered under the terms of the health benefits plan.

RESPONSE: The commenter's interpretation is not correct in its entirety. The hospital expense benefits plan, like any other health benefits plan, must provide benefits for all allowable expenses remaining uncovered, up to but not exceeding the total actual benefits which would have been payable by that hospital expense benefits plan had it been providing primary coverage. The issue here is that of eligible expenses versus allowable expenses. That an expense is not considered eligible by a specific health benefits plan does not mean that it is not an allowable expense. Allowable expenses include all eligible expenses of all coordinating plans. Secondary coverage providers normally cover all remaining uncovered allowable expenses, under recognized coordination of benefits theories, up to the total dollar amount which they would have paid for eligible expenses, had they been primary. There is no conflict between N.J.A.C. 33-37.9(b) and 37.9. No health benefits plan is required to provide benefits it would not normally provide as a primary coverage provider. For instance, $5,000 of total bills is submitted to the primary coverage provider, and $900.00 of that $5,000 remains as uncovered allowable expenses. If the hospital benefits plan determines that it would have paid $0 in benefits on the $5,000 of total bills it had been the primary coverage provider because none of the items of expense were eligible expenses under the terms of the hospital benefits plan, then it will pay $0 towards the $900.00 remaining uncovered allowable expenses. But if it would have paid $800.00 of the total $5,000 bill as a primary coverage provider, then it should pay $800.00 towards the $900.00 remaining uncovered allowable expenses, discharging its contractual obligation. (If it would have paid $2,000 as a primary coverage provider, then it should cover the $900.00 of remaining uncovered allowable expenses. Here, it is at least partially discharging its contractual obligation, and saving money as well.)

Just because all of the items of expense which a health benefits plan has contractually agreed to cover may be paid by someone else in some circumstances, that does not mean that the plan's contractual obligation on those items of expense are extinguished. The plan owes something towards those expenses regardless of the order in which the bills containing those expenses happen to be submitted and disposed of by a previous paying plan.

The Department could devise rules whereby each secondary coverage provider would contribute directly towards coverage of its own expenses only (making duplicate benefit payments, which the insured or health care provider could then use to pay the other uncovered expenses), and produce the same result. However, it would be much more difficult and costly to administer such a system. The principle that a secondary payor should consider all remaining uncovered allowable expenses and pay either the total of the remaining uncovered allowable expenses or the total for eligible expenses it would have paid had it been primary, where a plan's allowable amount is less than the qualified total, is a less costly and more efficient principle, and one which has been accepted by the NAIC and most states.

COMMENT: One commenter questions whether it is correct to interpret N.J.A.C. 11:3-37.9(e) as requiring a medical expense benefits only contract and a hospital expense benefits only contract to evenly split coverage for remaining allowable expenses even when such expenses are clearly allocable, and not allocated evenly.

RESPONSE: Each specific plan must consider all of the remaining uncovered allowable expenses, not the expenses each separate plan considers to be eligible expenses. The commenter's interpretation is correct, but please note that the Department has initiated a revision in this rule. A short discussion is provided in the Agency Initiated Changes section of the summary.

COMMENT: One commenter stated that, by defining "hospital expenses" as "at least those expenses defined at N.J.S.A. 39:6A-2f," the qualifier "at least" nullifies the meaning of the definition provided at N.J.S.A. 39:6A-2f. The commenter suggests that hospital expenses be defined as identical to the definition at N.J.S.A. 39:6A-2f.

RESPONSE: The definition includes the qualifier because although the term "hospital expenses" is statutorily defined for auto insurers, this is not the case for health benefits providers. Upon reflection, the Department has determined that the definition does require revision. The qualifier "at least" will be removed, and that definition at N.J.S.A. 39:6A-2f will be restricted to auto insurers. The definition of "hospital expenses" for health benefits providers will be as set forth in their separate policies or contracts.

COMMENT: One commenter notes that the definition of "health benefits provider" includes dental service corporations and dental plan organizations. The comment questions whether this means that an insured who has dental coverage only may argue that because the dental coverage covers injuries arising out of an automobile accident there is health coverage such that the option to make a health benefits provider primary may be successfully selected.

RESPONSE: No. A clarification will be provided. Auto insurers should note, however, that it is rare that any person has dental coverage only.

COMMENT: One commenter notes that under the current auto insurance system, there is PIP concurrency. The commenter questions what happens in the case of a household with two policies, one with the option selected to make health benefits providers the primary coverage provider(s), and the other with the option selection to make PIP benefits coverage primary, where there are additional resident relatives in the household who are eligible for coverage under either automobile insurance policy (and are not themselves named insureds).

RESPONSE: Rules of dependency supplemented by birthday rules will apply. The proposed new rules will be revised to reflect these coordination changes upon adoption. Essentially, a child will be considered covered by his or her parents' auto policy before any other resident relative's policy. If both parents have separate policies, or there is no auto policy upon which a parent is a named insured, then the birth date rule will apply. Under the same rule, the auto policy containing the named insured whose birthday falls earliest in a calendar year will be considered the dominant policy.

For example, three sisters share a house. Sister One has two children, and has her own auto insurance policy on which she is the named insured. She has selected her health benefits provider to be the primary coverage provider. Her birthday is June 4. Sister Two has one child. She has no automobile of her own, nor is she a named insured on any auto insurance policy. Sister Three has no children. She does have her own auto insurance policy on which she is the named insured. She has selected auto insurance to be her primary coverage provider. Her birthday is on October 9. Sister Two and the three children become involved in an automobile accident, sustaining injuries and incurring medical expenses. Sister One's children are covered by Sister One's auto insurance policy, and thus, the health benefits provider should be the primary coverage provider (assuming Sister One has purchased health coverage for her children). Sister Two and her child will receive benefits for their injuries under the terms of Sister One's auto insurance policy as well, because Sister One's birthday occurs earlier in the calendar year than Sister Three's does.
EMERGENCY ADOPTIONS

If Sister Two has a health benefits provider which will be a primary coverage provider, then she (and her child, presumably) would receive benefits from their health benefits plan. If Sister Two does not have health coverage, then she and her child will receive PIP benefits from Sister One's auto insurance policy, but only after satisfying the applicable deductible plus the additional $750.00 deductible.

COMMENT: A commenter noted that health benefits providers typically have pre-existing condition limitations, while automobile insurers do not. The commenter questioned what happens if a pre-existing condition is aggravated by an automobile accident, and the health benefits provider (as the primary coverage provider) will not provide coverage for the pre-existing condition.

RESPONSE: If a health benefits provider will not provide coverage on this basis, the auto insurer will have to provide that coverage. This is similar to exclusion by a health benefits provider of a specific expense. Exclusion of a specific treatment expense based on a pre-existing condition limitation does not mean that the health benefits plan is not primary. Auto insurers should be aware that group health coverage rarely contains a pre-existing condition limitation clause, while on individual policies, pre-existing condition exclusion clauses can not be enforced beyond two years, pursuant to New Jersey law.

COMMENT: One commenter notes that automobile insurers are allowed by law to require physical exams, which are utilized to ascertain reasonableness of treatment and to prevent fraud. The commenter states that health benefits providers are not allowed this option. The commenter goes on to state that if a health benefits provider is primary, there is little incentive for the automobile insurer to order a physical exam. The commenter questions how the Department intends to encourage fraud prevention and enforce the requirement of payment of reasonable expenses.

RESPONSE: The commenter's analysis is incorrect. There is nothing which prohibits health benefits providers from requesting physical exams of an insured, and it is not uncommon for health benefits providers to do so as a means of preventing fraudulent activity and questionable treatment proposals. Moreover, health benefits providers routinely request second opinions before authorizing payments for elective surgeries.

COMMENT: One commenter notes that health benefits providers are allowed to require a second opinion, but automobile insurers are not. The commenter questions whether auto insurers are required to request second opinions if the health benefits provider is primary but does not cover all costs of the examination. The commenter states that if automobile insurers must pay, then the automobile insurer should be allowed to obtain second opinions also.

RESPONSE: It is rare that a health benefits provider ordering a second opinion will not pay all of the costs of that second opinion (as opposed to when the insured seeks a second opinion). If some costs of the second opinion are not covered by the health benefits provider, then the auto insurer would be required to cover the remaining allowable costs. This does not mean that the auto insurer needs or should have "second opinion" rights also. Auto insurers are already entitled to require insureds to undergo a physical examination whenever a condition or procedure option is in doubt.

COMMENT: One commenter suggests that the rules should contain a provision requiring the health benefits provider to notify the automobile insurer if an insured's coverage is terminated.

RESPONSE: The Department disagrees. The suggestion is impractical. Health benefits providers are not likely to know which insureds or covered members have auto insurance coverage with which auto insurers. Furthermore, auto insurers should be aware that health benefits providers aren't required to notify certificate holders when a group policyholder has terminated a group policy or allowed it to lapse. There are legislative proposals to allow a similar situation.

COMMENT: Two commenters suggest that the rules provide a forum or method for dispute resolution between health benefits providers and automobile insurers.

RESPONSE: The Department disagrees. The insurance industry has several alternative forums from which to choose. The Department assumes that the industry will choose to resolve disputes in the most efficient and cooperative and conciliatory forum available and in a manner conducive to the insured's well-being. If this does not prove to be the case, then the Department may specify a forum or method for dispute resolution.

COMMENT: One commenter states that the rules do not provide for adequate communication amongst health benefits providers and automobile insurers. The commenter suggests that health benefits providers be required to respond to automobile insurers within a limited amount of time, and be required to supply automobile insurers with a list of responsible personnel and phone numbers for administrative convenience.

RESPONSE: The Department disagrees that specific rules governing communication between insurers and health benefits providers are necessary, at this time. The Department believes that the insurance industry is equipped to address its communications problems on its own, in general. Communication and cooperation will benefit both property and casualty insurers and the life and health industry.

The commenter should note, however, that the Department's requirement of the development of an Explanation of Benefits form is intended to help facilitate auto insurer and health benefits provider communication.

COMMENT: One commenter suggested that health carriers should be required to be involved in fraud investigation and prevention activities to the same extent as automobile insurers are so required, and to cooperate with automobile insurers in assessing information.

RESPONSE: The Department disagrees that rules are necessary. The Department does not expect health benefits providers to be uncooperative in ferreting-out fraud. Health benefits providers do report fraudulent activity, or suspicious activity, to the Department, and make cases against parties independently as well.

COMMENT: Two commenters question N.J.A.C. 11:3-37.10 which sets forth requirements for an Explanation of Benefits form ("EOB"). One commenter states that this requirement is not authorized by the enabling statute, and that there is no need for automobile insurers to completely overhaul their method of communication with insureds since existing PIP documentation is sufficient. The other commenter noted that it currently utilizes an EOB meeting many of the requirements of N.J.A.C. 11:3-37.10. However, its EOB does not identify each procedure and relate it to its eligible expense, and that to do so would create tremendous mechanical and administrative problems for automobile insurers.

RESPONSE: The commenters have assumed that the EOB is intended only for communication with insureds, which is not the case. EOBs are intended to be used for communication with insureds, but more importantly, for communication between auto insurers and health benefits providers. Health benefits providers already utilize EOBs with the characteristics listed in N.J.A.C. 11:3-37.10. The EOB helps to identify who paid what, when, and why. Eligible expenses and ineligible expenses are identified. The use of EOBs helps to prevent duplication of benefits, and in this instance may reduce unnecessary payments of bills exceeding the medical fee schedule.

The Department believes an EOB having at least those characteristics prescribed is necessary.

COMMENT: One commenter suggested that the rules create unnecessary costs and duplication of effort by requiring both primary and secondary coverage providers to examine each item of every bill.

RESPONSE: The Department disagrees. Health benefits providers already routinely examine each item of a bill. Auto insurers will now need to do so because of use of the medical fee schedules. Close examination of bills will highlight questionable activity. Additionally, as a secondary coverage provider, examination of each item of a bill is necessary to determine what the coverage provider's upper level of liability on remaining uncovered allowable expenses is. Although in most instances remaining uncovered allowable expenses will be less than the secondary coverage provider's obligation on eligible expenses would have been had it been primary, this may not always be the case.

COMMENT: One commenter questions whether, on the EOB, if a chiropractor or physical therapist (for example) treats an insured several times in one week, and administers as many as six different modalities during each visit, each modality for each visit would be considered a separate "procedure" requiring individual identification and expense breakdown.

RESPONSE: The Department cannot provide a definitive answer; the answer will depend upon the structure of the medical fee schedules, and, to a lesser extent, the chiropractor's or physical therapist's billing practices.

COMMENT: One commenter questions what happens when the $250,000 automobile insurance benefits cap is reached.

RESPONSE: When the automobile insurance PIP benefits are exhausted, having reached $250,000, or whatever the upper level of benefits may be on that auto policy (some auto insurers provide additional PIP medical expense benefits options beyond $250,000) the insured will no longer receive any PIP benefits. The health benefits plan, if any, will continue to provide benefits unless and until its maximums have been
COMMENT: One commenter suggests that the Department should explore the concept of "Reallocation of Benefits." The commenter noted that while a current option to double-dip is provided so as to maximize benefits for the catastrophically injured, that is, the $250,000 of PIP benefits will be allocated more towards the ancillary medical expenses because most other medical (and hospital) expenses will be covered by the health benefits plan. However, if the PIP plan is selected to be primary, for the catastrophically injured, much of the $250,000 will be depleted before ancillary medical expenses begin to accumulate.

The commenter noted that when the option is selected to make a health benefits provider primary, the health benefits plan and PIP plan may coordinate in such a way so as to benefit both providers. The additional benefit provided by the PIP plan is designed so as to prevent double-dipping, or duplication of benefits. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses.

The commenter notes that while responsibility falls to the health benefits provider, in the secondary position, is required to consider.

When the auto insurer is the primary coverage provider, both group and nongroup health benefits providers can limit benefits payable in accordance with the rules provided at N.J.A.C. 11:3-37. In most circumstances, this will not result in insured's collecting more than 100 percent coverage.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.

The Department believes the concept of "Reallocation of Benefits" can maximize the insurance benefits available to the catastrophically injured insured under certain circumstances. The concept is also a logical extension of the coordination of benefit rules providing for coverage of allowable expenses rather than eligible expenses. However, the concept appears to be more far-reaching than what was intended by the FAIR Act. The Department will give serious consideration to this suggestion.

COMMENT: One commenter questions whether the option selection impacts upon pedestrians having no automobile insurance policy on which they are the named insured.

RESPONSE: The N.J.S.A. 39:6A-4.3d option selection applies to the named insureds and resident relatives of the named insured who are not named insureds on their own auto insurance policy. Neither pedestrians nor pedestrian PIP provisions are impacted.

COMMENT: One commenter asks whether the rules are properly designed so as to prevent double-dipping, or duplication of benefits.

RESPONSE: The use of the term "double-dipping" implies that there is something fraudulent or unseemly about duplicate insurance payments for the same event. In fact, where duplicate coverage exists and coordination or exclusion is not permitted (a situation sometimes occurring in nongroup health coverage), duplication of benefits will occur as the result of performance of contracts agreed to and paid for. Duplicative benefit payments are "bad" only to the extent that they increase the cost of insurance coverage. For this reason, coordination provisions are permitted.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.

The Department believes the concept of "Reallocation of Benefits" can maximize the insurance benefits available to the catastrophically injured insured under certain circumstances. The concept is also a logical extension of the coordination of benefit rules providing for coverage of allowable expenses rather than eligible expenses. However, the concept appears to be more far-reaching than what was intended by the FAIR Act. The Department will give serious consideration to this suggestion.

COMMENT: One commenter questions whether the rules are properly designed so as to prevent double-dipping, or duplication of benefits.

RESPONSE: The use of the term "double-dipping" implies that there is something fraudulent or unseemly about duplicate insurance payments for the same event. In fact, where duplicate coverage exists and coordination or exclusion is not permitted (a situation sometimes occurring in nongroup health coverage), duplication of benefits will occur as the result of performance of contracts agreed to and paid for. Duplicative benefit payments are "bad" only to the extent that they increase the cost of insurance coverage. For this reason, coordination provisions are permitted.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.

The Department believes the rules should prevent duplicative benefit payments. An insured should receive primary coverage from one (type) of insurer and secondary coverage from the other (type) of insurer. Secondary coverage should only be provided for remaining uncovered allowable expenses. Proper use of EOBs should provide insurers knowledge as to what is and is not an allowable expense.

As a matter of policy, the Department considers nonexistence of coverage to be a greater evil than duplication of coverage. Therefore, the effect of these rules may, in certain instances, give rise to duplication of coverage in order to prevent simultaneous avoidance of coverage by both insurers.
11:3-37.4 sets forth the guidelines for the scope of the application of the primary coverage option; that is, the option applies to the named insured and resident family members of the named insured. N.J.A.C. 11:3-37.5 provides that automobile insurers may choose to verify that a named insured selecting the alternative coverage option has a policy in effect with another insurer that it indeed will provide primary coverage for one of the insureds. N.J.A.C. 11:3-37.6 sets forth standards for the order of benefit determination under the alternative coverage option. A distinction is made in this new subchapter between providing primary coverage under the alternative coverage option selection, and providing primary or secondary coverage in accordance with the coordination of benefits rules set forth at N.J.A.C. 11:4-28. Specifically, automobile no-fault benefits plans will no longer be plans with which health benefits providers may coordinate their plans using the rules of N.J.A.C. 11:4-28.

Rather, under these proposed new rules, either the PIP plan is categorized as "primary" and all health benefits plans are categorized as "secondary," or all health benefits plans are categorized as "primary," and the PIP plan is categorized as "secondary." (There may be more than one health benefits plan providing primary coverage, or secondary coverage, to an insured. If that is the case, and if the health benefits plans are group plans, then coordination of benefits may be achieved between the group plans using the coordination rules at N.J.A.C. 11:4-28.)

Some benefits provided through programs or plans funded or owned by the Federal or State governments may be exempt from providing primary coverage. This may also be true for other health plans not subject to regulation by New Jersey. However, an automatic presumption of exemption does not exist.

N.J.A.C. 11:3-37.7 provides the guidelines for calculation of the benefits payment by an automobile insurer when the alternative coverage option is selected (that is, the PIP plan is secondary coverage). The automobile insurer should calculate the benefits it would have paid if the PIP plan was primary coverage. In so doing, (1) calculations are made only for the automobile insurer's recognized eligible expenses, and (2) the calculation is reduced by the policy deductible and statutory copayment amounts. In paying actual benefits, the automobile insurer is not required to exceed the medical fee schedule amounts for expenses, but the automobile insurer must (1) consider all remaining uncovered allowable expenses, whether or not such items of expense would be eligible expenses from the automobile insurer's viewpoint, and (2) not require actual satisfaction of the PIP deductible or statutory copayment amounts by the insured.

N.J.A.C. 11:3-37.8 restates the statute in establishing guidelines to be followed by the automobile insurer in the provision of PIP benefits when the alternative coverage option has been selected, but the specific insured has no health coverage in effect at the time the insured is injured in an automobile accident. This rule also provides that the automobile insurer may recoup the premium reductions provided on the policy during the contract period in which the automobile-related accident occurred.

N.J.A.C. 11:3-37.9 sets forth the standards for determining the order of benefits payable and calculating the benefits to be paid when the traditional coverage option is selected. Notably, health benefits providers may not make the provisions of benefits for remaining uncovered allowable expenses contingent upon the order of the receipt of health care service charges. Instead, N.J.A.C. 11:3-37.9 addresses the order of the receipt of health benefits and the coordination of benefits.

N.J.A.C. 11:3-37.10 sets forth standards for the information required to be disclosed by the automobile insurer on an explanation of benefits form which is to be provided with the payments of benefits. This form should facilitate communication between the automobile insurer and health benefits provider or providers. N.J.A.C. 11:3-37.1 establishes the purpose and scope of proposed new subchapter 37. This proposed subchapter applies to all health benefits providers who have an automobile insurance policy which has health care coverage or offering to provide coverage to New Jersey residents through policies or contracts delivered or issued for delivery in this State.

N.J.A.C. 11:3-37.7 establishes the purpose and scope of proposed new subchapter 37. This proposed subchapter applies to all health benefits providers who have an automobile insurance policy which has health care coverage or offering to provide coverage to New Jersey residents through policies or contracts delivered or issued for delivery in this State.

N.J.A.C. 11:3-37.2 sets forth definitions of various terms. N.J.A.C. 11:3-37.3 prohibits health benefits providers from incorporating any language in contracts or policies which would contravene the intent of the FAIR Act or this proposed subchapter. Proposed amendments to N.J.A.C. 11:4-16.4 and 16.5 and N.J.A.C. 11:4-28.2 and 28.5 are also intended to effectuate this prohibition.
Disputes may occur when a health benefits provider claims an exemption from compliance with these proposed rules, but there is a question as to the validity of the exemption. Disputes may also arise when it is unclear that an individual is an insured under an automobile policy in which the alternative coverage option has been selected.

N.J.A.C. 11:3-37.12 establishes the guidelines to be used in determining which auto policy’s terms will apply when an insured is covered by more than one auto policy.

N.J.A.C. 11:3-37.13 is a penalty provision applicable to both automobile insurers and health benefits providers.

N.J.A.C. 11:3-37.14 provides that the rules of the subchapter are severable.

Social Impact
In enacting the FAIR Act, the Legislature intended to provide New Jersey residents with a means by which to obtain some relief from the automobile insurance premiums they have been paying. Selection of the N.J.S.A. 39:6A-4.3d alternative coverage option will provide that relief for many residents.

Economic Impact
Consumers who choose the alternative coverage option should see a reduction in their premiums associated with PIP. Automobile insurers should also see an overall reduction in their costs related to PIP benefits. However, the lower PIP costs for automobile insurers will be partially offset in the early years of implementation of the alternative coverage option because of added administrative costs associated with verification procedures and enhanced communications with insureds and health benefits providers. (Note, however, that verification of the validity of the alternative coverage option is voluntary at this time.)

Health benefits providers are expected to see an increase in costs. Virtually no health benefits plans previously provided first dollar coverage for medical expenses when PIP benefits were available. The increase in costs for these plans, therefore, will be noticeable almost immediately, and may be substantial. The actual cost increase will depend, of course, upon the number of covered members choosing the alternative coverage option and the total medical expenses incurred resulting from the option selection.

However, health benefits providers who provide secondary coverage may also see their costs increase as the automobile carriers begin to utilize the medical fee schedules. Additionally, health benefits providers whose plans do not comply with the FAIR Act and this new subchapter may still incur increased costs if they neglect to inform their covered members that they should not choose the alternative coverage option. These health benefits providers may have to provide coverage for the additional $750.00 deductible.

The increase in costs for health benefits providers will have a ripple effect. Premium increases will affect group and individual policies. Increases in the cost of providing group coverage will impact upon employers, union groups and trade associations. Changes in costs for health benefits providers and market competition may affect health care service provider contracts as well.

The full potential of the ripple effect is uncertain. Health benefits providers are considered to be more efficient than automobile insurers. Generally, health benefits providers are able to provide insureds a higher level of benefits while incurring a lower expense per dollar of benefits paid. Thus, while the initial impact of the alternative coverage selection may result in increased costs (and premiums) for health benefits coverage, the more efficient nature of the health benefits provider is expected to eventually contain and possibly drive down those costs. In the long-term, it is anticipated that costs (and premiums) will stabilize, resulting in a positive impact for health benefits providers, automobile insurers and consumers.

The Department of Insurance anticipates an increase in policy and rate filings as both automobile insurers and health benefits providers move to implement the N.J.S.A. 39:6A-3.4d option. Costs associated with these increased filings are expected to be absorbed by current Department of Insurance resources.

Regulatory Flexibility Analysis
The Department of Insurance is uncertain whether any “small businesses” (as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.) will be impacted by the proposed amendments and new rules. There are no reporting or recordkeeping requirements, but the new rules and amendments will require new standards of compliance for both insurers and health benefits providers with respect to policy forms and coverage. Additionally, unless an insurer currently is using an Explanation of Benefits (“EOB”) form which meets the criteria of N.J.A.C. 11:3-37.10, insurers must develop and implement a new, complying EOB.

However, no measures are being proposed which would effectively minimize the adverse economic impact on small businesses, if any. The Department of Insurance determined that it would be impractical in this instance to differentiate application of the amendments and new rules between insurers and health benefits providers based on their size. There are too many variables involved, and it is probable that consumers would be the party most often injured by compliance (or noncompliance) errors. Regulatory flexibility measures would tend to defeat the intended purpose of N.J.S.A. 39:6A-4.3d, which does not provide for a difference in application of the statute based on an insurer’s or health benefits provider’s size, or any other criteria.

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

11:3-14.8 Application of the option to choose health care insurance coverage as the primary insurer
When an insured or prospective insured elects to have a health insurer provide personal primary injury protection medical expenses benefits, the medical expense benefits available to the insured under his or her automobile policy's personal injury protection provisions shall become a secondary benefits provider. The order of benefit determination shall be in accordance with N.J.A.C. 11:3-37.

11:4-16.4 Policy definitions
(a) Except as provided hereafter, no health insurance policy delivered or issued for delivery in this State shall contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section.
1. “Accident”, “accidental injury”, “accidental means”, shall be defined to employ “result” language and shall not include words which establish an accidental means test or use words such as “external, violent, visible wounds” or similar words of description or characteristics.
2. “Injury” shall not be defined more restrictively than accidental bodily injury sustained by the insured person which is the direct cause of the loss, independent of disease, bodily infirmity or other cause, and which occurs while the insurance is in force.
3. (1) Such definition may provide that injuries shall not include injuries for which benefits are provided under workers’ compensation, employer’s liability or similar law, [compulsory motor vehicle no-fault plan, unless prohibited by law] out-of-State automobile insurance coverage as defined at N.J.A.C. 11:3-37.2 and provided for at N.J.A.C. 11:3-37.3, or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.
2. -17. (No change.)

11:4-16.5 Prohibited policy provisions
(a)-(k) (No change.)
(l) No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:1. -7. (No change.)
8. Treatment provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers’ compensation, employer’s liability or occupational disease law; [or any mandatory motor vehicle no-fault law] out-of-State automobile insurance coverage as defined at N.J.A.C. 11:3-37.2 and provided for at N.J.A.C. 11:3-37.3; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person’s immediate family and services for which no charge is normally made in the absence of insurance;
9. -12. (No change.)
(m)-(q) (No change.)

11:4-28.2 Definitions
The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(CITE 22 N.J.R. 3786) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
“Plan” means coverage with which coordination is allowed. The definition of “plan” in the group contract must state the coverages which will be considered in applying the COB provision of that contract. The right to include a coverage shall be limited by 1 through 3 below.

1. (No change.)
2. (No change.)
3. A “plan” may include:
   i. - iii. (No change.)
   iv. Group hospital indemnity benefit amounts exceeding $150.00 per day; and
   v. The medical benefits coverage in automobile “no-fault” and traditional “fault” type contracts; and
   vi. Medicare or other governmental benefits, except those benefits as provided in ivii below. This part of the definition of “plan” may be limited to the hospital, medical and surgical benefits of the governmental program.

4. (No change.)

11:4-28.5 Prohibited coordination; benefit design

(a)-(b) (No change.)
(e) No contract delivered or issued for delivery in this State, or renewed, continued or converted on or after January 1, 1991, shall contain any provision, rider, waiver or endorsement or other instrument which restricts, limits or excludes coverage, directly or indirectly, of services or expenses otherwise eligible under the contract on the grounds that such expenses or services would be covered under an automobile no-fault medical benefits plan for which the covered member would be eligible, except as provided for by N.J.A.C. 11:3-37.

SUBCHAPTER 37. ORDER OF BENEFIT DETERMINATION BETWEEN AUTOMOBILE PERSONAL INJURY PROTECTION AND HEALTH INSURANCE

11:3-37.1 Purpose and scope

The purpose of this subchapter is to establish guidelines for the order of benefit determination between a plan of health insurance and personal injury protection provided through an automobile policy, when a named insured elects to have his or her personal injury protection become secondary coverage for the provision of benefits for medical expenses incurred due to injuries sustained in an automobile accident. The provisions of this subchapter shall apply to all automobile policies, as that term is defined at N.J.S.A. 39:6A-2a, issued to New Jersey residents, or renewed on or after January 1, 1991, and to all health benefits plans which have been or will be delivered or issued for delivery in this State.

11:3-37.2 Definitions

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

“Actual benefits” means those benefits determined to be payable for allowable expenses.

“Allowable expense” means a medically necessary, reasonable and customary item of expense covered by an insured’s health benefits plan(s) or PIP plan as an eligible expense, at least in part. When a plan provides benefits in the form of services, the reasonable monetary value of each such service shall be considered as both an allowable expense and a paid benefit.

“Benefits” means the provision of the following in consideration of payment of premiums or fees on a prepaid or postpaid basis:
   1. Services, including supplies;
   2. Payment of expenses incurred;
   3. A combination of 1 and 2 above; or
   4. An indemnification.

“Eligible expense” means:
   1. In the case of health benefits plans, that portion of the medical expenses incurred for treatment of an injury which is covered under the terms and conditions of the plan, without application of the deductible(s) and copayment(s), if any.

   2. In the case of PIP plans, that portion of the medical expenses incurred for treatment of an injury which, without considering any deductible and copayment, shall not exceed:
      i. The percent or dollar amounts specified on the medical fee schedules, or the actual billed expense, whichever is less; or
      ii. The reasonable amount, as determined by the automobile insurer, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided, when an incurred medical expense is not included on the medical fee schedules.

“Health benefits provider” means any person, whether subject to the regulation of the New Jersey Department of Insurance, Department of Health, or both, or not otherwise subject to such regulation, who contracts to provide health services, provide reimbursement for the cost of health services in whole or in part, or to provide for indemnity in the event health services are used, in return for a prepaid or postpaid premium or fee or other consideration, including, but not limited to:
   1. Insurers, as defined at N.J.S.A. 17B:17-1;
   2. Hospital service corporations, as defined at N.J.S.A. 17B:17-1;
   3. Medical service corporations, as defined at N.J.S.A. 17B:17-1;
   4. Health service corporations, as defined at N.J.S.A. 17B:17-1;
   5. Health maintenance organizations, as defined at N.J.S.A. 26:23-1;
   6. Dental service corporations, as defined at N.J.S.A. 17B:17-1;
   7. Dental plan organizations, as defined at N.J.S.A. 17B:17-1;
   8. Medicare;
   9. Medicaid;
   10. State Employees Health Benefits Plan;
   11. CHAMPUS;
   12. Self-insured programs; and
   13. An entity organized under the laws of any other state or jurisdiction which delivers certificates to residents of New Jersey evidencing coverage under a contract issued and delivered in a state or jurisdiction other than New Jersey.

“Hospital expenses,” when used by the automobile insurance PIP plan, means those expenses defined at N.J.S.A. 39:6A-2.

“Illness” means bodily injury sustained by an insured as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by a object propelled by or from an automobile.

“Illness” means a person eligible for coverage, at least in part, for medical expenses incurred for treatment of injuries, under an automobile policy PIP medical expense provision, and who meets the definition of a named insured or family member.

1. Named insured means the person identified as the insured in the automobile policy and that person’s spouse, if the spouse is a resident of the same household, except that if the spouse ceases to be a resident of the household of the named insured, coverage for that spouse shall continue until the full term of any policy period in effect at the time of the cessation of residency has expired.

2. Family member means any relative of the named insured or the named insured’s spouse who:
   i. Is related to the named insured or named insured’s spouse by blood, marriage, adoption or guardianship;
   ii. Resides in the household of the named insured or spouse of the named insured; and
   iii. Is not a named insured under another automobile policy.

“Medical expenses” means expenses for medical, surgical and dental treatment, professional nursing services, hospital expenses, rehabilitation services, diagnostic services, ambulance services, prosthetic devices, medications and other reasonable and necessary expenses resulting from the treatment prescribed by persons licensed to practice medicine and surgery, dentistry, psychology or chiropractic in accordance with this State’s laws, or by persons similarly licensed in other states or nations, or any nonmedical remedial treatment rendered in accordance with a recognized religious method of healing.

“Medical fee schedule” means that list of services, procedures and supplies to which have been assigned a maximum fee or percentage of a fee payable by an automobile insurer for expenses incurred as a result of the rendering to an insured any of those specific services, procedures or supplies for injuries, which list is set forth at N.J.A.C. 11:3-29.
"Out-of-State automobile insurance coverage" or "OSAIC" means any coverage for medical expenses under an automobile insurance policy other than PIP, as PIP is defined herein, including automobile insurance policies issued in another state or jurisdiction.

"PIP" means personal injury protection coverage provided as part of an automobile insurance policy issued in New Jersey, specifically those provisions for medical expenses coverage.

"Plan" means any policy, contract, certificate, booklet, evidence of enrollment, program, or other such term which evidences the existence of a relationship between a health benefits provider or PIP carrier and an insured with respect to the provisions of hospital, medical, surgical, dental and/or other health care related benefits, at least in part.

"Primary coverage" means coverage by any plan which determines its actual benefits payable on allowable expenses incurred by an insured for treatment of injuries without taking into consideration the existence of any coverage for which the insured may be eligible provided secondary in accordance with this subchapter. There may be more than one plan providing the insured primary coverage.

"Secondary coverage" means coverage by any plan which determines its actual benefits payable on allowable expenses incurred by an insured for treatment of injuries after all plans providing primary coverage have considered expenses incurred and paid actual benefits.

11:3-37.3 Health benefits providers

(a) Nothing in this subchapter shall be construed as requiring any health policies provider to offer, provide, or continue coverage to or for any individual or group, except as may be set forth by other laws of this State, or of the Federal government.

(b) Nothing in this subchapter shall be construed as requiring any health benefits provider to provide coverage for any treatment or service not otherwise covered under the terms of the applicable health benefits plan.

(c) No health benefits contract or policy delivered or issued for delivery in this State, or renewed, continued or converted on or after January 1, 1991, shall contain any provision, rider, waiver of endorsement or other instrument which restricts, limits or excludes coverage, directly or indirectly, of services or expenses otherwise eligible under the policy or contract on the grounds that such expenses or services would be covered under an automobile policy PIP provision for which the insured would be eligible had the named insured on the automobile policy not selected the PIP-as-secondary coverage option.

(d) No health benefits contract or policy delivered or issued for delivery in this State, or renewed, continued or converted on or after January 1, 1991, shall contain any provision, rider, waiver of endorsement or other instrument which restricts, limits or excludes coverage, directly or indirectly, of services or expenses otherwise eligible under the policy or contract on the grounds that:

1. Such expenses arise from an automobile-related injury;
2. Such expenses are covered or paid by PIP; or
3. Such expenses are covered or paid by OSAIC except for reductions in benefits when the health benefits contract provides secondary coverage as defined in and permitted by this rule.

(e) A health benefits contract or policy may provide that it is always primary to OSAIC, or may provide that it will determine its benefits as if it were secondary to any OSAIC. If the health benefits contract or policy provides that it will determine its benefits as if it were secondary to OSAIC and the OSAIC either contains a provision that it is always excess or secondary, or refuses to cooperate in determining the amount of benefits payable by the health benefits plan as secondary coverage provider, the health benefits plan shall provide primary coverage.

11:3-37.4 Application of the PIP-as-secondary coverage option

(a) When a named insured elects the PIP option, whereby the named insured intends that medical expenses incurred for treatment of an injury are to be covered by a health benefits provider or providers, as evidenced on the Coverage Selection Form, then the medical expense provisions of the PIP coverage shall be considered to be secondary coverage for the purposes of the order of benefit determination, and all health benefits plans of an insured subject to the PIP option elected shall be considered to be primary coverage.

(b) The election of the named insured to make PIP medical expense provisions secondary coverage shall apply to only the named insured and family members of the named insured who reside in the named insured's household and are not named insureds under other automobile policies.

(c) The election by the named insured to make PIP medical expense provisions secondary coverage shall continue in force as to subsequent renewal or replacement policies until the automobile policy insurer or its authorized representative receives a properly executed written request revoking the selection of this option.

(d) In the event that an insured is ineligible for health plan coverage of medical expenses, or is eligible for coverage under a dental expense or dental service plan only when an injury occurs, despite the selection of the PIP-as-secondary coverage option by the named insured, benefits shall be provided to the insured through PIP coverage in accordance with N.J.A.C. 11:3-37.8.

11:3-37.5 Health benefit plan standards and the PIP premium reduction

(a) An automobile insurer may eliminate the premium reduction on the base rate applicable to the amount of medical expense benefit chosen in conjunction with the PIP-as-secondary coverage option election if the automobile insurer verifies that the coverage specified by the named insured:

1. Excludes the provision of benefits for treatment of injuries of an eligible insured when expenses incurred in relation to treatment of those injuries are eligible expenses under an automobile policy's PIP provisions; or
2. Provides that it is always secondary, or otherwise will not be a primary provider of benefits; or
3. Provides benefits only for dental expenses or dental services.

(b) An automobile insurer shall notify a named insured if the automobile insurer determines that the health benefits plan(s) specified by the named insured contain exclusionary or restrictive coverage provisions; or if the automobile insurer determines that the health benefits plan(s) specified by the named insured do(es) not provide coverage to at least one insured covered under the automobile insurance policy, and, therefore, the named insured's premium reduction for PIP medical expense benefits will be eliminated. The notice shall be in writing and shall specify the reasons why the automobile insurer believes the named insured's health plan coverage is not in compliance with this subchapter.

1. The automobile insurer may demand payment of the premium reduction difference. The effective date of the cancellation of a policy for nonpayment of premium shall not be earlier than 10 days prior to the last full day of which premium received by the company, prior to the date of preparation of the cancellation notice, would pay for coverage on a pro rata basis. In calculating the effective date of the cancellation, the premium applicable to the coverage provided by the policy and the premium received by the company at or prior to the time the cancellation notice was prepared shall be the premium used for the calculation and determination of such effective date.

2. No cancellation notice shall be mailed prior to 30 days in advance of its effective date.

3. If the insured provides payment of the full premium amount and subsequently proves that coverage is not restricted in the manner set forth in (a) above, the automobile insurer shall refund the monies paid in excess of the full reduction, or shall credit any excess paid on the reduced premium to the extent any premium payment is still unpaid on the policy.

11:3-37.6 Order of benefits determination when PIP is secondary coverage

(a) When the named insured of an automobile policy has selected the PIP-as-secondary coverage option, all health benefits plans for which the insured is eligible shall provide coverage for the allowable expenses incurred by the insured due to an automobile-related injury prior to any benefits for medical expenses being paid by a PIP plan.

(b) If the insured is eligible for coverage under more than one group health benefits plan, the group health benefits plans shall coordinate benefits with one another in accordance with the rules set forth for such plans at N.J.A.C. 11:4-28.
(c) The PIP plan shall provide benefits for allowable expenses remaining uncovered after all health benefits plans for which the insured is eligible have paid benefits towards those allowable expenses.

(d) The PIP plan shall continue to be liable for expenses related to the same occurrence as the expenses are incurred, whether or not the health benefits plan(s) in force at the time of the accident terminate(s) coverage, or benefits provided under the health benefits plan(s) are exhausted subsequent to the occurrence of the accident, up to the maximum PIP benefits available to the insured under the terms of the automobile policy.

(e) Total benefits paid by an insured’s health benefits and PIP plans shall not exceed the amount of total allowable expenses.

11:3-37.7 Determination of PIP medical benefits payable when PIP is secondary coverage

(a) In calculating the actual benefits to be paid by the automobile insurer when the PIP-as-secondary coverage option has been selected, the automobile insurer shall first determine the amount of eligible expenses which would have been paid after application of the deductible and copayment limitations had the PIP-as-secondary coverage option not been selected.

1. In the event the remaining allowable expenses are less than the benefits calculated pursuant to (a) above, the automobile insurer shall pay actual benefits equal to the remaining allowable expenses, without reducing the remaining allowable expenses by its deductible or copayments.

2. In the event the remaining allowable expenses are greater than the benefits calculated pursuant to (a) above, the actual benefits paid by the automobile insurer shall be the benefits calculated pursuant to (a) above, without reducing the remaining allowable expenses by its deductible or copayments.

(b) In paying actual benefits, the automobile insurer shall not:

1. Reduce its actual benefits payable on account of any deductibles or copayments of the health benefits plans which have provided benefits ahead of the PIP plan due to the selection of the PIP-as-secondary coverage option or

2. Reduce its actual benefits payable for any allowable expense remaining uncovered which item of expense otherwise would not be an eligible expense under the PIP plan, except as set forth by (c) below.

(c) In determining remaining uncovered allowable expenses, the automobile insurer shall not consider any amount for items of expense which exceed the dollar or percent amounts recognized by the medical fee schedules promulgated pursuant to N.J.S.A. 39:6A-4.6.

(d) The total amount of benefits to be provided through the PIP medical expense provisions for each insured per accident or occurrence shall not exceed the maximum PIP benefits as provided for by the terms of the policy.

11:3-37.8 Health benefits plan coverage ineligibility

(a) When, subsequent to the selection of the PIP-as-secondary coverage option by a named insured, it is determined that an insured did not have health coverage in effect at the time of an injury, then the insured shall be provided benefits for incurred medical expenses through the PIP medical expense provision.

1. Benefits payable shall be subject to a per accident deductible equaling the total of $750.00 plus the PIP deductible selected by the named insured of the policy.

2. Benefits payable shall be subject to a 20 percent copayment for amounts less than $5,000 after the deductible has been satisfied.

3. Determination of the amount of benefits payable shall be made in accordance with medical fee schedules promulgated pursuant to N.J.S.A. 39:6A-4.6 and set forth at N.J.A.C. 11:3-29, or on a reasonable basis, as determined by the automobile insurer, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided, when an item of expense is not included on the medical fee schedules.

4. Total benefits paid for each insured eligible for benefits in any one accident shall not exceed the maximum PIP benefits provided for by the terms of the policy.

(b) All items of medical expense incurred by the insured for treatment of an injury shall be eligible expense to the extent the treatment or procedure from which the expenses arose is recognized on the medical fee schedules, or are reasonable medical expenses in accordance with N.J.S.A. 39:6A-4.

(c) The automobile insurer shall be entitled to recover, for the contract period in which the automobile-related injury occurred, the difference between the reduced premiums paid on the policy and the amount of premium which would have been due on the policy had the named insured not selected the PIP-as-secondary coverage option, and no premium reduction shall be provided on that policy for the PIP-as-secondary coverage option during the remainder of that current contract period.

11:3-37.9 Determination of benefits when PIP is primary coverage

(a) When no election has been made by a named insured to make his or her health benefits plan(s) primary coverage provider(s), so that the PIP plan will provide primary coverage for medical expenses incurred for treatment of injuries, the PIP plan shall provide benefits to the insured without consideration of any benefits for which the insured may be eligible under any health benefits plan.

(b) Actual benefits paid by the PIP plan shall be for all medical expenses which are eligible expenses incurred for treatment of injuries, subject to application of the deductible provided for by the terms of the automobile policy, and a 20 percent copayment requirement for amounts incurred after the deductible and up to $5,000.

(c) Actual benefits payable by a health benefits plan, when the PIP plan is providing primary coverage for medical expenses incurred for treatment of injuries, shall be the lesser of the remaining uncovered allowable expenses or the actual benefits that would have been payable had the health benefits plan been providing coverage primary to the PIP plan.

1. Actual benefits payable may be reduced by the deductible(s) and copayment requirements applicable by the terms of the health benefits plan, and shall not exceed the amount of actual benefits that would have been payable had the health benefits plan been providing coverage primary to the PIP plan.

2. Allowable expenses remaining uncovered, which the health benefits plan(s) shall consider when the PIP plan is providing primary coverage, include:

i. Any PIP deductible(s);

ii. Any PIP copayment amounts;

iii. Any expenses which exceed the medical expense coverage limits of the PIP plan per person per accident, as set forth by the terms of the automobile policy; and

iv. Any expenses not covered by the PIP plan when such expense was determined to be in excess of the reasonable charge for an item of expense not listed on the medical fee schedules, but for which the automobile insurer determined a reasonable charge based on the medical fee schedule for a similar item of expense in the region where the service or equipment was provided.

(d) When a health benefits plan provides hospital expense or service benefits only, or medical expense or service benefits only, and is not otherwise a part of a basic health benefits package, all allowable expenses remaining uncovered shall be considered by that health benefits plan for the provision of benefits, without regard as to whether the expenses are hospital-related or medical-related expenses. Actual benefits paid by that health benefits plan for the allowable expenses remaining uncovered shall not exceed the total actual benefits which would have been payable had the health benefits plan been providing coverage primary to the PIP plan.

(e) When there is one health benefits plan providing insureds hospital expense or service benefits and another health benefits plan providing insureds medical expense or service benefits as two separate parts of one basic health benefits plan package, the hospital benefits plan and the medical benefits plan shall both consider all allowable expenses remaining uncovered and shall apportion such allowable expenses between the two plans on a pro-rata basis without regard as to whether the expenses are hospital-related or medical-related expenses. Actual benefits paid by each plan of the health benefits plan package shall not exceed the total actual benefits which would have been payable by each plan had the health benefits plan package been providing primary coverage.
INSURANCE

(f) No insured shall be liable to a health care provider for any fees for services or supplies which exceed the dollar or percentage amounts recognized for those services or supplies on the medical fee schedules.

(g) No health benefits plan shall seek repayment from or withhold payment to an insured for amounts paid to the insured in consideration of charges which were in excess of the amounts set forth in the medical fee schedules.

(h) If there is more than one group health benefits plan providing secondary coverage to an insured, these plans may coordinate their benefits with one another in accordance with N.J.A.C. 11:4-28.

11:3-37.10 Explanation of benefits

(a) Automobile insurers shall develop and utilize an explanation of benefits form to be provided with the payment of benefits for expenses incurred for treatment of injuries which clearly identifies and explains the following:
   1. Each procedure for which a claim has been made;
   2. Eligible expense related to each procedure with an indication of whether the eligible expense is based on the medical fee schedules or is the reasonable charge as determined by the automobile insurer;
   3. Actual benefits paid;
   4. The deductible applied; and
   5. A concise explanation why any item of expense is considered an ineligible expense, when this occurs.

11:3-37.11 Dispute as to primacy of coverage

(a) If, subsequent to the selection of the PIP-as-secondary coverage option by the named insured, injuries are sustained by an insured eligible for benefits under the provision of benefits be unreasonably delayed by either a health benefits provider or an automobile insurer.

(b) If the health benefits provider asserts that it is not subject to N.J.A.C. 11:3-37.3, and thus, will not act as the primary coverage provider then the automobile insurer shall assume the role of primary coverage provider, and provide its benefits in accordance with N.J.A.C. 11:3-37.8. The automobile insurer shall be entitled to recover premium reductions in accordance with N.J.A.C. 11:3-37.8(c).

11:3-37.12 Eligibility under two or more automobile policies

(a) If an insured is eligible for coverage of medical expenses under more than one automobile policy, the determination as to which automobile policy will assume coverage responsibility for that insured shall be as follows:
   1. A named insured shall receive benefits for medical expenses under the terms of the automobile policy on which he or she, or his or her spouse, is identified as the named insured.
   2. A family member who is a child of a named insured or the named insured's spouse shall receive benefits for medical expenses under the automobile policy of the named insured, subject to the following:
      i. If the child is a child of more than one named insured or of more than one spouse of a named insured, the child shall receive benefits under the terms of the automobile policy of the named insured who has legal custody of that child or whose spouse has legal custody of that child.
      ii. If the child is a child of more than one named insured or of more than one named insured's spouse, and legal custody of that child has either never been awarded, or has been awarded jointly, then the child shall receive benefits under the terms of the automobile policy of the named insured whose birthday occurs earliest in the calendar year.
      iii. If the child is a named insured or the spouse of a named insured, (a) above shall apply.
   3. If neither (a)1 nor (a)2 above apply to an adult or child family member, then that family member shall receive benefits for medical expenses under the terms of the automobile policy of the named insured whose birthday occurs earliest in the calendar year.
   4. If an automobile policy identifies more than one person as a named insured on the automobile policy, the birthday of the named insured whose birthday occurs earliest in the calendar year shall be considered the determinative birthday on that automobile policy.
   (b) An insured shall not receive benefits for medical expenses under more than one automobile policy.

(c) If an automobile policy PIP plan provides benefits for medical expenses for an insured who is eligible for medical expense benefits under more than one automobile policy PIP plan, the automobile insurer of the paying PIP plan may seek equitable pro rata contributions from the other automobile policy PIP plan(s) for the benefits actually paid by the paying PIP plan.

11:3-37.13 Penalties

Each automobile policy or health benefits plan subject to the terms of this subchapter which fails to comply with the terms herein shall be in violation of this subchapter. Failure to comply with the terms of this subchapter may result in the assessment of any and all penalties in accordance with the laws of this State.

11:3-37.14 Severability

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

DIVISION OF ADMINISTRATION

Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance

Adopted Emergency Amendments and Concurrent Proposed Amendments: N.J.A.C. 11:3-16

Emergency Amendments Adopted and Concurrent Proposed Amendments Authorized; November 26, 1990 by Samuel F. Fortunato, Commissioner, Department of Insurance.


Emergency Amendments Filed: November 26, 1990 as R. 1990 d.621.


Concurrent Proposal Number: PRN 1990-641.

Emergency Amendments Effective Date: November 26, 1990.

Emergency Amendments Expiration Date: January 25, 1991.

Submit comments by January 16, 1991 to:

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

These amendments were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency amendments are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted amendments become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent proposal follows:

Summary

The current private passenger automobile insurance rate filing rules, N.J.A.C. 11:3-16, were originally established in essentially the same form as Order A89-120 issued by the Commissioner of Insurance ("Commissioner") on May 12, 1989. The Department of Insurance ("Department") has had a full year of experience using these rules, and now proposes comprehensive amendments. It expects these amendments to streamline the process of reviewing automobile insurance rate filings and to reduce administrative costs of review for the Department, as well as costs for the insurers which prepare the filings. In order to allocate properly the resources available to the Department to conduct reviews of these filings, several amendments are proposed to reduce the amount of data required to be submitted. In proposing these amendments, the
Department has balanced the need for comprehensive data from each filer with the resources available to conduct a thorough review.

Since 1984, when the Department first proposed comprehensive rules to specify data filing requirements for private passenger automobile insurance, industry commenters on the several proposals (see 16 N.J.R. 2934(a); 20 N.J.R. 2135(a); 21 N.J.R. 611(a) and 21 N.J.R. 2182(a)) have objected to the ground that the provisions were "intrusive" and "burdensome," and that the effort to meet them would drive up the costs for consumers. The Department proposes these amendments with the expectation that they will serve to help contain insurers' administrative costs.

These proposed amendments provide that the insurer's Excess Profits Report, required by N.J.A.C. 11:3-31, and the Financial Data Report, required by N.J.A.C. 11:3-31, shall comprise the annual informational filing required by N.J.S.A. 17:29A-36.2(b) to be filed by July 1 of each year (see amended N.J.A.C. 11:3-16.4). These reports provide a substantial amount of financial information about each company. They are sufficient in themselves to provide the Department with an appropriate level of oversight regarding the performance of a company at its established rates. Should it be determined that additional data on a particular subject is necessary at a particular time, the Department may issue a special data request by Order of the Commissioner.

These proposed amendments reduce the amount of data required to be submitted to support flex rate filings that adjust rates within limits pursuant to N.J.S.A. 17:29A-44, N.J.A.C. 11:3-16A and applicable orders of the Commissioner. The annual informational filing required by each insurer will satisfy the data requirements of a flex rate filing, supplemented by an informational statement and the manual rating pages and other exhibits related to the implementation of the flex rate change.

Data requirements for prior approval filings are also proposed to be reduced. The Department proposes to eliminate from its requirements data which is essentially duplicative of data found elsewhere in the filing and exhibits which have limited probative value in the establishment of private passenger automobile insurance rates. The Department also proposes to eliminate data from other states and other information considered by the filer but not actually used. Despite the reductions, the Department expects that the amended data requirements will provide sufficient information to conduct a review proposed rate changes for each filer accurately and thoroughly.

Groups of insurers will no longer be required to make separate filings for each individual company in the group. Rather, groups may make consolidated filings for those companies in the group that share the same rate levels and same underwriting guidelines. In proposing this amendment, the Department notes that each individual insurance company in a group will still be required to file separately its Excess Profits Report and Financial Data Report, which will be reviewed in connection with the annual informational filing and any flex rate filing.

The Department also proposes several amendments to make minor changes or additions to these rules to clarify requirements and to respond to questions posed by insurers undertaking to comply with the rules as previously adopted. The definitions rule is proposed to be amended by adding definitions of "advisory organization," "affiliates," "base rate," "control," "group of coverages," "MTF," "NJAFIUA," and "rating organization"; by deleting definitions no longer necessary; and by clarifying others. The Department further proposes to limit the number of filers required to submit rating systems on computer disks to those with over 40,000 exposures for the latest year of data included in the filing; and to limit those required to make prior approval filings on computer disks as well as on paper to those with over 20,000 exposures for the latest year of data included in the filing. Other proposed amendments make minor changes in the information required, and the sequence of the exhibits, submitted with prior approval filings to improve the process of review. References in N.J.A.C. 11:3-16.8, 16.9 and 16.10 eliminate references to exhibits to be submitted with prior approval filings only, since these sections now apply only to prior approval filings.

These proposed amendments begin to implement some of the provisions of the recently enacted Fair Automobile Insurance Reform Act of 1990. (P.L. 1990, c.8 ("Act"). First, the provisions in the current rules relating to prior approval and flex rate filings since the Act prohibits them. Secondly, a proposed amendment requires insurers to submit a copy of all flex rate filings to the Division of Rate Counsel, Office of the Public Advocate ("Public Advocate"); the Act permits the Public Advocate to challenge a flex rate increase and requires the Commissioner to provide it information by which to conduct its review. Thirdly, N.J.A.C. 11:3-16.8(d) is proposed to be amended to include an evaluation of the effects of the Act, for example: the cap on personal injury protection benefits, the medical fee schedule, the health insurance option, the towing and storage fee schedule, the exclusion of automobile storage fees over 30 days from the expense base, etc. Fourthly, a provision has been added to N.J.A.C. 11:3-16.3 to confirm that rate filings should contain only voluntary market data and not include data from risks that may be filers required to make prior approval filings pursuant to section 34 of the Act. Fifthly, N.J.A.C. 11:3-6.7 is repealed and a new rule proposed to provide for the dissemination of data by rating organizations and advisory organizations to implement section 69 of the Act. This section prohibits insurers from using rating organizations or advisory organizations for private passenger automobile insurance ratemaking, except for the collection, compilation and dissemination of historical data. The new rule sets forth the data that may be disseminated pursuant to section 69 of the Act as well as the data which may not be disseminated. Sixthly, N.J.A.C. 11:3-16.10 is amended to confirm that the Property-Liability Insurance Guaranty Association Assessment and the surtax imposed by sections 74 and 76 of the Act, respectively, may not be incorporated into the expense base for determining rates. This implements sections 75 and 76 of the Act which prohibit direct pass-through of the assessment or surtax to policyholders. The Act and the Constitution of the United States, however, provide that insurers are entitled to earn an adequate rate of return through the ratemaking process. An insurer may thus request rate relief if it is unable to earn an adequate rate of return due to imposition of the assessment or surtax. Accordingly, the Department proposes a new rule, N.J.A.C. 11:3-16.11, which sets forth the filing requirements for an insurer desiring to modify its rates to reflect the assessment or surtax. The data filed will enable the Commissioner to evaluate the insurer's experience on all lines of business in New Jersey; the insurer's operational efficiency; the insurer's method of allocation of expenses; and the synergistic effect of mandated private passenger automobile insurance on the profitability of other lines of business. Finally, the Department proposes new rule N.J.A.C. 11:3-16.13 to address rate adjustments that may be required due to any repayment of the assessment imposed pursuant to N.J.S.A. 17:30A-8(9). Other provisions of the Act which may affect data and informational requirements for rate filings are currently being reviewed, and the Department may in the future propose further amendments that are required by the comprehensive reforms set forth in the Act.

The Department at this time proposes no change to its standard ratemaking methodology which uses the "Clifford formula" in the determination of rates. Nevertheless, it should be noted that the Department is currently reviewing whether some other methodology may be more appropriate. If the Department determines to change its standard ratemaking methodology as a result of this review, then further amendments to these rules may be proposed.

Exhibits A1 and A11 have been revised to conform to the proposed amendments. Exhibit E is being deleted; it is no longer necessary because it applies only to deviations from rating organization rates, which have been deleted. New Exhibits E, F and G are added to specify the format for the reporting of data required by N.J.A.C. 11:3-16.5 and 16.11 as amended.

Social Impact
These proposed amendments will affect the Department and private passenger automobile insurers which submit filings to the Department, although the primary effect will be economic. Because data requirements are generally reduced, the proposed amendments will require less administrative work for insurers in order to comply, reducing insurer's costs which are included in its expense base for determining rates. Likewise, less time will be required for the Department to review each filing. By reducing the volume of data submitted with rate filings, the Department expects that they may be reviewed and resolved more expeditiously.

Economic Impact
These proposed amendments will affect the Department and private passenger automobile insurers which make rate filings. Since the proposed amendments significantly reduce the data required to be supplied in connection with annual informational filings, flex rate filings and prior approval filings, the Department will have less data for submission to the Department is reduced. Similarly, the cost within the Department to review each individual filing will be reduced.

Regulatory Flexibility Statement
These proposed amendments may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et
seq. These “small businesses” are insurance companies authorized to write private passenger automobile insurance.

A primary motive in proposing these amendments, which generally reduce the amount of data that insurers must submit with their rate filings, is to lessen the burden on small insurers which have limited resources with which to prepare and prosecute rate filings, and to which cost savings have a more significant impact. These proposed amendments will provide a better opportunity for small insurers to take flexible rate changes and perhaps to avoid the substantial time and expense required for prior approval filings.

Although the proposed amendments do not otherwise distinguish between insurers that qualify as “small businesses” and others, the general lessening of the filing requirements as set forth in these proposed amendments will minimize adverse economic impact on small businesses, consistent with the statutory mandate of the rules to establish for all filers uniform data filing and ratemaking methodology in connection with the establishment of private passenger automobile insurance rates in the voluntary market.

Full text of the repealed exhibits may be found in the New Jersey Administrative Code at N.J.A.C. 11:3-16 Appendix, Exhibit AI, Exhibit AII, and Exhibit E.

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

SUBCHAPTER 16. RATE FILING REQUIREMENTS: VOLUNTARY MARKET PRIVATE PASSENGER AUTOMOBILE INSURANCE

11:3-16.1 Purpose and scope

(a) This subchapter establishes data, filing format and preferred ratemaking requirements for all private passenger automobile rate filings for the voluntary market, in implementation of N.J.S.A. 17:29A-1 et seq. and as required by N.J.S.A. 17:29A-36.2.

(b) This subchapter applies to all [rating organizations and to all] insurers making private passenger automobile insurance rate filings for the voluntary market in this State.

(c) These requirements apply to all rate filings made by insurers [and rating organizations] for the revision of base rates; informational filings to be made on July 1 of each year pursuant to N.J.S.A. 17:29A-36.2; and those filings made under the flex rate provisions of N.J.S.A. 17:29A-44.

(d) [This subchapter does not apply to rule and form filings that do not change base rates] Any insurer wishing to effect the rate level by changing rates, rules or forms must file data pursuant to this subchapter.

11:3-16.2 Definitions

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

- “Advisory organization” means every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations, in ratemaking, by the collection and furnishing of loss or expense statistics, but which does not make filings.

- “Affiliate” means an insurer that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the insurer making a filing.

- “Base rate” means the rate inclusive of expense fee by coverage for basic limit of liability or $500.00 deductible collision or comprehensive for a single car adult pleasure risk.

- “Basis point” means an annual interest rate of .01 percent (one-hundredth of one percent).

- “Case reserves” means the [estimated value of the liability assigned to specific known] reserves for reported claims whether determined by [claim adjusters] judgment or set by formula.

- “Control” is as defined in N.J.S.A. 17:27A-1.

“External trend data” means trend data derived from experience [outside of insurance industry statistics] other than on policies issued by the filer.

“Filer” means [a rating organization or] any insurer who makes an annual informational filing, flex rate filing or rate filing requiring prior approval pursuant to these rules.

“Group of coverages” means liability coverages (to include bodily injury liability, property damage liability, personal injury protection and uninsured/underinsured motorist) and physical damage coverages (to include collision and comprehensive).

“IBNR” or “incurred but not reported loss” means losses which have [occurred] been incurred but have not yet been reported as of a specified date [including, if applicable, deficiencies/redundancies in case reserves].

“Informational filing” means a filing made annually on July 1 in accordance with N.J.S.A. 17:29A-36.2.

“Internal trend data” means trend data derived from the experience of the filer related to the policies it issues [if an insurer, or the policies issued by its qualified members and subscribers if a rating organization].

“Loss development parallelogram” “Loss development triangle” means a display of losses showing accident year data by evaluation date, with the same number of accident years shown at each evaluation date. The accident years shall be shown vertically and the evaluation dates shown horizontally. The first evaluation date shall be three months after the end of the accident year; subsequent evaluation dates shall be at 12-month intervals. IBNR shall be shown as a separate number at the latest evaluation date for each year displayed.

“MTF” means the Market Transition Facility established pursuant to N.J.S.A. 17:33B-11.

“NIAFIAU” means the New Jersey Automobile Full Insurance Underwriting Association established pursuant to N.J.S.A. 17:30E-1 et seq.

“Public Advocate” means the Division of Rate Counsel, New Jersey Department of the Public Advocate.

“Qualified member” of a rating organization means an insurer member or subscriber of a rating organization whose total private passenger written car years insured, on a calendar basis, is less than 1.5 percent on January 1, 1990 and one percent on January 1, 1991, of the total written private passenger car years insured by all insurers writing motor vehicle insurance in this State in the voluntary market, pursuant to N.J.S.A. 17:29A-6.1a.

“Rating organization” means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers.

“Rating system” means every schedule, class, classification, rule, guide, standard, manual, table[,] or rating plan [or compilation] by whatever name described containing the rates and rules used by [any rating organization or by any insurer, or used by] any insurer [or by any rating organization] in determining or ascertaining a rate.

11:3-16.3 General requirements and filing format

(a) The data requirements set forth in this subchapter are minimum requirements. The filer may submit any other data it believes to be relevant in justifying proposed rate changes. If the filer has not collected portions of this information in the past, or has not collected it in a form so as to facilitate reporting, it is not required to compile it retrospectively. All filers shall begin collecting this information in a manner so as to facilitate reporting no later than January 1, 1991 and report data so collected on filings made or required to be made on or after April 1, 1992. If a filer has collected this information, it may be included on filings made or required to be made prior to April 1, 1992.

(b) Separate insurance companies that are affiliated by a parent-subsidiary or any group relationship and that choose to submit a single filing for the group shall provide the minimum data requirements set forth in N.J.A.C. 11:3-16.8 and 16.9, and make the rate level calculation set forth in N.J.A.C. 11:3-16.10, [both separately] either:
1. Separately for each company [and combined] with a different rate level or different underwriting guidelines; or
2. Combined for [the group] those companies of the group which use a common rating system, including both base rates and underwriting guidelines, or when the difference is based only on expense differences.
(c) Small filers need not provide all of the information required by N.J.A.C. 11:3-16.8(c), (d), (e), and (f); more limited requirements are set forth in those sections. Notwithstanding this, any filing by a small filer for a rate change, including flex rate filings, shall include sufficient justification for all factors used.
(d) (No change.)
(e) A copy of all rate change filings submitted pursuant to N.J.S.A. 17:29A-14 or N.J.S.A. 17:29A-44 [that require the Commissioner's approval prior to implementation of a rate change] shall be submitted simultaneously to the Public Advocate at the following address:
Department of the Public Advocate
Division of Rate Counsel
744 Broad Street
Newark, New Jersey 07102
(f) (No change.)
(g) All filings shall be accompanied by the following certification signed by an officer of the filer: "I [signature] certify that the attached filing complies with all statutory and regulatory requirements and that all the information it contains [information that is true and accurate. I further certify that I am authorized to execute this certification on behalf of the filer."
(h) Each filer shall submit prior approval filings in loose leaf form inserted into standard three-ring binders. Loose leaf sheets used in the filing shall be eight and one-half inches wide and 11 inches long and punched for three-hole standard binders. Only one side of the page shall be used. Each page shall be consecutively numbered.
(i) (No change.)
(j) Except for filers with less than [1,000] 40,000 exposures in the prior year, after January 1, 1991, each rate change filing when made, or other rate change filing when effective, shall be accompanied by a computer disk[s] that contains the rating system to be implemented. 1-3. (No change.)
(k) All data shall be reported on a direct basis exclusive of business ceded to reinsurers or reinsurance assumed from other companies. Notwithstanding this provision, transactions with the UCJF shall be reported as set forth in N.J.A.C. 11:3-16.8(d)(1), 11:3-16.9(a)(4) and 11:3-16.10(d)(4)(c)(3).

1. Data submitted in any rate filing shall report only voluntary market experience and shall not include experience derived from risks insured through any assigned risk plan established pursuant to N.J.S.A. 17:29A-30. In this context, the term "voluntary market" shall include risks insured by the filer in the voluntary market during any period of time certified by the Commissioner for the cessation of acceptance of applications or the issuance of new policies by the assigned risk plan pursuant to N.J.S.A. 17:29D-1d.

11:3-16.4 Insurer informational filings due July 1 of each year
(a) Informational filings shall be made by all insurers transacting private passenger automobile insurance in the voluntary market, including all individual members and subscribers of rating organizations, pursuant to N.J.S.A. 17:29A-36.2b.
(b) The informational filing shall consist of the following documents [and exhibits]:
(1) The insurer's Excess Profits Report [to be] for each company filed [on or before July 1, 1989] pursuant to N.J.A.C. 11:3-20 and the Financial Data Report for each company filed pursuant to N.J.A.C. 11:3-31. In lieu of providing copies, the filer may submit a certification of an officer that the [report has] reports have been filed and [is] are incorporated by reference.
2. Such other information as the Commissioner may specifically require by Order.
[2. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year: the number of insured automobiles for which payment was made under the theft portion of comprehensive coverage as a result of the theft of the automobile; and the aggregate payments made on account of those thefts.
3. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year: the total amount of dollars recovered by salvage for each coverage.
4. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year: the total amount of dollars recovered by salvage for each physical damage coverage.
5. A Cause of Loss Report for comprehensive coverage for the latest five complete calendar years that sets forth the information shown in Exhibit B.
6. An exhibit of investment earnings that contains the amount of investment income earned on loss, loss adjustment expense, and unearned premium reserves in relation to earned premium for private passenger automobile insurance in New Jersey. This information shall be provided for the last two years, estimated for the current year, and estimated for the two following years. Calculations shall be provided in detail including the amount of the composite reserves of each type (that is, loss, loss adjustment expense and unearned premium) at the beginning and end of the specified calendar years.
7. An exhibit that provides the following data regarding expenses:
(i) Earned premium, incurred losses, incurred allocated loss adjustment expenses and incurred unallocated loss adjustment expenses for each of the latest five complete calendar years. Provide such information by coverage and by group of coverages (that is, liability and physical damage).
(ii) A statement regarding any expense saving activities undertaken in the last five years.
(iii) Number of claims (all limits and all deductibles) and allocated loss adjustment expenses for each of the latest five complete calendar years. Provide such information by coverage and by group of coverages (that is, liability and physical damage).
(iv) Average incurred expenses per exposure on a New Jersey basis (explanatory data) and on a nationwide basis for each of the latest five complete calendar years for the following expense categories: commission and brokerage; other acquisition expenses; and general expense; and
(v) New Jersey private passenger automobile insurance expense data shown separately for the most recent three complete calendar years using the format of the Underwriting and Investment Exhibit, Part-4 Expenses of the Statutory Annual Statement.
8. If the filers have not submitted data in the last three years to support its territorial relativity and classification differentials, it shall submit an exhibit containing the data set forth in N.J.A.C. 11:3-16.9(a)(5) and (6) and (ii). If the filer has submitted this data during the last three years, it shall include a statement that sets forth the date and Department filing number of the filing that contained this data.]

11:3-16.5 Insurer flex rating filings
(a) Any insurer that desires to increase its rates in accordance with theflex rate provisions of N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.S.A. 11:3-16A shall provide the following information in support of its flex rate filing:
1. A cover letter notifying the Department of its intention to adjust rates according to the provisions of N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.S.A. 11:3-16A; a statement of the percentage and total dollar amount of the change in rates by coverage for each company included in the filing with subtotals by group of coverages and a grand total (including the variable portion plus expense fees but excluding the policy constant and RMEC) in the format of Exhibit E in the Appendix incorporated herein by reference; a statement containing the effective date of the change; and the name, telephone number and mailing address of the company officer familiar with the filing to whom [further] inquiries about the filing may be directed;
2. A checklist that sets forth the information in Exhibit AI in the Appendix incorporated herein by reference;
3. The Excess Profits Report (required by N.J.A.C. 11:3-20) and the Financial [Experience] Data Report (required by N.J.A.C. 11:3-31). In lieu of providing copies, the filer may submit a certification by an officer that the documents have been filed and are in-
corporated into the filing by reference; nevertheless, a complete copy of all documents required (including the Excess Profits Report and the Financial Data Report) shall be provided to the Public Advocate pursuant to N.J.A.C. 11:3-16.3(e);

[4. Data concerning the losses and loss adjustment expenses, as set forth in N.J.A.C. 11:3-16.8;
5. Data concerning the expense and profit provisions, as set forth in N.J.A.C. 11:3-16.9;
6. Rate calculations, as set forth in N.J.A.C. 11:3-16.10; and]
7. An exhibit that illustrates that the new rates are within the range permitted by Order of the Commissioner issued pursuant to N.J.A.C. 11:3-16A.

1. When coverages are combined (for example, bodily injury liability and property damage liability) the method of combining shall be shown. ii. When bodily injury liability is combined with any other coverage or coverages, the method of combining shall be shown separately for each tort threshold.

7. The manual rating pages and computer disk(s) containing the flex rate system to be implemented, accompanied by an explanatory memorandum showing the calculation of the new manual rates, using the current manual rates as the starting point in the calculation. The memorandum shall also include the Department's file number and the effective date of use for the current rates.

(b) In accordance with N.J.S.A. 17:29A-6.1a2, all independent rate filers and all members or subscribers of rating organizations not defined as "qualified members" of rating organizations as defined in N.J.A.C. 11:3-16.2 shall submit data and rate calculations in support of their rate filings based on their own loss experience and their own expenses.

(c) Qualified members of rating organizations may incorporate by reference the loss and loss adjustment expense data set forth in N.J.A.C. 11:3-16.8 and filed by the rating organization pursuant to N.J.A.C. 11:3-16.7, in lieu of providing their own data.

1. Qualified members of rating organizations who have been precluded by Order of the Commissioner from implementing the last approved rates of the rating organization may incorporate by reference the rating organization flex rate filing, as set forth in N.J.A.C. 11:3-16.7. Any flex rate change based upon an increase in losses and loss adjustment expenses shall, however, be limited to the percentage of increase in the rating organization flex rate filing as applied to the company's own current rates.

(d) Nothing in this section shall prohibit any member or subscriber of a rating organization from filing its own loss and loss adjustment expense data, as set forth in N.J.A.C. 11:3-16.8.

1. Qualified members of rating organizations that seek to use losses and loss adjustment expenses higher than those implemented by the rating organization pursuant to the provisions of N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.A.C. 11:3-16A shall file the required exhibits set forth in N.J.A.C. 11:3-16.8.

2. Qualified members of rating organizations that seek to use losses and loss adjustment expenses lower than those implemented by the rating organization pursuant to the provisions of N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.A.C. 11:3-16A need only to file a statement justifying the downward deviation in the form of Exhibit E in the Appendix.

(e)(f) Upon approval insurers shall file manual rating pages and computer disk(s) containing the rating system on or before the effective date of the rates.

11:3-16.7 Rating organization filings

(a) As its annual informational filing, each rating organization shall file the loss and loss adjustment expense data set forth in N.J.A.C. 11:3-16.8 and shall develop the data base and trend methodology set forth in N.J.A.C. 11:3-16.10(a)4 and 5. Rating organizations shall compile the data required using only information from its qualified members.
(b) The rating organization's annual informational filing shall also include the following exhibits compiled from the data of its qualified members:

1. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year: the number of insured automobiles for which payment was made under the theft portion of comprehensive coverage as the result of theft of the automobile; and the aggregate payments made on account of those thefts;
2. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year, the total amount of dollars recovered by subrogation for each coverage;
3. An exhibit that contains, for each of the most recent five complete accident years evaluated as of March 31 of the current year, the total amount of dollars recovered by salvage for each physical damage coverage;

4. A Cause of Loss Report for comprehensive coverage for the last five complete calendar years that sets forth information shown in Exhibit B in the Appendix incorporated herein by reference. 

(c) As its flex rate filing, the rating organization may submit a loss and loss adjustment expense filing containing the data required by N.J.A.C. 11:3-16.8 for use by its qualified member companies in their individual flex rate filings if the rate level change requested is within the limits established by N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.S.A. 11:3-16A, and the rating organization submits the filing with a cover letter setting forth:

1. Notice to the Department that the filing is being submitted pursuant to N.J.S.A. 17:29A-44 and applicable Orders of the Commissioner issued pursuant to N.J.S.A. 11:3-16A as a flex rate filing; 

2. The percentage and dollar amount of the increase in rates by coverage and overall (including the variable portion plus expense fees but excluding the policy constant and RMEC); 

3. The effective date of the change, on or after which its qualified members may submit individual flex rate filings incorporating by reference the rating organization filing; and 

4. The name, telephone number and mailing address of the rating organization officer familiar with the filing, to whom further inquiries about the filing may be directed. 

(d) As its filing for rate changes requiring prior approval, the rating organization may submit a loss and loss adjustment expense filing for use by its qualified member companies in their individual filings submitted for prior approval pursuant to N.J.S.A. 17:29A-14, that provides the information set forth in N.J.A.C. 11:3-16.8 and that also includes the requirements set forth in N.J.A.C. 11:3-16.6(a), 2 and 6. A copy of such filings shall be transmitted to the Commissioner and simultaneously to the Public Advocate. 

(e) Each time the rating organization that represents the greatest number of insurers in the private passenger automobile insurance market submits a flex rate filing pursuant to N.J.A.C. 11:3-16.7(c), or a filing requiring prior approval pursuant to N.J.A.C. 11:3-16.7(d), it shall also file the following information required to establish rates for the New Jersey Automobile Full Insurance Underwriting Association in accordance with the provisions of N.J.S.A. 17:30E-13: 

1. The information concerning expenses and profit provisions, as set forth in N.J.A.C. 11:3-16.9 compiled from its qualified member companies. 

2. The rate calculation, as set forth in N.J.A.C. 11:3-16.10 below, as calculated based upon its data submitted pursuant to N.J.A.C. 11:3-16.8 and 16.9; and 

3. Upon making the flex rate filing or no later than the effective date for filings requiring prior approval, the manual rate pages both excluding and including provisions for company expenses and profit.

11:3-16.7 Jointly developed historical data 

(a) In connection with the dissemination of historical data by rating organizations or advisory organizations for ratemaking purposes, insurers shall comply with the following: 

1. Historical data that may be compiled and disseminated by rating organizations or advisory organizations for use by insurers in ratemaking includes:
   i. Written and earned premiums and exposures which may be adjusted to consistent levels; 
   ii. Losses paid; 
   iii. Reserves for reported claims (whether determined by judgment or by a formula by the insurers); and 
   iv. Claim counts. 

2. For the purposes of this section, “compilation of historical data” includes: 

   i. Checking the data for accuracy and completeness and excluding data which is inaccurate or incomplete; 
   ii. Selection of experience (for example, type of business, type of vehicles, accident year or calendar year basis, and deductibles for physical damage); 
   iii. Selection of number of years; 

iv. Calculation of claim cost and frequency, pure premiums, the combination of paid and outstanding losses into incurred losses and the conversion of car months into car years; 

v. Compiling losses on a basic and excess limits basis for liability and adjusting losses to a common deductible level for physical damage; and

vi. The organization of or calculations on historical data according to classification detail such as territory, class, etc.

3. The following are not historical data and may not be disseminated for use in ratemaking: 

i. Estimates of future values of any data compiled under (a)1 and 2 above; 

ii. Reserves for claims which have been incurred but not reported (IBNR); 

iii. Operating expenses and profit provisions, including unallocated loss adjustment expenses; and

iv. Trending. 

4. Except for activities as a designated statistical agent or activities involved in the creation and maintenance of vehicle series rating systems for private passenger automobile collision and comprehensive coverages, the following are not historical data and may not be disseminated for use in ratemaking: 

i. Credibility; 

ii. Loss smoothing; 

iii. Selection of weights; 

iv. Relativities and relativity analysis; and 

v. Final “pure premium” or “loss costs” as calculated, based on data permitted to be exchanged.

(b) For purposes of this section, “losses paid” and “reserves for reported claims” may include allocated loss adjustment expenses if they are also separately identified and limited to the following expenses which can be allocated to a particular claim: 

i. Attorneys fees for claims in suit; and 

ii. Court and other specific items of expense such as: medical examinations to determine the extent of a company’s liability; expert, medical or other testimony; laboratory, x-ray and autopsy; stenographic; witnesses and summonses; and copies of documents.

(c) For the purposes of this section, “allocated loss adjustment expenses” shall not include: salaries and traveling expenses of company employees other than amounts allocated as attorneys’ fees for costs in suit; overhead; and fees paid to independent adjusters, or attorneys, for adjusting claims. 

(d) For purposes of this section, “trending” includes all projections of future costs and any representation of past costs adjusted by a mathematical or non-mathematical process. It does not, however, include displays of historical average costs or frequency, or the display of historical data (that is, loss development triangles with historical link ratios) from which an insurer can independently calculate loss development.

(e) Projections of the number and dollar value of incurred and/or paid known claims at future evaluation dates may not be disseminated. 

(f) Data on the number and dollar value of claims which have been closed but are expected to reopen may not be disseminated. 

(g) Projections of the increase in claim costs due to changes in the judicial and regulatory environments, legislative changes and economic variables such as inflation may not be disseminated. 

(h) Except as provided in (a) above, marketing data, rate data and rate manuals may not be exchanged.

(i) Insurers may continue to use symbol, vehicle series and model year rating programs for physical damage coverages for model years 1994 and prior to 1992. Pursuant to this section, insurers may jointly develop symbol assignments, vehicle series and model year data and determine adjustments to the symbol assignment through model year 1992.

11:3-16.8 [Loss] Premium, loss and loss adjustment expense data 

(a) Filers shall provide the following data regarding New Jersey premium, loss and loss adjustment expense:

1. For each coverage, or combined coverages when the premium is inseparable, calculate earned premium at present rates using either the extension of exposures or on level factor methodologies. Provide the rate level history. Provide the underlying calculations and [Indicate] indicate how such calculations were produced and supply supporting
documentation for a sample of such calculations and justification of any factors used where the on level factor methodology is used. Provide the justification for the selected use of a particular method in calculating the rate level. Provide this information [both] either at basic limits [and] or total limits.

[2. Rating organization filings shall include data from all qualified member companies writing non-fleet private passenger automobile insurance in New Jersey for which the organization has been given filing authorization. If data from such a company is excluded from, or included from a non-authorized company is included with, the rate level, trend, loss development, catastrophe factor, expense determination, territorial development, classification relativity, or investment income calculations for any coverage, identify the coverage, the company and its market share and provide an explanation for its exclusion/inclusion.]

[3. For each coverage and each experience year used in setting the overall rate level, the following information [both] either at basic limits [and] or total limits whichever is consistent with the filer’s methodology:

- i. [Paid losses] Direct earned exposures measured in car years;
- ii. [Case reserves] Incurred losses;
- iii. [Loss] Applicable loss development factor (aged to ultimate);
- iv. [Incurred] Paid or incurred allocated loss adjustment expenses;
- v. [Incurred] Paid or incurred unallocated loss adjustment expenses;
- vi. [Trend factor];
- vii. [Total trended and developed incurred losses] Ultimate incurred losses and loss adjustment expenses;
- viii. Trend factor; and
- ix. [Total trended losses and all loss adjustment expenses] Paid losses;
- x. Total trended losses and all loss adjustment expenses (that is, (a) vii plus viii plus ix above).]

[4. Whenever New Jersey losses are separated into catastrophe and non-catastrophe losses, include a clear description and justification of the standard used to separate such losses. In determining a catastrophe loading, include as many years of data as available but at least 10 years. Provide an explanation if the data base from which the catastrophe loading is derived differs from that on which the rate level change is based.

[5. For prior approval filings only, territorial] Territorial rate calculations including earned premiums, earned exposures, incurred losses, and the number of claims by territory separately for each coverage and each of the years used to determine the territorial relativities, or for each of the last [five] three years, whichever is greater.

[6. For prior approval filings only, all] All information related to the derivation of classification differentials contained in the filing. Include the following minimum information:

- i. All data [reviewed.] and worksheets used and judgments made;
- ii. A description of the methodology used to arrive at the differentials;
- iii. A description of alternative methodologies used by the filer in other states;
- iv. A description of the criteria used to select one of the various methodologies for inclusion in a particular filing;
- v. A description regarding the application of these criteria in the selection of a methodology for this filing; and
- vi. A description of the application of the methodology to this filing.

[7. For all incurred loss adjustment expense data contained in the filing, show the related incurred losses used to determine any loss adjustment expense loadings.

(b) Filers shall provide all information related to the derivation of credibility factors contained in the filing, specifically including the following information:

1. All data [reviewed.] and worksheets used and judgments made;
2. A description of the methodology used to derive the factors; and
3. A description of alternative methodologies used by the filer in other states (provide upon request for prior approval filings only);
4. A description of the criteria used to select one of the various methodologies for inclusion in the filing (provide upon request for prior approval filings only);
5. A description regarding the application of these criteria in the selection of a methodology for this filing (provide upon request for prior approval filings only); and
6. A description of the application of the methodology to this filing (provide upon request for prior approval filings only).

(c) Each filer, except small filers, shall provide the data in (c) through [10] 9 below. Small filers shall provide the data in (c)4, 5, [7, 9, and 10] and 6 below:

1. All information related to the derivation of loss development factors contained in the filing specifically including:
   - i. All data [reviewed.] and worksheets used and judgments made;
   - ii. A description of the methodology used to derive the factors; and
   - iii. A description of alternative methodologies used by the filer in other states (provide upon request for prior approval filings only);
   - iv. A description of the criteria used to select one of the various methodologies for inclusion in a particular filing (provide upon request for prior approval filings only);
   - v. A description regarding the application of these criteria in the selection of a methodology for this filing (provide upon request for prior approval filings only); and
   - vi. A description of the application of the methodology to this filing (provide upon request for prior approval filings only).

2. For each coverage, complete [total limits paid] loss development [parallelogram] triangles for the 10 latest available accident years at each and every annual evaluation date from 15 months to 123 months for basic Personal Injury Protection ("PIP") and Bodily Injury Liability ("BI"), 15 months to 75 months for Property Damage Liability ("PD") and uninsured/underinsured motorists, and 15 months to 51 months for collision and comprehensive [and uninsured/underinsured motorists] if accident year data is used by the filer to develop its rate level indications for collision and comprehensive coverages. Provide the corresponding nine-year, five-year and three-year average loss development factors derivable from these parallelogram. (These are minimum requirements. The filer may present additional accident years, further evaluations and other averages of factors;]

3. The information in (c)2 above for [basic] total limits paid losses;
4. The information in (c)2 above for total limits incurred losses;
5. The information in (c)2 above for basic limits incurred losses used by the filer to develop its rate level indications;
6. The information in (c)2 above for [paid] allocated loss adjustment expenses on a paid or incurred basis. Alternatively, if allocated loss adjustment expenses are not available separately, the filer shall provide incurred losses and allocated loss adjustment expenses combined;
7. The information in (c)2 above for incurred allocated loss adjustment expenses;
8. The information in (c)2 above for the number of paid claims;
9. The information in (c)2 above for the number of incurred claims; and
10. A statement regarding any changes in the filer’s case loss reserving practices during the last five years [(for rating organization filings, this shall be provided for the 10 largest qualified members)].

(d) Each filer, except small filers, shall provide the following data regarding trend factors and their application:

1. [Include the following trend data set forth in (d)1 and ii below (if an insurer) or (d)1 and iii below (if a rating organization).] All internal loss trend data on either a calendar year paid or incurred basis shown separately for frequency and severity for the latest available five calendar years on both a quarterly and a quarterly year ending basis for all coverages on both a statewide and New Jersey basis. Bodily injury liability and property damage liability trend data shall be given at basic [and] or total limits, whichever is consistent with the filer’s methodology. [Property damage liability data shall be given at basic and total limits. Personal] Basic personal injury protection
("PIP") data shall be given at a per person limit retained by the insurer according to N.J.S.A. 36:6-71.1 ($75,000 of insurer payments). Physical damage coverages shall be shown on the basis of [a] the $500.00 deductible; all deductibles less than $500.00 combined; all deductibles greater than $500.00 combined; and/or all deductibles combined adjusted to the $500.00 deductible basis. In the latter case the filer shall provide an explanation of the methodology for adjusting other than $500.00 deductible data to the $500.00 deductible level. [Provide this for the following:

- All internal loss trend data on both a calendar year paid and incurred basis; and either
  - ii. External loss trend data (severity only); or
  - iii. Fast-track loss trend data.]

2. For all trend data described above, calculate annual trend factors along with "T" statistics and the coefficient of correlation. This shall be done from a least-squares regression with time being the independent variable. i. Include trend results calculations for the latest six, nine, 12, 16 and 20-point periods;

iii. A side-by-side comparison of the actual data[.] and fitted data (and differences); and

iii. Include calculations on both an exponential and straight line basis.

3. All information related to the derivation of trend factors contained in the filing specifically including:
   i. All data [reviewed] used, worksheets used, and judgments made;
   ii. A description of the methodology used to derive the factors; and
   iii. A description of alternative methodologies used by the filer in other states (provide upon request for prior approval filings only);

iv. A description of the criteria used to select one of the various methodologies for inclusion in a particular filing (provide upon request for prior approval filings only);

v. A description regarding the application of these criteria in the selection of a methodology for this filing (provide upon request for prior approval filings only);

vi. A description of the application of the methodology to this filing [provide upon request for prior approval filings only].

4. [For prior approval filings only, information] Information, including studies, analyses, and fact sheets regarding the effects (both nationwide and in New Jersey) of the items described in (d)4i through [v] vi below if the filer has either compiled the information itself or relied upon outside information in the support of the filing. If the effects of such studies, etc., have been incorporated into the rate filing, describe in detail the methodologies used. Provide this information for the following:

i. Changes in seatbelt use;

ii. Use of passive restraint systems, including air bags, and any other safety or anti-theft devices including, but not limited to, anti-lock braking systems; and automatic traction control systems;

iii. Changes in the drinking age;

iv. Changes in the price and amount of gasoline purchased;

v. Changes in the average miles driven; and

vi. Other legislative, regulatory, social, or economic factors that have an impact on loss frequency or severity, including, but not limited to, the effects of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

(e) Each filer [except small filers] shall provide the following regarding changes in the New Jersey premium base and exposures:

1. Data on the mix of written exposures by different policy terms for the latest [five] three years. Include both the number of written exposures and the amount of written premium for different policy terms;

2. Average age of insured vehicles and symbol relativities for the latest five years; and

3. Calculate the trend in the average model year and symbol relativities for [physical damage] collision and comprehensive coverages separately during the most recent five calendar years. Explain how these trends were calculated and provide all intermediate calculations. Show the average age/model year and average symbol relativity for each of the latest five calendar years. Include the distributions of written exposure by age/model year and symbol for comprehensive and collision coverages separately for each of the latest five calendar years; and

4. The most recent five-year history of the distribution, by deductible amount, of written exposures and premium of comprehensive and collision coverages purchased[.]

5. The actual model year written exposure and premium distribution for comprehensive and collision coverages separately for each of the latest five calendar years; and

6. The most recent five complete calendar year history of the distribution, by limit of liability, of written exposures and premiums, separately for bodily injury, property damage, and combined single limit liability coverages.

(f) Filers shall provide the following regarding [limiting factor development and application] limitations applicable to the filing:

1. Limitations on losses and/or loss adjustment expenses included in the statistical data used in the filing;

2. Limitations on the extent of the rate level change by coverage;

3. Limitations on the extent of territorial rate changes;

4. Limitations on the extent of classification rate changes; and

5. Any other limitations applied.

(g) Filers shall provide the following New Jersey calendar year data on a direct business basis by coverage and group of coverages [(that is, liability and physical damage) the following information]:

1. The amount of earned premium, incurred losses, incurred allocated and unallocated loss adjustment expenses for each of the latest five complete calendar years; and

2. The number of incurred claims (all limits and all deductibles) by coverage and allocated loss adjustment expenses for each of the latest five complete calendar years.

[h] Filers shall show the overall Statewide rate change indicated by coverage.

(i) Rating organizations only shall provide a copy of the most recent corporate annual report (not the Statutory Annual Statement) and 10K Statements of its 10 largest qualified member companies.

[(j)] Filers shall provide any additional information specifically requested by the [Commissioner] Department which may be necessary to constitute a proper rate filing.

11.3-16.9 Data requirements for [company] expense and profit provisions

(a) Filers shall provide the data in (a) through [6]3 below regarding expenses:

i. All information related to the derivation of expense provisions contained in the filing specifically including:
   - All data [reviewed.] and worksheets used and judgments made;
   - A complete description of the methodology used to derive the provisions; and

ii. A description of alternative methodologies used by the filer in other states (provide upon request for prior approval filings only);

iv. A description of the criteria used to select one of the various methodologies for inclusion in this filing (provide upon request for prior approval filings only);

v. Details regarding the application of these criteria in the selection of a methodology for this filing (provide upon request for prior approval filings only);

vi. Details on the application of the methodology to this filing [(provide upon request for prior approval filings only)];

2. A statement regarding any expense saving activities undertaken in the last five years.

3.2. Average incurred expenses per exposure on a New Jersey basis (explain the basis of allocation) and on a countrywide basis for each of the last five complete calendar years for the following expense categories:

i. Commission and brokerage;

ii. Other acquisition expenses; [and]

iii. General expenses; and

iv. Taxes, licenses and fees;

4. The derivation of the expense flattening as required by N.J.S.A. 17:29A-37. The expense flattening calculation shall exclude the UCIF assessment for the excess medical benefits reimbursed to insurers by that fund. The expense shall be applied by coverage;
4. All data shall be on a direct basis excluding AIRE assessments and reimbursements;
5. New Jersey private passenger automobile insurance expense data separately for the most recent three complete calendar years using the format of the Underwriting Investment Exhibit, Part 4—Expenses of the Statutory Annual Statement; and
6. AIRE assessments and reimbursements in dollars and as a percent of bodily injury liability paid losses for the most recent five complete accident years evaluated as of March 31 of the current year.

(b) Filers shall provide the following data regarding proposed rates:
1. Proposed rates for each territory and coverage together with their derivation;
2. Classification differentials, with descriptions, if any proposed changes are being made to the currently approved classification plan.
   [Include an explanation of how classification rates are determined and a sample calculation];
3. (No change.)
   [c] Filers shall provide the following data regarding investment earnings:
   1. The amount of investment income earned on loss, loss adjustment expense and unearned premium reserves in relation to earned premium for private passenger automobile insurance in New Jersey shall be calculated for the latest two years and estimated for the current filing and the following two years. Calculations should be provided in detail including the amount of the composite reserves of each type (that is, loss, loss adjustment expense and unearned premium) at the beginning and end of each of the specified years;
   2. The cash flow pattern from policy inception date until receipt of premium. This shall be provided by coverage;
   3. The cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments; and
   4. The cash flow pattern from policy inception date for losses, allocated loss adjustment expenses, and unallocated loss adjustment expenses.
   [(d) [(e) Filers shall provide the following regarding identification and certification of statistical plans:
   1. Identification of all statistical plans used or consulted in preparing the filing, and a description of the data compiled by each plan; and
   2. (No change.)
   [(e) [(d) Filers shall provide the following information regarding investment earnings on capital and surplus:
   1. Given the selected underwriting profit and contingency loadings contained in the filing, the resulting rate of return on equity capital and on total assets, showing the derivation on all factors used to produce the calculations; and
   2. Justification that these rates of return are fair and reasonable. These calculations shall be performed by [coverage] group of coverages.
   [(f) Filers shall provide the following data regarding the level of capital/surplus needed:
   1. Premium to policyholders' surplus ratios, and their derivation, for the latest three calendar years for non-fleet private passenger automobile insurance in New Jersey;
   2. Estimates of comparable ratios and their derivation for the current and the following two years; and
   3. The information in (f) and 2 above for the loss plus loss adjustment expense reserve to policyholders' surplus ratio.
   [(g) [(e) Filers shall provide also the following:
   1. For prior approval filings only, upon request, copies of documents relating to the various preliminary and intermediate steps taken in preparing the filing, including, but not limited to, agendas and minutes of all meetings concerning the filing for which agenda or minutes were produced. Both meetings dealing specifically with this filing and those dealing implicitly (for example, through the establishment of countrywide practices, etc.) shall be included. Include a list of attendees at any meetings for which minutes are supplied, their titles and their affiliations;
   2. A copy of the most recent annual report (not the Statutory Annual Statement filed with Insurance Departments) and the latest 10-K statement;
   [(3)] [(1) The amount of finance and other miscellaneous charges collected in New Jersey in connection with the sale of private passenger automobile insurance;
   [(4)] [(2) For prior approval filings only, a] A description of all products and services supplied or received in transactions between the filer and a parent company, a wholly-owned subsidiary or an affiliated company; and
   [(5)] [(3) Any additional information specifically requested by the Commissioner which may be necessary to constitute a proper rate filing.

11:3-16.10 Rate calculation using standard ratemaking methodology
(a) Investment income shall be treated by group of coverages as follows:
1. (No change.)
2. No deductions shall be made for prepaid expenses unless there is specific documentation included in the filing that supports the prepayment of those expenses, which shall include the cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments.
3. No deductions shall be made for the delayed remission in premiums unless there is specific supporting documentation in the filing verifying such delay in the remission of premiums, which shall include the cash flow pattern from policy inception date until receipt of premium.
4. (No change.)
5. The ratio of loss reserves to incurred losses shall be on a direct business basis derived from the appropriate line of business from Page 14 of the Statutory Annual Statement for New Jersey. The calculations shall be as follows:
   i. The average of the loss reserve (excluding the reserves for excess medical benefits claims over $75,000) at the beginning of the year and at the end of the year divided by the corresponding incurred losses during the year;
   ii. The ratio of these reserves to corresponding losses incurred shall be calculated for the most recent four calendar years; and
   iii. If there is a monotonic [trend] change in these ratios, either up or down, the most recent ratio shall be used in the calculation. If no such trend exists, the most recent ratio shall be used in the calculation.
6. The ratio of loss adjustment expense reserves to loss reserves shall be derived from the appropriate line of business from Part 3A—Unpaid Losses and Loss Adjustment Expenses of the Annual Statement. The calculations shall be as follows:
   i. The unpaid loss adjustment expense divided by the net losses unpaid excluding loss adjustment expense;
   ii. This ratio shall be calculated for the most recent four calendar years; and
   iii. If there is a monotonic [trend] change in these ratios, either up or down, the most recent ratio shall be used in the calculation. If no such trend exists, the most recent ratio shall be used in the calculation.
7. The expected loss and loss adjustment expense ratio shall be one less the underwriting expense ratio, minus the underwriting profit and contingency ratio derived from the Clayton Formula.
8. The interest rate used in the calculation shall be [the most recently published value by the Internal Revenue Service to be used in discounting loss and loss adjustment expense reserves for investment income plus 200 basis points] a simple average of the most recent 12 monthly numbers for the Treasury constant three-year maturity rate as published in the Federal Reserve statistical release "Selected Interest Rates".
   (b) Underwriting expense provisions shall be determined as follows:
1. (No change.)
   8. The following expense items shall not be incorporated into the expense base for determining rates:
   i. Fines against the company;
   ii. (No change.)
ii. Lobbying expenses;
iii. Charitable contributions;
iv. Political contributions;
v. Awards against the company itself for punitive damages and for bad faith claims; [and]
vi. Advertising and other expenses incurred in connection with proposed changes in the regulation of insurance; and
vii. Assessments and surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively.

9. The filing shall include for each of the categories in (b) above the dollars of expense that were excluded from the rate base, separately for each year of historic information and separately for each of the above [six] seven categories. If the filer submits a ratemaking methodology that includes these expenses pursuant to (f) below, specific justification for including these expenses shall be included.

10. (No change.)
(c) The data base to be used shall be as follows:
1. Accident year data shall be used for all liability coverages, both liability and physical damage. Accident year or calendar year data shall be used for physical damage coverages.
2. The most recent accident year data used in the filing shall end no more than 15 months prior to the date of submission of the filing.
3. For prior approval filings only, each filing for a change in basic limits rates shall also include an experience review of increased limits data.

4.3. Personal injury protection experience shall be limited to the direct "before reinsurance" exposure retained by the insurance company according to N.J.S.A. 36:6-73.1. Any losses reimbursed or subject to reimbursement to the insurer by the UCJF for excess medical benefits shall not be included with the experience contained in the filing.

(f) (e) (No change.)
(f) The ratemaking methodology set forth in (a) through (e) above is the Department's preferred procedure and must be included in the filing. The filer may, however, propose an alternate procedure in total or in part and support it with such calculations and other information it deems appropriate to demonstrate the superiority of the alternate procedure in the determination of the filer's rates.

1. In the event the filer has computed the rates using an alternate methodology, it shall provide all information related to the derivation of the profit and contingency loading contained in the filing, specifically including:
i. All data [reviewed,] and worksheets used and judgments made;
ii. A description of the methodology used to arrive at the selected loading;
iii. A description of alternative methodologies used by the filer in other states (prior approval filings only);
iv. A description of the criteria used to select one of the various methodologies for inclusion in this filing (prior approval filings only);
v. Details regarding the application of these criteria in the selection of a methodology for this filing (prior approval filings only); and
vi. Details on the application of the methodology to this filing (prior approval filings only).

2. Filers which propose an alternate ratemaking methodology shall show the overall statewide rate change by coverage by both the standard and alternate methodologies.

11:3-16.11 Rate filings reflecting assessments and surtaxes
(a) All insurers who submit a rate filing which reflects assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(a) and 17:33B-49, respectively shall submit such rate filing independently of any prior approval rate filing submitted pursuant to N.J.A.C. 11:3-16.6.

(b) Any insurer desiring to modify its rates to reflect assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively shall provide the following information in support of its application:
1. All of the data required for prior approval filings submitted pursuant to N.J.A.C. 11:3-16.6;
2. A copy of the statutory property and casualty Annual Statement, Exhibit of Premiums and Losses (page 14) for New Jersey for each of the most recent 10 years. The insurer shall also file information combining this data for each of the most recent 10 years for all states and the District of Columbia, if applicable, in which the insurer is authorized to transact business; and shall provide a list of these jurisdictions;
3. The following data for all of its insurance affiliates for each of the most recent 10 years on a Statewide and countrywide basis;
i. For property and casualty affiliates, Exhibit of Premiums and Losses (page 14) of the statutory property and casualty Annual Statement;
ii. For title insurance affiliates, Operations and Investment Exhibit (page 4) and Schedule T—Exhibit of Premiums Written (page 39) of the statutory title insurance Annual Statement;
iii. For life and health affiliates, Liabilities, Surplus and Other Funds (page 3); Analysis of Operations by Lines of Business (page 5); and Exhibit 1 Part 1 and Part 2 (pages 7 and 7A) of the statutory life and health Annual Statement; and
iv. An estimate of the amount of business in other lines that is produced by the synergistic effects of the insurer writing private passenger automobile insurance in this State.
4. Certifications/representations by the insurer's Chief Financial Officer and President containing the information set forth in Exhibit F in the Appendix incorporated herein by reference;
5. A schedule of Key Performance Indicators (KPI's), as set forth in Exhibit G in the Appendix incorporated herein by reference, for the year of the rate filing and each of the preceding two years;
6. For the current year and preceding two years, a schedule of premiums, incurred losses and operating expenses by New Jersey lines of business corresponding to line items one (1) through twenty-two (22) of Part II of the IEE. In addition, provide a schedule of operating expenses by classification corresponding to line items one (1) through twenty-two (22) of Part I of the IEE. The aggregate of expenses reported by line item must agree with the total operating expenses related to New Jersey policies reported by line of business in Part II of the IEE, (sum of lines four (4) through eight (8));
7. For each line item expenditure included in the schedule required pursuant to (b) above, the following:
i. A description of all allocation methodologies used to allocate corporate-wide costs (including worldwide, countrywide and regionalwide costs) to New Jersey lines of business;
ii. A description of all allocation methodologies used to allocate operating expenses to New Jersey private passenger automobile liability and physical damage lines of business and to all other New Jersey lines of business;
iii. An explanation for any changes in allocation methodologies between years;
iv. For NJAFIU/MTF servicing entities which are also insurers, an explanation for differences between allocation methodologies used to prepare the schedule required pursuant to (b) above and the methodologies used to prepare Exhibit P of the NJAFIU/MTF reporting package; and
v. For each operating expense classification by each New Jersey line of business, a schedule which shows the expenses directly charged to a line of business; and indirect expenses allocated to various lines of business using a reasonable allocation methodology;
8. For each New Jersey line of business (including private passenger automobile), the following:
i. The number of insureds;
ii. The number of employees directly dedicated to the line of business;
iii. The square feet of office space dedicated to the line of business (excluding allocations of corporate or administrative office space);
iv. The hours of data processing time charged;
v. The number of exposures;
vi. The number of policies in force; and
vii. The number of claims reported during each of the three years requested;
9. A report, based on a study and evaluation of the insurer's system of internal accounting control and signed by an independent public accountant. The report shall state that in the accountant's opinion, the system of internal accounting control of the insurer in effect during the current year, taken as a whole, was sufficient to meet the objectives of a system of internal accounting control insofar as those objectives...
pertain to the prevention or detection of errors or irregularities in amounts that would be material in relation to the insurer’s financial statements;

10. A listing of all internal audits performed of the operations of the New Jersey private passenger automobile lines of business during the current year, including the scope of procedures performed;

11. Copies of all internal audit reports issued during the current year pursuant to (b) 10 above and management responses to all internal audit findings;

12. Access to source documents which, in the opinion of the Commissioner, are necessary to support any and all transactions reported on the insurer’s statutory annual statement filed with the Department or to support any other schedules referred to herein;

13. An explanation why the insurer believes that the assessment imposed by N.J.S.A. 17:30A-8(9) should be reflected in the requested private passenger automobile rates since the assessment, by statute, is classified as a loan; and

14. Any additional information specifically requested by the Commissioner which may be necessary to evaluate the request for rate relief.

(c) Upon written application and for good cause shown, the Commissioner may, in his or her discretion, waive any of the data filing requirements set forth in (b) above.

(d) The Commissioner shall not approve any increase in an insurer’s rates on the basis that the insurer is required to pay assessments pursuant to N.J.S.A. 17:30A-8(9), or surtaxes pursuant to N.J.S.A. 17:30B-49, unless he or she shall find that an increase in revenue is necessary to ensure that the insurer earns a constitutionally adequate return. In making that determination the Commissioner shall consider:

1. The insurer’s experience on all lines of its business in New Jersey, and in the case of insurers operating in an insurance holding company system, the experience of all of the lines of business of all affiliated companies in New Jersey, for a period of time over which an insurer could reasonably plan to earn a target rate of return;

2. Whether the insurer and its affiliates, if any, are reasonably efficient in their operations, including claims handling, subrogation and salvage, by comparison to insurers on a statewide and countrywide basis;

3. Whether the insurer and its affiliates, if any, have allocated expenses to New Jersey operations in a fair and equitable manner; and

4. The synergistic effect of mandated private passenger automobile insurance on the sale of other lines of insurance that the filer writes, including, but not limited to, higher premium volumes, lower operating costs and lower acquisition costs.

(e) Each filer shall present in its filing a formula it believes appropriate for determining the return required by relevant constitutional principles, with supporting analysis and data fully explaining why such formula should be utilized.

(f) The Commissioner may determine whether an insurer’s rates are, as a result of the payment of the surtaxes and assessments, constitutionally adequate. In the event that the Commissioner determines that rate relief is deemed to be necessary, the Commissioner shall determine whether the rates should be adjusted immediately or over time, as may be appropriate.

11:3-[16.11]16.12 (No change in text.)

11:3-16.13 Rate adjustments upon repayment of assessments

(a) At such time that the loans provided for in N.J.S.A. 17:30A-8(a)(10) from the Property-Liability Insurance Guaranty Association to the Automobile Insurance Guaranty Fund are repaid, the Guaranty Association shall determine the proportion of the repayment which is to be allocated to each insurer which paid assessments pursuant to N.J.S.A. 17:30A-8(a)(9).

(b) The Guaranty Association shall advise each insurer in writing of the amount of the repayment which is to be allocated to that insurer, and shall further advise the insurer that it must comply with the provisions of N.J.A.C. 11:3-16.13(c) before the funds will be remitted.

(c) Prior to receiving repayment of any funds attributable to the assessments paid to the Guaranty Association pursuant to N.J.S.A. 17:30A-49, an insurer shall file a plan with the Commissioner for a reduction of rates commensurate with such repayment. Upon the Commissioner's review and approval of such plan, the Commissioner shall order the repayment of funds from the Guaranty Association to the insurer.

AGENCY NOTE: Exhibits A1, AII and E proposed for repeal are not reproduced herein, but may be found in the New Jersey Administrative Code at N.J.A.C. 11:3-16 Appendix. The new text of these Exhibits follows.

APPENDIX

EXHIBIT A I

FLEX RATE FILINGS

COMPANY: ________________________________

COMPANY FILE NO. ________________________

RATE FILING REQUIREMENTS: ________________ PAGE #

(1) COVER LETTER NOTIFYING THE DEPARTMENT OF INTENT TO INCREASE RATES IN ACCORDANCE WITH N.J.S.A. 17:29A-44

(2) STATEMENT OF PERCENT OF INCREASE BY COVERAGE (INCLUDING VARIABLE PORTION AND EXPENSE FEES EXCLUDING POLICY CONSTANT AND RMEC)

(3) STATEMENT OF DOLLAR AMOUNT OF INCREASE BY COVERAGE

(4) EFFECTIVE DATE OF CHANGE

(5) NAME, ADDRESS AND TELEPHONE NUMBER OF COMPANY OFFICER FAMILIAR WITH FILING

(6) MANUAL PAGES CONTAINING THE FLEX RATES

(7) A COPY OF THE FILING MUST BE SUBMITTED TO THE NEW JERSEY PUBLIC ADVOCATE’S OFFICE

(8) FORM AMB 10 MUST BE INCLUDED

(9) CERTIFICATION BY COMPANY OFFICER THAT FILING MEETS STATUTORY AND REGULATORY REQUIREMENTS AND INFORMATION IS ACCURATE AND TRUE

(10) FILER’S NAME SHOWN

FILER’S IDENTIFYING NUMBERS

FILER NAIC #

GROUP NAIC #

(11) CERTIFICATION BY COMPANY OFFICER THAT EXCESS PROFITS REPORT REQUIRED BY N.J.A.C. 11:3-20 HAS BEEN FILED

(12) CERTIFICATION BY COMPANY OFFICER THAT FINANCIAL EXPERIENCE REPORT AS REQUIRED BY N.J.A.C. 11:3-31 HAS BEEN FILED

(13) CERTIFICATION BY COMPANY OFFICER THAT ANNUAL INFORMATION FILING AS REQUIRED BY N.J.A.C. 11:3-16.4 HAS BEEN FILED

(14) THE MOST RECENT FIVE COMPLETE CALENDAR YEAR HISTORY OF THE DISTRIBUTION, BY LIMIT OF LIABILITY

OF WRITTEN EXPOSURES AND PREMIUMS FOR:

PROPERTY DAMAGE LIABILITY

PROPERTY HOMICIDE LIABILITY

PROPERTY LIABILITY EXCESS

COMBINED SINGLE LIMIT LIABILITY

GROUP LIMIT LIABILITY

UNINSURED/UNDERINSURED MOTORISTS

(15) EXHIBIT SHOWING COVERAGE WEIGHTS AND CALCULATION OF NEW VARIABLE BASE RATES IF COVERAGE ARE COMBINED

(16) COMMISSION EQUALIZATION WORKSHEET
(4) LOSS DEVELOPMENT

All data used, worksheets used and judgments made.

Description of the methodology used to derive the loss development factors.

By coverage provide total limits paid loss development parallelograms for the latest 10 accident years at each annual evaluation date from 15 months to 123 months for PIP and BI, 15 months to 75 months for PD and Uninsured/Underinsured Motorist, 15 months to 51 months for collision and comprehensive if on an accident year basis.

Nine, five, and three year average loss development factors by coverage.

- Loss Development Data must be provided by:
  - Total Limits Paid Losses
  - Total Limits Incurred Losses
  - Basic Limits Incurred Loss if used for rate level
  - Allocated Loss Adjustment Expenses
  - Incurred Losses Allocated Loss Adjustment Expenses

- Statement of Number of Claims
- Statement of Number of Incurred Claims
- Statement of dollar amount of change by coverage and overall by company (including variable portion and expense fees etc., policy constant and RMEC).

- Justification for the selected method.
- Data Disk if over 20,000 exposures.

(5) TREND FACTORS:

- All internal loss trend data on either a calendar year paid or incurred basis for the last five years on a quarterly year ending basis.

- Bodily Injury Liability data on a basic or total limits basis (Frequency & Severity shown separately)

- Property Damage Liability shown on a basic or total limits basis (Frequency & Severity shown separately)

- PIP shown at a per person limit retained by insurer.

- Collision and Comprehensive shown on basis of:

- $500 Deductible or adjusted to $500 Deductible.

- Calculate Annual Trend Factors, T-statistics, and coefficient of correlation using least squares regression for all trend data.

- Calculations for at least 2 of 6, 9, 12, 16, 20 point periods on both exponential and straight line basis.

- Side by side comparison of actual data, fitted data and differences.

- All data used, worksheets used and judgments made regarding trend.

- Description of methodology used to derive factors.

- Description of application of the methodology used to this filing.

- If flier has included the effects of any studies, analyses, or fact sheets, describe in detail the methodologies used for the following:

- Changes in seatbelt use.

- Changes in use of passive restraint system.

- Changes in drinking age.

- Changes in price and amount of gasoline purchased.

- Changes in average miles driven.

- Legislative, regulatory, social or economic factors.

(6) NEW JERSEY PREMIUM BASE AND EXPOSURES

- Data on mix of written exposures by different policy terms for latest 3 years. Include both written exposures and amount of written premiums for different policy terms.

- Calculation of trend showing all steps for average model year and symbol relativities for most recent 5 calendar years.

- Actual model year and symbol written exposure and distribution for comprehensive and collision separately for each of the last 5 calendar years.

- Five year history of distribution by written exposures and premium of comprehensive and collision by deductible amount.

(7) LIMITS ON FILING

- Limitations not provided for above.
(8) BY COVERAGE AND GROUP OF COVERAGEs:
Amount of Earned Premium, incurred losses, incurred allocated and unallocated loss adjustment expense for each of the latest 5 calendar years.
Number of claims incurred for all limits and deductibles by coverage.
Allocated loss adjustment expenses for each of latest 5 calendar years.

(9) EXPENSE AND PROFIT PROVISIONS
For each file provide all information related to derivation of expense provisions including:
All data used, worksheets used, and judgments made.
Description of methodology used to derive provisions.
For each of the latest 5 calendar years provide:
Average Incurred Expenses per exposure on a New Jersey basis for:
Commission & Brokerage
Other Acquisition
General Expense
Taxes, Licenses, Fees

Explanation of Basis of Allocation Taxes
Average Incurred Expenses per exposure on a countrywide basis for:
Commission & Brokerage
Other Acquisition
General Expense
Taxes, Licenses, Fees

Provide Derivation of Expense Flattening (Exclude UCJF assessment for excess medical).
Three years New Jersey auto expenses as in Part 4.
Underwriting Investment Exhibit, Annual Statement.
Five years AIRE assessments and reimbursements.

(10) DATA REGARDING PROPOSED RATES
Proposed rates for each territory and coverage with their deviation.
If classification plan is changed describe classification differentials.
Provide explanation of how classification rates are determined and provide a sample calculation.
Provide calculations showing how base rates are in compliance with N.J.S.A. 17:29A-36.
Base class not greater than 1.35 statewide average base rate (include expense fees).
Principal operator over 65 not greater than 1½ times statewide average rate for principal operators over 65.
Comparison of average statewide variable rates and expense fees proposed and currently in use and # of exposures by coverage.

(11) INVESTMENT EARNINGS:
Amount of investment income earned on loss, loss adjustment expense and unearned premiums reserve to earned premium for the latest 2 years, estimated for current and two following years.
Reserves at beginning and end of specified years:
Loss Reserve
Loss Adjustment Reserve
Unearned Premium Reserve
By coverage cash flow pattern from policy inception until premium received.
Cash flow pattern from inception for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses, fees, other expense payments.
Cash flow pattern from inception for losses, allocated loss adjustment expense, and unallocated loss adjustment expense.

(12) STATISTICAL PLANS
Identify plans used or consulted in preparing filing.
Describe data compiled by each plan.
Certification by officer that data was collected by such plans and is true and accurate.
Identify data not collected in accordance with plan and used in filing.

(13) OTHER
Using the underwriting profit and contingency loadings selected for use in the filing, provide the rate of return on equity and assets by group of coverages.
Provide justification that rates of return are fair and reasonable.
Provide amount of finance and other miscellaneous charges collected in New Jersey for auto.
Provide a description of all products, and services supplied between filer and a parent company.

(14) STANDARD RATEMAKING METHODOLOGY
INVESTMENT INCOME
Underwriting profit calculated using the Clifford Formula so that after tax profit from underwriting and investment income on loss and LAE and unearned premium reserve is 3.5% of premium.
If there is deduction for prepaid expenses or delayed remission of premiums support is provided.
The ratio of unearned premium reserves to premium from Page 14 of annual statement. (Direct E.P. divided by Direct Premium Written) is provided.
The ratio of loss reserves to incurred losses from Page 14 of annual statement for 4 years (Avg. of LR at beg. of yr. & at end of yr. divided by incurred losses during yr.) Monotonic trend use latest ratio, otherwise use average of 4 years.
The ratio of loss adjustment expense reserves to loss reserves from annual statement for 4 years. (Unpaid LAE divided net losses unpaid exc. LAE) Monotonic trend use latest ratio, otherwise use average of 4 years.
The expected loss and LAE ratio 1—(Underwriting Exp. Ratio + Underwriting Prof & Cont. Radio).
Interest Rate = Treasury 3-year constant maturity rate 12 months.

(15) UNDERWRITING EXPENSE PROVISIONS
NJ data for commission and brokerage.
NJ data for taxes, licenses, fees.
Basis of allocation for general expenses if NJ data is not used.
Provision for other acquisition and general expense based on separate trending of dollar amounts for these items. (50/50 weighting of trend using AICP index and MAWWFIE index and regression analysis).
Historic Exp. Provisions limited by % in Best Aggregates & Averages for comparable company.
UCJF loading = latest year.
Fines against companies, lobbying expenses, charitable and political contributions awards against company for punitive damages, advertising legal and expenses in connection with changes in regulation of insurance premium by surcharge are not included. Company must show dollar amount of expense excluded separately and by year.
Commissions for BI for 50 and verbal threshold are equalized.

(16) DATA BASE
Accident year used for either calendar or accident year for physical damage.
Most recent data year ends no more than 15 months prior to submission.
PIP limited to direct exposure retained by company.

(17) TREND
Separate determinations of loss severity and frequency trends.
Adjustment for symbol drift and model year rating.

(18) TOTAL RATE OF RETURN
Demonstrate reasonable rate of return from capital investment will result from proposed rates.

(19) ALTERNATIVE RATEMAKING METHODOLOGY
Is one used?
If yes, provide: all data reviewed used, worksheets used, description of methodology to arrive at selective loading.
Details on application of methodology to this filing.
Overall statewide rate change and by coverage standard and alternate methodology.

(CITE 22 N.J.R. 3802)  NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
(20) GENERAL AND FORMAT REQUIREMENTS
Separate insurance companies make rate calculation separately and combined as a group if separate rate levels or underwriting guidelines are used.

Form AMB 10 must be included.

Certification by company officer (meets statutory and regulatory requirements).

Loose leaf binder, one side of page, consecutively numbered.

Filer's name shown

Filer's identifying numbers

Filer's NAIC #

Group NAIC #

(21) List of items the filer states are not included and the reason why.

(22) IF SURTAX AND GUARANTY FUND REFLECTED IN FILING:

Annual Statement, New Jersey, Page 14, for 10 years.

Annual Statement, Countrywide, Page 14 equivalent 10 years.

(A) EACH AFFILIATE, NEW JERSEY AND COUNTRYWIDE

PROPERTY AND CASUALTY

Annual Statement, New Jersey, Page 14, for 10 years.

Annual Statement, Countrywide, Page 14 equivalent 10 years.

TITLE INSURANCE AFFILIATES

Operations and Investment Exhibit, Page 4, 10 years.

Prepiums Written, Schedule T, page 39, 10 years.

LIFE AND HEALTH AFFILIATES

Liabilities, Surplus and Other Funds, page 3, 10 years.

Analysis of Operations by lines of business, page 5, 10 years.

Exhibit I, Part 1 and Part 2, pages 7 and 7A, 10 years.

(B) ADDITIONAL DATA AND CERTIFICATIONS

Estimated amounts of business in other lines because the insurer writes the separate New Jersey automobile in New Jersey.

Certifications and representations by both Chief Financial Officer and President on information in Exhibit T.

Schedule of Key Performance Indicators in Exhibit G.

Current year and preceding years operating expenses by classification for each New Jersey line of business. (Insurance Expense Exhibit Parts I and II.)

Description of all allocation methodologies used to allocate corporate-wide costs to New Jersey lines of business.

Description of allocation methodologies to New Jersey private passenger automobile liability and physical damage lines of business.

Explanation of any allocation changes between the years.

For NIAFUIA/MTF servicing entities which we also insure. Differences in allocation methodologies for IEE and Exhibit P of NIAFUIA/MTF reporting package.

Each operating expense classification by each New Jersey line of business, directly charged expenses, and indirectly allocated expenses.

(23) DATA FOR EACH NEW JERSEY LINE OF BUSINESS:

Number of insureds.

Number of employees directly dedicated to business.

Square feet of office space dedicated to line of business.

Hours of data processing time.

Number of exposures.

Number of policies in force.

Number of claims in each of 3 years requested.

(24) ACCOUNTING REPORTS AND AUDITS

Report by independent public accountant evaluating the insurer's system of internal accounting controls.

Listing of internal audits for New Jersey private passenger lines of business current year.

Copies of all internal audits issued during the current year with management responses.

(25) OTHER INFORMATION

Why the assessment should be reflected in rates since it is a loan.

EXHIBIT E

<table>
<thead>
<tr>
<th>Percentage Change</th>
<th>Dollar Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodily Injury</td>
<td></td>
</tr>
<tr>
<td>Verbal</td>
<td></td>
</tr>
<tr>
<td>Zero</td>
<td></td>
</tr>
<tr>
<td>Property Damage</td>
<td></td>
</tr>
<tr>
<td>Personal Injury Protection</td>
<td></td>
</tr>
<tr>
<td>Uninsured Motorists</td>
<td></td>
</tr>
<tr>
<td>Verbal</td>
<td></td>
</tr>
<tr>
<td>Zero</td>
<td></td>
</tr>
<tr>
<td>Comprehensive</td>
<td></td>
</tr>
<tr>
<td>Collision</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

EXHIBIT F

The Chief Financial Officer and President must make the following representations regarding rate filing documents:

1. The schedule of operating expenses for the insurer's New Jersey private passenger automobile lines of business (corresponding to columns 19.1 through 19.4 and in columns 21.1 and 21.2 of the insurance expense exhibit (IEE)). Include only those costs which were incurred to support the insurer's New Jersey private passenger automobile insurance operations.

2. The allocation of expenses to each line of business on the insurance expense exhibit and the required schedule was made in accordance with the Instructions for Uniform Classifications of Expenses.

3. The allocation of corporate-wide (worldwide, countrywide and regionalwide) expenses to New Jersey lines of business represents only those corporate-wide costs that are properly allocable to New Jersey operations based on reasonable and prudent allocation methodologies.

4. The allocation methodologies used to allocate certain New Jersey general and administrative or indirect costs to New Jersey private passenger automobile lines of business were reasonable, adequately supportable, and did not result in costs being allocated which were incurred by reason of non-private passenger automobile insurance operations.

5. Allocation methodologies used were applied consistently from year to year or, if there were any changes in allocation methodologies, the insurer has stated the reasons for the changes and has quantified the effect of changing the methodologies.

6. The methodologies used to allocate indirect costs is consistent with the methodologies used to allocate indirect costs by the insurer's internal reporting system and, if the company is also an NIAFUIA/MTF servicing entity, the methodologies were consistent with those used in preparing the NIAFUIA/MTF operating statement (Exhibit P).

7. If the insurer operated separate cost centers for its New Jersey private passenger automobile lines of business, but expenses for these cost centers were allocated rather than accounted for directly, the insurer has accurately quantified the effect of not accounting for such expenses directly. Also, reasons for not using direct costing for the separate New Jersey private passenger auto cost centers have been provided.

8. The methodologies used to allocate indirect costs to the New Jersey private passenger automobile lines of business are consistent with the methodologies used to allocate indirect costs to other New Jersey lines of business.

9. The total pool of allocated costs (before allocating to the various lines of business in each state) represents all and only such costs as are reflected in the insurer's annual audited financial statements prepared under statutory accounting principles.
10. All paid allocated loss adjustment expenses reported for New Jersey private passenger automobile lines of business were incurred to settle specific claims and the guidelines used for determining these loss adjustment expenses are the same as those used for the insurer's other lines of business.

11. A reasonable, prudent person would not determine that there are allocation methodologies which could have been used that would clearly have resulted in a more accurate allocation of operating expenses.

12. Financial information on the IEE properly reconciles with the insurer’s annual statements as reported to the Department.

13. The schedule provided for premiums, incurred losses and operating expenses (on a direct basis) by New Jersey lines of business properly reconciles to the insurer's total premiums, incurred losses and operating expenses by line of business (on a net basis) as reported in the IEE.

14. Net direct written premiums reported in the current year for each New Jersey line of business were determined in the same manner as in the preceding two years.

15. The Insurance Expense Exhibits for the current and preceding two years and the required supporting schedules were prepared in conformity with statutory casting principles.

16. Adequate provision has been made for all incurred losses in each of the periods reported.

17. There were no violations of laws or regulations during the periods reported whose effects have not been considered in the results of operations reported.

18. The accounting records underlying the financial information provided accurately and fairly reflect, in reasonable detail, the transactions of the insurer’s private passenger automobile and other lines of business.

19. The filer has complied with all aspects of contractual agreements that would have a material effect on the financial information provided in the event of noncompliance.

20. No events have occurred subsequent to the date of the most recent Insurance Expense Exhibit that would require adjustment to the financial information provided on the Insurance Expense Exhibits or to the financial information provided on the other schedules required.

21. There have been no:
   a. Irregularities involving management or employees who have significant roles in the internal control structure.
   b. Irregularities involving other employees that could have a material effect on the financial information provided.
   c. Communications from regulatory agents concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial information provided.

EXHIBIT G

KEY PERFORMANCE INDICATORS

The following data ratios should be provided for each line of business (for New Jersey business only). All of the ratios shall be calculated for the current year and preceding two years. Information on surplus as regards policyholders, accounts receivable, underwriting employees and number of adjusters shall be provided as of the last day of each year reported.

1. Salvage Recoveries/Paid Losses (Collision Only)
2. Subrogation Recoveries/Paid Losses (Liability Coverages Only)
3. Premiums Collected/Earned Premiums
4. Accounts Receivable/Earned Premiums
5. Incurred Losses (excl. IBNR)/Earned Premiums
6. Earned Premiums/Earned Exposures
7. Exposures Written/Underwriting Employees
8. Underwriting Expenses/Exposures Written
9. Paid Losses/Claims Paid and Closed
10. Claims Outstanding/Number of Adjusters
11. Claim Expenses/Claims Reported
12. Other ratios as deemed necessary by the Department of Insurance
13. Annual Net Written Premiums/Surplus as Regards Policyholders
14. Reversion to Surplus as Regards Policyholders during the current and preceding two years.
COMMENT: A commenter stated that the Department's regulation fails to provide for a "third" rate level for risks depopulated from the Market Transition Facility (MTF). N.J.S.A. 17:29A-12, section 89 of the FAIR Act, provides that policies written in the voluntary market may be written at MTF rates for a period not in excess of three years, including the period during which the policy was written in the MTF.

RESPONSE: Nothing in the rules as proposed or reproposed prohibits insurers from charging MTF rates as permitted by N.J.S.A. 17:33B-12. Since this provision is not of continuing application beyond three years, the Department does not believe it need be specifically mentioned in the reproposed rules.

COMMENT: One commenter requested that the rules confirm that private passenger-type automobiles insured under commercial policies are not within the scope of these rules.

RESPONSE: This clarification has been made in N.J.A.C. 11:3-19.1(b) of the reproposed rules.

COMMENT: One commenter requested that the rules include a definition of "risk", "insured", and "applicant".

RESPONSE: Additional definitions have been provided.

COMMENT: Several commenters objected to the provisions of N.J.A.C. 11:3-19.3(b) which prohibit insurers from filing, implementing or using a standard/non-standard rating plan that would increase the insurer's total revenue from its population of insureds that will exist on the date of implementation. Some commenters stated this was beyond the Department's statutory authority. Others stated that it prohibits insurers from making a fair return and deprives them of capitalized revenue for the coming years.

COMMENT: One commenter stated that this provision would mean that rates would be required to be changed constantly as more high risk drivers are depopulated from the residual market. Another commenter stated that this would be devastating if the non-standard market exceeded 15 percent and were closed, as insurers would be required to write high risk drivers at less than standard rates. Another commenter cited the 1989 Department report on profitability of auto insurance in New Jersey and stated that it was the legislative intent to provide adequate rates for the depopulation of the residual market through non-standard rating systems. It stated that the legislative intent was to offset the residual market risks assumed through higher, non-standard rates.

RESPONSE: The Department agrees with some of the commenters that the specific provision for non-standard rating plans expresses a legislative intent to provide increased rates for higher risks to be depopulated from the residual market. When this provision was originally proposed, depopulation of the residual market had just begun. Since that time a significant amount of depopulation has already occurred in accordance with the FAIR Act, and more will occur by the time insurers file and implement standard/non-standard rating plans. Moreover, the reproposed rules require merit accident rating surcharges be included in the non-standard rate level. Due to these changes, the objectionable provision has been dropped from the reproposed rules.

COMMENT: One commenter requested clarification of N.J.A.C. 11:3-19.3(c)(viii). It stated that, as written, the rule would require continual monitoring of an insurer's in force business for proper tier placement; the commenter stated this would result in a significant burden and expense.

RESPONSE: The Department agrees that insurers will be required to monitor their business when it is renewed, in order to comply with N.J.S.A. 17:29A-46 which requires insurers to conduct business consistently with their underwriting rules. The Department notes that insurers now do this with respect to other characteristics of their insureds as these factors change over time.

COMMENT: A commenter objected to the requirement of N.J.A.C. 11:3-19.3(c)(vi) which requires both the percentage and dollar difference between the standard and non-standard rate levels. It stated that the percentage difference should be sufficient and computing the dollar difference is expensive, time consuming and unnecessary.

RESPONSE: This provision has been changed in the reproposed rules to require only percentage differences. The commenter should note, however, that manual rate pages must be submitted upon approval of the plan for each rate level.

A commenter in connection with N.J.A.C. 11:3-19.3(c)(ii), an insurer inquired whether a company may submit underwriting rules for its non-standard rate level based on the type of vehicle to be insured.

RESPONSE: As previously proposed, N.J.A.C. 11:3-19.4(a)3 required that persons with no eligibility points who have been licensed to drive for the previous three years must be insured at the standard rate level. The reproposed rule makes significant changes in this structure, however, in response to various comments and continuing review. An insurer may not assign an insured to the non-standard rate level on the basis of type of vehicle.

COMMENT: One industry commenter expressed its favor for the provisions of N.J.A.C. 11:3-19.3(d), which provides that affiliated companies may file standard/non-standard rating plans that permit different individual insurance companies to write risks at different rate levels. A second commenter, however, inquired how this rules all non-affiliated insurers.

RESPONSE: The Department expects that some companies may establish standard and non-standard rate levels within a single company; groups of affiliated insurers may choose to establish a plan that covers more than one company with different rate levels applying to different companies; that is, a plan by which one company writes all standard rate level risks and a second company writes all non-standard rate level risks.

COMMENT: One commenter objected to N.J.A.C. 11:3-19.3(e), which required limitations on rates in accordance with N.J.S.A. 17:29A-36 be applied separately to each rate level. It stated that this precludes the use of the easiest and most cost effective method, uniform rate relativity.

RESPONSE: The Department has deleted this provision from the rule; limitations on rates established by N.J.S.A. 17:29A-36 will be addressed as necessary in the rate review process.

COMMENT: Several commenters inquired about N.J.A.C. 17:3-19.4(a)(ii), which requires the non-standard rate level not to exceed 135 percent of the combined standard/non-standard rate level in accordance with N.J.S.A. 17:29A-45. On May 1, 1992, the CAC suggested that the rule provide for a graduated scale of percentage increases based on eligibility points ranging from one to eight.

RESPONSE: The combined standard/non-standard rate level is the average rate level of all its insureds in the voluntary market, both standard and non-standard. Although N.J.S.A. 17:29A-45 states that non-standard rate level should not exceed "... 135 percent of the cost of private passenger automobile insurance in the voluntary market in this State...", the Department notes that it will be called upon to approve standard/non-standard rating plans one-at-a-time as submitted by each insurer. If each plan is subject to the 135 percent limit, then the aggregate of all plans will necessarily be limited as the statute provides.

The Department does not find any legislative intent to include policy constants and RMEC's in the "cost of private passenger automobile insurance." These charges were specifically abolished by the FAIR Act. The rules have been changed to provide for an equitable gradation of rates based on eligibility points, that is, driving record.

COMMENT: A commenter objected to N.J.A.C. 11:3-19.4(a)(ii), which requires standard/non-standard rating plans to insure all "eligible persons" after April 1, 1992. This commenter stated that section 27a of the FAIR Act only requires insurers to insure those eligible persons that meet their underwriting standards, and that: "There is no requirement that insurers write all eligible persons."

RESPONSE: The Department disagrees. The Department believes the FAIR Act requires insurers to write all eligible persons, although it allows them to be written at different rate levels, in accordance with the underwriting rules applicable to each rate level.

COMMENT: Several commenters inquired about N.J.A.C. 11:3-19.4(a)(ii), which requires that standard/non-standard rating plans provide that persons who have been licensed to drive for the previous three years and who have accrued no eligibility points be insured at the plan's standard rate level. One insurer stated it would write such "inexperienced drivers with a sports car in the standard market" while writing one with greater experience and one moving violation in the non-standard market. Another commenter stated that the rule should not require "young drivers" to be placed in the standard market, referring to testimony regarding the FAIR Act that persons in various age groups account for different percentages of automobile accidents. Another commenter suggested that five years experience provides a better measurement. A commenter then suggested that additional requirements for the standard rate level be included such as type of vehicle (high valued, high theft, customized, difficult to repair, etc.), mileage and other factors. Other commenters noted that policies are presently written by households and inquired whether if one driver in the household was non-standard, all persons and vehicles in the household be insured at non-standard rates. A commenter noted that the rule...
seems to require tier placement by car rather than by policy and suggested that tier placement by policy is more equitable. The commenter noted that a separate policy per car eliminates multi-car discounts.

RESPONSE: This provision has been changed in the reproposed rules. The rule defining "eligible person" has been reproposed to assign eligibility points to inexperienced drivers (see reproposed N.J.A.C. 11:3-34 published elsewhere in this issue of the Register). In accordance with this change, the reproposed rule requires all those with no automobile insurance eligibility points be insured at standard rates, and requires non-standard rates to be graded reasonably by eligibility points.

If one person in a household is non-standard, that person and the vehicle he or she drives may be insured at non-standard rates, provided of course that the person accounts for 10 percent or more of the use of the vehicle (see reproposed N.J.A.C. 11:3-35 published elsewhere in this issue of the Register). This may be done by either a separate policy or different premium charges under a single policy that covers all of the drivers and vehicles in the household. The Department notes that insurers currently charge different premiums for various vehicles and drivers covered under a single policy.

COMMENT: A commenter objected to N.J.A.C. 11-3-19.4(a)2 and 3, stating they are "not appropriate in this rule" and should be in the underwriting standards rule (N.J.A.C. 11:3-35).

RESPONSE: The Department disagrees. These provisions are substantive and cross reference the rules concerning insurer underwriting standards.

COMMENT: A commenter objected to the provisions of N.J.A.C. 11-3-19.4(b), which provides that standard/non-standard rating plans may be modified by subsequent rule or order adopted pursuant to N.J.S.A. 17:29A-45(f) further defining the non-standard voluntary market. The commenter stated that this would discourage the use of non-standard rating as an insurer's carefully crafted plan could be upset by rule.

RESPONSE: The Department appreciates the commenter's concerns, but is mindful of the statute which contemplates the non-standard market not exceed 15 percent of the total market. This provision of the proposed rules is intended to alert insurers that modification of the plan may be required in the future in response to acts by the Commissioner in carrying out the statutory mandate to limit the non-standard market.

COMMENT: Several commenters questioned N.J.A.C. 11-3-19.5(c), which provides that insurers with approved standard/non-standard rating plans shall issue and renew policies at a standard rate level when the Commissioner has certified that the non-standard market exceeds 15 percent. One commenter stated that this was not required by the statute. Several commenters, including the CAC, inquired how this mechanism would operate. The CAC stated that the market percentages in the standard/non-standard and assigned risk plans should be published twice a year by the Department. Another commenter stated that if the non-standard market were to close, good drivers would have to pay higher rates to subsidize poor drivers. Another commenter expressed general reservations about filing a non-standard rating plan because of this provision.

RESPONSE: This provision has been deleted in the reproposed rules after careful review of the statutory provision it was intended to implement. Insurers should be aware, however, that the Commissioner will take appropriate action to further define the non-standard market should it appear that it contains an excessive number of insureds.

When the reporting mechanism is operating, the percentage in each market as compiled by the Department will be public information, available upon request.

COMMENT: Several commenters addressed N.J.A.C. 11-3-9.5(a), which requires insurers to issue and renew policies at the appropriate rate level under a standard/non-standard rating plan. One commenter objected to the requirement of the written notice when an insured is reassigned to the higher rate level. It stated that the insured should simply provide insureds with an explanation of the changes that may occur when the insured first applies for a policy.

RESPONSE: The Department disagrees; the insured should be advised of the significant change in the rate level resulting from assignment to a different rate level as the result of accruing eligibility points. The Department also expects that the shift to the non-standard rate level will often mean a change of company; this notice will advise the insured why this has occurred.

COMMENT: One commenter objected to the required language in the notice that the insured may contact other insurers to determine whether comparable insurance can be purchased elsewhere at less cost. It stated that an insurer should not provide advertising for its competitors.

RESPONSE: The Department disagrees. Since various insurers are permitted and expected to have different criteria and rates for their standard and non-standard plans, the Department believes that this is important advice, particularly since the FAIR Act requires companies to have a list of non-standard eligible persons. It does not consider it "advertising" for a competitor.

COMMENT: One commenter noted that the reference to N.J.A.C. 11:3-8.2 appears to be in error, considering that that rule is in the process of being amended.

RESPONSE: The reference has been changed to be consistent with the amendments to that rule see reproposed N.J.A.C. 11:3-8 published elsewhere in this issue of the Register.

COMMENT: An insurer commented that current motor vehicle records do not distinguish between "at-fault" and "no-fault" accidents, and stated that they must do so.

RESPONSE: Complete reliance on a Division of Motor Vehicles (DMV) abstract of driving record for eligibility point determination would be misplaced. An "at-fault" accident, as defined in the FAIR Act, requires payment of a claim by an insurer of at least $500.00. Insurers will have to rely on claim records as well as driving record abstracts; DMV's records do not include every accident. It is the Department's understanding that most insurers currently rely at least in part upon claim records to rate or nonrenew insureds.

COMMENT: An insurer expressed concern that issuing and renewing an insured at the appropriate rate level would require a manual review of policies on an annual basis.

RESPONSE: The Department notes that, pursuant to N.J.S.A. 17:29A-46, all insurers are required to file their underwriting rules for approval and to conduct business in accordance with those rules. If rates and rate levels are to be affected by events of driving experience (motor vehicle violations and at-fault accidents), insurers must institute systems to apply those factors consistently and without bias to all insureds and applicants.

COMMENT: An insurer inquired whether the Department would develop the wording of the notice of intent to transfer an insured to the non-standard rate level.

RESPONSE: The Department has no present intention to do so. The Department notes that the information set forth on the notice is similar to the information presently contained in nonrenewal notices pursuant to N.J.A.C. 11:3-8.2 in its present form.

COMMENT: The CAC inquired why the rule specified an upper limit for the notification (45 days) and questioned whether this was enough time for an insured to shop.

RESPONSE: The time limit proposed, 30 days to 45 days, is consistent with current notice requirements for renewing a policy. Since a person being shifted to the non-standard rate level is an "eligible person", other insurers would be required to provide coverage (as of April 1, 1992) if the rule were applied. The Department is reluctant to disturb these long-established time schedules unless there are compelling reasons to do so. Should difficulties become apparent, the Department will consider changing them.

COMMENT: The CAC also suggested that when a policy is delivered to the insured, upon issuance or renewal, the insurance company should provide a list of points accrued and total charges.

RESPONSE: The Department agrees that this is a reasonable suggestion and has added a requirement that the policy declaration page set forth the number of eligibility points used to rate the policy. The specific incidents that resulted in the accrual of points are not required, however, in the policy format. The Department notes that separate notice is given that includes the incidents when accrued eligibility points shift a person to a non-standard rate level or render a person not eligible for the voluntary market.

COMMENT: Several commenters addressed N.J.A.C. 11-3-9.6(a), which require excess profits reports shall be filed as provided in N.J.A.C. 11-3:20.

COMMENT: An insurer objected to the provisions of N.J.A.C. 11-3-19.6(b) which requires merit rating accident surcharges be applied on an equal dollar amount at each rate level.

RESPONSE: N.J.S.A. 17:29A-35(a) requires that surcharges "be uniform on a Statewide basis without regard to classification or territory." This rule was intended to carry out that requirement when an insurer

(CITE 22 N.J.R. 3806) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
You're viewing an archived copy from the New Jersey State Library.

The reproposed rules merit rating surcharges be incorporated into the non-standard rate level only and not into the standard rate level.

COMMENT: The CAC stated that the Department should eliminate Merit Rating Accident Surcharges as contrary to the FAIR Act, which provides compensation for higher risks through the point eligibility system.

RESPONSE: The Department agrees in principle and has reproposed rules that require merit rating surcharges be incorporated into the non-standard rate level. The reproposed rules further require that currently approved rating systems be refiled to provide for standard/non-standard rating plans.

COMMENT: The CAC inquired whether the 10 days provided by N.J.A.C. 11:3-19.6(b) was sufficient time for the Public Advocate to advise of its intention to intervene.

RESPONSE: The Department believes that it is sufficient time, and notes that other rules require the Public Advocate to provide the Department with prompt notice of its intention to participate in a rate filing matter (see N.J.A.C. 11:3-18). The Department further notes that there is a 60-day "deemer" provision contained in N.J.S.A. 17:29A-45 that limits the time for Department review. A prompt decision by the Public Advocate is necessary so that the Department can act within this time limit.

COMMENT: An insurer inquired about the basis for Public Advocate participation in approval of a standard/non-standard rating plan.

RESPONSE: The Department believes that N.J.S.A. 17:29A-14 provides generally for Public Advocate participation in rate change filings.

COMMENT: A commenter objected to N.J.A.C. 11:3-19.7, noting that the rule did not contain a procedure for a hearing if the plan is disapproved. The commenter asserted that a disapproval should be heard as a contested case and that there was a constitutional right to a hearing in such circumstances.

RESPONSE: Nothing in these rules affects rights under generally applicable laws to challenge administrative decisions.

COMMENT: A commenter inquired whether it would qualify as an insurer with a rating plan on file as of November 14, 1989 if it used rates filed by a rating organization that were in effect on that date.

RESPONSE: Yes.

As a result of the public comments received and further review by the Department, these rules contain three substantive changes from the previous proposal that affect the structure of standard/non-standard rating plans. First, all insurers which write personal private passenger automobile insurance are required to file standard/non-standard rating plans. Secondly, a standard/non-standard rating plan shall incorporate in the non-standard rate level merit rating surcharges permitted in the voluntary market by N.J.S.A. 17:29A-35. Thirdly, standard/non-standard rating plans shall include an equitable, graduated scale of non-standard rates based on eligibility points accrued.

All of these changes are intended to implement the stated intent of the FAIR Act to provide an equitable system of rates based primarily on driving record. All insurers will be required as of April 1, 1992, to insure all eligible persons in the voluntary market. A standard/non-standard rating plan is necessary to provide standard rates for all those with clean driving records. Existing merit rating plans provide surcharges for at-fault accidents that have occurred in the previous three years and which result in a claim payment by an insurer above a stated minimum. N.J.A.C. 11:3-34 likewise provides for automobile insurance eligibility points to be accrued as a result of at-fault accidents resulting in claim payment of at least $300.00 by an insurer in the past three years. This repropose provides that assignment to the non-standard rate level shall be based on accrued eligibility points. Since both systems provide for increased rates as the result of the same driving behavior, it is appropriate that the two be combined by incorporating the merit rating surcharges into the non-standard rate level. Moreover, this requirement avoids an inequitable "double surcharge" for the same behavior.

Because eligibility points accrue for each at-fault accident and motor vehicle moving violations, it is likewise equitable that more points should result in higher rates through a graduated scale. Nevertheless, the average non-standard rate is, of course, limited to 135 percent of the average of the combined standard and non-standard rate.

The specific sections of the reproposed subchapter are summarized as follows:

N.J.A.C. 11:3-19.1 sets forth the purpose and scope of the proposed rules.

N.J.A.C. 11:3-19.2 sets forth definitions of words and terms used throughout the subchapter.

N.J.A.C. 11:3-19.3 sets forth the filing requirements for standard/non-standard rating plans.

N.J.A.C. 11:3-19.4 sets forth standards for disapproval or modification of these rating plans.

N.J.A.C. 11:3-19.5 sets forth rules concerning the implementation of these plans with regard to renewal of policies at the proper rate level.

N.J.A.C. 11:3-19.6 sets forth procedural provisions for the filing of these plans, including the role of the Public Advocate in the approval of plan rates and rules, and the requirement to file standard/non-standard rating plans by March 1, 1991.

N.J.A.C. 11:3-19.7 provides for penalties for violations of this subchapter.

Social Impact

These reproposed rules set forth the filing requirements and standards for approval of standard/non-standard rating plans. The primary impact of these rules is to articulate clearly the requirements for filing, approval and implementation of these plans.

These reproposed rules require all insurers which write personal private passenger automobile insurance to file a standard/non-standard plan. When approved, these plans will serve to carry out the stated intent of the FAIR Act that automobile insurance rates be based primarily on driving record.

Economic Impact

These reproposed rules will affect the Department and automobile insurers that file standard/non-standard rating plans. These rating plans will affect insureds based upon the applicable plan standards and the average rate levels, which have been limited by statute to 135 percent of the voluntary market cost.

The Department expects that the statutory provisions will increase the number of automobile insurance filings to be reviewed by the Department. This additional work will require additional staff.

With respect to insurers, there will be costs associated with developing and implementing these rating plans. This is, however, a necessary cost of restructuring the market to provide for automobile insurance rates based primarily on driving record. To the extent that these reproposed rules have an impact on that process, the standards for filing and approval are made clear.

Regulatory Flexibility Analysis

These reproposed rules may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Individual insurance companies authorized to write private passenger automobile insurance, some of which may be small businesses, are affected by these proposed rules.

These reproposed rules implement N.J.S.A. 17:29A-45, as amended by the FAIR Act. They provide reporting, recordkeeping and compliance requirements for those insurers that qualify as "small businesses" when they establish a standard/non-standard rating plan.

These rules do not establish different compliance requirements for insurers that qualify as small businesses. Those insurers may need to obtain the services of actuarial consultants to comply with the filing requirements if those services are not available in-house. Establishing different compliance requirements for automobile insurance companies that qualify as "small businesses" would be inconsistent with the purpose of these rules in establishing minimum standards. It would likewise be inconsistent with the purpose of the FAIR Act, which is to establish uniform and minimum requirements for the segments of the market reflected in the standard and non-standard rate levels.

The full text of the emergency adoption and concurrent reproposal follows:

SUBCHAPTER 19. STANDARD/NON-STANDARD RATING PLANS

11:3-19.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-45 as amended by section 37 of P.L.1990, c.8, by establishing standards for standard/non-standard rating plans in the voluntary automobile insurance market. It sets forth the items to be filed and approved by the Commissioner in order to create a standard/non-standard rating plan; standards to be applied by the Department in approving a plan; and standards for the functioning of a plan in the market.
11:3-19.2 Definitions
The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Affiliated companies” means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

“Applicant” means a person applying to an insurer for a policy of automobile insurance who is not currently a named insured under a policy of automobile insurance issued by that insurer.

“Automobile insurance eligibility points” or “eligibility points” means points accrued in accordance with the schedule set forth in N.J.A.C. 11:3-34.

“Commissioner” means the Commissioner of Insurance of the State of New Jersey.

“Department” means the New Jersey Department of Insurance.

“Individual insurance company” means an insurance company separately licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless whether it is one of a group of affiliated companies.

“Insured” when used as a noun means a policyholder or other person insured under a policy of automobile insurance and not insured elsewhere.

“Insurer” includes a group of affiliated companies.

“Standard/non-standard rating plan” means a rating system used by an insurer that provides different base rates for different risks to those insureds who qualify in accordance with the insurer’s approved underwriting rules.

“Public Advocate” means the Division of Rate Counsel of the New Jersey Department of the Public Advocate, established pursuant to N.J.S.A. 52:27E-16.

“Renew” means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with this subchapter.

“Risk” means the person or property exposed to loss or damage that is insured under an automobile insurance policy.

11:3-19.3 Filing requirements for standard/non-standard rating plans
(a) All insurers which write personal private passenger automobile insurance shall file standard/non-standard rating plans that provide different rates for risks separately described by the insurer’s approved underwriting rules. No insurer shall implement or use a standard/non-standard rating plan that has not been filed and approved in accordance with N.J.S.A. 17:29A-45 and this subchapter.

(b) Merit rating surcharges, which are permitted to be included in rating systems by N.J.S.A. 17:29A-35, shall be incorporated only into the non-standard rate level of the voluntary market.

(c) An insurer shall initially establish a standard/non-standard rating plan by filing with the Commissioner the following items:

1. A narrative description of the plan, which shall include:
   i. The percentage difference between the standard and non-standard rate levels;
   ii. The variation of the difference by eligibility points;
   iii. Any variation of the difference by coverage;
   iv. The insurer’s plan for determining upon renewal to which rate level a risk will be assigned; and
   v. If the plan is submitted by a group of affiliated companies, the identity of all individual insurance companies in the group that transact private passenger automobile insurance business in New Jersey and the rate level to be used by each;

2. A complete set of underwriting rules that set forth qualifications for each rate level, which rules shall conform to the standards set forth in N.J.A.C. 11:3-35; and

3. Within 30 days of the date of approval of the underwriting rules or the effective date of the plan, whichever is later, manual rate pages for each rate level.

(d) A group of affiliated companies may file a standard/non-standard rating plan that provides that different individual insurance companies write risks at different rate levels.

11:3-19.4 Standards for disapproval or modification
(a) A standard/non-standard rating plan shall be disapproved for any of the following reasons:

1. If the average non-standard rate is in excess of 135 percent of the average of the combined standard and non-standard rates;

2. If the plan does not provide for an equitable graduated scale of non-standard rates based on accrued automobile insurance eligibility points;

3. If the plan does not provide that the insurer shall, after April 1, 1992, insure at either its standard or non-standard rate level all applicants and insureds defined as “eligible persons” in N.J.A.C. 11:3-34;

4. If the plan does not provide that the insurer shall insure at its standard rate level all insureds who have accrued no automobile insurance eligibility points during the previous three years;

5. If the underwriting rules do not meet the standards set forth in N.J.A.C. 11:3-35;

6. If the insurer fails to submit the items required for filing pursuant to N.J.A.C. 11:3-19.3; or

7. If the plan otherwise fails to meet any of the standards of this subchapter.

(b) The Commissioner may by rule or order direct an insurer with an approved standard/non-standard rating plan to modify its plan to conform to rules which may be adopted pursuant to N.J.S.A. 17:29A-45 that further define the non-standard voluntary market.

(c) A standard/non-standard rating plan may provide that any applicant who is not an “eligible person” as defined in N.J.A.C. 11:3-34 may be insured at the non-standard rate level during any period of time certified by the Commissioner for the cessation of the acceptance of applications or the issuance of new policies by the assigned risk plan, pursuant to N.J.S.A. 17:29D-1d.

11:3-19.5 Renewal of policy at proper rate level
(a) An insurer which has implemented a standard/non-standard rating plan shall issue and renew its policies at the appropriate rate level for which the risk qualifies in accordance with the insurer’s approved underwriting rules. The transfer of a risk from one rate level to another within an insurer’s standard/non-standard rating plan shall not be deemed to be a nonrenewal of the policy as provided by N.J.S.A. 39:6A-3 and N.J.A.C. 11:3-8 if the insurer complies with the provisions set forth below.

1. If the insurer qualifies for the standard rate level after having been insured at the non-standard rate level, the insurer shall renew the insured at the standard rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.3.

2. If the insurer qualifies for the non-standard rate level after having been insured at the standard rate level, the insurer shall renew the insured at the non-standard rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.3 after providing notice to the insurer as follows:

   i. Written notice shall be sent to the insured at least 30, but not more than 45, days before expiration of the policy;

   ii. The written notice shall advise the insured that he or she no longer meets the insurer’s approved underwriting rules for the standard rate level;

   iii. The notice shall set forth a summary of the provisions of the underwriting rule that applies to the insured and the specific facts upon which the insurer relies to determine that the insurer no longer is qualified for the standard rate level, including the specific events that resulted in the accrual of automobile insurance eligibility points; and

Concurrent Proposal Number: PRN 1990-644.


Submit comments by January 16, 1991 to:
Verice M. Mason
Assistant Commissioner
Division of Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

These rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency rules are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The redrafted rules become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent reproposal follows:

**Summary**

N.J.S.A. 39:6A-4.6 directs the Commissioner to promulgate medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is required to be made under the personal injury protection coverage provided by automobile insurance policies. The Department proposed promulgation of medical fee schedules in the April 3, 1989 issue of the New Jersey Register at 21 N.J.R. 842(b) but those schedules were never adopted.

Section 7 of the Fair Automobile Insurance Reform Act of 1990, P.L.1990, c.8 (enacted March 12, 1990) amended N.J.S.A. 39:6A-4.6 to require that the fee schedules incorporate the reasonable and prevailing fees of 75 percent of the practitioners within the region. If, in the case of a specialist provider, there are fewer than 50 specialists within a region, the fee schedule must incorporate the reasonable and prevailing fees of the specialist providers on a Statewide basis.

The law has also been amended to provide that no health care provider may demand or request any payment from any person in excess of that permitted by the medical fee schedules, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the fee schedules.

The medical fee schedules set forth in these reproposed new rules will apply to medical services and equipment provided on or after January 1, 1991, and represent the Department’s second effort to implement the 1990 amendments and to develop schedules required by the new law. The initial proposal was published in the July 16, 1990 issue of the New Jersey Register at 22 N.J.R. 2086(a). That proposal elicited over 90 public comments from interested parties including insurance companies, health care providers, health care facilities and trade associations. The Department has been responsive to many of those comments in preparing this adoption and reproposal and is continuing to review others. The schedules are subject to biannual review (meaning twice a year) and thus may undergo refinement when and where appropriate.

Medical providers supplying services and equipment to those injured in automobile accidents include the following:

1. Providers of medical services, including medical doctors, osteopathic physicians, medical laboratories, etc.;
2. Chiropractors;
3. Dentists;
4. Nurses and other providers of allied health professional services, including registered nurses, physical therapists, speech therapists, occupational therapists, licensed practical nurses and home health agencies;
5. Providers of ambulance services; and
6. Providers of durable medical equipment and prosthetic devices.

The reproposed schedules are categorized by the type of service or equipment provided. Types of medical services are listed in a nationally recognized coding system known as the Physicians Current Procedural
Terminology, fourth edition (hereinafter “CPT-4”). The Department utilized the CPT-4 system as the basic code and description for medical services provided in the proposed fee schedule.

Using a large Statewide data base, the Department analyzed approximately 500,000 billed charges for CPT-4 services to determine levels of fees to be included in the schedule. The Department analyzed billed charges to develop Statewide and regional means. Statewide fees were used to determine the levels of billed charges for a particular service in a particular region were inadequate for analysis.

To avoid wide disparities among regions for specific services, and to eliminate statistical anomalies, the scheduled fees were flattened so that all regions were within 10 percent of the fee that would exist had there been a single Statewide fee applied to each region. All fees were reviewed item by item and minor adjustments made where required to eliminate obvious fee aberrations among similar procedures.

Different payment schedules for different specialists are not established. The Department believes that the adopted fee schedules are sufficient to enable a specialist to receive just compensation compared to what a non-specialist might charge. Furthermore, only specialists will be doing the highly specialized procedures and the fee assigned to such procedures will reflect the specialized care being provided. The appropriate compensation for such procedures, therefore, will be the specialist’s usual, customary and reasonable fee not exceeding the 75th percentile limit.

The schedule for medical services published on July 16, 1990, contained 390 CPT-4 codes which were aggregated into a smaller number of compressed codes, so that the fees for adjacent procedures were averaged. The new schedule decompresses these, so that a greater variability of fees depending on the intensity of the procedure is allowed. The new schedule contains 1018 CPT-4 codes and is thus much more complete than the July schedule. The underlying data for the new schedule uses a more recent experience period than was used previously.

To develop chiropractic fees, the Department utilized the nationally recognized American Dental Association (hereinafter “ADA”) numerical codes described on the schedules. The Department surveyed several large dental insurers and developed a database of over 2.6 million billed charges to establish the fees for each of the specific services described. The July 16th schedule contained 116 ADA codes and did not allow for fee differentials among the three mandated regions of the State. The new schedule includes data from two large sources, includes 286 ADA codes, allows for fees differentials among the regions, and uses a more recent experience period. The same methods were used here as for physicians’ charges.

To develop dental service fees, the Department utilized the nationally recognized American Dental Association (hereinafter “ADA”) numerical codes described on the schedules. The Department surveyed several large dental insurers and developed a database of over 2.6 million billed charges to establish the fees for each of the specific services described. The July 16th schedule contained 116 ADA codes and did not allow for fee differentials among the three mandated regions of the State. The new schedule includes data from two large sources, includes 286 ADA codes, allows for fees differentials among the regions, and uses a more recent experience period. The same methods were used here as for physicians’ charges.

Medical transportation services are provided to victims of automobile accidents both by Mobile Intensive Care Units (hereinafter “MICU”) and by ambulance companies. For ambulance services, the Department referred to the Federal Medicare program rates for New Jersey. MICU services which are hospital based are subject to the jurisdiction of, and regulated by, the New Jersey Department of Health. In developing the schedule for durable medical equipment and prosthetic devices, the Department referred to a fee schedule used by the Federal Medicare program for New Jersey Medicare recipients. The Medicare program is the principal payer countrywide for durable medical equipment; it is generally the source of more than 50 percent of the total revenue of durable medical equipment providers. The July 16th schedule included 616 equipment codes; this proposed schedule has 974 codes with more recent Medicare-approved fees, including some rental-only equipment. The Medicare fee schedule contains a numerical code for each item which has been incorporated into the proposed schedule.

The schedule sets forth the retail purchase price, in some cases differentiating between new and used equipment, for each item of equipment and, where appropriate, the monthly rental for such equipment. The reproposed rules limit the monthly rental of any item to 10 percent of the purchase price and limit the total of rentals to 15 times the monthly rental fee. The Medicare schedule is applied in New Jersey without regard to region; therefore, the schedule reflects the same fee for durable medical equipment in each region.

With regard to services and equipment not currently on the fee schedules, these reproposed rules contain a provision that the limit of liability for medical expense benefits is a reasonable amount considering the fee schedule for similar services or equipment in the region where such services or equipment is provided or, in the case of elective services or equipment provided outside the State, the region where the insured resides.

N.J.A.C. 11:3-29.1 describes the purpose and scope, which is to establish medical fee schedules on a regional basis, as required by N.J.S.A. 39:6A-4.6 as amended. The scope is specifically limited to the medical expense benefit portion of the personal injury protection coverage in private passenger automobile insurance. The fee schedules do not apply to other automobile insurance coverages such as bodily injury liability, to other forms of health insurance, or to medical services or equipment provided outside of New Jersey unless provided at the election of the insured.

N.J.A.C. 11:3-29.2 sets forth definitions of various terms. “Basic Life Support” ("BLS") and "CPT-4" are now fully defined.

N.J.A.C. 11:3-29.3 sets forth the rules for the development of the fee schedules.

N.J.A.C. 11:3-29.4(a) has been revised since the last proposal to clarify and emphasize that the reference in amended N.J.S.A. 39:6A-4.6 to the "reasonable and prevailing fees of 75% of the practitioners within the region" is not to be interpreted to mean that the prevailing fee at the 75th percentile should constitute a floor as well as a limit. On the contrary, health care providers are expected to continue to charge their usual, customary and reasonable fee—even if it is well below the 75th percentile. Subsection (a) is also intended to emphasize that only the cost of services and equipment that are medically necessary will be paid by insurers.

N.J.A.C. 11:3-29.4(b), (d)2 and (c) have been revised to state that when elective services or equipment are provided to New Jersey residents outside the State, the fee schedules prevailing in the region where the insured resides will apply.

N.J.A.C. 11:3-29.4(f) relating to multiple procedures has been revised to provide that reduced fees will not apply in cases involving two or more providers and/or different body regions.

Revised N.J.A.C. 11:3-29.4(g) prohibits the practice of “unbundling” or “fragmented” billing. Formerly proposed N.J.A.C. 1:3-29.4(g) and (h), incorporating by reference hospital and health care facility fees established by the New Jersey Department of Health, have been deleted. The Department of Insurance does not intend to become involved in the regulation of fees charged by acute care hospitals, trauma centers, rehabilitation facilities, other specialized hospitals, residential alcohol treatment facilities and nursing homes. The fees charged by these facilities are appropriately regulated by the Department of Health. Included in these facilities’ fees are fees for services provided by salaried providers and services that are normally billed by the institution. Not included are fees for services which are separately billed by the health care provider to the patient, and for which the fee schedules promulgated by the Department of Insurance would apply.

N.J.A.C. 11:3-29.5 sets forth the legislative prohibition against balance billing.

N.J.A.C. 11:3-29.6 consists of the medical fee schedules.

Social Impact

These reproposed rules affect automobile insurers, automobile insurance purchasers, and those who provide medical services and equipment to insureds injured in automobile accidents. The rules will have a positive social impact by furthering the legislative policy of controlling the cost of medical services and automobile insurance. The rules set limits of liability for medical services and equipment furnished to those injured in automobile accidents.

Economic Impact

These reproposed rules are expected to limit the amount of medical expenses paid by individuals and their automobile insurers. The fees in the fee schedule are based on the reasonable and prevailing fees of 75 percent of the practitioners within the particular region. This will
result in an anticipated saving of a portion of the automobile insurance premium used for personal injury protection medical expenses. Some of this saving will be offset by the added costs to automobile insurers necessary to develop and implement the schedules through revised claims processing and adjudication procedures. Much of this administrative cost will be a capital cost that will provide rate savings over time. Health care providers will also incur some cost in the process of incorporating the fee schedules into their billing procedures and accepting lower fees in certain circumstances.

The Department will monitor the effect of these schedules to determine the actual economic impact, as provided in the legislation.

Regulatory Flexibility Statement
These reproposed rules will apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These "small businesses" include insurers authorized to write private passenger automobile insurance. Less than 10 of the more than 200 automobile insurers in New Jersey qualify as "small businesses".

A regulatory flexibility analysis is not required because these rules do not impose reporting, recordkeeping or other compliance requirements on small businesses beyond the statutory requirements. The medical fee schedules contained in the rules set forth the limits of liability for the medical expenses beyond the portion of the personal injury protection coverage contained in automobile insurance policies.

While the rules do not impose reporting, recordkeeping and other compliance requirements, it is fully expected that all automobile insurers, including those qualifying as small businesses, will implement the fee schedules in their claims adjudication procedures so as to reduce loss expenses for personal injury protection medical expense claims.

Full text of the emergency adoption and concurrent reproposal follows:

SUBCHAPTER 29. MEDICAL FEE SCHEDULES: AUTOMOBILE INSURANCE PERSONAL INJURY PROTECTION COVERAGE

11:3-29.1 Purpose and scope
(a) This subchapter implements the provisions of amended N.J.S.A. 39:6A-4.6 to establish medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is required to be made by automobile insurers under PIP coverage.
(b) This subchapter applies to all insurers that issue policies of automobile insurance containing PIP coverage.
(c) These fee schedules do not apply to the following:
1. Other coverages contained in an automobile insurance policy such as coverage for bodily injury liability;
2. Any other kind of insurance including health insurance, even when the health insurer may be required pursuant to its health insurance contract to pay benefits to, or on behalf of, a person who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or an object propelled by or from an automobile; and
3. Medical services or equipment provided outside of the geographic boundaries of New Jersey except as set forth in N.J.A.C. 11:3-29.4(d).

11:3-29.2 Definitions
The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:
"Basic Life Support" ("BLS") means volunteer ambulance services, whose personnel are not required to be Emergency Medical Technicians, and municipal and proprietary ambulance services whose personnel are required to be Emergency Medical Technicians.
"Health insurance" means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. As used in this subchapter, health insurance includes workers' compensation coverage but does not include any PIP coverage.
"Health insurer" includes any insurer issuing a policy of health insurance as defined in this subchapter.
"PIP insurer" includes any insurer issuing a policy of automobile insurance on any vehicle that contains PIP coverage.
"Provider" includes all persons who furnish services or equipment for medical expense benefits for which payment is required to be made under PIP coverage in automobile insurance policies.

11:3-29.3 Regions
(a) Region I, as used in this subchapter, consists of the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem.
(b) Region II, as used in this subchapter, consists of the following counties in New Jersey: Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Somerset, Sussex, and Warren.
(c) Region III, as used in this subchapter, consists of the following counties in New Jersey: Bergen, Essex, Hudson, Morris, Passaic and Union.

11:3-29.4 Application of Medical Fee Schedules
(a) Every policy of automobile insurance issued in this State shall provide that the automobile insurer's limit of liability for medically necessary expenses payable under PIP coverage is the fee set forth in this subchapter. Nothing in this subchapter shall, however, compel a PIP insurer to pay more for any service or equipment than the provider's usual, customary and reasonable fee, even if such fee is well below the automobile insurer's limit of liability as set forth in the fee schedules. Insurers will not be required to pay for services or equipment which are not medically necessary.
(b) The region used to determine the proper fee set forth in the schedules shall be determined by the region in which the services were rendered or the equipment was provided or, in the case of elective services or equipment provided to New Jersey residents outside the State, by the region in which the insured resides.
(c) The fees set forth in the schedule for durable medical equipment are retail prices which may include purchase prices for both new and used equipment, and/or monthly rentals.
1. The insurer's limit of liability for monthly rental of durable medical equipment described in the schedule is 10 percent of the amount of the purchase price.
2. The insurer's total limit of liability for the rental of a single item of durable medical equipment set forth in the schedule is 15 times the monthly rental fee.
(d) The insurer's limit of liability for any medical expense benefit for service or equipment provided outside the State of New Jersey shall be as follows:
1. When the service or equipment is provided by reason of emergency or medical necessity, the reasonable and necessary costs shall not exceed fees that are usual, customary and reasonable for that provider in the geographic location where the service or equipment is provided.
2. When the service or equipment is provided by reason of the elected care by the insured to receive treatment outside the State of New Jersey, the reasonable and necessary costs shall not exceed fees set forth in the fee schedules for the geographic region in which the insured resides.
(e) The insurer's limit of liability for any medical expense benefit for any service or equipment not set forth in the fee schedules shall be a reasonable amount considering the fee schedule for similar services or equipment in the region where the service or equipment was provided or, in the case of elective services or equipment provided outside the State, the region in which the insured resides.
(f) When multiple procedures are performed in the same body region by the same provider at the same time, it is virtually never appropriate for the fee to be the sum of the fees for each procedure. The principal procedure at an operative session shall be paid at 100%.
and, if performed, any additional procedures at a total of 25 percent of the charge. However, if two or more providers in different specialties perform procedures or if one provider performs multiple procedures on different body regions, each individual provider, or each individual body region procedure may be reimbursed separately.

For purposes of such billing, the body shall be divided into: head (including skull and brain); face; neck; chest; abdomen; and pelvic regions. In addition, the extremities shall be subdivided into right and left, upper arm, forearm, wrist and hand; and thigh, lower leg, ankle and foot. Nothing in this subchapter shall be construed to prevent PIP insurers from paying only reasonable and appropriate fees when multiple procedures are performed at the same time or multiple services provided during the same medical visit.

(g) Artificially separating or partitioning what is inherently one total procedure into subparts which are integral to the whole for the purpose of increasing medical fees is prohibited. Such practice is commonly referred to as “unbundling” or “fragmented” billing. For surgery and many other procedures, it is established practice to include follow-up care and visits as part of the basic procedure charge. Such charges shall not be subject to additional billings. The existence of a CPT-4 code, per se, does not imply the right to receive separate compensation for the procedure/subprocedure so described.

If a procedure is judged to be part of the major or principal procedure, only the charges for the principal procedure are eligible.

11:3-29.5 Balance billing prohibited

No health care provider may demand or request any payment from any person in excess of those permitted by the medical fee schedules, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the medical fee schedules.

11:3-29.6 Medical Fee Schedules

(a) The following is the Medical Fee Schedule for physicians’ services:

<table>
<thead>
<tr>
<th>CPT-4 Code</th>
<th>Description of Services</th>
<th>Region 1</th>
<th>Region 2</th>
<th>Region 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>10000</td>
<td>$I&amp;D SEBACEOUS CYST; ONE LESION</td>
<td>91</td>
<td>91</td>
<td>96</td>
</tr>
<tr>
<td>10003</td>
<td>$I&amp;D OF LESION WITH CAVITY TREATMENT</td>
<td>94</td>
<td>91</td>
<td>96</td>
</tr>
<tr>
<td>10020</td>
<td>$I&amp;D OF FURUNCLE (BOIL)</td>
<td>91</td>
<td>91</td>
<td>91</td>
</tr>
<tr>
<td>10040</td>
<td>$ACNE SURGERY (CYSTS, PUSTULES ETC.)</td>
<td>48</td>
<td>48</td>
<td>54</td>
</tr>
<tr>
<td>10060</td>
<td>$I&amp;D OF SKIN ABSCESS, SIMPLE</td>
<td>91</td>
<td>86</td>
<td>81</td>
</tr>
<tr>
<td>10061</td>
<td>$I&amp;D OF SKIN ABSCESS, COMPLICATED</td>
<td>275</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>10080</td>
<td>$I&amp;D OF PILONIDAL CYST, SIMPLE</td>
<td>131</td>
<td>131</td>
<td>131</td>
</tr>
<tr>
<td>10100</td>
<td>$I&amp;D OF ONYCHIA/PARONYCHIA, SIMPLE</td>
<td>48</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>10101</td>
<td>$I&amp;D OF ONYCHIA/PARONYCHIA, MULTIPLE</td>
<td>117</td>
<td>107</td>
<td>124</td>
</tr>
<tr>
<td>10120</td>
<td>$REMOVAL OF FOREIGN BODY, SIMPLE</td>
<td>99</td>
<td>91</td>
<td>86</td>
</tr>
<tr>
<td>10121</td>
<td>$REMOVAL OF FOREIGN BODY, COMPLICATED</td>
<td>301</td>
<td>301</td>
<td>301</td>
</tr>
<tr>
<td>10140</td>
<td>$I&amp;D OF HEMATOMA, SIMPLE</td>
<td>80</td>
<td>75</td>
<td>84</td>
</tr>
<tr>
<td>10160</td>
<td>$PUNCTURE ASPIRATION OF ABSCESS</td>
<td>92</td>
<td>102</td>
<td>112</td>
</tr>
<tr>
<td>11000</td>
<td>$DEBRIDEMENT OF SKIN; UP TO 10%</td>
<td>37</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>11040</td>
<td>$DEBRIDEMENT; SKIN, PARTIAL THICKNESS</td>
<td>52</td>
<td>43</td>
<td>48</td>
</tr>
<tr>
<td>11041</td>
<td>$DEBRIDEMENT; SKIN, FULL THICKNESS</td>
<td>91</td>
<td>107</td>
<td>113</td>
</tr>
<tr>
<td>11042</td>
<td>$DEBRIDEMENT; SKIN, SUBCUTANEOUS TISS</td>
<td>168</td>
<td>162</td>
<td>140</td>
</tr>
<tr>
<td>11043</td>
<td>$DEBRIDEMENT; SKIN, SUB-Q TISS, MUSCLE</td>
<td>454</td>
<td>454</td>
<td>486</td>
</tr>
<tr>
<td>11044</td>
<td>$DEBRIDEMENT; SKIN, SUB-Q, MUSCLE, BONE</td>
<td>648</td>
<td>648</td>
<td>648</td>
</tr>
<tr>
<td>10150</td>
<td>$SPARING/CURRETTE/SHAVING BGN LESION</td>
<td>46</td>
<td>45</td>
<td>54</td>
</tr>
<tr>
<td>10510</td>
<td>$CURETTEMENT OF 2-4 BENIGN LESIONS</td>
<td>41</td>
<td>37</td>
<td>43</td>
</tr>
<tr>
<td>10520</td>
<td>$CURETTEMENT OF &gt; 4 BENIGN LESIONS</td>
<td>41</td>
<td>37</td>
<td>43</td>
</tr>
<tr>
<td>11100</td>
<td>$BIOPSY 1 SKIN LESION, SUBCUTANEOUS</td>
<td>113</td>
<td>107</td>
<td>124</td>
</tr>
<tr>
<td>11101</td>
<td>$BIOPSY EA ADDITION SKIN LESION</td>
<td>75</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>11200</td>
<td>$SEXCISION OF UP TO 15 SKIN TAGS</td>
<td>98</td>
<td>98</td>
<td>120</td>
</tr>
<tr>
<td>11400</td>
<td>EX BGN LES, TRUNK/LIMBS, TO 0.5 CM</td>
<td>123</td>
<td>124</td>
<td>150</td>
</tr>
<tr>
<td>11401</td>
<td>EX BGN LES, TRUNK/LIMBS, 0.6-1.0 CM</td>
<td>139</td>
<td>156</td>
<td>162</td>
</tr>
<tr>
<td>11402</td>
<td>EX BGN LES, TRUNK/LIMBS, 1.1-2.0 CM</td>
<td>211</td>
<td>216</td>
<td>259</td>
</tr>
<tr>
<td>11403</td>
<td>EX BGN LES, TRUNK/LIMBS, 2.1-3.0 CM</td>
<td>270</td>
<td>271</td>
<td>324</td>
</tr>
<tr>
<td>11404</td>
<td>EX BGN LES, TRUNK/LIMBS, 3.1-4.0 CM</td>
<td>403</td>
<td>377</td>
<td>432</td>
</tr>
<tr>
<td>11406</td>
<td>EX BGN LES, TRUNK/LIMBS, OVER-4.0 CM</td>
<td>589</td>
<td>530</td>
<td>648</td>
</tr>
<tr>
<td>11420</td>
<td>EX BGN LES, SCALP/NECK ETC, TO 0.5 CM</td>
<td>135</td>
<td>161</td>
<td>145</td>
</tr>
<tr>
<td>11421</td>
<td>EX BGN LES, SCALP/NECK ETC, 0.6-1.0 CM</td>
<td>179</td>
<td>194</td>
<td>216</td>
</tr>
<tr>
<td>11422</td>
<td>EX BGN LES SCALP/NECK ETC, 1.1-2.0 CM</td>
<td>253</td>
<td>275</td>
<td>296</td>
</tr>
<tr>
<td>11423</td>
<td>EX BGN LES SCALP/NECK ETC, 2.1-3.0 CM</td>
<td>351</td>
<td>316</td>
<td>377</td>
</tr>
<tr>
<td>11424</td>
<td>EX BGN LES SCALP/NECK ETC, 3.1-4.0 CM</td>
<td>416</td>
<td>416</td>
<td>416</td>
</tr>
<tr>
<td>11426</td>
<td>EX BGN LES SCALP ETC, OVER 4.0 CM</td>
<td>516</td>
<td>516</td>
<td>539</td>
</tr>
<tr>
<td>11440</td>
<td>EX BGN LES FACE/EARS ETC, TO 0.5 CM</td>
<td>133</td>
<td>145</td>
<td>162</td>
</tr>
<tr>
<td>11441</td>
<td>EX BGN LES FACE/EARS ETC, 0.6-1.0 CM</td>
<td>167</td>
<td>167</td>
<td>194</td>
</tr>
<tr>
<td>11442</td>
<td>EX BGN LES FACE/EARS ETC, 1.1-2.0 CM</td>
<td>230</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>11443</td>
<td>EX BGN LES FACE/EARS ETC, 2.1-3.0 CM</td>
<td>404</td>
<td>364</td>
<td>432</td>
</tr>
<tr>
<td>11444</td>
<td>EX BGN LES FACE/EARS ETC, 3.1-4.0 CM</td>
<td>550</td>
<td>550</td>
<td>550</td>
</tr>
<tr>
<td>11446</td>
<td>EX BGN LES FACE ETC, OVER 4.0 CM</td>
<td>597</td>
<td>597</td>
<td>597</td>
</tr>
<tr>
<td>11600</td>
<td>EX MAL LES TRUNK/LIMBS, TO 0.5 CM</td>
<td>283</td>
<td>283</td>
<td>291</td>
</tr>
<tr>
<td>11601</td>
<td>EX MAL LES TRUNK/LIMBS, 0.6-1.0 CM</td>
<td>253</td>
<td>269</td>
<td>310</td>
</tr>
<tr>
<td>11602</td>
<td>EX MAL LES TRUNK/LIMBS, 1.1-2.0 CM</td>
<td>291</td>
<td>291</td>
<td>356</td>
</tr>
<tr>
<td>11603</td>
<td>EX MAL LES TRUNK/LIMBS, 2.1-3.0 CM</td>
<td>403</td>
<td>403</td>
<td>432</td>
</tr>
<tr>
<td>11604</td>
<td>EX MAL LES TRUNK/LIMBS, 3.1-4.0 CM</td>
<td>592</td>
<td>592</td>
<td>592</td>
</tr>
<tr>
<td>11606</td>
<td>EX MAL LES TRUNK/LIMBS, OVER 4.0 CM</td>
<td>678</td>
<td>678</td>
<td>678</td>
</tr>
<tr>
<td>11620</td>
<td>EX MAL LES SCALP/NECK ETC, TO 0.5 CM</td>
<td>324</td>
<td>324</td>
<td>324</td>
</tr>
</tbody>
</table>
EMERGENCY ADOPTIONS – INSURANCE

11621  EX MAL LES SCALP/NECK ETC, .6-1.0 CM  315  315  315
11622  EX MAL LES SCALP/NECK ETC, 1.1-2.0 CM  311  311  311
11623  EX MAL LES SCALP/NECK ETC, 2.1-3.0 CM  439  439  439
11624  EX MAL LES SCALP/NECK ETC, 3.1-4.0 CM  388  388  388
11640  EX MAL LES FACE/EARS ETC, TO 0.5 CM  305  274  336
11641  EX MAL LES FACE/EARS ETC, 0.6-1.0 CM  292  296  357
11642  EX MAL LES FACE/EARS ETC, 1.1-2.0 CM  311  326  377
11643  EX MAL LES FACE/EARS ETC, 2.1-3.0 CM  459  459  459
11644  EX MAL LES FACE/EARS ETC, 3.1-4.0 CM  465  465  453
11700  SDEBRIDEMENT NAILS, MANUAL; 5 OR LESS  28  32  32
11701  DEBRIDEMENT NAILS, EA ADD; 5 OR LESS  32  32  32
11710  SDEBRIDEMENT NAILS, GRINDER; 5 OR LESS  30  32  32
11711  DEBRIDEMENT NAILS, EA ADD; 5 OR LESS  32  32  32
11730  SNAIL AVULSION, SIMP. PARTIAL OR COM  61  61  50
11740  EVACUATION OF SUBUNGUAL HEMATOMA  48  48  48
11750  EX NAIL/MATRIX, PART, COMP, PERMANENT  346  372  377
11765  WEDGE EXC OF SKIN NAIL FOLD  146  146  146
11770  EX PILONIDAL CYST/SINUS; SIMPLE  487  487  487
11771  EX PILONIDAL CYST/SINUS; EXTENSIVE  1120  1120  1120
11772  EX PILONIDAL CYST/SINUS; COMPLICATED  1467  1467  1467
11900  SINJ INTRALESIONAL UP TO & INCLU 7  54  54  65
11901  SINJ INTRALESIONAL MORE THAN 7  82  75  96
12001  $SIMPLE REPAIR, SCALP ETC; TO 2.5 CM  107  124  120
12002  $SIMPLE REPAIR, SCALP ETC; 2.6-7.5 C  162  162  162
12004  $SIMPLE REPAIR, SCALP ETC; 7.6-12.5 C  233  233  233
12011  $SIMP REPAIR, FACE ETC; TO 2.5 CM  131  152  147
12013  $SIMP REPAIR, FACE ETC; 2.6-5.0 CM  190  190  189
12031  SINTER REPAIR, SCALP ETC; TO 2.5 CM  207  207  207
12032  SINTER REPAIR, SCALP ETC; 2.6-7.5 C  277  277  277
12041  SINTER REPAIR, NECK, ETC; TO 2.5 CM  218  218  218
12051  SINTER REPAIR, FACE ETC; TO 2.5 CM  438  394  482
12052  INTER REPAIR, FACE ETC; 2.6-5.0 CM  540  540  594
13121  COMPX REPAIR, SCALP ETC; 2.6-7.5 CM  637  637  637
13131  COMPX REPAIR, CHECKS ETC; 1.1-2.5 CM  547  547  547
13132  COMPX REPAIR, CHECKS ETC; 2.6-7.5 CM  846  846  809
13150  COMPX REPAIR, NOSE ETC; TO 1.0 CM  438  438  438
13151  COMPX REPAIR, NOSE ETC; 1.1-2.5 CM  639  639  648
13152  COMPX REPAIR, NOSE ETC; 2.6-7.5 CM  1040  1040  1040
13300  COMPLICATED REP; OVR 7.5 CM ANY AREA  1431  1431  1431
14040  ADJ TISS TRANS, CHIN ETC; TO 10 SQ CM  1225  1225  1269
14060  ADJ TISS TRANS, NOSE ETC; TO 10 SQ CM  1589  1589  1589
15100  SPLIT GRAFT, TRUNK ETC; TO 100 SQ CM  1261  1261  1261
16000  INITIAL TREATMENT, FIRST DEGREE BURN  75  75  75
16020  SDRESS/DEBRIDE SM BURN; NO ANESTHESIA  87  87  93
16025  SDRESS/DEBRIDE MED BURN; NO ANES  124  124  124
17000  SDestroy FACE LES, ANY MTH; ONE  83  96  99
17002  SDestroy FACE LES, ANY MTH; OVER 3, EA  122  122  122
17010  SDestroy FACE LES, ANY MTH; COMPLICATED  205  205  205
17100  SDestroy SKIN LES; NOT FACE; ONE  81  81  81
17102  SDestroy SKIN LES; NOT FACE; 3-14, EACH  81  81  81
17105  SDestroy SKIN LES, NOT FACE; COMPLICATED  98  98  98
17110  SDestroy WARTS, ANY METHOD; UP TO 15  81  79  81
17200  Selectrosurg DESTRUCTION TAGS; TO 15  109  113  107
17250  SCHEMICAL CAUTERIZATION OF WOUND  57  57  54
17304  CHEMOSURG, 1ST STG, FRESH TISSUE TECH  826  826  826
17340  SCRROTHERAPY (CO2 SLUSH, LIQUID N2)  57  57  581
17360  SCHEMICAL EXFOLIATION, ACNE; EG, PAST  78  78  78
19000  SPUNCUTURE ASPIRATION CYST  107  118  113
19100  SBIOSYS OF BREAST; NEEDLE (SEP PROC  153  153  156
19101  SBIOSYS OF BREAST; INCISIONAL  638  638  638
19120  EX BENIGN MALIG TUMOR/TISS ETC; UNI  794  794  970
19160  MASTECTOMY, PARTIAL, UNILATERAL  1093  1129  1134
19162  MASTECTOMY PART; AXILL LYPHADENECT  2563  2563  2563
19240  MAST, MOD RAD, INC AXILL & PECT MUSCLE  2906  2906  3196
19318  REDUCTION MAMMOPLASTY  4974  4974  4974
20220  BIOPSY, BONE, TROC OR NEEDLE; SUPER  317  317  313
20299  BONE MARROW ASPIRATION BIOPSY  313  313  313
20500  SINJCTION SINUS TRACT; THERAPEUTIC  92  92  92
20550  SINJ, TEND SHEATH, LIGAMENT, TRIGGER P  96  96  91
20600  SARTHROCENESIS, ASP &/OR INJ; SM JNT  81  86  86
20605  SARTHROCEN, ASP &/OR INJ; INTER JOINT  86  92  96
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2261</td>
<td>$ARTHROGEN, ASP &amp;/OR INJ: MAJOR JOINT</td>
</tr>
<tr>
<td>2262</td>
<td>SREMOVAL OF IMPLANT, SUPERFICIAL</td>
</tr>
<tr>
<td>2263</td>
<td>REMOVAL OF IMPLANT, DEEP</td>
</tr>
<tr>
<td>2132</td>
<td>MANIP TREATMENT, NOSE FX; STABILIZATION</td>
</tr>
<tr>
<td>2335</td>
<td>INJECTION PROC, SHOULDER ARTHROGRAPH</td>
</tr>
<tr>
<td>2342</td>
<td>REPAIR SHOULDER CUFF AVULSION, CHRON</td>
</tr>
<tr>
<td>2350</td>
<td>TREAT CLOSED CLAVICLE FX; NO MANIP</td>
</tr>
<tr>
<td>2355</td>
<td>TREAT CLOSED CLAVICLE FX; W/MANIP</td>
</tr>
<tr>
<td>2360</td>
<td>TREATMENT CLOSED HUMERAL FX; NO MANIP</td>
</tr>
<tr>
<td>2365</td>
<td>TREAT CLOSED SHOULDER DISLOC, W/ MANIP</td>
</tr>
<tr>
<td>2410</td>
<td>$RADIAL HEAD SUBLUXATION, CHILD, MANI</td>
</tr>
<tr>
<td>2465</td>
<td>CLOSED RADIAL HEAD NECK FX; NO MANIP</td>
</tr>
<tr>
<td>2500</td>
<td>TEND SHEATH INCISION; RADIAL STYLOID</td>
</tr>
<tr>
<td>2511</td>
<td>EXCISION GANGLION, WRIST; PRIMARY</td>
</tr>
<tr>
<td>2550</td>
<td>CLOSED RADIAL SHAFT FX; NO MANIP</td>
</tr>
<tr>
<td>2555</td>
<td>CLOSED RADIAL SHAFT FX; W/ MANIP</td>
</tr>
<tr>
<td>25565</td>
<td>CLSD RADIAL &amp; ULNAR SHAFT FX; W/ MANIP</td>
</tr>
<tr>
<td>2560</td>
<td>C/S DIS RAD FX; EPhipHYS SEP; NO MANIP</td>
</tr>
<tr>
<td>25605</td>
<td>C/S DIS RAD FX; EPhipHYS SEP; W/ MANIP</td>
</tr>
<tr>
<td>25610</td>
<td>CLSD COMPLEX, DIST RAD FX; EPhipHYS SEP</td>
</tr>
<tr>
<td>2600</td>
<td>TENDON SHEATH INCISION, TRIGGER FINGER</td>
</tr>
<tr>
<td>26160</td>
<td>EXCISION LESION Tendon STH OR CAPS</td>
</tr>
<tr>
<td>26600</td>
<td>TX CLOSED METACARP FX; SNG; W/0 MANIP</td>
</tr>
<tr>
<td>26605</td>
<td>TX CLOSED METACARP FX; SNG; W/0 MANIP</td>
</tr>
<tr>
<td>26720</td>
<td>TX CLOS PHALAN SHAFT FX; W/0 MANIP</td>
</tr>
<tr>
<td>26725</td>
<td>TX CLOS PHALANG SHAFT FX; W/0 MANIP</td>
</tr>
<tr>
<td>26750</td>
<td>TX CLOS DIST PHALANG FX; W/0 MANIP</td>
</tr>
<tr>
<td>26755</td>
<td>TX CLOS DIST PHALANG FX; W/ MANIP</td>
</tr>
<tr>
<td>27093</td>
<td>INJECT FOR HIP ARTHROGRAPHY W/ ANES</td>
</tr>
<tr>
<td>27130</td>
<td>#ARTHROPLAS, TOT HIP REPLAC W/0 GRF</td>
</tr>
<tr>
<td>27236</td>
<td>OPEN TX CLOSE/OPEN FEM FX, INT FIX</td>
</tr>
<tr>
<td>27244</td>
<td>OPEN TX CHANTERIC FEM FX; W/ INT FIX</td>
</tr>
<tr>
<td>27447</td>
<td>#ARTHRO, KNEE, TOT, CNDYL&amp;PLAT; MED &amp; LAT</td>
</tr>
<tr>
<td>27506</td>
<td>OPEN TX CLOS/OPEN FEM SHAFT FX</td>
</tr>
<tr>
<td>27760</td>
<td>TX CLOSED DISTAL TIBIAL FX; W/O MAN</td>
</tr>
<tr>
<td>27786</td>
<td>TX CLOSED DISTAL FIBULAR FX; W/O MAN</td>
</tr>
<tr>
<td>27788</td>
<td>TX CLOSED DISTAL FIBULAR FX; W/ MAN</td>
</tr>
<tr>
<td>27810</td>
<td>TX CLOS BIMALLEOLAR ANKLE FX; W/ MAN</td>
</tr>
<tr>
<td>27814</td>
<td>OPEN TX CLOS/OPEN BIMALL ANKLE FX</td>
</tr>
<tr>
<td>27822</td>
<td>OPEN TX CL/OP TRIMALL ANKLE FX; ONLY</td>
</tr>
<tr>
<td>28043</td>
<td>EXCIS, BENIGN TUM; SUBCUTANEOUS</td>
</tr>
<tr>
<td>28080</td>
<td>EXCISION MORTON NEUROMA, SNG, EA</td>
</tr>
<tr>
<td>28090</td>
<td>EXC LES TEN, SHEATH, CAP W/SYNVOC; FOOT</td>
</tr>
<tr>
<td>28124</td>
<td>PART EX, PHALANX</td>
</tr>
<tr>
<td>28160</td>
<td>HEMIPHALANGECTOMY/Joint EX, SNG, EACH</td>
</tr>
<tr>
<td>28285</td>
<td>#HAMMERTOE OPERATION; ONE TOE</td>
</tr>
<tr>
<td>28390</td>
<td>#BUNION OP; SILVER TYPE</td>
</tr>
<tr>
<td>2892</td>
<td>#BUNION OP; KELLER, MCBRIDE, MAYO TYPE</td>
</tr>
<tr>
<td>2896</td>
<td>#BUNION OP; MITCHELL OR CHERVON TYPE</td>
</tr>
<tr>
<td>28970</td>
<td>METATARSAL FX CLSD; W/O MANIP, EA</td>
</tr>
<tr>
<td>28975</td>
<td>METATARSAL FX CLSD; W/ MANIP, EA</td>
</tr>
<tr>
<td>28980</td>
<td>PHALANGES FX, CLSD; W/O MANIPULATION</td>
</tr>
<tr>
<td>28510</td>
<td>PHAL NT GT TOE FX CLSD W/O MANIP, EA</td>
</tr>
<tr>
<td>28515</td>
<td>PHAL NT GT TOE FX CLSD W/ MANIP EA</td>
</tr>
<tr>
<td>29065</td>
<td>CAST SHOULDER TO HAND (LONG ARM)</td>
</tr>
<tr>
<td>29075</td>
<td>CAST ELBOW TO FINGER (SHORT ARM)</td>
</tr>
<tr>
<td>29085</td>
<td>CAST HAND &amp; LOWER FOREARM- GAUNTLET</td>
</tr>
<tr>
<td>29105</td>
<td>SPLINT LONG ARM (SHOULDER TO HAND)</td>
</tr>
<tr>
<td>29125</td>
<td>SPLINT SHORT ARM (FOREARM-HAND(STAT))</td>
</tr>
<tr>
<td>29130</td>
<td>SPLINT FINGER; STATIC</td>
</tr>
<tr>
<td>29240</td>
<td>STRAPPING; SHOULDER</td>
</tr>
<tr>
<td>29260</td>
<td>STRAPPING; ELBOW OR WRIST</td>
</tr>
<tr>
<td>29280</td>
<td>STRAPPING; HAND OR FINGER</td>
</tr>
<tr>
<td>29345</td>
<td>CAST LONG LEG (THIGH TO TOES)</td>
</tr>
<tr>
<td>29365</td>
<td>CAST CYLINDER (THIGH TO ANKLE)</td>
</tr>
<tr>
<td>29405</td>
<td>CAST SHORT LEG (BELOW KNEE TO TOES)</td>
</tr>
<tr>
<td>29425</td>
<td>CAST SHORT LEG; WALKING/AMBULATORY</td>
</tr>
<tr>
<td>29450</td>
<td>CAST CLUBFOOT W/MOLD/MANIP, L/SH, UNI</td>
</tr>
<tr>
<td>29455</td>
<td>CAST CLUBFOOT W/MOLD/MANIP, L/SH, BIL</td>
</tr>
<tr>
<td>29515</td>
<td>SPLINT SHORT LEG (CALF TO FOOT)</td>
</tr>
<tr>
<td>29530</td>
<td>STRAPPING; KNEE</td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3814) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
EMERGENCY ADOPTIONS

29540 STRAPPING: ANKLE 75 75 75
29550 STRAPPING: TOES 59 59 65
29580 STRAPPING: UNNA BOOT 90 107 102
29700 CAST REM/BIV/GAUNTLET/BOOT/BODY 90 90 90
29705 CAST REM/BIV/FULL ARM/FULL LEG 83 83 86
29780 ARTHROSCPY, KNEE, DIAG, W/WO SYNOV BX 1785 1785 1785
29781 #ARTHROSCPY, KNEE, SURG; REMOVE F-BODY 2452 2452 2452
29785 ARTHROSCPY, KNEE, SURG; SYNOVECTMY, LTD 2594 2594 2594
29787 ARTHROSCPY, KNEE, SURG; CHONDROPLASTY 2640 2640 2640
29788 #ARTHRO, KNEE SRC, W/MENISCOTEOMY 2998 2998 2998
29789 #ARTHROSCPY, W/MENISCOTOMY MED OR LAT 2627 2700 3106
30202 ARTHROSCPY, W/MENISCUS REP MED OR LAT 3181 3181 3181
29788 ARTHR, AID ANT CRUC LGMT, RP/AG/RC 4567 4567 4567
30200 SINJECTION TURBINATE(S), THERAPEUTIC 76 76 75
30420 RHINOPLASTY, INCL MAJOR SEPTAL REP 4041 4041 4213
30520 SEPTOPLASTY W/WO CARTILAGE IMPLANT 2479 2479 2700
30901 SCONTROL NASAL HEMORRHAGE, ANT SMP; U 104 107 102
30902 SCONTROL NASAL HEMORRHAGE, ANT, SMP; B 148 148 148
30903 SCONTROL NASAL HEMORRHAGE, ANT, COMP; U 139 143 162
31000 SLAVAGE CANNULATION; MAXIL SINUS, UNI 113 113 124
31001 SLAVAGE CANNULATION; MAXIL SINUS, Bil 150 150 150
31250 NASAL ENDOCOSPY, DIAGNOSTIC 226 226 226
31252 NASAL ENDOCOSPY SRG W/NASAL POLYPEC 311 311 311
31500 INTUBATION, ENDOTRACHEAL EMERGENCY 275 275 269
31505 LARYNGOSCOPY INDIRECT; DIAGNOSTIC 121 121 129
31515 LARYNGOSCOPY, DIRECT; FOR ASPIRATION 346 346 346
31525 LARYNGOSCOPY, DIR; DIAG, EXCEPT NEWBORN 421 421 421
31541 LARYNGOSCOPY, DIAGNOSIS; STRP, OP MIC 1370 1370 1431
31575 LARYNGOSCOPY, FLEX FIBERSCOPIC; DIAG 351 377 351
31600 TRACHEOSTOMY, PLANNED 1075 1075 1075
31622 BRONCHOSCOPY, DIAG; W/WO CELL WASHNG 737 702 778
31625 BRONCHOSCOPY; WITH BIOPSY 728 747 864
31628 BRONCHOSCOPY; WITH LUNG BIOPSY 909 909 972
32000 STHORACENTESIS, INITIAL/SEQUENT 305 249 291
32020 TUBE THORACOSTOMY W/WO WATER SEAL 806 853 804
32480 LOBECTOMY, TOTAL OR SEGMENTAL 5660 5660 5660
32920 #INS PERM PACEMAKER/ELECT; VENTRICUL 2332 2332 2332
33208 #INS PERM PACEMAKER/ELECT; AV SEQ 2760 2760 2760
33210 INTEMP CARD ELECT/PACEMAKER CATH 831 831 831
33212 INSERT/REPLC PULSE GENERATOR/AICD 1262 1262 1262
33405 REPLACMT AORT VALV W CARD BYPASS 7986 7986 7986
33511 #CORONARY ARTERY BYPASS, AU GFT; TWO 6855 6855 6855
33512 #CORONARY ARTERY BYPASS, AU GFT; THREE 8142 8142 8186
33513 #CORONARY ARTERY BYPASS, AU GFT; FOUR 8520 8520 8373
33514 #CORONARY ARTERY BYPASS, AU GFT; FIVE 9183 9183 9183
35081 REP ANEURYSM, GFT; OCCLUS, ABDOM AORTA 5277 5277 5277
35301 THERMOENDARTECTOMY; CAROTID, ETC; NCK 4215 4215 4215
35656 BYPASS GFT; FEMORAL-POPLITEAL 3937 3937 3937
36000 SINTRO NEEDLE/INTRACATHETER, VEIN; UN 118 103 124
36010 INTRO CATH; SUP/INF VENA CAVA, RT HRT 470 470 446
36200 CATHERETER, AORTA 462 462 464
36400 VENIPUNCTURE, < 3 YR; FEM/JUGULAR/SAGI 50 50 50
36410 VENIPUNCTURE, > 3 YR, DIAG/THER; COMPL 41 41 41
36415 ROUTINE VENIPUNCTURE 4 SPECIMEN COLL 10 10 10
36425 VENIPUNCTURE, CUTDOWN; AGE 1 OR OVER 59 59 59
36430 TRANSFUSION, BLOOD/COMPONENTS; INDIR 153 153 162
36470 SINJ SCLEROSING SOLUTION; SINGLE VEI 81 81 81
36471 SINJ SCLEROS SOL; MULT VEINS, SAME LE 147 135 156
36488 SPLACE CENT VEN CATH; PERCUT, AGE 2 & < 1 156 156 156
36489 $PLACE CENT VENOUS CAT; PERCUT, > 2 324 273 316
36491 SPLICMT CENT VEN CATH HYPERAL; 2YR 444 444 437
36495 INSERT OF IMPLANTABLE INFUSION PUMP 1104 1118 1118
36600 SART PUNCTURE, WITHDRAW BLD FOR DIAG 105 102 107
36620 ART CATH/CANNULAT FOR SAMP; PERCUTAN 216 216 216
36630 SCATH, UMBIL ART, NEWBORN, DIAG/TERAP 216 216 216
36800 INS CANNULA HEMODIALYSIS; VEIN-VEIN 571 571 571
36830 ARTERIOVEN FIST, NONAUTOGENOUS GRAFT 2833 2833 2833
36860 CANNULA DECLOTTING; WO BALLOON CATH 73 73 73
37699 LIGATION/BIOXY, TEMPORAL ARTERY 584 584 584
37920 INTERRUPT, INFERIOR VENA CAVA, OCCLUD 2539 2539 2539
37720 $LIG & DIV STRIP LNG/SHORT SAPH YN, UN 1194 1194 1194
38500 BIOXY/EX LYMPH NODE(S), SUPERFICIAL 463 463 463

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3815)
<table>
<thead>
<tr>
<th>Procedure Description</th>
<th>Medicare 1</th>
<th>Medicare 2</th>
<th>Medicare 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>BX/EX LYMP NOD(S); DEEP, CERV NODE(S)</td>
<td>735</td>
<td>735</td>
<td>735</td>
</tr>
<tr>
<td>AXILLARY LYMPHADENEXCY; COMPLETE</td>
<td>2268</td>
<td>2268</td>
<td>2268</td>
</tr>
<tr>
<td>EX LES MUCOSA&amp;SUBMUCOSA; W/ SIMP REP</td>
<td>243</td>
<td>243</td>
<td>243</td>
</tr>
<tr>
<td>GINGIVECTOMY, EX GINGIVA, EA QUADRANT</td>
<td>810</td>
<td>810</td>
<td>810</td>
</tr>
<tr>
<td>OSSEOUS SURGERY</td>
<td>630</td>
<td>630</td>
<td>637</td>
</tr>
<tr>
<td>TOOTH REMOVAL IMPACTED PARTIAL BONY</td>
<td>240</td>
<td>240</td>
<td>243</td>
</tr>
<tr>
<td>TOOTH REMOVAL IMPACTED COMPLETE BONY</td>
<td>332</td>
<td>324</td>
<td>351</td>
</tr>
<tr>
<td>#TONSILLECTOMY &amp; ADENOIDECTOMY; &lt; 12YRS</td>
<td>1039</td>
<td>999</td>
<td>1080</td>
</tr>
<tr>
<td>#TONSILLECTOMY &amp; ADENOIDECTOMY; &gt; 12YRS</td>
<td>1103</td>
<td>1103</td>
<td>1103</td>
</tr>
<tr>
<td>#TONSILLECTOMY, PRIM/SECOND; &lt; AGE 12</td>
<td>969</td>
<td>969</td>
<td>969</td>
</tr>
<tr>
<td>#TONSILLECTOMY, PRIM/SECOND; &gt; 12/OVER</td>
<td>1075</td>
<td>967</td>
<td>1182</td>
</tr>
<tr>
<td>#ADENOIDECTOMY, PRIM/SECOND; &lt; AGE 12</td>
<td>781</td>
<td>761</td>
<td>761</td>
</tr>
<tr>
<td>ESOPHAGOSCOPY INJ SCLEROSIS VARICES</td>
<td>952</td>
<td>952</td>
<td>952</td>
</tr>
<tr>
<td>ESOPHAGOSC, RIG/FIBEROPT, W/DIR DILAT</td>
<td>918</td>
<td>918</td>
<td>918</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUODENOSCOPY; DILATION</td>
<td>594</td>
<td>541</td>
<td>648</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUODENOSCOPY; W/ BIOP</td>
<td>713</td>
<td>604</td>
<td>702</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUODENOSCOPY, DILATION</td>
<td>883</td>
<td>883</td>
<td>883</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUODENOSCOPY, FOR TUBE</td>
<td>1093</td>
<td>1093</td>
<td>1093</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUODENOSCOPY; W/REM FB</td>
<td>988</td>
<td>988</td>
<td>988</td>
</tr>
<tr>
<td>ESOPHAGOSTRODUOD; FOR HEMORRHAGE</td>
<td>1053</td>
<td>1053</td>
<td>1053</td>
</tr>
<tr>
<td>ERCP W/WO BX + SPEC COLLECTION</td>
<td>1000</td>
<td>939</td>
<td>1026</td>
</tr>
<tr>
<td>$ESOPHAG. INDIRECT DILATE SOUND, INIT</td>
<td>152</td>
<td>152</td>
<td>152</td>
</tr>
<tr>
<td>$ESOPHAG. INDIRECT DILATE SOUND, SUBS</td>
<td>162</td>
<td>162</td>
<td>162</td>
</tr>
<tr>
<td>GASTROSTOMY, TEMPORARY (SEP. PROC.)</td>
<td>1354</td>
<td>1354</td>
<td>1354</td>
</tr>
<tr>
<td>ENTEROLYSIS, ACUTE BOWL OBSTRUCTION</td>
<td>2485</td>
<td>2485</td>
<td>2485</td>
</tr>
<tr>
<td>ENTEROTOMY, RES SM INTES; W/ANASTOMO</td>
<td>2994</td>
<td>2994</td>
<td>2994</td>
</tr>
<tr>
<td>COLECTOMY, PARTIAL; W/ANASTOMOSIS</td>
<td>3102</td>
<td>3102</td>
<td>3284</td>
</tr>
<tr>
<td>COLECTOMY, PART; END COLOST/CLS DIST</td>
<td>3461</td>
<td>3461</td>
<td>3461</td>
</tr>
<tr>
<td>COLECTOMY, PARTIAL; W/COLPOCOLECTOMSTY</td>
<td>3501</td>
<td>3501</td>
<td>3501</td>
</tr>
<tr>
<td>COLECTMY W/REM TERM ILEUM &amp; ILEOCOL</td>
<td>3354</td>
<td>3354</td>
<td>3354</td>
</tr>
<tr>
<td>APPENDECTOMY</td>
<td>1456</td>
<td>1404</td>
<td>1539</td>
</tr>
<tr>
<td>APPENDECTMY RUP APPEN W/ABCESS/PER</td>
<td>2036</td>
<td>2036</td>
<td>2036</td>
</tr>
<tr>
<td>PROCTOSIGMOIDOSCOPY; DIAGNOSTIC (SEP)</td>
<td>129</td>
<td>129</td>
<td>124</td>
</tr>
<tr>
<td>PROCTOSIGMOIDOSCOPY W/BIPSY</td>
<td>222</td>
<td>222</td>
<td>222</td>
</tr>
<tr>
<td>PROCTOSIGMOCIDOW W/REM POLYP/PAPILLOMA</td>
<td>284</td>
<td>284</td>
<td>284</td>
</tr>
<tr>
<td>SIGMOIDOSCOPY, FLEX FIBEROPT; DIAGN</td>
<td>269</td>
<td>254</td>
<td>259</td>
</tr>
<tr>
<td>SIGMOIDOSCOPY, FLEX FIBER, DIAG W/ BX</td>
<td>408</td>
<td>372</td>
<td>351</td>
</tr>
<tr>
<td>SIGMOID, FLEXI FIBEROP REM POLYP LES</td>
<td>567</td>
<td>567</td>
<td>567</td>
</tr>
<tr>
<td>COLONOSCOPY W/SIGMOID, TRANSAB/COLOT</td>
<td>354</td>
<td>377</td>
<td>335</td>
</tr>
<tr>
<td>COLONOSCOPY, FIBER BEYOND SPLEN FLEX</td>
<td>809</td>
<td>702</td>
<td>783</td>
</tr>
<tr>
<td>CLNSCPY, FIB, BEOND SPL FLEX W/BIASPE</td>
<td>875</td>
<td>820</td>
<td>864</td>
</tr>
<tr>
<td>COLNSCPY, FIB, BEYOND FLEX; ABLAT TUMR</td>
<td>1310</td>
<td>1310</td>
<td>1310</td>
</tr>
<tr>
<td>CLNSCPY, F1, BE SP FLEX REM POLY LES</td>
<td>1026</td>
<td>972</td>
<td>1080</td>
</tr>
<tr>
<td>I&amp;D ISCHIORECTAL / PERIRECTAL ABCESS</td>
<td>466</td>
<td>466</td>
<td>466</td>
</tr>
<tr>
<td>I&amp;D PERIANAL ABCESS, SUPERFICIAL</td>
<td>155</td>
<td>155</td>
<td>155</td>
</tr>
<tr>
<td>INCSON THROMBOSED; HEMORRHAGE EXTERNAL</td>
<td>117</td>
<td>117</td>
<td>117</td>
</tr>
<tr>
<td>FISSURECTOMY, W/W O SPHINCTEROTOMY</td>
<td>1080</td>
<td>1080</td>
<td>1080</td>
</tr>
<tr>
<td>HEMORRHOIDECTOMY, SIMPLE LIGATURE</td>
<td>115</td>
<td>107</td>
<td>117</td>
</tr>
<tr>
<td>#HEMORRHOIDECTOMY INT &amp; EXT, SIMPLE</td>
<td>1295</td>
<td>1295</td>
<td>1295</td>
</tr>
<tr>
<td>#HEMORRHOIDECTOMY, INT &amp; EXT, COMPLIC</td>
<td>1448</td>
<td>1448</td>
<td>1431</td>
</tr>
<tr>
<td>$NUCLEATION/EXC EXT HEMORRH OBSTRUCTION</td>
<td>199</td>
<td>199</td>
<td>188</td>
</tr>
<tr>
<td>ANOSCOPY, DIAGNOSTIC (SEPAR PROC)</td>
<td>93</td>
<td>114</td>
<td>93</td>
</tr>
<tr>
<td>ANOSCOPY, DX W/DILATE, DIRECT, INSTRUN</td>
<td>124</td>
<td>124</td>
<td>124</td>
</tr>
<tr>
<td>ANOPLASTY FOR STRICTION, ADULT</td>
<td>1296</td>
<td>1296</td>
<td>1296</td>
</tr>
<tr>
<td>$DESTRT LES(S); ANUS, SIMPLE; CHEMICAL</td>
<td>84</td>
<td>84</td>
<td>84</td>
</tr>
<tr>
<td>#DESTRT LES; ANUS, EXTENSIVE; ANY METH</td>
<td>1361</td>
<td>1361</td>
<td>1361</td>
</tr>
<tr>
<td>#DESTRT HEMRHD, ANY METHOD; INTERNAL</td>
<td>182</td>
<td>182</td>
<td>182</td>
</tr>
<tr>
<td>LIGATE INT HEMORRHIODS; SINGLE PROC</td>
<td>119</td>
<td>119</td>
<td>119</td>
</tr>
<tr>
<td>$BIOPSY LIVER, NEEDLE, PERCUETANEOUS</td>
<td>396</td>
<td>396</td>
<td>396</td>
</tr>
<tr>
<td>CHOLECYSTECTOMY</td>
<td>1991</td>
<td>1991</td>
<td>2433</td>
</tr>
<tr>
<td>CHOLECYSTECTOMY W/CHOLANGIOGRAPHY</td>
<td>2183</td>
<td>2106</td>
<td>2296</td>
</tr>
<tr>
<td>CHOLECYSTECTOMY, EXPL COMMON DUCT</td>
<td>2686</td>
<td>2686</td>
<td>2686</td>
</tr>
<tr>
<td>EXPLOER LAPAR; CELIOTOMY W/WO BX(S)</td>
<td>214</td>
<td>214</td>
<td>2204</td>
</tr>
<tr>
<td>$PERITONEOCTENESIS, ABD PARACEN; INIT</td>
<td>202</td>
<td>216</td>
<td>247</td>
</tr>
<tr>
<td>INS INTRAPELL CANN/CATH DRAIN, PERM</td>
<td>1012</td>
<td>1012</td>
<td>1012</td>
</tr>
<tr>
<td>#ING HERNIA, UNDER 5, W/WO HYDRO, UNI</td>
<td>1561</td>
<td>1561</td>
<td>1717</td>
</tr>
<tr>
<td>#ING HERNIA, OVER 5, UNILATER</td>
<td>1259</td>
<td>1340</td>
<td>1502</td>
</tr>
<tr>
<td>#ING HERNIA, OVER 5, BILATER</td>
<td>2592</td>
<td>2592</td>
<td>2592</td>
</tr>
<tr>
<td>#ING HERNIA, 5 OVER; UNILAT, RECURRENT</td>
<td>1733</td>
<td>1733</td>
<td>1733</td>
</tr>
<tr>
<td>#ING HERNIA, 5 OVER; UNI, INCARCERATE</td>
<td>1812</td>
<td>1812</td>
<td>1812</td>
</tr>
<tr>
<td>REPAIR VENTRAL (INC) HERNIA (SEPAR)</td>
<td>1809</td>
<td>1809</td>
<td>1890</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Payment1</td>
<td>Payment2</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>49581</td>
<td>REPAIR UMBILICAL HERNIA; 5 OR OVER</td>
<td>1422</td>
<td>1422</td>
</tr>
<tr>
<td>50200</td>
<td>SRENAI BIOPS, PERC (TROCAR, NEEDLE)</td>
<td>547</td>
<td>547</td>
</tr>
<tr>
<td>50590</td>
<td>LITHOTRIPSY, XTRACORPoreal SHOCK WAVE</td>
<td>2619</td>
<td>2619</td>
</tr>
<tr>
<td>51700</td>
<td>SBBLAD IRRIG, SIMP., LARGE &amp;/ INSTILLA</td>
<td>78</td>
<td>78</td>
</tr>
<tr>
<td>51720</td>
<td>BLAD INSTILL ANTICARCINOGENIC AGNT</td>
<td>139</td>
<td>139</td>
</tr>
<tr>
<td>51725</td>
<td>SIMPLE CYSTOMETROGRAM</td>
<td>166</td>
<td>166</td>
</tr>
<tr>
<td>52000</td>
<td>CYSTOUORETHROSCOPY</td>
<td>249</td>
<td>249</td>
</tr>
<tr>
<td>52005</td>
<td>CYSTOUORETHROSC, W/URETERAL CATH</td>
<td>512</td>
<td>512</td>
</tr>
<tr>
<td>52214</td>
<td>CYSTOUORETHROSCOPY, W/FULG OF TM</td>
<td>547</td>
<td>547</td>
</tr>
<tr>
<td>52224</td>
<td>CYSTOUORETHROSC, W/FULG, &lt; .5CM</td>
<td>648</td>
<td>648</td>
</tr>
<tr>
<td>52234</td>
<td>CYSTOUORETHROSC, W/FULG, BLAD, .5-2CM</td>
<td>1303</td>
<td>1303</td>
</tr>
<tr>
<td>52240</td>
<td>CYSTOUORETHROSC, W/FULG, BLAD TM, &gt; 5CM</td>
<td>1848</td>
<td>1848</td>
</tr>
<tr>
<td>52276</td>
<td>CYSTOUORETHROSC; DIR VIS INT URTHROT</td>
<td>964</td>
<td>964</td>
</tr>
<tr>
<td>52281</td>
<td>CYSTOUORETHROSC W/DILAT URETH STR</td>
<td>464</td>
<td>464</td>
</tr>
<tr>
<td>52310</td>
<td>CYSTOUORETHROSC; W/REM FB UR/BLAD, SIM</td>
<td>582</td>
<td>582</td>
</tr>
<tr>
<td>52332</td>
<td>CYSTOUORETHROSC; W/INS INDWELL STENT</td>
<td>866</td>
<td>866</td>
</tr>
<tr>
<td>52336</td>
<td>CYSTOUORETHROSC; W/URET/PYEL; REM CALC</td>
<td>1877</td>
<td>1877</td>
</tr>
<tr>
<td>52601</td>
<td>#TRNSURETHRAL RESECTION OF PROSTATE</td>
<td>2160</td>
<td>2109</td>
</tr>
<tr>
<td>53600</td>
<td>SRENDIAT URET STRICT, W/SOUND, MALE, IN</td>
<td>77</td>
<td>78</td>
</tr>
<tr>
<td>53601</td>
<td>SRENDIAT URET STRICT, W/SOUND, MALE, SU</td>
<td>64</td>
<td>64</td>
</tr>
<tr>
<td>53620</td>
<td>SRENDIAT UR STRIC, FILLIFRM/FOLL, MALE, IN</td>
<td>132</td>
<td>132</td>
</tr>
<tr>
<td>53660</td>
<td>SRENDIAT FEM UR W/SUPPOS &amp;/INSTILL, INIT</td>
<td>80</td>
<td>75</td>
</tr>
<tr>
<td>53661</td>
<td>SRENDIAT FEM UR W/SUPPOS &amp;/INSTILL, SU</td>
<td>69</td>
<td>65</td>
</tr>
<tr>
<td>53670</td>
<td>SCATHETERIZATION; SIMPLE</td>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>53675</td>
<td>SCATHETERIZATION; COMPLICATED</td>
<td>155</td>
<td>155</td>
</tr>
<tr>
<td>54050</td>
<td>SDSTRICT LES(S), PENIS, SIMPLE; CHEMICL</td>
<td>83</td>
<td>83</td>
</tr>
<tr>
<td>54055</td>
<td>SDESTR CONDYL, PENIS, MULT; ELECTRODES</td>
<td>163</td>
<td>163</td>
</tr>
<tr>
<td>54065</td>
<td>DESTRUCRTIION, LAMI BULL, PENIS, EXTENSIVE</td>
<td>351</td>
<td>351</td>
</tr>
<tr>
<td>54150</td>
<td>CIRCUMCISION, CLAMP PROC; NEWBORN</td>
<td>189</td>
<td>190</td>
</tr>
<tr>
<td>54160</td>
<td>CIRCUM, OT THAN CLAMP/DORS SLIT, NBRN</td>
<td>211</td>
<td>211</td>
</tr>
<tr>
<td>54161</td>
<td>CIRCUM, OT THAN CLMP/DORSLIT, XCPT NB</td>
<td>602</td>
<td>602</td>
</tr>
<tr>
<td>54235</td>
<td>INJ CORPORA CAVERNOSA W/PHARM AGNTS</td>
<td>105</td>
<td>105</td>
</tr>
<tr>
<td>55040</td>
<td>EXCISION OF HYDROCELE; UNILATERAL</td>
<td>1207</td>
<td>1207</td>
</tr>
<tr>
<td>55250</td>
<td>VASECTOMY, UNI/BI, W/POSTOP SEMEN XAM</td>
<td>621</td>
<td>539</td>
</tr>
<tr>
<td>55530</td>
<td>EX VARICOCELE/LIGATION SPERM VEINS</td>
<td>1897</td>
<td>1897</td>
</tr>
<tr>
<td>55535</td>
<td>EX VARICO/LIG SPERM VEINS, ABDOM APP</td>
<td>1725</td>
<td>1725</td>
</tr>
<tr>
<td>55700</td>
<td>NEEDLE/PUNCH BIOPSIES(S) OF PROSTATE</td>
<td>367</td>
<td>324</td>
</tr>
<tr>
<td>55821</td>
<td>#PROSTATECTOMY, COMP; SUPRAPUBIC, SUBT</td>
<td>2970</td>
<td>2970</td>
</tr>
<tr>
<td>56420</td>
<td>S&amp;D BARTHOLIN GLAND ABSCESS, UNILAT</td>
<td>201</td>
<td>201</td>
</tr>
<tr>
<td>56440</td>
<td>MARSUPIALIZATION BARTHOLIN'S CYST</td>
<td>816</td>
<td>816</td>
</tr>
<tr>
<td>56501</td>
<td>DEST LESION(S), VULVA, SIMPLE; ANY MET</td>
<td>155</td>
<td>155</td>
</tr>
<tr>
<td>56515</td>
<td>DSTRCT LES, VULVA, EXTNSY, ANY METHOD</td>
<td>1044</td>
<td>1044</td>
</tr>
<tr>
<td>56600</td>
<td>SBIOPS OF VULVA (SEPARATE PROCEDURE)</td>
<td>158</td>
<td>158</td>
</tr>
<tr>
<td>57061</td>
<td>DEST VAGINAL LESION(S); SMPL; ANY MET</td>
<td>232</td>
<td>232</td>
</tr>
<tr>
<td>57160</td>
<td>SINSERTION OF PESSARY</td>
<td>61</td>
<td>61</td>
</tr>
<tr>
<td>57452</td>
<td>SCOLPOSCOPY (VAGINOSCOPY)</td>
<td>240</td>
<td>216</td>
</tr>
<tr>
<td>57454</td>
<td>SCOLPOSCOPY W BIOPSIES/BIOPSY CERV</td>
<td>302</td>
<td>286</td>
</tr>
<tr>
<td>57500</td>
<td>SBIOPT/EXC CERV LESION, W/WO FULGUR</td>
<td>160</td>
<td>162</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>254</td>
<td>254</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>188</td>
<td>188</td>
</tr>
<tr>
<td>57830</td>
<td>SCRYOCAUTERIZATION OF CERVIX</td>
<td>780</td>
<td>780</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>188</td>
<td>188</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>833</td>
<td>833</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>188</td>
<td>194</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>211</td>
<td>211</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>706</td>
<td>799</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>2939</td>
<td>2939</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>3121</td>
<td>3241</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>3233</td>
<td>3233</td>
</tr>
<tr>
<td>57820</td>
<td>DILATION &amp; CURETTAGE, CERVICAL STUMP</td>
<td>3382</td>
<td>3382</td>
</tr>
<tr>
<td>58310</td>
<td>ARTIFICIAL INSEMINATION</td>
<td>159</td>
<td>143</td>
</tr>
<tr>
<td>58311</td>
<td>ARTIFICIAL INSEMINATE; SPERM WASHING</td>
<td>208</td>
<td>208</td>
</tr>
<tr>
<td>58340</td>
<td>SINJ PROC FOR HYSTEROSALPINGOGRAM</td>
<td>179</td>
<td>188</td>
</tr>
<tr>
<td>58600</td>
<td>LIG/TRANSECT FALL TUBE(S), UNI/BILAT</td>
<td>1669</td>
<td>1669</td>
</tr>
<tr>
<td>58605</td>
<td>LIG/TRANSECT FALL TUBE POSTPARTUM</td>
<td>1349</td>
<td>1349</td>
</tr>
<tr>
<td>58720</td>
<td>#SALPINGO-OOPHORECTOMY, PAR/COM, UN/B</td>
<td>2809</td>
<td>2809</td>
</tr>
<tr>
<td>INSURANCE</td>
<td>EMERGENCY ADOPTIONS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>---------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>58925 OVARIAN CYSTECTOMY, UNILAT/BILATERAL</td>
<td>2731</td>
<td>2731</td>
<td>2731</td>
</tr>
<tr>
<td>59940 OPHORECTOMY, PART/TOTAL, UNI/BILATE</td>
<td>2635</td>
<td>2635</td>
<td>2635</td>
</tr>
<tr>
<td>58980 LAPAROSCOPY, SURGICAL</td>
<td>1747</td>
<td>1620</td>
<td>1922</td>
</tr>
<tr>
<td>58982 LAPAROSCOPY W/ FULGURATION OVIDUCTS</td>
<td>1576</td>
<td>1620</td>
<td>1620</td>
</tr>
<tr>
<td>58983 LAPAROSCOPY W/ OCCLUS OVID W DEVICE</td>
<td>1464</td>
<td>1464</td>
<td>1464</td>
</tr>
<tr>
<td>58985 LAPAROSCOPY W/ LYSIS OF ADHESIONS</td>
<td>2031</td>
<td>2031</td>
<td>2031</td>
</tr>
<tr>
<td>58990 HYSTEROSCOPY; DIAGNOSTIC</td>
<td>539</td>
<td>539</td>
<td>539</td>
</tr>
<tr>
<td>59000 SAMNIOCENTESIS, ANY METHOD</td>
<td>297</td>
<td>269</td>
<td>307</td>
</tr>
<tr>
<td>59020 SFETAL OXYTOCIN STRESS TEST</td>
<td>135</td>
<td>135</td>
<td>135</td>
</tr>
<tr>
<td>59025 FETAL NON-STRESS TEST</td>
<td>106</td>
<td>130</td>
<td>107</td>
</tr>
<tr>
<td>59560 D &amp; C FOR CURETTAGE &amp; POSTPARTUM</td>
<td>848</td>
<td>848</td>
<td>848</td>
</tr>
<tr>
<td>59940 RTE OBSTET CARE, INC ANTEPART, VAGIN</td>
<td>2355</td>
<td>2592</td>
<td>2781</td>
</tr>
<tr>
<td>59941 VAG DEL ONLY INC POSTPARTUM CARE</td>
<td>2458</td>
<td>2458</td>
<td>2485</td>
</tr>
<tr>
<td>59942 ANTEPARTUM CARE ONLY SEPARATE PROC</td>
<td>189</td>
<td>189</td>
<td>208</td>
</tr>
<tr>
<td>59949 OBSTETRICAL WITH CIRCUMCISION</td>
<td>2830</td>
<td>2830</td>
<td>2830</td>
</tr>
<tr>
<td>59950 D&amp;REPEAT C-SEC, LOW CERV &amp; IH PP CARE</td>
<td>3103</td>
<td>3103</td>
<td>3103</td>
</tr>
<tr>
<td>59950 D&amp;REPEAT C-SEC, LOW CERV, ANT/PPCARE</td>
<td>3509</td>
<td>3509</td>
<td>3509</td>
</tr>
<tr>
<td>59951 OBCARE ANTE/POSTPARTUM CAR, C SECT</td>
<td>2794</td>
<td>3025</td>
<td>3241</td>
</tr>
<tr>
<td>59955 CESAREAN DELIV INC POSTPARTUM CARE</td>
<td>2968</td>
<td>2968</td>
<td>3187</td>
</tr>
<tr>
<td>59982 SPONT ABORT, TRIMEST, COMPLETE SURG</td>
<td>733</td>
<td>773</td>
<td>809</td>
</tr>
<tr>
<td>59982 TREAT MISS ABORT, COMP SURG, 1ST TRIM</td>
<td>756</td>
<td>809</td>
<td>809</td>
</tr>
<tr>
<td>59984 INDUCED ABORTION BY DILAT &amp; CURETTG</td>
<td>744</td>
<td>728</td>
<td>756</td>
</tr>
<tr>
<td>59984 INDUCE ABORT BY DILAT &amp; EVACUATION</td>
<td>756</td>
<td>702</td>
<td>809</td>
</tr>
<tr>
<td>59985 INDUCE ABORT W D&amp;C &amp;/EVACUATION</td>
<td>1026</td>
<td>1026</td>
<td>1026</td>
</tr>
<tr>
<td>60100 SBIOPSY THYROID NEEDLE</td>
<td>212</td>
<td>212</td>
<td>216</td>
</tr>
<tr>
<td>60220 TOTAL THYROID LOBECTOMY UNILATERAL</td>
<td>2802</td>
<td>2802</td>
<td>2802</td>
</tr>
<tr>
<td>60170 SPUNCT OF SHUNT TUBING/RESEVEROIR</td>
<td>151</td>
<td>151</td>
<td>151</td>
</tr>
<tr>
<td>61510 CRANIEC/OTOMY, EXC BRAIN TUMOR, SUPRA</td>
<td>7258</td>
<td>7258</td>
<td>7258</td>
</tr>
<tr>
<td>62270 SPINAL PUNCTURE LUMBAR, DIAGNOSTIC</td>
<td>216</td>
<td>216</td>
<td>216</td>
</tr>
<tr>
<td>62278 SINJ ANESTH SUB; EPIDURAL/CAUDAL, SIM</td>
<td>388</td>
<td>354</td>
<td>388</td>
</tr>
<tr>
<td>62279 SINJ ANESTH SUB; EPIDURAL/CAUDAL, CON</td>
<td>378</td>
<td>378</td>
<td>378</td>
</tr>
<tr>
<td>62282 SINJ NEUROLYTIC SUB; EPIDURAL/CAUDAL</td>
<td>486</td>
<td>486</td>
<td>486</td>
</tr>
<tr>
<td>62284 SINJ PROC MYELOGRAPHY, SPINAL/POST</td>
<td>535</td>
<td>535</td>
<td>589</td>
</tr>
<tr>
<td>62289 SINJ SUB OT THAN ANES/NEUROLYT, EP/C</td>
<td>420</td>
<td>420</td>
<td>432</td>
</tr>
<tr>
<td>63030 P LAMINOTOMY; 1 INTRSP, LMBR, UNILAT</td>
<td>4650</td>
<td>4650</td>
<td>4861</td>
</tr>
<tr>
<td>64440 SINJ, ANESTH AGNT; PARAVERTEB, NRV, SN</td>
<td>92</td>
<td>92</td>
<td>83</td>
</tr>
<tr>
<td>64445 SINJ, ANESTHETIC AGENT; SCIATIC NERV</td>
<td>113</td>
<td>113</td>
<td>113</td>
</tr>
<tr>
<td>64452 SINJ, ANESTH AGNT; OT PERIPH NRV/BRAN</td>
<td>84</td>
<td>84</td>
<td>86</td>
</tr>
<tr>
<td>64505 SINJ, ANESTH AGNT; SPHENOPALATINE GAN</td>
<td>432</td>
<td>432</td>
<td>432</td>
</tr>
<tr>
<td>64640 DESTR BY NEUROLYTIC AGNT; OT PER NRV</td>
<td>118</td>
<td>118</td>
<td>118</td>
</tr>
<tr>
<td>64721 NEUR &amp; TP; MEDIAN NRV &amp; CARPAL TUN</td>
<td>1380</td>
<td>1620</td>
<td>1620</td>
</tr>
<tr>
<td>64998 ACUPUNCTURE</td>
<td>51</td>
<td>48</td>
<td>54</td>
</tr>
<tr>
<td>65205 SREM FB, EXTERN EYE; CONJUNC SUPERFI</td>
<td>53</td>
<td>53</td>
<td>53</td>
</tr>
<tr>
<td>65210 SREM FB, EXTERN EYE; CONJUNC EMBEDDE</td>
<td>80</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>65220 SREM FB, EXTERN EYE; CONJUNC EXTERN</td>
<td>103</td>
<td>103</td>
<td>103</td>
</tr>
<tr>
<td>65222 SREM FB, EXTERN EYE; CONJUNC EXT W/O SLIT L</td>
<td>112</td>
<td>112</td>
<td>113</td>
</tr>
<tr>
<td>65855 TRABECULOPLASTY BY LASER, 1/MORE SESS</td>
<td>1460</td>
<td>1344</td>
<td>1583</td>
</tr>
<tr>
<td>66170 FIST SCLERA GLACU; TRABECULECTOMY</td>
<td>2160</td>
<td>2160</td>
<td>2160</td>
</tr>
<tr>
<td>66761 IRIDOTMY BY PHOTOCOAG; FOR GLAUCOMA</td>
<td>1323</td>
<td>1350</td>
<td>1296</td>
</tr>
<tr>
<td>66821 P DISCIS 2NDARY MEMB CATARACT; LASER</td>
<td>1036</td>
<td>1042</td>
<td>1188</td>
</tr>
<tr>
<td>66830 P RM 2ND MEM CAT W/O IRIDECTOMY</td>
<td>1256</td>
<td>1256</td>
<td>1256</td>
</tr>
<tr>
<td>66983 P INCAP CTRACT EX W INSTR LENS PROT</td>
<td>2356</td>
<td>2356</td>
<td>2356</td>
</tr>
<tr>
<td>66984 P EXCAP CTRACT REM W INSTR LEN PROT</td>
<td>2465</td>
<td>2485</td>
<td>2700</td>
</tr>
<tr>
<td>66985 P INSTR INTRAOC LENS SUB TO CAT REM</td>
<td>2144</td>
<td>2144</td>
<td>2144</td>
</tr>
<tr>
<td>67101 REP RET DETACH, CYROTHERAPY/DIATHERM</td>
<td>1646</td>
<td>1646</td>
<td>1646</td>
</tr>
<tr>
<td>67105 REP RET DETACH; PHOTOCOAG, W/O DRAIN</td>
<td>1635</td>
<td>1635</td>
<td>1635</td>
</tr>
<tr>
<td>67117 REP RET DETACH; SCERAL BUCKLIN</td>
<td>3714</td>
<td>3714</td>
<td>3714</td>
</tr>
<tr>
<td>67141 PROPHYLAXIS RET DETACH; DIATHERMY</td>
<td>1709</td>
<td>1709</td>
<td>1709</td>
</tr>
<tr>
<td>67145 PROPHY RET DETACH; PHOTOCOAGULATION</td>
<td>1508</td>
<td>1508</td>
<td>1508</td>
</tr>
<tr>
<td>67210 DESTRUCT LOCAL LES RETINA; PHOTOCOAG</td>
<td>1321</td>
<td>1350</td>
<td>1296</td>
</tr>
<tr>
<td>67227 DESTRUCT PROGRES RETINOPATHY, DIATHERM</td>
<td>1195</td>
<td>1195</td>
<td>1195</td>
</tr>
<tr>
<td>67228 DESTRUCT PROGRES RETINOPATHY, PHOTOCOAG</td>
<td>1134</td>
<td>1134</td>
<td>1296</td>
</tr>
<tr>
<td>67112 STRAB SURG ON NEW PAT, ANY 2 MUSCLE</td>
<td>1984</td>
<td>1984</td>
<td>1984</td>
</tr>
<tr>
<td>67500 SRETOBULBAR INJECTION; MEDICATION</td>
<td>126</td>
<td>126</td>
<td>126</td>
</tr>
<tr>
<td>67700 SBLEPHAROTOMY, DRAIN ABSCESS EYELID</td>
<td>86</td>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>67800 EXCISION CHALAZION; SINGLE</td>
<td>238</td>
<td>216</td>
<td>262</td>
</tr>
<tr>
<td>67801 EXCISION CHALAZION; MULTI, SAME SID</td>
<td>285</td>
<td>285</td>
<td>296</td>
</tr>
<tr>
<td>67820 SCORECT TRCHIASIS, EPIILATION, FORCE</td>
<td>70</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>67840 SEX LES'N EYELID W/O SIMPLE CLOSUR</td>
<td>251</td>
<td>251</td>
<td>269</td>
</tr>
<tr>
<td>68110 EXCISION LESION CONJUNCT; TO ONE CM</td>
<td>140</td>
<td>140</td>
<td>140</td>
</tr>
<tr>
<td>68800 SDILATION LACRIM PUNCTUM, W/O IRRI</td>
<td>81</td>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>Procedure Description</td>
<td>EMERGENCY ADOPTIONS</td>
<td>INSURANCE</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>$PROBING NASOLACRIM DUCT, W/NO IRRI</td>
<td>68820</td>
<td>101</td>
<td></td>
</tr>
<tr>
<td>REM F-BODY EXT AUD CANAL, W/NO ANES</td>
<td>68900</td>
<td>94</td>
<td></td>
</tr>
<tr>
<td>REM IMPACTED CERT. MEN, ONE/BOTH EARS</td>
<td>69100</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>EUST TUBE INFLATE, TRANSNAS, W/CATH</td>
<td>69400</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>$MYRING W ASPIRE &amp;/EUST TUBE INFNT</td>
<td>69420</td>
<td>167</td>
<td></td>
</tr>
<tr>
<td>$MYRING/TMPNOSTMY, LOC/TOP ANES, TUBE</td>
<td>69433</td>
<td>306</td>
<td></td>
</tr>
<tr>
<td>$MYRING/TMPNOSTY, L/T ANES; BOTH W TUB</td>
<td>69434</td>
<td>475</td>
<td></td>
</tr>
<tr>
<td>#MYRING/TMPNOSTMY, GEN ANES; W TUBE</td>
<td>69436</td>
<td>704</td>
<td></td>
</tr>
<tr>
<td>#MYRING/TMPNOSTY, GEN ANES; BOTH W TUB</td>
<td>69437</td>
<td>657</td>
<td></td>
</tr>
<tr>
<td>X-RAY MANDIBLE, COMP, MIN 4 VIEWS</td>
<td>70110</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>X-RAY FACIAL BONES, COMP, MIN 3 VIEWS</td>
<td>70160</td>
<td>69</td>
<td></td>
</tr>
<tr>
<td>X-RAY NASAL BONES, COMP, MIN 3 VIEWS</td>
<td>70160</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>X-RAY ORBITS, COMP, MIN 4 VIEWS</td>
<td>70200</td>
<td>72</td>
<td></td>
</tr>
<tr>
<td>X-RAY SINUSES, PARTIAL, &gt; 3 VIEWS</td>
<td>70210</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td>X-RAY SINUSES, COMP, MIN 3 VIEWS</td>
<td>70220</td>
<td>95</td>
<td></td>
</tr>
<tr>
<td>X-RAY SKULL, &gt; 4 VIEWS, W/O STEREO</td>
<td>70250</td>
<td>67</td>
<td></td>
</tr>
<tr>
<td>X-RAY SKULL, COMP, MIN 4 VIEWS</td>
<td>70260</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>X-RAY TMJ, OPEN/CLOSED, BILATERAL</td>
<td>70330</td>
<td>166</td>
<td></td>
</tr>
<tr>
<td>MRI, TEMPOROMANDIBULAR JOINT</td>
<td>70336</td>
<td>875</td>
<td></td>
</tr>
<tr>
<td>ORTHOPANTOGRAM</td>
<td>70355</td>
<td>70</td>
<td></td>
</tr>
<tr>
<td>X-RAY NECK, SOFT TISSUE</td>
<td>70360</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, HEAD OR BRAIN, W/O CONTRAST</td>
<td>70450</td>
<td>453</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, HEAD OR BRAIN W/CONTRAST</td>
<td>70460</td>
<td>453</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, HEAD/BRN, WO CONT, FOL CONTR</td>
<td>70470</td>
<td>612</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, ORBIT/SELLA/FOSSA, WO CONTR</td>
<td>70480</td>
<td>536</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, ORBIT/SELLA/FOSSA, W/CONTR</td>
<td>70481</td>
<td>505</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, MAXilloFACCIAL, W/O CONTR</td>
<td>70486</td>
<td>539</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, NECK, SOFT TISSUE, W CONT</td>
<td>70491</td>
<td>501</td>
<td></td>
</tr>
<tr>
<td>MRI, ORBIT, FACE AND NECK</td>
<td>70540</td>
<td>918</td>
<td></td>
</tr>
<tr>
<td>MRI, BRAIN, W/O CONTRAST</td>
<td>70551</td>
<td>891</td>
<td></td>
</tr>
<tr>
<td>MRI, BRAIN, W/CONTR</td>
<td>70552</td>
<td>1096</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, SINGLE, FRONTAL</td>
<td>71010</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, 2 VIEWS, FRONTAL/LATERAL</td>
<td>71020</td>
<td>66</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, 2 VIEWS, APICAL LORDOTIC</td>
<td>71021</td>
<td>70</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, 2 VIEWS, OBLIQUE PROJECT</td>
<td>71022</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, COMPLETE, MIN 4 VIEWS</td>
<td>71030</td>
<td>73</td>
<td></td>
</tr>
<tr>
<td>X-RAY CHEST, SPECIAL VIEWS</td>
<td>71035</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>X-RAY RIBS, UNILAT, 2 VIEWS</td>
<td>71100</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>X-RAY RIBS, UNI, INCL CHEST, 3 VIEWS</td>
<td>71101</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>X-RAY RIBS, BI, INCL CHEST, 3 VIEWS</td>
<td>71111</td>
<td>96</td>
<td></td>
</tr>
<tr>
<td>X-RAY RIBS, BILAT, 3 VIEWS</td>
<td>71120</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>X-RAY STERNUM, MIN 2 VIEWS</td>
<td>71250</td>
<td>70</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, CHEST, W/O CONTRAST</td>
<td>71260</td>
<td>513</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, CHEST, W/CONTRERT</td>
<td>71260</td>
<td>580</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN, CHEST, W/CONTRERT</td>
<td>71260</td>
<td>456</td>
<td></td>
</tr>
<tr>
<td>X-RAY SPINE, ENTIRE, SURVEY, A/P &amp; LAT</td>
<td>72010</td>
<td>135</td>
<td></td>
</tr>
<tr>
<td>X-RAY SPINE, SINGLE VIEW</td>
<td>72020</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td>X-RAY CERVICAL SPINE, A/P &amp; Lateral</td>
<td>72040</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>X-RAY CERV SPINE, A/P, LAT, MN 4 VIEWS</td>
<td>72050</td>
<td>107</td>
<td></td>
</tr>
<tr>
<td>X-RAY THORACIC SPINE, A/P &amp; Lateral</td>
<td>72070</td>
<td>73</td>
<td></td>
</tr>
<tr>
<td>X-RAY THOR SPINE, COMP, INCL OBLIQUE</td>
<td>72074</td>
<td>83</td>
<td></td>
</tr>
<tr>
<td>X-RAY THORACOLUMBAR SPINE, A/P &amp; LAT</td>
<td>72080</td>
<td>75</td>
<td></td>
</tr>
<tr>
<td>X-RAY SPINE, SCOLIOSIS STUDY</td>
<td>72090</td>
<td>79</td>
<td></td>
</tr>
<tr>
<td>X-RAY LUMBOSACRAL SPINE, A/P &amp; LAT</td>
<td>72100</td>
<td>75</td>
<td></td>
</tr>
<tr>
<td>X-RAY LUMBOSACRAL SPINE, COMPLETE</td>
<td>72110</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td>X-RAY LUMB/SAC SPINE, INCL BENDING</td>
<td>72114</td>
<td>140</td>
<td></td>
</tr>
<tr>
<td>X-RAY LUMB/SAC SPINE, BENDING ONLY</td>
<td>72120</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN CERVICAL SPINE WO CONTRAST</td>
<td>72125</td>
<td>453</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN THORACIC SPINE WO CONTRAST</td>
<td>72128</td>
<td>572</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN LUMBOSACRAL SPINE WO CONTR</td>
<td>72131</td>
<td>550</td>
<td></td>
</tr>
<tr>
<td>MRI, CERVICAL SPINE, W/O CONTRERT</td>
<td>72144</td>
<td>918</td>
<td></td>
</tr>
<tr>
<td>MRI, LUMBOSACRAL SPINE, W/O CONTRERT</td>
<td>72148</td>
<td>914</td>
<td></td>
</tr>
<tr>
<td>MRI, LUMBOSACRAL SPINE, ANTEROPOSTERIAN ONLY</td>
<td>72170</td>
<td>66</td>
<td></td>
</tr>
<tr>
<td>X-RAY PELVIS, COMP, 3 OR MORE VIEWS</td>
<td>72190</td>
<td>67</td>
<td></td>
</tr>
<tr>
<td>X-RAY PELVIS, W/O CONTRERT</td>
<td>72192</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN PELVIS, W/O CONTRERT</td>
<td>72193</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td>CAT SCAN PELVIS, W/CONTRERT</td>
<td>72194</td>
<td>550</td>
<td></td>
</tr>
<tr>
<td>MRI, PELVIS</td>
<td>72196</td>
<td>938</td>
<td></td>
</tr>
<tr>
<td>X-RAY SACROILIAC JOINTS, &lt; 3 VIEWS</td>
<td>72200</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>X-RAY SACROILIAC JOINTS, 3 OR MORE VIEWS</td>
<td>72202</td>
<td>93</td>
<td></td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>INSURANCE</td>
<td>EMERGENCY ADOPTIONS</td>
</tr>
<tr>
<td>-------</td>
<td>-------------------------------------------</td>
<td>-----------</td>
<td>---------------------</td>
</tr>
<tr>
<td>72220</td>
<td>X-RAY SACRUM &amp; COCCYX, MIN 2 VIEWS</td>
<td>73</td>
<td>73</td>
</tr>
<tr>
<td>72265</td>
<td>MYEOGRAM, THORACIC, R SPINE</td>
<td>320</td>
<td>320</td>
</tr>
<tr>
<td>73000</td>
<td>X-RAY CLAVICLE, COMPLETE</td>
<td>61</td>
<td>60</td>
</tr>
<tr>
<td>73010</td>
<td>X-RAY SCAPULA, COMPLETE</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>73020</td>
<td>X-RAY SHOULDER, 1 VIEW</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>73030</td>
<td>X-RAY SHOULDER, COMPLETE, MIN 2 VIEWS</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>73041</td>
<td>ARTHROGRAM SHOULDER, COMPLETE PROC</td>
<td>295</td>
<td>295</td>
</tr>
<tr>
<td>73050</td>
<td>ARTHROGRAM, ACROMIOLAVICULAR, BILAT</td>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>73060</td>
<td>ARTHROGRAM, HUMERUS, MIN 2 VIEWS</td>
<td>73</td>
<td>66</td>
</tr>
<tr>
<td>73070</td>
<td>X-RAY ELBOW, A/P &amp; LATERAL</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>73080</td>
<td>X-RAY ELBOW, COMPLETE, MIN 3 VIEWS</td>
<td>67</td>
<td>65</td>
</tr>
<tr>
<td>73090</td>
<td>X-RAY FOREARM, A/P &amp; LATERAL VIEWS</td>
<td>63</td>
<td>59</td>
</tr>
<tr>
<td>73100</td>
<td>X-RAY WRIST, A/P &amp; LATERAL VIEWS</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>73110</td>
<td>X-RAY WRIST, COMPLETE, MIN 3 VIEWS</td>
<td>70</td>
<td>65</td>
</tr>
<tr>
<td>73120</td>
<td>X-RAY HAND, 2 VIEWS</td>
<td>59</td>
<td>54</td>
</tr>
<tr>
<td>73130</td>
<td>X-RAY HAND, MINIMUM 3 VIEWS</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>73140</td>
<td>X-RAY FINGER(S), MINIMUM 2 VIEWS</td>
<td>56</td>
<td>51</td>
</tr>
<tr>
<td>73220</td>
<td>MRI UPPER EXTREMITY, NOT JOINT</td>
<td>929</td>
<td>929</td>
</tr>
<tr>
<td>73221</td>
<td>MRI UPPER EXTREMITY JOINT</td>
<td>902</td>
<td>902</td>
</tr>
<tr>
<td>73500</td>
<td>X-RAY HIP, UNIL, 1 VIEW</td>
<td>63</td>
<td>63</td>
</tr>
<tr>
<td>73510</td>
<td>X-RAY HIP, UNIL, COMP, MIN 2 VIEWS</td>
<td>81</td>
<td>70</td>
</tr>
<tr>
<td>73520</td>
<td>X-RAY HIPS, BL, MIN 2 VIEWS EA SIDE</td>
<td>96</td>
<td>102</td>
</tr>
<tr>
<td>73540</td>
<td>X-RAY PELVIS &amp; HIPS, INFNT/CHILD, MIN 2</td>
<td>73</td>
<td>73</td>
</tr>
<tr>
<td>73550</td>
<td>X-RAY FEMUR, A/P &amp; LATERAL VIEWS</td>
<td>75</td>
<td>70</td>
</tr>
<tr>
<td>73560</td>
<td>X-RAY KNEE, A/P &amp; LATERAL VIEWS</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>73561</td>
<td>X-RAY KNEE, AP &amp; LAT, OBLIQ, MIN 3 VIEWS</td>
<td>75</td>
<td>80</td>
</tr>
<tr>
<td>73564</td>
<td>X-RAY KNEE, COMPLETE</td>
<td>91</td>
<td>91</td>
</tr>
<tr>
<td>73590</td>
<td>X-RAY TIBIA, &amp; FIBULA, A/P &amp; LATERAL</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>73600</td>
<td>X-RAY ANKLE, A/P &amp; LATERAL</td>
<td>57</td>
<td>57</td>
</tr>
<tr>
<td>73610</td>
<td>X-RAY ANKLE, COMPLETE PROCEDURE</td>
<td>75</td>
<td>65</td>
</tr>
<tr>
<td>73620</td>
<td>X-RAY FOOT, A/P &amp; LATERAL</td>
<td>54</td>
<td>57</td>
</tr>
<tr>
<td>73630</td>
<td>X-RAY FOOT, COMPLETE, MIN 3 VIEWS</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>73650</td>
<td>X-RAY CACLANEUS, MINIMUM 2 VIEWS</td>
<td>59</td>
<td>64</td>
</tr>
<tr>
<td>73660</td>
<td>X-RAY TOE(S), MINIMUM 2 VIEWS</td>
<td>59</td>
<td>56</td>
</tr>
<tr>
<td>73700</td>
<td>CAT SCAN LEG, W/O CONTRAST</td>
<td>486</td>
<td>486</td>
</tr>
<tr>
<td>73720</td>
<td>MRI LOWER EXTREMITY, NOT JOINT</td>
<td>891</td>
<td>908</td>
</tr>
<tr>
<td>73721</td>
<td>MRI LOWER EXTREMITY JOINT</td>
<td>907</td>
<td>896</td>
</tr>
<tr>
<td>74000</td>
<td>X-RAY ABDOMEN, SINGLE A/P VIEW</td>
<td>54</td>
<td>53</td>
</tr>
<tr>
<td>74010</td>
<td>X-RAY ABDOMEN, AP, OBLIQUE, CONE VIEWS</td>
<td>48</td>
<td>44</td>
</tr>
<tr>
<td>74020</td>
<td>X-RAY ABDOMEN, COMP, DECUB/ERECT</td>
<td>46</td>
<td>54</td>
</tr>
<tr>
<td>74022</td>
<td>X-RAY ABDOMEN, ACUTE SERIES</td>
<td>61</td>
<td>60</td>
</tr>
<tr>
<td>74150</td>
<td>CAT SCAN ABDOMEN, W/O CONTRAST</td>
<td>465</td>
<td>423</td>
</tr>
<tr>
<td>74160</td>
<td>CAT SCAN ABDOMEN, W/CONT</td>
<td>575</td>
<td>471</td>
</tr>
<tr>
<td>74170</td>
<td>CAT SCAN ABD W/O CONT FOLL BY CONT</td>
<td>624</td>
<td>578</td>
</tr>
<tr>
<td>74181</td>
<td>MRI, ABDOMEN</td>
<td>958</td>
<td>958</td>
</tr>
<tr>
<td>74210</td>
<td>X-RAY PHARYNX &amp; /OR CERV ESOPHAGUS</td>
<td>108</td>
<td>108</td>
</tr>
<tr>
<td>74220</td>
<td>X-RAY ESOPHAGUS</td>
<td>114</td>
<td>112</td>
</tr>
<tr>
<td>74230</td>
<td>SWALLOW FUNCT, PHAR/ESOPH, CINE/VIDEO</td>
<td>140</td>
<td>140</td>
</tr>
<tr>
<td>74240</td>
<td>X-RAY UPPER GI, W/O KUB</td>
<td>359</td>
<td>173</td>
</tr>
<tr>
<td>74241</td>
<td>X-RAY UPPER GI, W/KUB</td>
<td>159</td>
<td>187</td>
</tr>
<tr>
<td>74243</td>
<td>X-RAY UPPER GI, W/SM BOWEL, MULT FILM</td>
<td>221</td>
<td>220</td>
</tr>
<tr>
<td>74246</td>
<td>UPPER GI SERIES/BARIUM, W/O KUB</td>
<td>174</td>
<td>190</td>
</tr>
<tr>
<td>74247</td>
<td>UPPER GI SERIES, BARIUM, W/KUB</td>
<td>216</td>
<td>223</td>
</tr>
<tr>
<td>74249</td>
<td>UPPER GI, BARIUM, W/SM BOWEL FOLLOW</td>
<td>284</td>
<td>284</td>
</tr>
<tr>
<td>74250</td>
<td>X-RAY SMALL BOWEL, INCL MULT FILMS</td>
<td>153</td>
<td>153</td>
</tr>
<tr>
<td>74270</td>
<td>CONTRAST X-RAY COLON, BARIUM ENEMA</td>
<td>167</td>
<td>166</td>
</tr>
<tr>
<td>74280</td>
<td>CONTRAST X-RAY COLON, BARIUM, AIR CONT</td>
<td>232</td>
<td>222</td>
</tr>
<tr>
<td>74290</td>
<td>CHOLECYSTOGRAPHY, ORAL CONTRAST</td>
<td>104</td>
<td>116</td>
</tr>
<tr>
<td>74300</td>
<td>CHOLANG/PANCREATOGRAPHY INTRAOP</td>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>74400</td>
<td>UROGRAPHY, PYEOGRAPHY, IV, W/O KUB</td>
<td>168</td>
<td>168</td>
</tr>
<tr>
<td>74405</td>
<td>UROGRAPHY, IV, W/HYPERTENSIVE CONTR</td>
<td>210</td>
<td>210</td>
</tr>
<tr>
<td>74410</td>
<td>UROGRAPHY, INFUSION, DRIP/BOLUS TECH</td>
<td>188</td>
<td>188</td>
</tr>
<tr>
<td>74415</td>
<td>UROGRAPHY, INF, W/NPHEROMATOGRAPHY</td>
<td>198</td>
<td>216</td>
</tr>
<tr>
<td>74420</td>
<td>UROGRAPHY, RETROGRADE, W/O KUB</td>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>74431</td>
<td>CYSTOGRAPHY, MINI 3 VIEWS, COMP PROC</td>
<td>151</td>
<td>151</td>
</tr>
<tr>
<td>74456</td>
<td>URETHROCYSTOGRAM, VOIDING, COMP PROC</td>
<td>235</td>
<td>235</td>
</tr>
<tr>
<td>74740</td>
<td>HYSTEROSALPINOGRAPHY, SUPR/INTERP</td>
<td>146</td>
<td>146</td>
</tr>
<tr>
<td>74741</td>
<td>HYSTEROSALPINOGRAPHY, COMPLETE PROC</td>
<td>253</td>
<td>253</td>
</tr>
<tr>
<td>75821</td>
<td>VENOGRAPHY, EXTRAVIT, UNI, COMP PROC</td>
<td>286</td>
<td>286</td>
</tr>
<tr>
<td>76000</td>
<td>FLUOROSCOPY, UP TO ONE HOUR</td>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>76020</td>
<td>X-RAYS FOR BONE AGE</td>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>76090</td>
<td>MAMMOGRAPHY, UNILATERAL</td>
<td>107</td>
<td>96</td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3820) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990

You're viewing an archived copy from the New Jersey State Library.
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Insure 1</th>
<th>Insure 2</th>
<th>Insure 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>76091</td>
<td>Mammography, Bilateral</td>
<td>129</td>
<td>125</td>
<td>140</td>
</tr>
<tr>
<td>76096</td>
<td>Localize Breast Nodule, Preop, SNG</td>
<td>263</td>
<td>263</td>
<td>266</td>
</tr>
<tr>
<td>76098</td>
<td>X-Ray, Breast Surgical Specimen</td>
<td>59</td>
<td>59</td>
<td>59</td>
</tr>
<tr>
<td>76100</td>
<td>X-Ray, Single Plane Body Section</td>
<td>120</td>
<td>120</td>
<td>120</td>
</tr>
<tr>
<td>76125</td>
<td>CineRadiogr, Complement Routine Exam</td>
<td>162</td>
<td>162</td>
<td>162</td>
</tr>
<tr>
<td>76140</td>
<td>Consult, X-Ray Made Elsewhere, Written</td>
<td>54</td>
<td>53</td>
<td>54</td>
</tr>
<tr>
<td>76150</td>
<td>Xeroradiography</td>
<td>24</td>
<td>23</td>
<td>26</td>
</tr>
<tr>
<td>76370</td>
<td>Cat Scan, Guide Radiotherapy Fields</td>
<td>151</td>
<td>151</td>
<td>151</td>
</tr>
<tr>
<td>76375</td>
<td>Cat Scans, Other Planes</td>
<td>243</td>
<td>232</td>
<td>216</td>
</tr>
<tr>
<td>76499</td>
<td>Diag Radiology, Digital Code</td>
<td>171</td>
<td>154</td>
<td>174</td>
</tr>
<tr>
<td>76506</td>
<td>Echoencephalography</td>
<td>101</td>
<td>101</td>
<td>101</td>
</tr>
<tr>
<td>76511</td>
<td>Ophthalmic Ultrasound, A-Mode</td>
<td>216</td>
<td>216</td>
<td>216</td>
</tr>
<tr>
<td>76512</td>
<td>Ophthalmic Ultra, Contact B-Scan</td>
<td>298</td>
<td>298</td>
<td>296</td>
</tr>
<tr>
<td>76516</td>
<td>Ophthalmic Biometry, Ultrasound, A-Mode</td>
<td>188</td>
<td>196</td>
<td>216</td>
</tr>
<tr>
<td>76519</td>
<td>Ophthalm Biometry, W Jol Power Calc</td>
<td>188</td>
<td>202</td>
<td>216</td>
</tr>
<tr>
<td>76536</td>
<td>Echogram, Head/Neck, B-Scan/Real Time</td>
<td>182</td>
<td>182</td>
<td>191</td>
</tr>
<tr>
<td>76645</td>
<td>Echogram, Breast, Uni/Bi, B-Scan/Real</td>
<td>148</td>
<td>134</td>
<td>124</td>
</tr>
<tr>
<td>76700</td>
<td>Echogram, ABDOMEN, W IMAGE DOCUMENT</td>
<td>226</td>
<td>213</td>
<td>221</td>
</tr>
<tr>
<td>76705</td>
<td>Echogram, ABDOMEN, LIMITED</td>
<td>203</td>
<td>168</td>
<td>173</td>
</tr>
<tr>
<td>76770</td>
<td>Echogram, Retroperitoneal, Complete</td>
<td>232</td>
<td>221</td>
<td>226</td>
</tr>
<tr>
<td>76775</td>
<td>Echogram, Retroperitoneal, Limited</td>
<td>198</td>
<td>198</td>
<td>198</td>
</tr>
<tr>
<td>76805</td>
<td>Echogram, Pregnant Uterus, Complete</td>
<td>243</td>
<td>216</td>
<td>216</td>
</tr>
<tr>
<td>76815</td>
<td>Echogram, Pregnant Uterus, Limited</td>
<td>177</td>
<td>146</td>
<td>162</td>
</tr>
<tr>
<td>76816</td>
<td>Echogram, Prem Uterus, Repeat/FollowUp</td>
<td>132</td>
<td>132</td>
<td>119</td>
</tr>
<tr>
<td>76818</td>
<td>Fetal Biophysical Profile</td>
<td>223</td>
<td>223</td>
<td>216</td>
</tr>
<tr>
<td>76825</td>
<td>Echogram, Fetal Heart</td>
<td>243</td>
<td>243</td>
<td>243</td>
</tr>
<tr>
<td>76830</td>
<td>Echogram, Transvaginal</td>
<td>269</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>76855</td>
<td>Echogram, Pelvic Area (Doppler)</td>
<td>246</td>
<td>246</td>
<td>246</td>
</tr>
<tr>
<td>76856</td>
<td>Echogram, Pelvic, Non-OB, Complete</td>
<td>226</td>
<td>185</td>
<td>194</td>
</tr>
<tr>
<td>76857</td>
<td>Echogram, Pelvic, Non-OB, LTD/FOLLOW</td>
<td>147</td>
<td>164</td>
<td>180</td>
</tr>
<tr>
<td>76870</td>
<td>Echogram, Scrotum and Contents</td>
<td>291</td>
<td>291</td>
<td>269</td>
</tr>
<tr>
<td>76872</td>
<td>Echogram, Prostate, Transrectal</td>
<td>311</td>
<td>311</td>
<td>311</td>
</tr>
<tr>
<td>76880</td>
<td>Echogram, Extremity, Non-Vascular</td>
<td>246</td>
<td>246</td>
<td>246</td>
</tr>
<tr>
<td>76925</td>
<td>Echo,Periph Vasc (Doppler, Bscan)</td>
<td>235</td>
<td>232</td>
<td>216</td>
</tr>
<tr>
<td>76943</td>
<td>Ultrasonic Guide, Needle Biopsy, Comp</td>
<td>446</td>
<td>446</td>
<td>446</td>
</tr>
<tr>
<td>76946</td>
<td>Ultrasonic Guide, Amniocentesis, S/I</td>
<td>150</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>76947</td>
<td>Ultrasonic Guide, Amniocentesis, Comp</td>
<td>242</td>
<td>242</td>
<td>218</td>
</tr>
<tr>
<td>77261</td>
<td>Radiotherapy Planning, Simple</td>
<td>216</td>
<td>216</td>
<td>216</td>
</tr>
<tr>
<td>77280</td>
<td>Set Radiotherapy Field, Simple</td>
<td>135</td>
<td>135</td>
<td>135</td>
</tr>
<tr>
<td>77300</td>
<td>Basic Radiation Dosimetry</td>
<td>107</td>
<td>107</td>
<td>107</td>
</tr>
<tr>
<td>77336</td>
<td>Radiation Physics Consult</td>
<td>140</td>
<td>140</td>
<td>140</td>
</tr>
<tr>
<td>77340</td>
<td>Daily Megavolt Therapy, Simple</td>
<td>54</td>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>77341</td>
<td>Daily Megavolt Therapy, Complex</td>
<td>175</td>
<td>175</td>
<td>175</td>
</tr>
<tr>
<td>77345</td>
<td>Port Verification Films, Per Course</td>
<td>43</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>77350</td>
<td>Weekly Radiation Therapy, Simple</td>
<td>735</td>
<td>735</td>
<td>735</td>
</tr>
<tr>
<td>77340</td>
<td>Weekly Radiation Therapy, Complex</td>
<td>475</td>
<td>475</td>
<td>475</td>
</tr>
<tr>
<td>78000</td>
<td>Thyroid Uptake, Single Determination</td>
<td>86</td>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>78006</td>
<td>Thyroid Imaging W/Uptake, Single</td>
<td>233</td>
<td>233</td>
<td>243</td>
</tr>
<tr>
<td>78007</td>
<td>Thyroid Imaging W/Uptake, Multiple</td>
<td>171</td>
<td>171</td>
<td>171</td>
</tr>
<tr>
<td>78010</td>
<td>Thyroid Imaging, Only</td>
<td>107</td>
<td>107</td>
<td>107</td>
</tr>
<tr>
<td>78125</td>
<td>Liver &amp; Spleen Imaging, Static Only</td>
<td>164</td>
<td>164</td>
<td>164</td>
</tr>
<tr>
<td>78223</td>
<td>Hepatobiliary Duct Image, Incl Gall</td>
<td>145</td>
<td>145</td>
<td>145</td>
</tr>
<tr>
<td>78300</td>
<td>Bone Imaging, Limited Area</td>
<td>193</td>
<td>193</td>
<td>193</td>
</tr>
<tr>
<td>78395</td>
<td>Bone Imaging, Multiple Areas</td>
<td>324</td>
<td>319</td>
<td>313</td>
</tr>
<tr>
<td>78396</td>
<td>Bone Imaging, Whole Skeleton</td>
<td>296</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>78315</td>
<td>Bone Scan, 3-Phase Technique</td>
<td>269</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>78351</td>
<td>Bone Density, Dual Photon Absorpt</td>
<td>199</td>
<td>199</td>
<td>199</td>
</tr>
<tr>
<td>78415</td>
<td>Cardiac Blood Pool, Functional Image</td>
<td>188</td>
<td>188</td>
<td>188</td>
</tr>
<tr>
<td>78435</td>
<td>Cardiac Flow Imaging</td>
<td>118</td>
<td>118</td>
<td>118</td>
</tr>
<tr>
<td>78460</td>
<td>Myocardial Imaging, Resting</td>
<td>258</td>
<td>258</td>
<td>254</td>
</tr>
<tr>
<td>78461</td>
<td>Myocardial Imaging, Exercise</td>
<td>513</td>
<td>568</td>
<td>469</td>
</tr>
<tr>
<td>78464</td>
<td>Myocardial Imaging, Tomogram, Rest</td>
<td>628</td>
<td>628</td>
<td>628</td>
</tr>
<tr>
<td>78465</td>
<td>Myocardial Imaging, Tomogr, Exercise</td>
<td>697</td>
<td>697</td>
<td>848</td>
</tr>
<tr>
<td>78470</td>
<td>Cardiac Output</td>
<td>107</td>
<td>107</td>
<td>107</td>
</tr>
<tr>
<td>78471</td>
<td>Cardiac Blood Pool, Gated EQ, Ej Frac</td>
<td>246</td>
<td>246</td>
<td>265</td>
</tr>
<tr>
<td>78472</td>
<td>Card Bld Pool, Wall Motion, Reg Ej Fr</td>
<td>339</td>
<td>339</td>
<td>339</td>
</tr>
<tr>
<td>78481</td>
<td>Card Bld Pool, Ist Pass, Ej Fraction</td>
<td>205</td>
<td>205</td>
<td>205</td>
</tr>
<tr>
<td>78484</td>
<td>Card Bld, Ist Pass, Ej Frac, Vent Vol</td>
<td>269</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>78487</td>
<td>Card Bld, Ist Pas, EjF, Vent Vol, Ex/Ph</td>
<td>702</td>
<td>702</td>
<td>702</td>
</tr>
<tr>
<td>78580</td>
<td>Pulm Perfusion Imaging, Particulate</td>
<td>115</td>
<td>115</td>
<td>113</td>
</tr>
<tr>
<td>78585</td>
<td>Pulm Perfusion Imaging, Partic, Rereath</td>
<td>175</td>
<td>175</td>
<td>175</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Price 1</td>
<td>Price 2</td>
<td>Price 3</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------</td>
<td>---------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>78587</td>
<td>PULM VENTILAT IMAGING, AEROSOL, MULT</td>
<td>113</td>
<td>113</td>
<td>113</td>
</tr>
<tr>
<td>78701</td>
<td>KIDNEY IMAGING W/VASCULAR FLOW</td>
<td>237</td>
<td>237</td>
<td>237</td>
</tr>
<tr>
<td>78707</td>
<td>KIDNEY IMAGING, VASC &amp; FUNCT STUDIES</td>
<td>310</td>
<td>310</td>
<td>310</td>
</tr>
<tr>
<td>78802</td>
<td>RADIONUCLIDE LOCAL TUMOR, WHOLE BODY</td>
<td>178</td>
<td>178</td>
<td>178</td>
</tr>
<tr>
<td>78890</td>
<td>AUTOMATED DATA, NUCL MED, TO 30 MIN</td>
<td>115</td>
<td>115</td>
<td>115</td>
</tr>
<tr>
<td>78891</td>
<td>AUTOMATED DATA, NUCL MED, OVER 30 MIN</td>
<td>150</td>
<td>150</td>
<td>151</td>
</tr>
<tr>
<td>78890</td>
<td>PROVISION OF DIAG RADIONUCLIDES</td>
<td>89</td>
<td>89</td>
<td>107</td>
</tr>
<tr>
<td>78999</td>
<td>NUCLEAR DIAGNOSTIC EXAM, DEFAULT</td>
<td>86</td>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>80002</td>
<td>*1-2 CLINICAL CHEM TESTS</td>
<td>36</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>80003</td>
<td>3 CLINICAL CHEMISTRY TESTS</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>80004</td>
<td>4 CLINICAL CHEMISTRY TESTS</td>
<td>24</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>80006</td>
<td>6 CLINICAL CHEMISTRY TESTS</td>
<td>51</td>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>80007</td>
<td>7 CLINICAL CHEMISTRY TESTS</td>
<td>26</td>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>80010</td>
<td>*10 CLINICAL CHEMISTRY TESTS</td>
<td>29</td>
<td>29</td>
<td>29</td>
</tr>
<tr>
<td>80012</td>
<td>*12 CLINICAL CHEMISTRY TESTS</td>
<td>37</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>80016</td>
<td>*13-16 BLOOD/URINE TESTS</td>
<td>46</td>
<td>51</td>
<td>43</td>
</tr>
<tr>
<td>80018</td>
<td>*17-18 BLOOD/URINE TESTS</td>
<td>41</td>
<td>37</td>
<td>43</td>
</tr>
<tr>
<td>80019</td>
<td>*19 OR MORE BLOOD/URINE TESTS</td>
<td>37</td>
<td>42</td>
<td>37</td>
</tr>
<tr>
<td>80031</td>
<td>DRUG MONITORING, ONE DRUG</td>
<td>80</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>80050</td>
<td>GENERAL HEALTH SCREEN PANEL</td>
<td>53</td>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>80055</td>
<td>OBSTETRIC PROFILE</td>
<td>82</td>
<td>82</td>
<td>82</td>
</tr>
<tr>
<td>80058</td>
<td>HEPATIC FUNCTION PANEL</td>
<td>45</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>80061</td>
<td>LIPID PROFILE</td>
<td>48</td>
<td>51</td>
<td>54</td>
</tr>
<tr>
<td>80062</td>
<td>CARDIAC EVALUATION PANEL</td>
<td>51</td>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>80070</td>
<td>THYROID PANEL</td>
<td>51</td>
<td>47</td>
<td>48</td>
</tr>
<tr>
<td>80099</td>
<td>PANEL, NOT SPECIFIED</td>
<td>66</td>
<td>66</td>
<td>67</td>
</tr>
<tr>
<td>80500</td>
<td>LAB PATHOLOGY CONSULTATION, LIMITED</td>
<td>39</td>
<td>39</td>
<td>39</td>
</tr>
<tr>
<td>81000</td>
<td>*URINALYSIS WITH MICROSCOPY</td>
<td>12</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>81002</td>
<td>*ROUTINE URINE ANALYSIS</td>
<td>12</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>81005</td>
<td>*URINALYSIS, ANY NO</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>81015</td>
<td>*MICROSCOPIC EXAM OF URINE</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>82150</td>
<td>*ASSAY OF SERUM AMYLASE</td>
<td>18</td>
<td>18</td>
<td>16</td>
</tr>
<tr>
<td>82172</td>
<td>APOLIPOPROTEIN IMMUNOASSAY</td>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>82250</td>
<td>*ASSAY BLOOD BILIRUBIN</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>82270</td>
<td>*TEST FECES FOR BLOOD</td>
<td>12</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>82310</td>
<td>*ASSAY CALCIUM IN BLOOD, CHEMICAL</td>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>82372</td>
<td>ASSAY SERUM CARBAMAZEPINE</td>
<td>57</td>
<td>57</td>
<td>57</td>
</tr>
<tr>
<td>82374</td>
<td>*ASSAY BLOOD CARBON DIOXIDE</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>82465</td>
<td>*ASSAY SERUM CHOLESTEROL, TOTAL</td>
<td>16</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>82533</td>
<td>RIA ASSAY PLASMA CORTISOL</td>
<td>62</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>82550</td>
<td>*ASSAY CPK IN BLOOD, T.K.U. METHOD</td>
<td>21</td>
<td>21</td>
<td>20</td>
</tr>
<tr>
<td>82565</td>
<td>*ASSAY BLOOD CREATININE</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>82607</td>
<td>RIA ASSAY FOR VITAMIN B-12</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>82643</td>
<td>RIA ASSAY FOR DIGOXIN</td>
<td>49</td>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>82660</td>
<td>TEST FOR DRUGS</td>
<td>67</td>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>82670</td>
<td>RIA ASSAY OF ESTRADIOL</td>
<td>71</td>
<td>71</td>
<td>71</td>
</tr>
<tr>
<td>82728</td>
<td>ASSAY FERRITIN</td>
<td>22</td>
<td>22</td>
<td>21</td>
</tr>
<tr>
<td>82746</td>
<td>BLOOD FOLIC ACID RIA</td>
<td>53</td>
<td>53</td>
<td>53</td>
</tr>
<tr>
<td>82756</td>
<td>*FREE THYROXINE INDEX (T-7)</td>
<td>32</td>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>82784</td>
<td>ASSAY GAMMAGLOBULIN A/D/G/M</td>
<td>96</td>
<td>96</td>
<td>96</td>
</tr>
<tr>
<td>82947</td>
<td>*ASSAY BLOOD FLUID GLUCOSE</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>82948</td>
<td>STICK ASSAY OF BLOOD GLUCOSE</td>
<td>13</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>82950</td>
<td>GLUCOSE TEST</td>
<td>14</td>
<td>14</td>
<td>13</td>
</tr>
<tr>
<td>82951</td>
<td>GLUCOSE TOLERANCE TEST (GTT)</td>
<td>42</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>82952</td>
<td>GTT-ADDED SAMPLES</td>
<td>45</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>83001</td>
<td>PITUITARY GONADOTROPIN RIA</td>
<td>66</td>
<td>66</td>
<td>66</td>
</tr>
<tr>
<td>83002</td>
<td>PITUITARY GONADOTRINS RIA</td>
<td>59</td>
<td>59</td>
<td>59</td>
</tr>
<tr>
<td>83020</td>
<td>ASSAY HEMOGLOBIN</td>
<td>13</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>83036</td>
<td>GLYCOSYLATED HEMOGLOBIN TEST</td>
<td>38</td>
<td>38</td>
<td>39</td>
</tr>
<tr>
<td>83540</td>
<td>*ASSAY SERUM IRON</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>83550</td>
<td>*SERUM IRON BONDING TEST</td>
<td>31</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>83555</td>
<td>SERUM IRON BINDING, AUTO-TEST</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>83705</td>
<td>ASSAY BLOOD LIPID GROUPS</td>
<td>29</td>
<td>29</td>
<td>29</td>
</tr>
<tr>
<td>83718</td>
<td>*ASSAY BLOOD LIPOPROTEIN, PRECIP</td>
<td>17</td>
<td>18</td>
<td>15</td>
</tr>
<tr>
<td>83719</td>
<td>*BLOOD LIPOPROTEIN ASSAY, ULTRACENT</td>
<td>33</td>
<td>33</td>
<td>33</td>
</tr>
<tr>
<td>83720</td>
<td>*BLOOD LIPOPROTEIN ASSAY, FRACT CALC</td>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>83725</td>
<td>ASSAY BLOOD LITHIUM</td>
<td>27</td>
<td>27</td>
<td>26</td>
</tr>
<tr>
<td>83735</td>
<td>*ASSAY BLOOD MANGENIS, CHEMICAL</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>84045</td>
<td>ASSAY PHENYTOIN</td>
<td>57</td>
<td>57</td>
<td>57</td>
</tr>
<tr>
<td>84065</td>
<td>ASSAY PROSTATE PHOSPHATASE, FRACTION</td>
<td>41</td>
<td>41</td>
<td>41</td>
</tr>
<tr>
<td>84075</td>
<td>*ASSAY ALKALINE PHOSPHATASE, BLOOD</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3822) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
<table>
<thead>
<tr>
<th>Procedure Code</th>
<th>Description</th>
<th>New</th>
<th>Old</th>
<th>Delta</th>
</tr>
</thead>
<tbody>
<tr>
<td>84132</td>
<td>Assay Blood Potassium</td>
<td>13</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>84144</td>
<td>Assay Progesterone</td>
<td>62</td>
<td>62</td>
<td>68</td>
</tr>
<tr>
<td>84146</td>
<td>RIA Assay for Prolactin</td>
<td>79</td>
<td>79</td>
<td>80</td>
</tr>
<tr>
<td>84180</td>
<td>Assay Urine Protein</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>84231</td>
<td>Radioimmunoassay</td>
<td>94</td>
<td>94</td>
<td>94</td>
</tr>
<tr>
<td>84233</td>
<td>Assay Estrogen</td>
<td>43</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>84295</td>
<td>Assay Blood Sodium</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>84403</td>
<td>RIA Assay Blood Testosterone</td>
<td>95</td>
<td>95</td>
<td>95</td>
</tr>
<tr>
<td>84420</td>
<td>Assay Theophylline</td>
<td>54</td>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>84435</td>
<td>Assay Thyroxine (T-4)</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>84436</td>
<td>RIA Assay, True Thyroxine</td>
<td>22</td>
<td>24</td>
<td>21</td>
</tr>
<tr>
<td>84439</td>
<td>RIA Assay, Free Thyroxine</td>
<td>53</td>
<td>53</td>
<td>50</td>
</tr>
<tr>
<td>84443</td>
<td>Assay Thyroid Stim Hormone</td>
<td>60</td>
<td>59</td>
<td>66</td>
</tr>
<tr>
<td>84450</td>
<td>*UV-Assay Transaminase (SGOT)</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>84460</td>
<td>*UV-Assay Transaminase (SGPT)</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>84478</td>
<td>*Assay Blood Triglycerides</td>
<td>18</td>
<td>18</td>
<td>16</td>
</tr>
<tr>
<td>84479</td>
<td>*Assay Triiodothyronine (T-3)</td>
<td>16</td>
<td>16</td>
<td>15</td>
</tr>
<tr>
<td>84480</td>
<td>RIA Assay, TT-3</td>
<td>58</td>
<td>58</td>
<td>64</td>
</tr>
<tr>
<td>84520</td>
<td>*Assay BUN</td>
<td>12</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>84550</td>
<td>*Assay Blood Uric Acid</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>84702</td>
<td>Chorionic Gonadotropin Test</td>
<td>58</td>
<td>58</td>
<td>60</td>
</tr>
<tr>
<td>84703</td>
<td>Chorionic Gonadotropin Assay</td>
<td>29</td>
<td>29</td>
<td>30</td>
</tr>
<tr>
<td>84999</td>
<td>Clinical Chemistry Test</td>
<td>90</td>
<td>90</td>
<td>90</td>
</tr>
<tr>
<td>85005</td>
<td>Basophil Blood Cell Count</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>85007</td>
<td>*Differential WBC Count, W/Morph+PLT</td>
<td>12</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>85009</td>
<td>Differential WBC Count, Buffy Coat</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>85014</td>
<td>*Hematocrit</td>
<td>12</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>85018</td>
<td>*Hemoglobin, Colorimetric</td>
<td>12</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>85021</td>
<td>Automated Hemogram, R/WBC, HGB, HCT, IN</td>
<td>17</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>85022</td>
<td>Automated Hemogram, Man Diff, WBC</td>
<td>19</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>85023</td>
<td>Automated Hemogram, Plt, Aut+Man, CBC</td>
<td>31</td>
<td>31</td>
<td>25</td>
</tr>
<tr>
<td>85024</td>
<td>Automated Hemogram, Plt, Aut+Aut Part</td>
<td>27</td>
<td>30</td>
<td>26</td>
</tr>
<tr>
<td>85025</td>
<td>*Auto Hemogram, Platlete, Aut+Aut Comp</td>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>85027</td>
<td>Automated Hemogram, Hem+Plat Count</td>
<td>23</td>
<td>22</td>
<td>23</td>
</tr>
<tr>
<td>85029</td>
<td>Automated Hemogram, RDW+MPV 1-3 IND</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>85031</td>
<td>*Manual Hemogram, Complete CBC</td>
<td>21</td>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>85044</td>
<td>Reticulocyte Count</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>85060</td>
<td>Blood Smear Interpretation</td>
<td>37</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>85580</td>
<td>*Blood Platelet Count</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>85595</td>
<td>*Electronic Platelet Count</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>85610</td>
<td>Prothrombin Time</td>
<td>16</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>85650</td>
<td>RBC Sedimentation Rate, Wintrobe</td>
<td>16</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>85651</td>
<td>RBC Sedimentation Rate, Westergren</td>
<td>15</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>85730</td>
<td>Thromboplastin Time, Part, Plas/Whole</td>
<td>23</td>
<td>23</td>
<td>22</td>
</tr>
<tr>
<td>86006</td>
<td>*Antibody, Qualitative, First</td>
<td>26</td>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>86008</td>
<td>Antibody, Quant., First</td>
<td>54</td>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>86016</td>
<td>RBC Saline Antibodies, HP+Antihuman</td>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>86038</td>
<td>Antinuclear Antibodies, RIA</td>
<td>42</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>86060</td>
<td>Antistreptolysin Titer</td>
<td>32</td>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>86082</td>
<td>*Blood Typing, ABO &amp; Rh(D)</td>
<td>23</td>
<td>23</td>
<td>20</td>
</tr>
<tr>
<td>86100</td>
<td>Blood Typing, Rh(D) Only</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>86128</td>
<td>Blood Autotransfusion</td>
<td>432</td>
<td>432</td>
<td>432</td>
</tr>
<tr>
<td>86140</td>
<td>C-Reactive Protein</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>86149</td>
<td>Carcinoembryonic Antigen, Gel</td>
<td>66</td>
<td>66</td>
<td>66</td>
</tr>
<tr>
<td>86151</td>
<td>CEA Assay, RIA or EIA</td>
<td>74</td>
<td>74</td>
<td>77</td>
</tr>
<tr>
<td>86171</td>
<td>Complement Fixation, Each</td>
<td>58</td>
<td>58</td>
<td>64</td>
</tr>
<tr>
<td>86225</td>
<td>DNA Antibody</td>
<td>62</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>86244</td>
<td>Assay Alpha-1 Fetoprotein</td>
<td>65</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>86255</td>
<td>Fluorescent Antibody, Screen</td>
<td>78</td>
<td>78</td>
<td>83</td>
</tr>
<tr>
<td>86256</td>
<td>*Fluorescent Antibody; Titer</td>
<td>68</td>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>86280</td>
<td>Hemagglutination Inhibition</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>86287</td>
<td>Hepatitis HAA, RIA, or EIA</td>
<td>32</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td>86289</td>
<td>Hepatitis BC Antibody Test, HBCAB</td>
<td>49</td>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>86291</td>
<td>Hepatitis BS Antibody Test, HBSAB</td>
<td>37</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>86296</td>
<td>Hepatitis A Antibody Test, HAA</td>
<td>51</td>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>86300</td>
<td>Heterophile Antibody Screen</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>86310</td>
<td>Heterophile Antibodies</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>86312</td>
<td>HIV Antibody Detection</td>
<td>51</td>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>86316</td>
<td>Immunoassay, Tumor Antigen</td>
<td>61</td>
<td>61</td>
<td>63</td>
</tr>
<tr>
<td>86317</td>
<td>Immunoassay, Infectious Agent</td>
<td>67</td>
<td>74</td>
<td>60</td>
</tr>
<tr>
<td>86329</td>
<td>Immunoassay, Each</td>
<td>67</td>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Price1</td>
<td>Price2</td>
<td>Price3</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>86357</td>
<td>LYMHCYTES, T&amp;B DISTINCTION</td>
<td>179</td>
<td>179</td>
<td>179</td>
</tr>
<tr>
<td>86403</td>
<td>RAPID TEST, INFECTIOUS AGENT</td>
<td>20</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>86421</td>
<td>RADIOALLERGOSORBENT TESTS, 5/ &lt;</td>
<td>34</td>
<td>34</td>
<td>34</td>
</tr>
<tr>
<td>86422</td>
<td>RADIOALLERGOSORBENT TESTS, 6/ &gt;</td>
<td>346</td>
<td>346</td>
<td>346</td>
</tr>
<tr>
<td>86423</td>
<td>RADIOIMMUNOSORBENT TEST IGE, QUANT</td>
<td>58</td>
<td>58</td>
<td>58</td>
</tr>
<tr>
<td>86430</td>
<td>RHEUMATOID FACTOR TEST</td>
<td>18</td>
<td>18</td>
<td>16</td>
</tr>
<tr>
<td>86580</td>
<td>TB INTRADERMAL TEST</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>86585</td>
<td>TB TINE TEST</td>
<td>14</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>86592</td>
<td>BLOOD SEROLOGY, QUALITATIVE</td>
<td>15</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>86999</td>
<td>IMMUNOLOGY PROCEDURE</td>
<td>82</td>
<td>82</td>
<td>82</td>
</tr>
<tr>
<td>87040</td>
<td>BLOOD CULTURE FOR BACTERIA</td>
<td>51</td>
<td>51</td>
<td>54</td>
</tr>
<tr>
<td>87045</td>
<td>STOOL CULTURE FOR BACTERIA</td>
<td>45</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>87060</td>
<td>NOSE/THROAT CULTURE, BACTERIA</td>
<td>15</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>87070</td>
<td>CULTURE SPECIMEN, BACTERIA</td>
<td>35</td>
<td>32</td>
<td>36</td>
</tr>
<tr>
<td>87072</td>
<td>CULTURE OF SPECIMEN BY KIT</td>
<td>20</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>87081</td>
<td>BACTERIA CULTURE SCREEN</td>
<td>18</td>
<td>16</td>
<td>19</td>
</tr>
<tr>
<td>87082</td>
<td>CULTURE OF SPECIMEN BY KIT, SINGLE</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>87084</td>
<td>CULTURE OF SPECIMEN BY KIT, COL EST</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>87086</td>
<td>URINE CULTURE, COLONY COUNT</td>
<td>30</td>
<td>26</td>
<td>31</td>
</tr>
<tr>
<td>87087</td>
<td>URINE BACTERIA CULTURE, COMMERC KIT</td>
<td>22</td>
<td>22</td>
<td>24</td>
</tr>
<tr>
<td>87088</td>
<td>URINE BACTERIA CULTURE, ID+COM KIT</td>
<td>26</td>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>87101</td>
<td>SKIN FUNGUS CULTURE</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>87102</td>
<td>FUNGUS ISOLATION CULTURE</td>
<td>38</td>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>87106</td>
<td>FUNGUS IDENTIFICATION</td>
<td>26</td>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>87109</td>
<td>MYCOPLASMA CULTURE</td>
<td>74</td>
<td>74</td>
<td>74</td>
</tr>
<tr>
<td>87110</td>
<td>CULTURE, CHLAMYDIA</td>
<td>80</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>87177</td>
<td>OVA AND PARASITES SMEARS</td>
<td>63</td>
<td>63</td>
<td>63</td>
</tr>
<tr>
<td>87184</td>
<td>*ANTIBIOTIC SENSITIVITY, EACH, DISC</td>
<td>25</td>
<td>25</td>
<td>22</td>
</tr>
<tr>
<td>87186</td>
<td>*ANTIBIOTIC SENSITIVITY, MIC</td>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>87205</td>
<td>SMEAR, STAIN &amp; INTERPRET, ROUTINE</td>
<td>17</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>87210</td>
<td>SMEAR, STAIN &amp; INTERPRET, WET+SIMPLE</td>
<td>16</td>
<td>16</td>
<td>15</td>
</tr>
<tr>
<td>87253</td>
<td>VIRUS INOCULATION FOR TEST, ADDL STD</td>
<td>70</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>87999</td>
<td>MICROBIOLOGY PROCEDURE</td>
<td>26</td>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>88104</td>
<td>CYTOPATHOLOGY, W/CENTRIF, W/O/CV+VAG</td>
<td>73</td>
<td>73</td>
<td>71</td>
</tr>
<tr>
<td>88108</td>
<td>CYTOPATHOLOGY, CONCENTRATION</td>
<td>102</td>
<td>102</td>
<td>102</td>
</tr>
<tr>
<td>88150</td>
<td>CYTOPATHOLOGY, PAP SMEAR, TECH</td>
<td>19</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>88151</td>
<td>CYTOPATHOLOGY, PAP SMEAR, PHYS</td>
<td>21</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>88155</td>
<td>CYTOPATHOLOGY, PAP SMEAR, W/HORMONAL</td>
<td>25</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>88160</td>
<td>CYTOPATHOLOGY, ANY OTHER SOURCE</td>
<td>46</td>
<td>46</td>
<td>46</td>
</tr>
<tr>
<td>88161</td>
<td>CYTOPATHOLOGY, PREP, SCR+N+INTERPET</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>88267</td>
<td>CHROMOSOME ANALYSIS:PLACENTA</td>
<td>626</td>
<td>626</td>
<td>626</td>
</tr>
<tr>
<td>88300</td>
<td>SURGICAL PATHOLOGY, GROSS</td>
<td>28</td>
<td>28</td>
<td>26</td>
</tr>
<tr>
<td>88302</td>
<td>SURGICAL PATHOLOGY, COMP, NORM TISS</td>
<td>48</td>
<td>50</td>
<td>48</td>
</tr>
<tr>
<td>88304</td>
<td>SURGICAL PATHOLOGY, COMP, ABNORM TSS</td>
<td>73</td>
<td>80</td>
<td>75</td>
</tr>
<tr>
<td>88305</td>
<td>SURGICAL PATHOLOGY, COMP, W/O/COMPLEX</td>
<td>124</td>
<td>124</td>
<td>129</td>
</tr>
<tr>
<td>88307</td>
<td>SURGICAL PATHOLOGY, COMP, COMPLEX</td>
<td>192</td>
<td>192</td>
<td>194</td>
</tr>
<tr>
<td>88309</td>
<td>SURGICAL PATHOLOGY, COMP, COMPLX, DIS</td>
<td>269</td>
<td>269</td>
<td>269</td>
</tr>
<tr>
<td>88313</td>
<td>SPECIAL STAINS, GROW 2+2 OTHERS</td>
<td>21</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>88331</td>
<td>CONSULT DURING SURG, FROZEN SECTIONS</td>
<td>147</td>
<td>147</td>
<td>145</td>
</tr>
<tr>
<td>88346</td>
<td>IMMUNOFLUORESCENT STUDY</td>
<td>42</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>88399</td>
<td>SURGICAL PATHOLOGY PROCEDURE</td>
<td>43</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>89300</td>
<td>SEMEN ANALYSIS, PRES+/-MOT, HUHNER</td>
<td>72</td>
<td>72</td>
<td>72</td>
</tr>
<tr>
<td>89320</td>
<td>SEMEN ANALYSIS, COMPLETE</td>
<td>114</td>
<td>114</td>
<td>114</td>
</tr>
<tr>
<td>89389</td>
<td>LABORATORY, DEFAULT CODE</td>
<td>75</td>
<td>62</td>
<td>67</td>
</tr>
<tr>
<td>89399</td>
<td>PATHOLOGY, DEFAULT CODE</td>
<td>40</td>
<td>40</td>
<td>36</td>
</tr>
<tr>
<td>90000</td>
<td>OFFICE/OP VISIT, NEW, BRIEF</td>
<td>49</td>
<td>60</td>
<td>59</td>
</tr>
<tr>
<td>90010</td>
<td>OFFICE/OP VISIT, NEW, LTD</td>
<td>54</td>
<td>54</td>
<td>56</td>
</tr>
<tr>
<td>90015</td>
<td>OFFICE/OP VISIT, NEW, INTERM</td>
<td>66</td>
<td>66</td>
<td>81</td>
</tr>
<tr>
<td>90017</td>
<td>OFFICE/OP VISIT, NEW, EXTEND</td>
<td>91</td>
<td>67</td>
<td>107</td>
</tr>
<tr>
<td>90020</td>
<td>OFFICE/OP VISIT, NEW, COMPRH</td>
<td>129</td>
<td>107</td>
<td>118</td>
</tr>
<tr>
<td>90025</td>
<td>OFFICE VISIT, NEW/ESTAB, DEFAULT CODE</td>
<td>52</td>
<td>54</td>
<td>60</td>
</tr>
<tr>
<td>90030</td>
<td>OFFICE/OP VISIT, EST, MINIM</td>
<td>32</td>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>90040</td>
<td>OFFICE/OP VISIT, EST, BRIEF</td>
<td>37</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>90050</td>
<td>OFFICE/OP VISIT, EST, LTD</td>
<td>44</td>
<td>44</td>
<td>53</td>
</tr>
<tr>
<td>90060</td>
<td>OFFICE/OP VISIT, EST, INTERM</td>
<td>48</td>
<td>48</td>
<td>54</td>
</tr>
<tr>
<td>90070</td>
<td>OFFICE/OP VISIT, EXT, EXTEND</td>
<td>70</td>
<td>64</td>
<td>75</td>
</tr>
<tr>
<td>90080</td>
<td>OFFICE/OP VISIT, EST, COMPRH</td>
<td>86</td>
<td>81</td>
<td>91</td>
</tr>
<tr>
<td>90140</td>
<td>HOME VISIT, BRIEF</td>
<td>189</td>
<td>189</td>
<td>189</td>
</tr>
<tr>
<td>90150</td>
<td>HOME VISIT, LIMITED</td>
<td>82</td>
<td>82</td>
<td>82</td>
</tr>
<tr>
<td>90200</td>
<td>HOSPITAL CARE, NEW, BRIEF</td>
<td>142</td>
<td>142</td>
<td>145</td>
</tr>
<tr>
<td>90215</td>
<td>HOSPITAL CARE, NEW, INTERMED.</td>
<td>148</td>
<td>139</td>
<td>162</td>
</tr>
<tr>
<td>90220</td>
<td>HOSPITAL CARE, NEW, COMPREH.</td>
<td>162</td>
<td>162</td>
<td>167</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>152</td>
<td>138</td>
<td>135</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------------</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>90225</td>
<td>HOSPITAL CARE, NEW, NEWBORN</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90240</td>
<td>HOSPITAL VISIT, BRIEF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90250</td>
<td>HOSPITAL VISIT, LIMITED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90260</td>
<td>HOSPITAL VISIT, INTERMEDIATE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90270</td>
<td>HOSPITAL VISIT, EXTENDED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90280</td>
<td>HOSPITAL VISIT, COMPREHENSIVE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90282</td>
<td>NORMAL NEWBORN CARE, HOSPITAL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90292</td>
<td>HOSPITAL DISCHARGE DAY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90310</td>
<td>EMERGENCY CARE, NEW, LIMITED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90315</td>
<td>EMERGENCY CARE, NEW, INTERMED.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90317</td>
<td>EMERGENCY CARE, NEW, EXTEND.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90600</td>
<td>LIMITED CONSULTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90605</td>
<td>INTERMEDIATE CONSULTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90610</td>
<td>EXTENDED CONSULTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90620</td>
<td>COMPREHENSIVE CONSULTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90630</td>
<td>COMPLEX CONSULTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90635</td>
<td>CONSULT (INIT/FUP), DEFAULT CODE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90640</td>
<td>BRIEF FOLLOW-UP CONSULT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90641</td>
<td>LIMITED FOLLOW-UP CONSULT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90642</td>
<td>INTERMEDIATE FOLLOWUP CONSULT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90643</td>
<td>COMPLEX FOLLOW-UP CONSULT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90650</td>
<td>2ND OR 3RD OPINION, LIMITED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90652</td>
<td>2ND OR 3RD OPINION, INTERMEDIATE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90653</td>
<td>2ND OR 3RD OPINION, COMPREHENSIVE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90701</td>
<td>DTP IMMUNIZATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90707</td>
<td>MMR VIRUS IMMUNATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90712</td>
<td>ORAL POLIOVIRUS IMMUNIZATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90761</td>
<td>PREVENTIVE MEDICINE, 12-17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90762</td>
<td>PREVENTIVE MEDICINE, 5-11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90763</td>
<td>PREVENTIVE MEDICINE, 1-4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90764</td>
<td>PREVENTIVE MEDICINE, INFANT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90782</td>
<td>INJECTION SUBCU/(UM)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90799</td>
<td>THERAPEUTIC INF, DEFAULT CODE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90841</td>
<td>INDIVIDUAL PSYCHOTHERAPY, UNSPEC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90843</td>
<td>INDIVIDUAL PSYCHOTHERAPY, 20-30 MIN</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90844</td>
<td>INDIVIDUAL PSYCHOTHERAPY, 45-50 MIN</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>90935</td>
<td>HEMODIALYSIS, SINGLE EVAL</td>
<td>1868</td>
<td>1868</td>
<td>1868</td>
</tr>
<tr>
<td>92004</td>
<td>EYE EXAM &amp; TREATMENT, NEW PT, COMP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92012</td>
<td>EYE EXAM &amp; TREATMENT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92014</td>
<td>EYE EXAM &amp; TREATMENT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92020</td>
<td>GONIOSCOPY W/EVALUATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92081</td>
<td>VISUAL FIELD EXAM, LIMITED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92082</td>
<td>VISUAL FIELD EXAM, INTERMEDIATE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92100</td>
<td>SERIAL TONOMETRY, 1 OR MORE SESSIONS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92225</td>
<td>OPHTHALMOSCOPY, EXTENDED, INITIAL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92226</td>
<td>OPHTHALMOSCOPY, EXTENDED, SUBSEQUENT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92235</td>
<td>OPHTHALMOSCOPY W/ANGIOGRAPHY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92250</td>
<td>OPHTHALMOSCOPY W/FUNDUS PHOTOGRAPHY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92551</td>
<td>PURE TONE AUDIOMETRY, AIR ONLY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92552</td>
<td>PURE TONE AUDIOMETRY, AIR &amp; BONE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92553</td>
<td>AUDIOMETRY, AIR &amp; BONE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92557</td>
<td>COMPREHENSIVE AUDIOMETRY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92566</td>
<td>IMPEDANCE HEARING TEST</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92567</td>
<td>TYPANOMETRY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>92982</td>
<td>PERCUT TRANSLUMINL CORN ANGIO; 1 VESL</td>
<td>3207</td>
<td>3207</td>
<td>3241</td>
</tr>
<tr>
<td>93000</td>
<td>ELECTROCARDIOMETER, COMPLETE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93010</td>
<td>ELECTROCARDIOMETER REPORT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93014</td>
<td>REPORT ON TRANSMITTED ECG</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93015</td>
<td>CARDIOVASC STRESS TEST, TRAC/INTERP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93018</td>
<td>CARDIOVASC STRESS TEST, INTERP ONLY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93040</td>
<td>RHYTHM ECG WITH REPORT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93042</td>
<td>RHYTHM ECG, REPORT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93224</td>
<td>24 HR ECG, SCANNER, RECORD/INTERP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93307</td>
<td>ECHOCARDIOGRAPHY, REALTIME, COMPLETE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93320</td>
<td>DOPPLER ECHOCARDIOGRAPHY, COMPLETE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93501</td>
<td>HEART CATHETERIZATION RIGHT, ONLY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93503</td>
<td>HEART CATH RT; W/SWAN-GANZ CATH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93547</td>
<td>HRT CATH LFT COR ANG &amp; VENT ANG</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93548</td>
<td>HRT CATH LFT COR ANG VENT AORT RT AO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93549</td>
<td>HRT CATH RT &amp; LFT COR ANG VENT ANG</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>93552</td>
<td>LT HRT CATH COR ANG VEN CIN; VIS BYPS</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3825)
<table>
<thead>
<tr>
<th>ADA Code</th>
<th>Description of Services</th>
<th>Region 1</th>
<th>Region 2</th>
<th>Region 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>0110</td>
<td>INITIAL ORAL EXAM</td>
<td>24</td>
<td>26</td>
<td>28</td>
</tr>
<tr>
<td>0120</td>
<td>PERIODIC ORAL EXAM</td>
<td>18</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>0121</td>
<td>RECALL EXAM-ADULT (W/X RAYS &amp; PROPHY)</td>
<td>68</td>
<td>70</td>
<td>79</td>
</tr>
<tr>
<td>0122</td>
<td>RECALL EXAM-CHILD (W/X RAYS, PROPHY, FLUOR)</td>
<td>68</td>
<td>65</td>
<td>72</td>
</tr>
<tr>
<td>0123</td>
<td>RECALL EXAM-CHILD W/X-RAYS, PROPHY, FLUOR</td>
<td>54</td>
<td>61</td>
<td>62</td>
</tr>
<tr>
<td>0124</td>
<td>RECALL EXAM-ADULT W/PROPHY</td>
<td>58</td>
<td>54</td>
<td>61</td>
</tr>
<tr>
<td>0130</td>
<td>EMERGENCY ORAL EXAM</td>
<td>27</td>
<td>27</td>
<td>30</td>
</tr>
<tr>
<td>0210</td>
<td>FULL MOUTH X-RAY SERIES</td>
<td>55</td>
<td>55</td>
<td>61</td>
</tr>
<tr>
<td>0220</td>
<td>X-RAY, PERIAPICAL, FIRST FILM</td>
<td>8</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>0222</td>
<td>X-RAY INTRA-ORAL TWO FILMS</td>
<td>15</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>0223</td>
<td>X-RAY INTRA-ORAL THREE FILMS</td>
<td>19</td>
<td>19</td>
<td>22</td>
</tr>
<tr>
<td>0224</td>
<td>X-RAY INTRA-ORAL FOUR FILMS</td>
<td>24</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>0225</td>
<td>X-RAY INTRA-ORAL FIVE FILMS</td>
<td>29</td>
<td>30</td>
<td>32</td>
</tr>
<tr>
<td>0226</td>
<td>X-RAY INTRA-ORAL SIX FILMS</td>
<td>33</td>
<td>32</td>
<td>37</td>
</tr>
<tr>
<td>0227</td>
<td>X-RAY INTRA-ORAL SEVEN FILMS</td>
<td>42</td>
<td>40</td>
<td>43</td>
</tr>
</tbody>
</table>

(c) The following is the Medical Fee Schedule for dental services:

State of New Jersey
Personal Auto Injury Fee Schedule—Dental Services

<table>
<thead>
<tr>
<th>ADA Code</th>
<th>Description of Services</th>
<th>Region 1</th>
<th>Region 2</th>
<th>Region 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>0110</td>
<td>Initial Oral Exam</td>
<td>24</td>
<td>26</td>
<td>28</td>
</tr>
<tr>
<td>0120</td>
<td>Periodic Oral Exam</td>
<td>18</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>0121</td>
<td>Recall Exam-Adult (W/X Rays &amp; Prophy)</td>
<td>68</td>
<td>70</td>
<td>79</td>
</tr>
<tr>
<td>0122</td>
<td>Recall Exam-Child (W/X Rays, Prophy, Fluor)</td>
<td>68</td>
<td>65</td>
<td>72</td>
</tr>
<tr>
<td>0123</td>
<td>Recall Exam-Child W/X-Rays, Prophy, Fluor</td>
<td>54</td>
<td>61</td>
<td>62</td>
</tr>
<tr>
<td>0124</td>
<td>Recall Exam-Adult W/Prophy</td>
<td>58</td>
<td>54</td>
<td>61</td>
</tr>
<tr>
<td>0130</td>
<td>Emergency Oral Exam</td>
<td>27</td>
<td>27</td>
<td>30</td>
</tr>
<tr>
<td>0210</td>
<td>Full Mouth X-Ray Series</td>
<td>55</td>
<td>55</td>
<td>61</td>
</tr>
<tr>
<td>0220</td>
<td>X-Ray, Periapical, First Film</td>
<td>8</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>0222</td>
<td>X-Ray Intra-Oral Two Films</td>
<td>15</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>0223</td>
<td>X-Ray Intra-Oral Three Films</td>
<td>19</td>
<td>19</td>
<td>22</td>
</tr>
<tr>
<td>0224</td>
<td>X-Ray Intra-Oral Four Films</td>
<td>24</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>0225</td>
<td>X-Ray Intra-Oral Five Films</td>
<td>29</td>
<td>30</td>
<td>32</td>
</tr>
<tr>
<td>0226</td>
<td>X-Ray Intra-Oral Six Films</td>
<td>33</td>
<td>32</td>
<td>37</td>
</tr>
<tr>
<td>0227</td>
<td>X-Ray Intra-Oral Seven Films</td>
<td>42</td>
<td>40</td>
<td>43</td>
</tr>
<tr>
<td>Procedure Description</td>
<td>Cost 1</td>
<td>Cost 2</td>
<td>Cost 3</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>X-Ray Intra-Oral Eight Films</td>
<td>41</td>
<td>43</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>X-Ray Intra-Oral Nine Films</td>
<td>46</td>
<td>48</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>X-Ray, Periapical, Additional Film</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>X-Ray, Intraoral Occlusal Film</td>
<td>18</td>
<td>20</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>X-Ray, Bitewing, Single Film</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Bitewing X-Rays, Two Films</td>
<td>16</td>
<td>16</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Bitewing X-Rays, Three Films</td>
<td>18</td>
<td>20</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Bitewing X-Rays, Four Films</td>
<td>22</td>
<td>21</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>Bitewing X-Ray, Additional Film</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>X-Ray Post-Ant-Lat-Skll Fcl. Bn Surv</td>
<td>54</td>
<td>54</td>
<td>54</td>
<td></td>
</tr>
<tr>
<td>X-Ray TMJ Single Film</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>Panoramic X-Ray Series</td>
<td>48</td>
<td>51</td>
<td>55</td>
<td></td>
</tr>
<tr>
<td>Cephalometric Film</td>
<td>50</td>
<td>53</td>
<td>55</td>
<td></td>
</tr>
<tr>
<td>Bacteriologic Culture</td>
<td>22</td>
<td>24</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Histopathologic Examination</td>
<td>63</td>
<td>63</td>
<td>64</td>
<td></td>
</tr>
<tr>
<td>Pulp Vitality Tests</td>
<td>20</td>
<td>21</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>Diagnostic Casts</td>
<td>43</td>
<td>46</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>Diagnostic Photographs</td>
<td>26</td>
<td>26</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Prophylaxis, Adult-Incl. Scaling</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Prophylaxis, Child-Incl. Scaling</td>
<td>16</td>
<td>17</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>Topical Appl of Fluoride</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Fluoride Soda Top Appl 4 Excl Proph</td>
<td>16</td>
<td>16</td>
<td>19</td>
<td></td>
</tr>
<tr>
<td>Top Appl Soda Fluor 4 Incl Proph</td>
<td>47</td>
<td>53</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td>Fluoride Stan Top Appl 1 Excl Proph</td>
<td>17</td>
<td>19</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Top Appl Stan Fluor 1 Incl Proph</td>
<td>43</td>
<td>45</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td>Topical Appl of Fluoride</td>
<td>17</td>
<td>19</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Application of Fluoride W/Prophylaxis</td>
<td>43</td>
<td>44</td>
<td>51</td>
<td></td>
</tr>
<tr>
<td>Oral Hygiene Instruction</td>
<td>28</td>
<td>28</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Training in Preventive Dental Care</td>
<td>30</td>
<td>30</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>Topical Appl of Sealant, Per Quad</td>
<td>39</td>
<td>32</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td>Topical Appl of Sealant, Per Tooth</td>
<td>24</td>
<td>26</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>Space Maintainer-Fixed Unilateral</td>
<td>168</td>
<td>196</td>
<td>188</td>
<td></td>
</tr>
<tr>
<td>Space Maintainer-Fixed Bilateral</td>
<td>285</td>
<td>306</td>
<td>257</td>
<td></td>
</tr>
<tr>
<td>Recementation of Space Maintainer</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td></td>
</tr>
<tr>
<td>Amalgam, One Surface, Primary Tooth</td>
<td>44</td>
<td>43</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>Amalgam, Two Surfaces, Primary Tooth</td>
<td>57</td>
<td>64</td>
<td>64</td>
<td></td>
</tr>
<tr>
<td>Amalgam, Three Surfaces, Primary Tooth</td>
<td>76</td>
<td>83</td>
<td>83</td>
<td></td>
</tr>
<tr>
<td>Amalgam, Four Surfaces, Primary Tooth</td>
<td>98</td>
<td>101</td>
<td>98</td>
<td></td>
</tr>
<tr>
<td>Amalgam, One Surface, Perm. Tooth</td>
<td>42</td>
<td>45</td>
<td>49</td>
<td></td>
</tr>
<tr>
<td>Amalgam, Two Surfaces, Perm. Tooth</td>
<td>57</td>
<td>64</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>Amalgam, Three Surfaces, Perm. Tooth</td>
<td>74</td>
<td>81</td>
<td>86</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 4+ Surfaces, Permanent</td>
<td>91</td>
<td>100</td>
<td>107</td>
<td></td>
</tr>
<tr>
<td>Restoration Amalgam Pin Retained</td>
<td>79</td>
<td>79</td>
<td>79</td>
<td></td>
</tr>
<tr>
<td>Pin Retention, Excl of Amlgm, Per Pin</td>
<td>20</td>
<td>20</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>Silicate Restoration, One Surface</td>
<td>18</td>
<td>16</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Acrylic Or Plastic Restoration</td>
<td>30</td>
<td>30</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td>Composite-One Surface</td>
<td>52</td>
<td>55</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>Composite-Two Surfaces</td>
<td>71</td>
<td>77</td>
<td>83</td>
<td></td>
</tr>
<tr>
<td>Composite-Three Surfaces</td>
<td>92</td>
<td>102</td>
<td>105</td>
<td></td>
</tr>
<tr>
<td>Pin Retention</td>
<td>22</td>
<td>26</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>Composite Involving Incisal Angle</td>
<td>114</td>
<td>125</td>
<td>135</td>
<td></td>
</tr>
<tr>
<td>Light Cured Composite-Incisal</td>
<td>137</td>
<td>151</td>
<td>158</td>
<td></td>
</tr>
<tr>
<td>Light Cured Composite, 1 Sur W/Acid Etch</td>
<td>59</td>
<td>64</td>
<td>70</td>
<td></td>
</tr>
<tr>
<td>Light Cured Composite, 2 Sur W/Acid Etch</td>
<td>81</td>
<td>86</td>
<td>97</td>
<td></td>
</tr>
<tr>
<td>Light Cured Composite, 3 Sur W/Acid Etch</td>
<td>112</td>
<td>118</td>
<td>135</td>
<td></td>
</tr>
<tr>
<td>Acid Etch For Restoration</td>
<td>28</td>
<td>26</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>Gold Inlay, 1 Surface</td>
<td>294</td>
<td>294</td>
<td>294</td>
<td></td>
</tr>
<tr>
<td>Gold Inlay, 2 Surfaces</td>
<td>423</td>
<td>423</td>
<td>415</td>
<td></td>
</tr>
<tr>
<td>2 Surface Inlay Including Onlay</td>
<td>545</td>
<td>545</td>
<td>551</td>
<td></td>
</tr>
<tr>
<td>3-Surface Gold Foil</td>
<td>507</td>
<td>505</td>
<td>508</td>
<td></td>
</tr>
<tr>
<td>3 Surface Inlay Including Onlay</td>
<td>649</td>
<td>622</td>
<td>643</td>
<td></td>
</tr>
<tr>
<td>Onlay Per Tooth (In Add'n To Inlay)</td>
<td>481</td>
<td>501</td>
<td>505</td>
<td></td>
</tr>
<tr>
<td>Inlay, Porcelain/Ceramic, Three Surfaces</td>
<td>495</td>
<td>495</td>
<td>492</td>
<td></td>
</tr>
<tr>
<td>Crown, Plastic (Acrylic)</td>
<td>201</td>
<td>206</td>
<td>246</td>
<td></td>
</tr>
<tr>
<td>Crown, Plastic (Acrylic-Prefabricated)</td>
<td>169</td>
<td>186</td>
<td>187</td>
<td></td>
</tr>
<tr>
<td>Crown, Resin/High Noble Metal</td>
<td>591</td>
<td>550</td>
<td>603</td>
<td></td>
</tr>
<tr>
<td>Crown, Resin/Noble Metal</td>
<td>518</td>
<td>518</td>
<td>518</td>
<td></td>
</tr>
<tr>
<td>Crown, Porcelain</td>
<td>567</td>
<td>625</td>
<td>605</td>
<td></td>
</tr>
<tr>
<td>Crown, Porcelain/High Noble</td>
<td>555</td>
<td>605</td>
<td>628</td>
<td></td>
</tr>
<tr>
<td>Crown, Porcelain/Base Metal</td>
<td>540</td>
<td>552</td>
<td>580</td>
<td></td>
</tr>
<tr>
<td>Crown, Porcelain/Noble Metal</td>
<td>534</td>
<td>560</td>
<td>588</td>
<td></td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>INSURANCE</td>
<td>EMERGENCY</td>
<td>ADOPTIONS</td>
</tr>
<tr>
<td>-------</td>
<td>-------------------------------------------------------</td>
<td>------------</td>
<td>------------</td>
<td>-----------</td>
</tr>
<tr>
<td>2790</td>
<td>GOLD/HIGH NOBLE METAL</td>
<td>626</td>
<td>608</td>
<td>648</td>
</tr>
<tr>
<td>2791</td>
<td>BASE METAL FULL CAST</td>
<td>474</td>
<td>438</td>
<td>482</td>
</tr>
<tr>
<td>2792</td>
<td>NOBLE METAL FULL CAST</td>
<td>553</td>
<td>537</td>
<td>589</td>
</tr>
<tr>
<td>2810</td>
<td>CROWN, 3/4 CAST-GOLD</td>
<td>656</td>
<td>613</td>
<td>672</td>
</tr>
<tr>
<td>2820</td>
<td>CROWN, STAINLESS STEEL (PREFABRICATED)</td>
<td>131</td>
<td>143</td>
<td>160</td>
</tr>
<tr>
<td>2840</td>
<td>TEMPORARY CROWN-FRACTURED TOOTH</td>
<td>106</td>
<td>9</td>
<td>102</td>
</tr>
<tr>
<td>2850</td>
<td>CAST POST &amp; CORE (IN ADD’N TO CROWN)</td>
<td>1056</td>
<td>864</td>
<td>864</td>
</tr>
<tr>
<td>2892</td>
<td>PREFAB. POST &amp; CORE (IN ADD’N TO CROWN)</td>
<td>158</td>
<td>170</td>
<td>182</td>
</tr>
<tr>
<td>2910</td>
<td>RE-CEMENT INLAY</td>
<td>39</td>
<td>41</td>
<td>45</td>
</tr>
<tr>
<td>2920</td>
<td>RECEMENT CROWN</td>
<td>37</td>
<td>41</td>
<td>42</td>
</tr>
<tr>
<td>2930</td>
<td>PREFAB STAINLESS STEEL CROWN-PRIMARY</td>
<td>124</td>
<td>133</td>
<td>151</td>
</tr>
<tr>
<td>2932</td>
<td>PREFABRICATED RESIN CROWN</td>
<td>153</td>
<td>153</td>
<td>153</td>
</tr>
<tr>
<td>2940</td>
<td>SEDATIVE FILLING</td>
<td>42</td>
<td>43</td>
<td>46</td>
</tr>
<tr>
<td>2950</td>
<td>CROWN BUILDUP, PIN OR POST RETAINED</td>
<td>126</td>
<td>134</td>
<td>148</td>
</tr>
<tr>
<td>2951</td>
<td>PIN RETN. PER TOOTH IN ADD’N TO RESTOR.</td>
<td>19</td>
<td>19</td>
<td>24</td>
</tr>
<tr>
<td>2952</td>
<td>CAST POST &amp; CORE IN ADD’N TO CROWN</td>
<td>187</td>
<td>212</td>
<td>212</td>
</tr>
<tr>
<td>2954</td>
<td>PREFAB POST &amp; CORE IN ADD’N TO CROWN</td>
<td>150</td>
<td>159</td>
<td>175</td>
</tr>
<tr>
<td>2960</td>
<td>LABIAL VENEER (LAMINATE) CLAIRSIDE</td>
<td>334</td>
<td>314</td>
<td>328</td>
</tr>
<tr>
<td>2962</td>
<td>LABIAL VENEER (PORCELAIN LAMINATE) LAB.</td>
<td>373</td>
<td>425</td>
<td>425</td>
</tr>
<tr>
<td>2980</td>
<td>REPAIR TO CROWN</td>
<td>133</td>
<td>123</td>
<td>133</td>
</tr>
<tr>
<td>2990</td>
<td>PULP CAP, DIRECT-OVER PULP EXPOSURE</td>
<td>31</td>
<td>30</td>
<td>37</td>
</tr>
<tr>
<td>3010</td>
<td>PULP CAP, INDIRECT</td>
<td>25</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>3030</td>
<td>RECALCIFICATION TEMPORARY PER TOOTH</td>
<td>40</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>3040</td>
<td>VITAL PULPOTOMY</td>
<td>85</td>
<td>82</td>
<td>80</td>
</tr>
<tr>
<td>3050</td>
<td>ROOT CANAL THERAPY, ONE CANAL</td>
<td>340</td>
<td>319</td>
<td>327</td>
</tr>
<tr>
<td>3070</td>
<td>RT CANAL THER 1 EXC RST-TRADITIONAL</td>
<td>324</td>
<td>351</td>
<td>351</td>
</tr>
<tr>
<td>3080</td>
<td>ROOT CANAL THERAPY, TWO CANALS</td>
<td>401</td>
<td>399</td>
<td>407</td>
</tr>
<tr>
<td>3085</td>
<td>ROOT CANAL THER 2 EXC RST-TRADITIONAL</td>
<td>405</td>
<td>432</td>
<td>459</td>
</tr>
<tr>
<td>3090</td>
<td>ROOT CANAL THERAPY, THREE CANALS</td>
<td>501</td>
<td>516</td>
<td>521</td>
</tr>
<tr>
<td>3100</td>
<td>RT CANAL THER 3 EXC RST-TRADITIONAL</td>
<td>497</td>
<td>541</td>
<td>568</td>
</tr>
<tr>
<td>3110</td>
<td>ROOT CANAL THERAPY, FOUR CANALS</td>
<td>539</td>
<td>610</td>
<td>591</td>
</tr>
<tr>
<td>3111</td>
<td>APICECTOMY (AND/OR) CURETTAGE, SEP SURG PR</td>
<td>288</td>
<td>300</td>
<td>327</td>
</tr>
<tr>
<td>3112</td>
<td>APICECTOMY PER TOOTH, EA ADD’L ROOT</td>
<td>186</td>
<td>186</td>
<td>186</td>
</tr>
<tr>
<td>3120</td>
<td>APICECTOMY PER TOOTH, EA ADD’L ROOT</td>
<td>314</td>
<td>318</td>
<td>310</td>
</tr>
<tr>
<td>3130</td>
<td>APICAL CURETTAGE</td>
<td>147</td>
<td>140</td>
<td>132</td>
</tr>
<tr>
<td>3140</td>
<td>ROOT AMPUTATION (PER ROOT)</td>
<td>217</td>
<td>195</td>
<td>238</td>
</tr>
<tr>
<td>3150</td>
<td>HEMISECTION</td>
<td>177</td>
<td>166</td>
<td>194</td>
</tr>
<tr>
<td>3200</td>
<td>RECATIONIFICATION</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>3950</td>
<td>CANAL Prep &amp; Prefitting Preformed Post</td>
<td>56</td>
<td>56</td>
<td>52</td>
</tr>
<tr>
<td>3960</td>
<td>BLEACHING DISCOLORED TOOTH</td>
<td>73</td>
<td>72</td>
<td>73</td>
</tr>
<tr>
<td>4210</td>
<td>GINGIVECTOMY/GINGIVOPLASTY PER QUAD</td>
<td>259</td>
<td>273</td>
<td>264</td>
</tr>
<tr>
<td>4211</td>
<td>GINGIVECTOMY/GINGIVOPLASTY SINGLE SITE</td>
<td>104</td>
<td>106</td>
<td>106</td>
</tr>
<tr>
<td>4212</td>
<td>GINGIVECTOMY PER TOOTH LESS THAN 5</td>
<td>71</td>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>4220</td>
<td>GINGIVAL CURETTAGE PER QUADRANT</td>
<td>102</td>
<td>109</td>
<td>104</td>
</tr>
<tr>
<td>4230</td>
<td>GINGIVAL FLAP PROCEDURES</td>
<td>309</td>
<td>325</td>
<td>371</td>
</tr>
<tr>
<td>4250</td>
<td>MUCOGINGIVAL SURGERY PER QUADRANT</td>
<td>330</td>
<td>330</td>
<td>330</td>
</tr>
<tr>
<td>4260</td>
<td>OSSEOUS SURGERY, PER QUADRANT</td>
<td>628</td>
<td>570</td>
<td>597</td>
</tr>
<tr>
<td>4261</td>
<td>OSSEOUS GRAFT, SINGLE SITE</td>
<td>271</td>
<td>244</td>
<td>296</td>
</tr>
<tr>
<td>4262</td>
<td>OSSEOUS GRAFT, MULTIPLE SITES</td>
<td>380</td>
<td>380</td>
<td>380</td>
</tr>
<tr>
<td>4263</td>
<td>OSSEOUS SURGERY, SINGLE SITE</td>
<td>398</td>
<td>398</td>
<td>425</td>
</tr>
<tr>
<td>4270</td>
<td>PEDICLE SOFT TISSUE GRAFTS</td>
<td>391</td>
<td>391</td>
<td>391</td>
</tr>
<tr>
<td>4271</td>
<td>FREE SOFT TISSUE GRAFTS</td>
<td>365</td>
<td>419</td>
<td>422</td>
</tr>
<tr>
<td>4272</td>
<td>APICALLY REPOSITIONING FLAP</td>
<td>334</td>
<td>334</td>
<td>334</td>
</tr>
<tr>
<td>4320</td>
<td>PROVISIONAL SPLINT, INTRACORONAL</td>
<td>94</td>
<td>100</td>
<td>97</td>
</tr>
<tr>
<td>4321</td>
<td>PROVISIONAL SPLINT, EXTRACORONAL</td>
<td>80</td>
<td>80</td>
<td>98</td>
</tr>
<tr>
<td>4330</td>
<td>OCCLUSAL ADJUSTMENT, LIMITED</td>
<td>45</td>
<td>50</td>
<td>52</td>
</tr>
<tr>
<td>4331</td>
<td>OCCLUSAL ADJUSTMENT, COMPLETE</td>
<td>199</td>
<td>172</td>
<td>176</td>
</tr>
<tr>
<td>4340</td>
<td>PERIO SCALING &amp; ROOT PLANING, FULL MOUTH</td>
<td>112</td>
<td>91</td>
<td>105</td>
</tr>
<tr>
<td>4341</td>
<td>PERIO SCALING &amp; ROOT PLANING, PER QUAD</td>
<td>115</td>
<td>108</td>
<td>107</td>
</tr>
<tr>
<td>4345</td>
<td>SCALING-GINGIVAL INFLAMMATION</td>
<td>55</td>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>4360</td>
<td>APPLIANCE TO BREAK HARMFUL HABIT</td>
<td>270</td>
<td>270</td>
<td>296</td>
</tr>
<tr>
<td>4361</td>
<td>APPLIANCE FOR BRUXISM</td>
<td>266</td>
<td>266</td>
<td>292</td>
</tr>
<tr>
<td>4910</td>
<td>PERIODONTAL PROPHYLAXIS</td>
<td>65</td>
<td>69</td>
<td>75</td>
</tr>
<tr>
<td>5100</td>
<td>COMPLETE UPPER DENTURE</td>
<td>630</td>
<td>689</td>
<td>739</td>
</tr>
<tr>
<td>5120</td>
<td>COMPLETE LOWER DENTURE</td>
<td>633</td>
<td>705</td>
<td>739</td>
</tr>
<tr>
<td>5130</td>
<td>IMMEDIATE UPPER DENTURE</td>
<td>694</td>
<td>769</td>
<td>796</td>
</tr>
<tr>
<td>5140</td>
<td>IMMEDIATE LOWER DENTURE</td>
<td>685</td>
<td>745</td>
<td>804</td>
</tr>
<tr>
<td>5211</td>
<td>PARTIAL DENTURE, UPPER</td>
<td>431</td>
<td>468</td>
<td>506</td>
</tr>
<tr>
<td>5212</td>
<td>PARTIAL DENTURE, LOWER</td>
<td>569</td>
<td>555</td>
<td>601</td>
</tr>
<tr>
<td>5213</td>
<td>PARTIAL DENTURE, UPPER</td>
<td>872</td>
<td>827</td>
<td>871</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Lower</td>
<td>Middle</td>
<td>Upper</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>5214</td>
<td>LOWER PARTIAL DENTURE</td>
<td>723</td>
<td>794</td>
<td>830</td>
</tr>
<tr>
<td>5215</td>
<td>UPPER PARTIAL DENTURE</td>
<td>780</td>
<td>810</td>
<td>800</td>
</tr>
<tr>
<td>5216</td>
<td>PARTIAL DENTURE, LOWER</td>
<td>745</td>
<td>745</td>
<td>781</td>
</tr>
<tr>
<td>5217</td>
<td>DENT PART LOWER 2 GOLD CLASPS ACR</td>
<td>718</td>
<td>718</td>
<td>718</td>
</tr>
<tr>
<td>5218</td>
<td>PARTIAL DENTURE, LOWER</td>
<td>796</td>
<td>796</td>
<td>847</td>
</tr>
<tr>
<td>5219</td>
<td>PARTIAL DENTURE-LOWER</td>
<td>726</td>
<td>726</td>
<td>702</td>
</tr>
<tr>
<td>5220</td>
<td>PARTIAL DENTURE-LOWER</td>
<td>676</td>
<td>784</td>
<td>730</td>
</tr>
<tr>
<td>5240</td>
<td>DENT PART LWR LGL BAR 2 CLSP CST BS</td>
<td>750</td>
<td>750</td>
<td>750</td>
</tr>
<tr>
<td>5241</td>
<td>DENT PART LOWER CHROME LNLG BAR CST</td>
<td>745</td>
<td>757</td>
<td>757</td>
</tr>
<tr>
<td>5250</td>
<td>PARTIAL DENTURE-UPPER</td>
<td>702</td>
<td>702</td>
<td>701</td>
</tr>
<tr>
<td>5251</td>
<td>PARTIAL DENTURE-UPPER</td>
<td>676</td>
<td>756</td>
<td>703</td>
</tr>
<tr>
<td>5252</td>
<td>PARTIAL DENTURE-UPPER</td>
<td>750</td>
<td>757</td>
<td>757</td>
</tr>
<tr>
<td>5253</td>
<td>PARTIAL DENTURE-UPPER</td>
<td>388</td>
<td>388</td>
<td>388</td>
</tr>
<tr>
<td>5310</td>
<td>DENT PART ADDTL CLASP WITH RST EACH</td>
<td>81</td>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>5410</td>
<td>DENTURE ADJUSTMENT</td>
<td>36</td>
<td>35</td>
<td>38</td>
</tr>
<tr>
<td>5415</td>
<td>DENT ADJ COMPL OR PART U OR L</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>5421</td>
<td>LOWER PARTIAL DENTURE ADJUSTMENT</td>
<td>31</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>5510</td>
<td>REPAIR BROKEN COMPLETE DENTURE BASE</td>
<td>81</td>
<td>74</td>
<td>89</td>
</tr>
<tr>
<td>5520</td>
<td>REPL. EA. MISS/BROKEN TOOTH COM. DEN.</td>
<td>61</td>
<td>55</td>
<td>68</td>
</tr>
<tr>
<td>5610</td>
<td>DENTURE REPAIR</td>
<td>69</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>5620</td>
<td>DENTURE REPAIR</td>
<td>83</td>
<td>80</td>
<td>87</td>
</tr>
<tr>
<td>5630</td>
<td>DENTURE REPAIR</td>
<td>60</td>
<td>66</td>
<td>74</td>
</tr>
<tr>
<td>5640</td>
<td>DENTURE REPAIR</td>
<td>60</td>
<td>64</td>
<td>72</td>
</tr>
<tr>
<td>5650</td>
<td>DENTURE REPAIR</td>
<td>75</td>
<td>80</td>
<td>88</td>
</tr>
<tr>
<td>5660</td>
<td>DENTURE REPAIR</td>
<td>102</td>
<td>103</td>
<td>123</td>
</tr>
<tr>
<td>5670</td>
<td>DENTURE REPAIR</td>
<td>76</td>
<td>76</td>
<td>76</td>
</tr>
<tr>
<td>5680</td>
<td>DENTURE REPAIR</td>
<td>84</td>
<td>82</td>
<td>90</td>
</tr>
<tr>
<td>5690</td>
<td>DENTURE REPLACE BROKN CLSP EA ADDTL</td>
<td>80</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>5725</td>
<td>REBASE U/L DENTURE PART OR COMPLETE</td>
<td>190</td>
<td>190</td>
<td>171</td>
</tr>
<tr>
<td>5730</td>
<td>DENTURE RELINING: UPPER COMPLETE</td>
<td>142</td>
<td>142</td>
<td>145</td>
</tr>
<tr>
<td>5731</td>
<td>DENTURE RELINING: LOWER COMPLETE</td>
<td>150</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>5735</td>
<td>RELINE U/L DENT PART OR COMP OFFICE</td>
<td>162</td>
<td>162</td>
<td>162</td>
</tr>
<tr>
<td>5740</td>
<td>DENTURE RELINE PARTIAL UPPER OFFICE</td>
<td>118</td>
<td>118</td>
<td>121</td>
</tr>
<tr>
<td>5745</td>
<td>DENTURE RELINE PARTIAL LOWER OFFICE</td>
<td>135</td>
<td>135</td>
<td>135</td>
</tr>
<tr>
<td>5750</td>
<td>DENTURE RELINE UPPER COMPLETE LAB</td>
<td>195</td>
<td>199</td>
<td>209</td>
</tr>
<tr>
<td>5751</td>
<td>DENTURE RELINE LOWER COMPLETE LAB</td>
<td>205</td>
<td>205</td>
<td>212</td>
</tr>
<tr>
<td>5752</td>
<td>DENTURE RELINE UPPER PARTIAL LAB</td>
<td>198</td>
<td>242</td>
<td>216</td>
</tr>
<tr>
<td>5753</td>
<td>DENTURE RELINE LOWER PARTIAL LAB</td>
<td>205</td>
<td>201</td>
<td>214</td>
</tr>
<tr>
<td>5760</td>
<td>DENTURE RELINE LOWER PARTIAL LAB</td>
<td>203</td>
<td>203</td>
<td>212</td>
</tr>
<tr>
<td>5780</td>
<td>DENTURE, TEMPORARY PARTIAL UPPER</td>
<td>266</td>
<td>270</td>
<td>269</td>
</tr>
<tr>
<td>5781</td>
<td>DENT TEMP PART-STAYPLATE LOWER</td>
<td>270</td>
<td>270</td>
<td>270</td>
</tr>
<tr>
<td>5785</td>
<td>TISSUE CONDITIONING</td>
<td>78</td>
<td>71</td>
<td>86</td>
</tr>
<tr>
<td>5974</td>
<td>ENDOSESSEOUS IMPLANT (IN THE BONE)</td>
<td>948</td>
<td>948</td>
<td>948</td>
</tr>
<tr>
<td>6210</td>
<td>BRIDGE PONTIC CAST HIGH NOBLE METAL</td>
<td>594</td>
<td>594</td>
<td>606</td>
</tr>
<tr>
<td>6217</td>
<td>BRIDGE PONTIC CAST NOBLE METAL</td>
<td>517</td>
<td>517</td>
<td>517</td>
</tr>
<tr>
<td>6240</td>
<td>BRIDGE PONTIC PORCELAIN FUSED/HI NOBLE</td>
<td>579</td>
<td>604</td>
<td>629</td>
</tr>
<tr>
<td>6241</td>
<td>BRIDGE PONTIC PROCELAIN FUSED/BASE METAL</td>
<td>552</td>
<td>537</td>
<td>581</td>
</tr>
<tr>
<td>6242</td>
<td>BRIDGE PONTIC PROCELAIN FUSED/NOBLE</td>
<td>532</td>
<td>563</td>
<td>586</td>
</tr>
<tr>
<td>6250</td>
<td>BRIDGE PONTIC RESIN/HIGH NOBLE METAL</td>
<td>579</td>
<td>579</td>
<td>577</td>
</tr>
<tr>
<td>6251</td>
<td>BRIDGE PONTIC/PREDOM BASE METAL</td>
<td>438</td>
<td>438</td>
<td>438</td>
</tr>
<tr>
<td>6252</td>
<td>BRIDGE PONTIC RESIN WITH NOBLE METAL</td>
<td>533</td>
<td>533</td>
<td>533</td>
</tr>
<tr>
<td>6350</td>
<td>GOLD INLAY-THREE SURFACES</td>
<td>552</td>
<td>552</td>
<td>552</td>
</tr>
<tr>
<td>6545</td>
<td>BONDED RESIN RETAINER (MARYLAND BRIDGE)</td>
<td>197</td>
<td>224</td>
<td>233</td>
</tr>
<tr>
<td>6640</td>
<td>REPAIRS REPL BRKN FCNG WITH ACRYLIC</td>
<td>102</td>
<td>108</td>
<td>102</td>
</tr>
<tr>
<td>6710</td>
<td>BRIDGE ABUTMENT CROWN, PLASTIC</td>
<td>224</td>
<td>224</td>
<td>224</td>
</tr>
<tr>
<td>6720</td>
<td>BRIDGE ABUTMENT CROWN RESIN/HIGH NOBLE</td>
<td>565</td>
<td>565</td>
<td>574</td>
</tr>
<tr>
<td>6721</td>
<td>BRIDGE ABUTMENT CROWN PLASTIC/NON-PREC</td>
<td>486</td>
<td>486</td>
<td>486</td>
</tr>
<tr>
<td>6722</td>
<td>BRIDGE ABUTMENT CROWN RESIN/BASE METAL</td>
<td>553</td>
<td>553</td>
<td>553</td>
</tr>
<tr>
<td>6750</td>
<td>BRIDGE ABUTMENT CROWN RESIN/NOBLE METAL</td>
<td>588</td>
<td>612</td>
<td>632</td>
</tr>
<tr>
<td>6751</td>
<td>BRIDGE ABUTM CROWN PORCELAIN/NOBLE MTL</td>
<td>552</td>
<td>546</td>
<td>583</td>
</tr>
<tr>
<td>6752</td>
<td>BRIDGE ABUTM CROWN PROCELAIN/NOBLE MTL</td>
<td>538</td>
<td>562</td>
<td>588</td>
</tr>
<tr>
<td>6780</td>
<td>BRIDGE ABUTM CROWN 3/4 CAST NOBLE MTL</td>
<td>614</td>
<td>614</td>
<td>614</td>
</tr>
<tr>
<td>6790</td>
<td>BRIDGE ABUTM CROWN FULL CAST HIGH NOBLE</td>
<td>658</td>
<td>592</td>
<td>681</td>
</tr>
<tr>
<td>6791</td>
<td>BRIDGE ABUTM CROWN FULL CAST NOBLE METAL</td>
<td>566</td>
<td>566</td>
<td>589</td>
</tr>
<tr>
<td>6930</td>
<td>RECEMENT BRIDGE</td>
<td>53</td>
<td>55</td>
<td>57</td>
</tr>
<tr>
<td>6950</td>
<td>PRECISION ATTACHMENT</td>
<td>217</td>
<td>219</td>
<td>215</td>
</tr>
<tr>
<td>6960</td>
<td>DOWEL PIN METAL</td>
<td>161</td>
<td>161</td>
<td>151</td>
</tr>
<tr>
<td>6970</td>
<td>REPAIRS TO CROWNS</td>
<td>125</td>
<td>125</td>
<td>135</td>
</tr>
<tr>
<td>6980</td>
<td>REPAIR TO FIXED BRIDGE</td>
<td>148</td>
<td>159</td>
<td>154</td>
</tr>
<tr>
<td>7110</td>
<td>EXTRACTION, SINGLE TOOTH</td>
<td>60</td>
<td>69</td>
<td>69</td>
</tr>
<tr>
<td>7111</td>
<td>TOOTH EXTRACT. W/X-RAY &amp; GENL ANAESTH</td>
<td>114</td>
<td>114</td>
<td>114</td>
</tr>
<tr>
<td>INSURANCE</td>
<td>EMERGENCY ADOPTIONS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7120 SIMPLE EXTRACTION-ADDITIONAL TOOTH</td>
<td>56 64 65</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7130 ROOT REMOVAL-EXPOSED ROOTS</td>
<td>78 70 81</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7210 SURGICAL EXTRACTION</td>
<td>113 120 132</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7220 SURGICAL EXTRACTION-TISSUE IMPACTION</td>
<td>161 176 170</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7230 SURGICAL EXTRACTION-PARTIAL IMPACTION</td>
<td>236 234 232</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7235 EXTRACTION SURG PARTIAL BONY IMPACT</td>
<td>238 243 216</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7240 SURGICAL EXTRACTION-FULL IMPACTION</td>
<td>306 283 293</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7241 SURGICAL EXTR-FULL IMPACT.-DIFFICULT</td>
<td>332 322 336</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7245 EXTRACTION SURG COMPL BONY IMPACT</td>
<td>324 286 324</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7250 SURGICAL REMOVAL, RESIDUAL ROOTS</td>
<td>110 117 124</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7270 TOOTH REIMPLANTATION</td>
<td>233 233 233</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7280 SURG. EXPOSURE OF TOOTH FOR ORTHO</td>
<td>272 272 296</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7281 SURG. EXPOSURE OF TOOTH TO AID ERUPTION</td>
<td>191 207 172</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7286 BIOPSY OF ORAL TISSUE, SOFT</td>
<td>124 131 115</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7310 ALVEOPLASTY-PER QUAD W/EXTRACTIONS</td>
<td>137 116 138</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7320 ALVEOPLASTY-PER QUAD W/O EXTRACTIONS</td>
<td>189 189 177</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7415 EXCISION PERICORONAL GINGIVA</td>
<td>119 119 131</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7430 SURGICAL EXCISION</td>
<td>214 211 226</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7431 SURGICAL EXCISION</td>
<td>271 271 271</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7450 REMOVAL OF CYST</td>
<td>168 151 181</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7451 REMOVAL OF CYST</td>
<td>359 359 362</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7460 REMOVAL OF CYST</td>
<td>238 238 238</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7461 REMOVAL OF CYST</td>
<td>559 559 559</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7470 REMOVAL OF EXOSTOSIS</td>
<td>355 355 366</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7510 INCISION &amp; DRAINAGE, INTRAORAL ABSCESS</td>
<td>65 70 69</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7881 T.M.J. THERAPY</td>
<td>251 251 252</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7910 SUTURE OF WOUND</td>
<td>78 78 78</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7960 FRENLECTOMY</td>
<td>227 222 236</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7970 SURG. REPAIR EXCISION OF HYPERPLASTIC</td>
<td>158 150 174</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8000 ORTHODONTIC PAYMENT</td>
<td>638 638 638</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8001 ORTHODONTIC-FIRST PAYMENT</td>
<td>1657 1657 1657</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8002 ORTHODONTIC-FINAL PAYMENT</td>
<td>1791 1791 1791</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8010 ORTHODONTIC WORK-UP</td>
<td>183 188 186</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8110 TOOTH GUIDANCE APPLIANCE REMOVABLE</td>
<td>308 326 293</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8120 TOOTH GUIDANCE APPLIANCE FIXED</td>
<td>478 515 478</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8210 REMOVABLE APPLIANCE THERAPY</td>
<td>282 278 317</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8220 FIXED APPLIANCE THERAPY</td>
<td>357 357 357</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8360 REMOVABLE APPLIANCE THERAPY</td>
<td>247 247 247</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8370 FIXED APPLIANCE THERAPY</td>
<td>397 397 397</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8460 ORTHO TREATMENT MIXED DENT CL 1 MAL</td>
<td>3354 3354 3354</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8470 ORTHO TREATMENT MIXED DENT CL 2 MAL</td>
<td>3597 3462 3516</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8560 ORTHO TREATMENT PERM DENT CL 1 MAL</td>
<td>3240 3340 3354</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8570 ORTHO TREATMENT PERM DENT CL 2 MAL</td>
<td>3408 3354 3462</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8580 ORTHO TREATMENT PERM DENT CL 3 MAL</td>
<td>3380 3380 3570</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9110 EMERGENCY PALLIATIVE TREATMENT</td>
<td>39 41 46</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9210 LOCAL ANESTHESIA</td>
<td>27 25 30</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9220 GENERAL ANESTHESIA</td>
<td>115 99 102</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9230 ANALGESIA</td>
<td>25 27 30</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9240 INTRAVENOUS SEDATION</td>
<td>92 88 102</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9310 CONSULTATION</td>
<td>54 47 53</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9430 VISITS OFFICE REG HRS-NO OPER SV</td>
<td>36 31 37</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9610 DRUGS THERAPEUTIC INJECTION</td>
<td>35 35 35</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9630 DRUGS OTHER AND/OR MEDICAMENTS</td>
<td>18 20 21</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9910 APPLICATION OF DESENSITIZING MEDICATION</td>
<td>21 22 22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9930 COMPLICATIONS UNUSUAL CIRCUMSTANCES</td>
<td>41 41 41</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9950 OCCLUSION ANALYSIS MOUNTED CASE</td>
<td>75 75 75</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9951 OCCLUSAL ADJUSTMENT</td>
<td>29 26 32</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FOR SERVICES AND EQUIPMENT NOT ON THE SCHEDULE, THE LIMIT OF PIP LIABILITY IS A REASONABLE AMOUNT CONSIDERING THE FEE SCHEDULES FOR SIMILAR SERVICES OR EQUIPMENT IN THE REGION.
(d) The following is the Medical Fee Schedule for nursing and allied professional health services:

**STATE OF NEW JERSEY**  
**PERSONAL AUTO INJURY FEE SCHEDULE**  
**NURSING AND ALLIED PROFESSIONAL HEALTH SERVICES**

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRIVATE NURSING CARE (PER HOUR)</td>
<td></td>
</tr>
<tr>
<td>Registered nurse</td>
<td>40.00</td>
</tr>
<tr>
<td>Licensed practical nurse</td>
<td>35.00</td>
</tr>
<tr>
<td>Home health aide</td>
<td>15.50</td>
</tr>
<tr>
<td>Live-in attendant (per 24-hour shift)</td>
<td>136.00</td>
</tr>
<tr>
<td>HOME HEALTH VISITS (PER VISIT)</td>
<td></td>
</tr>
<tr>
<td>Registered nurse</td>
<td>82.00</td>
</tr>
<tr>
<td>Licensed practical nurse</td>
<td>58.00</td>
</tr>
<tr>
<td>Physical therapist</td>
<td>77.00</td>
</tr>
<tr>
<td>Speech therapist</td>
<td>77.00</td>
</tr>
<tr>
<td>Occupational therapist</td>
<td>77.00</td>
</tr>
</tbody>
</table>

(e) The following is the Medical Fee Schedule for ambulance services:

**STATE OF NEW JERSEY**  
**PERSONAL AUTO INJURY FEE SCHEDULE**  
**AMBULANCE SERVICES**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>A0010</td>
<td>Ambulance service basic life support (BLS), base rate, emergency transport, one way</td>
<td>110.00</td>
</tr>
<tr>
<td>A0020</td>
<td>Ambulance service (BLS) per mile, transport, one way</td>
<td>4.50</td>
</tr>
<tr>
<td>A0070</td>
<td>Ambulance service, oxygen administration and supplies life sustaining situation</td>
<td>30.00</td>
</tr>
<tr>
<td>Z0224</td>
<td>Cardiac monitoring during an ambulance trip</td>
<td>50.00</td>
</tr>
</tbody>
</table>

(f) The following is the Medical Fee Schedule for durable medical equipment and prosthetic devices:

**STATE OF NEW JERSEY**  
**PERSONAL AUTO INJURY FEE SCHEDULE**  
**DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES**  
**CODES BEGINNING WITH ‘A’**

<table>
<thead>
<tr>
<th>HCPCS Code</th>
<th>Description</th>
<th>Fee for New Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A4214</td>
<td>Sterile saline or water, 30 cc vial</td>
<td>.81</td>
</tr>
<tr>
<td>A4310</td>
<td>Insertion tray without drainage bag and without catheter (accessories only)</td>
<td>6.61</td>
</tr>
<tr>
<td>A4311</td>
<td>Insertion tray without drainage bag with indwelling catheter, Foley type, two-way latex with coating (teflon, silicone, silicone elastomer, or hydrophilic, etc.)</td>
<td>8.34</td>
</tr>
<tr>
<td>A4312</td>
<td>Insertion tray without drainage bag with indwelling catheter, Foley type, two-way, all silicone</td>
<td>8.34</td>
</tr>
<tr>
<td>A4313</td>
<td>Insertion tray without drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation</td>
<td>8.34</td>
</tr>
<tr>
<td>A4314</td>
<td>Insertion tray with drainage bag with indwelling catheter, Foley type, two-way latex with coating (Teflon, silicone, silicone elastomer, or hydrophilic, etc.)</td>
<td>15.46</td>
</tr>
<tr>
<td>A4315</td>
<td>Insertion tray with drainage bag with indwelling catheter, Foley type, two-way, all silicone</td>
<td>15.46</td>
</tr>
<tr>
<td>A4316</td>
<td>Insertion tray with drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation</td>
<td>15.46</td>
</tr>
<tr>
<td>A4320</td>
<td>Irrigation tray for bladder irrigation with bulb or piston syringe</td>
<td>5.00</td>
</tr>
<tr>
<td>A4322</td>
<td>Irrigation syringe, bulb or piston</td>
<td>2.50</td>
</tr>
<tr>
<td>A4323</td>
<td>Sterile saline irrigation solution, 1000 ml</td>
<td>8.00</td>
</tr>
<tr>
<td>A4328</td>
<td>Female external urinary collection device; pouch, each</td>
<td>10.00</td>
</tr>
<tr>
<td>A4329</td>
<td>External catheter starter set, male/female, includes catheters/urinary collection device, bag/pouch and accessories (tubing, clamps, etc.) 7-day supply</td>
<td>39.95</td>
</tr>
<tr>
<td>A4338</td>
<td>Indwelling catheter, Foley type, two-way latex with coating (Teflon, silicone, silicone elastomer or hydrophilic, etc.)</td>
<td>8.14</td>
</tr>
<tr>
<td>A4340</td>
<td>Indwelling catheter, specialty type, (e.g., Coude, Mushroom, Wing, etc.)</td>
<td>10.00</td>
</tr>
<tr>
<td>A4344</td>
<td>Indwelling catheter, Foley type, two-way, all silicone</td>
<td>15.52</td>
</tr>
<tr>
<td>A4346</td>
<td>Indwelling catheter, Foley type, three-way, for continuous irrigation</td>
<td>10.34</td>
</tr>
<tr>
<td>A4347</td>
<td>Male external catheter with or without adhesive, with or without anti-reflux device; per dozen</td>
<td>30.51</td>
</tr>
<tr>
<td>A4351</td>
<td>Intermittent urinary catheter, straight tip</td>
<td>5.00</td>
</tr>
<tr>
<td>A4352</td>
<td>Intermittent urinary catheter; Coude (curved) tip</td>
<td>5.00</td>
</tr>
<tr>
<td>A4354</td>
<td>Insertion tray with drainage bag but without catheter</td>
<td>13.73</td>
</tr>
<tr>
<td>A4355</td>
<td>Irrigation tubing set for continuous bladder irrigation through a three-way indwelling Foley catheter</td>
<td>11.90</td>
</tr>
<tr>
<td>A4356</td>
<td>External urethral clamp or compression device (not to be used for catheter clamp)</td>
<td>37.03</td>
</tr>
<tr>
<td>A4357</td>
<td>Bedside drainage bag, day or night, with or without anti-reflux device, with or without tube</td>
<td>7.93</td>
</tr>
<tr>
<td>A4358</td>
<td>Urinary leg bag; vinyl, with or without tube</td>
<td>7.12</td>
</tr>
<tr>
<td>A4359</td>
<td>Urinary suspensory; without leg bag</td>
<td>31.90</td>
</tr>
<tr>
<td>A4361</td>
<td>Ostomy faceplate</td>
<td>31.53</td>
</tr>
<tr>
<td>A4362</td>
<td>Skin barrier; solid, 4 x 4 or equivalent; each</td>
<td>5.03</td>
</tr>
<tr>
<td>A4363</td>
<td>Skin barrier; liquid (spray, brush, etc.) powder or paste; per oz.</td>
<td>4.07</td>
</tr>
<tr>
<td>HCPCS Code</td>
<td>Description</td>
<td>Fee For New Eqpt</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>E0100</td>
<td>Cane, includes canes of all materials, adjustable or fixed, with tip</td>
<td>14.44</td>
</tr>
<tr>
<td>E0105</td>
<td>Cane, quad or three prong, includes canes of all materials, adjustable or fixed, with tips</td>
<td>38.07</td>
</tr>
<tr>
<td>E0110</td>
<td>Crutches, forearm, includes crutches of various materials, adjustable or fixed, pair, complete with tips and handgrips</td>
<td>55.85</td>
</tr>
<tr>
<td>E0111</td>
<td>Crutch forearm, includes crutches of various materials, adjustable or fixed, each, with tip and handgrip</td>
<td>63.10</td>
</tr>
<tr>
<td>E0112</td>
<td>Crutches underarm, wood, adjustable or fixed, pair, with pads, tips and handgrips</td>
<td>45.77</td>
</tr>
<tr>
<td>E0113</td>
<td>Crutch underarm, wood, adjustable or fixed, each, with pad, tip and handgrip</td>
<td>18.81</td>
</tr>
<tr>
<td>E0114</td>
<td>Crutches underarm, aluminum, adjustable or fixed, pair with pads, tips and handgrips</td>
<td>66.11</td>
</tr>
<tr>
<td>E0116</td>
<td>Crutch underarm, aluminum, adjustable or fixed, each, with pad, tip and handgrip</td>
<td>18.31</td>
</tr>
<tr>
<td>E0130</td>
<td>Walker, rigid (pickup), adjustable or fixed height</td>
<td>53.94</td>
</tr>
<tr>
<td>E0135</td>
<td>Walker, folding (pickup), adjustable or fixed height</td>
<td>57.31</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Old Price</td>
</tr>
<tr>
<td>-------</td>
<td>---------------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>E0141</td>
<td>Walker, wheeled, without seat</td>
<td>92.44</td>
</tr>
<tr>
<td>E0142</td>
<td>Rigid walker, wheeled, with seat</td>
<td>331.54</td>
</tr>
<tr>
<td>E0143</td>
<td>Folding walker, wheeled, without seat</td>
<td>105.16</td>
</tr>
<tr>
<td>E0145</td>
<td>Walker, wheeled, with seat and crutch attachments</td>
<td>170.30</td>
</tr>
<tr>
<td>E0146</td>
<td>Walker, wheeled, with seat</td>
<td>306.88</td>
</tr>
<tr>
<td>E0147</td>
<td>Heavy duty, multiple breaking system, variable wheel resistance walker</td>
<td>199.33</td>
</tr>
<tr>
<td>E0150</td>
<td>Underarm pad, crutch, replacement, each</td>
<td>10.07</td>
</tr>
<tr>
<td>E0151</td>
<td>Handgrip, cane, crutch, or walker replacement, each</td>
<td>2.44</td>
</tr>
<tr>
<td>E0153</td>
<td>Platform attachment, forearm crutch, each</td>
<td>53.39</td>
</tr>
<tr>
<td>E0154</td>
<td>Platform attachment, walker, each</td>
<td>66.11</td>
</tr>
<tr>
<td>E0155</td>
<td>Wheel attachment, rigid pick-up walker attachments</td>
<td>24.71</td>
</tr>
<tr>
<td>E0156</td>
<td>Seat attachment, walker</td>
<td>20.34</td>
</tr>
<tr>
<td>E0157</td>
<td>Crutch attachment, walker, each</td>
<td>53.39</td>
</tr>
<tr>
<td>E0158</td>
<td>Leg extensions for a walker</td>
<td>32.54</td>
</tr>
<tr>
<td>E0160</td>
<td>Sitz type bath, portable, fits over commode seat</td>
<td>9.16</td>
</tr>
<tr>
<td>E0161</td>
<td>Sitz type bath, portable, fits over commode seat, with faucet attachments</td>
<td>50.85</td>
</tr>
<tr>
<td>E0163</td>
<td>Commode chair, stationary, with fixed arms</td>
<td>85.98</td>
</tr>
<tr>
<td>E0164</td>
<td>Commode chair, mobile, with fixed arms</td>
<td>203.40</td>
</tr>
<tr>
<td>E0165</td>
<td>Commode chair, stationary with detachable arms</td>
<td>174.55</td>
</tr>
<tr>
<td>E0166</td>
<td>Commode chair, mobile with detachable arms</td>
<td>255.88</td>
</tr>
<tr>
<td>E0167</td>
<td>Bail or pan for use with commode chair</td>
<td>9.83</td>
</tr>
<tr>
<td>E0175</td>
<td>Foot rest, for use with commode chair, each</td>
<td>42.50</td>
</tr>
<tr>
<td>E0180</td>
<td>Pressure pad, alternating with pump</td>
<td>231.86</td>
</tr>
<tr>
<td>E0181</td>
<td>Pressure pad, alternating with pump, heavy duty</td>
<td>254.32</td>
</tr>
<tr>
<td>E0182</td>
<td>Pump for alternating pressure pad</td>
<td>280.69</td>
</tr>
<tr>
<td>E0183</td>
<td>Flotation pad, for wheelchair</td>
<td>85.46</td>
</tr>
<tr>
<td>E0184</td>
<td>Flotation mattress, dry</td>
<td>66.11</td>
</tr>
<tr>
<td>E0185</td>
<td>Decubitus care pad, flotation or gel pad with foam leveling pad (mattress size)</td>
<td>60.00</td>
</tr>
<tr>
<td>E0188</td>
<td>Synthetic sheepskin pad</td>
<td>20.34</td>
</tr>
<tr>
<td>E0189</td>
<td>Lambswool sheepskin pad, any size</td>
<td>20.34</td>
</tr>
<tr>
<td>E0190</td>
<td>Decubitus care mattress, includes flotation or gel mattress</td>
<td>241.87</td>
</tr>
<tr>
<td>E0191</td>
<td>Heel or elbow protector, each</td>
<td>9.97</td>
</tr>
<tr>
<td>E0192</td>
<td>Low pressure and positioning pad for wheelchair</td>
<td>315.00</td>
</tr>
<tr>
<td>E0193</td>
<td>Powered air flotation bed (low air loss therapy)</td>
<td>7131.92</td>
</tr>
<tr>
<td>E0195</td>
<td>Replacement pad for use with medically necessary alternating pressure pad owned by the patient</td>
<td>46.03</td>
</tr>
<tr>
<td>E0200</td>
<td>Heat lamp, without stand (table model), includes bulb, or infrared element</td>
<td>35.60</td>
</tr>
<tr>
<td>E0205</td>
<td>Heat lamp, with stand, includes bulb, or infrared element</td>
<td>35.60</td>
</tr>
<tr>
<td>E0210</td>
<td>Electric heat pad, standard</td>
<td>25.11</td>
</tr>
<tr>
<td>E0215</td>
<td>Electric heat pad, moist</td>
<td>34.60</td>
</tr>
<tr>
<td>E0225</td>
<td>Hydrocollator unit, includes pads</td>
<td>30.51</td>
</tr>
<tr>
<td>E0235</td>
<td>Paraffin bath unit, portable</td>
<td>187.44</td>
</tr>
<tr>
<td>E0238</td>
<td>Non-electric heat pad moist</td>
<td>30.51</td>
</tr>
<tr>
<td>E0249</td>
<td>Pad for water circulating heat unit</td>
<td>120.00</td>
</tr>
<tr>
<td>E0250</td>
<td>Hospital bed, with side rails, fixed height, with mattress</td>
<td>849.97</td>
</tr>
<tr>
<td>E0251</td>
<td>Hospital bed, with side rails, fixed height, without mattress</td>
<td>648.34</td>
</tr>
<tr>
<td>E0252</td>
<td>Hospital bed, with side rails, fixed height, with mattress</td>
<td>1045.98</td>
</tr>
<tr>
<td>E0255</td>
<td>Hospital bed, with side rails, variable height, Hi-Lo, with mattress</td>
<td>929.80</td>
</tr>
<tr>
<td>E0260</td>
<td>Hospital bed, with side rails, semi-electric, head and foot adjustment, with mattress</td>
<td>1487.23</td>
</tr>
<tr>
<td>E0265</td>
<td>Hospital bed, with side rails, semi-electric, head and foot adjustment, with mattress</td>
<td>1841.08</td>
</tr>
<tr>
<td>E0266</td>
<td>Hospital bed, with side rails, total electric head, foot, and height adjustments without mattress</td>
<td>1871.28</td>
</tr>
<tr>
<td>E0271</td>
<td>Mattress, innerspring</td>
<td>162.52</td>
</tr>
<tr>
<td>E0272</td>
<td>Mattress, foam rubber</td>
<td>150.00</td>
</tr>
<tr>
<td>E0275</td>
<td>Bed pan, standard, metal or plastic</td>
<td>15.26</td>
</tr>
<tr>
<td>E0276</td>
<td>Bed pan, fracture, metal or plastic</td>
<td>12.15</td>
</tr>
<tr>
<td>E0280</td>
<td>Bed, cradle, any type</td>
<td>28.48</td>
</tr>
<tr>
<td>E0305</td>
<td>Bed side rails, half length</td>
<td>138.64</td>
</tr>
<tr>
<td>E0310</td>
<td>Bed side rails, full length</td>
<td>158.86</td>
</tr>
<tr>
<td>E0325</td>
<td>Urinal: male, jug type, any material</td>
<td>6.30</td>
</tr>
<tr>
<td>E0326</td>
<td>Urinal: female, jug type, any material</td>
<td>8.95</td>
</tr>
<tr>
<td>E0450</td>
<td>Volume ventilator; stationary</td>
<td>10170.00</td>
</tr>
<tr>
<td>E0451</td>
<td>Volume ventilator; portable (includes battery, battery charger, and battery cables)</td>
<td>5524.34</td>
</tr>
<tr>
<td>E0456</td>
<td>Chest shell (cuirass)</td>
<td>400.00</td>
</tr>
<tr>
<td>E0458</td>
<td>Negative pressure pump</td>
<td>4803.99</td>
</tr>
<tr>
<td>E0459</td>
<td>Chest Wrap</td>
<td>520.00</td>
</tr>
<tr>
<td>E0461</td>
<td>Negative pressure ventilator; stationary (e.g., Iron-lung)</td>
<td>1830.60</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Insurance</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>E0480</td>
<td>Percussor, electric or pneumatic, home model</td>
<td>269.50</td>
</tr>
<tr>
<td>E0500</td>
<td>IPPB machines with manual valves, external power source, includes cylinder regulator, built-in nebulization</td>
<td>452.57</td>
</tr>
<tr>
<td>E0505</td>
<td>IPPB machines with manual valves, electrically driven with internal power source, built-in nebulization</td>
<td>661.05</td>
</tr>
<tr>
<td>E0510</td>
<td>IPPB machines with automatic valves, external power source includes cylinder regulator, built-in nebulization</td>
<td>661.05</td>
</tr>
<tr>
<td>E0515</td>
<td>IPPB machines with automatic valves, electrically driven with internal compressor, built-in nebulization</td>
<td>452.57</td>
</tr>
<tr>
<td>E0550</td>
<td>Humidifier, durable for extensive supplemental humidification during IPPB treatment or oxygen delivery; e.g., Cascade</td>
<td>304.08</td>
</tr>
<tr>
<td>E0560</td>
<td>Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery; e.g., Cascade Jr.</td>
<td>62.33</td>
</tr>
<tr>
<td>E0565</td>
<td>Compressor, air power source for equipment which is not self-contained or driven</td>
<td>488.01</td>
</tr>
<tr>
<td>E0570</td>
<td>Nebulizer, with compressor; e.g., DeVilbiss Pulmo-Aid</td>
<td>160.26</td>
</tr>
<tr>
<td>E0575</td>
<td>Nebulizer, self-contained, ultrasonic</td>
<td>706.82</td>
</tr>
<tr>
<td>E0580</td>
<td>Nebulizer, durable, glass or autoclavable plastic bottle type, for use with regulator or flowmeter</td>
<td>116.96</td>
</tr>
<tr>
<td>E0585</td>
<td>Nebulizer, with compressor and heater</td>
<td>116.96</td>
</tr>
<tr>
<td>E0600</td>
<td>Suction pump, home model, portable</td>
<td>395.10</td>
</tr>
<tr>
<td>E0601</td>
<td>Nasal continuous airway pressure (CPAP) device</td>
<td>1017.00</td>
</tr>
<tr>
<td>E0605</td>
<td>Vaporizer, room type</td>
<td>29.49</td>
</tr>
<tr>
<td>E0606</td>
<td>Postural drainage board</td>
<td>152.55</td>
</tr>
<tr>
<td>E0607</td>
<td>Home blood glucose monitor</td>
<td>150.91</td>
</tr>
<tr>
<td>E0608</td>
<td>Blood glucose monitor with special features (e.g., voice synthesizers, automatic timers, etc.)</td>
<td>488.16</td>
</tr>
<tr>
<td>E0610</td>
<td>Pacemaker monitor self-contained, (checks battery depletion, includes audible and visible check systems)</td>
<td>324.42</td>
</tr>
<tr>
<td>E0615</td>
<td>Pacemaker monitor self-contained, (checks battery depletion and other pacemaker components, includes digital/visible check systems)</td>
<td>324.42</td>
</tr>
<tr>
<td>E0620</td>
<td>Seat lift chair, motorized to assist patient in sitting and standing</td>
<td>799.31</td>
</tr>
<tr>
<td>E0621</td>
<td>Sling or seat, patient lift, canvas or nylon</td>
<td>61.10</td>
</tr>
<tr>
<td>E0630</td>
<td>Patient lift, hydraulic, with seat or sling</td>
<td>899.38</td>
</tr>
<tr>
<td>E0635</td>
<td>Patient lift, electric with seat or sling</td>
<td>742.67</td>
</tr>
<tr>
<td>E0650</td>
<td>Pneumatic compressor, non-segmental home model, (lymphedema pump)</td>
<td>503.42</td>
</tr>
<tr>
<td>E0651</td>
<td>Pneumatic compressor, segmental home model (lymphedema pump) without calibrated gradient pressure</td>
<td>706.82</td>
</tr>
<tr>
<td>E0652</td>
<td>Pneumatic compressor, segmental home model (lymphedema pump) with calibrated gradient pressure</td>
<td>3254.40</td>
</tr>
<tr>
<td>E0655</td>
<td>Pneumatic appliance for use with pneumatic compressor, half arm</td>
<td>80.44</td>
</tr>
<tr>
<td>E0660</td>
<td>Pneumatic appliance for use with pneumatic compressor, full leg</td>
<td>132.21</td>
</tr>
<tr>
<td>E0665</td>
<td>Pneumatic appliance for use with pneumatic compressor, full arm</td>
<td>86.35</td>
</tr>
<tr>
<td>E0666</td>
<td>Pneumatic appliance for use with pneumatic compressor, half leg</td>
<td>127.13</td>
</tr>
<tr>
<td>E0667</td>
<td>Pneumatic appliance for use with segmental pneumatic compressor, leg</td>
<td>248.15</td>
</tr>
<tr>
<td>E0668</td>
<td>Pneumatic appliance for use with segmental pneumatic compressor, arm</td>
<td>718.66</td>
</tr>
<tr>
<td>E0720</td>
<td>TENS, two lead, localized stimulation</td>
<td>531.79</td>
</tr>
<tr>
<td>E0730</td>
<td>TENS, four lead, larger area/multiple nerve stimulation</td>
<td>527.15</td>
</tr>
<tr>
<td>E0740</td>
<td>Replacement batteries for medically necessary TENS owned by the patient</td>
<td>2.74</td>
</tr>
<tr>
<td>E0744</td>
<td>Neurovascular stimulator for scoliosis</td>
<td>995.00</td>
</tr>
<tr>
<td>E0745</td>
<td>Neurovascular stimulator, electronic shock unit</td>
<td>1011.92</td>
</tr>
<tr>
<td>E0746</td>
<td>Electromyography (EMG), biofeedback device</td>
<td>670.00</td>
</tr>
<tr>
<td>E0747</td>
<td>Osteogenesis stimulator (non-invasive)</td>
<td>2644.20</td>
</tr>
<tr>
<td>E0776</td>
<td>IV pole</td>
<td>89.66</td>
</tr>
<tr>
<td>E0781</td>
<td>Ambulatory infusion pump with administrative equipment, worn by patient</td>
<td>608.46</td>
</tr>
<tr>
<td>E0791</td>
<td>Parenteral infusion pump, stationary</td>
<td>1895.00</td>
</tr>
<tr>
<td>E0840</td>
<td>Traction frame, attached to headboard, simple cervical traction</td>
<td>35.60</td>
</tr>
<tr>
<td>E0850</td>
<td>Traction stand, free standing, simple cervical traction</td>
<td>35.60</td>
</tr>
<tr>
<td>E0860</td>
<td>Traction equipment, overhead, cervical</td>
<td>26.20</td>
</tr>
<tr>
<td>E0870</td>
<td>Traction frame, attached to footboard, simple extremity traction (e.g., Buck's)</td>
<td>80.85</td>
</tr>
<tr>
<td>E0880</td>
<td>Traction stand, free standing, simple extremity traction (e.g., Buck's)</td>
<td>66.11</td>
</tr>
<tr>
<td>E0890</td>
<td>Traction frame, attached to footboard, simple pelvic traction</td>
<td>77.60</td>
</tr>
<tr>
<td>E0900</td>
<td>Traction stand, free standing, simple pelvic traction (e.g., Buck's)</td>
<td>77.60</td>
</tr>
<tr>
<td>E0910</td>
<td>Trapeze bars, A/K/A patient helper, attached to bed, with grab bar</td>
<td>157.90</td>
</tr>
<tr>
<td>E0920</td>
<td>Fracture frame, attached to bed, includes weights</td>
<td>380.36</td>
</tr>
<tr>
<td>E0930</td>
<td>Fracture frame, free standing, includes weights</td>
<td>380.36</td>
</tr>
<tr>
<td>E0940</td>
<td>Fracture bar, free standing, complete with grab bar</td>
<td>303.55</td>
</tr>
<tr>
<td>E0941</td>
<td>Gravity assisted traction device, any type</td>
<td>371.21</td>
</tr>
<tr>
<td>E0942</td>
<td>Cervical head harness/halter</td>
<td>15.26</td>
</tr>
<tr>
<td>E0943</td>
<td>Cervical pillow</td>
<td>40.00</td>
</tr>
<tr>
<td>E0944</td>
<td>Pelvic belt/harness/boot</td>
<td>31.57</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>New Jersey Price</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>E0945</td>
<td>Extremity belt/harness</td>
<td>35.60</td>
</tr>
<tr>
<td>E0946</td>
<td>Fracture, frame, dual with cross bars, attached to bed (e.g., Balken, 4 poster)</td>
<td>862.42</td>
</tr>
<tr>
<td>E0950</td>
<td>Tray</td>
<td>80.00</td>
</tr>
<tr>
<td>E0951</td>
<td>Loop heel, each</td>
<td>14.50</td>
</tr>
<tr>
<td>E0952</td>
<td>Loop toe, each</td>
<td>14.50</td>
</tr>
<tr>
<td>E0953</td>
<td>Pneumatic tire, each</td>
<td>89.29</td>
</tr>
<tr>
<td>E0954</td>
<td>Semi-pneumatic caster, each</td>
<td>45.77</td>
</tr>
<tr>
<td>E0958</td>
<td>Wheelchair attachment to convert any wheelchair to one arm drive</td>
<td>406.29</td>
</tr>
<tr>
<td>E0959</td>
<td>Amputee adapter (device used to compensate for transfer of weight due to lost limbs to maintain proper balance)</td>
<td>71.19</td>
</tr>
<tr>
<td>E0961</td>
<td>Brake extension, for wheelchair</td>
<td>11.20</td>
</tr>
<tr>
<td>E0962</td>
<td>1&quot; cushion, for wheelchair</td>
<td>45.77</td>
</tr>
<tr>
<td>E0963</td>
<td>2&quot; cushion, for wheelchair</td>
<td>58.99</td>
</tr>
<tr>
<td>E0964</td>
<td>3&quot; cushion, for wheelchair</td>
<td>68.14</td>
</tr>
<tr>
<td>E0965</td>
<td>4&quot; cushion, for wheelchair</td>
<td>76.28</td>
</tr>
<tr>
<td>E0966</td>
<td>Hook on head rest extension</td>
<td>49.83</td>
</tr>
<tr>
<td>E0967</td>
<td>Wheelchair hand rims with 8 vertical rubber tipped projection, pair</td>
<td>101.70</td>
</tr>
<tr>
<td>E0968</td>
<td>Commode seat, wheelchair</td>
<td>174.92</td>
</tr>
<tr>
<td>E0970</td>
<td>No. 2 footplates, except for elevating legrest</td>
<td>91.53</td>
</tr>
<tr>
<td>E0971</td>
<td>Anti-tipping device wheelchairs</td>
<td>48.49</td>
</tr>
<tr>
<td>E0973</td>
<td>Adjustable height detachable arms, desk or full length, wheelchair</td>
<td>88.48</td>
</tr>
<tr>
<td>E0974</td>
<td>&quot;Grade-Aid&quot; (device to prevent rolling back on an incline) for wheelchair</td>
<td>66.11</td>
</tr>
<tr>
<td>E0975</td>
<td>Reinforced seat upholstery, wheelchair</td>
<td>53.90</td>
</tr>
<tr>
<td>E0976</td>
<td>Reinforced back upholstery, wheelchair</td>
<td>53.90</td>
</tr>
<tr>
<td>E0977</td>
<td>Wedge cushion, wheelchair</td>
<td>47.80</td>
</tr>
<tr>
<td>E0978</td>
<td>Belt, safety with airplane buckle, wheelchair</td>
<td>35.60</td>
</tr>
<tr>
<td>E0979</td>
<td>Belt, safety with velcro closure, wheelchair</td>
<td>25.00</td>
</tr>
<tr>
<td>E0980</td>
<td>Safety vest, wheelchair</td>
<td>25.43</td>
</tr>
<tr>
<td>E0990</td>
<td>Elevating legrest, each</td>
<td>74.39</td>
</tr>
<tr>
<td>E0991</td>
<td>Upholstery seat</td>
<td>35.60</td>
</tr>
<tr>
<td>E0992</td>
<td>Solid seat insert</td>
<td>41.94</td>
</tr>
<tr>
<td>E0993</td>
<td>Back, upholstery</td>
<td>26.97</td>
</tr>
<tr>
<td>E0994</td>
<td>Arm rest, each</td>
<td>12.94</td>
</tr>
<tr>
<td>E0995</td>
<td>Calf rest, each</td>
<td>20.34</td>
</tr>
<tr>
<td>E0996</td>
<td>Tire, solid, each</td>
<td>22.25</td>
</tr>
<tr>
<td>E0997</td>
<td>Caster with a fork</td>
<td>54.92</td>
</tr>
<tr>
<td>E0998</td>
<td>Caster without fork</td>
<td>30.51</td>
</tr>
<tr>
<td>E0999</td>
<td>Pneumatic tire with wheel</td>
<td>88.48</td>
</tr>
<tr>
<td>E1000</td>
<td>Tire, pneumatic caster</td>
<td>47.80</td>
</tr>
<tr>
<td>E1001</td>
<td>Wheel, single</td>
<td>89.50</td>
</tr>
<tr>
<td>E1005</td>
<td>Replacement, batteries for medically necessary electric wheelchair owned by the patient</td>
<td>73.34</td>
</tr>
<tr>
<td>E1050</td>
<td>Fully-reclining wheelchair, fixed full length arms, swing away detachable elevating legrests</td>
<td>1178.91</td>
</tr>
<tr>
<td>E1060</td>
<td>Fully-reclining wheelchair, detachable arms, desk or full length, swing away detachable elevating legrests</td>
<td>1178.91</td>
</tr>
<tr>
<td>E1065</td>
<td>Power attachment (to convert any wheelchair to motorized wheelchair; e.g., Solo)</td>
<td>2318.76</td>
</tr>
<tr>
<td>E1066</td>
<td>Battery charger</td>
<td>233.91</td>
</tr>
<tr>
<td>E1069</td>
<td>Deep cycle battery</td>
<td>89.67</td>
</tr>
<tr>
<td>E1070</td>
<td>Fully-reclining wheelchair, detachable arms, desk or full length, swing away detachable footrest</td>
<td>877.16</td>
</tr>
<tr>
<td>E1083</td>
<td>Hemi-wheelchair, fixed full length arms, swing away detachable elevating legrests</td>
<td>691.56</td>
</tr>
<tr>
<td>E1084</td>
<td>Hemi-wheelchair, detachable arms desk or full length, swing away detachable elevating legrests</td>
<td>1011.85</td>
</tr>
<tr>
<td>E1085</td>
<td>Hemi-wheelchair, fixed full length arms, swing away detachable footrests</td>
<td>799.62</td>
</tr>
<tr>
<td>E1086</td>
<td>Hemi-wheelchair, detachable arms desk or full length, swing away detachable footrests</td>
<td>1065.97</td>
</tr>
<tr>
<td>E1087</td>
<td>High strength lightweight wheelchair, fixed full length arms, swing away detachable elevating legrests</td>
<td>1111.58</td>
</tr>
<tr>
<td>E1088</td>
<td>High strength lightweight wheelchair, detachable arms desk or full length, swing away detachable elevating legrests</td>
<td>1481.97</td>
</tr>
<tr>
<td>E1089</td>
<td>High strength lightweight wheelchair, fixed length arms, swing away detachable footrest</td>
<td>1093.53</td>
</tr>
<tr>
<td>E1090</td>
<td>High strength lightweight wheelchair, detachable arms desk or full length, swing away detachable footrests</td>
<td>1445.56</td>
</tr>
<tr>
<td>E1091</td>
<td>Youth wheelchair, any type</td>
<td>1287.42</td>
</tr>
<tr>
<td>E1092</td>
<td>Wide heavy duty wheelchair, detachable arms, desk or full length, swing away detachable elevating legrests</td>
<td>1318.44</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Fee for New Equipment</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>L000</td>
<td>Cervical, craniostenosis, helmet molded to patient model</td>
<td>279.68</td>
</tr>
<tr>
<td>L010</td>
<td>Cervical, craniostenosis, helmet, non-molded</td>
<td>76.28</td>
</tr>
<tr>
<td>L020</td>
<td>Cervical, flexible, non-adjustable (foam collar)</td>
<td>14.03</td>
</tr>
<tr>
<td>L030</td>
<td>Cervical, flexible, thermoplastic collar, molded to patient</td>
<td>66.11</td>
</tr>
<tr>
<td>L040</td>
<td>Cervical, semi-rigid, adjustable (plastic collar)</td>
<td>50.51</td>
</tr>
<tr>
<td>L050</td>
<td>Cervical, semi-rigid, adjustable molded chin up (plastic collar with mandibular/occipital piece)</td>
<td>93.97</td>
</tr>
<tr>
<td>L060</td>
<td>Cervical, semi-rigid, wire frame occipital/mandibular support</td>
<td>127.13</td>
</tr>
<tr>
<td>L070</td>
<td>Cervical, collar, molded to patient model</td>
<td>274.59</td>
</tr>
<tr>
<td>L080</td>
<td>Cervical, collar, semi-rigid, thermoplastic foam, two-piece</td>
<td>85.43</td>
</tr>
<tr>
<td>L090</td>
<td>Cervical, collar, semi-rigid, thermoplastic foam, two-piece with thoracic extension</td>
<td>142.38</td>
</tr>
<tr>
<td>L100</td>
<td>Cervical, multiple post collar, occipital/mandibular supports, adjustable</td>
<td>208.23</td>
</tr>
<tr>
<td>L110</td>
<td>Cervical, multiple post collar, occipital/mandibular supports, adjustable cervical bars (SOMI, Guilford, Taylor types)</td>
<td>305.10</td>
</tr>
<tr>
<td>L120</td>
<td>Cervical, multiple post collar, occipital/mandibular supports, adjustable cervical bars, and thoracic extension</td>
<td>249.17</td>
</tr>
<tr>
<td>L130</td>
<td>Cervical, multiple post collar, occipital/mandibular supports, adjustable cervical bars, and thoracic extension</td>
<td>249.17</td>
</tr>
</tbody>
</table>
EMERGENCY ADOPTIONS

L0210 Thoracic, rib belt, custom fitted  14.05
L0220 Thoracic, rib belt, custom fabricated  30.31
L0300 Thoracic-lumbar-sacral-orthoses, (TLSO), flexible dorso-lumbar surgical support, custom fitted  29.26
L0310 TLSO, flexible dorso-lumbar surgical support, custom fabricated  106.37
L0315 TLSO, flexible dorso-lumbar surgical support, elastic type, with rigid posterior panel  268.49
L0317 TLSO, flexible dorso-lumbar surgical support, hyperextension, elastic type, with rigid posterior panel  150.00
L0320 TLSO, anterior-posterior control (Taylor type), with apron front  175.00
L0330 TLSO, anterior-posterior-lateral control (Knight-Taylor type), with apron front  345.27
L0340 TLSO, anterior-posterior-lateral-rotary control (Arnold, Magnuson, Steindler types), with apron front  349.29
L0350 TLSO, anterior-posterior-lateral-rotary control, flexion compression jacket, custom fitted  584.78
L0360 TLSO, anterior-posterior-lateral-rotary control, flexion compression jacket, molded to patient model  864.45
L0370 TLSO, anterior-posterior-lateral-rotary control, hyperextension (Jewett, Lennox, Baker, Cash types)  1,017.00
L0380 TLSO, anterior-posterior-lateral-rotary control, with extensions  313.24
L0390 TLSO, anterior-posterior-lateral control (body jacket), molded to patient model  584.78
L0400 TLSO, anterior-posterior-lateral control (body jacket), molded to patient model, with interface material  1,067.85
L0410 TLSO, anterior-posterior-lateral control (body jacket), two-piece construction, molded to patient model  1,120.94
L0420 TLSO, anterior-posterior-lateral control (body jacket), two-piece construction, molded to patient model, with interface material  940.73
L0430 TLSO, anterior-posterior-lateral control (body jacket), with interface material, custom fitted  791.24
L0440 TLSO, anterior-posterior-lateral control (body jacket), with overlapping front section, spring steel front, custom fitted  610.20
L0590 Lumbar-sacral-orthoses, (LSO), flexible, (lumbo-sacral surgical support), custom fitted  813.60
L0510 LSO, flexible (lumbo-sacral surgical support), custom fabricated  82.36
L0520 LSO, anterior-posterior-lateral control (Knight, Wilcox types), with apron front  118.75
L0530 LSO, anterior-posterior-lateral control (Macauland type), with apron front  320.36
L0540 LSO, lumbar flexion, (Williams flexion type)  244.08
L0550 LSO, anterior-posterior-lateral control (body jacket), molded to patient model  406.80
L0560 LSO, anterior-posterior-lateral control (body jacket), molded to patient model, with interface material  966.15
L0565 LSO, anterior-posterior-lateral control (body jacket), custom fitted  1,118.70
L0600 Sacroiliac, flexible (sacroiliac surgical support), custom fitted  533.93
L0610 Sacroiliac, flexible (sacroiliac surgical support), custom fabricated  50.85
L0700 Cervical-thoracic-lumbar-sacral-orthoses (CTLSO), anterior-posterior-lateral control, molded to patient model (Minerva type)  1,175.00
L0701 CTLSO, anterior-posterior-lateral control, molded to patient model, with interface material (Minerva type)  1,175.00
L0810 Halo procedure, cervical halo incorporated into jacket vest  2,542.50
L0820 Halo procedure, cervical halo incorporated into plaster body jacket  1,525.50
L0830 Halo procedure, cervical halo incorporated into Milwaukee type orthosis model  2,745.90
L0860 Addition to halo procedures, magnetic resonance image compatible system  575.00
L0900 Torso support, ptilosis support, custom fitted  147.47
L0910 Torso support, ptilosis support, custom fabricated  355.95
L0920 Torso support, pendulous abdomen support, custom fitted  259.34
L0930 Torso support, pendulous abdomen support, custom fabricated  381.38
L0940 Torso support, post surgical support, custom fitted  152.55
L0950 Torso support, post surgical support, custom fabricated  305.10
L0960 Torso support, post surgical support, pads for post surgical support  74.28
L0972 LSO, corset front  86.45
L0976 LSO, full corset  169.84
L0978 Axillary crutch extension  122.04
L0980 Peroneal straps, pair  20.34
L1000 Cervical-thoracic-lumbar-sacral orthosis (CTLSO) (Milwaukee), inclusive of furnishing initial orthosis, including model  1,441.60
L1010 Addition to cervical-thoracic-lumbar-sacral orthosis (CTLSO) of scoliosis, axilia sling  86.45
L1020 Addition to CTLSO or scoliosis orthosis, kyphosis pad  35.60
L1025 Addition to CTLSO or scoliosis orthosis, kyphosis pad, floating  96.62
L1030 Addition to CTLSO or scoliosis orthosis, lumbar bolster pad  81.36
L1040 Addition to CTLSO or scoliosis, lumbar of lumbar rib pad  45.77
L1050 Addition to CTLSO or scoliosis orthosis, sternal pad  76.28
L1060 Addition to CTLSO or scoliosis orthosis, thoracic pad  76.28
L1070 Addition to CTLSO or scoliosis orthosis, trapeze sling  91.53
L1080 Addition to CTLSO or scoliosis orthosis, outrigger  40.68
L1085 Addition to CTLSO or scoliosis orthosis, outrigger, bilateral with vertical extensions  175.00
L1090 Addition to CTLSO or scoliosis orthosis, lumbar sling  71.19
L1100 Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather  111.87
L1110 Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather, molded to patient model  142.28
L1120 Addition to CTLSO or scoliosis orthosis, cover for upright, each  20.24
L1210 Addition to TLSO (low profile), lateral thoracic extension  152.55
L1220 Addition to TLSO (low profile), anterior thoracic extension  264.42
L1230 Addition to TLSO (low profile), Milwaukee type superstructure  406.80
L1240 Addition to TLSO (low profile), lumbar derotation pad  55.94
L1250 Addition to TLSO (low profile), anterior ass pad  55.94
L1260 Addition to TLSO (low profile), anterior thoracic derotation pad  55.94
L1270 Addition to TLSO (low profile), abdominal pad  55.94
<table>
<thead>
<tr>
<th>INSURANCE</th>
<th>EMERGENCY ADOPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1280 Addition to TLSO (low profile), rib gusset (elastic), each</td>
<td>76.28</td>
</tr>
<tr>
<td>L1290 Addition to TLSO (low profile), lateral trochanteric pad</td>
<td>50.85</td>
</tr>
<tr>
<td>L1300 Other scoliosis procedure, body jacket molded to patient model</td>
<td>1,525.50</td>
</tr>
<tr>
<td>L1310 Other scoliosis procedure, post-operative body jacket</td>
<td>1,355.50</td>
</tr>
<tr>
<td>L1500 Thoracic-hip-knee-ankle orthoses (THKAO), mobility frame, (Newington, Parapodium types)</td>
<td>1,678.05</td>
</tr>
<tr>
<td>L1510 THKAO, standing frame</td>
<td>1,296.68</td>
</tr>
<tr>
<td>L1500 Hip orthosis (HO), abduction control of hip joints, flexible, freixa cover with cover</td>
<td>51.26</td>
</tr>
<tr>
<td>L1610 HO, abduction control of hip joints, flexible, Pavlik harness</td>
<td>77.30</td>
</tr>
<tr>
<td>L1630 HO, abduction control of hip joints, semi-flexible (Von Rosen type)</td>
<td>254.25</td>
</tr>
<tr>
<td>L1640 HO, abduction control of hip joints, static pelvic band or spreader bar, thigh cuffs</td>
<td>256.28</td>
</tr>
<tr>
<td>L1650 HO, abduction control of hip joints, static, adjustable, custom fitted (lifled type)</td>
<td>152.72</td>
</tr>
<tr>
<td>L1660 HO, abduction control of hip joints, static, plastic, custom fitted</td>
<td>93.56</td>
</tr>
<tr>
<td>L1680 HO, abduction control of hip joints, dynamic, pelvic control, adjustable hip motion control, thigh cuffs (Rancho hip action type)</td>
<td>1,525.50</td>
</tr>
<tr>
<td>L1685 HO, abduction control fo hip joint, post-operative hip abduction type, custom fabricated</td>
<td>762.75</td>
</tr>
<tr>
<td>L1686 HO, abduction control of hip joint, post-operative hip abduction type, custom fitted</td>
<td>750.00</td>
</tr>
<tr>
<td>L1700 Legg Perthes orthosis, Toronto type</td>
<td>1,525.50</td>
</tr>
<tr>
<td>L1730 Legg Perthes orthosis, Scottish Rite type</td>
<td>1,017.00</td>
</tr>
<tr>
<td>L1755 Legg Perthes orthosis, patten bottom type</td>
<td>1,067.85</td>
</tr>
<tr>
<td>L1800 Knee orthosis, KO, elastic with stays</td>
<td>34.17</td>
</tr>
<tr>
<td>L1810 KO, elastic with joints</td>
<td>56.66</td>
</tr>
<tr>
<td>L1815 KO, elastic with condylar pads</td>
<td>91.53</td>
</tr>
<tr>
<td>L1820 KO, elastic with condylar pads and joints</td>
<td>90.51</td>
</tr>
<tr>
<td>L1825 KO, elastic knee cap</td>
<td>35.60</td>
</tr>
<tr>
<td>L1830 KO, immobilizer, canvas longitudinal</td>
<td>89.50</td>
</tr>
<tr>
<td>L1832 KO, adjustable knee joints, positional orthosis, rigid support, custom fitted</td>
<td>400.00</td>
</tr>
<tr>
<td>L1834 KO, without knee joint, rigid, molded to patient model</td>
<td>485.00</td>
</tr>
<tr>
<td>L1840 KO, derotation, medial-lateral, anterior cruciate ligament, custom fabricated to patient model</td>
<td>661.05</td>
</tr>
<tr>
<td>L1845 KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, custom fitted</td>
<td>584.78</td>
</tr>
<tr>
<td>L1846 KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, molded to patient model</td>
<td>661.05</td>
</tr>
<tr>
<td>L1850 KO, Swedish type</td>
<td>188.15</td>
</tr>
<tr>
<td>L1855 KO, molded plastic, thigh and calf sections, with double upright knee joints, molded to patient model</td>
<td>762.75</td>
</tr>
<tr>
<td>L1858 KO, molded plastic, polycentric knee joints, pneumatic knee pads (CTL)</td>
<td>762.75</td>
</tr>
<tr>
<td>L1860 KO, modification of supracondylar prosthetic socket, molded to patient model (SK)</td>
<td>694.61</td>
</tr>
<tr>
<td>L1870 KO, double upright, thigh and calf/lakers, molded to patient model with knee joints</td>
<td>610.20</td>
</tr>
<tr>
<td>L1880 KO, double upright, non-molded thigh and calf/cuffs/lakers with knee joints</td>
<td>457.65</td>
</tr>
<tr>
<td>L1990 Ankle-foot orthosis (AFO), spring wire, dorsiflexion assist, calf band</td>
<td>228.83</td>
</tr>
<tr>
<td>L1902 AFO, ankle gauntlet, custom fitted</td>
<td>61.02</td>
</tr>
<tr>
<td>L1904 AFO, molded ankle gauntlet, molded to patient model</td>
<td>355.95</td>
</tr>
<tr>
<td>L1906 AFO, multigamentous ankle support</td>
<td>61.02</td>
</tr>
<tr>
<td>L1910 AFO, posterior, single bar, clasp attachment to shoe counter</td>
<td>254.25</td>
</tr>
<tr>
<td>L1920 AFO, single upright with static or adjustable stop, (Phelps or Perlstein type)</td>
<td>198.32</td>
</tr>
<tr>
<td>L1930 AFO, custom fitted, plastic</td>
<td>203.40</td>
</tr>
<tr>
<td>L1940 AFO, molded to patient model, plastic</td>
<td>569.98</td>
</tr>
<tr>
<td>L1945 AFO, molded to patient model, plastic, rigid anterior tibial section (floor reaction)</td>
<td>675.00</td>
</tr>
<tr>
<td>L1950 AFO, spiral, molded to patient model, (IRM type), plastic</td>
<td>813.60</td>
</tr>
<tr>
<td>L1960 AFO, posterior, solid ankle, molded to patient model, plastic</td>
<td>490.26</td>
</tr>
<tr>
<td>L1970 AFO, plastic molded to patient model, with ankle joint</td>
<td>711.90</td>
</tr>
<tr>
<td>L1980 AFO, single upright, free dorsiflexion, solid stirrup, calf band/cuff (single bar &quot;BK&quot; orthosis)</td>
<td>291.88</td>
</tr>
<tr>
<td>L1990 AFO, double upright, free plantar dorsiflexion, solid stirrup, calf band/cuff (double bar &quot;BK&quot; orthosis)</td>
<td>365.10</td>
</tr>
<tr>
<td>L2000 Knee-ankle-foot-orthosis (KAFO), single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar &quot;AK&quot; orthosis)</td>
<td>722.93</td>
</tr>
<tr>
<td>L2010 KAFO, single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar &quot;AK&quot; orthosis), without knee joint</td>
<td>966.15</td>
</tr>
<tr>
<td>L2020 KAFO, double upright, free knee, free ankle, solid stirrup, thigh and calf bands/cuffs (double bar &quot;AK&quot; orthosis), without knee joint</td>
<td>690.72</td>
</tr>
<tr>
<td>L2030 KAFO, double upright, free ankle, solid stirrup, thigh and calf bands/cuffs, (double bar &quot;AK&quot; orthosis), without knee joint</td>
<td>1,118.70</td>
</tr>
<tr>
<td>L2036 KAFO, full plastic, double upright, free knee, molded to patient model</td>
<td>1,271.50</td>
</tr>
<tr>
<td>L2037 KAFO, full plastic, single upright, free, molded to patient model</td>
<td>1,125.00</td>
</tr>
<tr>
<td>L2038 KAFO, full plastic, without knee joint, multi-axis, molded to patient model (lively orthosis or equal)</td>
<td>1,250.00</td>
</tr>
<tr>
<td>L2040 HKAFO, torsion control, bilateral rotation straps, pelvic band/belt</td>
<td>177.98</td>
</tr>
<tr>
<td>L2050 HKAFO, torsion control, bilateral torsion cables, hip joint, pelvic band/belt</td>
<td>223.74</td>
</tr>
<tr>
<td>L2060 HKAFO, torsion control, bilateral torsion cables, ball bearing hip joint, pelvic band/belt</td>
<td>264.42</td>
</tr>
<tr>
<td>L2070 HKAFO, torsion control, unilateral rotation straps, pelvic band/belt</td>
<td>152.55</td>
</tr>
<tr>
<td>L2080 HKAFO, torsion control, unilateral, torsion cable, hip joint, pelvic band/belt</td>
<td>284.05</td>
</tr>
<tr>
<td>L2090 HKAFO, torsion control, unilateral torsion cable, ball bearing hip joint, pelvic band/belt</td>
<td>193.23</td>
</tr>
<tr>
<td>L2102 Ankle-foot-orthosis (AFO), fracture orthosis, tibial fracture cast orthosis, plaster type casting material, molded to patient</td>
<td>203.40</td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3838) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>L206</td>
<td>AFO, fracture orthosis, tibial fracture cast orthosis, synthetic type casting material, molded to patient model</td>
<td>254.25</td>
</tr>
<tr>
<td>L208</td>
<td>AFO, fracture orthosis, tibial fracture cast orthosis, thermoplastic type casting material, molded to patient model</td>
<td>355.95</td>
</tr>
<tr>
<td>L2108</td>
<td>AFO, fracture orthosis, tibial fracture cast orthosis, molded to patient model</td>
<td>711.90</td>
</tr>
<tr>
<td>L2112</td>
<td>AFO, fracture orthosis, tibial fracture orthosis, soft custom fitted</td>
<td>305.10</td>
</tr>
<tr>
<td>L2114</td>
<td>AFO, fracture orthosis, tibial fracture orthosis, semi-rigid custom fitted</td>
<td>401.72</td>
</tr>
<tr>
<td>L2116</td>
<td>AFO, fracture orthosis, tibial fractures orthosis, rigid custom fitted</td>
<td>457.65</td>
</tr>
<tr>
<td>L2122</td>
<td>Knee-ankle-foot-orthosis (KAFO), fracture orthosis, femoral fracture cast orthosis, plastic type casting material, molded to patient model</td>
<td>635.63</td>
</tr>
<tr>
<td>L2124</td>
<td>KAFO, fracture orthosis, femoral fracture cast orthosis, synthetic type casting material, molded to patient model</td>
<td>711.90</td>
</tr>
<tr>
<td>L2126</td>
<td>KAFO, fracture orthosis, femoral fracture cast orthosis, thermoplastic type casting material, molded to patient model</td>
<td>813.60</td>
</tr>
<tr>
<td>L2128</td>
<td>KAFO, fracture orthosis, femoral fracture cast orthosis, molded to patient model</td>
<td>1,118.70</td>
</tr>
<tr>
<td>L2132</td>
<td>KAFO, fracture orthosis, femoral fracture orthosis, soft custom fitted</td>
<td>610.20</td>
</tr>
<tr>
<td>L2134</td>
<td>KAFO, fracture orthosis, femoral fracture cast orthosis, semi-rigid custom fitted</td>
<td>661.02</td>
</tr>
<tr>
<td>L2136</td>
<td>KAFO, fracture orthosis, femoral fracture cast orthosis, rigid custom fitted</td>
<td>788.18</td>
</tr>
<tr>
<td>L2180</td>
<td>Addition to lower extremity fracture orthosis, plastic shoe insert with ankle joints</td>
<td>67.12</td>
</tr>
<tr>
<td>L2182</td>
<td>Addition to lower extremity fracture orthosis, drop lock knee joint</td>
<td>61.02</td>
</tr>
<tr>
<td>L2184</td>
<td>Addition to lower extremity fracture orthosis, limited motion knee joint</td>
<td>86.45</td>
</tr>
<tr>
<td>L2186</td>
<td>Addition to lower extremity fracture orthosis, adjustable motion knee joint, lerman type</td>
<td>127.13</td>
</tr>
<tr>
<td>L2188</td>
<td>Addition to lower extremity fracture orthosis, quadrilateral brim</td>
<td>254.25</td>
</tr>
<tr>
<td>L2190</td>
<td>Addition to lower extremity fracture orthosis, waist belt</td>
<td>61.02</td>
</tr>
<tr>
<td>L2192</td>
<td>Addition to lower extremity fracture orthosis, hip joint, pelvic band, thigh flange, and pelvic belt</td>
<td>254.25</td>
</tr>
<tr>
<td>L2200</td>
<td>Addition to lower extremity, limited ankle motion, each joint</td>
<td>42.94</td>
</tr>
<tr>
<td>L2210</td>
<td>Addition to lower extremity, dorsiflexion assist, (plantar flexion resist), each joint</td>
<td>54.07</td>
</tr>
<tr>
<td>L2220</td>
<td>Addition to lower extremity, dorsiflexion and plantar flexion assist, each joint</td>
<td>113.21</td>
</tr>
<tr>
<td>L2230</td>
<td>Addition to lower extremity, split flat caliper stirrups and plate attachment</td>
<td>79.32</td>
</tr>
<tr>
<td>L2240</td>
<td>Addition to lower extremity, round caliper and plate attachment</td>
<td>77.29</td>
</tr>
<tr>
<td>L2250</td>
<td>Addition to lower extremity, foot plate, molded to patient model, stirrup attachment</td>
<td>277.02</td>
</tr>
<tr>
<td>L2260</td>
<td>Addition to lower extremity, reinforced solid stirrup (Scott-Craig type)</td>
<td>381.38</td>
</tr>
<tr>
<td>L2265</td>
<td>Addition to lower extremity, long tongue stirrup</td>
<td>40.00</td>
</tr>
<tr>
<td>L2270</td>
<td>Addition to lower extremity, varus/valgus correction (&quot;T&quot;) strap, padded/lined or malleolus pad</td>
<td>66.06</td>
</tr>
<tr>
<td>L2280</td>
<td>Addition to lower extremity, molded inner boot</td>
<td>254.25</td>
</tr>
<tr>
<td>L2300</td>
<td>Addition to lower extremity, abduction bar (bilateral hip involvement), jointed, adjustable</td>
<td>190.07</td>
</tr>
<tr>
<td>L2310</td>
<td>Addition to lower extremity, abduction bar, straight</td>
<td>116.96</td>
</tr>
<tr>
<td>L2320</td>
<td>Addition to lower extremity, non-molded lacer</td>
<td>122.04</td>
</tr>
<tr>
<td>L2330</td>
<td>Addition to lower extremity, lacer, molded to patient model</td>
<td>193.23</td>
</tr>
<tr>
<td>L2335</td>
<td>Addition to lower extremity, anterior swing band</td>
<td>152.55</td>
</tr>
<tr>
<td>L2340</td>
<td>Addition to lower extremity, pre-tibial shell, molded to patient model</td>
<td>380.36</td>
</tr>
<tr>
<td>L2350</td>
<td>Addition to lower extremity, prosthetic type &quot;BK&quot; socket, molded to patient model (used for &quot;PTB&quot; &quot;AFO&quot; orthosis)</td>
<td>559.35</td>
</tr>
<tr>
<td>L2360</td>
<td>Addition to lower extremity, extended steel shank</td>
<td>45.22</td>
</tr>
<tr>
<td>L2370</td>
<td>Addition to lower extremity, patten bottom</td>
<td>228.93</td>
</tr>
<tr>
<td>L2375</td>
<td>Addition to lower extremity, torsion control, ankle joint and half solid stirrup</td>
<td>116.96</td>
</tr>
<tr>
<td>L2380</td>
<td>Addition to lower extremity, torsion control, straight knee joint, each joint</td>
<td>40.00</td>
</tr>
<tr>
<td>L2385</td>
<td>Addition to lower extremity, straight knee joint, heavy duty, each joint</td>
<td>66.11</td>
</tr>
<tr>
<td>L2390</td>
<td>Addition to lower extremity, offset knee joint, each joint</td>
<td>101.45</td>
</tr>
<tr>
<td>L2395</td>
<td>Addition to lower extremity, offset knee joint, heavy duty, each joint</td>
<td>91.53</td>
</tr>
<tr>
<td>L2405</td>
<td>Addition to knee joint, drop lock, each joint</td>
<td>30.51</td>
</tr>
<tr>
<td>L2415</td>
<td>Addition to knee joint, cam lock (Swiss, French, Bail types), each joint</td>
<td>127.13</td>
</tr>
<tr>
<td>L2425</td>
<td>Addition to knee joint, disc or dial lock for adjustable knee flexion, each joint</td>
<td>142.38</td>
</tr>
<tr>
<td>L2435</td>
<td>Addition to knee joint, polycentric joint, each joint</td>
<td>122.04</td>
</tr>
<tr>
<td>L2492</td>
<td>Addition to knee joint, lift loop for drop lock ring</td>
<td>101.70</td>
</tr>
<tr>
<td>L2500</td>
<td>Addition to lower extremity, thigh/weight bearing, gluteal/ischial weight bearing, ring</td>
<td>149.50</td>
</tr>
<tr>
<td>L2510</td>
<td>Addition to lower extremity, thigh/weight bearing, quadrilateral brim, molded to patient model</td>
<td>762.75</td>
</tr>
<tr>
<td>L2520</td>
<td>Addition to lower extremity, thigh/weight bearing, quadrilateral brim, custom fitted</td>
<td>427.14</td>
</tr>
<tr>
<td>L2525</td>
<td>Addition to lower extremity, thigh/weight bearing, ischial containment/narrow M-L brim, molded to patient model</td>
<td>825.00</td>
</tr>
<tr>
<td>L2526</td>
<td>Addition to lower extremity, thigh/weight bearing, ischial containment/narrow M-L brim, custom fitted</td>
<td>475.00</td>
</tr>
<tr>
<td>L2530</td>
<td>Addition to lower extremity, thigh/weight bearing, lacer, non-molded</td>
<td>183.06</td>
</tr>
<tr>
<td>L2540</td>
<td>Addition to lower extremity, thigh/weight bearing, lacer, molded to patient model</td>
<td>247.13</td>
</tr>
<tr>
<td>L2550</td>
<td>Addition to lower extremity, thigh/weight bearing, high roll cuff</td>
<td>76.28</td>
</tr>
<tr>
<td>L2570</td>
<td>Addition to lower extremity, pelvic control, hip joint, clevis type, two position hip joint, each</td>
<td>355.95</td>
</tr>
<tr>
<td>L2580</td>
<td>Addition to lower extremity, pelvic control, pelvic sling</td>
<td>305.10</td>
</tr>
<tr>
<td>L2600</td>
<td>Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, free, each</td>
<td>172.99</td>
</tr>
<tr>
<td>L2610</td>
<td>Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, lock, each</td>
<td>137.30</td>
</tr>
<tr>
<td>L2620</td>
<td>Addition to lower extremity, pelvic control, hip joint, heavy duty, each</td>
<td>203.40</td>
</tr>
<tr>
<td>L2622</td>
<td>Addition to lower extremity, pelvic control, hip joint, adjustable flexion, each</td>
<td>213.57</td>
</tr>
<tr>
<td>L2624</td>
<td>Addition to lower extremity, pelvic control, hip joint, adjustable flexion, extension, abduction control, each</td>
<td>152.55</td>
</tr>
<tr>
<td>L2627</td>
<td>Addition to lower extremity, pelvic control, plastic, molded to patient model, reciprocating hip joint and cables</td>
<td>1,050.00</td>
</tr>
<tr>
<td>L2628</td>
<td>Addition to lower extremity, pelvic control, metal frame, reciprocating hip joint and cables</td>
<td>1,050.00</td>
</tr>
<tr>
<td>L2630</td>
<td>Addition to lower extremity, pelvic control, band and belt unilateral</td>
<td>225.77</td>
</tr>
<tr>
<td>L2640</td>
<td>Addition to lower extremity, pelvic control, band and belt bilateral</td>
<td>256.28</td>
</tr>
<tr>
<td>L2650</td>
<td>Addition to lower extremity, pelvic and thoracic control, gluteal pad, each</td>
<td>112.12</td>
</tr>
</tbody>
</table>
INSURANCE

L2660 Addition to lower extremity, thoracic control, thoracic band
L2670 Addition to lower extremity, thoracic control, paraspinal uprights
L2680 Addition to lower extremity, thoracic control, lateral support uprights
L2750 Addition to lower extremity orthosis, plating chrome or nickel, per bar
L2760 Addition to lower extremity orthosis, extension, per extension, per bar (for lineal adjustment for growth)
L2770 Addition to lower extremity orthosis, stainless steel, per bar or joint
L2780 Addition to lower extremity orthosis, non-corrosive finish, per bar
L2785 Addition to lower extremity orthosis, drop lock retainer, each
L2795 Addition to lower extremity orthosis, knee control, full knee cap
L2800 Addition to lower extremity orthosis, knee control, knee cap, medial or lateral pull
L2810 Addition to lower extremity orthosis, condylar pad
L2820 Addition to lower extremity orthosis, soft interface for molded plastic, below knee section
L2830 Addition to lower extremity orthosis, soft interface for molded plastic, above knee section
L2840 Addition to lower extremity orthosis, tibial length sock, fracture or equal, each
L2850 Addition to lower extremity orthosis, femoral length sock, fracture or equal each
L3000 Lift-elevation, heel, tapered to metatarsals, per inch
L3300 Lift-elevation, heel and sole, neoprene, per inch
L3320 Lift-elevation, heel and sole, cork, per inch
L3330 Lift-elevation, metal extension (skate)
L3334 Lift-elevation, heel, per inch
L3340 Heel wedge, Sach
L3350 Heel wedge
L3360 Sole wedge—outside sole
L3370 Sole wedge—between sole
L3380 Clubfoot wedge
L3390 Outflare wedge
L3400 Metatarsal bar wedge—rocker
L3410 Metatarsal bar wedge—between sole
L3420 Full sole and heel wedge—between sole
L3500 Miscellaneous shoe addition, convert instep to velcro closure
L3600 Transfer of an orthosis from one shoe to another, caliper plate existing
L3610 Transfer of an orthosis from one shoe to another, caliper plate new
L3620 Transfer of an orthosis from one shoe to another, solid stirrup existing
L3630 Transfer of an orthosis from one shoe to another, solid stirrup new
L3640 Transfer of an orthosis from one shoe to another, Dennis Browne splint (Riveton), both shoes
L3650 Shoulder orthosis (SO), figure of “8” design abduction restrainer
L3660 SO figure of “8” design abduction restrainer, canvas and webbing
L3670 SO, acromio/clavicular (canvas and webbing type)
L3700 Elbow orthosis (EO), elastic with stays
L3710 EO, elastic with metal joints
L3720 EO, double upright with forearm/arm cuffs, free motion
L3730 EO, double upright with forearm/arm cuffs, extension/flexion assist
L3740 EO, double upright with forearm/arm cuffs, adjustable position lock with active control
L3800 Wrist-hand-finger-orthosis (WHFO) short opponens, no attachments
L3805 WHFO, long opponens, no attachment
L3810 WHFO, addition to short and long opponens, thumb abduction "C" bar
L3815 WHFO, addition to short and long opponens, second M.P. abduction assist
L3820 WHFO, addition to short and long opponens, I.P. extension assist with M.P. extension stop
L3825 WHFO, addition to short and long opponens, M.P. extension stop
L3830 WHFO, addition to short and long opponens, M.P. extension assist
L3835 WHFO, addition to short and long opponens, M.P. spring extension assist
L3840 WHFO, addition to short and long opponens, spring swivel thumb
L3845 WHFO, addition to short and long opponens, thumb I.P. extension assist, with M.P. stop
L3850 WHFO, addition to short and long opponens, action wrist with dorsiflexion assist
L3855 WHFO, addition to short and long opponens, adjustable M.P. flexion control
L3860 WHFO, addition to short and long opponens, adjustable H.P. flexion control and I.P.
L3865 WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, wrist or finger driven
L3870 WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, cable driven
L3880 WHFO, external powered, compressed gas
L3890 WHFO, external powered, electric
L3894 WHFO, wrist gauntlet, molded to patient model
L3897 WHFO, wrist gauntlet with thumb spica, molded to patient model
L3900 WHFO, wrist extension control cock-up, canvas or leather design, non-molded
L3910 WHFO, Swanson design
L3912 WHFO, flexion glove with elastic finger control
L3914 WHFO, wrist extension cock-up
L3916 WHFO, wrist extension cock-up, with outrigger
L3918 WHFO, knuckle bender
L3920 WHFO, knuckle bender, with outrigger
L3922 WHFO, knuckle bender, two segment to flex joints
L3924 WHFO, Oppenheimer

EMERGENCY ADOPTIONS

42.71
116.96
111.87
66.11
40.68
81.36
50.85
40.76
50.85
35.00
42.00
36.61
40.68
61.02
81.36
15.25
50.85
15.25
20.34
34.58
30.51
30.51
20.34
35.60
40.68
61.02
96.62
45.00
96.62
35.60
40.68
76.28
122.04
45.77
76.28
1,306.85
1,123.79
1,017.00
1,118.70
111.87
116.96
655.97
793.26
1,123.79
45.32
254.25
35.60
35.60
76.28
35.60
55.94
76.28
55.94
40.68
45.77
15.25
101.70
152.55
1,017.00
1,123.79
1,117.70
788.18
462.74
355.95
91.36
274.60
91.53
76.28
91.53
66.11
76.28
81.36
76.28
76.28

(CITE 22 N.J.R. 3840) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
EMERGENCY ADOPTIONS

L3926  WHFO, Thomas suspension                      81.36
L3928  WHFO, finger extension with clock spring       50.85
L3930  WHFO, finger extension, with wrist support      76.28
L3932  WHFO, safety pin, spring wire                   40.68
L3934  WHFO, safety pin, modified                    40.68
L3936  WHFO, Palmer                                    61.02
L3938  WHFO, dorsal wrist                             61.02
L3940  WHFO, dorsal wrist, with outrigger attachment   76.28
L3942  WHFO, reverse knuckle bender                    66.11
L3944  WHFO, reverse knuckle bender, with outrigger    76.28
L3946  WHFO, composite elastic                         81.36
L3948  WHFO, finger knuckle bender                     45.77
L3950  WHFO, combination Oppenheimer, with knuckle bender and two attachments  122.04
L3952  WHFO, combination Oppenheimer, with reverse knuckle bender and two attachments  122.04
L3954  WHFO, spreading hand                           66.11
L3960  Shoulder-Elbow-Wrist-Hand Orthosis SEWHO, abduction positioning, airplane design  584.78
L3962  SEWHO, abduction positioning, Erbs Palsey design 533.93
L3963  SEWHO, molded shoulder, arm, forearm, and wrist, with articulating elbow joint  864.45
L3964  SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, adjustable  661.05
L3965  SEWHO, radial arm support attached to wheelchair, balanced and fitted to patient, adjustable Rancho type  762.75
L3966  SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, recling  666.14
L3968  SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, friction arm support, (friction dampening to proximal and distal joints)  813.60
L3969  SEWHO, mobile arm support, monosuspension arm and hand support, overhead elbow forearm hand sling support, yoke type arm suspension support  508.50
L3970  SEWHO, addition to mobile arm support, elevating proximal arm  254.25
L3972  SEWHO, addition to mobile arm support, offset or lateral rocker arm with elastic balance control  203.40
L3974  SEWHO, addition to mobile arm support, supinator  203.40
L3980  Upper extremity fracture orthosis, humeral  325.44
L3982  Upper extremity fracture orthosis, radius/ulnar  406.80
L3984  Upper extremity fracture orthosis, wrist  406.80
L3985  Upper extremity fracture orthosis, forearm, hand with wrist hinge  457.65
L3986  Upper extremity fracture orthosis, combination of humeral, radius/ulnar, wrist, (example—Colles fracture)  833.94
L3995  Addition to upper extremity orthosis, sock, fracture or equal, each  18.50
L4000  Replace girdle for Milwaukee orthosis            884.79
L4010  Replace trilateral socket brim                   676.31
L4020  Replace quadrilateral socket brim, molded to patient model  355.95
L4030  Replace quadrilateral socket brim, custom fitted  244.08
L4040  Replace molded thigh lacer                        421.80
L4045  Replace non-molded thigh lacer                    127.13
L4050  Replace molded calf lacer                         142.38
L4055  Replace non-molded calf lacer                     76.28
L4060  Replace high roll cuff                           152.55
L4070  Replace proximal and distal upright for "AKO"     213.57
L4080  Replace metal bands "KAFO", proximal thigh       91.53
L4090  Replace metal bands "KAFO-AFO", calf or distal thigh  53.90
L4100  Replace leather cuff "KAFO", proximal thigh       101.70
L4110  Replace leather cuff "KAFO-AFO", calf or distal thigh  66.11
L4130  Replace prefibial shell                          279.68
L4310  Multi-Podus or equal orthotic preparatory management system for lower extremities 250.00
L4320  Addition to AFO, Multi-Podus (or equal) orthotic preparatory management system for lower extremities, flexible foot positioner w/soft interface for AFO, with velcro closure, custom fitted  90.00
L4350  Pneumatic ankle control splint (Aircast or equal)  65.00
L4360  Pneumatic walking splint (airecast or equal)       200.00
L4370  Pneumatic full leg splint (airecast or equal)     110.00
L4380  Pneumatic knee splint (Aircast or equal)          70.00
L5000  Partial foot, shoe insert with longitudinal arch, toe filler  491.95
L5010  Partial foot, molded socket, ankle height, with toe filler  864.45
L5020  Partial foot, molded socket, tibial tubercle height, with toe filler  1,322.10
L5050  Ankle Symes, molded socket, Sach foot            1,728.90
L5060  Ankle Symes, metal frame, molded leather socket, articulated ankle/foot  2,542.50
L5100  Below knee, molded socket, shin, Sach foot        1,223.14
L5105  Below knee, plastic socket, joints and thigh lacer, Sach foot  2,500.00
L5150  Knee disarticulation (or through knee), molded socket, external knee joints, shin, Sach foot  3,457.80
L5160  Knee disarticulation (or through knee), molded socket, bent knee configuration, external knee joints, shin, Sach foot  3,457.80
L5200  Above knee, molded socket, single axis constant friction knee, shin, Sach foot  1,528.10
L5210  Above knee, short prothesis, no knee joint ("stubbies"), with foot blocks, no ankle joints, each  3,135.70
L5220  Above knee, short prothesis, no knee joint ("stubbies"), with articulated ankle/foot, dynamically aligned, each  2,008.58
L5250  Hip disarticulation, Canadian type; molded socket, hip joint, single axis constant friction knee, Sach foot  3,864.60

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3841)
Below knee, molded socket, Sach foot, endoskeletal system including soft cover and finishing 1,700.14
Knee disarticulation (or through knee), molded socket, Sach foot endoskeletal system, including soft cover and finishing 3,559.50
Above knee, molded socket, open end, Sach foot, endoskeletal system, single axis knee, including soft cover and finishing 1,983.02
Hip disarticulation, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing 3,559.50
Hemipelvectomy, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing 5,085.00
Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment, suspension, and one cast change, below knee 894.96
Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, below knee, each additional cast change and realignment 1,322.10
Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension and one cast change "AK" or knee disarticulation 915.30
Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, "AK" or knee disarticulation, each cast change and realignment 457.65
Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, below knee 254.25
Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, above knee 305.10
Initial, below knee "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, direct formed 923.70
Initial, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, direct formed 1,228.03
Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, plaster cover, molded to model 923.70
Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed 1,220.40
Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model 1,423.80
Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, prefabricated, adjustable open end socket 1,250.00
Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, laminated socket, molded to model 1,260.84
Preparatory, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, molded to model 1,423.80
Preparatory, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed 1,525.50
Preparatory, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model 1,678.05
Preparatory, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, prefabricated adjustable open end socket 1,561.10
Preparatory, above knee-knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, laminated socket, molded to model 1,475.29
Preparatory, hip disarticulation-hemipelvectomy, pylon, no cover, Sach foot, thermoplastic or equal, molded to patient model 2,650.00
Preparatory, hip disarticulation-hemipelvectomy, pylon, no cover, Sach foot, laminated socket, molded to patient model 2,800.00
Addition to lower extremity, above knee-knee disarticulation, "OHC" 4-bar linkage, with friction swing phase control 960.00
Addition to lower extremity, above knee-knee disarticulation, "OHC" 4-bar linkage, with hydraulic swing phase control 1,550.00
Addition to lower extremity, above knee, universal multiplex system, friction swing phase control 915.30
Addition to lower extremity, test socket, Symes 203.40
Addition to lower extremity, test socket, below knee 234.04
Addition to lower extremity, test socket, knee disarticulation 305.10
Addition to lower extremity, test socket, above knee 301.98
Addition to lower extremity, test socket, hip disarticulation 381.38
Addition to lower extremity, test socket, hemipelvectomy 432.23
Addition to lower extremity, below knee, acrylic socket 350.00
Addition to lower extremity, Symes type, expandable wall socket 355.95
Addition to lower extremity, above knee or knee disarticulation, acrylic socket 400.00
Addition to lower extremity, Symes type, "PTB" brim design socket 177.98
Addition to lower extremity, Symes type, posterior opening (Canadian) socket 330.53
Addition to lower extremity, Symes type, medial opening socket 559.35
Addition to lower extremity, below knee, total contact 200.00
Addition to lower extremity, below knee, leather socket 406.80
Addition to lower extremity, below knee, wood socket 750.00
Addition to lower extremity, knee disarticulation, leather socket 508.50
Addition to lower extremity, above knee, leather socket 508.50
Addition to lower extremity, hip disarticulation, flexible inner socket, external frame 864.45
Addition to lower extremity, above knee, wood socket 508.50
EMERGENCY ADOPTIONS

L5645  Addition to lower extremity, below knee, flexible inner socket, external frame  406.80
L5646  Addition to lower extremity, below knee, air cushion socket  330.53
L5647  Addition to lower extremity, below knee, socket suction  279.68
L5648  Addition to lower extremity, above knee, air cushion socket  381.38
L5649  Addition to lower extremity, ischial containment/narrow M-L socket  1,423.80
L5650  Addition to lower extremity, total contact, above knee or knee disarticulation socket  472.81
L5651  Addition to lower extremity, above knee, flexible inner socket, external frame  661.05
L5652  Addition to lower extremity, suction suspension, above knee or knee disarticulation, socket  515.13
L5653  Addition to lower extremity, knee disarticulation, expandable wall socket  610.20
L5654  Addition to lower extremity, socket insert, Symes (Kemblo, Pelite, Aliplast, Plastazote or equal)  330.53
L5655  Addition to lower extremity, socket insert, below knee (Kemblo, Pelite, Aliplast, Plastazote or equal)  217.57
L5656  Addition to lower extremity, socket insert, knee disarticulation (Kemblo, Pelite, Aliplast, Plastazote or equal)  347.05
L5657  Addition to lower extremity, socket insert, above knee (Kemblo, Pelite, Aliplast, Plastazote or equal)  331.03
L5658  Addition to lower extremity, socket insert, Symes, silicone gel or equal  406.80
L5659  Addition to lower extremity, socket insert, multi-durometer, Symes  432.23
L5660  Addition to lower extremity, socket insert, below knee, silicone gel or equal  381.38
L5661  Addition to lower extremity, socket insert, above knee, silicone gel or equal  483.08
L5662  Addition to lower extremity, socket insert, multi-durometer, below knee  279.68
L5663  Addition to lower extremity, below knee, cuff suspension  48.67
L5664  Addition to lower extremity, below knee, molded distal cushion  75.95
L5665  Addition to lower extremity, below knee, molded supracondylar suspension (“PTS” or similar)  255.77
L5666  Addition to lower extremity, below knee, removable medial brim suspension  279.68
L5667  Addition to lower extremity, below knee, latex sleeve suspension, each  59.67
L5668  Addition to lower extremity, below knee, latex sleeve suspension or equal, heavy duty, each  50.85
L5669  Addition to lower extremity, below knee, knee joints, single axis, pair  201.21
L5670  Addition to lower extremity, below knee, knee joints, polycentric, pair  254.25
L5671  Addition to lower extremity, below knee, joint covers, pair  23.42
L5672  Addition to lower extremity, below knee, thigh lacer, non-molded  208.28
L5673  Addition to lower extremity, below knee, thigh lacer, glutelal/ischial, molded  483.08
L5674  Addition to lower extremity, below knee, fork strap  39.93
L5675  Addition to lower extremity, below knee, back check (extension control)  40.68
L5676  Addition to lower extremity, below knee, waist belt, webbing  51.01
L5677  Addition to lower extremity, above knee, waist belt, padded and lined  82.65
L5678  Addition to lower extremity, above knee, pelvic control belt, light  87.97
L5679  Addition to lower extremity, above knee, pelvic control belt, padded and lined  146.35
L5680  Addition to lower extremity, above knee, pelvic control, sleeve suspension, neoprene or equal, each  125.00
L5681  Addition to lower extremity, above knee or knee disarticulation, pelvic joint  145.50
L5682  Addition to lower extremity, above knee or knee disarticulation, pelvic band  40.47
L5683  Addition to lower extremity, above knee or knee disarticulation, silesian bandage  83.99
L5684  All lower extremity prosthesis, shoulder harness  144.16
L5685  Addition, exoskeletal knee-shin system, single axis, manual lock  211.09
L5686  Addition, exoskeletal knee-shin system, single axis, manual lock, ultra-light material  355.95
L5687  Addition, exoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)  282.37
L5688  Addition, exoskeletal knee-shin system, single axis, variable friction swing phase control  355.95
L5689  Addition, exoskeletal knee-shin system, polycentric mechanical stance phase lock  533.93
L5690  Addition, exoskeletal knee-shin system, polycentric friction swing and stance phase control  533.93
L5691  Addition, exoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control  715.30
L5692  Addition, exoskeletal knee-shin system, single axis, fluid swing phase control  1,118.70
L5693  Addition, exoskeletal knee-shin system, single axis, external joints, fluid swing phase control  813.60
L5694  Addition, exoskeletal knee-shin system, single axis, fluid swing and stance phase control  1,957.73
L5695  Addition, exoskeletal knee-shin system, single axis, pneumatic/hydropneumatic swing phase control  762.75
L5696  Addition, exoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)  254.25
L5697  Addition, exoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)  381.38
L5698  Addition, exoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)  508.50
L5699  Addition, exoskeletal knee-shin system, single axis, manual lock  330.53
L5700  Addition, endoskeletal knee-shin system, single axis, manual lock, ultra-light material  406.80
L5701  Addition, endoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)  355.95
L5702  Addition, endoskeletal knee-shin system, single axis, variable friction swing phase control  500.00
L5703  Addition, endoskeletal knee-shin system, polycentric, friction swing and stance phase control  493.08
L5704  Addition, endoskeletal knee-shin system, polycentric, mechanical stance phase lock  690.00
L5705  Addition, endoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control  1,400.00
L5706  Addition, endoskeletal knee-shin system, single axis, fluid swing phase control  762.75
L5707  Addition, endoskeletal knee-shin system, single axis, fluid swing and stance phase control  1,800.00
L5708  Addition, endoskeletal knee-shin system, single axis, pneumatic swing phase control  345.00
L5709  Addition, endoskeletal system, above knee or hip disarticulation, knee extension assist  50.85
L5710  Addition, endoskeletal system, below knee, alignable system  342.00
L5711  Addition, endoskeletal system, above knee or hip disarticulation, alignable system  350.00
L5712  Addition, endoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)  279.68
L5713  Addition, endoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)  331.03
L5714  Addition, endoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)  584.78

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3843)
<table>
<thead>
<tr>
<th>INSURANCE</th>
<th>EMERGENCY ADOPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>L5970</td>
<td>All lower extremity prosthesis, foot, external keel, Sach foot</td>
</tr>
<tr>
<td>L5972</td>
<td>All lower extremity prosthesis, flexible keel foot (Safe, Sten, Bock Dynamic or equal)</td>
</tr>
<tr>
<td>L5973</td>
<td>All lower extremity prosthesis, foot, single axis ankle/foot</td>
</tr>
<tr>
<td>L5976</td>
<td>All lower extremity prosthesis, energy storing foot (Seattle Carbon Copy II or equal)</td>
</tr>
<tr>
<td>L5978</td>
<td>All lower extremity prosthesis, foot, multi-axial ankle/foot (Graessinger or equal)</td>
</tr>
<tr>
<td>L5980</td>
<td>All lower extremity prosthesis, flex foot system</td>
</tr>
<tr>
<td>L5982</td>
<td>All exoskeletal lower extremity prosthesis, axial rotation unit</td>
</tr>
<tr>
<td>L5984</td>
<td>All endoskeletal lower extremity prosthesis, axial rotation unit</td>
</tr>
<tr>
<td>L5986</td>
<td>All lower extremity prosthesis, multi-axial rotation unit (“MCP” or equal)</td>
</tr>
<tr>
<td>L6010</td>
<td>Partial hand, Robin-Aids, little and/or ring finger remaining (or equal)</td>
</tr>
<tr>
<td>L6050</td>
<td>Wrist disarticulation, molded socket, flexible elbow hinges, triceps pad</td>
</tr>
<tr>
<td>L6055</td>
<td>Wrist disarticulation, molded socket with expandable interface, flexible elbow hinges, triceps pad</td>
</tr>
<tr>
<td>L6100</td>
<td>Below elbow, molded socket, flexible elbow hinge, triceps pad</td>
</tr>
<tr>
<td>L6110</td>
<td>Below elbow, molded socket (Muenster or Northwestern suspension types)</td>
</tr>
<tr>
<td>L6120</td>
<td>Below elbow, molded double wall split socket, step-ups hinges, half cuff</td>
</tr>
<tr>
<td>L6130</td>
<td>Below elbow, molded double wall split socket, stump activated locking hinge, half cuff</td>
</tr>
<tr>
<td>L6200</td>
<td>Elbow disarticulation, molded socket, outside locking hinge, forearm</td>
</tr>
<tr>
<td>L6205</td>
<td>Elbow disarticulation, molded socket with expandable interface, outside locking hinges, forearm</td>
</tr>
<tr>
<td>L6250</td>
<td>Above elbow, molded double wall socket, internal locking elbow, forearm</td>
</tr>
<tr>
<td>L6300</td>
<td>Shoulder disarticulation, molded socket, shoulder bulkhead, humeral section, internal locking elbow, forearm</td>
</tr>
<tr>
<td>L6310</td>
<td>Shoulder disarticulation, passive restoration (complete prosthesis)</td>
</tr>
<tr>
<td>L6320</td>
<td>Shoulder disarticulation, passive restoration (shoulder cap only)</td>
</tr>
<tr>
<td>L6340</td>
<td>Interscapular thoracic, molded socket, shoulder bulkhead, humeral section internal locking elbow, forearm</td>
</tr>
<tr>
<td>L6360</td>
<td>Interscapular thoracic, passive restoration (complete prosthesis)</td>
</tr>
<tr>
<td>L6370</td>
<td>Interscapular thoracic, passive restoration (shoulder cap only)</td>
</tr>
<tr>
<td>L6380</td>
<td>Immediate post surgical or early fitting, application of initial rigid dressing, including fitting alignment and suspension of components and one cast change, wrist disarticulation or below elbow</td>
</tr>
<tr>
<td>L6382</td>
<td>Immediate post surgical or early fitting, application of initial rigid dressing including fitting alignment and suspension of components and one cast change, elbow disarticulation or above elbow</td>
</tr>
<tr>
<td>L6384</td>
<td>Immediate post surgical or early fitting, application of initial rigid dressing, including fitting alignment and suspension of components, and one cast change, shoulder disarticulation or</td>
</tr>
<tr>
<td>L6386</td>
<td>Immediate post surgical or early fitting, each additional cast change and realignment</td>
</tr>
<tr>
<td>L6400</td>
<td>Below elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping</td>
</tr>
<tr>
<td>L6450</td>
<td>Elbow disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue shaping</td>
</tr>
<tr>
<td>L6500</td>
<td>Above elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping</td>
</tr>
<tr>
<td>L6550</td>
<td>Shoulder disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue shaping</td>
</tr>
<tr>
<td>L6570</td>
<td>Interscapular thoracic, molded socket, endoskeletal system, including soft prosthetic tissue shaping</td>
</tr>
<tr>
<td>L6580</td>
<td>Preparatory, wrist disarticulation or below elbow, single wall plastic socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, molded to patient model</td>
</tr>
<tr>
<td>L6582</td>
<td>Preparatory, wrist disarticulation or below elbow, single wall socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, direct formed</td>
</tr>
<tr>
<td>L6584</td>
<td>Preparatory, elbow disarticulation or below elbow, single wall plastic socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, molded to patient model</td>
</tr>
<tr>
<td>L6586</td>
<td>Preparatory, elbow disarticulation or above elbow, single wall socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, direct formed</td>
</tr>
<tr>
<td>L6588</td>
<td>Preparatory shoulder disarticulation or interscapular thoracic, single wall plastic socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, molded to patient model</td>
</tr>
<tr>
<td>L6590</td>
<td>Preparatory, shoulder disarticulation or interscapular thoracic, single wall socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, direct formed</td>
</tr>
<tr>
<td>L6600</td>
<td>Upper extremity additions, polycentric hinge, pair</td>
</tr>
<tr>
<td>L6605</td>
<td>Upper extremity additions, single pivot hinge, pair</td>
</tr>
<tr>
<td>L6610</td>
<td>Upper extremity additions, flexible metal hinge, pair</td>
</tr>
<tr>
<td>L6615</td>
<td>Upper extremity addition, disconnect locking wrist unit</td>
</tr>
<tr>
<td>L6616</td>
<td>Upper extremity addition, additional disconnect insert for locking wrist unit, each</td>
</tr>
<tr>
<td>L6620</td>
<td>Upper extremity addition, flexible-friction wrist unit</td>
</tr>
<tr>
<td>L6623</td>
<td>Upper extremity addition, spring assisted rotational wrist unit with latch release</td>
</tr>
<tr>
<td>L6625</td>
<td>Upper extremity addition, rotation wrist unit with cable lock</td>
</tr>
<tr>
<td>L6628</td>
<td>Upper extremity addition, quick disconnect hook adapter, Otto Bock or equal</td>
</tr>
<tr>
<td>L6630</td>
<td>Upper extremity addition, stainless steel, any wrist</td>
</tr>
<tr>
<td>L6632</td>
<td>Upper extremity addition, latex suspension sleeve, each</td>
</tr>
<tr>
<td>L6635</td>
<td>Upper extremity addition, lift assist for elbow</td>
</tr>
<tr>
<td>L6637</td>
<td>Upper extremity addition, nudge control elbow lock</td>
</tr>
<tr>
<td>L6640</td>
<td>Upper extremity additions, shoulder abduction joint, pair</td>
</tr>
<tr>
<td>L6641</td>
<td>Upper extremity addition, excursion amplifier, pulley type</td>
</tr>
<tr>
<td>L6642</td>
<td>Upper extremity addition, excursion amplifier, lever type</td>
</tr>
<tr>
<td>L6645</td>
<td>Upper extremity addition, shoulder flexion-abduction joint, each</td>
</tr>
<tr>
<td>L6650</td>
<td>Upper extremity addition, shoulder universal joint, each</td>
</tr>
<tr>
<td>L6655</td>
<td>Upper extremity addition, standard control cable, each</td>
</tr>
<tr>
<td>L6660</td>
<td>Upper extremity addition, heavy duty control cable</td>
</tr>
</tbody>
</table>
### EMERGENCY ADOPTIONS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>L6665</td>
<td>Upper extremity addition, teflon or equal, cable lining</td>
<td>30.51</td>
</tr>
<tr>
<td>L6670</td>
<td>Upper extremity addition, hook to hand, cable adapter</td>
<td>61.02</td>
</tr>
<tr>
<td>L6672</td>
<td>Upper extremity addition, harness, chest or shoulder, saddle type</td>
<td>137.30</td>
</tr>
<tr>
<td>L6675</td>
<td>Upper extremity addition, harness, figure of &quot;8&quot; type, for single control</td>
<td>111.87</td>
</tr>
<tr>
<td>L6676</td>
<td>Upper extremity addition, harness, figure of &quot;8&quot; type, for dual control</td>
<td>142.38</td>
</tr>
<tr>
<td>L6680</td>
<td>Upper extremity addition, test socket, wrist disarticulation or below elbow</td>
<td>203.40</td>
</tr>
<tr>
<td>L6682</td>
<td>Upper extremity addition, test socket, elbow disarticulation or above elbow</td>
<td>228.83</td>
</tr>
<tr>
<td>L6684</td>
<td>Upper extremity addition, test socket, shoulder disarticulation or interscapular thoracic</td>
<td>188.15</td>
</tr>
<tr>
<td>L6686</td>
<td>Upper extremity addition, suction socket</td>
<td>508.50</td>
</tr>
<tr>
<td>L6687</td>
<td>Upper extremity addition, frame type socket, below elbow or wrist disarticulation</td>
<td>305.10</td>
</tr>
<tr>
<td>L6688</td>
<td>Upper extremity addition, frame type socket, above elbow or elbow disarticulation</td>
<td>355.95</td>
</tr>
<tr>
<td>L6689</td>
<td>Upper extremity addition, frame type socket, shoulder disarticulation</td>
<td>406.80</td>
</tr>
<tr>
<td>L6690</td>
<td>Upper extremity addition, frame type socket, interscapular thoracic</td>
<td>457.65</td>
</tr>
<tr>
<td>L6691</td>
<td>Upper extremity addition, removable insert, each</td>
<td>305.10</td>
</tr>
<tr>
<td>L6692</td>
<td>Upper extremity addition, silicone gel insert or equal, each</td>
<td>300.00</td>
</tr>
<tr>
<td>L6700</td>
<td>Terminal device, hook, dorrance, or equal Model #3</td>
<td>269.51</td>
</tr>
<tr>
<td>L6705</td>
<td>Terminal device, hook, dorrance, or equal Model #5</td>
<td>188.15</td>
</tr>
<tr>
<td>L6710</td>
<td>Terminal device, hook, dorrance, or equal Model #S</td>
<td>264.42</td>
</tr>
<tr>
<td>L6715</td>
<td>Terminal device, hook, dorrance, or equal Model #SXA</td>
<td>183.06</td>
</tr>
<tr>
<td>L6720</td>
<td>Terminal device, hook, dorrance, or equal Model #6</td>
<td>544.10</td>
</tr>
<tr>
<td>L6725</td>
<td>Terminal device, hook, dorrance, or equal Model #7</td>
<td>210.52</td>
</tr>
<tr>
<td>L6730</td>
<td>Terminal device, hook, dorrance, or equal Model #7LO</td>
<td>236.15</td>
</tr>
<tr>
<td>L6775</td>
<td>Terminal device, hook, dorrance, or equal Model #555</td>
<td>265.00</td>
</tr>
<tr>
<td>L6780</td>
<td>Terminal device, hook, dorrance, or equal Model #SS555</td>
<td>304.00</td>
</tr>
<tr>
<td>L6790</td>
<td>Terminal device, hook, “ACCU” hook or equal</td>
<td>376.29</td>
</tr>
<tr>
<td>L6795</td>
<td>Terminal device, hook &quot;2&quot; load or equal</td>
<td>884.80</td>
</tr>
<tr>
<td>L6800</td>
<td>Terminal device, hook—APRL VC or equal</td>
<td>701.73</td>
</tr>
<tr>
<td>L6805</td>
<td>Terminal device, modifier, wrist flexion unit</td>
<td>494.93</td>
</tr>
<tr>
<td>L6806</td>
<td>Terminal device, hook, TRS grip, VC</td>
<td>1,169.55</td>
</tr>
<tr>
<td>L6807</td>
<td>Terminal device, hook, TRS adept, child, VC</td>
<td>899.88</td>
</tr>
<tr>
<td>L6808</td>
<td>Terminal device, hook, TRS adept, infant, VC</td>
<td>737.33</td>
</tr>
<tr>
<td>L6809</td>
<td>Terminal device, hook, TRS Super Sport, passive</td>
<td>244.08</td>
</tr>
<tr>
<td>L6810</td>
<td>Terminal device, hook, pincher tool, Otto Bock or equal</td>
<td>127.13</td>
</tr>
<tr>
<td>L6825</td>
<td>Terminal device, hand, dorrance, VO</td>
<td>355.95</td>
</tr>
<tr>
<td>L6830</td>
<td>Terminal device, hand, APRL, VC</td>
<td>986.50</td>
</tr>
<tr>
<td>L6835</td>
<td>Terminal device, hand, Sierra, VO</td>
<td>864.45</td>
</tr>
<tr>
<td>L6860</td>
<td>Terminal device, hand, Robin-Aids, VO soft</td>
<td>508.50</td>
</tr>
<tr>
<td>L6865</td>
<td>Terminal device, hand, passive hand</td>
<td>213.57</td>
</tr>
<tr>
<td>L6867</td>
<td>Terminal device, hand, Detroit infant hand, (mechanical)</td>
<td>762.75</td>
</tr>
<tr>
<td>L6868</td>
<td>Terminal device, hand, Passive infant hand, (Steeper, Hosmer or equal)</td>
<td>152.55</td>
</tr>
<tr>
<td>L6872</td>
<td>Terminal device, hand, NYU child hand</td>
<td>711.90</td>
</tr>
<tr>
<td>L6873</td>
<td>Terminal device, hand, mechanical infant hand, Steeper or equal</td>
<td>203.40</td>
</tr>
<tr>
<td>L6875</td>
<td>Terminal device, hand, Bock, VC</td>
<td>686.48</td>
</tr>
<tr>
<td>L6880</td>
<td>Terminal device, hand, Bock, VO</td>
<td>406.80</td>
</tr>
<tr>
<td>L6890</td>
<td>Terminal device, glove for above hands, production glove</td>
<td>106.79</td>
</tr>
<tr>
<td>L6895</td>
<td>Terminal device, glove for above hands, custom glove</td>
<td>376.29</td>
</tr>
<tr>
<td>L6900</td>
<td>Hand restoration (cast, shading and measurements included), partial hand, with glove, thumb or one finger remaining</td>
<td>1,271.25</td>
</tr>
<tr>
<td>L6903</td>
<td>Hand restoration (casts, shading and measurements included), partial hand, with glove, multiple fingers remaining</td>
<td>1,271.25</td>
</tr>
<tr>
<td>L6910</td>
<td>Hand restoration (cast, shading and measurements included), partial hand, with glove no fingers remaining</td>
<td>1,271.25</td>
</tr>
<tr>
<td>L6913</td>
<td>Hand restoration (shading, and measurements included), replacement glove for above</td>
<td>406.80</td>
</tr>
<tr>
<td>L7010</td>
<td>Electronic hand, Otto Bock, Steeper or equal switch controlled</td>
<td>1,728.90</td>
</tr>
<tr>
<td>L7015</td>
<td>Electronic hand, Systemteknik, Variety Village or equal switch controlled</td>
<td>3,966.30</td>
</tr>
<tr>
<td>L7020</td>
<td>Electronic Greifer, Otto Bock or equal switch controlled</td>
<td>2,440.80</td>
</tr>
<tr>
<td>L7025</td>
<td>Electronic hand, Otto Bock or equal, myoelectronically controlled</td>
<td>2,339.10</td>
</tr>
<tr>
<td>L7030</td>
<td>Electronic hand, Systemteknik, Variety Village or equal, myoelectronically controlled</td>
<td>4,068.00</td>
</tr>
<tr>
<td>L7035</td>
<td>Electronic Greifer, Otto Bock or equal, myoelectronically controlled</td>
<td>2,339.10</td>
</tr>
<tr>
<td>L7040</td>
<td>Prehensile actuator, Hosmer or equal, switch controlled</td>
<td>1,830.60</td>
</tr>
<tr>
<td>L7045</td>
<td>Electronic hook, child, Michigan or equal, switch controlled</td>
<td>889.88</td>
</tr>
<tr>
<td>L7170</td>
<td>Electronic elbow, Hosmer or equal, switch controlled</td>
<td>3,712.05</td>
</tr>
<tr>
<td>L7185</td>
<td>Electronic elbow, child, Variety Village or equal, switch controlled</td>
<td>6,000.00</td>
</tr>
<tr>
<td>L7191</td>
<td>Electronic elbow, child, Variety Village or equal, myoelectronically controlled</td>
<td>6,340.00</td>
</tr>
<tr>
<td>L7200</td>
<td>Electronic wrist rotator, Otto Bock or equal</td>
<td>1,678.05</td>
</tr>
<tr>
<td>L7260</td>
<td>Electronic wrist rotator, for Utah arm</td>
<td>3,051.00</td>
</tr>
<tr>
<td>L7266</td>
<td>Servo control, Steeper or equal</td>
<td>610.20</td>
</tr>
<tr>
<td>L7272</td>
<td>Analogue control, UNB or equal</td>
<td>1,423.80</td>
</tr>
<tr>
<td>L7274</td>
<td>Proportional control, 12 volt, Utah or equal</td>
<td>4,576.30</td>
</tr>
<tr>
<td>L7360</td>
<td>Six volt battery, Otto Bock or equal, each</td>
<td>203.40</td>
</tr>
<tr>
<td>L7362</td>
<td>Battery charger, six volt, Otto Bock or equal</td>
<td>172.89</td>
</tr>
<tr>
<td>L7364</td>
<td>Twelve volt battery, Utah or equal, each</td>
<td>325.44</td>
</tr>
<tr>
<td>L7366</td>
<td>Battery charger, twelve volt, Utah or equal</td>
<td>432.23</td>
</tr>
<tr>
<td>HCPCS Code</td>
<td>Description</td>
<td>Fee for New Eqpt</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>L8000</td>
<td>Breast prosthesis, mastectomy bra</td>
<td>21.59</td>
</tr>
<tr>
<td>L8010</td>
<td>Breast prosthesis, mastectomy sleeve</td>
<td>59.42</td>
</tr>
<tr>
<td>L8020</td>
<td>Breast prosthesis, mastectomy form</td>
<td>67.31</td>
</tr>
<tr>
<td>L8030</td>
<td>Breast prosthesis, silicone or equal</td>
<td>156.79</td>
</tr>
<tr>
<td>L8300</td>
<td>Truss, single with standard pad</td>
<td>56.12</td>
</tr>
<tr>
<td>L8310</td>
<td>Truss, double with standard pad</td>
<td>114.49</td>
</tr>
<tr>
<td>L8320</td>
<td>Truss, addition to standard pad, water pad</td>
<td>30.51</td>
</tr>
<tr>
<td>L8330</td>
<td>Truss, addition to standard pad, scrotal pad</td>
<td>31.53</td>
</tr>
<tr>
<td>L8400</td>
<td>Prosthetic sheath, below knee, each</td>
<td>15.26</td>
</tr>
<tr>
<td>L8410</td>
<td>Prosthetic sheath, above knee, each</td>
<td>14.29</td>
</tr>
<tr>
<td>L8415</td>
<td>Prosthetic sheath, upper limb, each</td>
<td>14.24</td>
</tr>
<tr>
<td>L8420</td>
<td>Prosthetic sock, wool, below knee, each</td>
<td>16.95</td>
</tr>
<tr>
<td>L8430</td>
<td>Prosthetic sock, wool, above knee, each</td>
<td>18.35</td>
</tr>
<tr>
<td>L8435</td>
<td>Prosthetic sock, woold, upper limb, each</td>
<td>10.17</td>
</tr>
<tr>
<td>L8440</td>
<td>Prosthetic shrinker, below knee, each</td>
<td>36.61</td>
</tr>
<tr>
<td>L8460</td>
<td>Prosthetic shrinker, above knee, each</td>
<td>46.51</td>
</tr>
<tr>
<td>L8465</td>
<td>Prosthetic shrinker, upper limb, each</td>
<td>42.21</td>
</tr>
<tr>
<td>L8470</td>
<td>Stump sock, single ply, fitting, below knee, each</td>
<td>3.22</td>
</tr>
<tr>
<td>L8480</td>
<td>Stump sock, single ply, fitting, above knee, each</td>
<td>3.16</td>
</tr>
</tbody>
</table>

**CODES BEGINNING WITH ‘Q’ THROUGH ‘Z’**

<table>
<thead>
<tr>
<th>HCPCS Code</th>
<th>Description</th>
<th>Fee for New Eqpt</th>
<th>Fee for Used Eqpt</th>
<th>Rental Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q0036</td>
<td>Oxygen concentrator high humidity</td>
<td>195.84</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0037</td>
<td>Oxygen and water vapor enriching system</td>
<td>287.90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0038</td>
<td>Oxygen contents, gaseous, per unit (for use with owned gaseous stationary</td>
<td>195.84</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>systems or when both a stationary and portable gaseous system are owned;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 unit = 50 cubic feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0039</td>
<td>Oxygen contents, liquid, per unit (for use with owned stationary liquid</td>
<td>195.84</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>systems or when both a stationary and portable liquid system are owned;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 unit = 10 lbs.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0040</td>
<td>Portable oxygen contents, gaseous per unit (for use only with portable</td>
<td>27.73</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>gaseous systems when no stationary gas system is used; 1 unit = 5 cubic ft.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0041</td>
<td>Portable oxygen contents, liquid, per unit (for use only with portable</td>
<td>27.73</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>liquid systems when no stationary liquid system is used; 1 unit = 1 lb.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0042</td>
<td>Stationary compressed gas system rental, includes contents (per unit),</td>
<td>287.90</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>regulator with flow gauge, humidifier, nebulizer, cannula or mask and tubing,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 unit = 50 cubic feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0043</td>
<td>Stationary liquid oxygen system rental, includes content (per unit), use of</td>
<td>287.90</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>reservoir, contents indicator, flowmeter, humidifier, nebulizer, cannula or</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>mask and tubing; 1 unit of contents = 10 lbs.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q0046</td>
<td>Portable liquid oxygen system rental, includes flowmeter, refill adapter,</td>
<td>57.80</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>contents gauge, cannula and tubing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>V2620</td>
<td>Prosthetic, eye, glass, stock</td>
<td>76.28</td>
<td></td>
<td></td>
</tr>
<tr>
<td>V2621</td>
<td>Prosthetic, eye, plastic, stock</td>
<td>76.28</td>
<td></td>
<td></td>
</tr>
<tr>
<td>V2622</td>
<td>Prosthetic, eye, glass, custom</td>
<td>606.13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>V2623</td>
<td>Prosthetic, eye, plastic, custom</td>
<td>606.13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Y2624</td>
<td>Reglazing of ocular prosthesis</td>
<td>30.51</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z0010</td>
<td>Hospital bed, variable height, Hi-Lo, with mattress</td>
<td>948.33</td>
<td>691.59</td>
<td>94.83</td>
</tr>
<tr>
<td>Z0015</td>
<td>Hospital bed, semi-electric, head and foot adjustment, with mattress</td>
<td>1304.90</td>
<td>1133.29</td>
<td>130.40</td>
</tr>
<tr>
<td>Z0020</td>
<td>Hospital bed, total electric, head, foot, and height adjustment, with mattress</td>
<td>1841.08</td>
<td>1450.45</td>
<td>184.11</td>
</tr>
<tr>
<td>Z0460</td>
<td>Hand-held nebulizer</td>
<td>5.09</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z0462</td>
<td>Regulator (replacement)</td>
<td>94.90</td>
<td>71.18</td>
<td>9.49</td>
</tr>
<tr>
<td>Z0520</td>
<td>Aerosol therapy unit with compressor</td>
<td>147.88</td>
<td>110.91</td>
<td>14.79</td>
</tr>
<tr>
<td>Z0783</td>
<td>Drug maintenance/supply kit for home infusion therapy—subcutaneous line</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>or implanted access device</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z3255</td>
<td>Orthopedic shoes attached to brace</td>
<td>40.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4330</td>
<td>Catheter plug</td>
<td>74.96</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4331</td>
<td>Irrigation solution, 500 ml</td>
<td>86.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4332</td>
<td>Irrigation solution, 1000 ml</td>
<td>9.72</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4351</td>
<td>Catheter irrigation tray with bulb syringe</td>
<td>11.38</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4352</td>
<td>Urethral catheter tray</td>
<td>5.09</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4353</td>
<td>Foley catheter tray</td>
<td>6.10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4405</td>
<td>Ostomy wafers</td>
<td>10.17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4406</td>
<td>Ostomy deodorant</td>
<td>8.01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4407</td>
<td>Skin prep wipes</td>
<td>6.31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z4442</td>
<td>Tracheostomy suction kit</td>
<td>6.41</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(CITE 22 N.J.R. 3846) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
DIVISION OF ADMINISTRATION

Eligible Persons Qualifications and Automobile Insurance Eligibility Points Schedule


Authority: N.J.S.A. 17:33B-13 and 14; N.J.S.A. 17:1C-6(e).

Concurrent Proposal Number: PRN 1990-640.


Operative Date: April 1, 1991.


Submit written comments by January 16, 1991 to:

Verice M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
N.J. Department of Insurance
20 West State Street
Trenton, New Jersey 08625-0325

These new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 54:14B-4(c)) as implemented by N.J.A.C. 1:30-4.5. Concurrently, the provisions of the emergency adopted new rules are being reproposed in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-proposed new rules effective upon acceptance of the notice of adoption for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.5(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent reproposal follows:

Summary

These reproposed new rules implement N.J.S.A. 17:33B-13 and 14. The Department of Insurance (Department) previously proposed rules implementing N.J.S.A. 17:33B-13 and 14 on July 16, 1990 (see 22 N.J.R. 210B(a)). The Department has decided to make substantive changes based on public comments received and continuing Department review. This proposal therefore replaces and supersedes the prior proposal. Those comments and the Department’s responses are summarized below.

COMMENT: Several commenters objected to the definition of an “at-fault accident” in N.J.A.C. 11:3-34.3 because it allows insurers to disregard the policyholder’s legal rights. The Department disagrees and has revised this section accordingly. The proposed rule does not include the standard that insurers use to determine fault. Insurers apply a negligence standard to determine fault.

RESPONSE: The Department agrees that the rule should include a list of the types of accidents where “at-fault” (that is, negligence) does not apply. The commenter advises that under current practice, the following are not considered at-fault accidents:

1. accidents involving damage by contact to another vehicle or to property, except where the vehicle or property involved in the accident is uninsured;
2. accidents involving personal injury or property damage occurring to animals;
3. accidents involving personal injury or property damage occurring to property that is not uninsured or underinsured.

COMMENT: Several commenters objected to N.J.A.C. 11:3-34.4(a), which provides the qualifications for an “eligible person.” One commenter stated that this section should be amended to provide that an eligible person is a person who is not required to be insured under the Fair and Affordable Insurance Act (FAIA) Act. The Department disagrees and has revised this section accordingly. The proposed rule does not include the standard that insurers use to determine fault. Insurers apply a negligence standard to determine fault.

RESPONSE: The Department agrees that the rule should include a list of the types of accidents where “at-fault” (that is, negligence) does not apply. The commenter advises that under current practice, the following are not considered at-fault accidents:

1. accidents involving damage by contact to another vehicle or to property, except where the vehicle or property involved in the accident is uninsured;
2. accidents involving personal injury or property damage occurring to animals;
3. accidents involving personal injury or property damage occurring to property that is not uninsured or underinsured.

COMMENT: Several commenters objected to N.J.A.C. 11:3-34.4(a), which provides the qualifications for an “eligible person.” One commenter stated that this section should be amended to provide that an eligible person is a person who is not required to be insured under the Fair and Affordable Insurance Act (FAIA) Act. The Department disagrees and has revised this section accordingly. The proposed rule does not include the standard that insurers use to determine fault. Insurers apply a negligence standard to determine fault.

RESPONSE: The Department agrees that the rule should include a list of the types of accidents where “at-fault” (that is, negligence) does not apply. The commenter advises that under current practice, the following are not considered at-fault accidents:

1. accidents involving damage by contact to another vehicle or to property, except where the vehicle or property involved in the accident is uninsured;
2. accidents involving personal injury or property damage occurring to animals;
3. accidents involving personal injury or property damage occurring to property that is not uninsured or underinsured.

COMMENT: Several commenters objected to N.J.A.C. 11:3-34.4(a), which provides the qualifications for an “eligible person.” One commenter stated that this section should be amended to provide that an eligible person is a person who is not required to be insured under the Fair and Affordable Insurance Act (FAIA) Act. The Department disagrees and has revised this section accordingly. The proposed rule does not include the standard that insurers use to determine fault. Insurers apply a negligence standard to determine fault.

RESPONSE: The Department agrees that the rule should include a list of the types of accidents where “at-fault” (that is, negligence) does not apply. The commenter advises that under current practice, the following are not considered at-fault accidents:

1. accidents involving damage by contact to another vehicle or to property, except where the vehicle or property involved in the accident is uninsured;
2. accidents involving personal injury or property damage occurring to animals;
3. accidents involving personal injury or property damage occurring to property that is not uninsured or underinsured.

COMMENT: Several commenters objected to N.J.A.C. 11:3-34.4(a), which provides the qualifications for an “eligible person.” One commenter stated that this section should be amended to provide that an eligible person is a person who is not required to be insured under the Fair and Affordable Insurance Act (FAIA) Act. The Department disagrees and has revised this section accordingly. The proposed rule does not include the standard that insurers use to determine fault. Insurers apply a negligence standard to determine fault.
A fifth commenter objected to the definition of an eligible person because he believes the definition does not take into account certain other risk characteristics which also play an important role in determining the acceptability of a risk, for example, the type of vehicles, vehicle usage, maturity in experience of operators, and overall claim activity. The commenter states that eligibility points should be accumulated on a per-policy or per-driver basis. The commenter also wants to determine if the suspended or revoked license would be able to avoid exposure when other family members are deemed eligible, and will the Department or courts permit named driver exclusions.

RESPONSE: In accordance with N.J.S.A. 17:33B-13, the proposed rules further define those persons eligible for automobile insurance in the voluntary market. Eligibility is determined on an individual basis, and not on a household basis. The proposed rules on Nonrenewal of Automobile Insurance Policies (N.J.A.C. 11:3-8), published elsewhere in this issue of the New Jersey Register, provide the standards insurers are to use in nonrenewing automobile insurance policies. The proposed rules on Private Passenger Automobile Underwriting Rules (N.J.A.C. 11:3-35), published elsewhere in this issue of the New Jersey Register, require insurers to file and use underwriting rules that contain the definition of an "eligible person." Each rule provides requirements that insurers are to follow in nonrenewing or writing a policy where an eligible and ineligible driver reside in the household.

COMMENT: One commenter stated that N.J.A.C. 11:3-34.4(a)4 would require insurers to write vehicles registered outside of New Jersey, should the owner hold a valid New Jersey license. A second commenter stated that the presumption should be amended to provide that "the registered automobile must be principally garaged in the state." The commenter believed that if clarification is not made, the problem of rate evasion will be exacerbated.

RESPONSE: The Department agrees and has revised this section accordingly.

COMMENT: Two commenters noted that there is an incorrect citation under N.J.A.C. 11:3-34.4(a) which should read N.J.S.A. 39:4-50.4a, instead of N.J.S.A. 39:4-50.5a.

RESPONSE: The Department agrees and has revised this section accordingly.

COMMENT: Two commenters stated that insurance companies will have difficulty determining whether a person has been convicted of a crime under N.J.A.C. 11:3-34.4(a)2. One of the commenters stated that "to require insurers to somehow check criminal court records or to contact prior insurers for all applicants creates a seemingly unmanageable situation.

RESPONSE: This provision is part of the FAIR Act's definition of an eligible person. Information is included on the Division of Motor Vehicles (DMV) abstract if the driver's license has been suspended as a result of crime. This rule does not specifically require insurers to check criminal court records. The rule permits insurers to use information of a criminal conviction as a basis for declaring a person ineligible for insurance in the voluntary market.

COMMENT: Another commenter questioned the need to limit a criminal conviction to "the use of a motor vehicle" under N.J.A.C. 11:3-34.4(a)2. The commenter stated that any criminal conviction of a serious nature is a valid underwriting criteria for eligibility.

RESPONSE: The commenter's suggestion that N.J.A.C. 11:3-34.4(a)2 should apply to any criminal conviction is not consistent with N.J.S.A. 17:33B-13(a).

COMMENT: Three commenters noted that N.J.A.C. 11:3-34.4(a)3 appears inconsistent with N.J.S.A. 17:33B-13(c). The definition of an eligible person as proposed does not apply to any person whose driver's license to operate an automobile is under a court-ordered suspension or revocation. The commenter inquired, "Why does the regulation stipulate that the suspension or revocation of the license be by court order when the FAIR Act does not include the court order stipulation? The commenter also wanted to know if the Department intended insurance companies to insure someone who has a suspended or revoked license if it was not done by court order.

A second commenter believed this section precludes an insurer from considering a suspension that occurred within the experience period unless those suspensions were currently in effect.

A third commenter was concerned that this section would permit suspensions and revocations not court ordered to be eliminated from consideration of eligibility.

A fourth commenter believed that there is a need for a time frame or other constraining parameters associated with this item. For example, there are cases when the court, at the discretion of the judge, will order a 30-day license suspension for a traffic violation in addition to ticket and court costs. The commenter did not believe that this situation was addressed by these rules.

RESPONSE: The Department agrees with the first commenter and has revised N.J.S.A. 11:3-34.4(a)3 by deleting the terms "court ordered."

A person whose license is suspended is not an eligible person; additionally, one full year after the court ordered suspension within the preceding three years, a person receives three automobile insurance eligibility points.

COMMENT: One commenter questioned if the term "insurance fraud" under N.J.A.C. 11:3-34.4(a)4 only included automobile insurance fraud.

A second commenter argued that fraud not related to auto insurance should not be used to determine: 1) good driver rating or 2) a driver's ability to purchase insurance.

RESPONSE: The proposed rule is consistent with the FAIR Act's definition of an eligible person. The FAIR Act states that a person who has been convicted, within the five-year period immediately preceding application for or renewal of a policy of automobile insurance, of fraud or intent to defraud involving an insurance claim or an application for insurance is not considered an eligible person. The statute does not limit insurance fraud to only that involving automobile insurance.

COMMENT: One commenter objected to N.J.A.C. 11:3-34.4(a)5 which finds a person not eligible who has been denied payment of a claim by the insurer when there is evidence or intent to defraud involving an auto claim or application. The commenter argued that a driver should be presumed innocent, and allowed due process. The commenter believed that the insurance carrier should be required to pursue the charge of fraud.

RESPONSE: The Department has revised N.J.A.C. 11:3-34.4(a)5 to establish a presumption that there is no fraud if the insurer failed to report the illegally fraudulent activity to the Department's Insurance Fraud Division, pursuant to N.J.S.A. 17:33B-9.

COMMENT: One commenter objected to N.J.A.C. 11:3-34.4(a)5ii. The commenter did not believe that this section should permit the presumption that a claim was successfully denied. The commenter believes the presumption should be in favor of the insured being innocent and the company should pursue the fraud after assigning eligibility points.

RESPONSE: If an insurer is denied insurance based upon a claim that has been denied, the insured can pursue this determination pursuant to proposed N.J.A.C. 11:3-33 (Appeals from the Denial of Automobile Insurance) (see 22 N.J.R. 2457(a)).

COMMENT: Two commenters expressed concerns with proposed N.J.A.C. 11:3-34.4(a)6. The first commenter stated that defaults in payment of JUA surcharges should be considered nonpayment of premiums.

The second commenter stated that "this section of the regulation as written is contrary to the FAIR Act and will make it difficult to monitor by both insurers and producers" The commenter stated that "many consumers may let their policy cancel for nonpayment when they are changing companies without realizing this provision will remove them from the definition of eligible person." The commenter suggested that this section be amended to read as follows: "... cancelled for nonpayment of premium... within the immediately preceding two year period." The commenter further suggested that "in order to monitor this portion of the regulation and statute it will be necessary for the Division of Motor Vehicles to provide data which would indicate lapse of coverage based on the information provided to them by the insurers."

RESPONSE: Failure to pay insurance surcharges that are charged as additional premium are considered nonpayment of premiums. DMV surcharges are not considered premiums.

The Department agrees with the second commenter and has revised this section accordingly.

COMMENT: One commenter objected to proposed N.J.A.C. 11:3-34.4(a)7. The commenter argued that the "provision allowing clubs or groups to carve out what amounts to their own eligibility criteria separate from the regulation fundamentally discriminates against non¬ club insurers. This exception defeats the purpose of Take All Comers in that it allows some insurers to determine eligibility based on membership that has nothing to do with the person's driving ability or past conduct relating to fraud. What is even more disconcerting is that the Take All Comers law can be likened to the Assigned Risk plans from before; club-type organizations were never exempted from participation in the past. Even worse, these organizations have been soliciting the good risks which do not meet their membership criteria. They now should not be allowed to shield themselves from the bad risks, using membership criteria as a smoke screen."

(CITE 22 N.J.R. 3848) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
EMERGENCY ADOPTIONS

A second commenter also expressed concern with N.J.A.C. 11:3-34.4(a)7. The commenter stated that this provision provides clubs or groups, plus DMV insurers, with an unfair advantage over other insurers who must take all comers. In addition, the commenter argued that consumers are then required to pay additional fees (dues) to meet the requirements of an eligible person with a group or club, a fee that they might not otherwise be obligated to pay.

RESPONSE: This provision is consistent with the eligible persons qualifications set forth in N.J.S.A. 17:33B-13(e). The proposed rule permits companies that have always operated in this manner to continue to do so.

COMMENT: Several commenters objected to N.J.A.C. 11:3-34.4(a)8. One commenter recommended that this section be amended by “requiring an eligible person to be licensed for the preceding three years without interruption. Otherwise the convicted drunk driver and the inexperienced driver will be automatically eligible.” As a matter of fact anyone who has been suspended or incarcerated for the last three years will meet the present definition of eligibility.”

RESPONSE: The Department disagrees. The schedule includes a provision by which a person is assigned three points for each full year of a court imposed driver’s license suspension within the preceding three years. Therefore, a person who has been under a court ordered suspension for the last three years will receive nine points for a three year court ordered suspension.

COMMENT: Several commenters objected to the impact that the “retroactive 3-year period” in N.J.A.C. 11:3-34.4(a)8 will have on the consumer. One commenter believed that drivers who have worked at cleaning up their driving record, and are at a point where that goal is about to be achieved, will again be penalized for past offenses. The commenter argues that “it is like trying a person twice for the same crime.” The commenter further stated that, “a point of stronger disagreement is the fact that you are adding retroactive points for past accidents. How fair is it to give someone points for something that happened in the past when there were no points given?” The commenter suggests the deletion of the “retroactive” clause.

A second commenter recommended that in paragraph (a)8 the experience period be 34 months prior to the effective date of coverage, excluding the last three months. According to the commenter, this would allow the insurer to get three full years of experience and allow the Division of Motor Vehicles three months to post the convictions.

A third commenter suggested that the accumulation of points over three years should only apply to new points.

A fourth commenter asked the following questions: 1) Will this be implemented retroactively to the three-year period for non-DMV points? 2) Who has been keeping track of this information? 3) Is it legal to penalize people retroactively for violations they did not know would affect their insurance rate? 4) Will everyone start with zero points for the last three years will receive nine points for a three year court ordered suspension.

A fifth commenter suggested that a transition period should be used to mitigate or avoid retroactive implementation of the Act. The commenter further recommends giving motorists a four-point credit for any eligible points that would be assessed under Schedule I or for, for offenses committed prior to 1990.

RESPONSE: The Department is adhering to provisions of the FAIR Act, N.J.S.A. 17:33B-13(b), which requires eligibility points to be based on a person’s driving record for the three year period immediately preceding application for, or renewal of, an automobile insurance policy.

Insurers have always used a person’s driving record for underwriting and rating purposes. This rule sets an objective standard and imposes a limit on the deprivation of the right. This rule is not a penalty but a definition of those drivers that qualify for coverage in the voluntary market.

COMMENT: One commenter objected to the provisions of proposed N.J.A.C. 11:3-34.4(a)8 because he felt it will negatively impact the municipal court system. The commenter recommended wording the proposal to allow companies the flexibility of initially (first three years after the law takes effect) considering a driver’s entire record rather than just a three year retroactive period.

RESPONSE: The Department acknowledges that there may be an impact on municipal courts. The FAIR Act requires that the driving record of an individual is considered during the three-year period immediately preceding application for, or renewal of, an automobile policy, except as provided for in the definition of an eligible person.

COMMENT: The commenter stated that comprehensive and other claim experience should be recognized in N.J.A.C. 11:3-34.5, Automobile insurance eligibility points.

RESPONSE: The commenter does not state the manner by which comprehensive and other claim experience should be recognized. The FAIR Act provides that points for at-fault accidents or violations. A comprehensive claim is not considered fault-based.

COMMENT: Several commenters expressed their concern with proposed N.J.A.C. 11:3-34.5(b)1. One commenter suggested that the Department allow points for at-fault accidents to accrue from the date the accident and not when the accident is reported or a claim is made. A second commenter suggested that points for at-fault accidents accrue when the insurer has knowledge of the event. The commenter suggested that the date of the accident be used as a criteria to avoid persons not reporting accidents in order to lessen the impact of the eligibility point system.

A third commenter suggested that points should be assessed for at-fault accidents at the “date of loss.” This is a date certain which has ready reference under current practice by auto insurers doing business today in New Jersey.

A fourth commenter suggested the “date of first payment,” because negligence will have been firmly established and the $500.00 threshold will have been determined.

RESPONSE: The Department has revised this section, so that automobile eligibility points for at-fault accidents accrue on the date that total payment by the insurer equals or exceeds $500.00.

COMMENT: One commenter stated that accidents pursuant to N.J.A.C. 11:3-34.5(b)1 accrue as of the report date, yet they are not considered at-fault until $500.00 is paid. The commenter questioned that if the claim is not settled with any swiftness, whether this represents a lost year from the insurer could have been surcharging.

RESPONSE: The Department has revised this section so that points for an at-fault accident accrue on the date that total payment by the insurer equals or exceeds $500.00.

COMMENT: One commenter argued that N.J.A.C. 11:3-34.5(b)1 will be difficult to administer where insureds have changed insurers during the recent four-year period. The commenter stated that a new insurer will not know when the previous insurer had “knowledge of the event” and therefore would not know the trigger date for the “event.”

The commenter further questioned whether a new insurer, just first learning of a two-year-old accident from the MVR, can toll the three years from that point.

The commenter provided the following example: “If an insured has an at-fault accident in January. The new insurer writes a policy in February. The new insurer learns of the accident in March. Does the new insurer reate the policy? (The former insurer could possibly have picked it up in time for renewal.) If the new insurer delays until renewal, the accident may be included for 2 years, not 3.”

RESPONSE: The Department has revised this section to provide that points for an at-fault accident are to be based on at-fault accidents or violations. The commenter questioned that the conviction date is the date that is used.

A second commenter stated that proposed N.J.A.C. 11:3-34.5(b)2 would include points for convictions of motor vehicle violations to the New Jersey DMV abstract. The commenter believed that this would be a problem when they use an abstract from another state which may show two dates, one of the violation and the other of the conviction. The commenter recommended that the Department amend the regulation so that the conviction date is the date that is used.

RESPONSE: The Department decided to use the DMV abstract for administrative convenience since this system is already in place. The use of this system also provides consistency for the accrual of automobile insurance eligibility points based on when the event is recorded in DMV’s records.

COMMENT: Several commenters objected in general terms to the recording date of the DMV abstract would be used. One commenter believed that the use of the recording date by DMV may cause some problems. The commenter argued that an insurer may have knowledge of an uncontested conviction prior to the posting on the DMV abstract. The commenter suggested using the date of the occurrence.

A second commenter stated that proposed N.J.A.C. 11:3-34.5(b)2 would include points for convictions of motor vehicle violations to the New Jersey DMV abstract. The commenter believed that this would be a problem when they use an abstract from another state which may show two dates, one of the violation and the other of the conviction. The commenter recommended that the Department amend the regulation so that the conviction date is the date that is used.

RESPONSE: The Department decided to use the DMV abstract for administrative convenience since this system is already in place. The use of this system also provides consistency for the accrual of automobile insurance eligibility points based on when the event is recorded in DMV’s records.

COMMENT: Several commenters objected in general terms to the automobile insurance eligibility point schedule, especially the fact that the Department adopted the Division of Motor Vehicles schedule.

One commenter stated that “DMV’s schedule does not appropriately address the current realities of risk exposure and appears to be obsolete or inappropriate for this purpose. The Department points to no basis
for these points assigned other than the arguable DMV schedule. The Department should assign points based upon reliable data indicating insurability.

A second commenter believed that "the problem with adopting DMV's point schedule is that the Insurance Department has bought on to the idea that the same criteria for determining whether or not a person should hold a driver's license, are equally appropriate for establishing a person's eligibility for the lowest possible automobile insurance rates. However, because the underwriting of automobile insurance involves not merely a determination of whether a person is competent to drive a vehicle on the state's highways, but looks into such things as the seriousness of the person's past convictions and accidents, the propensity of the person to break society's standards of safe driving, and the overall conduct of the person applying for insurance all pointing to the likelihood of future claims, the DMV's point schedule is wholly inappropriate for the purpose of establishing eligibility for automobile insurance."

A third commenter stated that "there will be very few families which will have multiple incidents in a 3-year period. Those that do should be subject to tougher standards than the standards suggested by this program. Assuming the 9-point threshold, we believe that families with more than 2 moving violations in 3 years should not qualify as an 'eligible person.' Therefore, all 2- and 3-point listed violations should be increased to 4 points."

RESPONSE: The Department has attempted to adhere to the requirements of the FAIR Act in providing for the apportionment of drivers between a voluntary and residual market based on an insured's driving record. The FAIR Act required the Department to develop a schedule that assigned a point value to driving experience (e.g., a result of convictions, suspensions, revocations, and determinations of responsibility for civil infractions. The Department determined after examining data from the Division of Motor Vehicles (DMV), that the best way to accomplish this would be to incorporate the DMV point schedule and to assign points to certain other violations that were not assigned points under the DMV schedule. DMV's schedule was used for administrative convenience and to prevent confusion for the public, producers and companies that would result if a totally different schedule was developed.

COMMENT: Two commenters objected to the offense "Refusal to submit to a chemical test" in Schedule 1 of the Appendix. One commenter believed that the offense needed to be clarified. The commenter questioned whether the offense applied, while operating a vehicle, to the driver only, or to the refusal to submit to a chemical test in the workplace. A second commenter objected to the above offenses being placed on the schedule. The commenter argued that whatever the Department's reasoning was for adding the offense to the schedule, the schedule of qualifications and point values should have been developed to reflect the relationship of accident risk to each qualification and to the violations in Schedule 2. The commenter believed that this would produce a fairer system.

The commenter further suggested that the Department consider the "frequency of offense" and "if injury or other damage was caused." Additionally, he suggested the use of the BAC (Blood Alcohol Content) level. The commenter stated that "New Jersey State Police fatality report for the last number of years will show that BAC levels of .15 percent and over produced the majority of DUI fatalities (e.g., 56% in 1988). Therefore, the higher the BAC, the more points." The commenter suggested the following:

First Offense—3 points
Second Offense—4 points
Third Offense—6 points

The Department has developed the following point schedule:

- For the chemical test refusal offense, five points should be assigned to the offender's record by the insurer above $500.00 as well as bodily injury and death. The commenter suggested that the Department adopt the following schedule for at-fault accidents:

  1. Property damage totaling between $500.00 and $1599—3 points
  2. Property damage totaling between $1600 and $2699—4 points
  3. Property damage totaling greater than $2700 and/or bodily injury—5 points

RESPONSE: In accordance with the FAIR Act, the Department examined at-fault accidents and assigned five automobile insurance eligibility points to each at-fault accident. A single at-fault accident would not disqualify a person from insurance in the voluntary market as long as they did not accumulate sufficient additional eligibility points within a three-year period. The suggested schedule of points based on the amount of damage would be extremely difficult to administer.

COMMENT: One commenter needed clarification on the offense "for each full year of a court imposed driver's license suspension within the preceding three years." The commenter questioned how the Department came up with the one-year period, and could they suspend licenses for non-driving related offenses.

A second commenter suggested that three points be assigned for each year or fraction of a year of a court imposed driver's license suspension. A third commenter argued that "DUI violation and chemical test refusal, already a part of Schedule 1, result in mandatory court-imposed license suspension that can extend one, two, or ten years. These suspensions should be included as part of this three point per year offense since they are already adequately covered with eligibility points. Additionally, any court ordered suspension that will result in this three point per year offense should relate to driving or accident risk. For example, a loss license for underage purchase of alcohol is part of the punishment for that offense; however, insurance eligibility points should not apply since the particular license suspension had nothing to do with driving."

RESPONSE: The Department included three points for each full year of a court imposed driver's license suspension within the preceding three years to prevent someone who has been suspended for the last three years

(CITE 22 N.J.R. 3850)
as a result of a driving related violation from immediately becoming eligible for insurance in the voluntary market. The Department does not believe that a suspension for a fraction of a year warrants the assigning of automobile insurance eligibility points.

COMMENT: Schedule I of the Appendix to the proposed rules provides that the offense of being involved in a fatal accident may result in either four eligibility points or two eligibility points. However, Schedule I does not define what it means to be “involved in a fatal accident” and does not describe those circumstances which would result in four eligibility points as opposed to those which would result in two eligibility points. The proposed new rules should be amended to include such clarification.

A second commenter suggested that to ensure that the phrase “involved in a fatal accident” is associated with at-fault accidents as intended, the word “involved” should be changed to at-fault. The commenter also suggested that since the offense of being involved in a fatal accident (EFLN/NEFTL (fatal violation)) is in addition to the five points for an at-fault accident the Department should include the following:

Death resulting from no violations—6 points.

RESPONSE: A person who is involved in a fatal accident is assigned two or four points based on the seriousness of the conduct, as determined by the Division of Motor Vehicles. Those cases are determined on a case-by-case basis and are administered on a case-by-case basis.

COMMENT: One commenter stated that “it is unclear from the proposed rules whether eligibility points may be assessed both for a motor vehicle violation and for an at-fault accident if the accident resulted in the insured being assessed motor vehicle points. For example, if an individual is involved in an accident resulting in the Motor Vehicle Department assessing points for driving recklessly, may an insurer impose eligibility points for the at-fault accident and impose additional eligibility points for reckless driving? The proposed rules should be amended so that it is clear that drivers accrue eligibility points for both the accident and the motor vehicle points.”

RESPONSE: Eligibility points are cumulative and accrue for all motor vehicle violations and at-fault accidents as defined in these rules. The Department has revised N.J.A.C. 11:3-34.5(c) to clarify this point.

COMMENT: Several commenters expressed concern with the Department assigning five points in Schedule I of the Appendix to the following offenses: 1) Obtaining a drivers license or registration through deception; 2) Make or use counterfeit plate or plates other than issued; 3) Make, alter or counterfeit drivers license or registration.

One commenter stated that “given the emphasis on penalizing and deterring fraudulent activity, the assignment of only five points is overly lenient”.

A second commenter stated that “all three of these convictions indicate premeditated illegal activity undertaken by an individual in order to operate a vehicle in the State of New Jersey”. The commenter believed that the Department is omitting these offenses from Schedule I, as these offenses would result in a penalty of more than 10 years in prison, and the Department has not included points for both convictions.

RESPONSE: The Department incorporated by reference the DMV point schedule for movement violations under New Jersey law with accompanying record systems in place, and is familiar to New Jersey drivers, insurers and insurance producers. The Department did not want to develop a totally different point system from DMV, which could result in confusion for the public.

COMMENT: One commenter noted that several of the listed offenses seem to carry a lesser penalty than certain others which would seem to endanger human life or cause damage to personal property to a lesser degree (that is, failure to observe a “stop” or “yield” sign”, “failure to yield to a pedestrian in a crosswalk” and “careless driving”, etc., all result in two-point penalties, while “improper turn at traffic light” and “improper ‘U’ turn” merit three points). The commenter questioned whether police or insurance industry statistics were used in determining the incidence of such offenses and in assigning point value to each.

RESPONSE: The Department incorporated by reference the DMV point system which adequately assesses a point penalty for driver experience related violations and is administratively convenient to use.

COMMENT: One commenter believed that racing on the highway should be assigned nine points, due to the serious nature of the offense, which indicates a total disregard for all other drivers on the highway and should at a minimum result in placement in the assigned risk pool.

RESPONSE: The Department believes that the assessment of five points for racing on the highway is sufficient. The point schedule is based on a system already in place for tracking and assessment purposes.

COMMENT: Two commenters expressed concern with the offense of N.J.S.A. 39:4-129, leaving the scene of an accident. One commenter believed that points for leaving the scene of an accident should be in addition to the points assigned for an at-fault accident.

The second commenter believed that the difference in point value between accidents with injury and without, simply implies that leaving the scene of an accident without any injuries is somehow justified. The commenter believed that leaving the scene of any accident is one of the more egregious violations and there should be no point value differential between leaving the scene with injuries, and leaving without injuries. Additionally, the commenter feels that a minimum of nine points should be assigned to both convictions.

RESPONSE: Points assigned as a result of a conviction for leaving the scene of an accident are in addition to the points assigned for an at-fault accident. The Department does not believe that the offense warrants the increasing of the points assessed. The Department notes that the points conform to the DMV point schedule.

COMMENT: Two commenters expressed concern that the automobile insurance eligibility point schedule did not address the inexperienced driver. One commenter suggested that several points should be assigned to the inexperienced driver.

RESPONSE: The Department has revised the point schedule to include the inexperienced driver. An inexperienced driver receives one point for each year that he or she did not hold a driver's license for the preceding three years.

COMMENT: One commenter questioned whether points should be added for not wearing a seat belt and not placing a child in an appropriate restraint system. Additionally, the commenter questioned whether running a traffic light should be more than two points.

RESPONSE: Currently there is no way to verify these two offenses because they do not result in DMV points or otherwise appear on a DMV abstract of a driving record.

COMMENT: One commenter questioned: 1) Where is the two-point reduction for taking the Defensive Driving Course; 2) Does it cost to take these courses; and 3) Is the charge affordable. The commenter further stated that the insurance companies should be required to provide these courses for free. The commenter suggested that if the DMV recognizes this as a valid way of improving driver safety, then the insurance companies should be bound by this as well.

RESPONSE: The Department disagrees. The FAIR Act specifically requires that automobile insurance eligibility points accrue for violations and accidents that occur in the three-year period immediately preceding the application for or renewal of a policy of automobile insurance policy. The Act does not provide for point reduction.

COMMENT: One commenter inquired about other mechanisms available to consumers to lower their accumulated points.

RESPONSE: Eligibility points expire at the end of the three-year period for which they were accrued.

COMMENT: One commenter questioned if there is a reward system for proven good drivers.

RESPONSE: Drivers with zero eligibility points will be able to obtain insurance at standard rates in the voluntary market.

COMMENT: One commenter believed that the insurance companies should be mandated to provide graduated rates in the one- to eight-point range. The commenter argued that a driver with one or two points should not be paying as high a rate as one with seven or eight points, and requests clarification in the regulation.

RESPONSE: The Act is addressed in the standard/nonstandard rating plans rules proposed at N.J.A.C. 11:3-8, published elsewhere in this issue of the Register.

COMMENT: One commenter believed that the Department should require that if a company denies a consumer standard rates, then a copy of the DMV abstract used to determine points be provided to the consumer. In this way consumers will be able to easily identify incorrect information on DMV records that may be adversely affecting the insured rates.

RESPONSE: This is addressed in the proposed new rules (see N.J.A.C. 11:3-8.2 published elsewhere in this issue of the Register) and the proposed Appeals from Denial of Automobile Insurance procedures (see N.J.A.C. 11:3-33.1 at 22 N.J.R. 2457(a)), but insurers do not have to provide a copy of the abstract if the insurer denies a person standard rates but they must indicate the incidents for which the assessments of points were used to determine ineligibility.

COMMENT: One commenter asked whether points should be assigned to violations of the traffic signals. In this way consumers will be able to easily identify incorrect information on DMV records that may be adversely affecting the insured rates.

RESPONSE: The Department has estimated the number and percentage of drivers who would be "eligible" and "ineligible" and used that information in developing these rules. The Department notes that the database of DMV contains records of motor vehicle violations and insurer's claim records contain information about at-fault accidents. The Department recognizes that the point schedule may be refined over a period of time if necessary.

COMMENT: One commenter asked whether a New Jersey insurer would be able to identify incorrect information on DMV records that may be adversely affecting the insured rates.

RESPONSE: When a person is assessed points for an offense(s) while driving someone else's car, the eligibility points accrue to the individual driver and will affect his personal policy, in accordance with N.J.A.C. 11:3-35 and N.J.A.C. 11:3-8.2 (see proposals published elsewhere in this issue of the Register).

COMMENT: One commenter questioned whether the Department has calculated or estimated the number or percentage of New Jersey drivers who would be eligible to be classified as good drivers, those who would be in the intermediate higher-paying group, and those who would be classified as bad drivers and who will pay the most. If so, the commenter asked whether such statistics played a role in the drafting of these rules.

RESPONSE: The Department has estimated the percentage of drivers who would be "eligible" and "ineligible" and used that information in developing these rules. The Department notes that the database of DMV contains records of motor vehicle violations and insurer's claim records contain information about at-fault accidents. The Department recognizes that the point schedule may be refined over a period of time if necessary.
EMERGENCY ADOPTIONS

17:33B-13. The FAIR Act provides that “eligible persons” shall secure automobile insurance coverage in the voluntary market. The reproposed new rules set forth certain driving experience related violations, as well as certain insurance law violations that preclude a person from being an eligible person.

In promulgating the schedule of eligibility points, the Department examined data from the Division of Motor Vehicles (“DMV”) which included convictions for serious violations and statistical compilations of the number of drivers with various numbers of DMV points on their driving records.

The Department designed the automobile insurance eligibility point schedule to incorporate the DMV point schedule. The Department examined other driving experience related violations that were not assigned points under the Department of Motor Vehicles system and assigned them automobile insurance eligibility points. In examining these driving experience related violations, the Department determined that certain violations were severe enough that a person committing any one of these violations warranted being classified as an ineligible person. The Department assigned the most severe violations nine automobile eligibility points, which is the minimum number that makes a person “ineligible”.

The Department in accordance with the Act examined at-fault accidents and assigned five automobile insurance eligibility points to each at-fault accident. The Department determined that if a person involved in one at-fault accident, they would still be eligible for insurance in the voluntary market as long as they did not accumulate sufficient additional eligibility points within a three-year period.

The Department also examined and assigned automobile insurance eligibility points to certain other motor vehicle violations that did not result in DMV points, but nevertheless were serious motor vehicle violations that included an element of dishonesty. These violations were assigned five eligibility points.

As a result of the public comments received and further review by the Department, these rules contain four substantive changes from the previous proposal that affect the eligible person qualifications and eligible point schedule.

The Department has clarified the definition of an at-fault accident by listing types of accidents that have been recognized traditionally as not based on fault.

The Department revised N.J.A.C. 11:3-34.4(a)(5) to require an incident must have been reported to the Department of Insurance Fraud Division in order to disqualify a person from the voluntary market.

The Department revised N.J.A.C. 11:3-34.5(b)(1) which provides when points accrue for an at-fault accident. Points for at-fault accidents accrue on the date that total payment by the insurer equals or exceeds $500.00.

The Department revised Schedule I to provide points for “inexperienced drivers”, that is, a person who has not held a driver’s license for the immediately preceding three years.

N.J.A.C. 11:3-34.1 states the purpose of the proposed new rules.

N.J.A.C. 11:3-34.2 states the scope of the proposed new rules.

N.J.A.C. 11:3-34.3 provides the definition of terms that are used in the proposed new rules.

N.J.A.C. 11:3-34.4 provides the qualifications to be used in determining whether a person meets the definition of an “eligible person.”

N.J.A.C. 11:3-34.5 establishes the automobile insurance eligibility point schedule.

Social Impact

The reproposed new rules are designed to carry out the stated intent of the FAIR Act, which is to assure that drivers with good driving records are able to procure automobile insurance coverage in the voluntary market. The reproposed new rules provide an eligibility point schedule which assigns a point value to adverse events based on a person’s driving experience. Accumulating nine points renders a person ineligible for coverage in the voluntary market.

Conversely, the reproposed new rules will require insurers to provide insurance in the voluntary market to any eligible person as this term is defined in these rules. Since the voluntary market contains lower rates, an insured’s automobile insurance premium will be directly related to his or her driving record.

The reproposed new rules will affect all New Jersey insureds procuring automobile insurance.

Economic Impact

The reproposed new rules are expected to increase those insureds’ premiums whose driving record indicates that they are higher risks based on the number of automobile eligibility points accumulated within the preceding three years. Those insureds who have no automobile insurance eligibility points will be able to secure automobile insurance at lower rates than a person in the nonstandard or assigned risk markets, with the same car but more eligibility points. No economic impact on insurers is anticipated beyond the statutory requirements.

Regulatory Flexibility Analysis

The reproposed new rules impose no reporting or recordkeeping requirements. Insurance companies authorized to transact private passenger automobile insurance, which may be small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., are affected by the reproposed new rules.

These reproposed new rules implement N.J.S.A. 17:33B-14 which requires the Commissioner to promulgate a schedule of automobile insurance eligibility points. The reproposed new rules are to be used by insurers and producers to determine a person’s eligibility for automobile insurance in the voluntary market. In order to provide for uniform and consistent applicability of these rules in the automobile insurance market, no differential treatment is accorded small businesses. The reproposed new rules will not require small businesses to use any other kinds of professional services to comply.

Full text of the reproposed new rules follows:

SUBCHAPTER 34. ELIGIBLE PERSONS QUALIFICATIONS AND AUTOMOBILE INSURANCE ELIGIBILITY POINTS SCHEDULE

11:3-34.1 Purpose

The purpose of this subchapter is to set forth the requirements for determining who can qualify as an "eligible person", and to provide the schedule for “automobile insurance eligibility points” pursuant to P.L. 1990, c.8 (N.J.S.A. 17:33B-13 and 14).

11:3-34.2 Scope

The provisions of this subchapter apply to all insurers which write personal private passenger automobile insurance and all persons who are required to procure automobile insurance coverage in this State.

11:3-34.3 Definitions

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

“At-fault accident” is any accident involving a driver insured under the policy which resulted in a payment by the insurer of at least $500.00, and for which the driver is at least proportionately responsible based on the number of vehicles involved. A driver is proportionately responsible if 50 percent responsible for an accident involving two drivers; if 33% percent responsible for an accident involving three drivers; etc. An at-fault accident shall not include the following:

1. Involvement in an accident in which the motor vehicle was struck by a hit and run driver, if such accident was reported to the Department of Motor Vehicles or the Department of Insurance Fraud Division in the manner prescribed by law.
2. Involvement in an accident where the motor vehicle was lawfully parked.
3. Involvement in an accident in which the motor vehicle was operated by a member of the Armed Forces of the United States while on active duty or while performing a duty required by law.
4. Involvement in an accident involving another vehicle which was operated by a person who was a member of the Armed Forces of the United States while on active duty or while performing a duty required by law.
5. For physical damage losses other than collision;
6. For an accident in which the vehicle was struck in the rear by another vehicle and a driver insured under the policy has not been convicted of a moving violation in connection with the accident;
7. For an accident occurring as a result of operation of any motor vehicle in response to an emergency if the operator at the time of the accident was responding to the call to duty as a paid or volunteer member of any police or fire department, first aid squad or any law enforcement agency.


“Automobile insurance” means insurance for an automobile including any or all of the following coverages: bodily injury liability, and property damage liability, comprehensive and collision cov-
erages, uninsured and underinsured motorist coverage, personal injury protection coverage, additional personal injury protection coverage and any other automobile insurance required by law.

"Automobile insurance eligibility points" means points calculated under the schedule promulgated by the Commissioner pursuant to this subchapter.

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Department" means the Department of Insurance of the State of New Jersey.

"State" means the State of New Jersey.

11:3-34.4 Eligible person qualifications
(a) An "eligible person" is a person who is an owner or registrant of an automobile registered and principally garaged in this State or who holds a valid New Jersey driver’s license to operate an automobile, but does not include any person:
1. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy has been convicted pursuant to N.J.S.A. 39:4-50 or N.J.S.A. 39:4-50.4a or for an offense of a substantially similar nature committed in another jurisdiction;
2. Who has been convicted of a crime of the first, second or third degree resulting from the use of a motor vehicle; or has been convicted of theft of a motor vehicle;
3. Whose driver’s license to operate an automobile is under suspension or revocation;
4. Who has been convicted, within the five-year period immediately preceding application for or renewal of a policy of automobile insurance, of fraud or intent to defraud involving an insurance claim or an application for insurance;
5. Who has been successfully denied, within the immediately preceding five years, payment by an insurer of a claim in excess of $1,000 under an automobile insurance policy, if there was evidence of fraud or intent to defraud involving the automobile insurance claim or application. For the purpose of this section:
   i. If the claim has been subject to litigation between the insurer and the insured in which the insurer defended against payment of the claim in whole or in part on grounds of fraud, it shall be conclusively presumed that the claim was successfully denied if judgment was entered for the insurer in the litigation; and conclusively presumed that the claim was not successfully denied if judgment was entered for the insured;
   ii. If the claim has not been subject to litigation between the insurer and the insured, but the insurer denied the claim without payment by reason of fraud, it shall be presumed that the claim was successfully denied. This presumption may be overcome in an administrative proceeding pursuant to N.J.A.C. 11:3-33;
   iii. If the incident was not reported to the New Jersey Department of Insurance, Fraud Division pursuant to N.J.S.A. 17:33A-9 it shall be presumed that there was no evidence of fraud or intent to defraud;
6. Whose automobile insurance policy has been cancelled for nonpayment of premiums, or financed premium with a lapse of coverage, within the immediately preceding two-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy. For the purpose of this section, "paid in full" shall not include any transaction in which a lender obtains authority from an insured to cancel the policy and receive a refund from the insurer in the event the insured defaults on a loan used to pay the premium;
7. Who fails to obtain or maintain membership or qualification for membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues or charges, if any, or other conditions for membership or qualifications for membership are applied uniformly throughout this State, are not expressed as a percentage of the insurance premium, and do not vary with respect to the rating classification of the member or potential member except for the purpose of offering a membership fee to family units. Membership fees, if applicable, may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees; or
8. Whose driving record for the three year period immediately preceding the application for or renewal of a policy of automobile insurance has an accumulation of nine or more automobile insurance eligibility points as determined in N.J.A.C. 11:3-34.5.

11:3-34.5 Automobile insurance eligibility points
(a) Automobile insurance eligibility points shall be accumulated as a result of convictions, suspensions, revocations and determinations of responsibility for civil infractions in accordance with the schedule set forth in the Appendix to this subchapter herein incorporated by reference.
(b) Automobile insurance eligibility points shall be deemed to accrue as follows:
   1. Points for at-fault accidents shall accrue on the date that total payment by the insurer equals or exceeds $500.00.
   2. Points for conviction of motor vehicle violations and other events that are set forth on an abstract of drivers license records available from the New Jersey Division of Motor Vehicles, or comparable agency of another state, shall accrue when the event is recorded in the agency’s records as evidenced by an abstract.
   (c) Automobile insurance eligibility points are cumulative and accrue for all offenses set forth on Schedules 1 and 2, except as noted on Schedule 1.
   (d) Automobile insurance eligibility points set forth on Schedule 2 of the Appendix represent motor vehicle points established by the New Jersey Division of Motor Vehicles by rule, N.J.A.C. 13:19-10.1, which is hereby incorporated by reference. Any additions, deletions or modifications to N.J.A.C. 13:19-10.1 shall likewise be incorporated as of the effective date of amendment. Schedule 2 is included in the Appendix for convenience.
# Schedule of Automobile Insurance Eligibility Points

## Schedule 1

<table>
<thead>
<tr>
<th>N.J.S.A. Section</th>
<th>DMV Event</th>
<th>Description</th>
<th>DMV Event Identifier(s)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>39:4-50</td>
<td>Operating a motor vehicle under the influence of alcohol or drugs</td>
<td>0450; 3261</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>39:4-50.4</td>
<td>Refusal to submit to a chemical test</td>
<td>4504</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>2C:11-2</td>
<td>Vehicular homicide</td>
<td>C115</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>39:3-40</td>
<td>Operating a motor vehicle while driving privilege is suspended</td>
<td>0340</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>39:6B-2</td>
<td>Operating a motor vehicle without liability insurance</td>
<td>06B2</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Misrepresentation of insurance coverage</td>
<td>6A15</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Each at fault accident</td>
<td></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td></td>
<td>*For each full year of a court imposed driver's license suspension within the preceding 3 years</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>*For each full year within the immediately preceding 3 years that a person has not held a driver's license involved in a fatal accident</td>
<td>EFTL; NFTL</td>
<td>4; 2</td>
<td></td>
</tr>
<tr>
<td>39:3-37</td>
<td>Obtaining a driver's license or registration through deception</td>
<td>0337; 0312; 05D5; 1312; MSNJ; MSOS</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>39:3-38</td>
<td>Make or use counterfeit plate or plates other than issued</td>
<td>0338</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>39:3-38.1</td>
<td>Make, alter or counterfeit driver's license or registration</td>
<td>3381</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Failure to verify insurance involved in an automobile accident</td>
<td>FVIA</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

*Points for failure to hold a driver's license in the previous three years are not cumulative to points for driver's license suspension.

## Schedule 2

<table>
<thead>
<tr>
<th>N.J.S.A. Section</th>
<th>Offense</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>27:23-29</td>
<td>Moving against traffic—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</td>
<td></td>
</tr>
<tr>
<td>27:23-29</td>
<td>Improper passing—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</td>
<td></td>
</tr>
<tr>
<td>27:23-29</td>
<td>Unlawful use of median strip—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</td>
<td></td>
</tr>
<tr>
<td>39:3-20</td>
<td>Operating constructor vehicle in excess of 30 mph</td>
<td></td>
</tr>
<tr>
<td>39:3-76.7 &amp; 39:4-14.3q</td>
<td>Operating motorcycle or motorized bicycle without protective helmet</td>
<td></td>
</tr>
<tr>
<td>39:4-14.3</td>
<td>Operating motorized bicycle on a restricted highway</td>
<td></td>
</tr>
<tr>
<td>39:4-14.3d</td>
<td>More than one person on a motorized bike</td>
<td></td>
</tr>
<tr>
<td>39:4-35</td>
<td>Failure to yield to pedestrian in crosswalk</td>
<td></td>
</tr>
<tr>
<td>39:4-36</td>
<td>Failure to yield to pedestrian in crosswalk; passing a vehicle yielding to pedestrian in crosswalk</td>
<td></td>
</tr>
<tr>
<td>39:4-41</td>
<td>Driving through a safety zone</td>
<td></td>
</tr>
<tr>
<td>39:4-52 &amp; 39:3C-1</td>
<td>Racing on highway</td>
<td></td>
</tr>
<tr>
<td>39:4-55</td>
<td>Improper action or omission on grades and curves</td>
<td></td>
</tr>
<tr>
<td>39:4-57</td>
<td>Failure to observe direction of officer</td>
<td></td>
</tr>
<tr>
<td>39:4-66</td>
<td>Failure to stop vehicle before crossing sidewalk</td>
<td></td>
</tr>
<tr>
<td>39:4-66.1</td>
<td>Failure to yield to pedestrians or vehicles while entering or leaving highway</td>
<td></td>
</tr>
<tr>
<td>39:4-71</td>
<td>Operating a motor vehicle on a sidewalk</td>
<td></td>
</tr>
<tr>
<td>39:4-80</td>
<td>Failure to obey direction of officer</td>
<td></td>
</tr>
<tr>
<td>39:4-81</td>
<td>Failure to observe traffic signals</td>
<td></td>
</tr>
<tr>
<td>39:4-82</td>
<td>Failure to keep right</td>
<td></td>
</tr>
<tr>
<td>39:4-82.1</td>
<td>Improper operating of vehicle on divided highway or divider</td>
<td></td>
</tr>
<tr>
<td>39:4-83</td>
<td>Failure to keep right at intersection</td>
<td></td>
</tr>
<tr>
<td>39:4-84</td>
<td>Failure to pass to right of vehicle proceeding in opposite direction</td>
<td></td>
</tr>
<tr>
<td>39:4-85</td>
<td>Improper passing on right or off roadway</td>
<td></td>
</tr>
<tr>
<td>39:4-85.1</td>
<td>Wrong way on a one-way street</td>
<td></td>
</tr>
<tr>
<td>39:4-86</td>
<td>Improper passing in no passing zone</td>
<td></td>
</tr>
<tr>
<td>39:4-87</td>
<td>Failure to yield to overtaking vehicle</td>
<td></td>
</tr>
<tr>
<td>39:4-88</td>
<td>Failure to observe traffic lanes</td>
<td></td>
</tr>
<tr>
<td>39:4-89</td>
<td>Tailgating</td>
<td></td>
</tr>
<tr>
<td>39:4-90</td>
<td>Failure to yield at intersection</td>
<td></td>
</tr>
<tr>
<td>39:4-90.1</td>
<td>Failure to use proper entrances to limited access highways</td>
<td></td>
</tr>
<tr>
<td>39:4-91 &amp; 39:4-92</td>
<td>Failure to yield to emergency vehicles</td>
<td></td>
</tr>
<tr>
<td>39:4-92</td>
<td>Reckless driving</td>
<td></td>
</tr>
<tr>
<td>39:4-93</td>
<td>Careless driving</td>
<td></td>
</tr>
<tr>
<td>39:4-94</td>
<td>Destruction of agricultural or recreational property</td>
<td></td>
</tr>
<tr>
<td>39:4-94.1</td>
<td>Slow speed blocking traffic</td>
<td></td>
</tr>
<tr>
<td>39:4-94.3</td>
<td>Exceeding maximum speed 1-14 mph over limit</td>
<td></td>
</tr>
<tr>
<td>39:4-94.3d</td>
<td>Exceeding maximum speed 15-29 mph over limit</td>
<td></td>
</tr>
<tr>
<td>39:4-94.3d</td>
<td>Exceeding maximum speed 30 mph or more over limit</td>
<td></td>
</tr>
<tr>
<td>39:4-94.4</td>
<td>Failure to stop for traffic light</td>
<td></td>
</tr>
<tr>
<td>39:4-94.5</td>
<td>Improper turn at traffic light</td>
<td></td>
</tr>
<tr>
<td>39:4-94.6</td>
<td>Failure to stop at flashing red signal</td>
<td></td>
</tr>
<tr>
<td>39:4-94.7</td>
<td>Failure to stop for police whistle</td>
<td></td>
</tr>
<tr>
<td>39:4-94.8</td>
<td>Improper right or left turn</td>
<td></td>
</tr>
<tr>
<td>39:4-94.9</td>
<td>Improper turn from approved turning course</td>
<td></td>
</tr>
<tr>
<td>39:4-94.10</td>
<td>Improper &quot;U&quot; turn</td>
<td></td>
</tr>
<tr>
<td>39:4-94.11</td>
<td>Failure to give proper signal</td>
<td></td>
</tr>
<tr>
<td>39:4-94.12</td>
<td>Improper backing or turning in street</td>
<td></td>
</tr>
<tr>
<td>39:4-94.13</td>
<td>Improper crossing of railroad grade crossing</td>
<td></td>
</tr>
<tr>
<td>39:4-94.14</td>
<td>Improper crossing of bridge</td>
<td></td>
</tr>
<tr>
<td>39:4-94.15</td>
<td>Improper crossing of railroad grade crossing by certain vehicles</td>
<td></td>
</tr>
<tr>
<td>39:4-94.16</td>
<td>Improper passing of school bus</td>
<td></td>
</tr>
<tr>
<td>39:4-94.17</td>
<td>Improper passing of a frozen dessert truck</td>
<td></td>
</tr>
</tbody>
</table>
DIVISION OF PROPERTY/LIABILITY

Private Passenger Automobile Insurance Underwriting Rules


Concurrent Proposal Number: PRN 1990-647.


Submit comments by January 16, 1991 to:

Vero M. Masin
Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
20 West State Street
Trenton, New Jersey 08625-0325

These new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency new rules are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rules become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent reproposal follow:

Summary

These reproposed new rules implement N.J.S.A. 17:29A-46. The Department of Insurance (Department) previously proposed rules implementing N.J.S.A. 17:29A-46 on August 6, 1990 (see 22 N.J.R. 2233(a)). The Department has determined to make substantive changes based upon public comments received and continuing Department review. This proposal therefore replaces and supersedes the prior proposal.

Twelve timely comments were received from automobile insurers, an insurance trade organization and a consumer organization.

COMMENT: Several insurers objected to the provisions of the rules that require all private passenger automobile insurers to file their underwriting rules for approval. These commenters stated that N.J.S.A. 17:29A-46 requires the filing of underwriting rules only by insurers which file standard/non-standard or multi-tier rating systems (see proposed N.J.A.C. 11:3-19, 22 N.J.R. 2233(a)). These commenters stated that if an insurer maintains only a single tier of rates, it is exempted from filing for approval its underwriting rules. Some of the commenters contended that N.J.S.A. 17:29A-46 refers back to N.J.S.A. 17:29A-45, which provides for standard/non-standard rating systems, and further noted that both sections were enacted at the same time.

RESPONSE: The Department construes N.J.S.A. 17:29A-46 as requiring all insurers to file their underwriting rules for approval. Section 9 of the statute states: “Insurers shall put in writing all underwriting rules applicable to each rate level utilized pursuant to section 6”. Section 6 (N.J.S.A. 17:29A-45a) provides that: “... every insurer transacting or proposing to transact private passenger automobile insurance may file...” (emphasis added) The Department construes the emphasized language to demonstrate a legislative intent to require all underwriting rules be filed by all private passenger automobile insurers.

The Fair Automobile Insurance Reform Act of 1990, P.L.1990, c.8 (N.J.S.A. 17:33B-1 et seq.) (FAIR Act) clearly requires all insurers to file their underwriting rules. Section 27b of the FAIR Act (N.J.S.A. 17:33B-15b) provides: “No insurer shall refuse ... coverage ... to an eligible person who meets its underwriting rules as filed with and approved by the commissioner ...”. Moreover, as stated in proposed N.J.A.C. 11:3-35.1, the Department believes that the filing and approval of underwriting rules is necessary to monitor compliance with the requirement that insurers provide coverage to eligible persons. The Department further notes that N.J.S.A. 17:22-6.14(a) authorizes the Commissioner to direct insurers to file their underwriting rules.

The Department has clarified the intent of these rules in N.J.A.C. 11:3-35.1 by stating that the underwriting rules to be filed are those used to accept or reject new business, renew or nonrenew current business or assign a risk to the standard or non-standard rate level.

COMMENT: Several insurers inquired whether the rules apply to commercially insured vehicles. One commenter suggested that the title be changed from “Private Passenger Automobile Insurance Underwriting Rules” to “Personal Automobile Insurance Underwriting Rules.”

RESPONSE: These rules are not intended to apply to commercially insured vehicles. Additional language has been inserted at N.J.A.C. 11:33-5.1(a) and (b) to clarify this intent.

COMMENT: Several insurers objected to the provisions of N.J.A.C. 11:3-35.4 which requires insurers to file rules that will “insure eligible persons” for renewals upon adoption of the rules and all applicants after April 1, 1992. Two commenters noted that the provisions of section 27b of the FAIR Act (N.J.S.A. 17:33B-15b) provide that insurers shall not refuse to insure or to renew “... an eligible person who meets its underwriting rules ...”. Others stated that the requirement to renew “eligible persons” does not take effect prior to April 1, 1992. One commenter asserted that the requirement to renew eligible persons was contrary to clear legislative intent.

RESPONSE: The Department believes that this rule is necessary to carry out the provisions of N.J.S.A. 17:33B-15b, pursuant to the language of N.J.S.A. 17:29A-46 quoted above. Regarding the statement that the requirement to renew eligible persons does not take effect prior to April 1, 1992, the Department notes that section 3 of the FAIR Act amends N.J.S.A. 39:6A-3 to provide: “No licensed insurance carrier shall refuse to renew the required coverage stipulated by this Act of an eligible person as defined in section 25 of P.L. 1990, c.8 (C. 17:33B-13) ...”. This provision concerning the requirement to renew does not contain a delayed effective date. The Department has therefore concluded that the requirement to renew eligible persons takes effect upon the adoption of rules defining “eligible person” (see proposed N.J.A.C. 11:3-34 published elsewhere in this issue of the Register).

COMMENT: One commenter objected generally to the requirements that insurers write or renew eligible persons. The commenter expressed concern that this may result in more business for an insurer than it can efficiently handle, even though it is financially able to do so. It objected to the removal of all subjective judgments; for example, it suggested that an insurer should not have to insure an eligible person who acted in a threatening or obstreperous manner. It noted the ability of an insurer to nonrenew up to two percent of its insureds in any territory in accordance with the provisions of N.J.S.A. 17:29C-7.1, but objected to the requirement to write the insured in the first instance; nonrenew them after a year; and rewrite them again if they applied. It questioned whether an insurer may use any remaining extra “2% credits” to refuse to write some applicants.

RESPONSE: Insurers are required to provide coverage in the voluntary market to defined eligible persons beginning April 1, 1992 pursuant to N.J.S.A. 17:33B-15. The proposed rules are intended to effectuate that statute and N.J.S.A. 17:29A-46 which, as discussed in a response to a previous comment, requires insurers to file their underwriting rules for approval.

Further, the Department notes that an insurer may request relief from the requirement that it insure all eligible persons pursuant to N.J.S.A. 17:33B-20. The FAIR Act also continues to provide an insurer with limited discretion to nonrenew up to two percent of its insureds in each territory based on subjective judgments pursuant to N.J.S.A. 17:29C-7.1. This statute does not create “credits” as suggested by the commenter, but merely permits discretionary nonrenewals of existing business within certain limits. Accordingly, an insurer may not refuse to

You're viewing an archived copy from the New Jersey State Library.
write some applicants in the first instance as suggested by the commenter but must insure all eligible persons in the voluntary market beginning April 1, 1992. N.J.S.A. 17:33B-20.

COMMENT: One commenter stated that the approach of the rules was too rigid and that it would create a competitive market.

RESPONSE: The Department disagrees. The underwriting rule standards set forth objective criteria for the evaluation of an insurer's underwriting rules that are used to accept or reject, renew and non-renew, or assign a risk to the standard and non-standard rate levels. Although the commenter objects to the standards set forth in the rules, it does not suggest alternatives.

COMMENT: One commenter stated that it objected to the definition of "eligible person" in proposed rule N.J.A.C. II:3-34 as a basis for many of the objections to this proposal; it reiterated its objection to this proposed rule, which incorporates the definition of "eligible person."

RESPONSE: This commenter is referred to the response to its comment concerning the rules defining "eligible persons", N.J.A.C. II:3-34.

COMMENT: One insurer noted that the rules contemplate that insurers would have to order abstracts of driving records from the Division of Motor Vehicles before renewing. The commenter stated that this would greatly increase expenses. It inquired whether the insurer may request an abstract to a sample, or to particular insureds based on loss/claim histories. It stated that ordering an abstract for all renewals is wasteful.

RESPONSE: Insurers are required by N.J.S.A. 17:29A-46b to "apply their underwriting rules uniformly and without exception throughout the State": Insurers should develop and implement systems to do so. The system envisioned will be based upon the underwriting rules applicable to each insurer.

COMMENT: A consistent application throughout the State is a key element. An insurer may limit its ordering of abstracts of motor vehicle records, for example, to those three years or to a random sample of its insureds. The sample may not, however, be biased toward certain territories, age groups, or other such factors. It may be used in connection with renewal questionnaires or other unbiased methods of gathering pertinent information.

COMMENT: One commenter requested a clarification regarding the use of "administrative requirements:" It stated that insurers typically require signatures on applications, submission of renewal questionnaires and a certain percentage of the premium for a down payment before an application can be accepted and bound. It further stated that certain types of vehicles are unacceptable to some insurers, such as high performance and luxury cars. It stated that these types of administrative rules do not appear to be precluded by this proposal, but requested clarification.

RESPONSE: Nothing in the rules prohibits insurers from requiring signed applications, etc., before an application can be accepted and bound. The FAIR Act requires insurers to "assign a risk to the standard eligible persons regardless of the type of vehicle driven. Insurers are free to submit for approval underwriting rules within these parameters."

COMMENT: A consumer organization inquired how an "eligible person" would obtain coverage after October 1, 1990 when the NJAFIUUA ceases to insure new applicants and before October 1, 1992 when the "eligible person" criteria is effective for new applicants. It suggested that the eligible person criteria be made effective as of October 1, 1990.

RESPONSE: Section 88 of the FAIR Act (N.J.S.A. 17:33B-11) creates a Market Transition Facility to issue and renew personal automobile insurance policies until October 1, 1992 for those unable to purchase insurance in the voluntary market.

COMMENT: A consumer organization commented favorably on the rules' flexibility to allow an insurer to broaden its own acceptance of "eligible persons" and its standard rate applicability in a standard/nonstandard rating plan. It noted, however, that this was only an option and inquired what incentive is provided to do so.

RESPONSE: The Department believes that competition and the desire to retain "good" business may encourage insurers to do so. For example, an insurer may wish to continue to write a claim free risk at standard rates even though the insurer is less risk hungry.

COMMENT: Two commenters object to the provisions of N.J.A.C. 11:3-35(c)(2), which require a "reasonable and demonstrable relationship between risk insured and the hazards insured against." One commenter stated that the word "demonstrable" is unnecessary, the word "reasonable" conveys sufficient intent. Another commenter noted that insurers may not be able to demonstrate the relationship for some rules in that they have not collected data segregated by such factors.
prohibit assignment of a vehicle to a market rate level based upon factors other than driver characteristics.

COMMENT: One commenter organization commended the requirement that no underwriting rule be based on subjective judgments, but requested more detail concerning what constitutes specific and verifiable measurements. It expressed concern that statistics developed by the insurance industry would be arranged to show correlations and "then jump to statements that claim a causal relationship exists because of that correlation." It stated that there is never data that supports the technical definition of causation. The commenter suggested that the "specific and verifiable measurements" be supported by the full application of scientific method.

RESPONSE: As stated in response to a previous comment, the phrase "specific and verifiable measurements" requires that the rule be capable of being applied in a practical manner. This standard is not intended to require "full application of the scientific method" to demonstrate conclusively the relationship between a reliable underwriting criterion and a resulting automobile accident claim.

COMMENT: Two commenters requested clarification of N.J.A.C. 11:3-35.3(c)5, which prohibits an underwriting rule based upon the fact that an insured was previously insured in the non-standard or residual market. One commenter noted that Section 89 of the FAIR Act permits an insurer to charge market transition facility rates in the voluntary market for a limited period of time. Another commenter inquired whether this would prohibit the "promotion" of an insured to standard rates from non-standard rates.

RESPONSE: Nothing in this rule prohibits an insurer from charging rates permitted by section 89 of the FAIR Act (N.J.S.A. 17:33B-12). It recognizes that many persons currently insured in the residual market meet objective criteria for coverage in the voluntary market. The fact that these persons previously were insured in the residual market because they were unable to find a voluntary market insurer should not continue to disqualify them from a better rate level, which it currently does in many insurers' present underwriting rules.

Nothing in this rule prohibits the "promotion" of an insured to the standard rate level when the insured qualifies for it in accordance with the insurer's approved underwriting rules; in fact, N.J.S.A. 17:29A-46 requires it.

COMMENT: One commenter objected to N.J.A.C. 11:3-35.3(c)6, which prohibits an underwriting rule based upon whether an insured purchases other insurance or services from the insurer. The commenter stated that a preference should be provided for insureds that purchase other products.

RESPONSE: The Department disagrees. It is contrary to an applicable underwriting rule that would assign a person to the residual market or to a separate rate level based upon the purchase of other insurance products.

COMMENT: Two insurers objected to the provisions of N.J.A.C. 11:3-35.3(c)7, which prohibits an underwriting rule based upon the lawful occupation or profession of an insured, except when an insured limits all of its insureds to one lawful occupation or profession. The insurer stated that this unfairly allows some insurers to limit the "take all comers" provisions of the FAIR Act.

RESPONSE: The Department notes that this rule is derived from the Department's rules concerning nonrenewal of automobile insurance policies (proposed N.J.A.C. 11:3-8). These rules are currently being amended (see emergency adoption and concurrent reproposal published elsewhere in this issue of the Register). The Department believes that this is an appropriate standard for rules that deal with the acceptance of business. The FAIR Act permits insurers which have traditionally limited their business to insureds based on such criteria to continue to do so (see N.J.S.A. 17:33B-13). Several insurers doing business in New Jersey fit this description.

COMMENT: An insurer objected to N.J.A.C. 11:3-35.3(c)8, which prohibits an underwriting rule based upon whether the insured has changed employment. The commenter stated that it can demonstrate that changes in employment have a "reasonable and demonstrable" relation to risk.

RESPONSE: The Department believes that this rule sets forth a reasonable standard for an objective underwriting rule that meets the criteria of being both "reasonable and demonstrable" and based on "specific and verifiable measurement," which are going to be uniformly and without exception throughout the State. While insurers have argued that "changes in employment" are evidence of "instability," the Department notes that people change employment for various reasons and that an underwriting rule that assigns a person to the non-standard or residual market based upon a change of employment would be patently unfair and difficult to apply consistently throughout the State.

COMMENT: An insurer inquired whether N.J.A.C. 11:3-35.3(c)9 provides insurers with the ability to deny coverage if medication is taken that impairs driving ability.

RESPONSE: Nothing in this rule prohibits an underwriting rule that meets the general criteria of N.J.A.C. 11:3-35.3(c)2, 3 and 9, which it intends to apply uniformly and without exception throughout the State. Some commenters objected to N.J.A.C. 11:3-35.3(c)10, which prohibits underwriting rules based on whether a member of the insured's household is not an "eligible person," has not been licensed to drive for the previous three years, or has accumulated automobile insurance eligibility points unless the member of the household usually accounts for 10 percent or more of the use of the vehicle insured. The commenters uniformly requested that this proposed rule be stricken entirely.

The commenters stated that this rule would serve to hide bad drivers in eligible households; would take the occasional operator beyond the scope of underwriting review; would invite fraud; would be costly to verify; would result in needless disputes between the insurer and the insured; and that it would be difficult for an insurer to sustain the burden of proof regarding percentage of use at a hearing. One commenter suggested that the rule be provided to vehicles by all other members of the household; that is, that the vehicle may be ineligible for insurance in the voluntary market if the total percentage of use by all ineligible persons is 10 percent or more.

RESPONSE: The Department believes that this rule reasonably effects the intent of the FAIR Act to require insurers to provide coverage in the voluntary market for "eligible persons." specifically, the owner or registrant of a vehicle who does not have certain negative characteristics (see N.J.S.A. 17:33B-13). It notes that, but for this standard, N.J.S.A. 17:33B-15 would appear to require an insurer to provide voluntary market coverage to an "eligible person" applicant for all owned or registered vehicles, even if all other drivers in the applicant's household were ineligible.

Nevertheless, the Department does not construe the FAIR Act as providing that the assigned risk plan cover only those persons who live in households in which all drivers are ineligible persons. This would result in a much smaller percentage of drivers in the assigned risk plan than the 10 percent maximum contemplated. But the Department similarly does not believe that the FAIR Act intends that all vehicles and drivers who live in a household with an ineligible person be insured as assigned risks; this would likely be substantially more than 10 percent of the market. Rather, the Department construes the FAIR Act as providing that ineligible persons and the vehicles they regularly drive be insured as assigned risks. It believes this rule is a reasonable method of effectuating these provisions of the law.

The rule contains two presumptions that are intended to facilitate administration and to minimize the potential for fraud or misstatement by generally providing that drivers are assigned to separate automobiles in multi-car households. This is consistent with current industry practice in the residual market. The Department believes that 10 percent minimum use of a vehicle is a reasonable measure for a threshold at which a particular driver's risk characteristics should impact the assignment of the vehicle to a different market segment.

These reproposed rules delete references to inexperienced drivers, that is, those who have held a driver's license less than three years. Reproposed N.J.A.C. 11:3-34 (published elsewhere in this issue of the Register) assigns eligibility points to inexperienced drivers.

COMMENT: One commenter objected to presumptions set forth in N.J.A.C. 11:3-35.3(c)10i and ii. It stated that a driver in fact may be the principal driver of more than one vehicle. It further stated that there is no basis to presume that a person is not the principal driver of more than one vehicle.

RESPONSE: The Department believes that the presumptions are reasonable. To provide otherwise would invite abuse by insurers, fraud by insureds and needle disputes. These presumptions are necessary to carry out the intent of the law that eligible persons and the vehicles they drive be insured in the voluntary market, and ineligible persons and the vehicles they drive be insured as assigned risks.

(CITE 22 N.J.R. 3858)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
COMMENT: Several commenters stated that N.J.A.C. 11:3-35.4, which requires underwriting rules provide that an insurer will insure eligible persons, is in conflict or contrary to the provisions of N.J.S.A. 17:29C-7.1 which permits an insurer to nonrenew two percent of the insureds in each territory. Other commenters requested a clarification of the relationship between these two provisions.

RESPONSE: The Department does not believe that there is any conflict. Nothing in these rules prohibits an insurer from exercising its discretion to nonrenew in accordance with N.J.S.A. 17:29C-7.1 and N.J.A.C. 11:3-8 (as compared to the previously approved underwriting rules published in the Register in this issue). These rules require insurers to file for approval underwriting rules to be used to assign applicants to the standard, non-standard and residual markets. An insurer may continue to nonrenew two percent of its insureds in each territory pursuant to N.J.S.A. 17:29C-7.1.

COMMENT: An insurer inquired whether the rules prohibited the establishment of more than one rate level within a standard/non-standard rating plan. It stated that the rules should not prohibit the use of class plans for rating different risks differently.

RESPONSE: Non-standard rates should provide a reasonable and equitable gradation of rates based upon automobile insurance eligibility points (see reproposed N.J.A.C. 11:3-19 published elsewhere in this issue of the Register). Nothing in the rules prohibits the use of approved class plans for rating purposes that provide different premiums within the same rate level.

COMMENT: An insurer objected to the provisions of N.J.A.C. 11:3-35.5(a), which require underwriting rules for standard/non-standard rating plans assign to the standard rate level all drivers licensed for at least three years and who have accrued no automobile insurance eligibility points. It stated that standard rates were not appropriate for all such risks: for example, the vehicle characteristics should be considered. It stated that insuring a Buick is different than insuring a Lamborghini both for physical damage and liability.

RESPONSE: This provision, which was complementary to the proposed N.J.A.C. 11:3-19(a), has been modified in accordance with the changes to provisions of the rules concerning eligibility points and standard/non-standard rating plans (see reproposed N.J.A.C. 11:3-34 and 11:3-19 published elsewhere in this issue of the Register). While the rates for different vehicles may differ, the market in which the vehicle is insured shall be based on the driver's characteristics.

COMMENT: An insurer inquired whether a company is excused from filing its underwriting rules if the Commissioner has exempted it from insuring all eligible persons in accordance with N.J.S.A. 17:33B-20.

RESPONSE: A company would not be excused from filing its underwriting rules merely because of an exemption order. Any insurer exempted from insuring all eligible persons in accordance with N.J.S.A. 17:33B-20 would nevertheless require underwriting rules for the renewal or nonrenewal of its current book of business, as well as rules for acceptance or non-acceptance of new business, if any. Upon implementation of a standard/non-standard rating plan, underwriting rules are necessary to assign risks to the proper rate level.

COMMENT: Several insurers requested that the rules include a "de-emer date" for Department approvals of filed underwriting rules. One commenter stated that the rules were defective in that they did not set forth a time within which the Department must act and a procedure for hearing disputes. One insurer inquired what rules would be in effect if the insurer failed to have its underwriting rules approved within the time provided.

RESPONSE: The Department is unwilling to provide a "deemer date" at this time. Experience has shown that most insurers wait until the deadline to make filings and many filings require resubmission. Approval of each insurer's rules, depending upon insurer's complexity, may require a substantial amount of Department resources. While underwriting rule filings will be processed as promptly as possible, the Department cannot guarantee that all filings will be reviewed as of a certain date.

The Department does not agree that the rules are "defective" in that they do not include a procedure for hearing disputes; nothing in these rules affects rights under generally applicable laws to contest administrative decisions.

An insurer is not relieved of the obligation to renew all eligible persons pursuant to section 3 of the FAIR Act (N.J.S.A. 39:6A-3) or to provide insurance in accordance with section 27 of the FAIR Act (N.J.S.A. 17:33B-15) by reason of its failure to meet the time requirements of this rule.

COMMENT: A consumer group suggested that the $500.00 penalty for violations, which is set forth in N.J.A.C. 11:3-35.6(b), is too low, and that the penalty should be increased to $1000.

RESPONSE: Nothing in the proposed rule prohibits underwriting rules based upon the nature of the vehicle. Occupation or non-acceptance of insurance is a necessity. Many individual's underwrite automobiles in business pursuits.

COMMENT: Regarding N.J.A.C. 11:3-35(c)(7), which prohibits underwriting rules from being based on unlawful occupation or profession, a commenter stated: "The use of occupation as an underwriting factor for the writing of personal automobile insurance is a necessity. Many individuals use their personal automobiles in business pursuits."

RESPONSE: Nothing in the proposed rule prohibits underwriting rules based upon the nature of the vehicle. Occupation or non-acceptance of insurance is a necessity. Many individual's underwrite automobiles in business pursuits.

COMMENT: In regard to the effects of the relationship between these two provisions.

RESPONSE: The relationship between these two provisions is in conflict. Nothing in these rules prohibits an insurer from exercising its discretion to nonrenew in accordance with N.J.S.A. 17:29C-7.1 and N.J.A.C. 11:3-8, whereas in these proposed underwriting rules (see reproposal published elsewhere in this issue of the Register). These rules require insurers to file for approval underwriting rules to be used to assign applicants to the standard, non-standard and residual markets. An insurer may continue to nonrenew two percent of its insureds in each territory pursuant to N.J.S.A. 17:29C-7.1.

COMMENT: The Department deleted the reference to persons "who have not been licensed to drive for the previous three years" in N.J.A.C. 11:3-35.3(c)(10) and 11:3-35.3(a) and (b). Drivers without three years' experience have been assigned automobile insurance eligibility points in N.J.A.C. 11:3-34 (see reproposal published elsewhere in this issue of the Register). Specific mention of three years' driving experience is, therefore, no longer necessary, since the changed provisions include references to eligibility points.

The time limit within which insurers must file their underwriting rules has been extended as of March 1, 1991 in order to accelerate implementation of the FAIR Act reforms. N.J.A.C. 11:3-35.1 states the purpose and scope of the proposed new rules.

N.J.A.C. 11:3-35.2 sets forth definitions of terms used throughout the subchapter.

N.J.A.C. 11:3-35.3 sets forth general requirements and the format for filing underwriting rules.

N.J.A.C. 11:3-35.4 establishes the requirements of underwriting rules for eligible persons.

N.J.A.C. 11:3-35.4 establishes the requirements of underwriting rules for eligible persons.

N.J.A.C. 11:3-35.5 requires insurers to file their underwriting rules for approval by March 1, 1991, and provides penalties for failure to do so. It also sets forth the penalty provided in N.J.S.A. 17:29A-46(a) for failing to conduct business in accordance with approved underwriting rules.

Social Impact

These reproposed new rules affect private passenger automobile insurers and insureds, as well as the Department. These rules carry out the statutory purposes of the market structure provisions of the FAIR Act by requiring insurers to file for approval of underwriting rules that establish the voluntary market as provided in the FAIR Act. In doing so, insureds which are "eligible persons" shall be guaranteed access to insurance in the voluntary market. Moreover, insureds that are proven "good drivers", that is, have accrued no automobile insurance eligibility points, will be provided insurance at standard market rates. These reproposed rules further permit an insurer to file for approval underwriting rules by which it may choose to renew business, or accept new business, even though the risk is not an "eligible person". These reproposed rules further permit an insurer which files a standard/non-standard rating plan to choose to insure at standard market rates renewal business, or new business, even though the person has accrued eligibility points.

Economic Impact

These reproposed new rules will impact private passenger automobile insurers and the Department. Insurers are required by N.J.S.A. 17:29A-46 to file for approval their underwriting rules. Doing so will, of course, involve some administrative expense. This impact should be minimal.
INSURANCE

However, as the rules set forth a simple and standardized format for these filings.

The Department will incur some additional costs in carrying out its duty to review and approve insurer underwriting rule filings. These anticipated costs will require additional personnel and resources, as will the Department's duty to enforce the provisions of N.J.S.A. 17:29A-46, as amended by the FAIR Act.

Regulatory Flexibility Analysis

The reproposed new rules will affect insurers authorized to transact the business of personal private passenger automobile insurance in New Jersey. Some automobile insurance companies may be considered "small businesses" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The compliance requirements imposed by these reproposed rules are largely a function of the statutory mandate of N.J.S.A. 17:29A-46, which requires insurers to file for approval their underwriting rules. Specific compliance requirements are imposed by this rule, which include the format of the rules, certain standards for approval, and the requirement that all insurers file their underwriting rules for approval by March 1, 1991. Insurers will be required to expend certain administrative costs in developing and filing their underwriting rules. Since all insurers currently operate using their own internally developed underwriting rules, the Department believes that these reproposed rules will not require insurers to hire additional professional or non-professional staff.

These proposed rules further carry out the statutory mandates of the market structure provisions of the FAIR Act which requires all insurers to insure in the voluntary market those persons defined as "eligible persons." Since the underlying statutory authority does not allow for disparate treatment for "small businesses", the rules apply equally to all insurers affected by their provisions.

Full text of the emergency adoption and concurrent reproposal follows:

SUBCHAPTER 35. PRIVATE PASSENGER AUTOMOBILE INSURANCE UNDERWRITING RULES

II :3-35.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-46 which requires that personal private passenger automobile insurers file for approval their underwriting rules used to accept or reject new or renewal business or to assign risks to the standard or non-standard rate levels. Approval of underwriting rules shall serve to confirm that each insurer's business practices are consistent with law regarding the acceptance of new business, the renewal of current business and the assignment of a risk to an insurer's standard or non-standard rate level.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger automobile insurance in the voluntary market. It applies to affiliated companies which insure risks through different individual insurance companies.

II :3-35.2 Definitions

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

"Affiliated companies" means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

"Automobile insurance eligibility points" means points accrued as provided in accordance with the schedule set forth in N.J.A.C. 11:3-34.

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Department" means the New Jersey Department of Insurance.

"Individual insurance company" means an insurance company licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless of whether it is one of a group or affiliated companies.

"Insurer" includes a group of affiliated companies.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with N.J.A.C. 11:3-19.

II :3-35.3 General requirements and filing format

(a) All insurers which write personal private passenger automobile insurance in New Jersey shall file for approval their underwriting rules used to accept or reject new business, to renew or nonrenew current business and to assign business to the standard or non-standard rate level of an approved standard/non-standard rating plan, in accordance with N.J.S.A. 17:29A-46 and this subchapter. No insurer shall use or implement any underwriting rule not filed and approved as set forth herein.

(b) Underwriting rules shall be submitted on 8 1/2 by 11 inch paper using one side of the page. Each page shall be consecutively numbered. The first page shall show the filer's company name, the filer's identifying number for this filing, National Association of Insurance Commissioners (NAIC) company number(s), and NAIC group number. The underwriting rules filing shall clearly identify the rate level to which the underwriting rules will be applied and whether the underwriting rules apply to new business, renewal business or both. All tables shall be clearly labeled.

(c) Underwriting rules shall meet the following standards:

1. No underwriting rule shall be based on the territory in which an insured resides.

2. An underwriting rule shall be based on a reasonable and demonstrable relationship between the risk characteristics of the driver(s) insured and the hazards insured against.

3. An underwriting rule shall be based on specific and verifiable measurements. No underwriting rule shall be based on subjective judgments such as "pride of ownership evident," "poor attitude," "unsatisfactory environment to conduct business," etc.

4. No underwriting rule shall be based on race, color, creed, national origin or ancestry.

5. No underwriting rule shall be based on whether the applicant or insured was previously insured as a non-standard or sub-standard risk, was previously insured by a residual market mechanism, or whether another insurer declined to insure or terminated insurance.

6. No underwriting rule shall be based on whether the insured or a member of the insured's household purchases or continues to purchase other insurance or services from the insurer or its affiliates, agents or other companies under common management or ownership, except that this provision shall not prohibit a rate discount.

7. No underwriting rule shall be based on the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer which limits all its insureds to one lawful occupation or profession, or to several related lawful occupations or professions.

8. No underwriting rule shall be based on whether the insured has changed employment in the recent past, except that this provision shall not prohibit a rate discount to an insurer's employees or agents.

9. No underwriting rule shall be based on whether the insured is impaired by physical or mental disabilities except those disabilities that impair the ability to operate an automobile safely.

10. No underwriting rule shall be based on whether a member of the insured's household is not an "eligible person" as defined in N.J.A.C. 11:3-34 or has accumulated one or more automobile insurance eligibility points, unless the member of the household usually accounts for 10 percent or more of the use of the automobile insured or to be insured. For the purpose of this section:

i. Any driver who is the principal driver of an automobile shall be presumed not to account for 10 percent or more of the use of any other automobile in the household.

ii. Except when there are more automobiles than drivers in the household, a person shall be presumed not to be the principal driver of more than one automobile.

II :3-35.4 Underwriting rules for eligible persons

(a) All insurers shall file for approval underwriting rules that provide that the insurer will make an offer to renew any of its insureds who is defined as an "eligible person" in N.J.A.C. 11:3-34.

(b) All insurers shall file for approval underwriting rules that provide that on or after April 1, 1992, the insurer shall not refuse

(CITE 22 N.J.R. 3860) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
to insure, refuse to renew or limit coverage available to any of its insureds, or to any applicant for insurance, which is defined as an "eligible person" in N.J.A.C. 11:3-34.

(c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure any person not defined as an "eligible person" in N.J.A.C. 11:3-34.

11:3-35.5 Underwriting rules for standard/non-standard rating plans

(a) Insurers shall file underwriting rules applicable to each rate level of a standard/non-standard rating plan in accordance with N.J.A.C. 11:3-19.3(c) which filing shall be made in accordance with, and in satisfaction of, the requirements of this subchapter. (b) Insurers shall file underwriting rules that provide that its insureds and applicants who have accrued no automobile insurance eligibility points shall be assigned to its standard rate level. (c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure at its standard rate level any person who has accrued one or more automobile insurance eligibility points.

11:3-35.6 Penalties

(a) An insurer which fails to file its underwriting rules for approval pursuant to N.J.S.A. 17:29A-46 and this subchapter by March 1, 1991 shall be subject to penalties as provided by N.J.S.A. 17:33-2.
(b) An insurer which knowingly fails to transact automobile insurance business consistently with its approved underwriting rules shall be subject to a fine of not less than $500. For each violation, pursuant to N.J.S.A. 17:29A-46a.

DIVISION OF FRAUD
Automobile Physical Damage Insurance Inspection Procedures


Submit comments by January 16, 1991 to: Verice M. Mason, Assistant Commissioner Legislative and Regulatory Affairs New Jersey Department of Insurance 20 West State Street Trenton, New Jersey 08625-0325

These new rules were adopted on an emergency basis and became effective upon filing by the Office of Administrative Law (see N.J.S.A. 52:14B-1 et seq.) on November 26, 1990. These rules are in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rules become effective upon filing with the Office of Administrative Law (see N.J.A.C. 11:3-36.4(c)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent repropose follows:

Summary

The Department of Insurance (Department) previously proposed rules implementing these statutory provisions on July 16, 1990 (see 22 N.J.R. 2111(a)). The Department has decided to make substantive changes based on public comments received and continuing Department review. This proposal therefore replaces and supersedes the prior proposal. Those comments and the Department's responses are summarized below.

COMMENT: The definition section is misnumbered, it should be renumbered to read N.J.A.C. 11:3-36.2.

RESPONSE: The Department agrees and has revised this section accordingly.

COMMENT: One commenter suggested amending the definition of "automobile physical damage insurance" to mean a policy with a period of one year from the date upon which a covered policy becomes effective upon first issuance or renewal providing one or more . . . etc. The commenter believes that this modification will make the required inspection occur only annually, not every six months if the policy were to be issued on such basis.

RESPONSE: The Department has revised the term "inspection" by adding "automobile physical damage insurance" to the definition in order to clarify that the Department is referring to insurance inspections.

COMMENT: One commenter argued that "insurer" is defined in the proposed new rules to include "all affiliated companies within a group," but insurer is not defined in P.L.1990, c.8 (N.J.S.A. 17:33-33 et seq.) which is the statutory authority for this proposal. The commenter does not believe that the definition operates to improve the inspection program. The commenter objected to assuming that two insurance companies are "affiliates" as defined by the Insurance Holding Company System Act (N.J.S.A. 17:27A-1 et seq.) reason of as little as 10 percent direct or indirect stock ownership interest and that they operate independently of each other. The commenter states that under the proposed new rules, an inspection could be waived under proposed N.J.A.C. 11:3-36.4(c)(8) for an insured of one of the companies, whether or not the other has an inspection facility within 10 miles. Two commenters suggested that the definition of "insurer" should be amended to delete affiliates operating independently of each other.

RESPONSE: The Department has revised N.J.A.C. 11:3-36.4(c). The waiver applies to automobiles that are principally garaged out-of-State and where there is no inspection facility within 10 miles of the city or town.

COMMENT: Two commenters expressed concern with the definition of "new automobile" which is defined as a vehicle not previously titled with less than 300 recorded miles. One commenter stated that the definition is significant because of the content of N.J.A.C. 11:3-36.4 which permits mandatory inspection to be waived where a "new automobile" is purchased from a franchised dealer and certain data is provided to the insurer. The commenter agrees that, as presently proposed, the waiver of inspection of new cars is at the insurer's option. The commenter agreed that it is not uncommon for a policyholder to purchase previously untitled vehicles with odometer readings in excess of 300 miles. The commenter argued that if a vehicle had in excess of 300 miles at the time of purchase, physical damage coverage could only be provided with an inspection. The commenter questioned whether an insurer can, under these circumstances, be sure to some degree of certainty that coverage is in place. A second commenter stated that the definition is too restrictive and is at odds with present New Jersey Motor Vehicle statutes (see for example N.J.S.A. 39:10-2). The commenter argued that the mileage limitation of 300 miles fails to take into account new vehicles used by franchised dealers as demonstrators which are untitled until sale to a retail customer but could have several thousand miles on their odometers. A third commenter requested an affirmative statement, consistent with the Fair Act, in the rule's definition of "private passenger automobile" (N.J.A.C. 11:3-36.3) that inventory held by dealers for resale, and not yet titled by New Jersey Division of Motor Vehicles is exempt from the provisions of the rule.

RESPONSE: The Department is only exempting new automobiles. The Department believes demonstrators should be inspected in accordance with these rules. Demonstrators may have been driven several
thousand miles and are subject to prior damage. The Department believes that
automobiles which have in excess of 300 miles will be identified on the
bill of sale. The definition of a new automobile is not in conflict with
any other statutory provision.

COMMENT: One commenter stated that a bare reference to a statute
(N.J.S.A. 39:6A-2a) in the definition of a private passenger automobile
is sometimes unclear, and it should be clear from the reading of any
regulatory enactment what is intended by the regulation. The commenter
suggested that the relevant language from the statute be incorporated into
this section.

RESPONSE: The Department agrees and has revised the definition of
private passenger automobile accordingly.

COMMENT: One commenter suggested amending the definition of
"authorized representative" to include ... a producer who elects in
authorized writing by the insurer to conduct such inspections or an
inspection service. The commenter requests the amendment so that the
decision as to whether the producer is required to conduct the inspection
is left up to the producer.

RESPONSE: The Department does not regulate the contractual rela-
tionship between producers and insurers. If insurers request producers
to conduct inspection, it is a matter to be resolved between the producer
and the insurer.

COMMENT: One commenter stated that the word "endorsement" in
N.J.A.C. 11:3-36.3(a)1 seems superfluous as a result of the content of
N.J.A.C. 11:3-36.3(a)2 which addresses additional and replacement cars.

RESPONSE: The Department disagrees. An endorsement includes the
adding of coverages as well as automobiles.

COMMENT: Several commenters objected to N.J.A.C. 11:3-36.3(a)3
which requires all automobiles to be inspected during the first year of
the rule. One commenter argued that this section exceeds the scope of
the Fair Act and should be deleted. The commenter believed the Fair
Act confines the mandatory inspection program to newly issued policies
and additional or replacement vehicles. The commenter does not believe
that insurers are required to inspect all automobiles insured for physi-
cal damage upon renewal but only new business and additional or replace-
ment vehicles. The commenter argued that the Department's inclusion
of all autos in the inspection program significantly increases the burden
imposed on insurers by the Act and jeopardizes the success and com­
pliance rate of the inspection program. The commenter argues that as
a practical matter, both because of the frequency with which autos are
purchased and sold and because policyholders change insurance com-
panies from time to time, it will take only a few years before most of
the cars in the State have been inspected.

A second commenter argued that its Material Damage Claim Officer
reviewed the inspection forms and determined that it would take about
20 minutes to inspect, take photos and fill out the forms. The commenter
stated that to inspect all number of automobiles it insures it would take at
least six months to get all the automobiles inspected. The commenter
argued that this provision is not time effective or cost effective. The
commenter does not believe that the Fair Act requires inspection before
renewal.

A third commenter suggested that N.J.A.C. 11:3-36.3(a)3 be modified
to allow for a phase-in period to coincide with the exemption noted under
the waiver provisions.

A fourth commenter suggested that odd-month expiration be in-
spected in 1991 and even months in 1992.

RESPONSE: The Department has deleted this section in favor of a
requirement that insurers randomly inspect at least one out of every seven
automobiles insured for physical damage coverage annually.

COMMENT: Several commenters objected to N.J.A.C. 11:3-36.3(b)2.
One commenter suggests the elimination of an inspection as a condi-
tion to renewal. The commenter believes that this option could lead to mass
nonrenewals based on a technicality which relates only to physical dam-
gage.

A second commenter argued that the Fair Act does not limit the
reasons for which an insurer may require the insured to submit an
auto inspection. The commenter believes that the rule should not imply
that insurers are free to require inspection only under limited circum-
stances. The commenter stated that this subsection of the rule does not
serve any purpose promoted by the Fair Act and should be deleted.

RESPONSE: N.J.S.A. 17:33B-34 of the Fair Act provides that
an inspection may require as a condition of renewal that the automobile be
made available for inspection. This rule is consistent with that require-
ment. The Fair Act permits the Commissioner to exempt or defer inspec-
tions under circumstances specified by regulation.

COMMENT: One commenter suggested a modification to N.J.A.C.
11:3-36.3 which would add a new subsection (c): "Any inspection required by this regulation shall be the responsibility of
the insurer to perform; in no event shall any insurer representative be
held liable for any act performed or not performed under this section
unless grossly negligent or willful."

The commenter believed this is necessary to ensure that insurer re-
presentatives are not held accountable or liable for any act or omission
which was merely negligent and not grossly or willfully negligent.

RESPONSE: This rule applies to the inspection of an automobile for
insurance purposes. This is not a safety inspection. All insurers are
required to make sure that inspections are performed in accordance with
the proposed rules.

COMMENT: One commenter suggested rewording N.J.A.C.
11:3-36.4(a) to require that an insurer "shall" waive the mandatory in-
spection under certain circumstances.

RESPONSE: The Department believes insurers should have the discre-
tion to waive inspections under the circumstances listed in N.J.A.C.
11:3-36.4(a).

COMMENT: One commenter suggested that N.J.A.C. 11:3-36.4(a)(1)
be amended to include the following new language: "Vehicle Buyer's Order (contract) and/or the dealership invoice to the
buyer, including all options and accessories."

RESPONSE: The Department agrees with the commenter and has
revised this section accordingly.

COMMENT: One commenter suggested adding a new section to
N.J.A.C. 11:3-36.4(a), which would provide: A copy of an authorized inspection report, completed, signed and certifed will be suitable for the copy of the bill of sale and the window
sticker.

RESPONSE: When a person has an inspection performed on a new
car they no longer need to have it waived pursuant to N.J.A.C.
11:3-36.4(a).

COMMENT: Three commenters objected to N.J.A.C. 11:3-36.4(a)2.
The commenters disagreed with the waiver of automobiles nine or more
model years old. One commenter argued that the requirement to inspect
cars up to this age limit is unreasonable. In fact most people do not
continue physical damage coverage, especially collision, on cars of that
age. The commenter notes that most car theft problems are on newer
cars. The commenter suggests exempting cars more than five years old.
Two other commenters recommended using the New York regulation's
policy of waiving vehicles more than seven years old. Another commenter
suggested only requiring inspections for cars six years old or less.

RESPONSE: The Department has revised this section to provide an
inspection waiver for automobiles more than seven model years old.

COMMENT: Five commenters objected to the N.J.A.C. 11:3-36.4(a)3 which requires an inspection to be waived when there has been continuous
coverage for five or more years. The commenters suggested shorter
periods of time. One commenter believed that two years is sufficient.
Two commenters noted that the nature of the offense (fraud) and
companies' experience in these matters support the proposition that those
prone to submit dishonest claims do so early on in their relationship with
an insurer.

One commenter suggested that "continuously" insured include lapses
of 30 to 60 days to cover situations where a person sells a car and does
not buy another one immediately.

Another commenter believed that this section should be amended to
add the following: ". . . and have no record of claims within that five
year period."

RESPONSE: The Department has determined that a waiver should
not be granted under those circumstances and has deleted this provision.

COMMENT: Two commenters suggested that in N.J.A.C.
11:3-36.5(a)3 the waiver for commercial policies covering 10 or more
autos should be reduced to five.

Another commenter believed this section should be deleted because
commercial customers can and do perpetrate fraud.

RESPONSE: The Department believes that commercial policies with
10 or more automobiles should be subject to an inspection in accordance
with this rule. The Department also believes that commercial customers
do perpetrate fraud.

COMMENT: One commenter suggested that N.J.A.C. 11:3-36.4(a)(6),
which requires an inspection to be waived when an insurance producer
is transferring a book of business, be amended to read " . . . providing
an inspection already exists."

RESPONSE: The Department does not believe this amendment is
necessary.
COMMENT: Two commenters believed that the term “hardship” in N.J.A.C. 11:3-36.4(a) is vague and not easily applied to day-to-day situations. Therefore, guidelines as to what constitutes “hardship” need to be formulated in order to avoid future uncertainties and disputes.

RESPONSE: The Department has deleted this provision.

COMMENT: Several comments objected to N.J.A.C. 11:3-36.4(a), which requires inspections to be waived if no inspection facility is within 10 miles of the city/town where the automobile is located. One commenter believed that requiring inspection facilities to be located within 10 miles may be unreasonable when our State’s more rural areas are considered.

RESPONSE: This commenter suggested adopting the New York 10-mile standard for some sections of the State, and increasing the standard to 25 miles for less populous areas.

Two commenters believed that allowing inspections to be waived if insurers do not adhere to this provision allows insurers to only authorize a limited number of people or limit the number of inspection sites to cut down the need for inspections.

RESPONSE: The Department has revised this section with regard to waivers. A waiver may be granted to an automobile garaged out-of-State if there is no inspection facility within 10 miles. The requirement that an inspection facility shall not be more than 10 miles from the city or town where the automobile is principally garaged is a standard set forth in N.J.A.C. 11:3-36.6. The Department believes the requirement is reasonable.

COMMENT: One commenter suggested adding the following new section to N.J.A.C. 11:3-36.4(a):

10. Where a non owned automobile is insured under a policy providing automobile physical damage insurance issued by an insurer which has inspected such automobile in accordance with the provisions of this section, the insurer shall arrange to conduct the inspection by an authorized representative during the deferral period at a place which shall not be more than 50 miles from the temporary location.

RESPONSE: The rule addresses the deferral of inspections that are required by N.J.A.C. 11:3-36.3. Automobiles principally garaged out-of-State are covered by N.J.A.C. 11:3-36.4(a).

COMMENT: One commenter believed that N.J.A.C. 11:3-36.6(a) should be amended by adding the following language: “If there is no such convenient location the insurer shall make arrangement for an authorized representative to inspect the insured’s vehicle at the insured’s place of business or home.”

RESPONSE: There is nothing in this rule that prevents an insurer from requiring this from their authorized representatives. The proposal only requires an inspection facility to be not more than 10 miles from the city or town where the automobile is principally garaged.

COMMENT: One commenter argued that subsection (b) of N.J.A.C. 11:3-36.6 does not require disclosure of the Vehicle Identification Number (VIN) when the notices of either Appendix A or Appendix B are issued.

RESPONSE: The VIN number will be filled in by the person conducting the inspection. The Department requires this so that there are no discrepancies between the car that is insured and the one that is inspected.

COMMENT: One commenter suggested amending the language in N.J.A.C. 11:3-36.6(c), from “shall be attached to the report” to “shall be a part of the report,” and add “photographs of areas of the vehicle which contain prior damage are to be taken; one photo for each area of damage.”

RESPONSE: N.J.A.C. 11:3-36.6(c)4 permits additional photographs to be taken showing damaged areas and the Department has revised N.J.A.C. 11:3-36.6(c)2 in accordance with the commenter’s suggestion.

COMMENT: Three commenters objected to N.J.A.C. 11:3-36-6(c3 which requires a photographer to take three photographs of the VIN. One commenter believed that the third photograph added approximately 30 percent to their inspection costs.

All three commenters argued that photographs of the VIN would not be legible.

RESPONSE: In order to take a legible photograph of the VIN, a special camera attachment (hood) is needed.

COMMENT: One commenter suggested the following changes to N.J.A.C. 11:3-36.6.

4. Delete 4. as it exists and substitute . . . The authorized representatives must be able to produce duplicate photographs should the original photographs become lost or mutilated.

5. (d)2. Add . . . maintain a control system so that photos which may become separated from reports can be identified with a report and brought together with the proper inspection report.

(f) add . . . insurers who maintain electronic image files for hard copy records. Such systems must have a read one write once memory which serves as legal records documentation.

(g) add . . . a central number will be established to receive consumer complaints concerning inspection service or customer treatment.

(b) change as follows:

1. When the inspection report indicates prior damage

2. When there is suspicion of fraud and/or the possibility of a “Prima Facie” case being developed

(f) add . . . “A copy of . . . all total loss claims, insurers who utilize electronic image systems are not required to maintain hard copies of photographs in the files when there was no prior damage noted in the inspection report.”

RESPONSE: The Department agrees with the commenter that it is necessary to require insurers to utilize systems which provide duplicate photographs and that insurers should maintain a control system so that
photographs which become separated from reports can be identified. The Department has revised this section accordingly.

COMMENT: Two commenters objected to N.J.A.C. 11:3-36.6(d)2 which requires sequentially-numbered inspection reports. One commenter believed that this would add substantially to the cost of doing business with no apparent benefit. Another commenter believed that as long as insurers are satisfied with the security procedures of an inspection service, they should be able to do business without requiring the use of a particular type of clerical system.

RESPONSE: The Department does not require sequentially numbered inspection reports, but suggests it as a proper alternative, so that some degree of control is maintained. Sequentially-numbered reports permit insurers to substantiate the date of inspection, and prevents the back-dating of inspection reports.

COMMENT: Several commenters questioned N.J.A.C. 11:3-36.6(e). One commenter asked whether the phrase “no charge directly or indirectly to the insured” means that insurers rate filings cannot reflect the added expense of inspection in their rates.

A second commenter offered a different suggestion with regard to this provision. The commenter suggested that a provision be incorporated which permits the insurance producer to recover the cost associated with making the inspection. The commenter suggested adding the following language to this section:

“except if such inspection is performed by an insurance producer who has elected in writing with the insurer his or her decision to perform such inspections. In such instances, the producer shall be entitled to reasonable compensation from the insurer for each inspection.”

RESPONSE: The Department has revised this provision to require that “there shall be no direct charge to the insured.” The Department did not intend to prevent insurers from reflecting the expense of an inspection in their rate filings as a cost of doing business.

COMMENT: Three commenters believed that N.J.A.C. 11:3-36.6(f), which requires records to be maintained as long as the car is insured for physical damage, is too long a period to keep inspection records. The commenters believed that a three-year record retention is sufficient. One commenter suggested that insurers be free to retain these records in accordance with their voluntary record retention policies. A second commenter suggested allowing the insurance producer’s “authorized representative” to maintain the records in question.

A third commenter suggested adding a new subsection which would require all records that have to be maintained to be forwarded to the insurer for its retention. This commenter further suggested the adding of a new provision which would require forms to be provided, by the insurer at its own cost, to its authorized representatives.

RESPONSE: The Department has revised this section and requires records to be maintained for five years. Insurers are free to retain these records in accordance with their normal record keeping or filing procedures as long as they maintain the records for at least five years.

COMMENT: One commenter believed that N.J.A.C. 11:3-36.6(g), which requires the insurer to maintain an up-to-date list of all authorized representatives and to send a copy of that list to the Department annually, requires them to provide a list of inspection sites of independent inspection services which they may use.

RESPONSE: An insurer is required to submit to the Department of Insurance, Fraud Division, a list of all authorized representatives and inspection sites performing inspections for the insurer.

COMMENT: Three commenters objected to N.J.A.C. 11:3-36.6(h) which provides when an inspection report shall be used. One commenter believed that by limiting this subsection to total theft loss, as is done in New York, the State can still fulfill its objective and relieve the insurer from an onerous burden that will not substantially further the regulatory intent.

A second commenter believed that this proposal may cause delays and inconvenience to claimants because of the time needed to retrieve documents. The third commenter believed that the proposed figure is too low and would affect too great a portion of claims.
EMERGENCY ADOPTIONS

RESPONSE: The Department has revised this rule to permit an insurer to waive an inspection for new car buyers, if the appropriate documentation is provided. The Department has revised N.J.A.C. 11:3-36.9 to provide that physical damage coverage on a new automobile shall be suspended due to the insured's failure to provide the documents required by N.J.A.C. 11:3-36.4(d)(1) within seven calendar days.

COMMENT: One commenter noted that N.J.A.C. 11:3-36.8(a) makes the insurer responsible for "the conduct" of authorized representatives. The commenter believed that this requirement is excessively broad. The commenter questioned if it includes criminal conduct, fraud against the claim, that in itself is an example of cost savings because an insurer can provide that physical damage coverage on a new automobile shall be within seven calendar days.

RESPONSE: This provision makes the insurer responsible for compliance with this rule.

COMMENT: Several commenters offered different evaluations of N.J.A.C. 11:3-36.9. One commenter believed that records of the costs related to this subchapter should be relatively easy to collect and submit. However, the commenter did not believe it would be possible to do so that specific responsibility is known.

RESPONSE: Every time an inspection report is used to adjudicate a claim, that in itself is an example of cost savings because an insurer can identify whether there was any prior damage.

COMMENT: Two commenters believed N.J.A.C. 11:3-36.9(b) was incomplete in that it does not state what insurers should do upon supplying the monthly audited inspection reports to the authorized representatives.

RESPONSE: The Department agrees and has revised this section accordingly.

COMMENT: Two commenters believed N.J.A.C. 11:3-36.9(b), which requires the monthly auditing of inspection reports, to be an unnecessary burden and redundant. One commenter stated that "in reality, each inspection would be reviewed on a daily basis upon receipt, and if found to be incomplete, it would be returned to the agent."

RESPONSE: The Department requires the monthly auditing of inspection reports in order to count the number of inspections being performed by companies. The monthly auditing is required so that companies can provide the Department with the information requested in N.J.A.C. 11:3-36.9(c).

COMMENT: Two commenters suggested that N.J.A.C. 11:3-36.9(c), which requires the reporting of the number of incomplete or incorrect reports received, be deleted. One commenter believed that there will be little benefit, and substantial cost to comply with this provision.

RESPONSE: The Department believes that the number of incomplete or incorrect reports received are necessary to determine if inspections are being conducted properly, and to aid the Department in monitoring the number of inspections deferred for hardship and serious inconvenience granted by insurers in accordance with this rule. The number of automobiles inspected with prior damage should be important to insurers.

COMMENT: One commenter believed that the Appendices should be reviewed by an expert who knows how to read and write forms for semiliterate people. The commenter argued that the present language used in the proposal is somewhat intimidating. The commenter also believed that across the top of each letter should be a notice that states: "If you do not understand this important letter, please call the telephone number provided at the bottom of this letter."

RESPONSE: The telephone number should be that of the Department of Insurance. The commenter further believed that in Appendix B there should be a line indicating where the insured is to go for the "inspection" of the automobile, and a reference to the sheet that will be attached offering options for places to get cars "inspected."

RESPONSE: The notices are intended to impress upon the insured the importance of obtaining an insurance inspection when required. The Department has amended Appendix A and B to incorporate the last commenter's suggestions.

COMMENT: One commenter suggested amending Appendix B which contains the following language: "Please Disregard this Notice if you have already had your car inspected." Additionally, the Department desires to provide for insurance purposes. The commenter believed that this is necessary to prevent insureds from believing that the notice concerns inspections by the Division of Motor Vehicles.

RESPONSE: The Department does not believe the suggested language is needed in light of other additions to Appendix A and B. It is noted on Appendix A and B that this is not a safety inspection.

COMMENT: One commenter questioned whether Appendix C establishes minimum standards or is a mandatory form. The commenter believed that this provision should be deleted or modified so that specific responsibility is known.

RESPONSE: Appendix C establishes minimum standards for the report to be used in accordance with the rules. When certain equipment becomes standard equipment or as new options are added to new cars, the Department may amend the Appendix. There is also a heading for special custom options or additions under Appendix C.

COMMENT: One commenter requested that implementation of the proposal be delayed for at least a year. The proposal would need time for computer programming and the development of adequate procedures as well as ensuring the confidence of the public.

RESPONSE: The Department recognizes that insurers will have to file amended policy forms with the Department reflecting the statutory and regulatory changes.

COMMENT: Several commenters believed lead time will be needed in order to allow this proposal to work. One commenter argued that it would need time for computer programming and the development of adequate procedures as well as ensuring the confidence of the public.

RESPONSE: The Department recognizes that insurers will have to file amended policy forms with the Department reflecting the statutory and regulatory changes.

COMMENT: Several commenters believed lead time will be needed in order to allow this proposal to work. One commenter argued that it would need time for computer programming and the development of adequate procedures as well as ensuring the confidence of the public.

RESPONSE: The Department recognizes that insurers will have to file amended policy forms with the Department reflecting the statutory and regulatory changes.

COMMENT: Several commenters believed lead time will be needed in order to allow this proposal to work. One commenter argued that it would need time for computer programming and the development of adequate procedures as well as ensuring the confidence of the public.

RESPONSE: The Department recognizes that insurers will have to file amended policy forms with the Department reflecting the statutory and regulatory changes.
The Department of Insurance (the "Department") reproposes new rules in accordance with the Fair Automobile Insurance Reform Act of 1990 (the "Act") (N.J.S.A. 17:33B-33 et seq.), which requires the Department to establish procedures for the inspection of an automobile by the insurer prior to the issuance of automobile physical damage insurance coverage.

The Act requires the Commissioner to exempt new automobiles from insurance inspections under conditions established by these rules. The Act permits insurers to require, as a condition of renewal, that the automobile be made available for inspection at locations and times reasonably convenient to the insured. The Act requires that insurers inspect an automobile acquired by the insured as a replacement for or in addition to an automobile insured for physical damage insurance coverage.

The reproposed new rules establish procedures for the inspection of an automobile by the insurer prior to the issuance of physical damage insurance coverage. The reproposed new rules apply to all private passenger automobiles being insured for physical damage insurance coverage in this State.

As a result of the public comments received and further review by the Department, these rules contain substantive changes from the previous proposal that affect the automobile physical damage insurance inspection procedures.

A summary of the various provisions of the reproposed new rules follows:

N.J.A.C. 11:3-36.1 states the purpose and scope of the reproposed new rules.

N.J.A.C. 11:3-36.2 provides the definitions for terms that are used in the reproposed new rules.

N.J.A.C. 11:3-36.3 provides the mandatory inspection requirements for private passenger automobiles insured under a new policy or endorsement, or insured as an additional or replacement automobile.

N.J.A.C. 11:3-36.4 provides the circumstances under which insurers may waive mandatory inspections.

N.J.A.C. 11:3-36.5 provides the circumstances and the length of time for which insurers may defer the inspection of an automobile.

N.J.A.C. 11:3-36.6 provides the standards and procedures to be used by the insurer in the inspection of the automobile.

N.J.A.C. 11:3-36.7 provides the standards and procedures for suspending physical damage insurance coverage on the insured's automobile when the insured fails to present the vehicle for inspection after deferral.

N.J.A.C. 11:3-36.8 addresses the enforcement of this subchapter by the Department.

N.J.A.C. 11:3-36.9 sets forth the recordkeeping and reporting requirements.

N.J.A.C. 11:3-36.10 sets forth the severability of the provisions with this subchapter.

Social Impact

The reproposed new rules are designed to curtail fraudulent physical damage claims. The reproposed new rules require insurers to inspect the physical condition of an automobile prior to issuing physical damage insurance coverage. The inspection is intended to reduce fraudulent claims for pre-existing damage. Inspections should also prevent fraudulent schemes in which nonexistent "paper cars" are insured and then reported stolen.

The reproposed new rules will affect all New Jersey insureds with automobile physical damage insurance coverage. Unless exempted by these rules or the Act, the proposed new rules require that insurers make their automobiles available for inspection by the insurer's authorized representative.

The reproposed new rules will affect insurers in that it requires them to inspect private passenger automobiles prior to the issuance of physical damage insurance coverage and requires inspection records to be kept. The reproposed new rules allow insurers to waive the inspection requirements under specified conditions.

Economic Impact

The Department expects the reproposed new rules to help stabilize premiums on physical damage coverage that have increased partly due to fraudulent physical damage claims. The reproposed new rules are expected to reduce fraudulent collision claims and eliminate fraudulent theft claims for nonexistent or "paper" cars.

The Department expects that insurers will incur additional costs as a result of the reproposed new rules, which are necessary for compliance with the FAIR Act and these rules. The Department believes, however, that these costs will be balanced by a reduction in fraudulent claims. The reproposed new rules do not require insurers to hire additional personnel to conduct the automobile inspections. The reproposed new rules permit insurers to use their employees to conduct the inspection of automobiles. The reproposed new rules are cost effective and are intended to reduce the cost of fraudulent claims paid by insurers.

Regulatory Flexibility Analysis

The reproposed new rules impose reporting, recordkeeping and compliance requirements on insurance companies authorized to transact private passenger automobile insurance, some of which may be small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. All insurers are required to maintain records and to provide reports to the Department of specific inspection data. The rules set forth the requirements for performing inspections, and for the waiver or deferral of inspections.

The Department is unable to estimate the costs that will be incurred or the need for professional services that may be required by small business insurers to comply with these rules, which effectuate the Fair Automobile Insurance Reform Act's inspection requirements. The costs and need for services will vary substantially depending upon each insurer's internal resources and insured base. In order to effectuate the goals of these rules and meet the requirements of the Act, no differentiation in requirements based upon business size can be provided.

Full text of the reproposed new rules follows:

SUBCHAPTER 36. AUTOMOBILE PHYSICAL DAMAGE INSURANCE INSPECTION PROCEDURES

11:3-36.1 Purpose and scope

(a) The purpose of this subchapter is to provide rules for the inspection of automobiles in connection with the issuance of physical damage insurance coverage by insurers pursuant to N.J.S.A. 17:33B-33 through 17:33B-40.

(b) The provisions of this subchapter apply to all insurers which write private passenger automobile insurance in this State.

11:3-36.2 Definitions

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

"Authorized representative" means any person which is authorized by the insurer to conduct insurance inspections pursuant to this subchapter, an authorized representative may be an employee of the insurer, a producer or an inspection service.

"Automobile physical damage insurance" means a policy providing one or more of the following insurance coverages:
1. Collision;
2. Comprehensive; and
3. Fire and theft.

"Automobile physical damage insurance inspection" means a physical examination of an automobile by an authorized representative of the insurer, in accordance with the standards set forth in N.J.A.C. 11:3-36.6.

"Book of business" means all private passenger automobile insurance written by one producer with one insurer.

"Certificate of mailing" means a receipt from the United States Postal Service that the item was received by it with the proper postage affixed for delivery.

"Commissioner" means the Commissioner of Insurance of the State of New Jersey.

"Inspection service" means any person or legal entity other than the insurer, established and operated to perform the inspections required by this subchapter.

"Insured" means the named insured (as defined in the policy) or an applicant for automobile physical damage insurance.

"Insurer" means any person authorized to write automobile insurance in New Jersey, including any residual market mechanism, and includes all affiliated companies within a group.

"New automobile" means an automobile not previously titled with less than 300 recorded miles.

"Private passenger automobile" or "automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery vehicle.
conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body; a delivery sedan, a van, or a panel truck, or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

"Renewal" means the issuance and delivery by an insurer, at the end of the policy period, of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term.

"Replacement automobile" is a vehicle acquired to replace one shown in the declarations.

11:3-36.3 Mandatory inspection requirements
(a) No insurer shall provide automobile physical damage insurance coverage prior to conducting an insurance inspection in accordance with this subchapter, under the following circumstances:
1. When a new policy or endorsement insuring a private passenger automobile is issued;
2. When coverage is effected for an additional or replacement private passenger automobile.
(b) An insurer may require, prior to continuing physical damage coverage on an automobile, that the insured present the automobile for inspection, under the following circumstances:
1. When the automobile insured for physical damage coverage has been in an accident or otherwise damaged; or
2. As a condition of renewal.
(c) Notwithstanding the provisions in (b) above, upon renewal an insurer shall randomly inspect on an annual basis at least one out of every seven automobiles of the insurer's total number of automobiles affected by a policy; and
1. When the automobile insured for physical damage coverage has been in an accident or otherwise damaged; or
2. As a condition of renewal.
(d) An insurer may waive a mandatory inspection under any of the following circumstances:
1. When a new automobile is purchased from a franchised automobile dealership and the insurer is provided at the time of application with the following:
   i. A copy of the bill of sale which contains a full description of the automobile, including all options and accessories; or
   ii. A copy of the itemized bill of sale or advanced dealer shipping notice (invoice) showing the itemized options and equipment, the total retail price of the automobile, and any dealer installed option purchased by the customer; or
   iii. Vehicle buyer's Order (contract) and/or the dealership invoice to the buyer, including all options and accessories;
2. When the automobile is more than seven model years old. For example: in 1991 an insurer shall inspect 1984 and newer model year vehicles and in 1992 an insurer shall inspect 1985 and newer model year vehicles;
3. When a policy is being renewed or issued by a different individual insurance company within a group of affiliated companies;
4. When the insured automobile is insured under a commercially rated policy which insures 10 or more automobiles;
5. When an insurance producer or insurer is transferring a book of business from one insurer to another insurer(s); or
6. When the automobile is garaged out-of-state and the insurer has no inspection facility or authorized representative within 10 miles of the city or town in which the automobile is garaged;
7. When the automobile is a temporary substitute automobile; or
8. When the automobile is leased for less than six months.
(b) Insurers shall maintain a record of the waiver in the insured's policy record.

(c) Insurers shall decide whether to waive an inspection based solely on underwriting criteria uniformly applied and not based on age, race, sex or marital status of the insured, the principal place of garaging or the fact that the automobile is insured in the residual market.

11:3-36.5 Deferral of inspection
(a) An insurer, by itself or through its authorized producers, may defer inspections required by N.J.A.C. 11:3-36.3 for not more than seven calendar days if an inspection at the time of the request for coverage would create a serious inconvenience or hardship for the insured.
1. When an inspection is deferred pursuant to (a), the insurer or producer shall:
   i. At the time insurance application is completed, obtain the Acknowledgement of Requirement for Insurance Inspection form (as set forth in Appendix A and incorporated herein by reference) signed by the insured if the insured has applied for coverage in person; or
   ii. At the time insurance application is completed, confirm physical damage coverage and advise the insured of the inspection requirements and mail the insured the Notice of Insurance Inspection form (as set forth in Appendix B and incorporated herein by reference) if the insured has applied for coverage by mail or by telephone.
2. In addition to the notice requirements set forth in (a) i and ii above, the insurer or producer shall furnish the insured with information about where an inspection can be conducted and the consequences of the insured's failure to have the automobile inspected.
3. The insurer shall retain documentation of the required notice in the insurer's file on the insured.
4. An insurer shall decide whether to defer an inspection based solely on underwriting criteria and not based on age, race, sex, or marital status of the insured, the principal place of garaging, or the fact that a policy is insured in the residual market.

11:3-36.6 Standards and procedures for inspection
(a) Inspections shall be made by an authorized representative of the insurer at a time and place reasonably convenient to the insured. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours. A reasonably convenient place shall not be more than 10 miles from the city or town where automobile is principally garaged.
(b) An insurer shall decide whether to inspect a telephone to this subchapter, the insurer by itself or through its authorized producer shall provide the insured with a Notice of Inspection in the form set forth in Appendix B or an Acknowledgement of Requirement for Insurance Inspection as set forth in Appendix A. Any form so provided shall not contain the vehicle identification number (VIN) of the automobile to be inspected.
(c) The inspection shall include the following:
1. Completion of the recorded Automobile Insurance Inspection Report as set forth in Appendix C incorporated herein by reference; and
2. Two color photographs of the automobile, taken as directed on the inspection report (Appendix C), which shall be part of the report;
3. A third close-up color photograph showing the VIN located on the Environmental Protection Agency/Federal Certification Label (EPA sticker) affixed to the driver's side door jamb. The photograph must be of sufficient clarity that the information contained on the EPA sticker and VIN is legible. If the EPA sticker is damaged, faded, missing or otherwise not legible, a photograph of the EPA sticker, or of the area of the door jamb where the sticker is normally located, is still required;
4. A fourth close-up color photograph of the odometer;
5. The authorized representative may take additional photographs showing any damaged areas, which shall also be part of the report; and
6. The authorized representative shall provide a copy of the report, without photographs, to the insured at the time of inspection.
(d) The insurer shall utilize authorized representatives and systems to implement the provisions of this subchapter which meet the following standards:
INSURANCE

1. Verifies the accuracy, completeness and identity of the person completing each inspection report;
2. Provides a control system for its inspection reports such as the use of sequentially numbered or coded reports;
3. Completes all required information for each automobile on the Automobile Insurance Inspection Report set forth in Appendix C;
4. Takes photographs as required in (c)2 through 4 above;
5. Provides for the storage and retrieval of reports and photographs in a manner that facilitates their use as set forth in paragraph (h) below;
6. Provides for a backup system or other duplicate or secondary source for the report and photographs to ensure against loss;
7. For inspections conducted on and after April 1, 1994, provides the ability to view inspection reports and photographs on a computer system monitor;
8. For inspections conducted on and after April 1, 1994, provides the ability to print inspection reports and photographs from a computer system with a code that identifies the document by policy number, inspection report number or other common identifying code; and
9. For inspections conducted on and after April 1, 1994, provides the ability for all of the insurer's New Jersey claims offices to view or access the inspection report and photographs.

(e) There shall be no direct charge to the insured by the authorized representative or insurer in connection with an inspection.

(f) After the inspection is completed, the report and photographs shall be retained in the insurer's file on the insured for five years.

(g) The insurer shall maintain an up-to-date list of all authorized representatives and inspection sites performing inspections for the insurer. The list shall include the names, addresses and business telephone numbers of all authorized representatives. The insurer shall send a copy of the list to the Department and update it semi-annually at the following address:

New Jersey Department of Insurance
Fraud Division
CN 324
Trenton, New Jersey 08625

(h) The inspection report and photographs shall be used by the insurer to document previous damage, prior condition, options and mileage of the automobile on physical damage claims whenever:
1. The appraisal indicates prior damage and the new damage (claim) exceeds $1,000;
2. The automobile is a total loss or unrecovered theft; or
3. The new damage (claim) exceeds $3,000.

(i) A copy of the inspection report and photographs shall be utilized, and made a part of the insurer's claim file, in the settlement of all total loss claims. The inspection report shall be made a part of the claim file regardless of whether or not the payment is reduced based on the information contained therein.

11:3-36.7 Suspension of physical damage coverages

(a) If the inspection is not conducted prior to the expiration of the deferral period or the expiration of the policy in the case of renewals, the insurer shall suspend automobile physical damage coverage on the automobile at 12:01 A.M. of the day following the last day for inspection. Suspension of coverage shall apply to all insureds, owners and lienholders.

(b) Whenever physical damage coverage is suspended, the insurer shall:

1. No later than the 30th calendar day after the effective date of the suspension, mail to the insured, the producer of record and any lienholders a Notice of Suspension of physical damage coverage (as set forth in Appendix D incorporated herein by reference);
2. Obtain a certificate of mailing or other evidence of mailing of the Notice of Suspension to the insured and shall retain the certificate and copy of the Notice in the insured's policy record; and
3. Make a pro-rata premium adjustment (premium refund or credit) whenever there is a suspension of physical damage coverage for more than 10 days. A refund of premium, if applicable, shall be sent to the insured within 45 days of the effective date of suspension.

(c) A reinstatement of physical damage coverage shall only be effective upon inspection and payment by the insured to the insurer of the adjusted premium for the physical damage coverage in full or in accordance with the insurer's normal payment plan. Any such reinstatement shall be effective at the time of inspection.

(d) If the automobile is not inspected pursuant to this subchapter due to the fault of the insurer, or if the insurer fails to give the verbal or telephone notice required by the subchapter or mail or deliver the Notice of Insurance Inspection (Appendix B) or obtain the acknowledgement of Requirements for Insurance Inspection (Appendix A) as set forth in this subchapter, physical damage coverage on the motor vehicle shall not be suspended. The failure of the insurer to act promptly does not relieve it of its obligation to inspect. An insurer's failure, however, to comply with (b) above shall not restore physical damage coverage, but shall subject the insurer to a penalty pursuant to N.J.S.A. 17:33B-39.

(e) Physical damage coverage on a new automobile shall be suspended due to the insured's failure to provide the documents required by N.J.A.C. 11:3-36.4(a) within seven calendar days. A reinstatement of physical damage coverage shall be effective upon inspection.

11:3-36.8 Enforcement

(a) A violation of any provision of this subchapter by an insurer shall be punishable by a $500.00 fine pursuant to N.J.S.A. 17:33B-39.
1. Insurers shall be responsible for the conduct of their authorized representatives with respect to all duties imposed by this subchapter.
2. Each issuance, procurement, or negotiation of a policy of insurance, or maintenance of a record in violation of this subchapter shall be deemed a separate offense.

11:3-36.9 Results and audits

(a) Insurers shall maintain records as to the costs and savings related to this subchapter and shall make such records available to the Department upon request.
(b) Insurers shall maintain and be responsible for the monthly auditing of inspections reports received from their authorized representatives.
(c) Insurers shall report the following information to the New Jersey Department of Insurance Fraud Division on a quarterly basis:
1. The number of automobiles inspected; and
2. The number of automobiles which were not inspected by reason of the insured's failure to present the automobile for inspection.

11:3-36.10 Severability

If any section or portion of a section of this subchapter or its application to any person, entity or circumstance is held invalid by any court, the remainder of this regulation or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.
EMERGENCY ADOPTIONS

APPENDIX A

(COMPANY LETTERHEAD)

ACKNOWLEDGMENT OF REQUIREMENT FOR INSURANCE INSPECTION

(This is not a Safety Inspection)

NAME OF INSURED
OR APPLICANT: ____________________________

ADDRESS: ____________________________

______________________________

EFFECTIVE DATE
OF COVERAGE: ____________________________ (Date)

INSPECTION SHALL BE
COMPLETED BY: ____________________________

(Date: not more than 7 days
after the effective date of
coverage)

AUTOMOBILE(S) TO BE INSPECTED

1. ______, ______, ______.

2. ______, ______, ______.

3. ______, ______, ______.

BY MY SIGNATURE BELOW I CERTIFY THAT I HAVE BEEN INFORMED THAT MY
AUTOMOBILE(S) WHICH IS (ARE) BEING INSURED FOR FIRE AND THEFT/ COMPREHENSIVE
AND/OR COLLISION COVERAGE SHALL BE INSPECTED BY A REPRESENTATIVE OF THE
INSURER. THIS INSPECTION SHALL BE COMPLETED NO LATER THAN THE DATE SHOWN ABOVE
TO AVOID A SUSPENSION IN COVERAGE.

I UNDERSTAND THAT FAILURE TO SUBMIT TO THE REQUIRED INSPECTION(S) WILL
RESULT IN THE SUSPENSION (LOSSES WILL NOT BE COVERED) OF THE PHYSICAL DAMAGE
COVERAGES (FIRE AND THEFT/COMPREHENSIVE, COLLISION), AS OF 12:01 A.M. OF THE
DAY FOLLOWING THE DATE BY WHICH THE INSPECTION SHALL BE COMPLETED, AS SHOWN
ABOVE.

I UNDERSTAND THAT IF COVERAGE IS SUSPENDED IT WILL BE RESTORED ONLY AFTER
THE INSPECTION HAS BEEN COMPLETED AND THE ADJUSTED PREMIUM DUE FOR SUCH
COVERAGES HAS BEEN PAID.

SIGNATURE OF INSURED OR
APPLICANT: ____________________________ (Date)

SIGNATURE OF PRODUCER
OR INSURANCE COMPANY
REPRESENTATIVE: ____________________________ (Date)

NAME, ADDRESS & TELEPHONE NUMBER OF PRODUCER OR INSURANCE REPRESENTATIVE
COMPLETING THIS FORM: ____________________________

______________________________

______________________________

INSURED/APPLICANT MUST RECEIVE A COMPLETED COPY OF THIS FORM ALONG WITH A LIST
OF AUTHORIZED AUTOMOBILE PHYSICAL DAMAGE INSPECTION SITES.

cc: INSURANCE COMPANY
PRODUCER OF RECORD
NOTICE OF INSURANCE INSPECTION
(THIS IS NOT A SAFETY INSPECTION)

IMMEDIATE ACTION REQUIRED TO AVOID LOSS OF INSURANCE COVERAGE

(Date of mailing)

Name of Insured: ____________________________
Address: ____________________________

EFFECTIVE DATE OF COVERAGE: ______

INSPECTION SHALL BE COMPLETED BY: ______

POLICY #: ____________________________

Dear Policyholder,

This will confirm coverage for FIRE AND THEFT/COMPREHENSIVE ______; COLLISION ______; on your

1. ______, _____________, ____________.
2. ______, _____________, ____________.
3. ______, _____________, ____________.

YEAR MAKE MODEL

Please disregard this notice if you have already had your car inspected.

This notice will also serve as a reminder that the above described car(s) shall be inspected by the date indicated above, or your physical damage coverages will be suspended effective 12:01 A.M. on ______

(Date)

If you have your car inspected after the above deadline your coverage will only be restored after your car has been inspected and the adjusted premium due for the coverages listed above had been paid. You will have no coverage for any physical damage loss that occurs during the suspension period. Attached is a list of authorized automobile physical damage inspection sites.

FOR FURTHER INFORMATION PLEASE CALL:

______________________________

Name and phone number of Company Representative

Very truly yours,

______________________________

cc: INSURANCE COMPANY
PRODUCER OF RECORD

(CITE 22 N.J.R. 3870)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
### APPENDIX C(1)

**IFD 30C**

**INSURANCE COMPANY LETTERHEAD OR INSPECTION SERVICE LETTERHEAD**

<table>
<thead>
<tr>
<th>Control Number</th>
<th>Site ID No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Inspection</td>
<td>Time of Inspection</td>
</tr>
<tr>
<td>Insurance Company Name</td>
<td>Insured’s Policy Number</td>
</tr>
<tr>
<td>Number of Photos</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Insured’s Name</th>
<th>Insured’s Address</th>
<th>Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Inspector’s Name</th>
<th>Inspection Site Name and Address</th>
<th>Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Style</th>
<th>Color</th>
<th>Interior</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year:</td>
<td>2 DR</td>
<td>STG WGN</td>
</tr>
<tr>
<td>Make:</td>
<td>4 DR</td>
<td>VAN</td>
</tr>
<tr>
<td>Model:</td>
<td>CPE</td>
<td>HITCHBK</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Odometer Reading</th>
<th>Principal Place of Garaging (Not from Registration Form)</th>
<th>Vehicle ID Number</th>
<th>License Plate No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>V.I.N. Location:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Accessories and Optional Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>( ) Air Conditioner</td>
</tr>
<tr>
<td>( ) Manual Transmission</td>
</tr>
<tr>
<td>( ) 3 SPD / 4 SPD / 5 SPD</td>
</tr>
<tr>
<td>( ) Automatic Transmission</td>
</tr>
<tr>
<td>( ) Overdrive</td>
</tr>
<tr>
<td>( ) AM Radio</td>
</tr>
<tr>
<td>( ) AM/FM Radio ( ) Stereo</td>
</tr>
<tr>
<td>( ) Cassette Player</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>Built In ( ) Yes ( ) No</td>
</tr>
<tr>
<td>Compact Disc Player</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>( ) Car Phone</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>Built In ( ) Yes ( ) No</td>
</tr>
<tr>
<td>( ) Car Phone Transmitter</td>
</tr>
<tr>
<td>( ) C.B. Radio</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>Built In ( ) Yes ( ) No</td>
</tr>
<tr>
<td>( ) Car Phone Antenna</td>
</tr>
<tr>
<td>( ) Car Phone Transmitter</td>
</tr>
<tr>
<td>( ) C.B. Radio Transmitter</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>Built In ( ) Yes ( ) No</td>
</tr>
<tr>
<td>( ) Stereo Amplifier</td>
</tr>
<tr>
<td>Brand</td>
</tr>
<tr>
<td>Built In ( ) Yes ( ) No</td>
</tr>
<tr>
<td>( ) Special Hub Caps</td>
</tr>
<tr>
<td>( ) Radar Detector</td>
</tr>
<tr>
<td>Brand</td>
</tr>
</tbody>
</table>

---

*NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3871)*
APPENDIX C (2)

ATTACH AT LEAST TWO (2) COLOR PHOTOGRAPHS
OF THE AUTOMOBILE TAKEN FROM THE ANGLES
SHOWN ON THE DIAGRAMS TO THE RIGHT.
ALSO ATTACH CLOSE-UP PHOTO OF THE E.P.A.
STICKER (INCLUDING THE V.I.N.) FROM
DRIVER'S SIDE DOOR JAMB

PHYSICAL CONDITION OF VEHICLE
(CHECK DAMAGED AREAS OR AREAS IN POOR CONDITION AND DESCRIBE BELOW)

<table>
<thead>
<tr>
<th>DAMAGED/RUSTED</th>
<th>DAMAGED</th>
</tr>
</thead>
<tbody>
<tr>
<td>( ) ( ) FRONT BUMPER</td>
<td>( ) WINDSHIELD</td>
</tr>
<tr>
<td>( ) ( ) LEFT FRONT FENDER</td>
<td>( ) LEFT FRONT SIDE GLASS</td>
</tr>
<tr>
<td>( ) ( ) LEFT FRONT DOOR</td>
<td>( ) RIGHT FRONT SIDE GLASS</td>
</tr>
<tr>
<td>( ) ( ) LEFT REAR DOOR</td>
<td>( ) LEFT REAR SIDE GLASS</td>
</tr>
<tr>
<td>( ) ( ) LEFT REAR QUARTER PANEL</td>
<td>( ) RIGHT REAR SIDE GLASS</td>
</tr>
<tr>
<td>( ) ( ) REAR BUMPER</td>
<td>( ) REAR WINDOW</td>
</tr>
<tr>
<td>( ) ( ) REAR DOOR/TRUNK LID</td>
<td>( ) REAR VIEW MIRROR</td>
</tr>
<tr>
<td>( ) ( ) RIGHT REAR QUARTER PANEL</td>
<td>( ) WHEEL COVERS</td>
</tr>
<tr>
<td>( ) ( ) RIGHT FRONT DOOR</td>
<td>( ) WORN/TORN OR SOILED</td>
</tr>
<tr>
<td>( ) ( ) RIGHT FRONT DOOR</td>
<td>INTERIOR</td>
</tr>
<tr>
<td>( ) ( ) RIGHT FRONT DOOR</td>
<td>( ) OTHER DAMAGE OR</td>
</tr>
<tr>
<td>( ) ( ) HOOD PANEL</td>
<td>( ) RUST (LIST)</td>
</tr>
<tr>
<td>( ) ( ) ROOF PANEL</td>
<td></td>
</tr>
<tr>
<td>( ) ( ) GRILL</td>
<td></td>
</tr>
<tr>
<td>( ) ( ) UNDER CARRIAGE</td>
<td></td>
</tr>
</tbody>
</table>

( ) CHECK HERE IF NO EXISTING DAMAGE, RUST OR MISSING PARTS

DESCRIBE EXISTING DAMAGES OR RUST:

LIST ANY MISSING PARTS:

DESCRIBE ANY ALTERATIONS FROM FACTORY DESIGN:

THE ABOVE IS A TRUE STATEMENT OF ANY EXISTING DAMAGE, RUST, OR MISSING PARTS AS
OF THE DATE OF THIS INSPECTION. I CERTIFY THAT THIS INSPECTION REPORT IS TRUE
AND COMPLETE AND THAT I HAVE SEEN AND PHOTOGRAPHED THE VEHICLE IDENTIFIED ABOVE.

DATE: _______________

INSPECTOR'S SIGNATURE: ____________________________

NAME AND ADDRESS OF PERSON PRESENTING VEHICLE FOR INSPECTION
TO INSURED: ____________________________________

SIGNATURE: ____________________________ RELATIONSHIP: ____________________________
NOTICE OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE

YOU ARE NO LONGER INSURED FOR PHYSICAL DAMAGE TO YOUR CAR

(Date of Mailing)

Name of Insured: ____________________________
Address: 
____________________________________________________________________
____________________________________________________________________
POLICY #: ____________________________

Dear Policyholder,

The vehicle(s) listed below is (are) no longer covered for FIRE AND THEFT/COMPREHENSIVE _____; COLLISION ____;

1. ________, ______________________, ____________.
2. ________, ______________________, ____________.
3. ________, ______________________, ____________.

YEAR: __________________ MAKE: __________ MODEL: 

DATE COVERAGE WAS REQUESTED ______________________
DATE COVERAGE WAS SUSPENDED ______________________

The physical damage coverage(s) indicated above, has (have) been suspended on the vehicle(s) described, effective 12:01 a.m. on the suspension date. Such coverage has been suspended due to your failure to comply with the Physical Damage Insurance Inspection Regulation (N.J.A.C. 11:3-36), as required by the Fair Automobile Insurance Reform Act of 1990, N.J.S.A. 17:33B-1 et seq.

If your coverage has been suspended for more than ten (10) days, you will receive a premium adjustment (return premium or credit) for the suspended coverage(s) within forty-five (45) days from the date of suspension.

The coverage(s) will be restored when you have your vehicle(s) inspected and the adjusted premium due for such coverage(s) has been paid.

________________________________________
INSURER REPRESENTATIVE

________________________________________
TELEPHONE NUMBER

cc: PRODUCER OF RECORD
    LIENHOLDER
INSURANCE

DIVISION OF FRAUD

Towing and Storage Fee Schedule for Private Passenger Automobiles Damaged or Stolen


Emergency New Rules Adopted and Concurrent Reproposed

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): November 26, 1990.


Concurrent Proposal Number: PRN 1990-643.

Operative Date: January 1, 1991.


Submit written comments by January 16, 1991 to:
Verice M. Mason, Assistant Commissioner
Department of Insurance
Division of Legislative and Regulatory Affairs
20 West State Street
CN-325
Trenton, New Jersey 08625

These new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 54:14B-4(c) as implemented by N.J.A.C. 1:30-4.5). Concurrently, the provisions of the emergency adopted new rules are being reproposed in compliance with the normal rulemaking requirements of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. The re-adopted new rules become effective upon acceptance of the notice of adoption for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.5(d)), if filed prior to the emergency expiration date.

The agency emergency adoption and concurrent reproposal follows:

Summary

These reproposed new rules implement N.J.S.A. 17:33B-47 and 48. The Department of Insurance (Department) previously proposed rules implementing N.J.S.A. 17:33B-47 on August 20, 1990 (see 22 N.J.R. 2459(a)). The Department has decided to make substantive changes based on public comments received and continuing Department review. This proposal therefore replaces and supersedes the prior proposal. Those comments and the Department's responses are summarized below.

COMMENT: One commenter objected to proposed N.J.A.C. 11:3-38.3, which establishes Region I and Region II. The commenter believed that the use of two regions will encourage certain abuses. The commenter further argued that additional investigation and verification will be required to detect these abuses which would cost more than the small difference in fees. The commenter recommended the use of one schedule Statewide.

RESPONSE: N.J.S.A. 17:33B-47 of the FAIR Act requires the Commissioner to promulgate a towing and storage fee schedule on a regional basis. The rules are consistent with this requirement. The proper fee for towing services is based on the region in which the tow vehicle's base of service is located. For storage fees, the fee is based on the region in which the facility is located. The Department does not believe it will be difficult to determine the appropriate county and the corresponding fee in accordance with the fee schedule.

COMMENT: One commenter objected to N.J.A.C. 11:3-38.4(d) which provides that towing rates would be calculated based on the total distance traveled from the tow vehicle's base of operation to the job site and return by way of the shortest available route. The commenter argued that insurers will have no way to verify that the wrecker was at home base when called. The commenter believed that without verification, a claim would be subject to high charges when the vehicle is closer to the disabled vehicle than to its tow base. The commenter recommended that the initial charge should include a standard fee covering mileage to the initial charge should include a standard fee covering mileage to the

RESPONSE: The Department believes that the classification of facilities based on the number of spaces and whether the location is inside, outside secured/unsecured is reasonable. The Department did not want to unfairly penalize small facilities by having a storage fee that did not take into account the fact that most of the small facilities are located in cities where the overall operational cost is more and space is limited.

COMMENT: Several commenters objected to the proposed rules because they believed that the rules do not set forth fees for winching a vehicle from off the roadway or uprighting an overturned vehicle. Some commenters argued that there should be rates for "clean-up time" which is the time spent on cleaning the roadway of accident debris and "yard fees" which is the charge to bring the salvage from the yard to the street.

RESPONSE: The Department believes that its classification of facilities based on the number of spaces and whether the location is inside, outside secured/unsecured is reasonable. The Department did not want to unfairly penalize small facilities by having a storage fee that did not take into account the fact that most of the small facilities are located in cities where the overall operational cost is more and space is limited.

COMMENT: Several commenters stated that the proposed rules contain no enforcement provision in case a fee is charged in excess of the maximum fee permitted by the proposed rules. The commenter stated that "towing or storage services will not return a car until the fee it charges is agreed to and/or paid." The commenter also stated that the service may not even permit inspection of the vehicle so that an insurer may not know if further damage to the vehicle occurred while being towed or stored, as is too often the case. The commenter argued that the Division of Motor Vehicles has jurisdiction over towing and storage facilities and can enforce the fee schedules. The commenter further recommended that the Division of Motor Vehicles promulgate regulations to enforce this fee schedule.

RESPONSE: The Department will enforce violations to the towing and storage fee schedule pursuant to N.J.S.A. 17:33A-9.

COMMENT: The Department's proposed Towing and Storage Fee Schedule fails to consider the current regulation of towing and storage services by the New Jersey Turnpike Authority and by an estimated 80 percent of the municipalities in this State. The establishment of a rate schedule on a regional basis is unworkable and fails to consider factors such as local property taxes and property values.

In addition, the commenter contends that the fee structure does not reflect the actual cost of doing business. The extremely low rate allegedly would prohibit the most reputable towing and storage facilities from earning a reasonable profit in violation of the New Jersey Constitution,

You're viewing an archived copy from the New Jersey State Library.
EMERGENCY ADOPTIONS

Art. 1, Par. 20 and the Fifth and Fourteenth Amendments of the Federal Constitution.

RESPONSE: According to the commenter, municipal regulation of towing and storage practices by municipal ordinance pursuant to N.J.S.A. 40:48-2.49 varies in extent and kind among some of the municipalities and is non-existent in others. The Department's concern is with the impact of towing and storage fees on the insurance premium costs borne by insureds throughout the State. The FAIR Act dictates that this concern be addressed through the promulgation of fee schedules on a regional basis for the reimbursement by insurers of towing and storage charges for private passenger automobiles that are damaged in accidents or recovered after being stolen.

The existing regulations of municipalities which govern the provision of towing and storage services may conflict with the proposed fee schedule to the extent that municipalities permit fees in excess of those found in the schedule to be charged for the towing or storage of private passenger automobiles which were damaged in an accident or recovered after being stolen.

The fee schedule proposed by the Department is constitutional. The fee schedule, together with other reforms found in the FAIR Act, is rationally related to the legitimate governmental objective of reducing the car insurance premiums of New Jersey residents. The fee schedule realistically provides a reasonable rate of return for reputable towing and storage facilities as is demonstrated by the fact that they are based on a survey of insurance carriers in New Jersey and the amount of charges the carriers actually incurred as a result of having an insured's automobile towed or stored.

COMMENT: Several commenters questioned whether these rules would actually result in reduced insurance premiums.

RESPONSE: The Department expects that by limiting the fees attributable to towing and storage, insurance premiums will be reduced significantly, as this will prevent price gouging.

COMMENT: Several commenters suggested that the Department consider placing restrictions on insurance companies as to the number of days a car may be left in storage before an estimator is sent to inspect it. The commenters explained that many times cars are left for weeks before they are either inspected or moved to another shop and this results in the accumulation of unnecessary storage time and fees which must be reimbursed by the insurance companies.

RESPONSE: The Department has revised the rules in accordance with N.J.S.A. 17:33B-48 of the FAIR Act, to provide that no insurer or rating organization shall include any expense for storage of a private passenger automobile for more than 30 days into the base for determining private passenger automobile insurance rates used or to be used in this State.

COMMENT: One commenter stated that the Department should consider placing restrictions on the storage of private passenger automobiles.

RESPONSE: The Department disagrees. N.J.S.A. 17:33B-47 requires the Department to promulgate a schedule on a regional basis, not to monitor or approve each municipality's separate schedules. The proposed rules apply to the amount of charges any person shall be liable to any person who tows or stores a private passenger automobile which was damaged in an accident or recovered after being stolen.

COMMENT: One commenter questioned the effect of Assembly Bill 3011 which removes local government towing contracts from bidding requirements of the "Local Contract Law" upon the establishment of a rotating list of tow contractors.

RESPONSE: The bill in its present form affects how municipalities select towing services. It does not affect the scope of the fee schedule promulgated in these rules.

COMMENT: One commenter questioned the exclusion of mechanical breakdowns from the rules.

RESPONSE: N.J.S.A. 17:33B-47 requires the Commissioner of Insurance to promulgate a towing and storage fee schedule. The statute limits the application of this schedule to the amount of charges any person shall be liable to any person who tows or stores a private passenger automobile which was damaged in an accident or recovered after being stolen. These rules do not apply to mechanical breakdowns.

COMMENT: One commenter stated that the proposal does not recognize existing liability in contracts already in effect between tow truck operators and governmental and private entities.

RESPONSE: The proposed rules only affect those existing contracts to the extent that they apply to towing and storage charges for automobiles damaged in an accident or recovered after being stolen.

COMMENT: One commenter stated that the proposal fails to address the cost impact of the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 which becomes effective in 1992. The commenter argued that under CMVSA, all tow truck operators will be required to hold commercial driver's licenses commencing in 1992. The commenter stated that the low passage rate for the exam is approximately nine percent. The commenter stated that the low passage rate may lead to a shortage of qualified tow truck operators. The commenter argued that wages for these operators can therefore be expected to rise also contributing to overhead expenses.

RESPONSE: The rules require the Commissioner to review the fee schedule annually and permits the Commissioner to revise the schedule if necessary. If, in 1991, the Commissioner believes the affects of CMVSA warrant revision of the fee schedule, he is permitted to do so in accordance with proposed N.J.A.C. 11:3-38.4(c).

COMMENT: One commenter stated that the FAIR Act is designed to lower the cost of automobile insurance provided to the residents of this State. The commenter questioned whether the rules apply to the high percentage of out-of-State vehicles and motorists on the Turnpike, even if insured by a company no longer licensed to issue automobile insurance in New Jersey.

RESPONSE: The rules apply to all insurers which write private passenger automobile insurance for automobiles insured in New Jersey. The rules do not apply to any vehicles registered out-of-State.

COMMENT: One commenter stated that the purpose of the statute is to lower automobile insurance rates by reducing the cost to insurers arising from accidents within the State, but questioned whether the rate schedules apply if the persons do not have collision or comprehensive coverage.

RESPONSE: This schedule would not apply if a person has no collision or comprehensive coverage. The rules apply to towing and storage charges for private passenger automobiles that are damaged in accidents or recovered after being stolen.

COMMENT: One commenter stated that the proposed rules apply to all reimbursements by insurers in the State of New Jersey for towing and storage charges as a result of an automobile being damaged in an accident or recovered after being stolen. The Department notes that N.J.S.A. 40:48-2.50 limits fees to be paid to an operator by a municipality for the storage of removed motor vehicles to $3.00 a day for the first 30 days and $2.00 per day for the 31st day of storage thereafter. The statute also limits a fee of $4.00 per vehicle regardless of the duration of storage.

COMMENT: The New Jersey Turnpike Authority stated that its present system of regulating towing and storage services has provided consumers with reliable, safe and low cost service. The Authority requested that the proposed rules, if otherwise adopted, exempt limited access highways run by independent State authorities.

RESPONSE: The proposed rules apply to all reimbursements by insurers in the State of New Jersey for towing and storage charges as a result of an automobile being damaged in an accident or recovered after being stolen. The Department notes that N.J.S.A. 40:48-2.50 limits fees to be paid to an operator by a municipality for the storage of removed motor vehicles to $3.00 a day for the first 30 days and $2.00 per day for the 31st day of storage and thereafter. The statute also limits a fee of $4.00 per vehicle regardless of the duration of storage.

COMMENT: The New Jersey Turnpike Authority stated that its present system of regulating towing and storage services has provided consumers with reliable, safe and low cost service. The Authority requested that the proposed rules, if otherwise adopted, exempt limited access highways run by independent State authorities.

RESPONSE: The proposed rules apply to all reimbursements by insurers in the State of New Jersey for towing and storage charges as a result of an automobile being damaged in an accident or recovered after being stolen. The Department notes that N.J.S.A. 40:48-2.50 limits fees to be paid to an operator by a municipality for the storage of removed motor vehicles to $3.00 a day for the first 30 days and $2.00 per day for the 31st day of storage and thereafter. The statute also limits a fee of $4.00 per vehicle regardless of the duration of storage.

COMMENT: The New Jersey Turnpike Authority stated that its present system of regulating towing and storage services has provided consumers with reliable, safe and low cost service. The Authority requested that the proposed rules, if otherwise adopted, exempt limited access highways run by independent State authorities.
storage of a private passenger automobile for more than 30 days into
the base rate for determining private passenger automobile insurance
rates used or to be used in this State.
The Department has included a penalty provision and has renumbered
N.J.A.C. 11:3-38.6 of the towing and storage fee schedule.
A summary of the various provisions of the emergency adoption and
reproposed new rules follows:
N.J.A.C. 11:3-38.1 states the purpose and scope of the rules.
N.J.A.C. 11:3-38.2 provides the definitions for terms that are used in
the rules.
N.J.A.C. 11:3-38.3 provides the list of counties that are in regions 1 and
2.
N.J.A.C. 11:3-38.4 sets forth specific rules for the application of the
schedules.
N.J.A.C. 11:3-38.5 provides the penalties for violations to this
subchapter.
N.J.A.C. 11:3-38.6 consists of the towing and storage fee schedules.

Social Impact
The reproposed new rules will affect automobile insurers and those who
provide towing services and storage services. The reproposed new rules
will have a positive social effect in carrying out the legislative policy to
control the cost to insurers for the reimbursement of towing and storage
charges for private passenger automobiles that are damaged in accidents
or are recovered after being stolen. The rules provide maximum towing
and storage fee limits for which a person may be liable to those providing
these services for a private passenger automobile which was damaged in
an accident or recovered after being reported stolen.

Economic Impact
The reproposed new rules are expected to reduce or contain the amount
of towing and storage expenses paid by insurers, which are reflected in
the rates paid by purchasers of automobile insurance policies. The De­
partment acknowledges that some towing services and storage facilities
may experience a reduction in the revenue that they were receiving for
providing towing and storage services for the automobiles damaged in
an accident or stolen. The purpose of these rules is to establish a reason­
able schedule in accordance with the FAIR Act in order to contain these
costs.

Regulatory Flexibility Analysis
These reproposed rules may apply to “small businesses” as defined
under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These
small businesses are providers of automobile towing and storage services.
These reproposed new rules implement N.J.S.A. 17:33B-47 which re­
quires the Commissioner to promulgate a towing and storage fee sched­
ule. The towing and storage fee schedule contained in the rules sets forth
the maximum amount a provider of these services may charge for the
towing and storage of private passenger automobiles damaged in an
accident or recovered after being reported stolen. No recordkeeping or
reporting requirements are mandated; rather, the rule simply limits what
may be charged. No professional or other services are required in order
to comply.
The towing and storage fee schedule set forth in these proposed rules
applies equally to all businesses covered by its terms. There is no statutory
basis for different treatment of small businesses. Different treatment of
small businesses may, in fact, be contrary to the intent of the statute.

Full text of the reproposed new rules follows:

SUBCHAPTER 38. TOWING AND STORAGE FEE SCHEDULE
11:3-38.1 Purpose and scope
(a) The purpose of this subchapter is to establish towing and
storage fee schedules on a regional basis pursuant to N.J.S.A.
17:33B-47 for the reimbursement of towing charges and storage
charges for private passenger automobiles that are damaged in acci­
dents or are recovered after being stolen.
(b) The provisions of this subchapter apply to all insurers which
write private passenger automobile insurance in this State and to all
persons who provide towing and storage services in this State for
private passenger automobiles that are damaged in accidents or are
recovered after being stolen.

11:3-38.2 Definitions
(a) The following words and terms, when used in this subchapter, shall
have the following meanings, unless the context clearly indicates
otherwise:
"Automobile" means a private passenger automobile of a private
passenger or station wagon type that is owned or hired and is neither
used as a public or livery conveyance for passengers nor rented to
others with a driver; and a motor vehicle with a pickup body, or
delivery sedan, a van, or a panel truck or a camper type vehicle used
for recreational purposes owned by an individual or by husband and
wife who are residents of the same household, not customarily
used in the occupation, profession or business of the insured other than
farming or ranching. An automobile owned by a farm family
copartnership or corporation, which is principally garaged on a farm
or ranch and otherwise meets the definitions contained in this section,
shall be considered a private passenger automobile owned by two
or more residents related in the same household.
"Commissioner" means the Commissioner of Insurance of the State of New Jersey.
"Department" means the New Jersey Department of Insurance.
"Inside buildings" means a vehicle storage facility that is complete­
ly indoors, having one or more openings in the walls for storage and
removal of vehicles and that is secured by a locking device on each
opening.
"Motor vehicle accident" means an occurrence in which a private
passenger automobile comes in contact with any other object for
which the private passenger automobile must be towed or removed for
placement in a storage facility.
"Tow vehicle's base of service" means the towing operator's prin­
cipal place of business where the tow vehicle is stationed when not
in use.
"Outside secured" means an automobile storage facility that is not
indoors and is secured by a fence, wall or other man-made barrier
that is at least six feet high and is installed with a passive alarm system
or a similar on-site security measure. The facility is to be lighted at
night.
"Outside unsecured" means an automobile storage facility that is not
indoors and is not secured by a fence, wall or other man-made
barrier, and all other storage facilities not defined above as inside
building or outside secured.
"Storage charges for 24 hour period" means the maximum allow­
able amount to be charged by a storage facility for a 24 hour period
or fraction thereof. A new 24 hour period begins at 12:01 A.M.
"Tow vehicle" means only those vehicles equipped with a boom
or booms, winches, slings, tilt beds, wheel lifts or under-reach equip­
ment specifically designed by its manufacturer for the removal or
transport of private passenger automobiles.

11:3-38.3 Regions
(a) Region I, as used in this subchapter, consists of the following
counties in New Jersey: Atlantic, Burlington, Camden, Cape May,
Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salen.
(b) Region II, as used in this subchapter, consists of the following
counties in New Jersey: Bergen, Essex, Hudson, Hunterdon, Middle­
sex, Morris, Passaic, Somerset, Sussex, Union, and Warren.

11:3-38.4 Application of storage and towing fee schedule
(a) No person shall be liable to any person who tows or stores
a private passenger automobile which was damaged in an accident
or recovered after being reported stolen for any fees in excess of those
permitted by the towing and storage fee schedules established in this
subchapter.
(b) The region used to determine the proper fee set forth on the
schedules shall be determined as follows:
1. For towing services, the fee shall be based on the region in which
the tow vehicle's base of service is located.
2. For storage services, the fee shall be based on the region in
which the facility is located.
(c) The fee schedules shall be reviewed by the Commissioner on
an annual basis and may be revised if necessary.
(d) The fees set forth on the schedule for towing rates are the
maximum charges that shall apply to a private passenger automobile

(CITE 22 N.J.R. 3876)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
EMERGENCY ADOPTIONS

INSURANCE

towed by a tow vehicle as a result of an accident or theft recovery. There shall be no additional charges other than those provided in N.J.A.C. 11:3-36, including, but not limited to, flatbedding, waiting time, winching, uprighting, cleanup cost, and additional labor.

1. The towing rates shall be calculated based on the total distance travelled from the tow vehicle's base of service to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.

2. Tow vehicles transporting multiple passenger cars at one time shall receive the applicable fees for each vehicle transported.

3. When towing services are required at the scene of an automobile accident, the Day rate shall apply when the time of the accident is between 8:00 A.M. and 4:30 P.M., Monday through Friday, except New Jersey State Holidays. The Night, Weekend and Holiday rate shall otherwise apply.

4. When towing services are otherwise required, the Day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 8:00 A.M. and 6:00 P.M., Monday through Friday, except New Jersey State Holidays. The Night, Weekend and Holiday rate shall otherwise apply.

5. The fees set forth on the schedule for storage fees are the maximum storage charges per 24 hour period that shall apply to a private passenger automobile that is stored by a person as a result of an accident or theft recovery.

6. No insurer or rating organization shall include any expense for storage of a private passenger automobile for more than 30 days into the base for determining private passenger automobile rates used or to be used in this State.

11:3-38.5 Penalties

Failure of a person to abide by the requirements of this subchapter may be punishable by a fine not to exceed $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation pursuant to N.J.S.A. 17:33A-5.

11:3-38.6 Towing and storage fee schedules

(a) The following is the fee schedule for towing services:

<table>
<thead>
<tr>
<th>Region</th>
<th>Days</th>
<th>First mile or less</th>
<th>Each additional mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>$35.00</td>
<td>$1.75</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>$40.00</td>
<td>$1.75</td>
</tr>
</tbody>
</table>

Nights, Weekends and New Jersey State Holidays

<table>
<thead>
<tr>
<th>Region</th>
<th>First mile or less</th>
<th>Each additional mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$45.00</td>
<td>$1.75</td>
</tr>
<tr>
<td>2</td>
<td>$50.00</td>
<td>$1.75</td>
</tr>
</tbody>
</table>

(b) The following is the fee schedule for storage services:

Inside Building:

<table>
<thead>
<tr>
<th>Region</th>
<th>Storage Facility Capacity</th>
<th>Days</th>
<th>First mile or less</th>
<th>Each additional mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21 or more spaces</td>
<td></td>
<td>$13.00</td>
<td>$15.00</td>
</tr>
<tr>
<td>2</td>
<td>10-20 spaces</td>
<td></td>
<td>$18.00</td>
<td>$20.00</td>
</tr>
<tr>
<td></td>
<td>Less than 10 spaces</td>
<td></td>
<td>$22.00</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

Outside Secured:

<table>
<thead>
<tr>
<th>Region</th>
<th>Storage Facility Capacity</th>
<th>Days</th>
<th>First mile or less</th>
<th>Each additional mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21 or more spaces</td>
<td></td>
<td>$9.00</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>10-20 spaces</td>
<td></td>
<td>$11.00</td>
<td>$12.00</td>
</tr>
<tr>
<td></td>
<td>Less than 10 spaces</td>
<td></td>
<td>$13.00</td>
<td>$15.00</td>
</tr>
</tbody>
</table>

Outside Unsecured:

<table>
<thead>
<tr>
<th>Region</th>
<th>Storage Facility Capacity</th>
<th>Days</th>
<th>First mile or less</th>
<th>Each additional mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>21 or more spaces</td>
<td></td>
<td>$7.00</td>
<td>$8.00</td>
</tr>
<tr>
<td>2</td>
<td>10-20 spaces</td>
<td></td>
<td>$9.00</td>
<td>$10.00</td>
</tr>
<tr>
<td></td>
<td>Less than 10 spaces</td>
<td></td>
<td>$10.00</td>
<td>$12.00</td>
</tr>
</tbody>
</table>
EDUCATION

STATE BOARD OF EDUCATION

Notice of Vocational Education Safety/Health Compendium Request For Proposal

1. INTENT: The purpose of this grant is to bring together in one document all the federal, State and local safety and health regulations impacting all New Jersey public vocational programs thereby providing vocational educators and administrators with a comprehensive compendium of safety and health checklists and supportive materials.

2. STATUTORY/REGULATORY SOURCE: This agreement will be 100 percent federally funded under the Carl D. Perkins Vocational Education Act, P.L. 95-524, Title II, Part B.

3. RATIONALE: The first responsibility of vocational educators is to ensure the safety and health of students in their programs. It is also critical that they prepare students to protect their own occupational safety and health. As a result of increasing research and awareness in occupational safety and health, regulations protecting workers and students have expanded extensively. Schools are now covered by a much wider number of statutes and codes. These statutes and regulations are developed and monitored by a variety of federal, state and local agencies, few of which coordinate with each other. The unfortunate outcome of this absence of coordination is a confused and frustrated educational community, lacking understanding and the ability to communicate effectively in this area. This often translates into hazards to students and staff which remain unidentified until an accident or injury occurs.

Surveys of vocational administrators and instructors, as well as state staff, point out the need for checklists which can be used by educators and students to monitor their own programs and environments for compliance with the myriad of regulations. However, there is no single document which brings together all the regulations appropriate to occupational and prevocational/career orientation shops (e.g. trade and industrial education, home economics related occupations education, industrial arts education, etc.).

Administrators often know regulations exist, but cannot locate relevant information or citations. Further, those who are unaware of the regulations may easily be discouraged when they realize how many governmental agencies are involved. They will almost certainly be confused when they attempt to determine which regulations from which agencies apply to their specific educational programs.

In vocational education, students are also required to develop competencies in safety and health relevant to their specific occupational areas, as an integral part of their training. A comprehensive document would be a teaching tool to assist them in attaining competencies related to awareness of the laws, standards and codes which apply to their specific fields. Further, it would provide staff and students with checklists that they can use to monitor their working environment for compliance with relevant safety and health regulations.

This grant will provide funds to the successful applicant to research, develop, field test, print, market and disseminate a compendium of vocational education safety and health checklists. This unified and coordinated approach to vocational program safety and health will provide an invaluable resource enabling educators and administrators to:

- improve their programs and facilities;
- better protect the health and safety of staff and students;
- bring facilities and vocational programs in line with current workplace standards; and
- improve the relevance of the curriculum as related to specific occupational needs.

3.1 Goals

The goal of this grant is to develop and disseminate to vocational educators a compendium of safety and health checklists and supportive materials which provides in one document, all relevant safety and health statutes, codes and standards that apply to vocational education shops.

3.2 Objectives

- To establish an interagency task force which will collaborate and provide guidance in the development of the compendium and be comprised of representatives from:
  - all agencies regulating vocational education shops;
  - the major safety and health organizations in New Jersey (e.g. New Jersey Safety Council); and
  - representatives of the target groups within local districts and the Department of Education who have responsibility for ensuring compliance with vocational education regulations.
- To conduct a needs assessment that identifies all pertinent safety and health information needed for the development and effective use of the compendium by answering the following questions:
  1. What are all the specific shops that exist in public vocational secondary schools?
  2. What would you find most helpful in a checklist for each shop?
  3. What else should go in the compendium?
  4. What format would be most useful?
  5. What are the barriers to complying with regulations?
  6. What is the best way of getting input on these questions from a larger sample?

- To identify through a regulations search and literature review all safety/health and related environmental regulations applicable to all public vocational education shops. These must include at least:
  1. Fire Protection (National Fire Protection Association-NFPA);
  2. Public Employees Occupational Safety and Health Act (PEOSHA);
  3. Right to Know (RTK);
  4. Hazardous Waste Disposal;
  5. Air Pollution;
  6. Sanitation;
  7. Building and Construction Code (BOCA);
  8. Pesticide Use and Control;
  9. Radon;
  10. SARA-Superfund Amendments and the Authorization Act (hazardous materials emergency response and planning);
  11. New Jersey Administrative Code (NJAC);
  12. Department of Health (Other Regulations);
  13. Department of Labor (Other Regulations); and
  14. Environmental Protection Agency (EPA).
- To develop the safety and health compendium which includes:
  1. comprehensive checklists which cover all safety and health regulations for all public vocational education shops;
  2. introductions to each regulating agency;
  3. A "how to use this manual" section;
  4. descriptive sections on all the specific regulations covered;
  5. information on technical assistance available to schools;
  6. guidelines for successfully working with regulating agencies;
  7. an information resources section; and
  8. additional sections identified through the needs assessment.
- To pilot test the draft of the compendium with a sample of vocational educators from districts in northern, central and southern counties representing urban, suburban, and rural areas, and all types of public secondary schools. To obtain reviews from representatives of the department of education with responsibility for facilities safety and health monitoring, and from task force representatives.
- To print and publish 700 copies of the finalized compendium.
- To train a minimum of:
  - 42 local trainers (2 from each of the 21 counties), identified in cooperation with the county superintendent, who agree to be county/regional turnkey trainers;
  - 20 program specialists from the Division of Vocational Education representing all program areas; and
  - all 21 county vocational specialists.
- To disseminate the compendium to:
  1. all public secondary schools in New Jersey (398);
  2. county offices (21);
  3. Division of Vocational Education lead staff (20); and
  4. The National Network for Curriculum Coordination in Vocational Technical Education (NNCCTVE) (15); and

5. additional safety and health units of agencies participating in the project, as well as project consultants (100).

(CITE 22 N.J.R. 3878) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
3.3 Program Implementation Timelines

April 15, 1991—June 30, 1992

4. FUNDING: The amount available for this grant is $170,000. Funding for this project is contingent upon the availability of federal funds.

5. ELIGIBILITY:

5.1 Program Eligibility

This grant program is open to any public or private agency or institution located in New Jersey which demonstrates the required characteristics listed below.

Characteristics of the Applicant

1. Has worked with and provided services in occupational and environmental safety and health to the educational community.
2. Has collaborated on occupational safety and health projects with governmental regulatory agencies, industry, and labor.
3. Has faculty and/or staff with demonstrated research, curriculum development and training expertise in occupational safety and health.
4. Has an institutional commitment to occupational safety and health.
5. Has cooperative arrangements with a medical school or teaching hospital, a public health school and an engineering school, or their equivalents, all with established programs in occupational safety and health.

The review of characteristics of the applicant will be conducted under the leadership of the evaluation panel. Please refer to page 12 of this document for the description of appropriate selection criteria which they will use.

5.2 Application Due Date

An original and four copies of the complete proposal must be received in the:

Application Control Center
Department of Education
225 West State Street
CN 500
Trenton, New Jersey 08625

no later than 4:00 p.m. on February 1, 1991. A late proposal will not be accepted.

A complete proposal includes an application title page; an application narrative and supporting materials; a statement of assurances; a budget summary; and resolutions or letters from the boards or authorizing bodies of project applicants.

Notification of this award will be made by March 15, 1991.

6. DISSEMINATION AND TECHNICAL ASSISTANCE:

6.1 Dissemination

The State Department of Education will distribute an RFP and application materials to any agency requesting these documents. The availability of this grant program will be announced in the New Jersey Register, The Newark Star Ledger, The Asbury Park Press and the Courier Post.

To receive application materials contact:

Bureau of Vocational Grants Management
Division of Vocational Education
New Jersey Department of Education
225 West State Street
CN 500
Trenton, New Jersey 08625
(609) 292-5622

6.2 Technical Assistance

A technical assistance workshop will be provided to all potential applicants for this grant by the Division of Vocational Education on January 4, 1991, 10:00 a.m.-12:00 noon at The Northeast Curriculum Coordination Center, Aberdeen, New Jersey. To register for this workshop, call Joanne Darvas at (609) 292-5744.

7. APPEAL PROCEDURE FOR DENIAL: An appeal will only be heard if it has been alleged that the Department of Education has violated a statutory or regulatory provision in the awarding of a grant.

8. STATE EDUCATION AGENCY MONITORING OF PROJECT:
The Department of Education will conduct 6 and 12 month on-site monitoring visits to determine whether activities are progressing as planned. An evaluation plan for the program must be developed and quarterly and final evaluation reports submitted. The outlines for both the evaluation plan and evaluation reports are located in sections 10.4 and 10.5.

9. STATE EDUCATION AGENCY EVALUATION OF THE GRANT PROGRAM:

9.1 Outcome Evaluation

The Department of Education will use the outcome indicators identified for this grant and will evaluate overall project performance using on-site visits and interim and final reports. Additionally the Division of Vocational Education will constitute a review panel to review and approve all final products.

9.2 Expected Outcomes

As a result of this contract, the grant recipient will develop and disseminate to vocational educators a safety/health facilities checklist compendium which provides in one document, all relevant statutes, codes and standards that apply to vocational education shops. Deliverables (outcome indicators) will include:

- The vocational education/safety/health checklist compendium which includes:
  - Floor to ceiling checklists for all public secondary vocational education shops; and
  - Introductory and resource sections as identified in the initial needs assessment.
- Seven hundred (700) copies of the compendium for dissemination;
- Training for a minimum of:
  - 42 local trainers (2 from each of the 21 counties) who agree to be county/regional turnkey trainers;
  - 20 program specialists from the Division of Vocational Education representing all program areas; and
- All county vocational specialists.
- Dissemination of the compendium to:
  - All public secondary schools in New Jersey;
  - County offices;
  - Division of Vocational Education staff;
  - The National Network for Curriculum Coordination in Vocational Technical Education (NNCCVTE); and
- Additional safety and health units of agencies participating in the project.
- A marketing plan for sale of the compendium, at a cost recovery rate, to other educational agencies and institutions in New Jersey which provide vocational education programs and services to secondary and postsecondary populations.
- Informational articles about the compendium published in a minimum of five (5) relevant professional newsletters and/or journals.
- Two (2) copies of the compendium on 5 1/4 inch diskettes as ASCII files. If possible, one of the following pieces of software should be used: Multimate DisplayWrite Word Perfect Word Star

10. ADDITIONAL APPLICATION CONSIDERATIONS:

10.1 Eligible Costs

Salaries: eligible
Fringe Benefits: eligible
Consultant Services: eligible
Travel: eligible
Supplies: eligible
Printing: eligible
Postage: eligible
Telephone: eligible
Rent: ineligible
Equipment (no renovations): eligible
Contractual (Subcontracts): ineligible
Other: ineligible
Total Eligible Costs: $170,000

10.2 Allowable Cost and Budget Description

- Salaries: Salaries and fringe benefits (up to a maximum of 29%) are eligible for project coordinator and/or director, research assistant and secretary to manage, coordinate, develop and disseminate project deliverables.
- Consultant Services
Consultant services to create, develop, process, and review sections of the compendium, to train target groups in its use, and to evaluate the project are eligible:

- Travel
  Travel costs are eligible for program coordinator and/or director, research assistant, and secretary to attend meetings, training and pilot district sites, and for dissemination activities at two major vocational conferences (one national and one state).

- Supplies
  Educational and office supplies necessary for tasks and activities needed to complete project objectives are fundable.

- Printing
  Printing costs necessary for document development, pilot testing, publishing, training, and marketing purposes are eligible.

- Postage
  Postage necessary for tasks and activities needed to complete project objectives are fundable.

- Telephone
  Monthly telephone costs for tasks and activities needed to complete project objectives are fundable.

- Equipment
  A computer necessary for completion of project objectives is eligible up to a maximum of $2,000.

- Other
  Other necessary costs for tasks and activities required to complete project objectives are fundable.

- Indirect costs
  Indirect costs are permissible for this project.

### 10.3 Supplemental Information

The applicant must submit its proposal on the forms and instructions provided in this application packet. The budget detail section must be completed in entirety.

Applicant must submit evidence to demonstrate that it possesses the eligibility characteristics specified on page 4 of this RFP.

An official copy of the resolution authorizing the applicant’s submission must accompany the application.

Following designation of successful applicant, project staff will meet with department personnel to finalize the operational plan and negotiate the terms and conditions of the contract.

Please be advised that as a result of the Stevens Amendment to the Department of Defense’s Appropriations Act (Section 8136) which has government-wide application to grant recipients that:

- When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money and (2) the dollar amount of Federal funds for the project or program.

All project documents and marketing materials must clearly specify that funding for this project is through a grant from the New Jersey Department of Education, Division of Vocational Education.

The materials developed through this RFP are the sole property of the New Jersey State Department of Education and, at the close of this project, will be distributed under their authority. Reproduction and distribution of contents will require the express permission of the Department of Education.

The completed compendium will be copyrighted by the Department of Education in accordance with all required policies and procedures.

### 10.4 Evaluation Plan

An evaluation plan for the project must be structured around the following components:

- Program Goals: Specify the goals for the project which set the overall direction for action. These goals should be framed in response to the rationale (Section 3) in this RFP.

- Program Objectives: Provide the project objectives. Objectives should delimit an intent; define specific outcomes in measurable terms; and be accomplished within a pre-specified time frame.

- Objectives should describe the outcomes of services and programs as well as the process.

- Objectives should describe specific and quantifiable standards which are anticipated to be attained as a result of the grant.

- Evaluation Questions: List the questions which the evaluation will answer.

**Evaluation Design:** Provide information as to what statistical techniques will be utilized during the evaluation. An example would be pretest/post-test measurement, etc.

**Data Sources:** Specify the sources of information (students, administrators, teachers, the community).

**Timelines:** Specify when data will be collected.

**Stuffing:** Indicate who will be responsible for aspects of the evaluation.

**Instrumentation:** List the instruments to be used for gathering the data (surveys, questionnaires, observation scales, tests, etc.). If instruments are to be developed, describe the development process.

**Success Criteria:** Describe how you will know if the project was successful in meeting the stated goals and objectives.

**Use and Dissemination:** Describe how the findings of the evaluation will be presented and what impact the evaluation will have in program improvement or decision-making.

#### 10.5 Evaluation Reports

Quarterly reports on project implementation are required as well as a final evaluation report.

Fiscal expenditure reports are required at the close of FY ’91 and FY ’92.

Both the interim and final evaluation reports must follow the guidelines provided below:

- **Summary Narrative:** Provide a summary narrative clearly describing the program which was provided through the funding source. The narrative should also highlight the program outcomes and successes and provide any data and statistical information available on the program participants.

- **Needs:** Describe the degree to which the program met the needs previously identified.

- **Goals and Objectives:** Describe how all the objectives related to each of the goals were met. Describe any modifications to the program which were necessary during the implementation.

- **Operational Plan:** Describe the degree to which the timelines, responsibilities, and activities set forth in the Operational Plan were implemented. Discuss the implications, if any, for the budget.

- **Program Results:** Describe the results of the program. Present documentation to indicate that the program was successful. Provide statistical information available on program participants, product development and distribution of services rendered, etc.

- **Results:** Describe the evaluation results. Discuss the implications, if any, for the budget.

- **Success Criteria:** Describe how the results of the program evaluation will be used to plan a future program or continuation.

- **Use of Funds:** Describe how the results of the program evaluation will be used to plan a future program or continuation.

- **Program Costs:** Describe contributions to the program made through nonemployee compensation, etc.

- **Use of Grant Funds for Nonemployee Compensation:** In the event a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Care of Property:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Maintenance of Records:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Care of Property:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Maintenance of Records:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Care of Property:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.

- **Maintenance of Records:** If a grant recipient agency plans to use grant funds provided pursuant to a Department of Education third party contract to pay for nonemployee compensation, such as consultants and/or subcontractors, the agency must complete a “Nonemployee Compensation” form for each individual or entity.
ENVIRONMENTAL PROTECTION

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Notice of Petition for Rulemaking
N.J.A.C. 7:1E, Appendix A
Petition to Amend List of Hazardous Substances
Petitioner: National Refrigerants, Inc.

Take notice that on October 23, 1990, the Department of Environmental Protection (Department) received a petition for rulemaking concerning the amendment of the list of hazardous substances set forth in the regulations promulgated under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. (the "Spill Act"). The list appears at N.J.A.C. 7:1E, Appendix A. Petitioner requests that the Department remove the following substances from the list:

- Dichlorodifluoromethane (CFC-12)
- Trichlorotrifluoroethane (CFC-11)
- Chlorotrifluoroethane (CFC-114)
- Monochloropentafluoroethane (CFC-115)
- Chlorotrifluoroethane (CFC-113)

Petitioner asserts that the above substances should be deleted from the list because they have no direct toxicity effect, and are not subject to being "spilled" or "discharged" in the sense envisioned by the Legislature in drafting the Spill Act.

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Notice of Granting of Petition for Rulemaking concerning Requirements for Hazardous Waste Storage Facilities
N.J.A.C. 7:26-9.2(b)1 and 2; N.J.A.C. 7:26-9.3(b)8
Petitioner: Pharmacaps, Inc.

Take notice that on April 9, 1990, the Department of Environmental Protection ("Department") received a petition from Pharmacaps, Inc. requesting amendments to N.J.A.C. 7:26-9.2(b)1 and 2 and N.J.A.C. 7:26-9.3(b)8, concerning storage tank requirements for liquid hazardous waste in underground storage tanks (USTs).

A Notice of Receipt acknowledging receipt of the petition was filed with the Office of Administrative Law on April 23, 1990 and appeared in the May 21, 1990 New Jersey Register at 21 N.J.R. 1632(d).

Specifically, the petitioner requested amendments to N.J.A.C. 7:26-9.2(b)1 and 2 to allow the installation of new USTs for the purpose of containing liquid hazardous waste, provided that such tanks are double-walled and comply with the technical requirements of the UST rules proposed August 7, 1989 at 21 N.J.R. 2242(a). The Petitioner also requested that the Department amend N.J.A.C. 7:26-9.3(b)8 to allow...
generators of hazardous waste to store hazardous waste in USTs for 90 days or less without a hazardous waste facility permit provided that such tanks comply with the technical requirements of the proposed UST rules.

The Department filed a Notice of Action with Office of Administrative Law on May 15, 1990 which appeared in the June 18, 1990 New Jersey Register at 22 N.J.R. 1947(c). The Notice of Action stated that the petition would be retained until the UST rules were adopted and that the petition would be evaluated in light of the adopted UST rules rather than the proposed UST rules.

New USTs for hazardous waste are currently prohibited under N.J.A.C. 7:26-9.2(b). However, any USTs for hazardous wastes which were in existence prior to the adoption of N.J.A.C. 7:26-9.2(b) were not subject to the prohibition. Such existing USTs are currently subject to Federal regulations. 40 C.F.R. Part 265 Subpart J was promulgated on July 11, 1986 (51 Fed. Reg. 25422). The adoption of the State UST rules, published in the New Jersey Register on September 4, 1990 at 22 N.J.R. 2758(a), also affect the regulation of existing underground hazardous waste storage tanks.

The Department has reviewed the petition in light of the State's adopted UST rules and believes that, in combination with the Federal standards for hazardous waste UST systems at 40 C.F.R. Parts 264 and 265, Subparts J, the technical standards will be protective of human health and the environment. Although the petition requests that a generator be able to use a UST without a permit for the 90-day period, it also appears to allow the generator standards to be based on the State UST rules rather than a combination of the State UST rules and Federal regulations for hazardous waste UST systems. The Department currently believes all hazardous waste UST systems, including generator systems, should be regulated under uniform rules.

Therefore, in accordance with the provisions of N.J.A.C. 7:1-1.2, the petition for rulemaking is granted, except as noted above for generator UST systems.

Although the Department has granted the petition, it cannot simply base the new amendments upon the State UST rules. The Department is required to compare and evaluate the provisions of the Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 et seq., regulations (40 C.F.R. Parts 264 and 265, Subparts J) with the State UST rules, and to be at least as stringent as the Federal regulations when formulating the necessary rule amendments. The petition indicates that this situation was contemplated by the Petitioner since the requested amendments included language that rules promulgated under the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., would take precedence where they are “stricter or conflict” with the State UST rules. When the Department completes its analysis of the relationship between the two regulatory schemes, it will publish a new rulemaking with decisions on this topic. Due to the complex and technical nature of this undertaking, the Department cannot accurately predict when a rule proposal will be published but will make a diligent, good faith effort in completing this task in a timely manner.

The Department has mailed a copy of this Notice of Action to the Petitioner in accordance with the provisions of N.J.A.C. 7:1-1.2.

DIVISION OF WATER RESOURCES
Amendment to the Northeast Water Quality Management Plan
Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been proposed. This amendment would adopt a Wastewater Management Plan (WMP) for Secaucus Town. The WMP allows for the initial expansion of the Koelle Boulevard Sewage Treatment Plant (STP) to a design capacity of 5.12 million gallons per day (mgd) and the future expansion of this facility to treat a 2010 projected wastewater flow of 6.37 mgd. The WMP identifies the existing and future sewer service areas for this facility. The Meadowlands Parkway, Gilbert Systems and Secaucus Motor Lodge STPs are proposed to be abandoned with flow directed to the Koelle Boulevard STP when capacity is available.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Quality 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. An appointment to inspect the documents may be arranged by calling the Bureau of Water Quality Planning at (609) 633-7026.

Interested persons may submit written comments on the amendment to Mr. Ed Frankel, Bureau of Water Quality Planning, at the NJDEP address cited above. These comments must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested persons may request in writing that NJDEP hold a nonadversarial public hearing on the amendment, or extend the comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Mr. Frankel at the NJDEP address cited above. If a public hearing for the amendment is held, the public comment period in this notice shall be extended 15 days after the close of the public hearing.

(b)

DIVISION OF WATER RESOURCES
Monmouth County Water Quality Management Plan
Holmdel Corporate Office Center
Public Notice

Take notice that on November 7, 1990, pursuant to the provisions of the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), the Holmdel Corporate Office Center was re-reviewed and found to be consistent with the Monmouth County Water Quality Management Plan based on information in the Holmdel Township Wastewater Management Plan (WMP). The Holmdel Township WMP provides for ground water discharges in this area in which the above-cited project is located and for future flows that could be serviced.

(c)

DIVISION OF WATER RESOURCES
Amendment to the Tri-County Water Quality Management Plan
Public Notice

Take notice that on November 15, 1990, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment allows for the expansion of the Medford Lakes Borough sewer service area to include Block 6409, Lot 2.02 of Medford Township. This tract is adjacent to the boundary of Medford Lakes Borough and is located within the Pinelands Regional Growth Area in Medford Township.

(d)
PUBLIC NOTICES

port and Fee Schedule are calculated using the proposed fee assessment methodology. The Department plans to adopt amendments to N.J.A.C. 7:14A-1.8 before assessing the 1990-91 NJPDES permit fees. The public hearing on the 1990-91 NJPDES Annual Fee Report and Fee Schedule will be held on:

January 24, 1991
New Jersey Records Storage Center
2300 Stuyvesant Avenue
Trenton, New Jersey

The hearing on the proposed amendments to N.J.A.C. 7:14A-1.8 will commence at 10:00 A.M. The hearing on the 1990-91 NJPDES Annual Report and Fee Schedule will commence after all testimony on the proposed amendments to N.J.A.C. 7:14A-1.8 have been received. Written comments for both hearings will be accepted until January 28, 1991. Submit written comments to:

Samuel Wolfe, Administrative Practice Officer
Department of Environmental Protection
Office of Legal Affairs
CN 402
Trenton, New Jersey 08625

Copies of the 1990-91 NJPDES Annual Fee Report and Fee Schedule will be mailed to NJPDES permittees on or about December 5, 1990. Interested parties may request free copies from:

New Jersey Department of Environmental Protection
NJPDES Fee Management Section
CN 029
Trenton, New Jersey 08625

Additional documentation concerning the proposed NJPDES budgets for 1990-91 and expenditures for 1988-89 and 1989-90 are available for review at the Department of Environmental Protection, Division of Water Resources, 401 East State Street, Trenton, New Jersey. Contact the NJPDES Fee Management Section to schedule an appointment to review the additional documentation or for further information at (609) 984-4428.

HEALTH

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

A One Time Only Moratorium on the Submission of Certificate of Need Applications for Major Capital Projects for One Year by the New Jersey State Department of Health

Public Notice: N.J.A.C. 8:33-1.5

Take notice that the Department of Health, in conjunction with the Health Care Administration Board (HCAB), is deleting the capital batching cycles (hospital bed additions; modernization/renovation/new construction of $10 million or more) that are scheduled in accordance with N.J.A.C. 8:33-1.5 to be submitted on or before January 1, 1991 and July 1, 1991. No health care services other than proposed new or expanded capital projects are affected by this proposed action. No applications for Certificates of Need for major capital projects will be accepted for the 1991 review cycles. This one year moratorium will become effective with the February 15, 1991 certificate of need review cycle (January 1, 1991 application submission deadline) and will end with the February 15, 1992 certificate of need review cycle (January 1, 1992 application submission date).

Any inquiries should be sent to:
John C. Scioli, Director
Health Policy, Planning, and Certificate of Need, Room 604
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Petroleum Products Gross Receipts Tax Notice of Additional Extension of Time for Filing and Payment

Take notice that taxpayers required to pay the New Jersey Petroleum Products Gross Receipts Tax will receive an additional automatic extension before the first return and payment are due. These returns, originally due on or before October 20, 1990, must now be filed on or before November 30, 1990. The additional extension was granted pursuant to the general powers of the Director under N.J.S.A. 54:50-1 and 54:15B-8. As a result of the recently enacted tax package, many existing tax forms had to be revised, new tax forms had to be designed, and information had to be developed and distributed to taxpayers. The Division was unable to provide taxpayers affected by this new tax with the returns and information they needed well in advance of the first return's due date. Recognizing the difficulty this delay could cause, the Division is granting an additional automatic extension for filing this return only. The next quarterly return must be filed on or before its normal due date of January 20, 1991.

To help taxpayers understand and satisfy their tax liability under the new tax, the Division has sent draft tax regulations to all companies which had returns mailed to them. Taxpayers who did not receive their first quarterly return, which was mailed by the Division on October 12, 1990 or draft regulations mailed on November 13, 1990 or who have questions about the tax should contact the Division of Taxation, Miscellaneous Tax Branch, 50 Barrack Street, CN 243, Trenton, NJ 08646-0243. Telephone: (609) 633-8043.
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 November 5, 1990 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.1990 d.1 means the first rule adopted in 1990.

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 OCTOBER 15, 1990

NEXT UPDATE: SUPPLEMENT NOVEMBER 19, 1990

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

<table>
<thead>
<tr>
<th>If the N.J.R. citation is between:</th>
<th>Then the rule proposal or adoption appears in this issue of the Register</th>
<th>If the N.J.R. citation is between:</th>
<th>Then the rule proposal or adoption appears in this issue of the Register</th>
</tr>
</thead>
<tbody>
<tr>
<td>22 N.J.R. 687 and 884</td>
<td>March 5, 1990</td>
<td>22 N.J.R. 2861 and 3072</td>
<td>September 17, 1990</td>
</tr>
<tr>
<td>22 N.J.R. 1807 and 1964</td>
<td>June 18, 1990</td>
<td>22 N.J.R. 3278 and 3466</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>22 N.J.R. 3667 and 3896</td>
<td></td>
</tr>
</tbody>
</table>

**N.J.A.C. Citation**

**ADMINISTRATIVE LAW—TITLE 1**

1:1-3.2, 14.10 Interlocutory appeal for review of hearing location
1:1-3.3, 9.6, 12.1, 14.4, 14.7, 14.14, 18.4, 19.2 Scheduling, processing, and conclusion of contested cases
1:1-9.5 OAL Notice of Filing: preproposal regarding notification of parties to contested case
1:6A-18.3 Special Education hearings: administrative correction
1:10-8.1 Transmission of Economic Assistance cases
1:10-18.2 Economic Assistance hearings: exception to initial decision
1:10B-18.2 Medical Assistance hearings: exception to initial decision
1:11-10.1 Discovery in private passenger automobile insurance rate hearings
1:13-14.4 Motor Vehicle cases: failure to appear
1:13A-14.1 Lemon Law hearings: failure to appear
1:30 Agency rulemaking

**PROPOSAL NOTICE (N.J.R. CITATION) DOCUMENT NUMBER ADOPTION NOTICE (N.J.R. CITATION)**

22 N.J.R. 3278(a) 22 N.J.R. 2066(b) 22 N.J.R. 3478(a)
22 N.J.R. 2389(a) 22 N.J.R. 3278(b) 22 N.J.R. 3478(a)
22 N.J.R. 3425(a) 22 N.J.R. 3278(b) 22 N.J.R. 3478(a)
22 N.J.R. 2625(a) 22 N.J.R. 3278(b) 22 N.J.R. 3478(a)
22 N.J.R. 2626(a) 22 N.J.R. 3425(a) 22 N.J.R. 3478(a)
22 N.J.R. 3428(a) 22 N.J.R. 3478(a) 22 N.J.R. 3478(a)
22 N.J.R. 2627(a) 22 N.J.R. 3478(a) 22 N.J.R. 3478(a)
22 N.J.R. 2865(a) 22 N.J.R. 3478(a) 22 N.J.R. 3478(a)

**Most recent update to Title 1: TRANSMITTAL 1990-5 (supplement September 17, 1990)**

**AGRICULTURE—TITLE 2**

2:1-2.3 Department organization and rules of practice
2:6-1 Distribution and use of veterinary biologics
2:16 Plant certification
2:48 Dairy industry rules
2:53 Retail milk stores
2:76-6.2, 6.5, 6.6, 6.9-6.12, 6.15-6.17 Farmland preservation program

**PROPOSAL NOTICE (N.J.R. CITATION) DOCUMENT NUMBER ADOPTION NOTICE (N.J.R. CITATION)**

22 N.J.R. 265(a) 22 N.J.R. 2068(a) 22 N.J.R. 3285(a)
22 N.J.R. 2068(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2625(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 3609(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 1244(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 1244(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 1244(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 1244(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)

**Most recent update to Title 2: TRANSMITTAL 1990-8 (supplement October 15, 1990)**

**BANKING—TITLE 3**

3:0 Compensation to mortgage bankers, brokers and real estate licensees for placing mortgage loans:
3:1 General provisions of Department
3:1-4.2, 4.7, 4.9, 4.10 Protection of governmental unit deposits
3:17-1.1, 1.4 Consumer loan advertisements
3:18-10.5 Secondary mortgage licensees
3:26 Savings and loan associations
3:29-1.1-1.4, 1.6, 1.7 Savings and loan associations: audit requirements
3:38-1.5 Secondary mortgage licensees
3:41 Cemetery Board rules

**PROPOSAL NOTICE (N.J.R. CITATION) DOCUMENT NUMBER ADOPTION NOTICE (N.J.R. CITATION)**

22 N.J.R. 262(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 3425(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 1809(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2626(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2628(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2865(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2626(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2626(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2626(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)
22 N.J.R. 2626(a) 22 N.J.R. 3285(a) 22 N.J.R. 3285(a)

**Most recent update to Title 3: TRANSMITTAL 1990-6 (supplement October 15, 1990)**

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990 (CITE 22 N.J.R. 3885)
CIVIL SERVICE—TITLE 4

Most recent update to Title 4: TRANSMITTAL 1990-3 (supplement July 16, 1990)

PERSONNEL—TITLE 4A

4A:3-5.2, 5.5 Overtime compensation 22 N.J.R. 2627(b) R.1990 d.552 22 N.J.R. 3483(a)
4A:4-2.4 Promotional examinations 22 N.J.R. 2628(a) R.1990 d.554 22 N.J.R. 3482(a)
4A:4-5.5 Working test period 22 N.J.R. 2629(a) R.1990 d.553 22 N.J.R. 3482(b)
4A:8-2.2 Employee layoff rights 22 N.J.R. 2629(b) R.1990 d.555 22 N.J.R. 3482(c)

COMMUNITY AFFAIRS—TITLE 5

5:10-1.6, 1.10, 1.11 Hotels and multiple dwellings: classification of dormitories 22 N.J.R. 1870(a)
5:10-22.5 Hotels and multiple dwellings: ceiling height 22 N.J.R. 2207(a) R.1990 d.544 22 N.J.R. 3363(b)
5:10-22.5 Ceiling heights in multiple dwellings 22 N.J.R. 3430(a)
5:14 Neighborhood Preservation Balanced Housing Program 22 N.J.R. 1700(b) R.1990 d.604 22 N.J.R. 3734(a)
5:23-1.1, 3.1, 3.11B Uniform Construction Code: underground storage tank systems 22 N.J.R. 2629(c) R.1990 d.562 22 N.J.R. 3482(d)
5:23-2.14 Uniform Construction Code: gas utility meters 22 N.J.R. 3609(b)
5:23-7.13, 7.18 Uniform Construction Code: platform lifts 22 N.J.R. 2869(a)
5:23-9.3 Uniform Construction Code: FRT plywood as roof sheathing 21 N.J.R. 3870(a)
5:23-9.3 Uniform Construction Code: public meeting regarding FRT plywood use as roof sheathing 22 N.J.R. 706(a)
5:23-9.6 UCC interpretation: casino stools 22 N.J.R. 3610(a)
5:23-11 Uniform Construction Code: preproposal on indoor air quality subcode 22 N.J.R. 3209(a)
5:25 New home warranties and builders’ registration 22 N.J.R. 1701(a)
5:25-5.4 New Home Warranty Security Plan: builder premium rates 22 N.J.R. 277(a)
5:26 Planned real estate development full disclosure 22 N.J.R. 1702(a)
5:28 State Housing Code 22 N.J.R. 1456(a)
5:29 Landlord-tenant relations 22 N.J.R. 2070(b)
5:30-14, 17 Repeal; recodify (see 5:34) 22 N.J.R. 724(a) R.1990 d.595 22 N.J.R. 3639(a)
5:34 Local public contracts 22 N.J.R. 724(a) R.1990 d.595 22 N.J.R. 3639(a)
5:37 Municipal, county and authority employees deferred compensation programs 22 N.J.R. 3076(a)
5:80-9 Housing and Mortgage Finance Agency: housing project rents 22 N.J.R. 2389(b)
5:80-29 Housing and Mortgage Finance Agency: investment of surplus funds 22 N.J.R. 1974(a)
5:91 Council on Affordable Housing: procedural rules 22 N.J.R. 3610(b)
5:92-12.13, 12.15, 12.16, App. Council on Affordable Housing: extension of comment period regarding central air conditioning in income-qualified units 22 N.J.R. 1975(a)

MILITARY AND VETERANS’ AFFAIRS (formerly DEFENSE)—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1990-2 (supplement June 18, 1990)

EDUCATION—TITLE 6

6:3-7 Education of homeless children and youth 22 N.J.R. 2630(a) R.1990 d.615 22 N.J.R. 3734(b)
6:5-2 Organization of Department Exempt 22 N.J.R. 2633(a) R.1990 d.610 22 N.J.R. 3736(a)
6:20-1.1, 1.2, 4.1-4.4, 4.7-4.10, 4.11 Attendance and pupil accounting 22 N.J.R. 2633(a) R.1990 d.610 22 N.J.R. 3736(a)
6:24 Controversies and disputes 22 N.J.R. 2841(a)
6:28-2.3, 3.1 Special education: administrative corrections 22 N.J.R. 3365(a)

ENVIRONMENTAL PROTECTION—TITLE 7

7:2 State Park Service rules 22 N.J.R. 2622(a)
7:5 Matching Grants Program for Local Environmental Agencies 22 N.J.R. 2392(a) R.1990 d.577 22 N.J.R. 3505(a)
7:7E-5.3 Coastal growth ratings: preproposal regarding Western Ocean County 22 N.J.R. 1214(a)

(CITE 22 N.J.R. 3886)

NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:8-1, 1.2, 1.5, 2.2, 2.3, 3.1, 3.4, 3.5, 3.6</td>
<td>Water Pollution Control Act</td>
<td>22 N.J.R. 2870(a)</td>
<td></td>
</tr>
<tr>
<td>7:9</td>
<td>Water pollution control</td>
<td>22 N.J.R. 3297(a)</td>
<td></td>
</tr>
<tr>
<td>7:11-5</td>
<td>Use of water from Manasquan Reservoir water supply system</td>
<td>21 N.J.R. 3701(a)</td>
<td>R.1990 d.629</td>
</tr>
<tr>
<td>7:12-1.2, 9</td>
<td>Soft clam and hard clam depuration</td>
<td>22 N.J.R. 97(a)</td>
<td>R.1990 d.548</td>
</tr>
<tr>
<td>7:14A-1.8</td>
<td>NJPDES permit program: preproposal regarding minimum discharge fees</td>
<td>22 N.J.R. 1652(a)</td>
<td></td>
</tr>
<tr>
<td>7:17</td>
<td>Repeal (see 7:12-1.2, 9)</td>
<td>22 N.J.R. 97(a)</td>
<td>R.1990 d.548</td>
</tr>
<tr>
<td>7:18-6.6</td>
<td>Certification of laboratories for water analysis: administrative correction</td>
<td>22 N.J.R. 3365(b)</td>
<td></td>
</tr>
<tr>
<td>7:22A-1.1, 1.2, 1.3, 1.4, 1.7, 3.1, 4. App.</td>
<td>Water Pollution Control Act</td>
<td>22 N.J.R. 2870(a)</td>
<td></td>
</tr>
<tr>
<td>7:25-4.13, 4.17</td>
<td>Endangered and nongame wildlife species</td>
<td>22 N.J.R. 1308(a)</td>
<td></td>
</tr>
<tr>
<td>7:25-6</td>
<td>1991-92 Fish Code</td>
<td>22 N.J.R. 2071(a)</td>
<td>R.1990 d.617</td>
</tr>
<tr>
<td>7:25-18.1</td>
<td>Taking of striped bass</td>
<td>22 N.J.R. 3078(a)</td>
<td>R.1990 d.607</td>
</tr>
<tr>
<td>7:25-18.5-18.11</td>
<td>Gill netting in Delaware Bay</td>
<td>22 N.J.R. 1311(a)</td>
<td></td>
</tr>
<tr>
<td>7:25-22.3</td>
<td>Fishing for Atlantic menhaden</td>
<td>22 N.J.R. 3611(a)</td>
<td></td>
</tr>
<tr>
<td>7:26</td>
<td>Hazardous waste management</td>
<td>22 N.J.R. 2882(a)</td>
<td>R.1990 d.578</td>
</tr>
<tr>
<td>7:26-2, 2A, 2B, 8</td>
<td>Management of resource recovery facility combustion residual ash: preproposal</td>
<td>22 N.J.R. 108(b)</td>
<td></td>
</tr>
<tr>
<td>7:26-4.3, 4.4, 4.6, 15.6</td>
<td>Fee schedule for solid waste facilities</td>
<td>22 N.J.R. 3079(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-5</td>
<td>Interdistrict and intradistrict solid waste flow: Camden, Gloucester, Essex and Sussex counties</td>
<td>22 N.J.R. 284(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-7.2, 7.4, 8.1, 8.5, 8.7, 8.13, 8.20</td>
<td>Hazardous waste management: waste code hierarchy: waste determination; waste oils listing; container labeling</td>
<td>22 N.J.R. 288(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-8.3</td>
<td>Hazardous waste from small quantity generators: administrative correction</td>
<td>22 N.J.R. 3366(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-8.17, App. 1</td>
<td>Delisting of hazardous waste at Beecham Laboratories</td>
<td>22 N.J.R. 3430(b)</td>
<td></td>
</tr>
<tr>
<td>7:26-8.19</td>
<td>Listing of hazardous wastes</td>
<td>22 N.J.R. 3299(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-8.21</td>
<td>Hazardous constituents for groundwater monitoring: administrative correction</td>
<td>22 N.J.R. 3366(b)</td>
<td></td>
</tr>
<tr>
<td>7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4</td>
<td>Hazardous waste management</td>
<td>22 N.J.R. 3186(a)</td>
<td></td>
</tr>
<tr>
<td>7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4</td>
<td>Hazardous waste management: extension of comment period</td>
<td>22 N.J.R. 3431(a)</td>
<td></td>
</tr>
<tr>
<td>7:26A</td>
<td>Solid waste recycling</td>
<td>22 N.J.R. 3088(a)</td>
<td></td>
</tr>
<tr>
<td>7:27-8</td>
<td>Air pollution control permit and certificate process</td>
<td>22 N.J.R. 292(a)</td>
<td></td>
</tr>
<tr>
<td>7:27-8.2</td>
<td>Air pollution control permit and certificate process: correction to proposed amendment</td>
<td>22 N.J.R. 593(a)</td>
<td></td>
</tr>
<tr>
<td>7:28-3.5, 3.13, 4.19</td>
<td>Fee schedules for possession and use of radioactive materials</td>
<td>22 N.J.R. 3300(a)</td>
<td></td>
</tr>
<tr>
<td>7:28-16</td>
<td>Dental radiographic installations</td>
<td>22 N.J.R. 894(a)</td>
<td>R.1990 d.538</td>
</tr>
<tr>
<td>7:28-16.2</td>
<td>Dental radiographic installations: qualified individual</td>
<td>22 N.J.R. 3303(a)</td>
<td></td>
</tr>
<tr>
<td>7:28-27</td>
<td>Certification of radon testers and mitigators</td>
<td>21 N.J.R. 3369(a)</td>
<td>R.1990 d.559</td>
</tr>
<tr>
<td>7:36-8</td>
<td>Green Acres Program: public hearing requirement on proposed transfers or use of Department-held land and water</td>
<td>22 N.J.R. 593(b)</td>
<td></td>
</tr>
<tr>
<td>7:36-8</td>
<td>Green Acres Program: public hearing and extension of comment period regarding public hearing requirement on proposed transfers or use of Department-held land and water</td>
<td>22 N.J.R. 1352(a)</td>
<td></td>
</tr>
<tr>
<td>7:50-2.11, 4.66, 6.13</td>
<td>Pinelands Comprehensive Management Plan: preproposed amendments</td>
<td>22 N.J.R. 3432(a)</td>
<td></td>
</tr>
</tbody>
</table>

**Most recent update to Title 7: TRANSMITTAL 1990-10 (supplement October 15, 1990)**

**HEALTH—TITLE 8**

<p>| 8:7 | Licensure of persons for public health positions | 22 N.J.R. 1977(a) | R.1990 d.502 |
| 8.9 | Handling of human remains | 22 N.J.R. 3458(a) |  |
| 8.18-1.2, 1.5, 1.6, 1.8, 1.18, App. I | Catastrophic Illness in Children Relief Fund program | 22 N.J.R. 2669(b) | R.1990 d.619 |
| 8.21 | Food and drugs | 22 N.J.R. 2465(a) | R.1990 d.563 |
| 8.21A | Good drug manufacturing practices | 22 N.J.R. 3189(a) |  |
| 8.31A-1, 2, 5, 7, 9, 10 | Standard Hospital Accounting and Rate Evaluation (SHARE) Manual | 22 N.J.R. 3450(a) |  |
| 8.31B-4.38, 4.61 | Hospital reimbursement: Maternity, Outreach, and Management Services (MOMS) | 22 N.J.R. 594(a) |  |</p>
<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:31B-4.40</td>
<td>Hospital reimbursement: appropriate procedures</td>
<td>21 N.J.R. 3873(a)</td>
<td></td>
</tr>
<tr>
<td>8:31C-1.15, 1.18</td>
<td>Residential alcoholism treatment facilities: reimbursement methodology</td>
<td>22 N.J.R. 3468(a)</td>
<td></td>
</tr>
<tr>
<td>8:33F-1, 1.2, 1.6, 1.7</td>
<td>Renal disease services</td>
<td>22 N.J.R. 2494(a)</td>
<td>R.1990 d.566 22 N.J.R. 3578(a)</td>
</tr>
<tr>
<td>8:33Q-1</td>
<td>Organ transplantation services: certificate of need requirements</td>
<td>22 N.J.R. 2496(a)</td>
<td>R.1990 d.567 22 N.J.R. 3579(a)</td>
</tr>
<tr>
<td>8:39-19.5, 20.1, 29.1, 29.3, 30.1</td>
<td>Long-term care facilities: Mantoux tuberculin testing of staff; pharmacy organization</td>
<td>22 N.J.R. 3612(a)</td>
<td></td>
</tr>
<tr>
<td>8:41-8.1</td>
<td>Mobile intensive care units: administration of medications</td>
<td>22 N.J.R. 3104(a)</td>
<td></td>
</tr>
<tr>
<td>8:43</td>
<td>Licensure of residential health care facilities</td>
<td>22 N.J.R. 2499(a)</td>
<td>R.1990 d.568 22 N.J.R. 3581(a)</td>
</tr>
<tr>
<td>8:43A-12</td>
<td>Ambulatory care facilities: surgical and anesthesia services</td>
<td>22 N.J.R. 1496(a)</td>
<td>R.1990 d.548 22 N.J.R. 3392(b)</td>
</tr>
<tr>
<td>8:43G-5.6</td>
<td>Hospital licensure: reportable events</td>
<td>22 N.J.R. 3469(a)</td>
<td></td>
</tr>
<tr>
<td>8:43G-6</td>
<td>Hospital licensure: anesthesia</td>
<td>22 N.J.R. 3470(a)</td>
<td></td>
</tr>
<tr>
<td>8:59-1.3, 12</td>
<td>Worker and Community Right to Know: certification of consultants and consulting agencies</td>
<td>22 N.J.R. 1892(a)</td>
<td></td>
</tr>
<tr>
<td>8:65</td>
<td>Controlled dangerous substances: administrative correction to Schedule V</td>
<td>22 N.J.R. 3190(a)</td>
<td></td>
</tr>
<tr>
<td>8:65-10.5</td>
<td>Controlled substances: administrative correction to Schedule V</td>
<td>22 N.J.R. 3190(a)</td>
<td></td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products</td>
<td>21 N.J.R. 3710(a)</td>
<td>R.1990 d.190 22 N.J.R. 1136(a)</td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products</td>
<td>21 N.J.R. 3711(a)</td>
<td>Expired</td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products (see 22 N.J.R. 1597(b), 2163(a))</td>
<td>22 N.J.R. 596(a)</td>
<td>R.1990 d.570 22 N.J.R. 3581(c)</td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products (see 22 N.J.R. 2162(b), 3149(a))</td>
<td>22 N.J.R. 1214(b)</td>
<td>R.1990 d.569 22 N.J.R. 3581(b)</td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products</td>
<td>22 N.J.R. 1511(a)</td>
<td></td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products</td>
<td>22 N.J.R. 2501(a)</td>
<td>R.1990 d.571 22 N.J.R. 3582(a)</td>
</tr>
<tr>
<td>8:71</td>
<td>Interchangeable drug products</td>
<td>22 N.J.R. 3191(a)</td>
<td></td>
</tr>
</tbody>
</table>

**Most recent update to Title 8: TRANSMITTAL 1990-10 (supplement October 15, 1990)**

**HIGHER EDUCATION—TITLE 9**

<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:1-1.2, 3.1</td>
<td>Characteristics of a university</td>
<td>22 N.J.R. 1655(b)</td>
<td></td>
</tr>
<tr>
<td>9:2-13.9, 13.11</td>
<td>Auxiliary organizations: personnel; purchasing</td>
<td>22 N.J.R. 1656(a)</td>
<td></td>
</tr>
<tr>
<td>9:2-14.2</td>
<td>Immunization requirements for students: exemptions</td>
<td>22 N.J.R. 1651(a)</td>
<td></td>
</tr>
<tr>
<td>9:3-4</td>
<td>Minority and women-owned businesses: participation in State construction contracts</td>
<td>22 N.J.R. 1656(b)</td>
<td></td>
</tr>
<tr>
<td>9:4-3.12</td>
<td>Noncredit courses at county community colleges</td>
<td>22 N.J.R. 2254(a)</td>
<td></td>
</tr>
<tr>
<td>9:4-4</td>
<td>County community colleges: alumni trustee representatives</td>
<td>22 N.J.R. 1657(a)</td>
<td></td>
</tr>
<tr>
<td>9:5</td>
<td>Tuition policies for public institutions</td>
<td>22 N.J.R. 3437(a)</td>
<td></td>
</tr>
<tr>
<td>9:6-1.2, 3.2, 3.11, 3.12, 4.5</td>
<td>State Colleges: policies and standards</td>
<td>22 N.J.R. 1658(a)</td>
<td>R.1990 d.564 22 N.J.R. 3370(a)</td>
</tr>
<tr>
<td>9:6-7.4</td>
<td>State Colleges: elements of institutional plan</td>
<td>22 N.J.R. 2255(a)</td>
<td>R.1990 d.545 22 N.J.R. 3371(a)</td>
</tr>
<tr>
<td>9:8</td>
<td>Disbursement of funds for technical and engineering facilities and equipment</td>
<td>22 N.J.R. 2256(a)</td>
<td>R.1990 d.547 22 N.J.R. 3371(b)</td>
</tr>
<tr>
<td>9:11-1.5</td>
<td>Educational Opportunity Fund: financial eligibility for undergraduate grants</td>
<td>22 N.J.R. 1659(a)</td>
<td>R.1990 d.556 22 N.J.R. 3485(a)</td>
</tr>
<tr>
<td>9:11-1.23</td>
<td>Educational Opportunity Fund: part-time students</td>
<td>22 N.J.R. 1660(a)</td>
<td>R.1990 d.557 22 N.J.R. 3485(b)</td>
</tr>
<tr>
<td>9:11-3</td>
<td>C. Clyde Ferguson Law Scholarship</td>
<td>22 N.J.R. 3439(a)</td>
<td></td>
</tr>
</tbody>
</table>

**Most recent update to Title 9: TRANSMITTAL 1990-6 (supplement August 20, 1990)**

**HUMAN SERVICES—TITLE 10**

<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10:6</td>
<td>Administrative hearings</td>
<td>22 N.J.R. 3115(a)</td>
<td></td>
</tr>
<tr>
<td>10:13-2.2</td>
<td>Legal Assistance for Medicare Patients: eligible services</td>
<td>22 N.J.R. 3116(a)</td>
<td></td>
</tr>
<tr>
<td>10:37</td>
<td>Community Mental Health Services Act rules</td>
<td>22 N.J.R. 2216(a)</td>
<td></td>
</tr>
<tr>
<td>10:37-6.79</td>
<td>Community mental health programs: disclosure of client records</td>
<td>22 N.J.R. 2915(a)</td>
<td>R.1990 d.591 22 N.J.R. 3620(a)</td>
</tr>
<tr>
<td>10:43-7.1</td>
<td>Determination of need for a guardian</td>
<td>22 N.J.R. 2671(a)</td>
<td></td>
</tr>
<tr>
<td>10:46</td>
<td>Developmental disability services: public hearings regarding determination of eligibility</td>
<td>22 N.J.R. 764(a)</td>
<td></td>
</tr>
<tr>
<td>10:47</td>
<td>Private licensed facilities for mentally retarded</td>
<td>22 N.J.R. 2915(b)</td>
<td>R.1990 d.593 22 N.J.R. 3620(b)</td>
</tr>
<tr>
<td>10:48</td>
<td>Developmental Disabilities: appeal procedure; viral hepatitis and legal poisoning control programs</td>
<td>22 N.J.R. 3192(a)</td>
<td></td>
</tr>
<tr>
<td>10:49-6.6</td>
<td>Recoveries involving county welfare agencies/boards of social services</td>
<td>22 N.J.R. 2672(a)</td>
<td></td>
</tr>
<tr>
<td>10:50-1.1, 1.3, 1.4, 1.5, 1.6, 2.6, 3.2, App. 1, II</td>
<td>Medicaid transportation services: provider reimbursement</td>
<td>22 N.J.R. 1513(a)</td>
<td>R.1990 d.592 22 N.J.R. 3620(c)</td>
</tr>
<tr>
<td>10:51</td>
<td>Pharmacy Manual</td>
<td>22 N.J.R. 2217(a)</td>
<td>R.1990 d.530 22 N.J.R. 3372(a)</td>
</tr>
<tr>
<td>10:57</td>
<td>Podiatry Services Manual</td>
<td>22 N.J.R. 3439(b)</td>
<td></td>
</tr>
<tr>
<td>10:58</td>
<td>Nurse-Midwifery Services Manual</td>
<td>22 N.J.R. 3613(a)</td>
<td></td>
</tr>
<tr>
<td>10:60</td>
<td>Home Care Services Manual</td>
<td>22 N.J.R. 3116(a)</td>
<td></td>
</tr>
<tr>
<td>N.J.A.C. CITATION</td>
<td>PROPOSAL NOTICE (N.J.R. CITATION)</td>
<td>DOCUMENT NUMBER (N.J.R. CITATION)</td>
<td>ADOPTION NOTICE (N.J.R. CITATION)</td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------------------------</td>
<td>-----------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>10:64</td>
<td>Hearing Aid Services Manual</td>
<td>22 N.J.R. 3614(a)</td>
<td>22 N.J.R. 3614(a)</td>
</tr>
<tr>
<td>10:65</td>
<td>Medical Day Care Services Manual</td>
<td>22 N.J.R. 3327(b)</td>
<td>22 N.J.R. 3327(b)</td>
</tr>
<tr>
<td>10:65-2.1</td>
<td>Medical day care reimbursement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10:67</td>
<td>Psychologist’s Services Manual</td>
<td>22 N.J.R. 3615(a)</td>
<td>22 N.J.R. 3615(a)</td>
</tr>
<tr>
<td>10:69A-5.3, 6.1, 6.2, 6.10</td>
<td>Pharmaceutical Assistance to Aged and Disabled: eligibility and renewal</td>
<td>22 N.J.R. 2218(a)</td>
<td>22 N.J.R. 2218(a)</td>
</tr>
<tr>
<td>10:71</td>
<td>Medicaid Only Manual</td>
<td>22 N.J.R. 3357(a)</td>
<td>22 N.J.R. 3357(a)</td>
</tr>
<tr>
<td>10:71-4.5-4.9, 5.4, 5.6, 5.7</td>
<td>Medicaid Only Program: eligibility determinations for long-term care</td>
<td>22 N.J.R. 7(a)</td>
<td>22 N.J.R. 7(a)</td>
</tr>
<tr>
<td>10:71-4.7</td>
<td>Medicaid eligibility: transfer of resources</td>
<td>22 N.J.R. 2604(a)</td>
<td>22 N.J.R. 2604(a)</td>
</tr>
<tr>
<td>10:81-1.12, 2.2, 2.8, 2.9, 2.17, 2.18, 3.16, 3.18, 3.19, 3.31, 4.10, 4.16, 4.23, 5.4, 5.6, 5.9, 6.1, 6.14, 7.1, 7.4, 7.20, 8.22, 8.24, 9.1, 10.7, 12.1, 12.3, 12.4, 12.6, 12.7, 12.8, 12.11, 14.1-14.8, 14.10-14.15, 14.17, 14.19-14.22, 14.24</td>
<td>22 N.J.R. 1664(a)</td>
<td>22 N.J.R. 1664(a)</td>
<td></td>
</tr>
<tr>
<td>10:82-1.6, 1.7, 1.8, 2.1, 2.5, 2.8, 2.9, 2.10, 2.19, 3.2, 3.14, 4.1, 4.4, 4.8, 4.14, 5.1, 5.2, 5.3, 5.6, 5.7, 5.8, 5.9</td>
<td>Assistance Standards Handbook: JOBS program</td>
<td>22 N.J.R. 2219(a)</td>
<td>22 N.J.R. 2219(a)</td>
</tr>
<tr>
<td>10:85-4.6</td>
<td>General Assistance: emergency assistance</td>
<td>22 N.J.R. 2078(a)</td>
<td>22 N.J.R. 2078(a)</td>
</tr>
<tr>
<td>10:85-4.6</td>
<td>Emergency assistance: public hearing and extension of comment period</td>
<td>22 N.J.R. 2674(a)</td>
<td>22 N.J.R. 2674(a)</td>
</tr>
<tr>
<td>10:87-1.4, 4.3, 5.9, 5.10, 5.11, 6.3, 7.14, 10.2, 10.10, App. A</td>
<td>Food Stamp Program</td>
<td>22 N.J.R. 2219(a)</td>
<td>22 N.J.R. 2219(a)</td>
</tr>
<tr>
<td>10:89-2.2, 2.3</td>
<td>Home Energy Assistance: eligibility criteria: administrative correction</td>
<td>Emergency expires 12-29-90</td>
<td>22 N.J.R. 3590(a)</td>
</tr>
<tr>
<td>10:89-2.2, 2.3</td>
<td>Home Energy Assistance eligibility criteria: administrative correction</td>
<td>22 N.J.R. 3766(a)</td>
<td>22 N.J.R. 3766(a)</td>
</tr>
<tr>
<td>10:109-1</td>
<td>Economic Assistance staff development program: Ruling Number 11</td>
<td>22 N.J.R. 2222(a)</td>
<td>22 N.J.R. 2222(a)</td>
</tr>
<tr>
<td>10:121A-1.3, 1.5, 2.2, 5.4</td>
<td>Manual of standards for adoption agencies</td>
<td>22 N.J.R. 2674(b)</td>
<td>22 N.J.R. 2674(b)</td>
</tr>
<tr>
<td>10:123A</td>
<td>Personal Attendant Services Program</td>
<td>22 N.J.R. 1527(a)</td>
<td>22 N.J.R. 1527(a)</td>
</tr>
<tr>
<td>10:123A</td>
<td>Personal Attendant Services Program: extension of comment period</td>
<td>22 N.J.R. 2082(a)</td>
<td>22 N.J.R. 2082(a)</td>
</tr>
<tr>
<td>10:128</td>
<td>Children's group homes</td>
<td>22 N.J.R. 2916(a)</td>
<td>22 N.J.R. 2916(a)</td>
</tr>
</tbody>
</table>

Most recent update to Title 10: TRANSMITTAL 1990-10 (supplement October 15, 1990)

CORRECTIONS—TITLE 10A

10A:3-9.3 Transport of maximum custody inmates 22 N.J.R. 2223(a) R.1990 d.536 22 N.J.R. 3379(a)
10A:18-2.6 Incoming correspondence: inspection and identification 22 N.J.R. 147(a)
10A:18-2.7 Inspection of outgoing correspondence 21 N.J.R. 3913(a) R.1990 d.564 22 N.J.R. 3488(a)
10A:18-7.7 Court ordered funeral visits: administrative correction 22 N.J.R. 2674(b)
10A:21-5 Reporting unusual incidents or events within facilities 22 N.J.R. 3304(a)
10A:21-8 Reporting violations of criminal statutes 22 N.J.R. 3440(a)
10A:32-4.2 Transfer of juvenile under State sentence 22 N.J.R. 1895(a)
10A:32-4.2 Transfer of juvenile under State sentence: public hearing 22 N.J.R. 2222(a)

Most recent update to Title 10A: TRANSMITTAL 1990-9 (supplement October 15, 1990)

INSURANCE—TITLE 11

11:0 Compensation to real estate licensees for placing mortgage loans: preproposal 22 N.J.R. 314(a)
11:0 Automobile insurance: preproposal regarding model anti-fraud plan 22 N.J.R. 1983(a)
11:1-14.1 Insurance Producer Property and Casualty Advisory Committee 22 N.J.R. 15(b)
11:1-29 Insurer's temporary certificate of authority 22 N.J.R. 2453(a)
11:1-32 Exportable list of surplus lines: hearing and promulgation procedures 22 N.J.R. 314(b)
<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE NUMBER (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE NUMBER (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>11:2</td>
<td>Insurance group rules</td>
<td>22 N.J.R. 1673(a)</td>
<td></td>
</tr>
<tr>
<td>11:2-17.7</td>
<td>Automobile coverage: payment of PIP claims</td>
<td>22 N.J.R. 1677(a)</td>
<td></td>
</tr>
<tr>
<td>11:2-31</td>
<td>Premiums for perpetual homeowners insurance</td>
<td>22 N.J.R. 2640(a)</td>
<td></td>
</tr>
<tr>
<td>11:2-32</td>
<td>Custodial deposits</td>
<td>22 N.J.R. 1678(a)</td>
<td></td>
</tr>
<tr>
<td>11:2-37</td>
<td>Automotive insurance</td>
<td>22 N.J.R. 1681(a)</td>
<td></td>
</tr>
<tr>
<td>11:3</td>
<td>Automotive Coverage Selection Form and Buyer's Guide</td>
<td>22 N.J.R. 2647(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-7, 7.4, 7.5, 14.2, 14.5, 15.1, 15.2, 15.3, 15.5, 15.6, 15.7, 15.9</td>
<td>Nonrenewal of automobile policies Emergency (expires R.1990 d.626 1-25-91)</td>
<td>22 N.J.R. 3809(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-10.5</td>
<td>Automobile damage repair confirmation and reporting</td>
<td>22 N.J.R. 1040(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-14.8, 14.8</td>
<td>Benefit determination between automobile personal injury protection and health insurance plans</td>
<td>22 N.J.R. 2457(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-16</td>
<td>Automotive insurance rate filings</td>
<td>22 N.J.R. 2647(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-19</td>
<td>Private passenger automobile insurance: standard/non-standard rating plans</td>
<td>22 N.J.R. 2457(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-24.4</td>
<td>Automobile insurance coverage: policy constants</td>
<td>22 N.J.R. 3441(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-25.4</td>
<td>Automobile insurance coverage: residual market equalization charges</td>
<td>22 N.J.R. 3442(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-29</td>
<td>Automobile insurance: medical fee schedules for PIP coverage Emergency (expires R.1990 d.624 1-25-91)</td>
<td>22 N.J.R. 3809(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-32</td>
<td>Out-of-state vehicles: certification of mandatory liability coverage</td>
<td>22 N.J.R. 1040(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-33</td>
<td>Appeals from denial of automobile insurance</td>
<td>22 N.J.R. 2457(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-36</td>
<td>Appels from denial of automobile insurance: comment period correction Emergency (expires R.1990 d.623 1-25-91)</td>
<td>22 N.J.R. 3874(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-39</td>
<td>Voluntary market automobile insurance coverage: eligible persons qualifications and eligibility points schedule Emergency (expires R.1990 d.620 1-25-91)</td>
<td>22 N.J.R. 3847(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-35</td>
<td>Private passenger automobile insurance: underwriting rules Emergency (expires R.1990 d.627 1-25-91)</td>
<td>22 N.J.R. 3856(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-36</td>
<td>Automobile physical damage coverage: inspection procedures prior to issuance Emergency (expires R.1990 d.622 1-25-91)</td>
<td>22 N.J.R. 3861(a)</td>
<td></td>
</tr>
<tr>
<td>11:3-38</td>
<td>Automobile towing and storage fee schedule Emergency (expires R.1990 d.623 1-25-91)</td>
<td>22 N.J.R. 3874(a)</td>
<td></td>
</tr>
<tr>
<td>11:4</td>
<td>Actuarial services</td>
<td>22 N.J.R. 1689(a)</td>
<td></td>
</tr>
<tr>
<td>11:4-16.4, 16.5, 28.2, 28.5</td>
<td>Benefit determination between automobile personal injury protection and health insurance Emergency (expires R.1990 d.625 1-25-91)</td>
<td>22 N.J.R. 3777(a)</td>
<td></td>
</tr>
<tr>
<td>11:4-16.6, 16.8, 23.6, 23.8, App. 11:4-35</td>
<td>Medicare supplement coverage</td>
<td>22 N.J.R. 771(a)</td>
<td></td>
</tr>
<tr>
<td>11:4-35</td>
<td>Annual Medicare supplement coverage survey</td>
<td>22 N.J.R. 1226(a)</td>
<td></td>
</tr>
<tr>
<td>11:13-6</td>
<td>Commercial insurance: rating plans for individual risk premium modification</td>
<td>21 N.J.R. 3430(a)</td>
<td>22 N.J.R. 3625(b)</td>
</tr>
<tr>
<td>11:15-1.2, 2, 2.3, 2.4, 2.6, 2.9, 2.10, 2.23</td>
<td>Joint insurance funds for local jurisdictions</td>
<td>22 N.J.R. 16(a)</td>
<td></td>
</tr>
<tr>
<td>11:16-3</td>
<td>Automotive damage repair confirmation and reporting</td>
<td>22 N.J.R. 3442(b)</td>
<td></td>
</tr>
<tr>
<td>11:17A-1.2, 1.7</td>
<td>Appeals from denial of automobile insurance</td>
<td>22 N.J.R. 2457(a)</td>
<td></td>
</tr>
<tr>
<td>11:17A-1.2, 1.7</td>
<td>Appeals from denial of automobile insurance: comment period correction</td>
<td>22 N.J.R. 2647(a)</td>
<td></td>
</tr>
<tr>
<td>11:17A-1.3</td>
<td>Insurance producers and limited insurance representatives: licensure and registration</td>
<td>22 N.J.R. 3444(a)</td>
<td></td>
</tr>
</tbody>
</table>

Most recent update to Title II: TRANSMITTAL 1990-7 (supplement September 17, 1990)

LABOR—TITLE 12

12:15-1.3, 1.4, 1.5, 1.6, 1.7 | Unemployment and temporary disability insurance: 1991 rates | 22 N.J.R. 2885(a) | R.1990 d.597 | 22 N.J.R. 3627(a) |
12:17 | Unemployment benefit payments | 22 N.J.R. 3445(a) |                                      |
12:18-2.25 | Temporary disability benefits: private plan employer security exemption | 22 N.J.R. 1229(a) |                                      |
12:45-1 | Vocational Rehabilitation Services: procedures and standards | 22 N.J.R. 1045(c) |                                      |
12:45-1 | Vocational Rehabilitation Services: correction to proposal | 22 N.J.R. 1230(a) |                                      |
12:46-12.49 | Repeal (see 12:45-1) | 22 N.J.R. 1045(c) |                                      |
12:55-1 | Payroll deductions for mass transportation: administrative correction | 22 N.J.R. 2235(a) | R.1990 d.520 | 22 N.J.R. 3379(b) |
12:56 | Wage and hour | 22 N.J.R. 2240(a) | R.1990 d.521 | 22 N.J.R. 3382(a) |
12:57 | Wage orders for minors | 22 N.J.R. 2241(a) | R.1990 d.522 | 22 N.J.R. 3383(a) |
12:58 | Child labor | 22 N.J.R. 3616(a) |                                      |
12:105 | Arbitration through State Board of Mediation | 22 N.J.R. 3616(a) |                                      |

(CITE 22 N.J.R. 3890) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

Most recent update to Title 12A: TRANSMITTAL 1990-3 (supplement August 20, 1990)

LAW AND PUBLIC SAFETY—TITLE 13

13:14 Family Leave Act rules: public hearing 22 N.J.R. 239(a)
13:14-1 Family Leave Act rules 22 N.J.R. 2129(a)
13:18-4.2-4.6, 4.9, 4.14-4.19 Motor Fuels Use Tax 22 N.J.R. 3104(b)
13:19-1.1, 1.2, 1.3, 1.5, 1.8, 1.13, 12-12.9 Motor Vehicles: administrative hearings regarding proposed license suspension or surcharge collection actions 22 N.J.R. 3446(a)
13:20 Motor Vehicles enforcement service 22 N.J.R. 3307(a)
13:21 Motor Vehicles licensing service 22 N.J.R. 3311(a)
13:24-1.1, 2.3, 2.8, 4.1, 5.5 Equipment for emergency and other specified vehicles 22 N.J.R. 902(a)
13:27-5.8 Architectural services: certificate of authorization for general business corporations 22 N.J.R. 3314(a)
13:29-1.13 Accountancy: sponsors of continuing professional education 22 N.J.R. 3314(b)
13:30-8.4 Announcement of practice in special area of dentistry 22 N.J.R. 2257(a)
13:30-8.4 Announcement of practice in special area of dentistry: extension of comment period 22 N.J.R. 3108(a)
13:30-8.17 Physical modalities to unlicensed dental assistants 22 N.J.R. 2647(b)
13:32-1, 1.2, 1.7, 1.8, 1.10, 1.11, 1.12 Licensed master plumbers: standards and practices 22 N.J.R. 784(a)
13:35-6.2 Pronouncement and certification of death 22 N.J.R. 154(b)
13:35-6.13 Board of Medical Examiners: change of address for receipt of comments regarding FLEX fees 22 N.J.R. 2135(a)
13:35-6.15 Delegation of tasks to physician assistants 22 N.J.R. 2135(b)
13:36-9.3 Mortuary practice: administrative correction 22 N.J.R. 3315(b)
13:36-10 Mortuary science: continuing education 21 N.J.R. 3655(a) R.1990 d.608 22 N.J.R. 3756(b)
13:39-2.2, 2.8 Board of Pharmacy: application for NABPLEX examination 22 N.J.R. 2395(b) R.1990 d.551 22 N.J.R. 3499(b)
13:39-5.6 Pharmacy recordkeeping: prescriptions for controlled substances 22 N.J.R. 1866(b)
13:39A-5.1 Licensure as physical therapist: foreign trained applicants 22 N.J.R. 2259(a)
13:40-5.1 Preparation of land surveys 21 N.J.R. 3715(a) Expired
13:40-5.1 Preparation of land surveys: extension of comment period 22 N.J.R. 157(a)
13:40-6.1 Engineering and land surveying services: certificate of authorization for general business corporations 22 N.J.R. 3315(a)
13:44-2.12 Close of veterinary practice: maintenance of medical records 22 N.J.R. 1868(a)
13:44-2.16 Duplicate registration of veterinary practice 22 N.J.R. 905(b)
13:45A Division of Consumer Affairs administrative rules 22 N.J.R. 2396(a) R.1990 d.606 22 N.J.R. 3758(a)
13:48 Charities Registration and Investigation Section 22 N.J.R. 3103(b)
13:70-1.30 Thoroughbred racing: annual contribution to horsemen’s pension program 22 N.J.R. 1232(a)
13:70-1.30 Thoroughbred racing: “horseman” defined 22 N.J.R. 1232(b)
13:70-1.31 Thoroughbred racing: election of horsemen’s organization 22 N.J.R. 3450(a)
13:70-3.41 Thoroughbred racing: employee compensation insurance 22 N.J.R. 1716(a) R.1990 d.574 22 N.J.R. 3499(c)
13:70-3.44 Thoroughbred racing: public telephones at tracks 22 N.J.R. 2402(a) R.1990 d.533 22 N.J.R. 3385(a)
13:70-13.8 Thoroughbred racing: protest by jockey 22 N.J.R. 2402(b) R.1990 d.532 22 N.J.R. 3385(b)
13:70-14A.9 Thoroughbred racing: certification of respiratory bleeders from other jurisdictions 22 N.J.R. 1233(a) R.1990 d.576 22 N.J.R. 3499(d)
13:70-14A.11 Thoroughbred racing: license violations of drug use prohibition 22 N.J.R. 3451(a)
13:70-19.23 Thoroughbred racing: declaring race official 22 N.J.R. 2403(a) R.1990 d.534 22 N.J.R. 3385(c)
13:71-1.25 Harness racing: “horseman” defined 22 N.J.R. 1233(b)
13:71-6.1 Harness racing: employee compensation insurance 22 N.J.R. 1717(a) R.1990 d.573 22 N.J.R. 3500(a)
13:71-18.2 Harness racing: licensee violations of drug use prohibition 22 N.J.R. 3452(a)
13:71-22.1 Harness racing: public telephones at tracks 22 N.J.R. 2403(b) R.1990 d.535 22 N.J.R. 3385(d)
Harness racing: certification of respiratory bleeders from other jurisdictions

Statewide 9-1-1 emergency telecommunications system

PUBLIC UTILITIES—TITLE 14

14:0 Energy conservation: preproposal and public hearing
14:1-8.6 Access to documents filed with Board of Public Utilities
14:1 All utilities
14:3 All utilities: public hearing
14:3-3.2 Customer's proof of identity
14:3-3.6 Utility service discontinuance
14:3-4.5 Billing disputes and meter test options
14:3-4.7 Water meter accuracy and billing adjustments
14:3-4.11 Meter tampering
14:3-5.1 Closure or relocation of utility office
14:3-7.5 Return of customer deposits
14:3-7.13 Discontinuance of service to multiple family premises
14:4 Water and sewer utilities
14:9 Sewer and water utilities: public hearing
14:9-3.3 Water meter accuracy and billing adjustments
14:10-5 InterLATA telecommunications carriers
14:12 Demand Side Management Resource Plan: public hearing
14:17-6.22 Cable television: petitions for approval to curtail service
14:18-3.2 Cable television: requests for service
14:18-3.5 Cable television: outage credit
14:18-3.13 Cable television: restoration standards
14:18-3.16 Cable television: notice of rate change
14:18-3.23 Cable television: reimbursement
14:18-3.24 Cable television: late fees and charges
14:18-5.1 Cable television: location
14:18-7.5 Cable television: use of PEG channels
14:18-7.6 Cable television: telephone system information and performance
14:18-12.2 Cable television: pole plant rearrangement verification

Most recent update to Title 14: TRANSMITTAL 1990-9 (supplement October 15, 1990)

ENERGY—TITLE 14A

14A:2 Energy emergency
14A:3 Energy conservation
14A:7 Submission and handling of information
14A:21 Home Energy Savings Program (HESP)

Most recent update to Title 14A: TRANSMITTAL 1990-2 (supplement August 20, 1990)

STATE—TITLE 15

Most recent update to Title 15: TRANSMITTAL 1989-1 (supplement February 21, 1989)

PUBLIC ADVOCATE—TITLE 15A

Most recent update to Title 15A: TRANSMITTAL 1990-3 (supplement August 20, 1990)

TRANSPORTATION—TITLE 16

16:4-1 Construction subcontracting: disadvantaged and female-owned businesses
16:20A-4.4 Right-of-way acquisition (county and municipal aid): relocation assistance
16:20B-4.3 Right-of-way acquisition (municipal fund): relocation assistance
16:21B Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act rules
16:22 Urban revitalization, special demonstration and emergency projects
16:28-1.22, 1.30 Speed limit zones along Route 109 in Cape May and Route 70 in Medford Township
16:28-1.41, 1.96 Speed limit zones along U.S. 9 in Ocean County and Route 45 in Salem County
16:28-1.72 Speed limit zones along U.S. 206 in Sussex County
16:28-1.97, 1.167 Speed limit zones along Route 77 in Cumberland, Salem and Gloucester counties, and Route 181 in Morris and Sussex counties
16:28-1.123 Speed limit zones along U.S. 9W in Bergen County

(CITE 22 N.J.R. 3892) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
You're viewing an archived copy from the New Jersey State Library.

**NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990**

**PROPOSAL NOTICE**

- **N.J.A.C. CITATION:** 16:28A-1.1, 1.23
  - **PROPOSAL NOTICE:** 22 N.J.R. 2904(a)
  - **DOCUMENT NUMBER:** R.1990 d.587
  - **ADOPTION NOTICE:** 22 N.J.R. 3634(a)

- **N.J.A.C. CITATION:** 16:28A-1.7, 1.15
  - **PROPOSAL NOTICE:** 22 N.J.R. 3319(a)

- **N.J.A.C. CITATION:** 16:28A-1.7, 1.21, 1.24, 1.105
  - **PROPOSAL NOTICE:** 22 N.J.R. 2905(a)
  - **DOCUMENT NUMBER:** R.1990 d.583
  - **ADOPTION NOTICE:** 22 N.J.R. 3634(b)

- **N.J.A.C. CITATION:** 16:28A-1.8, 1.9, 1.33, 1.41, 1.104
  - **PROPOSAL NOTICE:** 22 N.J.R. 2906(a)
  - **DOCUMENT NUMBER:** R.1990 d.584
  - **ADOPTION NOTICE:** 22 N.J.R. 3635(a)

- **N.J.A.C. CITATION:** 16:28A-1.34, 1.38, 1.41, 1.46, 1.111
  - **PROPOSAL NOTICE:** 22 N.J.R. 1117(a)
  - **DOCUMENT NUMBER:** R.1990 d.611
  - **ADOPTION NOTICE:** 22 N.J.R. 3759(b)

- **N.J.A.C. CITATION:** 16:28A-1.39, 1.57
  - **PROPOSAL NOTICE:** 22 N.J.R. 3617(b)

- **N.J.A.C. CITATION:** 16:28A-1.41
  - **PROPOSAL NOTICE:** 22 N.J.R. 2908(a)
  - **DOCUMENT NUMBER:** R.1990 d.585
  - **ADOPTION NOTICE:** 22 N.J.R. 3636(a)

- **N.J.A.C. CITATION:** 16:28A-1.104
  - **PROPOSAL NOTICE:** 22 N.J.R. 2908(b)
  - **DOCUMENT NUMBER:** R.1990 d.586
  - **ADOPTION NOTICE:** 22 N.J.R. 3636(a)

- **N.J.A.C. CITATION:** 16:29-1.47, 1.68, 1.69, 1.70
  - **PROPOSAL NOTICE:** 22 N.J.R. 2909(a)
  - **DOCUMENT NUMBER:** R.1990 d.600
  - **ADOPTION NOTICE:** 22 N.J.R. 3637(a)

- **N.J.A.C. CITATION:** 16:30-11.2
  - **PROPOSAL NOTICE:** 22 N.J.R. 3114(a)
  - **DOCUMENT NUMBER:** R.1990 d.601
  - **ADOPTION NOTICE:** 22 N.J.R. 3637(b)

- **N.J.A.C. CITATION:** 16:31-1.4, 1.28
  - **PROPOSAL NOTICE:** 22 N.J.R. 2910(a)
  - **DOCUMENT NUMBER:** R.1990 d.588
  - **ADOPTION NOTICE:** 22 N.J.R. 3638(a)

- **N.J.A.C. CITATION:** 16:31-1.4, 1.29
  - **PROPOSAL NOTICE:** 22 N.J.R. 3320(a)

- **N.J.A.C. CITATION:** 16:31-1.22, 1.26
  - **PROPOSAL NOTICE:** 22 N.J.R. 3198(a)
  - **DOCUMENT NUMBER:** R.1990 d.613
  - **ADOPTION NOTICE:** 22 N.J.R. 3760(a)

- **N.J.A.C. CITATION:** 16:41-2
  - **PROPOSAL NOTICE:** 22 N.J.R. 1061(b)
  - **DOCUMENT NUMBER:** R.1990 d.596
  - **ADOPTION NOTICE:** 22 N.J.R. 3637(b)

- **N.J.A.C. CITATION:** 16:41-8
  - **PROPOSAL NOTICE:** 22 N.J.R. 1061(b)
  - **DOCUMENT NUMBER:** R.1990 d.602
  - **ADOPTION NOTICE:** 22 N.J.R. 3638(b)

- **N.J.A.C. CITATION:** 16:47
  - **PROPOSAL NOTICE:** 22 N.J.R. 3106(b)
  - **DOCUMENT NUMBER:** R.1990 d.598
  - **ADOPTION NOTICE:** 22 N.J.R. 3638(a)

- **N.J.A.C. CITATION:** 16:47
  - **PROPOSAL NOTICE:** 22 N.J.R. 1346(b)
  - **DOCUMENT NUMBER:** R.1990 d.601
  - **ADOPTION NOTICE:** 22 N.J.R. 3760(b)

- **N.J.A.C. CITATION:** 16:47
  - **PROPOSAL NOTICE:** 22 N.J.R. 1347(a)
  - **DOCUMENT NUMBER:** R.1990 d.602
  - **ADOPTION NOTICE:** 22 N.J.R. 3761(a)

- **N.J.A.C. CITATION:** 16:49-1.1, 1.3, 1.5, 1.6, 2.1, App.
  - **PROPOSAL NOTICE:** 22 N.J.R. 2676(a)
  - **DOCUMENT NUMBER:** R.1990 d.550
  - **ADOPTION NOTICE:** 22 N.J.R. 3500(c)

- **N.J.A.C. CITATION:** 16:53D-1.3
  - **PROPOSAL NOTICE:** 22 N.J.R. 3199(a)
  - **DOCUMENT NUMBER:** R.1990 d.631
  - **ADOPTION NOTICE:** 22 N.J.R. 3760(b)

- **N.J.A.C. CITATION:** 16:72
  - **PROPOSAL NOTICE:** 22 N.J.R. 2406(a)
  - **DOCUMENT NUMBER:** R.1990 d.616
  - **ADOPTION NOTICE:** 22 N.J.R. 3761(a)

- **N.J.A.C. CITATION:** 16:78
  - **PROPOSAL NOTICE:** 22 N.J.R. 2911(a)
  - **DOCUMENT NUMBER:** R.1990 d.616
  - **ADOPTION NOTICE:** 22 N.J.R. 3761(a)

**TREASURY-GENERAL—TITLE 17**

- **N.J.A.C. CITATION:** 17-1.1-10
  - **PROPOSAL NOTICE:** 22 N.J.R. 2404(b)
  - **DOCUMENT NUMBER:** R.1990 d.516
  - **ADOPTION NOTICE:** 22 N.J.R. 3385(e)

- **N.J.A.C. CITATION:** 17-1.2-36
  - **PROPOSAL NOTICE:** 22 N.J.R. 2405(a)
  - **DOCUMENT NUMBER:** R.1990 d.517
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(a)

- **N.J.A.C. CITATION:** 17-2.6-6
  - **PROPOSAL NOTICE:** 22 N.J.R. 3321(a)
  - **DOCUMENT NUMBER:** R.1990 d.518
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(e)

- **N.J.A.C. CITATION:** 17-3.6-6
  - **PROPOSAL NOTICE:** 22 N.J.R. 3321(b)
  - **DOCUMENT NUMBER:** R.1990 d.519
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(c)

- **N.J.A.C. CITATION:** 17-4.1-1
  - **PROPOSAL NOTICE:** 22 N.J.R. 909(a)
  - **DOCUMENT NUMBER:** R.1990 d.527
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(b)

- **N.J.A.C. CITATION:** 17-4.6-6
  - **PROPOSAL NOTICE:** 22 N.J.R. 3322(a)
  - **DOCUMENT NUMBER:** R.1990 d.528
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(d)

- **N.J.A.C. CITATION:** 17-5
  - **PROPOSAL NOTICE:** 22 N.J.R. 3320(a)
  - **DOCUMENT NUMBER:** R.1990 d.529
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(e)

- **N.J.A.C. CITATION:** 17-5-5.5
  - **PROPOSAL NOTICE:** 22 N.J.R. 1348(b)
  - **DOCUMENT NUMBER:** R.1990 d.518
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(c)

- **N.J.A.C. CITATION:** 17-5-5.6
  - **PROPOSAL NOTICE:** 22 N.J.R. 3474(a)
  - **DOCUMENT NUMBER:** R.1990 d.519
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(c)

- **N.J.A.C. CITATION:** 17-5-6
  - **PROPOSAL NOTICE:** 22 N.J.R. 1044(a)
  - **DOCUMENT NUMBER:** R.1990 d.517
  - **ADOPTION NOTICE:** 22 N.J.R. 3386(c)

Most recent update to Title 16: TRANSMITTAL 1990-10 (supplement October 15, 1990)
<table>
<thead>
<tr>
<th>N.J.A.C. CITATION</th>
<th>PROPOSAL NOTICE (N.J.R. CITATION)</th>
<th>DOCUMENT NUMBER</th>
<th>ADOPTION NOTICE (N.J.R. CITATION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>17:29</td>
<td>Charitable fund-raising among local government employees</td>
<td>22 N.J.R. 2248(a)</td>
<td>R.1990 d.519</td>
</tr>
<tr>
<td>17:40</td>
<td>Governor's Council on Alcoholism and Drug Abuse</td>
<td>22 N.J.R. 2120(a)</td>
<td>R.1990 d.549</td>
</tr>
<tr>
<td>17:40</td>
<td>Governor's Council on Alcoholism and Drug Abuse: extension of deadline for submission of County Alliance Plans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17:41</td>
<td>Capital City Redevelopment Corporation: project review</td>
<td>22 N.J.R. 3475(a)</td>
<td></td>
</tr>
</tbody>
</table>

**Most recent update to Title 17:** TRANSMITTAL 1990-8 (supplement October 15, 1990)

**TREASURY-TAXATION—TITLE 18**

- 18:1-1.8 Administrative hearings
- 18:5-10 Administrative hearings
- 18:7-3.18 Corporation Business Tax: recycling equipment credit
- 18:7-1.12, 11.15, 12.1, 12.3 Corporation Business Tax: IRC 338(h)(10) election
- 18:7-3.12 Administrative hearings
- 18:8-5.1, 5.2 Administrative hearings
- 18:9-6.7-6.10 Administrative hearings
- 18:14-1.1, 2.1-2.4, 2.8, 2.10, 3.3, 3.7, 3.9, 3.10 Property tax deduction for qualified low income groups
- 18:21-1 Automobile insurance premium surtax
- 18:22-1.3 Public utility corporations: “public street, highway, road or other public place”
- 18:22-1.1, 3.6, 5.6, 6.3, 7.8, 8.2, 8.6, 11.2, 11.3, App. Railroad Property Tax
- 18:25 Luxury Tax

**Most recent update to Title 18:** TRANSMITTAL 1990-7 (supplement October 15, 1990)

**TITLE 19—OTHER AGENCIES**

- 19:4-6.28 Hackensack Meadowlands Development Commission: rezones sites in Ridgefield
- 19:6-1, 3 Hackensack Meadowlands District Building Code
- 19:5-2.9, 2.10 License to cross Authority property and resolution of related disputes
- 19:6-2.7, 7.3, 7.4 Organization of Turnpike Authority
- 19:25 Election Law Enforcement Commission rules
- 19:25-1.7, 7.8 Election Law Enforcement Commission: personal interest disclosure statement
- 19:25-1.7, 7.8 Personal interest disclosure statement: public hearing
- 19:25-1.7, 7.8 Personal interest disclosure statement: withdrawal of proposal
- 19:75-1.1, 4.4, 6.2, 9.2, 9.3, 9.4, 10 Fee schedule for review of applications

**Most recent update to Title 19:** TRANSMITTAL 1990-8 (supplement October 15, 1990)

**TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY**

- 19:40-1 Organization of Commission
- 19:40-7.2A Applicant for a casino license (repeal)
- 19:41-7.14 Personal history disclosure forms
- 19:41-11.1 Filing of agreements
- 19:43-1.2 Determination of casino service industries
- 19:45-1.1, 1.14, 1.15, 1.24, 1.24A, 1.25, 1.25A, 1.26, 1.27, 1.29, 1.34, 1.43 Slot machine terminology
- 19:45-1.1, 1.16, 1.33, 1.36-1.40, 1.40A, 1.41, 1.43 Redemption of checks
- 19:45-1.1, 1.26, 1.26A Automated coupon redemption machines: 90-day experiment
- 19:45-1.1, 1.34, 1.35, 1.46, 1.46A Transportation expense reimbursements
- 19:45-1.11A Casino licensees and applicants: jobs compendium submissions
- 19:45-1.24A Wire transfer of funds
- 19:45-1.39 Progressive slot machines: resetting of meters
- 19:45-1.40A, 1.40B Annuity jackpots
- 19:46-1.5 Redemption of slot tokens
- 19:46-1.6 Gaming equipment

(CITE 22 N.J.R. 3894) NEW JERSEY REGISTER, MONDAY, DECEMBER 17, 1990
Slot machine terminology
Five times odds at craps
Five times odds at craps: 90 day experiment

Most recent update to Title 19K: TRANSMITTAL 1990-9 (supplement September 17, 1990)

RULEMAKING IN THIS ISSUE—Continued

Filing Deadlines

January 22 issue:
Proposals ........................................... December 20
Adoptions ........................................... December 28

February 4 issue:
Proposals ........................................... January 4
Adoptions ........................................... January 11

February 19 issue:
Proposals ........................................... January 17
Adoptions ........................................... January 25

March 4 issue:
Proposals ........................................... January 31
Adoptions ........................................... February 7
OFFICE OF ADMINISTRATIVE LAW PUBLICATIONS

Subscription rates effective February 1, 1991

NEW JERSEY ADMINISTRATIVE CODE

<table>
<thead>
<tr>
<th>INDIVIDUAL TITLES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Administrative Law</td>
<td>$70</td>
</tr>
<tr>
<td>2. Agriculture</td>
<td>$70</td>
</tr>
<tr>
<td>3. Banking</td>
<td>$70</td>
</tr>
<tr>
<td>4A. Personnel (formerly Civil Service)</td>
<td>$70</td>
</tr>
<tr>
<td>5. Community Affairs (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>5A. Military and Veterans' Affairs</td>
<td>$70</td>
</tr>
<tr>
<td>6. Education (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>7. Environmental Protection (six volumes)</td>
<td>$420</td>
</tr>
<tr>
<td>7:14A. NJPDES Program Rules</td>
<td>$70</td>
</tr>
<tr>
<td>8. Health (four volumes)</td>
<td>$280</td>
</tr>
<tr>
<td>9. Higher Education</td>
<td>$70</td>
</tr>
<tr>
<td>10. Human Services (four volumes)</td>
<td>$280</td>
</tr>
<tr>
<td>10A. Corrections</td>
<td>$70</td>
</tr>
<tr>
<td>11. Insurance (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>12. Labor (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>12A. Commerce, Energy and Economic Development</td>
<td>$70</td>
</tr>
<tr>
<td>13. Law and Public Safety (four volumes)</td>
<td>$280</td>
</tr>
<tr>
<td>13A. Alcoholic Beverage Control; 13.3 Games Control</td>
<td>$70</td>
</tr>
<tr>
<td>14/14A. Public Utilities/Energy</td>
<td>$70</td>
</tr>
<tr>
<td>15. State</td>
<td>$70</td>
</tr>
<tr>
<td>15A. Public Advocate</td>
<td>$70</td>
</tr>
<tr>
<td>16. Transportation (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>17. Treasury-General</td>
<td>$70</td>
</tr>
<tr>
<td>18. Treasury-Taxation (two volumes)</td>
<td>$140</td>
</tr>
<tr>
<td>19. Expressway Authority, Hackensack Meadowlands Commission, Highway Authority, Turnpike Authority, Public Employment Relations Commission, Sports and Exposition Authority, Election Law Enforcement Commission, Economic Development Authority, Public Broadcasting Authority, Executive Commission on Ethical Standards, Atlantic County Transportation Authority (two volumes)</td>
<td>$140</td>
</tr>
</tbody>
</table>

(Prices include first year of Update Service. Thereafter, Annual Update Service, $40 per volume. Full Set, $750.)

NEW JERSEY ADMINISTRATIVE REPORTS

I. Full Set of NJAR. Twelve hardbound volumes and quarterly update service for one year. Hardbound volumes include a table of contents for the volume. Quarterly looseleaf update service includes a cumulative listing of statutes cited; cumulative listing of rules cited; cumulative topical index, and cumulative listing of cases reported ......... $400

II. Looseleaf Update Service Only: Quarterly update service and bound volume(s) of decisions issued in quarterly service for one year. Cumulative indices .......... $200/year

III. Individual Hardbound Volumes (1-12) can be purchased separately. Each volume has a table of contents ...... $45/volume (specify volume or volumes desired)

Prepayment is required for all subscriptions.

Please return form with your payment to:

OAL Publications
9 Quakerbridge Plaza
CN 049
Trenton, New Jersey 08625

If you want multiple copies of a Title, please specify on the "Amount Enclosed" line. Example: $140 (two copies, Title 1).

Name and Delivery Address:

Billing Address, if different:

Telephone Number

Amount Enclosed

12/90