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NEW JERSEY REGISTER

THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 23 NUMBER 9

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(Includes adopted rules filed through April 15, 1991)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: FEBRUARY 19, 1991
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT MARCH 18, 1991

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Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **June 5, 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.

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NEW JERSEY REGISTER

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EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR
Governor James J. Florio
Executive Order No. 30(1991)
Re-establishment of Governor's Council on the Prevention of Mental Retardation.

Issued: April 15, 1991.
Effective: April 15, 1991.
Expiration: December 31, 1993.

WHEREAS, on May 24, 1984, Executive Order No.72 created a Governor's Council on the Prevention of Mental Retardation, a body composed of Commissioners of various State departments and of concerned citizens who have distinguished records in the area of mental retardation and developmental disabilities; and

WHEREAS, Public Law 1987, Chapter 5, was enacted on January 20, 1987, establishing a permanent Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services; and

WHEREAS, the Governor's Council on the Prevention of Mental Retardation was renamed The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities by Executive Order No.178 on July 30, 1987; and

WHEREAS, the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities serves as an Advisory Council to the Office for Prevention of Mental Retardation and Developmental Disabilities and to the Commissioner of the Department of Human Services; and

WHEREAS, the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities is an essential component of the Office for the Prevention of Mental Retardation and Developmental Disabilities and should continue to serve as an advisory council; and

WHEREAS, the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities lapsed on December 31, 1990;

NOW, THEREFORE, I, JIM FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT;

1. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities is hereby re-established for a period of three years, expiring on December 31, 1993.

a. The Council shall consist of no more than 25 public members appointed by the Governor. The members shall be appointed from among persons representing people with disabilities, professionals in mental retardation and developmental disabilities, and persons from the business and health communities.

b. The Commissioners from the Departments of Human Services, Education, Health, Environmental Protection, the Public Advocate, Community Affairs, and/or their designees, shall serve on the Council.

c. The public members shall serve for a term of three years, except that of those first appointed, eight shall serve for a term of one year, eight shall serve for a term of two years and the remainder shall serve for a term of three years. Council vacancies among the public members shall be filled by appointment by the Governor for the remainder of the unexpired term.

d. The Governor shall designate the Chairperson of the Council from among members of the Council. The Chairperson of the Council shall serve at the pleasure of the Governor.

e. The Council may further organize itself in any manner it deems appropriate and may enact by-laws as deemed necessary to carry forth its responsibilities.

2. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities shall:

a. Advise the Commissioners of the Departments of Human Services, Health, Education, Environmental Protection, the Public Advocate, and Community Affairs and the Office for Prevention of Mental Retardation and Developmental Disabilities in the Department of Human Services regarding the priorities for prevention in the State;

b. Mobilize citizens and community agencies to support prevention-related activities;

c. Develop mechanisms to facilitate early detection;

d. Foster cooperative working relationships among responsible agencies; and

e. Provide other information on prevention as the Governor may request.

3. The Council, in performing its charges, shall consult with existing agencies for planning, coordination and delivery of prevention services to families at the State, county, and local levels.

4. The Departments of Human Services, Education, Health, Environmental Protection, the Public Advocate and Community Affairs are authorized and directed, to the extent consistent with the law, to cooperate with the Council and to furnish it with resources necessary to carry out its purpose under this Order.

5. This Order shall take effect immediately and shall expire on December 31, 1993.

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice of Extension of Public Comment Period
Special Hearing Rules
Board of Public Utility Hearings
Proposed New Rules: N.J.A.C. 1:14

Take notice that the Office of Administrative Law is extending the public comment period for its proposed special hearing rules for Board of Public Utility Hearings, N.J.A.C. 1:14, until June 5, 1991. The notice of proposal for these new rules appears in the March 4, 1991 New Jersey Register at 23 N.J.R. 640(a).

Submit comments by June 5, 1991 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
CN 049
Quakerbridge Road
Trenton, New Jersey 08625

AGRICULTURE

(b)

DIVISION OF PLANT INDUSTRY

Nursery Inspection Fees
Proposed New Rules: N.J.A.C. 2:18

Authorized By: State Board of Agriculture, Arthur R. Brown, Jr., Secretary of Agriculture.
Authority: N.J.S.A. 4:7-21.
Proposal Number: PRN 1991-219.

Submit written comments by June 5, 1991 to:
William W. Metterhouse, Director
Division of Plant Industry
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625-0330

The agency proposal follows:

Summary

The proposed new rules impose fees for nursery and dealer inspections, Federal phytosanitary inspections and State special inspections which are required for the movement of nursery stock intra and interstate, and to other countries. The inspections and subsequent certifications are made pursuant to New Jersey statutes, other State regulations and the regulations of foreign countries.

Due to the budgetary constraints of the Department of Agriculture it is now necessary to shift the economic burden of providing the inspections directly on to those who benefit by the certification, the nurserymen and dealers. The fees are necessary to maintain the integrity and viability of the inspection programs.

Social Impact

State statutes require that all nursery stock offered for sale within the State be inspected and certified as apparently free of injurious insects and plant diseases thus protecting and benefiting all the citizens of the State. This inspection service also enables persons to move or ship nursery stock out of the State or to foreign countries in accordance with the regulations of these entities. As a result of the proposed fees, the State Department of Agriculture will be able to maintain its inspections and hopefully be more efficient in carrying out its statutory responsibilities.

Economic Impact

Only those persons offering the sale of or desiring to move nursery stock, within State, out-of-State or to foreign countries, will pay inspection fees. Those persons desiring to sell or move nursery stock will continue to benefit by these inspection services through the identification of injurious insects and plant disease which enables their control. The issuance of certification, permitting the movement of nursery stock, assists the nurserymen in the marketing of their stock.

The proposed fees have been designed to reasonably cover the costs of inspection and not be overly burdensome to those being regulated.

Regulatory Flexibility Analysis

Most, if not all, the nursery men and dealers affected by the proposed new rules are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed rules impose no recordkeeping, recording or compliance requirement other than the payment of fees established for the maintenance of statutorily required inspection and certification programs. No differentiation in fees is proposed in that the fees are designed to reasonably cover the costs of administering the established programs while not being overly burdensome to those regulated.

Full text of the proposed new rules follows:

CHAPTER 18

NURSERY INSPECTION FEES

SUBCHAPTER 1. FEES

2:18-1.1 Definitions

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

"Dealer" means a person who purchases nursery stock from other certified nurserymen and offers such stock for sale at a retail outlet or through landscaping services.

"Federal phytosanitary inspection" means the examination of plant materials to determine freedom of plant pest and diseases for those persons desiring to ship plants or plant products to other countries and the issuance of a United States Department of Agriculture, Animal Plant Health Inspection Service, Plant Pest Quarantine inspection certificate.

"Nursery" includes all lands, premises and buildings upon, on or in which plants, trees, shrubs or vines of any kind, whether for fruit, shade or ornament, are grown for sale within the State or for shipment to other states or countries.

"Nursery stock" includes all plants, shrubs, trees and vines grown for sale, as well as buds, grafts, stocks, cions and other parts of plants, shrubs, trees and vines that may be sold for propogation; but shall not include herbaceous annuals or plants, flowers, vines or cuttings grown under glass and commonly known as florists stock.

"Nurseryman" includes any person, firm, co-partnership or corporation growing plants, trees, shrubs or vines for sale or dealing in such stock, whether he/she or they be owners, lessees or tenants of or on the premises upon which the stock is grown or offered for sale.

"Special inspection" is the examination of plant materials to determine freedom of plant pests and diseases and issuance of a special State certificate for those persons who do not possess a nursery or dealers certificate and who desire to ship plant materials to another state.

2:18-1.2 Nursery inspection fees

(a) The following fee schedule shall apply to all nursery inspections conducted by the New Jersey Department of Agriculture:

Acres	Fee
0 to 1.99	$50.00
2.00 to 9.99	$100.00
10.00 to 49.99	$150.00
50.00 to 99.99	$250.00
100.00 to 200.00	$350.00
over 200.00	$350.00 plus $1.00/acre for each acre or part thereof, over 200 acres.

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(b) Determination of nursery acreage fees is based only on those lands on which nursery stock is actually growing or on lands where are placed containers with growing plants, including, but not limited to, walkways.

2:18-1.3 Dealer fee

Fees for inspection of dealers shall be $50.00. Dealers with more than one place of business in the State shall be charged an additional $50.00 for each location.

2:18-1.4 Federal phytosanitary inspection fee

There shall be a $35.00 fee for each inspection necessary for the issuance of a Federal phytosanitary certificate.

2:18-1.5 Special inspection fee

There shall be a $20.00 fee for each special inspection necessary for the issuance of a special State certificate.

2:18-1.6 Fees due; method of payment

(a) All nursery fees shall be payable on October 1 of each year. Failure to pay the fee shall result in the assessment of penalties pursuant to N.J.S.A. 4:7-26 and the revocation of nursery certification.

(b) All dealer fees shall be payable on March 1 of each year. Failure to pay the fee shall result in the assessment of penalties pursuant to N.J.S.A. 4:7-26 and the revocation of dealer certification.

(c) All fees for Federal phytosanitary inspections and special inspections shall be collected at the time of inspection and issuance of certification.

(d) All fees shall be paid to the New Jersey Department of Agriculture, Division of Plant Industry, CN 330, Trenton, New Jersey 08625-0330.

(a)

DIVISION OF PLANT INDUSTRY

Seed Control

Fees for Seed Testing

Proposed Amendments: N.J.A.C. 2:21-7

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

Authority: N.J.S.A. 4:8-17.13 through 17.29, specifically 17.23 and 17.24.

Proposal Number: PRN 1991-218.

Submit comments by June 5, 1991 to:
William W. Metterhouse, Director
Division of Plant Industry
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5441

The agency proposal follows:

Summary

Fees are charged for testing services performed by the New Jersey State Seed Laboratory for retail and wholesale seed dealers. This subchapter lists the fees for various tests by kind of seed to be tested, and it describes the method to calculate fees for seed mixtures. It also provides for a limited amount of free testing for New Jersey farmers, residents and non-commercial seed users. The proposed amendments update these fees to compensate for the increased cost of performing the tests. It also establishes a list of fees to be charged for special and recently developed testing services offered by the laboratory.

Social Impact

Laboratory testing services enable residents, farmers and retail dealers to determine the planting value of seed. Retail dealers, who are required to provide current information on the label concerning the germination percent, are able to update this information readily and benefit by having current evaluations of the quality of their inventories. Seed buyers will benefit from having seed lots which are poor in germination promptly removed from distribution.

Economic Impact

Dealers in seed will pay an increased fee for laboratory tests, but will continue to have convenient access to services which enable them to comply with the requirements of the New Jersey State Seed Law (Revision of 1963), N.J.S.A. 4:8-17.13 et seq., at lower cost than at commercial laboratories, and also protect them from consumer complaints. Most farmers and residents using the service will not be affected, since free testing services will continue to be provided which are adequate for most needs. Users of seed will be protected from economic loss by having low quality seed lots removed from dealer inventories. The New Jersey Department of Agriculture will benefit because the fees charged will increase the revenue available to support the cost of testing the seed, since these costs have risen sharply from when the fee schedule was last revised.

Regulatory Flexibility Analysis

The majority of the businesses using the services of the seed laboratory of the New Jersey Department of Agriculture are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Because one of the purposes of the seed testing program is to enable such small businesses to comply with the seed laws at low cost, no additional exemptions from these fees can be permitted. No special professional services are required to assist in complying with this rule. No additional records are required to be kept for this program beyond those normally required for marketing seed, such as inventory records.

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

2:21-7.1 Free testing for New Jersey residents

Any New Jersey resident will be allowed [$10.00] **$25.00** free testing by the State Seed Laboratory each fiscal year July 1[,] to June 30.

2:21-7.2 Charges for testing; seed dealers and [processors] **conditioners** charges

For all samples in excess of [$10.00] **$25.00** and for all samples submitted by dealers and [processors] **conditioners** the following charges will be assessed.

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Kind of Seed	Quantity of Seed Needed for Purity Analysis	Purity Analysis ([Inc.] **including** New Jersey State Noxious Weed Seed Exam.)		Germination Test	
Alfalfa	3 ozs.	[$5.00]	**$ 6.00**	[$2.50]	**$6.00**
[Beet, sugar]	[3 ozs.]	[$5.00]		[$2.50]	
Bentgrasses	2 ozs.	[$7.00]	**$15.00**	[$3.00]	**$8.00**
Bermuda grass	2 ozs.	[$6.00]	**$12.00**	[$3.00]	**$7.00**
Birdsfoot trefoil	3 ozs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Bluegrasses	2 ozs.	[$5.50]	**$15.00**	[$3.00]	**$8.00**
Bromegrass	3 ozs.	[$6.00]	**$12.00**	[$3.00]	**$7.00**
Buckwheat	2 lbs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Cereals	2 lbs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Clovers	3 ozs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Corn, field	2 lbs.	[$4.00]	**$ 6.00**	[$2.50]	**$6.00**
Dallis grass	3 ozs.	[$7.00]	**$15.00**	[$3.00]	**$8.00**
Deertongue	**3 ozs.**		**$15.00**		**$8.00**
Fescues	3 ozs.	[$6.00]	**$12.00**	[$3.00]	**$7.00**
Millets	¼ lb.	[$5.00]	**$ 7.00**	[$2.50]	**$7.00**
Orchard grass	3 ozs.	[$6.00]	**$15.00**	[$3.00]	**$8.00**
Rape	3 ozs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
[Redtop (hulled)]	[2 ozs.]	[$7.00]		[$3.00]	
[Redtop (unhulled)]	[2 ozs.]	[$9.00]		[$3.00]	
Redtop	**2 ozs.**		**$15.00**		**$8.00**
Reed Canary Grass	3 ozs.	[$6.00]	**$12.00**	[$3.00]	**$7.00**
[Ryegrasses]	[3 ozs.]	[$6.00]		[$3.00]	
Ryegrass inc. fluor.	**3 ozs.**		**$15.00**		
Ryegrass, germination	**3 ozs.**				**$8.00**
Sorghums	½ lb.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Soybeans	2 lbs.	[$5.00]	**$ 8.00**	[$2.50]	**$7.00**
Sudan Grass	½ lb.	[$5.00]	**$ 8.00**	[$2.50]	**$6.00**
Timothy	3 ozs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
[Vegetables]	—	[$4.00]		[$2.50]	
Vetches	2 lbs.	[$5.00]	**$ 7.00**	[$2.50]	**$6.00**
Vegetables					
Beans, garden	**2 lbs.**		**$6.00**		**$7.00**
Beans, Lima	**2 lbs.**		**$6.00**		**$8.00**
Peas	**2 lbs.**		**$6.00**		**$7.00**
Sweet corn	**2 lbs.**		**$6.00**		**$7.00**
Other vegetables	**¼ lb.**		**$6.00**		**$6.00**
Flowers					**$7.00**
Trees and shrubs			**$8.00**		**$9.00**

2:21-7.3 Charges for seed mixtures **and other tests**

[(a) The charge for a purity test of seed mixtures (in which more than one kind of crop seed is present to the extent of five percent or more) is the total of:

1. The fee for the kind of crop seed in the mixture having the highest fee; and

2. 50 percent of the fees applicable to the other kinds in the mixture.

(b) The charge for germination shall be the same as each ingredient as if received as pure seed. A minimum of 1/4 lb. of seed is necessary.]

(a) Purity charges for seed mixtures shall be the fee for the single component with the highest charge plus one-half the fees charged for each other component. Germination charges shall be the same as for individual kinds.

(b) Germination only charges for seed mixtures shall be one-half the purity charge for the component with the highest fee for separation plus the regular germination fee for each component.

(c) Charges for noxious weed examinations for quantities specified in Association of Official Seed Analysts Rules for Testing Seed are as follows:

1. New Jersey noxious weed examination ..... $ 5.00

2. New Jersey noxious weed examination plus undesirable grasses examination $12.00

3. All states noxious weed (except HA and AK) $10.00

4. All states noxious weed (except HA and AK) with undesirable grasses $17.00

(d) The charge for all-contaminants check on Kentucky bluegrass, 25 grams includes 10 gram check for Poa annua, shall be $30.00

(e) Charges for vigor tests are as follows:

1. Cold test $10.00

2. Accelerated aging including regular germination test $15.00

3. Tetrazolium $12.00

(f) Charges for other procedures such as: identification, special procedures, uncleaned samples and flower seed purities shall be $15.00/hour.

(g) The rush surcharge for immediate germination shall be $4.00.

[(c)]**(h)** For kinds not listed, the charge will be the same as for a similar kind. Any special test will be charged according to time consumed.

[(d)]**(i)** At the discretion of the State Seed Analyst, fees for testing may be waived for Federal or State [Agencies, Local Municipalities and Park Commissions] **agencies, local municipalities and park commissions.**

2:21-7.4 Fees due; method of payment

(a) (No change.)

(b) Additional tests [cannot] **shall not** be made for persons who have not paid for previous testing services **promptly**.

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BANKING

(a)

DIVISION OF SUPERVISION

Registration of Service Facilities of Foreign Banks and Foreign Associations

Proposed New Rules: N.J.A.C. 3:1-18

Authorized By: Jeff Connor, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:1-8.1; P.L.1991, c.74.

Proposal Number: PRN 1991-243.

Submit comments by June 5, 1991 to:
Robert M. Jaworski, Asst. Comm.
Office of Regulatory Affairs
Department of Banking, CN-040
20 W. State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules implement P.L.1991, c.74, which permits foreign banks and foreign associations to conduct back office operations at service facilities in this State.

The proposed new rules require foreign banks and foreign associations, as well as affiliates of foreign banks and foreign associations, to register service facilities with the Department prior to engaging in back office operations. Non-banking affiliates of foreign banks and foreign associations currently operating service facilities here are also required to register. Foreign banks, foreign associations, and their affiliates are defined to be foreign depositories.

The proposed rules set forth a registration procedure, and establish a registration fee as well as a biennial registration renewal fee. The initial and biennial registration fee is $500.00, except if a foreign depository registers in the second year of a biennial period, it is required to pay $250.00, one-half of the biennial registration fee.

The proposed rules specify the back office operations which are permitted at service facilities, as well as some of the activities which are prohibited. Permitted activities are the following: (1) data processing; (2) recordkeeping; (3) accounting; (4) check and deposit sorting and posting; (5) computation and posting of interest; (6) clerical and statistical activities; and (7) producing and mailing correspondence and documents, provided that the correspondence and documents do not include the address of the service facility.

The Department is authorized to examine service facilities for compliance with the statute, and the Commissioner is authorized to order a service facility closed if the foreign depository exceeds its limited authority or otherwise violates State or federal law.

Social Impact

These rules prohibit service facilities from transacting business with the customers of the foreign depository and the general public. In addition, facilities run by foreign banks and foreign associations must be closed to customers and to the general public. Therefore, any contact between the service facilities and the community would occur only indirectly through the out-of-State offices of the foreign depositories. The service facilities would have no social impact other than that described in the economic impact statement below.

Economic Impact

The service facilities will benefit the economy of this State because foreign depositories will hire New Jersey residents, purchase or lease New Jersey office space, and buy goods and services for the facilities.

Regulatory Flexibility Analysis

The rules impose no recordkeeping or reporting requirements on institutions which establish service facilities. Therefore, no burden of those types are imposed on institutions which are small businesses, as defined in the Regulatory Flexibility Act, 52:14B-16 et seq. Moreover, the Department expects that most of the entities which will establish service facilities will fall outside the definition of "small business" in the Regulatory Flexibility Act. The registration fee and the registration renewal fees are to reimburse the Department for its expenses in administering the Act and, therefore, no differentiation based on the size of the entity is made.

Full text of the proposal follows:

SUBCHAPTER 18. FOREIGN BANKS AND ASSOCIATIONS; REGISTRATION OF SERVICE FACILITIES

3:1-18.1 Definitions

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

"Back office operation" shall mean only the following activities:

1. Data processing;
2. Recordkeeping;
3. Accounting;
4. Check and deposit sorting and posting;
5. Computation and posting of interest;
6. Clerical and statistical activities which are similar to the activities in paragraphs 1 through 5 above; and
7. Producing and mailing correspondence and other documents, provided that the correspondence and documents do not include the address of the service facility.

Back office operation shall not mean:

1. Making loans;
2. Making underwriting decisions;
3. Receiving payments or signed loan documents directly from customers whether by mail, wire transfer, delivery service, or other means;
4. Accepting deposits;
5. Maintaining credit balances;
6. Advertising or otherwise soliciting business; and
7. Transacting business between a service facility and the foreign depository's customers or the general public.

"Foreign association" shall have the meaning which that term has in N.J.S.A. 17:12B-213.

"Foreign bank" shall have the meaning which that term has in N.J.S.A. 17:9A-315.

"Foreign depository" shall include a foreign bank, a foreign association, and an entity which is affiliated, either directly or indirectly, with a foreign bank or a foreign association, but shall not include an entity which is affiliated, either directly or indirectly, with a foreign bank or foreign association, and which is licensed to transact financial services under New Jersey law, provided that the entity limits its activities to those conferred by its license.

3:1-18.2 Registration requirement

(a) Prior to engaging in back office operations in this State, a foreign depository shall register a service facility with the Department.

(b) Notwithstanding (a) above, an affiliate of a foreign bank or foreign association which is conducting back office operations in this State on the effective date of these rules may continue to conduct such operations for 60 days after the effective date of these rules without becoming registered.

3:1-18.3 Registration process

(a) A foreign depository may request to register a service facility by mailing to the Department the following:

1. A letter requesting registration of a service facility to conduct back office operations, which letter shall include the name of the foreign depository and the address of its principal United States office, the address of the proposed service facility, and the name and address of the foreign depository's agent in this State for service of process; and
2. The required registration fee.

3:1-18.4 Registration fee

(a) A foreign depository shall submit a registration fee of $500.00 to the Department with its request to become registered, except if the initial registration of the service facility has occurred in the second year of the biennial period, the registration fee shall be $250.00.

(b) After becoming registered, a foreign depository which intends to continue operating a service facility in this State shall submit to the Department biennally a registration renewal fee of $500.00.

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3:1-18.5 Notification of registration by the Department

(a) The Department shall, within 30 days of receipt of the materials specified in N.J.A.C. 3:1-18.3, notify the foreign depository that the service facility is registered by the Department.

(b) The registration of the service facility shall not become effective until the foreign depository has received notification from the Department, except that, if the foreign depository has not received notification from the Department within 30 days of submission of all of the materials specified in N.J.A.C. 3:1-18.3, such request for registration shall be deemed to have been granted by the Department.

(c) Nothing in this rule shall prohibit a foreign depository from purchasing or leasing potential office space in this State for use as a service facility, or from preparing such office space for use as a service facility, prior to notification of registration by the Department.

(d) A foreign depository may register more than one service facility, but shall submit a separate request for registration, with the required fee, for each service facility and shall receive notification of that registration prior to engaging in back office operations at that service facility.

3:1-18.6 Permitted activities at service facilities

(a) A foreign bank or foreign association may conduct only back office operations at a service facility.

(b) All back office operations conducted by foreign depositories in this State shall be conducted at service facilities.

3:1-18.7 Examination of service facilities

(a) A service facility shall be subject to examination by the Department to determine whether the foreign depository is operating the service facility in accordance with State law.

(b) The cost for the examination of a service facility shall be paid by the foreign depository and shall be billed at the Department's per diem rate for examinations of depository institutions (see: N.J.A.C. 3:1-6.6).

3:1-18.8 Hearing to close service facilities

The Commissioner may, upon notice and a hearing, order a foreign depository to close a service facility operated in violation of law. Such hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1.

(a)

DIVISION OF REGULATORY AFFAIRS

Consumer Loan Act Regulations

Proposed Readoption with Amendments: N.J.A.C. 3:17

Authorized By: Jeff Connor, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:10-23.

Proposal Number: PRN 1991-227.

Submit comments by June 5, 1991 to:

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

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 3:17, Consumer Loan Act Regulations, expires on June 18, 1991. The Department of Banking has reviewed the rules and, in general, determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as required by the Executive Order.

Subchapter 1 requires the licensee to maintain copies of advertisements, and to advertise in other than a deceptive and misleading manner. It is proposed that the advertising recordkeeping requirement be increased from six months to two years so that the records will be available for review by the Department's examiners. In separate proposed amendments previously published, the Department has proposed prohibiting or limiting check solicitations by these licensees (see 22 N.J.R. 2626(a) and 23 N.J.R. 931(a)).

Subchapter 2 sets the application and investigation fee, and limits the applications that one person may file during specified periods. Subchapter 3 lists the books and records which must be maintained. It is proposed that N.J.A.C. 3:17-3.8, which requires Departmental approval before alternate recordkeeping systems are employed, be repealed as obsolete.

Subchapter 4 requires that a licensee give a borrower a copy of every paper that he is required to sign, and prohibits blank forms to be distributed other than at a licensed office. In addition, it prohibits a licensee from paying a broker or other person for soliciting business.

Subchapter 5 concerns insurance activities. It states that a borrower shall not be required to purchase insurance from any certain person as a condition of obtaining a loan. In addition, it sets the permitted terms for insurance, and requires refunds upon termination of the insurance or payment of the loan. It is proposed that N.J.A.C. 3:17-5.11 be amended so that, when a licensee is unable to locate a borrower who is due an insurance rebate, the licensee must return the amount to the insurer after a reasonable time not exceeding six months.

Subchapter 6 concerns the form of consumer loans. The rules set the maximum term of consumer loans, consistent with N.J.S.A. 17:10-14.3, and require substantially equal installments of principal and interest on fixed rate loans. In addition, the rules prohibit multiple loans to one person in excess of $15,000 at a higher interest rate than otherwise permitted. It is proposed that N.J.A.C. 3:17-6.10 be amended to require that a licensee apply all installment payments on the date of receipt, not on the next day. This change brings the rules into accord with N.J.S.A. 17:10-14(e), as amended by L.1989, c.38, §8.

Subchapter 7 permits a licensee to conduct other specified businesses in the same office in which the licensee conducts consumer loan business. If the licensee wants to conduct a business not listed in the rules, the licensee may apply to the Commissioner for approval. In addition to technical changes, it is proposed that N.J.A.C. 3:17-7.2(b) be repealed. This subsection requires apportionment of expenses among the business activities permitted by N.J.A.C. 3:17-7.1. Since the Department now conducts consolidated examinations of licensees, this is no longer necessary.

Social Impact

The rules proposed for readoption regulate consumer loan lenders. These licensees provide a valuable service to the citizens of the State by making unsecured credit available. The rules are intended to ensure that this lending is done in a fair and honest manner, and to enable the Department to examine licensees for compliance with the Consumer Loan Act, N.J.S.A. 17:10-1 et seq.

Economic Impact

The rules continue to impose an application fee of $250.00 and an investigation fee of $300.00 on applicants for licensure. This will have a minor economic impact on applicants, and is consistent with the authorization in N.J.S.A. 17:10-3, which permits the Department to recover the costs of investigating an applicant and processing the application. The fees set forth in this readoption do not represent an increase over the current charges.

Regulatory Flexibility Analysis

Many applicants and licensees affected by these rules are small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules impose recordkeeping and other compliance requirements on these persons. For example, the rules require the licensee to maintain copies of advertisements, loan notes, credit insurance policies and various other records. No differentiation is made in business size, because it is essential for the Department to have these records available for review for examination to ensure compliance with the Consumer Loan Act.

The rules also impose application and examination costs on applicants, as previously mentioned. The Department deems these fees necessary to reimburse the State for the cost of reviewing these applications. Accordingly, no differentiation in business size is made.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:17.

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

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3:17-1.1 Availability of advertising copy

Advertising copy and radio and television commercials shall be available to the Commissioner upon request at any time within [six months] **two years** from the date of use.

3:17-3.8 [Acceptance of equivalent records by Commissioner] **(Reserved)**

[(a) Records and accounting systems maintained in whole or in part by mechanical data processing methods may be used in lieu of the books, files and records required by this Subchapter if they contain equivalent information.

(b) Each system must receive prior written approval from the Commissioner.

(c) Licensees seeking such approval must submit a complete and detailed written description of the system proposed to be utilized, including an enumeration of all features that do not meet the requirements of this Subchapter and a full explanation as to how the equivalent information is maintained with the proposed system.]

3:17-5.11 Unlocatable borrowers

After a reasonable time **not exceeding six months,** if a licensee is unable to locate a borrower who is due a rebate of unearned credit life or health or disability insurance premiums when an account is repaid in full or a beneficiary named in a policy under a claim, any excess moneys are to be returned to the insurer, stating the reason therefor and the file of the borrower so noted.

3:17-6.10 Payment on installment loans

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

(c) For the purpose of computing interest, a licensee shall apply all installment payments [no later than the next day, other than a public holiday, after the day of receipt] **on the date of receipt**, and shall charge interest for the actual number of days elapsed at the daily rate of 1/365 of the yearly rate.

3:17-7.1 Permissible other businesses

(a) (No change.)

(b) Upon obtaining any necessary license or authorization, a licensee may engage in the following other types of businesses:

1. to 11. (No change.)

12. Such other business as the Commissioner may deem appropriate and for which specific approval is obtained pursuant to [N.J.S.A.] **N.J.A.C.** 3:17-7.3.

3:17-7.2 Separation of books and records

[(a)] The books, accounts and records which pertain to each of the business activities specified in N.J.A.C. 3:17-7.1 conducted by a licensee shall be maintained so as to be readily separated and distinguished from the books, accounts and records associated with the licensee's [small] **consumer** loan business.

[(b) Joint expenses of the small loan business and each of the business activities specified in N.J.A.C. 3:17-7.1 conducted by the licensee shall be reasonably apportioned to each such business so as not to distort the annual report that any such licensee is required to file.]

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Fire Code; Fire Code Enforcement Fire Official and Fire Inspector Certification

Proposed Amendments: N.J.A.C. 5:18-1.5; 5:18A-1.4, 2.3, 3.3, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9 and 4.10

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

Authority: N.J.S.A. 52:27D-203.

Proposal Number: PRN 1991-220.

Submit comments by June 5, 1991 to:

Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

Through the proposed amendments, provision is made for the certification of fire inspectors, who are persons with technical expertise in fire safety working under the supervision and control of the fire official, the chief administrator of a local enforcing agency. Both fire officials and fire inspectors are required to be certified by the Bureau of Fire Safety. The duties of the fire inspector are set forth. Course content for certification and continuing education requirements are established for both fire officials and fire inspectors. Certification application and renewal fees are increased from $20.00 to $30.00.

Social Impact

The purpose of these proposed amendments is to further improve the level of competence and professionalism among fire officials and fire inspectors so that they may better protect the citizens of this State.

Economic Impact

Higher application and re-application fees for certification, which are necessary to cover the cost of the program, will be paid by applicants or their enforcing agencies. Expanded training programs will be paid for out of a grant from the Department to Rutgers University. Money for the grant comes from life hazard use registration fee revenue.

Regulatory Flexibility Statement

These rules affect persons applying for certification as fire officials and fire inspectors. Therefore, they do not impose requirements on "small businesses," as the term is defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. A regulatory flexibility analysis is not required.

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

5:18-1.5 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise. **All definitions found in the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq., shall be applicable to this chapter.** Where a term is not defined **in this section or in the Uniform Fire Safety Act,** then the definition of that term found [within] **in** the Uniform Construction Code[,] **at** N.J.A.C. 5:23-1.4[,] shall govern[:].

. . .

"Fire Inspector" means a person working under the direction of the fire official who is certified by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire Official" means a person certified by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Code by the appointing authority of a local enforcing agency [and also means any certified fire inspector working under the direction of the fire official].

. . .

5:18A-1.4 Definitions

[(a)] As used in [these regulations] **this chapter**:

. . .

"Fire Inspector" means a person working under the direction of the fire official who is certified by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire official" means a person certified by the Commissioner **of the Department** of Community Affairs and appointed or designated to direct the enforcement of the Code by the appointing authority of a local enforcing agency [and also means any certified fire inspector working under the direction of the fire official].

. . .

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5:18A-2.3 Local enforcing agencies; establishment

(a) (No change.)

(b) An ordinance creating one or more local enforcing agencies shall include at least the following provisions:

1. (No change.)

2. Provisions governing the appointment of a fire official **to serve as the chief administrator of the local enforcing agency** and such fire inspectors as may be necessary to enforce the Code. The ordinance must contain a provision specifying who makes the appointment. Such provision must be acceptable to the fire department or fire district.

3.-4. (No change.)

5. A designation of the agency [which] **that** will be responsible for the periodic inspection of life hazard uses. This agency may be the local enforcing agency, the county enforcing agency, or the Department. The ordinance shall not designate any agency [which] **that** does not have at least one paid [inspector] **fire official and such paid fire inspectors as may be necessary to enforce the Code**.

6.-11. (No change.)

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

5:18A-3.3 Duties of fire officials **and fire inspectors**

(a) The fire official shall enforce the code and the regulations and shall [endeavor to]:

1. [Ensure that all life hazard uses are inspected in accordance with the schedule established by the Code] **Maintain certification with the Bureau pursuant to N.J.A.C. 5:18A-4**;

2.-16. (No change.)

17. Supervise the work of any assigned inspectors or enforcement personnel to ensure **compliance with the Code,** completeness and accuracy;

18.-25. (No change.)

(b) (No change.)

(c) The fire inspector shall enforce the Code and the regulations under the direction of the fire official and shall:

1. Maintain certification with the Bureau pursuant to N.J.A.C. 5:18A-4;

2. Conduct field surveys to identify and register life hazard uses;

3. Conduct fire inspections to ensure compliance with the Code;

4. Where authorized to do so by the fire official, prepare violation notices and orders to abate and serve to the public;

5. Witness the testing of installed detection and protection systems as required by the Code;

6. Read, interpret and apply codes, standards and regulations, including issuing permits;

7. Meet with owner and occupants to explain violations and hazards; and

8. Carry out such other functions as are necessary and appropriate to the position of fire inspector.

5:18A-4.3 Certification required

(a) [After July 1, 1986 no] **No** person shall carry out the duties of fire official or fire inspector unless that person is certified pursuant to this subchapter. The term "carry out the duties" shall mean and include representing oneself as authorized to carry out inspection of life hazard uses on behalf of the Commissioner, issuing orders pursuant to the Act, and assessing or imposing any of the penalties provided for by the Act.

(b) [After July 1, 1986 no] **No** local enforcing agency shall employ any person to enforce the provisions of the Uniform Fire Code at a life hazard use, unless that person shall be certified in accordance with the provisions of this subchapter.

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

5:18A-4.4 Requirements for certification

(a) (No change.)

(b) [A certification shall be issued to any applicant who meets any one of the following four standards:] **Certification as a "fire inspector" shall be issued to any applicant**

[1. A person who served as a fire inspector in the fire service for all of the period between February 19, 1984 and February 19, 1985. Such person shall have been appointed to the position of an inspector, whether full- or part-time, and shall have been vested with the authority to enforce a validly adopted fire prevention or fire safety code. Such appointments shall be verified by a letter signed by the appointing authority. The performance of inspections which are supplementary to the primary duty of a fire fighter shall not be considered experience as a fire inspector.

2. A person] who has successfully completed an educational program approved by the Bureau pursuant to N.J.A.C. 5:18A-4.9.

[3. A person who holds a valid license as an ICS or HHS fire protection subcode official issued by the New Jersey Bureau of Construction Code Enforcement pursuant to N.J.A.C. 5:23-5.]

(c) Certification as a "fire official" shall be issued to any applicant who holds a valid certification as a fire inspector issued by the Bureau pursuant to N.J.A.C. 5:18A-4.4 and has successfully completed an educational program approved by the Bureau pursuant to N.J.A.C. 5:18A-4.9.

Recodify existing (c) as (**d**) (No change in text.)

5:18A-4.5 Renewal of certification

[(a) The Bureau shall issue a certification following submission of an application, payment of the required fee, and verification by the Office of Fire Code certification that the applicant meets the requirements for the certification established herein.]

[(b)](**a**) Every two years, any certification already issued shall be renewed upon submission of an application, payment of the required fee, and verification by the Office of Fire Code Enforcement Certification that the applicant has met such continuing educational requirements as may be established by the Commissioner. The Bureau shall renew, **for a term of two years,** the certification previously issued [for a term of two years. The renewal date shall be 60 days prior to the]. **The** expiration date **of the certification shall be January 31 or July 31.**

Recodify existing (c) as (**b**) (No change in text.)

(c) Continuing education requirements, as follows, must be met for renewal of certification. The requirements are based upon the type(s) of certification(s) held and not upon employment position held. Continuing education units (CEU's) shall be approved by the Bureau for technical and administrative courses (one CEU equals 10 contact hours).

1. Fire inspector certification—1.5 CEU's (technical);

2. Fire official certification—2.0 CEU's (1.5 technical and .5 administrative).

(d) Where the holder of a certification has allowed the certification to lapse by failing to renew the certification as provided for in [(b)] (**a**) above, a new application and certification shall be required.

1. If such application is made within six months of the certification having lapsed, then application may be made in the same manner as a renewal, but the application shall be accompanied by the fee for a new application.

2. Upon a finding that a certification was previously held **and** that any applicable continuing education requirements have been satisfied, the certification shall be issued.

3. Where the former certification has lapsed for a period exceeding six months, a new application shall be required in accordance with N.J.A.C. 5:18A-4.4.

(e) (No change.)

5:18A-4.6 Revocation of certifications and alternative sanctions

(a) (No change.)

(b) The Bureau, in addition, or as an alternative[, as the case may be,] to revoking or suspending a [license] **certification**, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct [which] **that**, in the judgment of the [Department] **Bureau**, warrants a letter of warning, reprimand, or censure. Such letter, in addition to any other filing requirements, shall be made a part of the [licensing] **certification** file of the individual.

(c) Conviction of a crime, or an offense in connection with [the practice as a licensed] **exercising the duties of a certified** [Code enforcement] **fire** official or inspector, shall result in revocation of [a] certification.

(d) Any sanctions imposed by the [Bureau of] Construction Code Enforcement **Element** pursuant to N.J.S.A. 52:27D-119 et seq. shall constitute grounds for imposition of sanctions under this [subsection] **section**.

(e) (No change.)

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5:18A-4.7 Fees

(a) No application for a certification shall be acted upon unless the application is accompanied by a fee as follows:

1. The initial application fee shall be [$20.00]**$30.00**.

2. The two-year renewal application fee shall be [$20.00] **$30.00**.

5:18A-4.9 Organizational, administrative, and operational functions of the fire code enforcement educational programs

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

(f) The course of study **for fire inspector certification** shall consist of a planned pattern of instruction and experiences designed to meet the following standards. The course shall provide at least [eight] **45** contact hours of instruction not including examination and support time, and it shall ensure by examination technical competence in the following subject areas:

1. (No change.)

2. [Administration and enforcement] **Enforcement** of fire codes;

3.-5. (No change.)

(g) The course of study for fire official certification shall consist of a planned pattern of instruction and experiences designed to meet the following standards. The course shall provide at least 30 contact hours of instruction not including examination and support time. The course shall also ensure, by examination, technical competence in the following subject areas:

1. Administration: Fire Code administration, purpose, place in local government structure and relation to Fire Code administration programs at other levels of government; basic principles of supervision, and personnel management including personnel records, budgeting and disciplinary actions; the preparation of records, reports, local enforcing agency budget, recordkeeping requirements as contained in the Uniform Fire Code, including permits, appeals, variances, applications, and violation files and records; and the method of establishing and maintaining proper review and approval procedures for permit applications to ensure compliance with the Fire code and applicable laws and ordinances;

2. Legal methods of code enforcement: Purpose and fundamentals of notices of violation, notices of penalties and court action; powers and procedures available to deal with hazardous conditions and emergency situations; preparation of case records; situations requiring a search warrant and the process of obtaining and issuing the warrant; the administrative hearing process under the State Uniform Fire Code Act; and legal responsibilities of inspection personnel, including legal processes and rules of evidence;

3. Legal rights of landlords and tenants under Federal, State and local laws, and Relationship of Fire Code maintenance provisions as required by State and local agencies; and

4. Local enforcing agency organization and duties of the fire official; and coordination with construction officials, fire subcode officials and other Federal, state, county or local agencies.

5:18A-4.10 Procedure for applying **for approval of** educational programs

(a) Any eligible institution or organization may submit any course for approval as an educational program required by N.J.A.C. 5:18A-4.8. The application shall be in letter form, be submitted at least 60 days prior to the first class session of the course and contain all the information specified below.

1. A course that provides [a minimum of eight] **content and** contact hours required by N.J.A.C. 5:18A-4.9(f) **or** (g) will be acceptable even if **it is** part of a longer course of study [which] **that** covers additional material.

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

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Fire Code
Fire Safety Unit Personnel; Casino Hotels
Proposed Amendment: N.J.A.C. 5:18-3.2

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

Authority: N.J.S.A. 52:27D-198.

Proposal Number: PRN 1991-215.

Submit written comments by June 5, 1991 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

Under this proposal, the State Fire Prevention Code would be amended to allow hotel-casinos greater flexibility in assigning duties to the individual who is in charge of the fire safety unit. This amendment would also remove a requirement for "certified" personnel within the fire command centers in hotel-casinos, since the Department has not yet established a program to certify such employees.

Social Impact

The Department is satisfied that allowing the person in charge of the Fire Safety Unit to have other duties when there is no fire emergency will not have an adverse effect on fire safety, so long as that person's sole responsibility during a fire emergency remains the direction of the Unit and the Fire Command Center.

Economic Impact

It will be economically beneficial to the casino-hotels to be able to assign other duties to the person in charge of the Fire Safety Unit and Fire Command Center when that person is not occupied in dealing with a fire emergency.

Regulatory Flexibility Statement

This rule relates to hotel-casinos, none of which is owned by a "small business" as the term is defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.; therefore, no regulatory flexibility analysis is required.

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

5:18-3.2 Modifications

(a) The following articles or sections of the State Fire Prevention Code are modified as follows:

1.-2. (No change.)

3. Article 3 ("General Precautions Against Fire") is amended as follows:

i.-x. (No change.)

xi. The following new sections F-319.0, F-319.1, F-319.2 and F-319.3 are added:

Section F-319.0 Casino Fire Safety Programs

F-319.1 General: Every establishment licensed as a hotel-casino by the New Jersey Casino Control Commission shall establish a Fire Safety Unit consisting of trained personnel who [will] **shall** be under the direct supervision of a manager or equivalent [Director], [whose sole] **who shall have** responsibility [shall be] **for** the operation of the Unit and the Fire Command Center **and whose sole responsibility during a fire-related emergency incident shall be the direction of the unit and center**. The manager or equivalent shall report directly to the Director of the Department under which the Fire Safety Unit is organized.

F-319.2 Responsibilities: The responsibilities of the Fire Safety Unit shall include the following:

(1) Ensure continual manning of the Fire Command Center with [certifed] **appropriate** hotel-casino personnel;

(2)-(9) (No change.)

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F-319.3 Fire Command Center: The Fire Command Center shall maintain a comprehensive log which shall include the following:
(1)-(2) (No change.)
4.-34. (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

School Facility Planning Service

Proposed Amendments: N.J.A.C. 6:22

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

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

Proposal Number: PRN 1991-240.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 6:22, School Facility Planning Service, establishes requirements for school facility planning and for the adoption by reference of the State Uniform Construction Code (U.C.C.) and enhancements to the U.C.C. which provide design standards for educationally adequate, healthy and safe school facilities necessary for a thorough and efficient education.

Chapter 22 includes Department of Education review and approval of plans and specifications for the temporary and permanent construction, erection, reconstruction, alteration, conversion and renovation of public school facilities, private schools for the handicapped and schools for the handicapped operated by the State Department of Human Services.

The main purpose for the current proposed amendments is to comply with recent legislation, P.L. 1990, c.23, which was signed into law on May 15, 1990, and allows New Jersey school districts to submit final plans and specifications for review and approval for compliance with the Uniform Construction Code (U.C.C.) to either the Bureau of Facility Planning Services within the Department of Education or to a municipal code enforcing agency. Prior to the enactment of this legislation, all final plans and specifications required review and approval by the Bureau of Facility Planning Services for compliance with the Uniform Construction Code (U.C.C.). These amendments will now provide an option to the local school districts.

All plans must still be submitted to the Department of Education, Bureau of Facility Planning Services, for conformity with this chapter (N.J.A.C. 6:22); however, the U.C.C. review can now be completed by either the State or a municipal code enforcing agency. Amendments to N.J.A.C. 6:22-1.6 and 1.7 describe the procedures necessary for obtaining the release of plans to be reviewed and approved locally for compliance with the U.C.C.

N.J.A.C. 6:22-1.4 has been revised to reflect plan submission requirements whenever site work is required. These requirements have been relocated from N.J.A.C. 6:22-2.1, Approval of land acquisition for school sites, to N.J.A.C. 6:22-1.4, Submission of schematic plans prior to local funding. Submission of a completed plot plan is not necessary for the approval of land acquisition but is required with the submission for approval of schematic plans whenever site work is required.

N.J.A.C. 6:22-5, Application of the Uniform Construction Code, has been amended to delete part of N.J.A.C. 6:22-5.4(i)4vii regarding requirements for the physically handicapped because it is repetitious and already a requirement of the Uniform Construction Code. Also, N.J.A.C. 6:22-5.5(b) includes a change in the minimum required floor area in square feet per occupant for food service in cafeteria and faculty dining from 15 feet to 12 feet. This minimum was revised for food service areas at multi-purpose rooms and should have also been revised here for cafeterias and faculty dining.

N.J.A.C. 6:22-6.1, Emergency provisions for accommodation of school pupils in substandard school facilities, has been amended to more accurately reflect the procedures necessary to meet all safety, health and educational requirements to utilize substandard facilities. The requirements in this section will comport with other requirements of N.J.A.C. 6:22 and the Uniform Construction Code which is currently being used by the Department of Education for the evaluation and approval of educational facilities. Other changes to this section are technical in nature and are necessary to reflect current procedures and to comport with the requirements of this chapter and the U.C.C.

N.J.A.C. 6:22-7.1, Long-range facilities plans, has been amended to require review and approval of the district's long-range facilities plan by the county superintendent who will then forward the approved plan to the Bureau of Facility Planning Services. Previously, the district was sending the Bureau a copy of the plan by the July 1 date; however, the plan was often erroneous or missing much of the required information. For this reason the rule has been changed to require that the plan be approved by the county superintendent prior to its submission to the Bureau. The final plan must be approved and forwarded to the Bureau prior to the July 1 deadline.

The word "local" has been added whenever referring to district boards of education to be consistent throughout the Administrative Code.

Social Impact

On May 15, 1990, P.L. 1990, c.23 was signed into law by the State Legislature giving New Jersey school districts the option to submit educational facility plans and specifications to a municipal code enforcing agency for review and approval for compliance with the State's Uniform Construction Code (U.C.C.).

All plans must still be submitted to the Department of Education, Bureau of Facility Planning Services, for conformity with State Board of Education facility standards (N.J.A.C. 6:22); however, the new law will now allow the district to have the U.C.C. review completed by either a municipal code enforcing agency or the Bureau of Facility Planning Services.

The new law, which amends N.J.S.A. 18A:16, 18A:49 and 52-27D, will now provide districts the option of avoiding any delays in having plans reviewed by the Department of Education should a backlog develop within the Bureau of Facility Planning Services, by submitting plans for the U.C.C. review to a municipal code enforcing agency which employs appropriately licensed code officials.

This new option has been well received by school districts throughout the State and provides an expeditious process for obtaining approvals for educational facility plans from qualified officials.

N.J.A.C. 6:22 is being amended to accurately describe the process for having plans and specifications released to the municipal code enforcing agency after they have been approved for compliance with N.J.A.C. 6:22.

Economic Impact

The proposed revisions to N.J.A.C. 6:22, School Facility Planning Service, will have no economic impact on school districts. Fees charged for plan review will not increase as a result of this revision. Plan review fees shall be paid to the Bureau of Facility Planning Services in accordance with the fee schedule developed by the Department of Education as specified in N.J.A.C. 5:23-4.20. If the school district chooses to have its plans reviewed by a municipal code enforcing agency for conformance with the Uniform Construction Code, fees shall be divided between the Department of Education, which shall collect 25 percent of the plan review fee, and the municipal agency, which shall collect 75 percent of the plan review fee.

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 amended rules apply to local district boards of education.

Approved private schools for the handicapped, which are small businesses as defined by the Regulatory Flexibility Act, are not affected by the proposed amendments because review and approval for compliance with the Uniform Construction Code is currently performed by the local construction official within the municipality in which the facility will be constructed. The Bureau of Facility Planning Services only performs the review and approval for compliance with N.J.A.C. 6:22.

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

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6:22-1.2 Educational specifications for building construction or modifications

(a) (No change.)

(b) Estimates of dimensions and square feet for each area of new or modified construction shall be provided, together with an explanation of the proposed area utilization and relationships, and shall be signed by the president of the **local** district board of education and chief school administrator as evidence of certification of approval by the **local** district board of education.

(c) Educational specifications and subsequent revisions must be approved prior to the submission of plans [and specifications]. Incomplete educational specifications will not be accepted [and shall be returned to the district board of education].

6:22-1.3 Architectural plans and specifications; general

(a) (No change.)

(b) A New Jersey registered architect or licensed engineer, as prescribed by N.J.S.A. 45:4B-1 et seq. which defines the practice of architecture and engineering, shall submit the architectural plans and specifications on behalf of the **local** district board of education.

6:22-1.4 Submission of schematic plans prior to local funding

(a) (No change.)

(b) Schematic plans shall be reviewed for conformance with the educational specifications and shall include layouts of the built-in and moveable furniture and equipment **for all occupied spaces** drawn to a scale of not less than 1/8 inch. A list of the built-in and moveable furniture which shows the dimensions and square feet of each item for [an instructional] **any occupied** space which is typical of any kind of [instructional] **occupied** space may be included in lieu of plans of furniture and equipment layouts. **Whenever site work is required, a completed plot plan shall be submitted and on it shall be shown the intended location of the school and a layout of the locations of all other structures, play and recreation areas, athletic fields, walkways, roadways, access roads, buffer and set back zones, and parking areas.**

1.-2. (No change.)

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

6:22-1.5 Submission of preliminary plans following local funding authorization

(a) One set of preliminary plans shall be submitted by a New Jersey registered architect or licensed engineer on behalf of a **local** district board of education after funds are authorized locally. This set of plans shall include:

1.-9. (No change.)

(b) Preliminary plans shall be signed and sealed by a New Jersey registered architect or licensed engineer, and signed by the president of the **local** district board of education and chief school administrator.

6:22-1.6 Submission of final plans

(a) When written receipt of preliminary plan approval has been received by the architect or engineer and the **local** district board of education, one set of final plans, drawn to a scale of not less than 1/8 inch per foot, and specifications, signed and sealed by a New Jersey registered architect or licensed engineer and signed by the president of the **local** district board of education and chief school administrator, shall be submitted to the Bureau of Facility Planning Services for review and approval. This submission shall include the following:

1.-2. (No change.)

3. A check payable to the "Treasurer, State of New Jersey" [for 20 percent of the total fee];

4.-8. (No change.)

9. A completed "Checklist: Subcodes of the State Uniform Construction Code to Assist in the Design Completion of Public School Buildings," as provided by the Department of Education, Bureau of Facility Planning Services, signed by the architect or engineer certifying compliance and signed by the president of the **local** district board of education and chief school administrator; and

10. (No change.)

11. A properly executed copy of a "Release Form for School Construction Plans" for a district which chooses to have its local municipal code enforcing agency review its plans for conformance with the Uniform Construction Code, N.J.A.C. 5:23. This form must be signed by the district's chief school administrator and the municipal code enforcing agency chief. This form may be obtained from the Bureau of Facility Planning Services, 225 West State Street, CN 500, Trenton, New Jersey 08625.

(b) Copies of letters of approval from all other State agencies having jurisdiction over this project shall be required prior to receiving final approval from the Bureau of Facility Planning Services. Upon written receipt of final approval to the architect or engineer and to the **local** district board of education, four sets of final plans and specifications, including a cover sheet signed by the president of the **local** distict board of education and chief school administrator, shall be submitted to the Bureau of Facility Planning Services for approval and distribution.

1.-2. (No change.)

(c) (No change.)

(d) If a district chooses to have a local municipal code enforcing agency review its plans for conformance with the Uniform Construction Code, N.J.A.C. 5:23, the Bureau of Facility Planning Services will review the plans for conformance with N.J.A.C. 6:22 only. Upon approval by the bureau, plans will be stamped: "APPROVED, New Jersey Department of Education, Bureau of Facility Planning Services, N.J.A.C. 6:22 Regulations Only," and released to the local code enforcing agency for review and approval for conformance with the Uniform Construction Code, N.J.A.C. 5:23. The Department of Education will charge only that portion of the fee associated with the review for conformance with N.J.A.C. 6:22. Upon final review and approval by the local code enforcing agency, both the local code enforcing agency and the local district board of education shall certify to the Department of Education that the plans and specifications are in compliance with both the Uniform Construction Code (U.C.C.) and N.J.A.C. 6:22, Facility Planning Service Code. A final set of approved plans and specifications shall be forwarded to the Bureau of Facility Planning Services for their files along with the required certification.

6:22-1.7 Bids, construction permits and variances

(a) Bids may be advertised, received, and contracts awarded only after the receipt of final plans, specifications and written approval from the Department of Education, Bureau of Facility Planning Services **and the local enforcing agency if it performs the Uniform Construction Code review in accordance with N.J.A.C. 5:23.**

(b) Following [the Department's] approval **referred to above**, the **local** district board of education may sign contracts and apply to the municipal construction enforcing official for the required building permits.

(c) When there are difficulties involved in meeting the requirements of the State Uniform Construction Code, the designated and licensed construction official in the Department of Education, Bureau of Facility Planning Services, may vary the rules provided the spirit and intent of the rules are observed and the public welfare and safety are ensured.

1.-2. (No change.)

6:22-2.1 Approval of land acquisition for school sites

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

(b) Before any action is taken to purchase or otherwise acquire or lease land, approval of the adequacy of the land from the Department of Education, Bureau of Facility Planning Services, is required. To consider the approval of such land, the Director of the Bureau of Facility Planning Services shall be provided with the following:

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

2.-3. (No change.)

4. A completed plot plan of the land to be acquired showing topographical and contour lines, all adjacent properties and access

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roads. The acreage and dimensions of the tract proposed for acquisition shall be included as per the application of the standards for minimum acceptable school site sizes in (c) below [and on it shall be shown the intended location of the school and a layout of the locations of all other structures, play and recreation areas, athletic fields, walkways, roadways, access roads, buffer and set-back zones, and parking areas];

5.-10. (No change.)

11. Prior approvals of other agencies, **if required,** such as the State Departments of Agriculture and Environmental Protection and the Pinelands Commission;

12.-13. (No change.)

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

(e) Land owned by a **local district** board of education which does not meet the standards of this section may be supplemented by adjacent [municipally owned] **municipally-owned** land so long as such land is formally leased on a long-term basis to the **local district** board of education for exclusive use during school hours.

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

6:22-2.2 Approval for the disposal of land for school sites

(a) If an approved school site on which there is an operational school building is to be altered through sale, transfer or exchange of all or part of the total acreage, a written request for approval shall be made to the Department of Education, Bureau of Facility Planning Services. A copy of the request shall be sent to the county superintendent of schools who shall make recommendations to the Bureau, with a copy of the recommendations to the **local** district board of education.

(b) Written approval or disapproval shall be given to the county superintendent with a copy to the **local** district board of education.

6:22-3.1 Approval for the acquisition of existing buildings

(a) A **local** district board of education planning to acquire any existing building or facility through purchase, gift, lease or otherwise shall comply with all procedures and rules pertaining to the appropriation and use of capital funds as required by N.J.S.A. 18A:20-4 and 18A:20-4.2 and shall also have the building approved in accordance with the rules of this chapter which apply to the construction of a new building.

(b) (No change.)

6:22-3.2 Approval for the closing of a school or schools

(a) The **local** district board of education shall provide the Department of Education, Bureau of Facility Planning Services, with the following assurances that with the closing of a school or schools:

1.-3. (No change.)

(b) (No change.)

6:22-4.1 Requirements for Department of Education approval of private schools for handicapped pupils and schools for handicapped pupils of the New Jersey State Department of Human Services

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

(f) Existing buildings to be acquired for use as a school building shall meet the requirements of this subchapter and the State Uniform Construction Code, N.J.A.C. 5:23. The Bureau of Facility Planning Services shall review plans and specifications for compliance with [the Uniform Construction Code, N.J.A.C. 5:23, and] this chapter.

(g)-(i) (No change.)

6:22-5.4 Educational facility planning standards

(a) The educational facility planning standards delineated in (b) **through (h)** below [shall], in conjunction with the Uniform Construction Code, **shall** form the requirements for the design and construction of public schools.

(b) General design and construction requirements are as follows:

1.-9. (No change.)

10. Instructional greenhouses shall meet the following standards in addition to the U.C.C. standards and requirements of the Fire Prevention Code:

i.-ii. (No change.)

iii. Greenhouses may be either attached to a school building or located no less than 20 feet from [a major area of] the school building;

iv. (No change.)

11.-12. (No change.)

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

(e) Safety requirements are as follows:

1. Glazing in [fire rated] **fire-rated** assemblies shall be in accordance with BOCA. All other interior glazing shall be safety glazing.

2.-4. (No change.)

5. Materials provided at the base of playground equipment shall be of a soft composition such as sand or synthetic composition materials in order to prevent injuries [to pupils/users].

6. (No change.)

(f) Electrical requirements are as follows:

1. Push-type emergency cut-out switches shall be provided at appropriate locations within shops to de-energize the electrical supply to [non-portable] **nonportable** machinery and shall have a clear unobstructed access of a minimum of 36 inches. These switches shall be provided on the basis of one for each 1,000 square feet or fraction thereof of floor area in the shop, but in no case less than two. Reset of the interrupted service shall be by a key-operated switch located within the shop. The cut-off and reset circuits shall be designed and installed to negate the possibility of the control circuit being de-energized, thereby being inoperative.

2. All [non-portable] **nonportable** motorized equipment and machinery shall be provided with magnetic-type switches to prevent machines from automatically restarting upon restoration of power after an electrical failure or activation of the above emergency cut-off.

3.-6. (No change.)

(g) Lighting requirements are as follows:

1. Installed artifical lighting intensity shall comply with the following minimum footcandles which shall be maintained on the task at any time:

INSTALLED LIGHTING INTENSITY

Locations	Minimum Acceptable Footcandles
Classrooms and instructional areas—study halls, lecture rooms, art rooms, offices, libraries, conference rooms, work rooms, shops, laboratories and secondary school cafeterias	50
Drafting, typing and sewing rooms	70
Reception rooms, gymnasiums, auditoriums, **primary** cafeterias, all-purpose rooms and swimming pools	30
Locker rooms, washrooms, toilet rooms, corridors containing lockers, stairways	10
Corridors without lockers and storerooms	5
Classrooms for the partially sighted	70

(h) Plumbing requirements are as follows:

1.-3. (No change.)

4. Toilet facilities for early intervention, pre-kindergarten and kindergarten classrooms shall be provided as follows:

i.-ii. (No change.)

iii. If a school district chooses to provide toilet rooms adjacent to or outside the classroom in conformance with (h)4ii above, the chief school administrator shall certify to the county superintendent how the alternate method of compliance shall be addressed[,] on forms prescribed by the Commissioner. The completed form and a copy of a resolution by the [school] **local district** board **of education** approving the alternate method of compliance shall be submitted to

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the county superintendent for approval. Annually, thereafter, the chief school administrator shall resubmit the form certifying how the alternate method of compliance shall be addressed. Any changes to the approved alternate method of compliance shall be submitted to the county superintendent for approval.

5.-11. (No change.)

(i) Pre-manufactured educational units, vans, trailers and/or other mobile units shall comply with the following:

1. Pre-manufactured units shall be reviewed and approved by the Bureau of Facility Planning Services. The local enforcing agency shall inspect the installation and shall issue the certificate of occupancy. Pre-manufactured units shall:

i.-iv. (No change.)

v. Have sturdy steps and be provided with a handrail and[, if the audit is to be used by a physically handicapped person, it shall] be barrier free;

vi.-ix. (No change.)

x. Have floor covering of either carpet which meets [flame spread requirements as per] **the requirements of** the U.C.C. or asbestos-free vinyl tile;

xi.-xiii. (No change.)

2. [Non-conformance] **Nonconformance** to requirements (i)1i through xiii above which is found during an evaluation of any pre-manufactured unit placed in service after June 4, 1986 or of a subsequent future inspection of a unit approved according to (i)1i through xiii above shall be corrected within 30 days of such evaluation. Staff of the Bureau of Facility Planning Services or county offices of education may order a unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety or exiting. Failure or inability to correct code deficiencies shall be cause to permanently abandon a pre-manufactured unit.

3. (No change.)

4. A self-propelled van and/or other mobile unit used for instruction shall:

i.-vi. (No change.)

vii. Have two means of clear and unobstructed egress which are remote from each other. [If the exit is not at grade level, sturdy steps with a handrail shall be provided, and, if the unit is to be used by a physically handicapped person, it shall be barrier free];

viii.-xiii. (No change.)

xiv. Have floor covering of either carpet which meets [flame spread requirements of] **the requirements of** the U.C.C. or asbestos-free vinyl tile;

xv.-xviii. (No change.)

5. [Non-conformance] **Nonconformance** of code requirements (i)4i through xviii above which is found during an evaluation of any van and/or other mobile unit placed in service after June 4, 1986 or of a subsequent future inspection of a van and/or other mobile unit approved according to this subsection shall be corrected within 30 days of such evaluation. Staff of the Bureau of Facility Planning Services or the county superintendent may order a van and/or other mobile unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety and exiting. Failure or inability to correct code deficiencies shall be cause to order a permanent abandonment of a van and/or other mobile unit.

6. (No change.)

7. A self-propelled van or other pre-manufactured mobile unit being utilized as an emergency, temporary replacement for a regular classroom facility may be utilized for a maximum of two school years. As a pre-condition to the approval for the use of a van or other mobile unit, a school district must have a plan, including an implementation schedule, approved by the county superintendent of schools for the provision of permanent facilities. A van or other mobile unit to be used for the delivery of basic skills services to [non-public] **nonpublic** school students under the Federal Education Consolidation Improvement Act, P.L. 1977[, c.]-1, **sections** 192 and 193 may be used as long as it meets the standards of this section.

(j) (No change.)

6:22-5.5 School space sizes and capacity

(a) (No change.)

(b) The minimum square feet for each instructional space shall be determined by the net and gross square feet values shown below together with the definitions of net and gross square feet presented in (c) below. The capacity of a school building shall be calculated according to definitions in (a) above.

Area	Minimum Required Floor Area in Square Feet per Occupant
Classrooms, including early intervention, pre-kindergarten, kindergarten	20 net
Classrooms (students with physical mobility problems, for example, wheelchair)	25 net
Science laboratories	20 net
Shops and laboratories for industrial arts and vocational education	50 net
Small group instruction, including music practice	20 net
Conference rooms	15 net
Auditorium, excluding stage	7 net
Cafeteria and faculty dining	—
Food service	[15] **12** net
Assembly, unfixed seats	7 net
Gymnasium (all school types)	—
Spectator area	3 net
Physical education-athletics, with spectator area in gymnasium	100 net
Physical education-athletics, with no spectator area	125 net
Assembly, unfixed seats	7 net
Auxiliary gymnasium and/or weight room (20 student capacity base)	40 net
Locker room	20 net
Multi-purpose Room	—
Spectator area	3 net
Physical education-athletics	80 net
Food service	12 net
Assembly, unfixed seats	7 net
Library/Media Center	—
Reading room	50 net
Seminar—small group	20 net
Stacks (.25 × reading room capacity-elementary) (.33 × reading room capacity—middle, junior/senior high school)	100 gross
Other support spaces	20 net
Health Center	—
Cot area	30 net
Examination room	20 net
Offices	60 net, first occupant; 15 net additional occupants

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

6:22-6.1 Emergency provisions for accommodation of school pupils in substandard school facilities

(a) Substandard facilities shall be defined as:

1. (No change.)

2. All off-site facilities being provided by **local** district boards of education or approved private schools for the handicapped for use by public school pupils;

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3. All facilities not planned and constructed as school buildings which are rented or leased from private owners by **local** district boards of education or approved private schools for the handicapped for use as school buildings by public school pupils.

(b) All substandard educational facilities shall be initially approved by the county superintendent of schools in which the **local** district board of education or approved private school for the handicapped is situated[, such]. **Such** approval [to] **shall** be given for a maximum period of two years. No substandard educational facility, however, shall be approved for more than two consecutive years unless inspected by the Bureau of Facility Planning Services, Department of Education to ensure that:

1.-2. (No change.)

3. A plan has been developed by the **local** district board of education or approved private school for the handicapped and approved by the county superintendent of schools to upgrade the facilities to standard, [fully approved] **fully-approved** conditions.

(c) The Bureau of Facility Planning Services and the county superintendent of schools, when considering educational adequacy, shall apply the minimum standards of square feet per space and per pupil as contained in this chapter. In cases where a **local** district board of education or approved private school for the handicapped feels it must have relief from the minimum square feet requirements, such relief shall be determined upon application to the county superintendent of schools. The county superintendent of schools shall make recommendations to the assistant commissioners of the Divisions of Finance and County and Regional Services who jointly may grant relief.

(d) County superintendents of schools will annually monitor the plans of **local** district boards of education or approved private schools for the handicapped to upgrade facilities to State-approved temporary substandard and/or fully approved, standard status.

(e) [District] **Local district** boards of education or approved private schools for the handicapped must provide funds in the next immediate annual budget to correct deficiencies about which they are notified by the [Bureau of Facility Planning Services] **county superintendent of schools** on or before October 1 annually. Failure to budget for the correction of deficiencies and to implement the corrections by the next September 1 following the October 1 notice, except as specified in (f) below, shall result in the facility being abandoned.

(f) If a **local** district board of education cannot afford to correct all identified deficiencies in one budget year because of the total costs associated with large numbers of substandard facilities, the **local** district board's long-range facility plan must include a sub-plan for the correction of the deficiencies. The sub-plan must be updated annually and identify funding sources such as an annual budget or a capital improvement authorization. Inclusion of a sub-plan to correct deficiencies in substandard facilities does not relieve a **local** district board of education from implementing the corrections in the shortest time possible [nor] **or** extend the use of substandard facilities beyond five years.

(g) In making a determination upon any application for the use of emergency substandard facilities, the following factors shall be taken into account:

1. Accommodations in an existing public school:

i. Safety factors:

(1) (No change.)

[(2)Provision shall be made for the storage of pupils' clothing in other than a corridor or exitway;]

[(3)](**2**) Each instructional room housing more than 10 pupils and containing more than 300 square feet shall have a door opening directly into the corridor or an exit door opening directly to the exterior;

[(4)](**3**) The hardware on doors of any space occupied by pupils shall be of the knob-operated or lever-operated types only, permitting egress from the room at all times. Key-operated locks, thumb-turn locks, hasps or similar types of locking devices shall not be permitted;

[(5)](**4**) Doors opening into the corridor, transoms and sidelights shall be glazed with one-quarter inch wire plate glass; **however, replacement vision panels may be the same material as originally approved;**

[(6)](**5**) Every enclosed space shall be protected by an approved automatic fire or smoke detector or a fire suppression device tied into the total public school fire alarm system;

[(7)](**6**) Each instructional [room capable of housing more than 10 pupils] **space** shall have an approved exitway [with sufficient units of exit available within 150 feet travel distance];

[(8)](**7**) Directions for exiting from the building in case of emergency shall be posted **by the exit** in each space;

[(9)](**8**) Concrete floors in all instructional areas, except shops, shall be covered with a **slip resistant** resilient floor covering. [Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77.]

ii. (No change.)

iii. Heating and ventilation:

(1) (No change.)

(2) Each instructional room shall have natural light with one or more operative window [sash] **sashes** or the room shall have mechanical air supply and exhaust sufficient to provide not less than 10 cfm of tempered outside air and 15 cfm of recirculated air.

iv. Toilet facilities and drinking fountains: Toilet facilities shall be available within a reasonable distance, not more than one floor away, and shall be equipped with an exterior operating window sash or mechanical exhaust ventilation. **Toilet facilities shall be provided for students in early intervention, pre-kindergarten and kindergarten programs as per N.J.A.C. 6:22-5.4(h)4.**

v. Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided in all instructional areas. [Emergency lighting shall also be provided if the space is windowless.]

vi. (No change.)

vii. Room size: Each [small group] instruction [room] **space** shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet [and total space not less than 150 square feet]. [Boards] **Local district boards** of education shall consider the recommendations of the Department of Education in planning for facilities housing handicapped pupils.

viii. (No change.)

2. Emergency provisions for accommodation of school pupils in off-site, rented or leased buildings:

i. Required documentation:

(1) A copy of the certificate of occupancy for the facility, indicating the current BOCA Use Group, issued by the local construction official shall be on file in the office of the county superintendent of schools, prior to occupancy; and

(2) A copy of the current annual inspection report from the local fire official and/or health official approving use of the facility shall be on file in the office of the county superintendent of schools prior to occupancy.

[i.]**ii.** Safety factors:

(1) The floors, walls and ceilings of [rooms] **spaces** used for instruction shall be free from moisture, peeling paint, plaster and potentially hazardous materials;

(2) (No change.)

(3) Each instructional [room] **space** containing more than 300 square feet shall have a door opening directly into the corridor or an exit door opening directly to the exterior;

(4) (No change.)

(5) Concrete floors in all instructional areas, except shops, shall be covered with a **slip resistant** resilient floor covering[. Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77];

[(6) Each exterior exit door serving more than one classroom shall be equipped with panic hardware only and shall be free at all times of chains or other restraints;]

[(7)](**6**) An off-site, rented or leased building shall be provided with an automatic and manual fire detection system which is interconnected to every space in use installed prior to occupancy by students and staff;

[(8)](**7**) Adequate and approved units of exit and exitways as required by the Uniform Construction Code shall be provided. Direc-

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tions for exiting the facility under emergency conditions shall be posted **by the exit** in every instructional room;

[(9)]**(8)** The boiler room **interior entrance** shall be [enclosed by a floor, wall and ceiling designed to provide not less than a 3/4 hour fire resistive rating. All openings within the enclosure shall be] equipped with a self-closing "C" label fire door lettered "Fire Door Keep Closed." [Provision shall be made for a fresh air intake to supply outside air necessary to support burner combustion.]

[ii.]**iii.** Ceiling height: The average ceiling height shall be at least eight feet for instructional spaces.

[iii.]**iv.** Heating and ventilation:

(1) The room shall be heated to a temperature as established by the local [school] district **board of education;**

(2) Each instructional room shall have natural light with one or more operative window [sash] **sashes** or the room shall have mechanical air supply and exhaust sufficient to provide not less than 10 cfm of outside air and 15 cfm of recirculated air. **Air conditioning is required for a windowless space;**

[iv.]**v.** Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided in all instructional areas. [Emergency lighting shall also be provided if the space is windowless.]

[v.]**vi.** Toilet facilities and drinking fountains:

(1) [There shall be a minimum of two urinals, two water closets and two lavatories in boys' toilets and a minimum of two water closets and two lavatories in girls' toilets.] **Toilet facilities and drinking fountains shall meet existing U.C.C. requirements for Use Group as determined by the construction official.** Toilet facilities shall be available within a reasonable distance, not more than one floor away, and shall be equipped with an exterior operating window sash or mechanical exhaust ventilation. Toilet facilities shall be provided for students in early intervention, pre-kindergarten and kindergarten programs as per N.J.A.C. 6:22-5.4(h)4.

(2)(No change.)

[vi.]**vii.** Schoolground and play facilities: The outside recreational play area for students shall include, but not be limited to, sufficient space, equipment and safe surfaces for the building enrollment and program need and be protected from hazards or traffic conditions.

[vii.]**viii.** Equipment and supplies: Furniture and equipment which is in good condition and suitable for the age and size of the pupils and purposes of instruction shall be provided.

[viii.]**ix.** Room size: Each [small group] instructional space shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet [and not less than 150 square feet].

[ix.]**x.** (No change in text.)

[x. Other:

(1) A copy of the certificate of occupancy for the facility issued by the local construction official shall be on file in the Department of Education and in the office of the county superintendent of schools, prior to occupancy.

(2) A copy of the annual inspection report from the local fire official and/or health official approving use of the facility shall be on file in the office of the county superintendent of schools prior to occupancy.]

6:22-7.1 Long-range facilities plans

(a) (No change.)

(b) Long-range facilities plans shall be updated every five years from the original submission date of July 1, 1985 and submitted to the county superintendent of schools **for review and approval. Once the plan has been reviewed and approved by the county superintendent, a copy of the approved plan shall be forwarded to the Bureau of Facility Planning Services no later than the July 1 submission deadline.**

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

6:22-8.1 Appeals and hearing process

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

(c) Requests for variances from the Department of Education requirements as specified in N.J.A.C. 6:22-2.1, and N.J.A.C. 6:22-5.4, N.J.A.C. 6:22-5.5 and the State Uniform Construction Code as specified in N.J.A.C. 5:23 may be made in writing by the **local** district board of education to the Director of the Bureau of Facility Planning Services. The Director may approve variances from department requirements provided the spirit and intent of the standards are observed and the need for the variances is satisfactorily documented. Variations from the State Uniform Construction Code must be acted upon in accordance with N.J.A.C. 5:23.

(a)

STATE BOARD OF EDUCATION

Adult Education; Dates for Reporting and Adjusting Reporting of Enrollments

Proposed Amendments: N.J.A.C. 6:30-4.4 and 4.5

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

Authority: N.J.S.A. 18A:1-1.1, 18A:4-15, 18A:7C-1 et seq., 18A:48-1, 18A:49-1 through 18A:50-12, 13 and 14, and the Adult Education Act, 20 U.S.C. 1201 et seq.

Proposal Number: PRN 1991-241.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 6:30-4.4 and 4.5 of the Adult Education Program rules affect the dates for reporting and adjusting the reporting of enrollments in adult high schools for State aid calculation and the dates for establishing attendance requirements for enrollment in an adult high school.

Under the current N.J.A.C. 6:30-4.4, the date for recording attendance in an adult high school is September 30. This date is being changed to October 15.

Under the current N.J.A.C. 6:30-4.5, changes to the September 30 report must be made by December 1. This date is being changed to November 15.

Under current rules, an adult must be enrolled as of September 30 and be in attendance at least once during the first 14 days of October, to be considered enrolled in an adult high school. These dates, establishing attendance requirements, are being changed to require enrollment as of October 15 and attendance at least once during the period of October 16 through October 31.

These changes are made necessary to ensure the proper collection of data required in the Quality Education Act (QEA), P.L. 1990, c.52. The effect of these changes will provide additional time for adults to be enrolled in an adult high school and to be counted toward State aid calculations.

Social Impact

The proposed changes provide adults with an additional two weeks to enroll in the 58 adult high schools in New Jersey and will increase the number of adults reported enrolled as of the October 15 reporting date. A positive outcome of this change will be that reported data will more accurately reflect the actual enrollments in adult high schools.

Economic Impact

The proposed changes may increase the amount of State school aid distributed to public school districts with adult high school programs in relation to reported enrollments of adults.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not necessary as the proposed amendments do not impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These amendments impact solely on public school districts which are the only agencies which can operate adult high schools.

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

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6:30-4.4 Evaluation elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1.-9. (No change.)

10. The financial administration element will be rated as acceptable upon documentation of performance in the two indicators as follows:

i. The district board of education shall receive accurate and timely fiscal and statistical reports from the adult high school pursuant to law and rule. Documentation shall include a budget account established solely for adult high school financial reporting purposes. Documentation shall also include the timely filing, prior to [December 1] **November 15**, of adjustments to the Application for State School Aid, [September 30] **October 15** report.

ii. (No change.)

6:30-4.5 Eligibility for enrollment and State aid

(a) (No change.)

(b) To qualify for State aid a person shall:

1.-2. (No change.)

3. Have met the following attendance requirements:

i. Be enrolled and on the school register as of [September 30] **October 15** of the current school year; and

ii. Be in attendance at least once [during the first 14 days in October] **from October 16 through October 31**, unless excused by the adult high school principal for reasonable cause.

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

(a)

STATE BOARD OF EDUCATION

Statewide Assessment; Early Warning Test

Proposed Amendments: N.J.A.C. 6:39-1.3 and 1.4.

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

Authority: N.J.S.A. 18A:4-15, 18A:4-24, and 18A:7A-1 et seq.

Proposal Number: PRN 1991-242.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Rules governing Statewide assessment were readopted in August 1989 pursuant to Executive Order No. 66(1978). Prior to the August 1989 readoption, these rules were reorganized and amended to include the monitoring of core course proficiencies and the assessment of these proficiencies in the Statewide process for monitoring of school districts.

The Department of Education has included these rules as part of its review of the "Quality Education Act of 1990" and finds it necessary to amend N.J.A.C. 6:39-1.3 and 1.4. While the amendments are not a direct result of the Quality Education Act, the Department has determined that such amendments are necessary to comply with N.J.S.A 18A:7C-6.2. This statute requires that all eighth grade pupils in New Jersey public schools beginning September 1990, and annually thereafter, be administered a test to assess their progress toward mastery of State graduation proficiency standards. N.J.S.A. 18A:7C-6.2 also requires that local boards of education provide appropriate remediation in those areas of demonstrated deficiency for any student not meeting established examination standards.

In addition, the Department has taken this opportunity to clarify N.J.A.C. 6:39-1.3(e). The new language more clearly states that some students with handicapping conditions may be exempt from portions of the established high school graduation requirements. The language in the rule has also been updated to reflect changes in terminology in current literature in the field of special education.

Currently, Statewide assessment rules reference only the High School Proficiency Test and recognize such test as the only State-mandated test. The proposed amendment to N.J.A.C. 6:39-1.4(a) would identify the new Grade 8 Early Warning Test as the State-mandated test that will be used to assess students' progress toward mastery of the State graduation proficiency standards.

Social Impact

The proposed amendments will require the Commissioner to issue public reports on the results obtained from the administration of the Early Warning Test. Reporting this information will act as an accountability mechanism for all public schools with eighth-grade students. It will also serve to inform the public and others about the quality of the schools. This proposed rule change will bring the requirements governing the Early Warning Test in line with those governing other Statewide tests, thus providing that information about the achievement of eighth-grade students in reading, mathematics, and writing will be available to the public at large.

Economic Impact

The proposed amendments will require the expenditure of funds to develop, produce and disseminate reports of the Early Warning Test results. The publication of these results may stimulate decisions on the local district level to earmark funds for revising and improving the basic skills curriculum to improve mastery of the tested skills.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments 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. This chapter impacts solely upon New Jersey school districts and schools operated by the Department of Education.

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

6:39-1.3 Core course proficiencies assessment

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

(e) [An educationally handicapped] **A pupil with an educational disability** must meet all State and local high school graduation requirements **unless exempted in his or her individualized education program** in order to receive a State-endorsed high school diploma pursuant to the provisions established under N.J.A.C. 6:28.

6:39-1.4 Dissemination of information

(a) Dissemination of information procedures relative to basic skills proficiency in reading, writing, and mathematics as measured by the High School Proficiency Test (HSPT) **and the Early Warning Test (EWT)** shall be as follows:

1.-9. (No change.)

(b) (No change.)

(b)

STATE BOARD OF EDUCATION

Advisory Council, Management Services, Professional Services, Occupational Research Development, Urban Education and Manpower Training and Residential Schools

Proposed Repeals: N.J.A.C. 6:41, 6:47, 6:48, 6:49, 6:50 and 6:52

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

Authority: N.J.S.A. 18A:1-1, 18A:40-10, 18A:4-15, 18A:-7A-1.1 et seq. and 18A:54-1.1 et seq.

Proposal Number: PRN 1991-232.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

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The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:1-1, 18A:40-10, 18A:4-15, 18A:7A-1.1 et seq. and 18A:54-1.1 et seq. proposes a repeal of the above-listed chapters. The Office of Administrative Law has indicated that these rules were promulgated prior to 1978, do not have expiration dates pursuant to Executive Order No. 66 (1978) and therefore do not fall under the "sunset" provision. The Department of Education, in a recent examination of all such chapters, has reviewed these rules and finds that they are no longer necessary or accurate and should be removed to improve the organization and useability of Title 6—Education, of the New Jersey Administrative Code.

A review of the chapters follows:

1. N.J.A.C. 6:41, Advisory Council, was promulgated on September 1, 1969 pursuant to provisions of the State Plan for Vocational Education required under P.L. 90-576, Vocational Education Act Amendments of 1968. These rules repeated nearly verbatim requirements already contained in United States Code (82 Stat. 1064, 20 U.S.C. 1241-1391). These rules have been superseded by current Federal legislation and regulations and are not necessary. The rules contained definitions and pertained to the New Jersey Advisory Council for vocational education, governing its establishment, certification by the Governor, membership, functions and responsibilities. The advisory body continues to exist as the New Jersey Council on Vocational Education, but is required under current Federal statute and is Federally regulated. The Department has no regulatory or oversight responsibility, either fiscally or programmatically, in regard to the Council's operation.

2. N.J.A.C. 6:47, Management Services, was promulgated on July 1, 1974 in compliance with the State Plan for Vocational Education, the Vocational Education Act Amendments of 1968 (P.L. 90-576) and fiscal policies stipulated by Federal rules and regulations regarding the allocation of Federal and/or State funds. The rules generally governed fiscal controls and fund accounting procedures of the Department, the role of the Bureau of Management Services in the Division of Vocational Education and State matching funds. Specifically, the rules governed expenditures, use of funds by district boards of education, fiscal records, audits, State and local matching of Federal dollars, and criteria for the approval of applications for funds from district boards of education.

These rules have been superseded by current Federal regulations governing Federal vocational education grants to the State; N.J.A.C. 6:43, Vocational and Technical Education Programs and Standards; N.J.A.C. 6:20-2, Bookkeeping and Accounting in Local School Districts; and Departmental policies and procedures regarding fiscal accountability.

The rules also designated responsibility to a Departmental bureau which is no longer in existence.

3. N.J.A.C. 6:48, Professional Services, was promulgated on September 1, 1969 pursuant to the State Plan for Vocational Education. The rules governed vocational guidance and counseling and specified requirements for training and qualifications of personnel.

These rules were updated and recodified in N.J.A.C. 6:43-3.15, Qualified Teachers and Supervisors, and in N.J.A.C. 6:43-3.16, Vocational/Career Guidance and Counseling, with a cross-reference to N.J.A.C. 6:11, Teacher Preparation and Certification. Since Chapter 43 was amended in August 1990 and Chapter 11 governs personnel qualifications, the rules at N.J.A.C. 6:48 are redundant and unnecessary.

4. N.J.A.C. 6:49, Occupational Research Development, was promulgated on September 1, 1969 pursuant to the State Plan for Vocational Education as required by the Vocational Education Act Amendments of 1968 (P.L. 90-576). The rules governed objectives of the New Jersey Research Coordination Unit for occupational education programs, grants for exemplary programs and projects, coordination with other programs and the participation of pupils in private nonprofit schools.

The rules have been invalidated by subsequent Federal vocational education legislation and the research coordination unit is no longer in existence. The rules regarding this unit have not been enforced for at least eight years. Procedures for the allocation of Federal grants to district boards of education are governed by current Federal and State laws and regulations and Department policies; likewise, for the participation of pupils in nonprofit private schools, as specified in the recently adopted N.J.A.C. 6:43-6.

5. N.J.A.C. 6:50, Urban Education and Manpower Training, was promulgated on September 1, 1969 pursuant to the provisions of the State Plan for Vocational Education, the Vocational Education Act Amendments of 1968 (P.L. 90-576) and the Manpower Development and Training Act of 1962, as amended.

The rules have not been enforced for at least eight years and both Federal statutes cited in the paragraph above have been superseded by legislation. The Cooperative Area Manpower Planning System (CAMPS) required by the rules was designed to accomplish coordinated planning by local, State, regional and Federal planning committees in order to enhance institutional training. The rules contained, among many requirements for CAMPS, provisions for State direction and supervision, approval of applications, records retention, program evaluation and final accountability. These rules are no longer necessary because interagency coordination in planning for improved delivery of education, training and employment services is the goal of the State Employment and Training Commission which was established by P.L. 1989 c.295 in January 1990.

6. N.J.A.C. 6:52, Residential Schools, was promulgated on September 1, 1969 pursuant to the Vocational Education Act Amendments of 1968 (P.L. 90-576). The rules governed procedures for establishing residential facilities, described the purpose of the schools, and contained nondiscrimination, employment opportunity and no-fee provisions.

The rules are now invalid. The authorizing statute has been superseded by Federal legislation which contains no provisions for residential facilities. The rules refer to a unit and bureau in the Department which are no longer in existence. In addition, they are in conflict with existing N.J.A.C. 6:22, School Facilities Planning Service.

Social Impact

The proposed deletion of these chapters will have a positive social impact on the public in that it will reduce confusion in regard to code language governing obsolete operations of the Department. Provisions have been made in N.J.A.C. 6:43, Vocational and Technical Education Programs and Standards, N.J.A.C. 6:11, Teacher Preparation and Certification, and N.J.A.C. 6:22, School Facilities Planning Services for the conduct of vocational education programs; instruction; program evaluation; access to instruction; qualified teachers and supervisors; vocational/career guidance and counseling; vocational instruction under contract; participation of pupils in private nonprofit schools; requirements for administrative, instructional and educational services certificates; and school facilities.

Further clarification will be provided to the public because outdated Federal regulations which are repeated in redundant State regulations will be eliminated.

The proposed repeals will also have a positive impact on the Department in that it will no longer be accountable for the operation of these obsolete Departmental units and bureaus.

The repeal of N.J.A.C. 6:41, Advisory Council, will have a positive social impact in that the Council has maintained in correspondence to the Department that it is, by its authorizing Federal statute, independent of the Department and free to designate its own fiscal agent and to conduct its operations. As this is the case, State rules governing the council are unnecessary.

Economic Impact

Since the proposed repeals cover obsolete, redundant language or rules that have already been recodified elsewhere, there will be no economic impact other than the small savings realized by not having to reproduce unnecessary pages while reprinting the Code.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed repeals do not impose reporting, recordkeeping or other requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., since no amendments or new rules are being proposed and all language is proposed for deletion. The rules proposed for repeal are either obsolete, redundant or no longer required.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 6:41, 6:47, 6:48, 6:49, 6:50 and 6:52.

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(a)

STATE BOARD OF EDUCATION

Vocational and Technical Education Programs and Standards

Proposed Amendments: N.J.A.C. 6:43-1.1, 1.2, 3.3, 7.1 and 8.1

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

Authority: N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-16, 18A:4-24, 18A:4-25, 18A:7A-1 et seq., 18A:54-1 et seq., N.J.S.A. 34:2-21 et seq., 29 C.F.R. Subpart C of Part 570, P.L. 1989, c.295, P.L. 97-300 and P.L. 101-392.

Proposal Number: PRN 1991-230.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:7A-2 et seq., 18A:54-1 et seq., P.L. 1989 c.295 and P.L. 101-392, proposes amendments and additions to the rules governing vocational and technical education programs and standards. Proposed amendments are of a technical nature to update statutory citations, correct titles and delete references to local area vocational school districts. The proposed amendments are based on requirements brought about by changes in the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392) and the State Quality Education Act (P.L. 1990, c.52). An amendment is proposed for trade and industrial education programs.

In 1986, amendments were made to N.J.A.C. 6:43-1.3, Schools designated as other than full-time day schools, which specified criteria for designation to allow for distribution of State aid for support and maintenance. In 1987, N.J.A.C. 6:43-1.2, Program requirements, was amended to correct the Code citation for vocational education safety standards. In August 1990, N.J.A.C. 6:43, which was due to expire on April 7, 1991, was readopted with amendments and new rules that implemented standards and procedures for cooperative vocational education programs, occupational competencies and tests, job placement standards and a vocational education course approval process. N.J.A.C. 6:43 is due to expire on August 10, 1995.

A review of the proposed amendments follows:

N.J.A.C. 6:43-1.2, Words and phrases defined, corrects the citation for the Federal Vocational Education Act and expands the definition of vocational education. On September 25, 1990, the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392) was signed into law, superseding P.L. 98-524.

At N.J.A.C. 6:43-1.1, 1.2, 7.1 and 8.1 the proposed changes correct the title of the State Employment and Training Commission. At N.J.A.C. 6:43-1.2, the definition of the Commission was relocated in alphabetical sequence and no changes were made to the definition.

The proposed amendment to N.J.A.C. 6:43-1.2 also deletes the definition of local area vocational school district (LAVSD); reference to LAVSDs in N.J.A.C. 6:43-8.1 is likewise deleted. The references are proposed for repeal because LAVSDs, which were designated as such and, thus, in the past, eligible for State categorical aid, will no longer be recipients of categorical State funding for vocational education programs under provisions of the Quality Education Act of 1990 (P.L. 1990, c.52), effective on July 1, 1991. Under the Quality Education Act, districts formerly designated as LAVSDs will receive State aid according to rules applicable to other comprehensive high schools. Comprehensive high schools were designated as LAVSDs pursuant to N.J.A.C. 6:46-1.1 through 6:46-2.4, rules which are simultaneously being proposed for amendment and repeal elsewhere in this issue of the New Jersey Register.

N.J.A.C. 6:43-3.3(c) is a proposed amendment which ensures that pupils receive instruction that meets industry standards by requiring trade and industrial education programs to be conducted a minimum of 600 minutes per week, of which 400 minutes must consist of competency-based occupational training and 200 minutes must consist of trade and industrial-related instruction for three consecutive instructional periods per day.

At N.J.A.C. 6:43-8.1, representation from the New Jersey Department of Corrections is added to the Vocational Education Program Review Panel.

Social Impact

The proposed amendments to N.J.A.C. 6:43 will have a beneficial social impact in that the rules have been updated regarding statutory authority for use of the Federal vocational education basic grant to the State.

N.J.A.C. 6:43-3.3(c) will benefit both the public and pupils enrolled in trade and industrial education programs throughout the State by ensuring that pupils are receiving instruction that is consistent with the National Standards for Trade and Industrial Education as adopted by the U.S. Department of Education in May 1985. The amendment ensures that time-on-task conforms with the requirements of industry, as identified by such organizations as the Automotive Teacher Education Foundation; National Automotive Technicians' Education Foundation; American Air Conditioning and Refrigeration Institute; Gas Appliance Manufacturer's Association; Associated Building Contractors; and National Graphic Arts Education Technical Foundation.

Economic Impact

Implementation of the proposed amendment regarding trade and industrial education programs at N.J.A.C. 6:43-3.3(c) may have some minor economic impact upon district board of education administrative budgets if it became necessary to increase an instructor's teaching time as a result of the pupil time-on-task requirement. There would be no economic impact upon other agencies or institutions.

The repeal of references to local area vocational school districts in N.J.A.C. 6:43-1.1 and 6:43-8.1 will have no economic impact on district boards of education since that impact has already been predetermined by the Quality Education Act (P.L. 1990, c.52). The Act establishes a new formula for the distribution of State aid to district boards of education so that all districts will have adequate levels of State aid.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules and amendments do not impose reporting, recordkeeping or other 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 district boards of education and on schools operated by the New Jersey State Department of Education.

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

6:43-1.1 Scope and purpose

This chapter specifies standards and procedures regarding vocational and technical education programs, specifically in the areas of: instruction; contracting between district boards of education; programs and services for handicapped pupils and for pupils whose achievement in vocational education programs is limited because of temporary academic or economic factors; private nonprofit school pupil participation; an accountability system including competencies, testing and job placement standards; improved planning; and program and course approval. To assure standards and procedures, the Commissioner of Education and the State Board of Education have developed these rules in conformity with relevant Federal and State statutes concerning public education, vocational education, county vocational schools, child labor, private industry councils and the [Commission on] **State** Employment and Training **Commission**.

6:43-1.2 Words and phrases defined

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

"Academically or economically limited pupil" means a pupil (other than a handicapped pupil) who, because of economic or academic reasons, requires temporary special services and assistance in order to succeed in vocational education programs, including:

1.-3. (No change.)

4. Pupils who are dropouts from, or who are identified as potential dropouts from, secondary [school] **schools**.

"Act" means the Carl D. Perkins Vocational **and Applied Technology** Education Act, P.L. [98-524] **101-392**.

. . .

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"Career orientation education" means programs such as employment orientation, industrial arts/**technology education** and other programs which assist students to clarify career goals, explore career possibilities, develop employability skills and make the transition between school and work. Emphasis is on awareness of self, careers, technology, problem solving, consumerism and preparation for appropriate career and education-related decision making.

. . .

["Commission on Employment and Training" means the State commission established under P.L. 1989 c.295 to develop and assist in the implementation of a State employment and training policy with the goal of creating a coherent, integrated system of employment and training programs and services which, in concert with the efforts of the private sector, will provide each citizen of the State with equal access to the learning opportunities needed to attain and maintain high levels of productivity and earning power.]

. . .

"Handicapped individual" means a pupil who requires special education and related services and who cannot succeed in the regular vocational education [programs] **program** without special educational assistance.

. . .

["Local area vocational school district" means a school district which complies with the requirements set forth in N.J.A.C. 6:46-2.]

. . .

"State Council" means the New Jersey Council on Vocational Education established in accordance with the Carl D. Perkins Vocational **and Applied Technology** Education Act, P.L. [98-524] **101-392**.

"State Employment and Training Commission" means the State commission established under P.L.1989, c.295 to develop and assist in the implementation of a State employment and training policy with the goal of creating a coherent, integrated system of employment and training programs and services which, in concert with the efforts of the private sector, will provide each citizen of the State with equal access to the learning opportunities needed to attain and maintain high levels of productivity and earning power.

. . .

"Vocational education" means organized educational programs **offering a sequence of courses** which are directly related to the preparation of individuals for paid or unpaid employment in **current or emerging occupations in** such fields as agriculture/agribusiness, business occupations, health occupations, home economics, marketing occupations, technical occupations, and trade and industrial occupations or for additional preparation for a career in such fields and in other occupations requiring less than a baccalaureate or advanced degree. **Vocational education programs include competency-based applied learning which contributes to a pupil's academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, and the occupationally-specific skills necessary for economic independence as a productive and contributing member of society.** Vocational student organization activities are an integral part of the programs.

. . .

6:43-3.3 Advanced, skilled vocational and technical education

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

(c) An approved secondary trade and industrial education program is conducted a minimum of 600 minutes per week for three consecutive instructional periods per day and includes:

1. A minimum of 200 minutes of trade and industrial related instruction, including scientific principles and practices applicable to the occupation; and

2. 400 minutes of competency-based applied occupational training.

6:43-7.1 Establishing job placement standards

(a) (No change.)

(b) Prior to establishing minimum job placement standards, the Commissioner shall seek job market placement data recommendations from the [New Jersey Commission on] **State** Employment and Training **Commission**.

(c) (No change.)

6:43-8.1 Vocational education program review panel

(a) The Commissioner shall establish and appoint a review panel to be known as the Vocational Education Program Review Panel to assess the State's needs for programs based upon local, regional and [statewide] **Statewide** labor market supply and demand, to review requests for approval or disapproval of those programs not meeting job placement standards and to advise the Assistant Commissioner for Vocational Education of Statewide occupational supply and demand which could be used by district boards of education for planning purposes.

1. (No change.)

2. The Vocational Education Program Review Panel shall include three representatives from business and industry and one representative from each of the following:

i. The New Jersey Occupational Information Coordinating Committee;

ii. The New Jersey Department of Commerce **and Economic Development**;

iii. The New Jersey Department of Labor;

iv. The New Jersey Department of Higher Education;

v. County vocational schools;

[vi. Local area vocational school districts;]

[vii.]**vi.** Comprehensive high schools;

[viii.]**vii.** The Governor's Office of Management and Planning; [and]

[ix]**viii.** The [Commission on] **State** Employment and Training **Commission**[.]**; and**

ix. The New Jersey Department of Corrections.

(a)

STATE BOARD OF EDUCATION

Local Area Vocational School Districts

Proposed Amendment: N.J.A.C. 6:46-1.1

Proposed Repeal: N.J.A.C. 6:46-2

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

Authority: N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-16, 18A:4-24, 18A:4-25, 18A:7A-1 et seq., 18A:54-1 et seq., 18A:69-1, N.J.S.A. 34:1A-38 and P.L. 1990, c.52.

Proposal Number: PRN 1991-231.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:7A-1 et seq. and 18A:54-1 et seq., proposes repeal of the rules governing local area vocational school districts (LAVSDs). The rules contain definitions of words and phrases and govern the designation of comprehensive high school districts as LAVSDs. The designation as LAVSDs has enabled districts to become eligible for State categorical aid for vocational education programs. Categorical aid has been provided for full-time equivalent pupils enrolled in approved vocational programs in comprehensive high school districts designated as LAVSDs. To be eligible for such categorical aid, a comprehensive high school district has had to complete an application process for designation as an LAVSD and comply with criteria set forth in the rules now proposed for repeal. The rules are proposed for repeal because they are superseded by State legislation which eliminates categorical aid for local area vocational school districts. This statute, the Quality Education Act of 1990 (P.L. 1990, c.52), will become effective on July 1, 1991.

Definitions related specifically to LAVSDs are deleted because they are not pertinent to the remaining rules in N.J.A.C. 6:46 governing apprentice training, private vocational schools or correspondence schools. The definitions of vocational program areas applicable to LAVSDs and all other public schools which are deleted from this chapter were recodified in

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August 1990 at N.J.A.C. 6:43-1, Vocational and Technical Education Programs and Standards.

The State Board also proposes to rename the chapter "Private Vocational Schools."

N.J.A.C. 6:46 has been revised periodically since 1971. In 1987, this chapter, Area Vocational Technical and Private Schools, was renamed Local Area Vocational School Districts and Private Vocational Schools and readopted pursuant to Executive Order 66(1978), effective October 5, 1987, with amendments that completely revised the chapter, effective November 2, 1987. The chapter expires on October 5, 1992.

Social Impact

The proposed amendments and repeal will have a positive social impact on the public in that obsolete and no longer useful material will be eliminated from the code. The LAVSDs previously affected by the rules will have no reason to seek LAVSD designation since categorical aid will no longer be available.

Economic Impact

The repeal of the LAVSD portion of the rules will have no economic impact on district boards of education since that impact has already been predetermined by the Quality Education Act (P.L. 1990, c.52). The repeal of LAVSD language will not affect the funding obligation of the State under the Quality Education Act to these comprehensive high schools. The Act establishes a new formula for distributing State aid to district boards of education so that all districts will have adequate levels of State aid.

The Department may save a small sum by not having to reproduce unnecessary pages in the Code reprinting process.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments and repeals do not impose reporting, recordkeeping or other requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules now being proposed for repeal impact solely upon district boards of education which had formerly sought LAVSD designation and are governed by the New Jersey State Department of Education.

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

CHAPTER 46
[LOCAL AREA VOCATIONAL SCHOOL DISTRICTS AND]
PRIVATE VOCATIONAL SCHOOLS

6:46-1.1 Words and phrases defined

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

["Advisory committee" means a group of individuals, representing a specific occupational area, that advises on:

1. Current labor market needs;
2. The relevance of the course/program being offered;
3. The development of the course/program; and
4. The validation of the competencies offered in the course/program.

"Agriculture/agribusiness education" means a program of instruction that provides pupils with the skills and knowledge for entry-level employment in horticulture, production agriculture, agribusiness, agricultural processing, agricultural mechanics, natural resources and small animal care occupations.]

. . .

"Apprentice training" means a program of adult vocational education requiring a written training agreement between full-time paid apprentices and their apprentice sponsors. The program must include a component of related instruction which is coordinated by an individual who holds a current [vocational-technical coordinator; apprentice programs endorsement] **administrative certificate of Coordinator: Apprentice Programs.**

. . .

["Approved local vocational education" means vocational education for categorical aid purposes pursuant to N.J.S.A. 18A:7A-1 et seq. which is provided at schools which comply with the requirements set forth in N.J.A.C. 6:46-2.3.

"Approved categorical vocational programs" means those vocational programs offered at schools which comply with the requirements set forth in N.J.A.C. 6:46-2.3.

"Approved secondary school vocational education program" means a program of instruction that is conducted for a minimum of 600 minutes per week consisting of skills and related competencies necessary for the preparation of pupils for paid employment.

"Business education" means a program of instruction that provides pupils with the skills and knowledge needed for entry-level employment in a business career and the basic business skills and knowledge needed by all individuals in order to function effectively in our society.

"Combined pre-qualification assessment application" means an application provided by the Department for those school districts which have been previously designated as local area vocational school districts and are reapplying for such designation.]

. . .

["Cooperative vocational education program" means a method of instruction by which pupils who, through a written training agreement between the school and employers, receive on-the-job training and related vocational instruction, by the alternation of study in school with regularly scheduled part-time paid employment in an approved occupational field, and in which: the two educational experiences are planned and supervised by a teacher-coordinator who holds the appropriate teaching endorsement; the teacher-coordinator meets each pupil for related instruction a minimum of 200 minutes per week; and an average of 15 hours per week must be worked during the approved period of the program with approved cooperative vocational education program credits not exceeding 15 credits per year. Work periods and school attendance may be on alternate half-days, full-days weeks or other periods of time in fulfilling the cooperative vocational education program.

"County plan for vocational education" means the document developed under the direction of the county superintendent of schools which provides local and regional deliverers of vocational education programs and services with an assessment of the training needs for that county.

"County planning council" means a county-based council under the direction of the county superintendent of schools whose primary purpose is the development of a county plan for the delivery of vocational education based on identified local and regional needs.]

. . .

["Director of vocational education" means that individual who is appointed by a district board of education and responsible for the administration and supervision of approved local vocational education.

"Health occupations education" means a program of instruction that provides pupils with the skills and knowledge needed for entry-level employment in the health care industry, including skill development in direct patient care, health maintenance and supportive service occupations.

"Home economics and consumer education" means a program of instruction that provides pupils with the skills and knowledge needed for the occupation of homemaking and the skills and knowledge needed for entry-level paid employment in home economics-related occupations.]

. . .

["Job placement coordinator" means an individual who holds a New Jersey instructional certificate and assists pupils in relating their personal qualities, educational experiences and career goals to employment requirements and also assists pupils in obtaining full- or part-time employment.

"Local area vocational school district" means a school district which complies with the requirements set forth in N.J.A.C. 6:46-2.

"Marketing education" means a program of instruction that provides pupils with the skills and knowledge needed for entry-level employment in management, merchandising and marketing of goods and services.]

. . .

["Pre-qualification assessment" means the initial step in the process which a new applicant district must undertake when seeking

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designation by the State Board of Education as a local area vocational school district in order to be eligible for categorical aid under the provisions of N.J.S.A. 18A:7A-1 et seq.]

. . .

["Technical education" means a program of instruction that provides pupils with the skills and knowledge needed for entry-level employment and/or entry into post-high school education programs which require relatively complex and detailed information, considerable proficiency in mathematics and the extensive application of science. An approved secondary technical education program includes three years of college preparatory mathematics, two one-year laboratory science courses and a technical laboratory course which is conducted a minimum of 400 minutes per week for a period of not less than two years.

"Trade and industrial education" means a program of instruction that provides pupils with the skills and knowledge needed for entry-level employment in a specific trade or service occupation.]

. . .

["Vocational student organizations" means those organizations for pupils enrolled in vocational education programs which engage in activities as integral parts of the appropriate instructional programs. Such organizations have state and national units which complement the development of leadership and career-related competencies in vocational education at the local level.]

. . .

SUBCHAPTER 2. [LOCAL AREA VOCATIONAL SCHOOL DISTRICTS] **(RESERVED)**

[6:46-2.1 Significance of local area vocational school district designation

(a) To qualify for State categorical aid for approved local vocational education under N.J.S.A. 18A:7A-1 et seq., a school district must have School Board of Education designation as a local area vocational school district.

(b) Only districts that have met the conditions outlined in this chapter and are designated as local area vocational school districts may report full-time equivalent pupil enrollments on the Application for State School Aid for vocational categorical aid purposes. Business education pupils may be enrolled in a sequence of courses that total a minimum of 600 minutes per week in one academic year to be counted for vocational categorical aid.

(c) Except as otherwise provided by law, participation in approved local area vocational school district programs shall be limited to pupils residing within the boundaries of the designated district.

6:46-2.2 Application for procedure for designation as a local area vocational school district

(a) The process for seeking initial designation by the State Board of Education as a local area vocational school district shall be as follows:

1. A district board of education shall submit to the county superintendent of schools a completed pre-qualification assessment for each school seeking to provide approved local vocational education. The county superintendent of schools will review the pre-qualification assessment in consultation with advisory groups such as the county planning council to assess needs, program cost and effectiveness. The county superintendent will return the pre-qualification assessment together with his or her recommendations to the submitting district board of education.

2. A district board of education shall submit the recommendations of the county superintendent of schools to the commissioner who will issue the official Department application.

3. A district board of education shall submit the completed official application to the Department no later than January of the calendar year in which the district seeks initial designation. Vocational categorical aid is distributed the year after the designated district submits enrollments on the Application for State School Aid.

(b) The process for reapplying for designation by the State Board of Education as a local area vocational school district shall be as follows:

1. A district board of education shall submit to the county superintendent of schools a combined pre-qualification assessment application for each school seeking to provide approved local vocational education. The county superintendent of schools will review the combined pre-qualification assessment application in consultation with advisory groups such as the county planning council to assess needs, program costs and effectiveness. The county superintendent will return the combined pre-qualification assessment application together with his or her recommendations to the submitting board of education.

2. A district board of education shall submit the recommendations of the county superintendent of schools and the combined pre-qualification assessment application to the commissioner no later than six months before the expiration of the current designation period.

(c) A district board of education that is dissatisfied with the final action taken on their application may request an opportunity to be heard pursuant to N.J.A.C. 6:51-3.2.

6:46-2.3 Criteria for eligibility for designation as a local area vocational school district

(a) To qualify for designation as a local area vocational school district, at least one school within the district or more than one school facility, if recommended by the commissioner and approved by the State Board of Education, on the basis of demonstrated need, program cost and effectiveness, shall comply with all of the following requirements:

1. Demonstrate the need for the courses/programs by citing current data sources (within the last two years) such as: employment, labor market or pupil placement statistics, the county plan, community or local program assessment or other applicable research.

2. Operate a minimum of two approved secondary vocational education programs in at least three of the following five broad occupational areas: agriculture/agribusiness education, health occupations education, home economics and consumer education, marketing education and technical education.

3. Operate a minimum of five approved secondary vocational education programs in trade and industrial education.

4. Operate business education.

5. Provide, as part of the programs required in (a)2, 3 and 4 above, cooperative vocational education in every broad occupational area offered in (a)2, 3 and 4 above, except technical education.

6. Provide a full-time director of vocational education.

7. Provide a full-time job placement coordinator or the equivalent.

8. Operate the appropriate vocational student organization for every broad occupational area offered in (a)2, 3 and 4 above.

9. Provide appropriate opportunities for the enrollment of handicapped, disadvantaged and limited-English proficient pupils in addition to regularly enrolled students.

10. Operate an advisory committee for every broad occupational area offered in (a)2, 3 and 4 above.

(b) The commissioner may grant a one-year waiver for reasonable efforts in meeting requirements as set forth in this section upon written request, but only after the district has received designation as a local area vocational school district.

6:46-2.4 Duration of designation as a local area vocational school district

(a) Designation by the State Board of Education of a local area vocational school district shall expire five years from the date of the State Board resolution granting designation.

(b) Violations of these rules at any time during the designation period may be considered just cause for the revocation of the local area vocational school district designation.

(c) A district board of education may reapply for such designation as set forth in N.J.A.C. 6:46-2.2(b).]

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(a)

STATE BOARD OF EDUCATION

Administration and Organization of Vocational and Technical Education

Proposed Amendments: N.J.A.C. 6:51

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

Authority: N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-22, 18A:4-25 through 18A:4-27, 18A:4-32, 18A:4-34, 18A:6-9, 18A:7A-1 et seq., 18A:54-1 et seq., 18A:59-5 and P.L. 101-392.

Proposal Number: PRN 1991-233.

Submit written comments by June 5, 1991 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-22, 18A:4-25, 18A:4-26, 18A:4-27, 18A:4-32, 18A:4-34, 18A:6-9, 18A:7A-1 et seq., 18A:54-1 et seq., 18A-59-5 and P.L. 101-392, proposes amendments to the rules pertaining to the administration and organization of vocational and technical education programs and services. N.J.A.C. 6:51 was promulgated on September 1, 1969 pursuant to provisions of the State Plan for Vocational Education required under P.L. 90-576, Vocational Education Act Amendments of 1968, and N.J.S.A. 18A. The Office of Administrative Law has indicated that, since these rules were promulgated prior to 1978, they have no current expiration date and do not fall under the "sunset" provision of Executive Order No. 66 (1978). The Department of Education, in a recent examination of all such rules, has reviewed these rules and finds that they are necessary and, therefore, they should remain in effect with amendments as follows. The current rules govern authority for the administration and organization of New Jersey vocational and technical education, interagency agreements and local applications. Lesser revisions, clarifications of language and updated citations are proposed at N.J.A.C. 6:51-1.1, 1.2 and 1.3. Recodifications and minor revisions are being proposed for N.J.A.C. 6:51-1.8, 1.10 and 1.12.

The substantive provisions of the amendments are summarized as follows:

N.J.A.C. 6:51-1.4, County system of vocational and technical education, as proposed for amendment, specifies that the county vocational chief school administrator has responsibility, subject to the rules of the State Board and the Commissioner, for a county vocational and technical school district in those areas in which the county board of vocational education has direct oversight. N.J.A.C. 6:51-1.4 also clarifies that the county system includes day and evening programs identified as necessary by the county board as well as programs needed under provisions of P.L. 101-392, the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 and N.J.A.C. 6:43-8, Vocational Education Program and Course Approval.

Existing section N.J.A.C. 6:51-1.5, Administration in district area vocational technical schools, is proposed to be repealed because the rules govern local area vocational school districts (LAVSDs) established pursuant to N.J.A.C. 6:46-2.1 through 6:46-2.4, currently being proposed for repeal (see proposal elsewhere in this issue of the New Jersey Register). The LAVSD rules are deleted because they have been superseded by State legislation which eliminates categorical aid for LAVSDs and, therefore, the necessity of LAVSD designation. This statute, the Quality Education Act of 1990 (P.L. 1990, c.52), will become effective on July 1, 1991.

N.J.A.C. 6:51-1.5, as amended, recodified from N.J.A.C. 6:51-1.6, Administrative, instructional and educational services personnel, clarifies that such staff shall meet certification requirements as set forth in N.J.A.C. 6:11, Teacher Preparation and Certification.

Existing section N.J.A.C. 6:51-1.7, Ancillary service personnel, is repealed because the rules govern occupational titles which are not used for Department staff and for which specific certificates are not required.

Existing section N.J.A.C. 6:51-1.9, Postsecondary, administrative, supervisory and instructional personnel, is repealed because the Department has determined that the Assistant Commissioner for Vocational Education has not in the past reviewed qualifications of postsecondary personnel engaged in vocational programs.

N.J.A.C. 6:51-1.8, Program evaluation, recodified from N.J.A.C. 6:51-1.11, at amended paragraph (a)3, clarifies that district boards of education shall submit reports to the Commissioner on forms provided by the Department.

N.J.A.C. 6:51-1.8(a)5, as amended, requires that local evaluation reports describe program outcomes in measurable terms and specifies that the Department shall use evaluation data as criteria for continued funding support.

Existing N.J.A.C. 6:51-2.1, State employment service, is repealed because the rules have been superseded by Federal and State legislation requiring interagency agreements and cooperation in the provision of occupational supply and demand data and in the provision of information about occupational training opportunities. These statutes are the Federal Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (P.L. 101-392) and the State statute, P.L. 1989, c.295, which established the State Employment and Training Commission.

Existing N.J.A.C. 6:51-2.2, Handicapped and disadvantaged persons, is repealed because the rules have been recodified in more detail in N.J.A.C. 6:43-5, Vocational Education for Academically or Economically Limited or Handicapped Pupils, as adopted by the State Board of Education in August 1990.

Existing N.J.A.C. 6:51-2.3, Other states, is recodified as N.J.A.C. 6:51-2.1, Interagency agreements.

N.J.A.C. 6:51-3.1(a), Application procedures, at amended subsection (a), clarifies that district boards of education and other eligible agencies or institutions shall apply to the Department for grant funds on forms provided by the Department and pursuant to N.J.A.C. 6:43-8, Vocational Education Program and Course Approval.

N.J.A.C. 6:51-3.1, at amended subsection (c), clarifies that applications for grant funds shall be referred to the proper vocational or technical education program area committee for review.

N.J.A.C. 6:51-3.2, Opportunity for hearings on local applications, at amended subsection (a), clarifies that eligible agencies or institutions conducting vocational and technical education programs, as well as district boards of education, dissatisfied with final action on any application for funds shall have the opportunity for a hearing.

N.J.A.C. 6:51-3.2, at amended paragraph (a)5, clarifies that petitioners may appeal decisions of the Commissioner pursuant to N.J.A.C. 6:2, Appeals.

Social Impact

Amended N.J.A.C. 6:51 will have a beneficial social impact on the public in that the rules have been updated and clarified regarding the general administration and organization of vocational and technical education programs and services in the State. The deletion of unnecessary rules and recodified language will eliminate confusion on the part of the public.

Economic Impact

Implementation of the proposed amendments and repeals will have no adverse economic impact upon district boards of education, agencies or institutions. The clarifications concerning evaluation reporting requirements and application procedures will, to the contrary, provide for increased efficiency in Department operations and in tracking cost effectiveness of vocational grants. The repeal of rules pertaining to administration in area vocational technical schools which will operate as comprehensive high schools as of July 1, 1991 will have no adverse economic impact because categorical funds for vocational education programs will have already been discontinued pursuant to State legislation. The repeal of language pertaining to local area vocational school districts (LAVSDs) will not affect the funding obligation of the State under the Quality Education Act (P.L. 1990, c.52) to these comprehensive high schools. The Act establishes a new formula for the distribution of State aid to district boards of education so that all districts will have adequate levels of State aid.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment and repeals do not impose reporting, recordkeeping or other 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 district boards of education and on schools operated by the New Jersey State Department of Education.

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

SUBCHAPTER 1. AUTHORITY FOR ADMINISTRATION AND ORGANIZATION OF [NEW JERSEY] VOCATIONAL **AND TECHNICAL** EDUCATION

6:51-1.1 State Board for Vocational Education

(a) (No change.)

(b) The State Board is the sole agency responsible for the administration of the State Plan for Vocational **and Technical** Education in New Jersey and has all the necessary power to cooperate with the United States [Office] **Department** of Education in the administration of the State Plan. The State Board is empowered to supervise the administration of the State Plan by [local educational agencies] **district boards of education**.

6:51-1.2 Executive officer designation

(a) The Commissioner of Education is the chief executive and administrative officer of the Department of Education and the official agent of the State Board for all purposes. [The Commissioner of Education is appointed by the Governor by and with the consent of the Senate.]

(b) The State Director of Vocational Education in New Jersey or his **or her** duly designated representative is the Assistant Commissioner of Education in charge of the Division of Vocational Education[, State Department of Education]. The Assistant Commissioner of Education is directly responsible to the Commissioner for all vocational **and technical** education activities under the State Board. Specific responsibilities of the Assistant Commissioner include providing administrative and professional leadership for vocational **and technical** education, directing and coordinating the work of the Division of Vocational Education staff, maintaining an appropriate system of statistical and financial records and reports, and the performance of such other duties as may be necessary for the maintenance, [extension and] **expansion,** improvement**, modernization and development** of **quality** vocational **and technical** education **programs** in accordance with the State Plan and State Board policies.

6:51-1.3 Authority of State Board

The State Board, as the sole agency responsible for the administration of the State Plan for Vocational Education in New Jersey, shall do all that is appropriate in the administration of vocational **and technical** education programs and services**. The administration shall include** [to effect] **effective** cooperative arrangements between the State Board and other agencies and institutions [which relate to] **for the continuing improvement of** vocational **and technical** education **programs**.

6:51-1.4 County system of vocational **and** technical education

In a county system of vocational **and technical** education, the [administrator of vocational education] **county vocational school chief administrator** has complete responsibility**, subject to the rules of the State Board and the Commissioner,** for a county [system of] vocational **and technical school district** [education] in those areas in which the county board of vocational education has direct responsibilities. [He] **The county vocational school chief administrator** is directly responsible to a county board for vocational education. The county system shall embrace those day and evening programs of vocational education identified **by the county board** as needed, **as well as programs** pursuant to P.L. [90-576] **101-392 and N.J.A.C. 6:43-8, Vocational Education Program and Course Approval**.

[6:51-1.5 Administration in district area vocational technical schools

The administrator of a district area vocational technical school is responsible for the administration of a total educational program which shall include vocational education. Where a vocational education program is established which includes full-time preparatory classes in five or more occupational fields there shall be assigned a full-time director of vocational education.]

6:51-[1.6]**1.5** [Instructional] **Administrative, instructional and educational services** personnel

[Instructional personnel, including differentiated or supportive staff, if any, will be assigned responsibilities appropriate to their qualifications and the requirements of the vocational program. Instructional] **Administrative, instructional and educational service** personnel shall meet [the] certification requirements as [published by the State Department of Education] **set forth in N.J.A.C. 6:11, Teacher Preparation and Certification**.

[6:51-1.7 Ancillary service personnel

Ancillary service provided by the Division of Vocational Education and the local educational agency shall be provided by personnel whose titles include, but are not limited to, the following: vocational guidance, placement and follow-up specialists, research and evaluation specialists, curriculum specialists, teacher trainers, and others. Such personnel shall hold the appropriate certificate as published by the State Department of Education.]

6:51-[1.8]**1.6** Evaluation personnel

(a) Responsibility for program evaluation shall rest [upon] **with** the following personnel within various levels:

1. [Local] **District** level. Evaluation of programs shall be the responsibility of [local] **district** administrators, supervisors, teachers and/or other designated personnel within the [local educational agency] **district** who are qualified to evaluate vocational **and technical education** programs.

2. State level. The responsibility for evaluation of vocational **and technical** education programs is assigned to the Assistant Commissioner, Division of Vocational Education.

3. The State [Vocational Education Advisory] Council **on Vocational Education** shall conduct program evaluations in accordance with P.L. [90-576]**101-392**.

[6:51-1.9 Post-secondary, administrative, supervisory and instructional personnel

The qualifications for post-secondary, administrative, supervisory, instructional, and ancillary personnel engaged in vocational education programs under P.L. 90-576, are those which are reasonably related to the duties to be performed and consistent with educational and experience requirements of comparable positions. Qualifications of post-secondary personnel shall be available for annual review by the Assistant Commissioner.]

6:51-[1.10]**1.7** Review and modification of personnel qualification standards

The State Board is the legal authority responsible for establishing, reviewing and modifying certification requirements for administrative, [supervisory,] instructional and [ancillary] **educational services** personnel employed in public schools in the State **as set forth in N.J.A.C. 6:11, Teacher Preparation and Certification**. The Assistant Commissioner of Vocational Education shall periodically review the qualification standards of personnel engaged in vocational **and technical** education and submit to the State Board any recommendations for modifications or [revision] **revisions** of those standards which are not adequately meeting the **instructional** needs of vocational **and technical** education **programs** in the State or **which** are [consistent] **inconsistent** with the [changing nature of the vocational education] administration **of vocational and technical education** as mandated under P.L. [90-576]**101-392**.

6:51-[1.11]**1.8** Program evaluation

(a) State and local programs, services[,] and activities will be evaluated [periodically with sufficient extensiveness] **pursuant to State and Federal regulations in order** [to enable] **that** the State Board [to] **may** effectively carry out its functions and fulfill the [purpose] **purposes** of the Act [and], according to the following provisions:

1. The State Board shall give due consideration to evaluations made by the State [Vocational Education Advisory] Council **on Vocational Education** and such other evaluations conducted cooperatively by the staff of the Division of Vocational Education **and the Department**.

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2. The [State Board] **Department** or a [local educational agency] **district board of education** may contract with other agencies for the evaluation of vocational programs, services and activities.

3. Evaluation reports, whether under contract or conducted by the [local educational agency] **district board of education** for self-evaluation purposes, shall be submitted [when completed] to the [State Board] **Commissioner on forms provided by the Department** [describing the extent to which local program objectives were achieved].

4. Each project application submitted for approval shall contain the evaluative procedures employed to measure **objectives** and **to** assure as far as possible the effectiveness of the **proposed** [program] **programs**, services and activities [proposed].

5. Evaluation reports shall describe in measurable terms the extent to which local program objectives were achieved and evaluation data shall be used by the Department as criteria for continued funding support.

6:51-[1.12]**1.9** State reports

The State Board shall prepare and submit to the U.S. [Commissioner] **Secretary** of Education such reports as [he] may **be** [require] **required** under P.L. [90-576] **101-392**.

SUBCHAPTER 2. COOPERATIVE ARRANGEMENTS

[6:51-2.1 State employment service

Agreements between the State Board and the New Jersey Department of Labor and Industry, Division of Employment Security, provide that State Employment Offices will supply data on employment opportunities to the Division of Vocational Education and local educational agencies. State Employment Offices will refer persons in need of training to appropriate local educational agencies. Job opportunities will be made available, at frequent intervals, to students at local educational agencies.]

[6:51-2.2 Handicapped and disadvantaged persons

Provisions may be made for cooperative agreements with agencies responsible for the education of the handicapped and the disadvantaged. Agreements with agencies and groups will be established as needed.]

6:51-[2.3]**2.1** [Other states] **Interagency agreements**

The State Board may enter into cooperative relationships and agreements with other **agencies of State government in New Jersey and in other** states for the implementation of vocational **and technical** education programs.

SUBCHAPTER 3. LOCAL [APPLICATION] **APPLICATIONS**

6:51-3.1 Application procedures

(a) [In general, local educational agencies,] **District boards of education** and other **eligible** agencies or institutions conducting vocational **and technical** education programs desiring to participate in [the reimbursement or advance of funds] **grant programs** shall make application for funds**, pursuant to N.J.A.C. 6:43-8, Vocational Education Program and Course Approval,** to the [Assistant Commissioner of the Division of Vocational Education] **New Jersey State Department of Education on forms provided by the Department**.

(b) Applications from [local educational agencies] **district boards of education and other eligible recipients** to the [State Board] **Department** shall describe [in detail]:

1. The proposed programs, services and activities for which funds are requested and shall include the following:

i.-ii. (No change.)

iii. A [five-year] plan for meeting vocational/**technical** education needs of potential [students] **pupils** in the area or community to be served;

iv. (No change.)

v. Justification for items in the application and sources of financial support other than vocational/**technical** education funds;

vi.-vii. (No change.)

(c) [*Reviewing committee.*] The application [will] **shall** be referred to the proper **vocational or technical education program** area reviewing committee which [will] **shall** review and evaluate the application with due consideration to the following:

1. (No change.)

2. [Adequacy and competence] **Qualifications** of personnel designated to carry out the program or project;

3.-6. (No change.)

(d) [*Action on applications.* Program application shall be acted upon as follows: "approved", "disapproved", or "action deferred".] The applicant [will] **shall** be notified in writing within 60 days concerning the disposition of the application. If the application is approved, the award letter shall indicate the approved grant and conditions in accordance with State and Federal requirements and availability of State and/or Federal funds.

6:51-3.2 Opportunity for hearings on local applications

(a) The State Board assures that any [local educational agency] **district board of education and other eligible agency or institution conducting vocational and technical education programs** dissatisfied with final action on any applications for funds [under the Act] shall be given reasonable notice and opportunity for a hearing before the State Board or its officially designated officer. The procedures for formal hearing by the State Board shall conform to the following outline:

1.-2. (No change.)

3. Within a period of not more than 60 days following the hearing, the petitioner [will] **shall** be notified of the decision of the Assistant Commissioner.

4. If the petitioner is dissatisfied with the decision following the hearing, [he] **the petitioner** may request a formal hearing with the Commissioner [of Education] who is the State Board's officially designated officer of the Department of Education.

5. [If the] **Any** petitioner [is dissatisfied with] **may appeal** the decision of the Commissioner [of Education, he may appeal the decision by requesting a formal hearing with the State Board, who will render a final decision through the President of the State Board] **as set forth in N.J.A.C. 6:2, Appeals.**

HEALTH

(a)

ALCOHOLISM AND DRUG ABUSE

Good Drug Manufacturing Practices

Proposed New Rules: N.J.A.C. 8:21A

Take notice that the comment period for proposed new rules N.J.A.C. 8:21A, published in the October 15, 1990 issue of the New Jersey Register at 22 N.J.R. 3189(a), has been reopened. Copies of the text may be obtained from the Department of Health or from the Office of Administrative Law.

Submit comments by June 5, 1991 to:

Lucius A. Bowser, R.P., M.P.H., Chief
Office of Drug Control
Department of Health
CN 362
Trenton, New Jersey 08625

(b)

PUBLIC HEALTH COUNCIL

State Sanitary Code

Campgrounds

Proposed Readoption with Amendment: N.J.A.C. 8:22

Authorized By: New Jersey Public Health Council, Louise Chut, Ph.D., M.P.H., Chairperson.

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

Proposal Number: PRN 1991-246.

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A **public hearing** concerning this proposal will be held on June 10, 1991 at 1:30 P.M. at the following address:

New Jersey State Department of Health
First Floor Auditorium
John Fitch Plaza
Trenton, New Jersey 08625

Submit written comments by June 10, 1991 to:

Loel Muetter
Coordinator Health Projects III
Public Health Sanitation and Safety Program
New Jersey State Department of Health
CN 364
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:22 expires August 4, 1991. The New Jersey State Department of Health (hereafter, the Department) has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated and is proposing this readoption without change. However, a comprehensive review of these rules is currently under way by the Department and it is projected that by early winter of 1991, amendments which reflect the most current public health practices and applications will be proposed.

N.J.A.C. 8:22 pertain to construction, maintenance, and operation of all campgrounds. These rules, which were originally entitled "Recreational Sanitation," were filed and became effective prior to September 1, 1969. A revision of the original rules was proposed and adopted on January 26, 1977, which amended the occupancy limits of camping units. Revisions were again proposed and adopted on June 4, 1981. Many areas of public health concern formerly under the jurisdiction of the Department, such as water supplies, sewage disposal, plumbing, stream pollution, etc., were superseded by the transfer of certain duties, powers, and functions from the Commissioner of Health to the Commissioners of the Departments of Environmental Protection and Community Affairs, when these agencies were created. The revisions made at that time embodied the existing rules of these two departments pertaining to campground construction, maintenance, and operation.

N.J.A.C. 8:22 has provided minimum regulation of the safety and sanitary aspects of campgrounds. These rules have given local and State health officials a set of standards to determine facility compliance and have given the owners and operators of campgrounds a basis for meeting Departmental expectations regarding safety and sanitation.

Public comment is invited so that the Public Health Council and the Department can make a fully informed decision as to whether these rules should be readopted before they expire on August 4, 1991. An amendment is proposed to change the chapter heading from "General Sanitation" to the more descriptive "Campgrounds." The rules proposed for readoption are summarized as follows:

N.J.A.C. 8:22-1.1 requires all owners of campgrounds to comply with the provisions of this chapter and applicable local or State codes.

N.J.A.C. 8:22-1.2 mandates that any person who constructs or expands a campground shall have prior approval for the water supply and sewage disposal facilities from the local health authority and the Department of Environmental Protection.

N.J.A.C. 8:22-1.3 addresses the responsibility of any person desiring to construct or expand a campground to submit plans to the local health authority for review and comment.

N.J.A.C. 8:22-1.4 outlines the various divisions within the Department of Environmental Protection from which a campground owner must seek approval in order to construct water supply and sewage disposal facilities.

N.J.A.C. 8:22-1.5 requires that all permanent structures of campground conform to the provisions of the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.6 provides definitions of the technical terms used throughout the subchapter.

N.J.A.C. 8:22-1.7 states that each campground shall provide convenient access from the public highway.

N.J.A.C. 8:22-1.8 requires service roads to be located and constructed to permit safe movement of traffic.

N.J.A.C. 8:22-1.9 mandates that service roads and parking areas be maintained in a safe condition.

N.J.A.C. 8:22-1.10 requires that campsites shall be located at least 50 feet from a public highway and at least 10 feet from private property.

N.J.A.C. 8:22-1.11 pertains to the density of campsites in a campground. The maximum number of campsites shall not exceed 20 per acre. The minimum size of a campsite is 900 square feet.

N.J.A.C. 8:22-1.12 pertains to campsite layout with provisions that each campsite be well drained and that the natural features should be left intact, wherever practical.

N.J.A.C. 8:22-1.13 relates to occupancy of campsites and limits the density to 200 persons per acre. Permanent or semipermanent huts or other living room additions to camping units shall not be permitted.

N.J.A.C. 8:22-1.14 mandates that all advertising signs and lights shall be in compliance with the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.15 refers to the maximum occupancy of a campsite which shall not exceed 21 days during any 30 day period during the months of November through March, inclusive.

N.J.A.C. 8:22-1.16 requires that fireplaces be located in a safe location.

N.J.A.C. 8:22-1.17 pertains to the location, construction, and quality of the water supply.

N.J.A.C. 8:22-1.18 specifies water sampling frequencies of the potable water supply.

N.J.A.C. 8:22-1.19 provides sanitary requirements for the construction of hand pumps on wells.

N.J.A.C. 8:22-1.20 pertains to the sanitary connection between the camping units and potable water supply.

N.J.A.C. 8:22-1.21 refers to the construction of drinking fountains.

N.J.A.C. 8:22-1.22 provides requirements for the maintenance of toilet facilities.

N.J.A.C. 8:22-1.23 provides that structural requirements for fixtures within toilet facilities conform to the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.24 includes sanitary requirements for the construction and maintenance of privies and pit toilets.

N.J.A.C. 8:22-1.25 refers to sanitary requirements for showers and water closets.

N.J.A.C. 8:22-1.26 requires all plumbing to conform to the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.27 requires that the individual sewer connections for camping units conform to the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.28 requires that sewer lines conform to the rules and regulations of the Department of Environmental Protection.

N.J.A.C. 8:22-1.29 refers to sanitary requirements for a holding tank emptying station.

N.J.A.C. 8:22-1.30 addresses the approval process for the design and construction of sewage disposal facilities. Such facilities must conform to the rules of the Department of Environmental Protection.

N.J.A.C. 8:22-1.31 requires that storm water sewers be separate from any sanitary sewage disposal system.

N.J.A.C. 8:22-1.32 requires that solid waste storage, collection, and disposal be conducted in a sanitary manner.

N.J.A.C. 8:22-1.33 refers to the standards for solid waste containers.

N.J.A.C. 8:22-1.34 refers to the requirements for the location of solid waste containers within the campground.

N.J.A.C. 8:22-1.35 refers to the adequate storage capacity for solid waste containers within the campground.

N.J.A.C. 8:22-1.36 requires the cleaning and maintenance of solid waste containers in order to prevent odors and the breeding of insects.

N.J.A.C. 8:22-1.37 sets the minimum frequency for collection of solid waste at not less than twice a week.

N.J.A.C. 8:22-1.38 requires that the disposal of solid waste conform to the rules of the Department of Environmental Protection.

N.J.A.C. 8:22-1.39 requires that the operation of food establishments conform to the provisions of Chapter XII of the State Sanitary Code, N.J.A.C. 8:24. Also, structural aspects of all support buildings within the campground must conform to the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.40 contains general provisions for insect, rodent and weed control. This rule also makes reference to Department of Environmental Protection rules pertaining to use of pesticides.

N.J.A.C. 8:22-1.41 specifies that all electrical systems must conform to the New Jersey Uniform Construction Code.

N.J.A.C. 8:22-1.42 states that the storage of flammable liquids must conform to the standards of the New Jersey Uniform Construction Code and applicable subcodes and local ordinances.

N.J.A.C. 8:22-1.43 states that swimming pools must conform to the applicable State and local rules and ordinances governing their construc-

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tion and operation. Also, water quality standards for natural bathing waters are specified.

N.J.A.C. 8:22-1.44 explains the responsibilities of the owner of the campground regarding maintenance and sanitation.

N.J.A.C. 8:22-1.45 requires that a campground be under the supervision of a caretaker and specifies the responsibilities of the caretaker regarding maintenance and sanitation.

N.J.A.C. 8:22-1.46 explains the responsibilities of the camper regarding sanitation, fire safety, control of pets, and personal behavior.

Social Impact

These rules, once readopted, will continue to provide the State and local municipalities with reasonable standards to regulate the campground industry. Failure to readopt these rules would jeopardize the safety and health of the individuals utilizing the campgrounds within the State. The local health departments, which enforce these rules, would no longer be provided with a uniform code. The readoption of these rules would ensure that one set of comprehensive standards exists to protect the health and safety of the camping public.

Camping has become increasingly popular as a recreational pasttime in New Jersey and throughout the nation. Through the readoption of these rules, a regulatory mechanism will exist to ensure that New Jersey will continue to have clean and safe recreational areas to accommodate the growing tourism industry in our State.

Economic Impact

The Department foresees no change in the financial impact of N.J.A.C. 8:22. The chapter incorporates by reference the requirements of several other agencies regarding water supply, waste management, CAFRA, Pine Barrens, Wetlands, Stream Encroachment and the Uniform Construction Code. These requirements operate even in the absence of any rules promulgated by the Health Department regarding campgrounds. The requirements contained in N.J.A.C. 8:22 which are exclusive to that chapter generally involve the minimum size of campsites and the maximum density of the campground. These restrictions also restrict, in a sense, the profit which can be obtained from the leasing of campsites to the public; however, since the campgrounds charge varying rates, the actual costs of compliance cannot be determined specifically.

Each municipality or local jurisdiction's health officers inspect the campgrounds on the basis of these rules. If these rules did not exist, any requirements not contained in other rules (such as Pine Barrens or Wetlands rules, for example) would need to be enacted by the local governing body. This would entail processing costs. Additionally, the maintenance of an effective set of minimum Statewide standards is more readily and efficiently accomplished through the use of one standardized set of rules, as provided for in N.J.A.C. 8:22. The camping industry and the public would also be better served by having available Statewide standards.

Regulatory Flexibility Analysis

The rules in N.J.A.C. 8:22 regulate approximatley 130 privately-owned campgrounds, all of which can be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., many of which are concentrated in Cape May and Atlantic Counties, and approximately 17 publicly-owned campgrounds. The chapter proposed for readoption contains requirements on the campground owners and on the public in the areas of application for approval, swimming, maintenance of the site, noise, sanitation, construction, water supply, waste management and land use. As noted in the Economic Impact, the major costs associated with the operation of a campground arise from the requirements of other agencies' rules. The rules themselves do not require the campground owners to utilize any professional services, although they may choose to do so in the operation of their businesses. The rules may, to some extent, restrict the amount of profit which may be gained from the rental of camping space; however, the amounts cannot be determined specifically, due to the multiplicity of factors involved.

The Department believes that any differentiation in the rules which is based on business size would be inappropriate, since all the private campgrounds are small businesses, and any relaxation of the standards may impact adversely upon the public health and welfare.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:22.

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

CHAPTER 22
[GENERAL SANITATION] **CAMPGROUNDS**

(a)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING
OFFICE OF EMERGENCY MEDICAL SERVICES
Certification and Operation of Emergency Medical Technician-Defibrillation Programs
Proposed New Rules: N.J.A.C. 8:41A

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, State Department of Health
Authority: N.J.S.A. 26:1A-15 and 26:2K-39 et seq.
Proposal Number: PRN 1991-214.

Submit comments by June 5, 1991 to:
George Leggett, Chief Administrator
Office of Emergency Medical Services
New Jersey State Department of Health
CN 364
Trenton, NJ 08625-0364

The agency proposal follows:

Summary

The proposed new rules establish and define the Emergency Medical Technician-Defibrillation (EMT-D) program, as authorized by N.J.S.A. 26:2K-39 et seq. The rules provide standards for the establishment and operation of EMT-D programs and for training and certification of qualified EMT-D applicants. Further, the rules will allow specially trained emergency medical technicians to perform an advanced life support procedure which can be potentially lifesaving.

Many cases of prehospital cardiac arrest are the result of ventricular fibrillation (V-Fib). Studies show that there is an increased chance for surviving a prehospital cardiac arrest when cardiopulmonary resuscitation (CPR), followed by rapid defibrillation, is provided. Definitive management of cardiac arrest outside the hospital began in the early 1970s. Extensive research has been conducted over the past 10 years and has concluded that for patients found in ventricular fibrillation (55 to 60 percent of all prehospital cardiac arrest patients) prompt electrical defibrillation appears to be the key determinant of survival.

In 1980, the Journal of the American Medical Association reported the results of a study entitled, "Management of Out-of-Hospital Cardiac Arrest; Failure of Basic Emergency Medical Technician Services." The study concluded that, in sudden cardiac arrest, CPR and transportation to a hospital is ineffective. In communities that do not have paramedic services or rapid time to definitive care, defibrillation by EMTs is an option to improve survival from out-of-hospital cardiac arrest.

Currently, only authorized mobile intensive care units (MICUs) are permitted by law to perform defibrillation in the prehospital setting. By also allowing trained EMT-Ds to perform defibrillation at the local level, the time from cardiac arrest to definitive care may be significantly decreased. This enhancement can potentially decrease patient morbidity and mortality. The inclusion of the requirements for a project sponsor and a medical director assure that off-line medical control and followup is provided and that a minimum standard of care is maintained.

Social Impact

The majority of out-of-hospital cardiac arrests are associated with ventricular fibrillation for which early defibrillation is the most important single medical intervention. The sooner defibrillatory shocks can be delivered, the higher the likelihood of survival. Moreover, defibrillation, if delivered promptly enough, is sufficient therapy for ventricular fibrillation.

Numerous communities have trained and certified EMTs to provide defibrillatory shocks for out-of-hospital ventricular fibrillation. This is a logical approach to the problem of definitive care, because EMTs may be the first to respond, even where advanced life support will be required.

In 1985, Clinical Care Medicine reported on a significant study conducted by Eisenberg, Cummins, Hallstrom and Hearne, entitled, "Defibrillation by Emergency Medical Technicians." This study defined the

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relative contribution of EMT-D and paramedic services to cardiac arrest survival. Between 1981 and 1984, 325 cardiac arrests were studied. All arrest victims received at least one EMT-D shock before paramedic arrival. Of the 325 arrests, there were 80 hospital discharges. Of these 80 cases, 48 percent (38) achieved a perfusing rhythm from EMT-D, without further shocks by paramedics; 21 percent (17) achieved a temporary perfusing rhythm from EMTs, requiring further paramedic shocks; and 30 percent (24) did not respond to EMT-D and required paramedic "delivered" shocks. Only one case arrived in the emergency room without a perfusing rhythm after unsuccessful EMT-D and paramedic delivered shocks.

An EMT-D program has the ability to independently save lives without paramedic services, but higher survival rates are obtained when EMT-D and paramedic services are combined.

Economic Impact

Early defibrillation in patients who are experiencing a prehospital cardiac arrest caused by V-Fib can increase the survival rate of these victims. The use of EMT-Ds has the potential to prevent unnecessary deaths and to otherwise improve patient outcomes. By providing care more rapidly, patient viability may be enhanced, thereby reducing length of stay in the hospital and recuperative time.

Training is an essential component for the successful implementation of EMT-D. Training and evaluation must be short, effective and easy to obtain. Experience has shown that EMTs can be safely and effectively trained in as few as eight to 10 hours, including testing. To minimize the economic impact on the EMS providers, training will be short enough to be given to paid on-duty personnel. Volunteers will be able to be trained in one or two sessions. The total cost of each training program can be kept to a minimum by implementing a short, clear, concise initial training program, followed by eight hours of continuing education.

Cost of defibrillators ranges in price from approximately $5,000 for a basic device to approximately $10,000 for the defibrillator and its various optional components. Substantial savings may be available if agencies and project sponsors enter into cooperative efforts to purchase the defibrillators.

Regulatory Flexibility Analysis

The proposed new rules affect only those programs that choose to provide EMT-D services, of which all can be considered small businesses as the term is defined in the Regulatory Flexibility Analysis, N.J.S.A. 52:14B-16 et seq. The rules contain performance and equipment requirements for the operation of Emergency Medical Technician-Defibrillation programs and include documentation and other record-keeping requirements. Costs of compliance range from approximately $5,000 to approximately $10,000, depending upon the components selected by the program. The rules offer some flexibility, in that programs may choose from several different manufacturers and models of semi-automatic defibrillators. No professional services are required by the rules; however, the legislation establishing the EMT-D program requires the involvement of licensed physicians who act as medical directors of the programs.

The rules do not appear to be overly burdensome to organizations. Since all the regulated organizations are considered small businesses, differential requirements based on businesses size would not be appropriate.

Full text of the proposed new rules follows:

CHAPTER 41A
CERTIFICATION AND OPERATION OF EMERGENCY MEDICAL TECHNICIAN-DEFIBRILLATION PROGRAMS

SUBCHAPTER 1. GENERAL PROVISIONS

8:41A-1.1 Scope and applicability

These rules shall apply to agencies which utilize individuals certified at the level of EMT-D or individuals of higher training, including, but not limited to, paramedics and registered nurses, who are authorized to function as EMT-Ds under these rules.

8:41A-1.2 Definitions

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

"Advanced life support" means an advanced level of prehospital, inter-hospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care and other techniques and procedures authorized in writing by the Commissioner and which is provided by paramedics and/or mobile intensive care nurses on a mobile intensive care unit approved under provisions of N.J.S.A. 26:2K-7 et seq. and N.J.A.C. 8:41 et al.

"Agency" means an organization, including, but not limited to, volunteer first aid squads, fire departments, police departments and industry, which is staffed with trained and certified EMT-Ds and is equipped with a semi-automatic defibrillator to support the functions of an EMT-D program.

"Commissioner" means the Commissioner of the State Department of Health.

"Defibrillation" means the discharge of electrical current through the fibrillating myocardium for the purpose of restoring a perfusing cardiac rhythm.

"Department" means the New Jersey State Department of Health.

"Emergency Medical Technician-Ambulance (EMT-A)" means an individual trained and currently certified by the Commissioner, in accordance with the United States Department of Transportation EMT-A training course, as outlined in the standards established by the Federal Highway Safety Act of 1966 (amended), 23 U.S.C. 401 et seq., to deliver basic life support services, and who has completed the national standard curriculum, as published by the United States Department of Transportation for Emergency Medical Technician-Ambulance and who is affiliated with an emergency medical services organization.

"Emergency Medical Technician-Defibrillation (EMT-D)" means a currently certified Emergency Medical Technician, who has completed an approved training program and who is certified by the Commissioner to treat out-of-hospital cardiac arrest by semi-automatic defibrillation, in accordance with this chapter.

"Medical director" means a physician licensed in New Jersey who provides off-line medical direction to prehospital providers.

"Office of Emergency Medical Services" means the lead office within the Department which is responsible for monitoring and coordinating various aspects of New Jersey's emergency medical services system.

"Off line medical control" means medical direction provided to EMT-Ds by a medical director or his or her designee, in the training and support of EMT-Ds before and after defibrillations, but not necessarily providing direct medical control during an actual defibrillation.

"Project sponsor" means a licensed New Jersey hospital which has been approved by the Office of Emergency Medical Services to coordinate the activities of EMT-Ds.

"Protocol" means general standards for emergency medical services practice within the EMS system.

"Semi-automatic defibrillator" means a defibrillator:

1. Which will electronically detect the presence of ventricular fibrillation and rapid ventricular tachycardia;

2. Which requires the user to deliver an electrical countershock; and

3. Which is capable of continuous recording of the electrocardiogram and simultaneous recording of voice communications at the scene, and the production of event summaries.

"Standing orders" means medical orders authorized by the Commissioner to be used by EMT-Ds in the treatment of cardiac arrest due to ventricular fibrillation or pulseless ventricular tachycardia, and adopted from the American Heart Association Guidelines, Textbook of Advanced Coronary Life Support, 1987, incorporated herein by reference.

SUBCHAPTER 2. PROJECT ORGANIZATION

8:41A-2.1 Project approval requirements

No agency, group, organization, hospital or other entity shall serve as part of an EMT-D project, or engage in training of EMT-D personnel, unless approved and authorized by the Commissioner, pursuant to the requirements of this chapter.

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8:41A-2.2 Project sponsor requirements

(a) To be recognized as an EMT-D project sponsor, the following criteria shall be met and supporting documentation shall be submitted to the Department's Office of Emergency Medical Services:

1. The primary choice for an EMT-D project sponsor is a mobile intensive care (MICU) hospital, licensed pursuant to N.J.A.C. 8:43J.

2. If the MICU hospital chooses not to participate in EMT-D activities in its primary MICU service area, then the project sponsor shall be a hospital licensed pursuant to N.J.A.C. 8:43J, capable of caring for patients treated by the EMT-Ds, 24 hours-a-day.

3. The project sponsor shall provide a medical director who meets all requirements specified in N.J.A.C. 8:41A-2.3.

4. The project sponsor shall provide EMT-D training to all eligible individuals.

5. The project sponsor shall provide a letter of agreement to provide off-line medical control, quality assurance, continuing education and skills documentation to all EMT-Ds sponsored by the project and to maintain documentation and training files for all EMT-Ds sponsored by the project.

6. Each project sponsor shall permit authorized representatives from the Department to review call audio-tapes and reports and training documentation.

(b) The Department's Office of Emergency Medical Services shall receive applications from potential project sponsors, shall evaluate each application for compliance with the criteria in (a) above, and shall notify the applicant of approval or denial of its status as an EMT-D project sponsor. The applicant shall not undertake any EMT-D activities until approval is granted.

8:41A-2.3 Project medical director requirements

(a) The medical director shall:

1. Be licensed as a physician by the New Jersey Board of Medical Examiners, pursuant to N.J.A.C. 13:35.

2. Be on the staff of the project sponsor's hospital and actively involved in the delivery of emergency care or critical care; and

3. Maintain current Advanced Cardiac Life Support certification pursuant to the requirements of the American Heart Association.

(b) The roles and responsibilities of the medical director are as follows:

1. The medical director shall review and endorse agency applications to provide EMT-D service. This endorsement shall accompany each agency's application for approval to the Department.

2. The medical director shall insure that all training conducted by the project sponsor complies with the training program approved by the Department's Office of Emergency Medical Services.

3. The medical director, or his or her designee, shall forward a quarterly report to the Department's Office of Emergency Medical Services regarding EMT-D activity of the project sponsor, including call review documentation.

4. The medical director, or his or her designee, shall review all applications for admission to the EMT-D training program and approve all candidates, based on the criteria outlined in N.J.A.C. 8:41A-4.3.

5. The medical director, or his or her designee, shall conduct recertification training, as required by N.J.A.C. 8:41A-4.6.

6. The medical director shall advise the Department's Office of Emergency Medical Services whenever an EMT-D's authorization to practice in the project sponsor's area should be suspended for violations of N.J.A.C. 8:41A.

7. The medical director shall insure compliance with all medical standing orders and protocols, as approved by the Department's Office of Emergency Medical Services.

SUBCHAPTER 3. AGENCY APPROVAL AND OPERATION

8:41A-3.1 Agency approval and operation requirements

No agency, group, individual or entity shall operate as an EMT-D agency, or provide services of an EMT-D, without first obtaining approval from the Department's Office of Emergency Medical Services.

8:41A-3.2 Approval criteria

(a) No agency shall be approved as an EMT-D provider agency, unless the following criteria are met. Appropriate documentation shall be provided to the Department's Office of Emergency Medical Services, as required.

1. Each agency interested in applying for approval as an EMT-D provider shall send to the project sponsor hospital in its area:

i. A signed letter of agreement that:

(1) Each patient transported after defibrillation shall be accompanied by at least one EMT-D in the patient compartment of the vehicle. Staff of an approved mobile intensive care program are deemed to meet this requirement;

(2) It will abide by all rules, regulations and policies set forth in this chapter, and as promulgated by the Department and the project sponsor;

(3) EMT-D and advanced life support will be simultaneously dispatched for all potential EMT-D calls; and

(4) It shall maintain a vehicle capable of carrying the appropriate crew and equipment. If this vehicle is not capable of transporting the patient immediately after initial care has been provided, the applying agency shall submit documentation that such transport is immediately available.

ii. A completed application to become an EMT-D provider agency, which includes, but is not limited to:

(1) Agency identification (name, address, telephone);

(2) Service classification (public, volunteer, private);

(3) Staffing;

(4) Primary service area;

(5) Communication (dispatch and radio capability);

(6) Project affiliation (sponsoring agency and medical director);

(7) Verification of information; and

(8) Medical director's approval.

(b) The Department's Office of Emergency Medical Services shall receive applications for EMT-D agency approval from the project sponsor hospitals, shall evaluate each application for compliance with the criteria in (a) above, and shall notify each applicant and its corresponding project sponsor of approval or denial of its status as an EMT-D provider agency. The applicant agency shall not undertake any EMT-D activities until approval is granted.

8:41A-3.3 Required equipment

All vehicles used as EMT-D vehicles shall be equipped with a semi-automatic defibrillator, as outlined in the American Heart Association Guidelines and adopted from the Textbook of Advanced Coronary Life Support, 1987.

8:41A-3.4 Documentation/quality assurance

(a) All calls involving the defibrillation of a patient by an EMT-D shall be documented as follows:

1. At the conclusion of the call, the EMT-D shall complete a patient run report;

2. A dual channel tape recording of the event shall be made, labeled and forwarded to the project sponsor's medical director for review; and

3. An event summary shall be printed from the memory of the semi-automatic defibrillation device.

(b) The project medical director, or his or her designee, shall review all call documentation. The medical director shall address any discrepancies or deviation from protocols, and shall take corrective action.

(c) Documentation shall remain on file with the EMT-D project sponsor for a minimum of two years for audio tapes and seven years for run forms and defibrillation event summaries. The project sponsor shall present these items to authorized representatives of the Department for audit and review, as requested.

8:41A-3.5 Interface with advanced life support

The EMT-D program is not a substitute for the existing mobile intensive care unit system in New Jersey. It is designed to enhance the existing system. Any time a patient receives treatment from an EMT-D, the appropriate advanced life support services shall be requested and utilized, as per the local protocols of each MICU service area.

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8:41A-3.6 Advanced life support personnel as EMT-Ds

A staff member of a licensed mobile intensive care program may perform as an EMT-D, provided he or she has first obtained an orientation to the EMT-D program from the project sponsor's medical director.

SUBCHAPTER 4. TRAINING, CERTIFICATION AND CONTINUING EDUCATION

8:41A-4.1 Training, certification and continuing education approval requirements

No agency, group, individual or entity shall operate as an EMT-D training program, or engage in the training of EMT-Ds, without first obtaining the approval of the Department.

8:41A-4.2 Instructor qualifications/responsibilities

(a) All instructors in the EMT-D program shall be under the sponsorship of an approved EMT-D project sponsor and medical director and must be licensed or certified by the State of New Jersey as physicians, registered nurses and/or paramedics.

(b) All instructors in the EMT-D program shall be currently certified by the American Heart Association in Advanced Cardiac Life Support.

8:41A-4.3 Student qualifications

(a) Students desiring to enter an EMT-D training program must meet the following criteria:

1. Be, at a minimum, 18 years of age;
2. Be currently certified as an EMT-A by the Department;
3. Be currently certified in CPR to a professional rescuer status by either the American Heart Association or the American Red Cross;
4. Be affiliated with an approved EMT-D agency;
5. Have written approval to enter training from the project sponsor's medical director and the affiliated agency; and
6. Be physically capable of performing all basic life support and defibrillation skills, as outlined in the EMT-D curriculum.

8:41A-4.4 Curriculum development

(a) The Department's Office of Emergency Medical Services shall develop the curriculum for training EMT-Ds. The curriculum shall be consistent with the National Standards for EMT-D, as developed by the National Council of State Emergency Medical Services Training Coordinators, in care of the Council of State Governments, P.O. Box 11910, Iron Works Pike, Lexington, KY 40578 and the American Heart Association, National Center, 7320 Greenville Avenue, Dallas, TX 75231.

(b) The EMT-D curriculum shall include, but not be limited to:

1. Course introduction and required documentation;
2. Standing orders;
3. Use of the semi-automatic defibrillator;
4. Cardiac arrest and airway management;
5. Medical control;
6. Troubleshooting the semi-automatic defibrillator;
7. Small group practice;
8. Evaluation.

8:41A-4.5 Certification

(a) No person shall be certified as an EMT-D until the following criteria are met:

1. Completion of an approved EMT-D training program;
2. Successful completion of a written exam; and
3. Successful completion of a practical exam, as outlined in the EMT-D curriculum.

(b) Certification as an EMT-D shall be valid only as long as certification as an EMT-A is maintained.

(c) The certification of an EMT-D will not have an expiration date, but will be considered to be current as long as the requirements in N.J.A.C. 8:41A-4.6(a) are met. The certifications of those persons not meeting the requirements will lapse immediately.

8:41A-4.6 Recertification

(a) In order to be recertified, the EMT-D shall:

1. Maintain current EMT-A and CPR certifications;
2. Complete a minimum of eight hours of continuing education per year. This continuing education must relate to the EMT-D curriculum and does not include the time spent in annual CPR certification and/or the semi-annual performance/practical skills evaluation;
3. Successfully complete a semi-annual performance/practical skills evaluation, as conducted by the project medical director, or his or her designee;
4. Receive an annual recommendation from his/her EMT-D agency; and
5. Receive an annual recommendation from the EMT-D project sponsor's medical director.

(b) An EMT-D whose certification lapses shall regain certification by completing the recertification requirements given in (a) above and attending an update program conducted by the EMT-D project sponsor's medical director.

SUBCHAPTER 5. ENFORCEMENT

8:41A-5.1 Enforceability

The Department shall have the power to enforce the provisions of this chapter, in accordance with N.J.S.A. 26:2K-39 et seq.

8:41A-5.2 Penalties

Any person, agency, individual, or group which violates the provisions of this chapter shall be subject to the fines and penalties as set forth in N.J.S.A. 26:2K-44.

8:41A-5.3 Right to hearing

(a) Informal hearings may be held in cases where approvals or certifications may be suspended or revoked. At the conclusion of the informal hearing, any EMT-D who shall be subject to suspension or revocation shall be entitled to a formal hearing by the Department under the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Application shall be made to the Department for any hearing, and the plaintiff shall be entitled to bring legal representation to any informal or formal hearing.

HIGHER EDUCATION

(a)

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

Policy Governing New Jersey College Loans to Assist State Students (NJCLASS)

Proposed New Rules: N.J.A.C. 9:9-7

Authorized By: New Jersey Higher Education Assistance Authority, Philip Koebig, III, Chairman.

Authority: N.J.S.A. 18A:72-10

Proposal Number: PRN 1991-236.

Submit comments by June 5, 1991 to:

Brett Lief
Acting Administrative Practice Officer
Department of Higher Education
20 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Higher Education Assistance Authority (the Authority) is statutorily responsible for the creation and administration of student loan programs in New Jersey. The proposed new rules set forth the provisions of a new loan program, New Jersey College Loans to Assist State Students (NJCLASS), for New Jersey residents of moderate to middle income who have been underserved because of dwindling Federal financial aid for this income group. The NJCLASS loan program will make student loans available to New Jersey students who cannot obtain Federally guaranteed loans either because those loans are not available or because the student does not meet Federal program eligibility requirements.

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The proposed new rules set forth the terms and conditions under which an applicant may secure a NJCLASS loan. The provisions cover eligibility for applying for a loan; allowable minimum and maximum loan amounts available; application procedures; the administrative fee; interest rates; terms for repayment of the loan; conditions of deferment; and conditions of default on the loan.

Social Impact

Since there has been a substantial reduction in the amount of total student aid to middle-income families available from Federal programs since 1980, there is a need for a State program to offer State-sponsored student loans. Making these loans available to New Jersey residents will ensure a college education on at least a half-time basis for many middle-income students in the State.

Economic Impact

The proposed new loan program will assist middle-income students at both the undergraduate and graduate levels to pay the costs of going to a New Jersey college or university. Eligible students may borrow up to $5,000 per academic year and up to $25,000 total if they attend college at least half-time and are making satisfactory academic progress. However, students and/or parents may not borrow an amount which exceeds the student's estimated cost of attendance in a college degree or certificate program minus all the other financial assistance. In addition, students must have exhausted or been found ineligible for a Federal Stafford loan before applying for this loan.

As set forth at N.J.A.C. 9:9-7.5(a), a loan recipient is required to pay an administrative fee (not to exceed five percent of the total approved loan amount) to the New Jersey Higher Education Assistance Authority to offset administrative costs attached to NJCLASS.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new 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 proposed new rules set forth the criteria for a New Jersey resident to borrow money for a student's college expenses.

Full text of the proposed new rules follows:

SUBCHAPTER 7. POLICY GOVERNING NEW JERSEY COLLEGE LOANS TO ASSIST STATE STUDENTS (NJCLASS) PROGRAM

9:9-7.1 Definitions

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

"Adjusted gross income" means total family income less allowable State and Federal exemptions.

"Authority" means New Jersey Higher Education Assistance Authority.

"Eligible collegiate institution" or "school" or "college" means a college or university approved or licensed by the State Board of Higher Education and accredited by a regional accrediting association recognized by the Council on Postsecondary Accreditation and having a New Jersey cohort default rate of 20 percent or less.

"Lender" means New Jersey Higher Education Assistance Authority or its agent for the purposes of this program.

"Parent borrower" means a parent(s), spouse or legal guardian of a dependent undergraduate or graduate student.

"Student borrower" means an independent undergraduate or independent graduate student.

"NJCLASS" means the New Jersey College Loans to Assist State Students Loan Programs.

(b) Terms not defined in this section shall be defined in accordance with 34 CFR §682.200, including all subsequent amendments and supplements thereto.

9:9-7.2 Eligibility

(a) To be eligible for a NJCLASS loan, each applicant must:

1. Have an annual adjusted gross family income no greater than $85,000;

2. Be a permanent resident of New Jersey for at least six months prior to filing a NJCLASS application;

3. Not be in default on any student loan or had any prior student loan discharged due to disability or bankruptcy; and

4. Provide an acceptable co-signer if it is determined by the Authority that one is required.

(b) In addition to all of the requirements in (a) above, a student applicant or a student on whose behalf the parent is applying for a NJCLASS loan shall:

1. Have a high school diploma or a high school equivalency certificate;

2. Be enrolled or accepted for enrollment on at least a half-time basis in an eligible school;

3. If currently enrolled in an eligible school, be determined by the school to be making satisfactory academic progress in a degree or certificate program; and

4. Have exhausted or be ineligible for a Federal Stafford Loan.

9:9-7.3 Loan amounts

(a) The maximum amount a parent borrower may borrow for each student for each academic year is $5,000; the maximum amount a student borrower may borrow for each academic year is $5,000.

(b) The total aggregate amount borrowed by any one student or parent borrower on behalf of a student shall not exceed $25,000.

(c) The amount borrowed shall not exceed a student's estimated cost of attendance at the eligible school minus all other financial assistance received by the student for the academic period for which the loan is intended.

(d) The minimum amount which may be borrowed is $500.00.

9:9-7.4 Application procedure

(a) An applicant for a NJCLASS loan shall:

1. Complete the NJCLASS application and credit application. All parts of the application and credit application must be completed regardless of the applicant's age or marital status;

2. Submit the completed application to the eligible school the student attends or plans to attend for certification of enrollment and completion of the school section; and

3. Forward the application materials or request the school to forward these materials to the lender.

(b) Lender will process the application and the borrower and school will be notified of lender approval or disapproval.

(c) Lender will disburse loan funds to parent borrowers in one disbursement. Funds to a student borrower will be made jointly payable to the student and the eligible school, mailed directly to the school and may be multiply disbursed.

9:9-7.5 Administrative Fee

(a) A recipient of a NJCLASS loan shall be required to pay an administrative fee to the New Jersey Higher Education Assistance Authority not to exceed five percent of the total approved loan amount.

1. This fee shall be deducted from the loan proceeds.

2. For multiple disbursed loans, this fee will be deducted in equal installments, from each loan disbursement.

9:9-7.6 Interest

(a) The NJCLASS loan shall have a daily fixed simple annual interest rate. This rate shall be set by the Authority in June of each year and notice provided in the New Jersey Register.

(b) Interest on a NJCLASS loan shall begin to accrue at the time of the first loan disbursement.

(c) Borrower payment of interest is required to be paid no more frequently than quarterly during the student's in-school period.

9:9-7.7 Repayment of loan

(a) Lender shall provide borrower with a completed repayment Disclosure Statement detailing due dates of required payments at the time of the first loan disbursement.

(b) Payment of the interest to lender during the in-school period on a NJCLASS loan must begin within 60 days after the loan is disbursed.

(c) Payment of principal and interest shall begin within 60 days of a student's less than half-time enrollment, withdrawal or graduation at eligible institution.

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(d) The minimum acceptable monthly payment for all NJCLASS loans shall be $50.00.

(e) A NJCLASS loan must be repaid within 10 years from the due date of the first payment of principal and interest after less than half-time enrollment, withdrawal or graduation, excluding periods of authorized deferment.

(f) The borrower has the right to repay the entire loan or any portion of the loan at any time without penalty.

9:9-7.8 Deferments

Deferments under the NJCLASS Program shall be governed by the Federal Stafford Loan provisions concerning this area, 34 CFR §682.210, including all subsequent amendments and supplements thereto.

9:9-7.9 Default

(a) Default occurs when a borrower fails to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the lender finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided failure to repay persists for:

1. At least 180 days; or

2. At least 240 days during the student's in-school period when interest-only payments are required.

(b) Upon default, borrower is liable for the entire balance of the loan, and the Authority will notify credit bureaus of the default.

(c) Borrower shall pay all charges and other costs, including reasonable attorney fees, necessary for the collection of monies due on the loan as a consequence of the default.

CORRECTIONS

(a)

THE COMMISSIONER

Security and Control

Proposed Readoption with Amendments: N.J.A.C. 10A:3

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1991-225.

Submit comments by June 5, 1991 to:

Elaine W. Ballai, Esq.
Regulatory Officer, Standards Development Unit
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order 66(1978), N.J.A.C. 10A:3 expires on October 6, 1991. The Department of Corrections has reviewed these rules and, with the exception of amendments in subchapters 4, 5 and 9, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, and is therefore proposing them for readoption at this time.

Subchapter 1 provides the purpose and scope of the chapter, definitions of words and terms used and a list of forms that are used in the maintenance of security and control at correctional facilities.

Subchapter 2 is reserved.

Subchapter 3 provides the policies and procedures for the use of force by correction officers while on duty and while they are off-duty.

Subchapter 4 provides rules which specify the personnel within the Department of Corrections who are authorized to use personal firearms to exercise the law enforcement powers during off-duty hours, the requirements which must be met to be authorized to exercise such powers, and the guidelines for the use of deadly and non-deadly force while off-duty. A proposed amendment will add the title of Assistant Superintendent 3 Corrections at East Jersey State Prison to the list of titles of persons who may carry firearms while off-duty; will change the title of "Superintendent" to "Administrator" in N.J.A.C. 10A:3-4.1(b)9, 10 and 12; and will change the title of "Director" to "Superintendent III" in N.J.A.C. 10A:3-4.1(b)19.

Subchapter 5 provides rules which govern the search of inmates and facilities which inlcude the use of search plans, security devices and the collection of urine samples. A proposed amendment to N.J.A.C. 10A:3-5.7(e) changes the language from "No member of the opposite sex shall be present during strip searches and body cavity searches . . ." to "No member of the opposite sex shall participate in strip searches and body cavity searches . . ." A proposed amendment to N.J.A.C. 10A:3-5.10(b) specifies the minimum amount of urine which must be voided to provide an adequate sample for analysis.

Subchapter 6 provides the definition of contraband and provides procedures for the seizure and disposal of contraband.

Subchapter 7 provides procedures for the use of polygraph examinations.

Subchapter 8 provides for fingerprinting and photographing juvenile inmates.

Subchapter 9 provides procedures which govern the transportation of inmates. The proposed amendment within this subchapter deletes an incorrect citation (N.J.A.C. 10A:3-3.3) and substitutes the correct citation (N.J.A.C. 10A:3-3.6). Incorrect citations at N.J.A.C. 10A:3-4.1(a)1 and N.J.A.C. 10A:3-5.10(a) have also been corrected.

Subchapter 10 provides the procedures to be used when transferring inmates from satellite unit and community based programs.

Social Impact

The rules within Chapter 3 have been in effect as standards and as rules for some time, and these rules have served to govern the use of force by correction officers when they are on duty and when they are off duty, the searching of inmates and facilities to control and deter contraband, the use of polygraph examinations, the photographing and fingerprinting of juveniles and the transportation of inmates outside of the correctional facility and from one jurisdiction to another. These security and control measures have contributed to the safety of staff and inmates and the maintenance of the orderly operation of correctional facilities within the Department. Proposed readoption of this chapter with amendments is not expected to have any additional social impact on the Department of Corrections or the public at large.

Economic Impact

The proposed readoption of Chapter 3 with amendments should not result in any new economic impact because additional funding is not necessary to implement the requirements of the amendments.

The costs of meeting and maintaining the requirements and standards established by the readopted rules have been met by the Department through the established budget process with monies allocated by the State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do 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 rules impact on inmates and the New Jersey Department of Corrections, and have no effect on small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:3.

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

10A:3-4.1 Who may carry firearms while off-duty

(a) Firearms may be carried off-duty only by Department personnel holding the rank of Senior Correction Officer and higher who also meet the following requirements.

1. Have passed the firearms training course approved by the New Jersey State Police Training Commission, as set forth in N.J.S.A. [2C:39-6(5)] **2C:39-6j**;

2.-3. (No change.)

(b) Persons with the following Department of Corrections titles may be sworn as peace officers:

1.-2. (No change.)

3. East Jersey State Prison:

Administrator Prison Complex

Associate Administrator Prison Complex

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Assistant Superintendent 1, Corrections
Assistant Superintendent 3, Corrections
4.-8. (No change.)
9. Albert C. Wagner Youth Correctional Facility:
[Superintendent 1] **Administrator**, Corrections
Assistant Superintendent 1, Corrections
10. Mountainview Youth Correctional Facility:
[Superintendent 1] **Administrator**, Corrections
Assistant Superintendent 1, Corrections
11. (No change.)
12. Southern State Correctional Facility:
[Superintendent 1] **Administrator**, Corrections
Assistant Superintendent 1, Corrections
13.-18. (No change.)
19. Vroom Readjustment Unit:
[Director] **Superintendent III**
20.-21. (No change.)

10A:3-5.7 Strip searches
(a)-(d) (No change.)
(e) All pat searches, strip searches and body cavity searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person. The number of officers present shall be only that number reasonably necessary to provide security. No member of the opposite sex shall [be present during] **participate in** strip searches and body cavity searches except medical staff persons as set forth in (d) above, and as set forth in (g) below.
(f)-(g) (No change.)

10A:3-5.10 Collection, storage and analysis of urine samples
(a) Each time a urine specimen is collected for the reasons stated in N.J.A.C. 10A:3-[5.8(b)]**5.9(b)**, Form 172-I (Continuity of Evidence-Urine Specimen) shall be completed and submitted to the Internal Affairs Officer or the staff member responsible for maintaining custody of evidence.
(b) Urine samples taken from inmates shall be voided directly into an approved specimen bottle in the presence of at least one correction officer or staff member of the same sex as the inmate.
1. A minimum of 50 milliliters (two ounces) must be voided in order to provide an adequate sample.
Recodify existing 1.-2. as **2.-3.** (No change in text.)
(c)-(i) (No change.)

10A:3-9.12 Medical transportation
(a)-(b) (No change.)
(c) The use of mechanical restraints and equipment when transporting an inmate for hospitalization or treatment shall be governed by N.J.A.C. 10A:3-[3.3]**3.6** and the nature of the illness or injury.
(d) (No change.)

(a)

THE COMMISSIONER

Close Custody Units

Proposed Readoption with Amendments: N.J.A.C. 10A:5

Authorized By: William H. Fauver, Commissioner, Department of Corrections.
Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Proposal Number: PRN 1991-207.

Submit comments by June 5, 1991 to:
Elaine W. Ballai, Esq.
Regulatory Officer, Standards Development Unit
Department of Corrections
CN 863
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10A:5, Close Custody Units, expires on October 6, 1991. The Department of Corrections has reviewed these rules and, with the following exception, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated and is therefore proposing them for readoption at this time. Generally, the rules in Chapter 5 govern the operation of close custody units which are areas within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons. Amendments have been made to a section in subchapter 2 and a section in subchapter 3.

Subchapter 1 provides the purpose and scope of the chapter, definitions of words and terms used and a list of forms that are required by the rules within the chapter.

Subchapter 2 provides the rules which govern the referral of inmates for placement in the Management Control Unit (M.C.U.), the composition and responsibilities of the Management Control Unit Review Committee, the criteria for assigning inmates to M.C.U., procedures for the conduct of Management Control Unit Review Committee (M.C.U.R.C.) hearings, the review of the cases of inmates placed in M.C.U., the physical requirements for the Management Control Unit and the services provided within this unit. A proposed amendment modifies N.J.A.C. 10A:5-2.8(b) to change the amount of time within which an inmate is entitled to a hearing following placement in M.C.U. from five working days to 10 working days in cases when an inmate is placed into M.C.U. prior to a hearing. The Department of Corrections is proposing this amendment in order to permit sufficient time for the completion of the Internal Affairs Unit investigation, and for the preparation and serving of all required documents related to the Management Control Unit Placement Hearing.

Subchapter 3 provides the rules which govern the admission of an inmate to Administrative Segregation, the review of his or her case, the release of an inmate from Administrative Segregation, the physical requirements for Administrative Segregation Units and the services that are provided within these units. The proposed amendment modifies N.J.A.C. 10A:5-3.1(a) to replace the word "confirmation" with the word "review" indicating that the administrative segregation part of a sanction, at the Edna Mahan Correctional Facility for Women, would be referred by the Disciplinary Hearing Officer to Institutional Classification Committee for review at the committee meeting. The Department of Corrections is proposing this amendment in order to clarify the role of the Institutional Classification Committee, at the Edna Mahan Correctional Facility for Women, when the cases of inmates with administrative segregation sanctions are referred to the committee.

Subchapter 4 provides the rules which govern the placement of inmates in the Capital Sentence Unit and the services that are provided within this unit.

Subchapter 5 provides the rules which govern the admission of an inmate to voluntary protective custody and involuntary protective custody, the hearing and appeal procedures for involuntary protective custody, the review of the cases of inmates who are in protective custody, the release of an inmate from protective custody, the physical requirements for protective custody units and the services provided in these units.

Subchapter 6 provides rules which govern the admission of inmates to transitional protective custody, the program and services provided in the Transitional Protective Custody Unit, the review of cases of inmates assigned to this unit and the transfer of inmates from the Transitional Protective Custody Unit to the general population of a correctional facility.

Social Impact

The use of Close Custody Units has proven useful in the maintenance of discipline and safety in the adult correctional facilities to which these rules apply. The timely readoption of these rules provides for the uninterrupted operation of the close custody units in the fair, appropriate and successful manner established by the Department.

The proposed amendment to N.J.A.C. 10A:5-2.8(b), extending the time within which an inmate must be afforded a Management Control Unit Hearing from five working days to 10 working days, will benefit both the inmate and the institution. This extension will provide the inmate more time to plan and gather the information which he may feel is needed to explain his position. At the same time, the extension will provide the institution more time to gather information in order to present a more in-depth and complete set of facts on which to base its decision. Thus the quality and due process afforded at the hearing will be enhanced.

Economic Impact

Correctional facilities receive the financial resources for their operations by utilizing the State budgetary process. Correctional facilities with close custody units operate these units within the financial resources that are allotted to these facilities. The proposed readoption with amendments

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will have no economic impact because additional funding is not necessary to implement or maintain the proposed readoption and amendments.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do 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 readoption impacts on inmates and the New Jersey Department of Corrections, and has no effect on small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:5.

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

10A:5-2.8 Use of Prehearing Management Control Unit prior to the Management Control Unit Review Committee (M.C.U.R.C.) meeting

(a) (No change.)

(b) The inmate shall be entitled to a hearing within [five] **10** working days following his placement into Prehearing M.C.U.

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

10A:5-3.1 Admission to Non-Vroom administrative segregation

(a) Whenever the Disciplinary Hearing Officer imposes a sanction at the Edna Mahan Correctional Facility for Women which includes administrative segregation, the administrative segregation part of the sanction shall be referred by the Disciplinary Hearing Officer to the Institutional Classification Committee (I.C.C.) for [confirmation] **review** at the Committee's next regularly scheduled meeting.

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

(a)

THE COMMISSIONER

Classification Process

Restoration of Forfeited Commutation Time

Proposed Amendment: N.J.A.C. 10A:9-5.5

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1991-208.

Submit comments by June 5, 1991 to:
Elaine W. Ballai, Esq.
Regulatory Officer, Standards Development Unit
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will modify N.J.A.C. 10A:9-5.5 to permit an inmate, who has forfeited commutation time as a result of a disciplinary charge and will reach the expiration of his or her maximum sentence in the third year after the loss of commutation time and has been free of disciplinary charges for both the first and second years, to have the commutation credits which he or she could earn in the third year restored, on a prorated basis, at the discretion of the Superintendent. N.J.A.C. 10A:9-5.5 currently permits only inmates who receive parole dates in the third charge free year, after the forfeiture of commutation time, to have commutation credits they could earn in the third year restored on a prorated basis.

Social Impact

The proposed amendment will provide the inmate who has forfeited commutation time and has been free of disciplinary charges for two years after the forfeiture of commutation time and will reach the expiration of his or her maximum sentence in the third year, the same opportunity to have commutation time restored as the inmate in similar circumstances who will receive a parole date in the third year. The restoration of forfeited commutation time to inmates approaching the expiration of their sentences will result in an earlier release for these inmates and the creation of some additional bed space for the admission of offenders who have received State sentences and are housed in county correctional facilities. The proposed amendment, however, will result in an earlier release for only a small number of inmates because most inmates are paroled before they reach their maximum sentences. The adoption of this amendment may result in an easing of tensions, especially for the inmates approaching the expiration of their maximum sentences, and thereby serve as an incentive for good behavior. Negative reaction for the proposed amendment is not anticipated from inmates or the public at large.

Economic Impact

Counties receive from the Department of Corrections a per diem rate for housing State sentenced inmates in their correctional facilities. Upon adoption of the proposed amendment, it is likely that a small number of inmates will be able to be released early and thereby create bed space which would be available for offenders housed in county correctional facilities awaiting transfer to Department of Corrections facilities. The transfer of State sentenced inmates from county correctional facilities will not provide a saving of per diem costs for the Department of Corrections because the continuous flow of State sentenced inmates from the courts provide an immediate replacement for any inmate who is transferred to a Department of Corrections facility. The costs of housing inmates in county correctional facilities provide a continuous source of income to the counties, but the economic impact of this proposed amendment on the income counties receive from the Department of Corrections will be insignificant. The per diem costs that are received by counties for housing State sentenced inmates are provided by the approval of appropriation requests by the Department of Corrections utilizing the established State budgetary process.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed 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 inmates, counties and the New Jersey Department of Corrections and has no effect on small businesses.

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

10A:9-5.5 Restoration of forfeited commutation time

(a) (No change.)

(b) An inmate who receives a parole date **or will reach the expiration of his or her maximum sentence,** at any point in the third one year period and has been charge free during both the first and second one year periods may, at the discretion of the Superintendent, have the commutation credits which [he or she] **the inmate** could earn in the third year period restored on a prorated basis.

1. A grant of credits on a prorated basis is applicable only when the parole date **or expiration of maximum sentence** falls in the third one year period and only where the inmate has had 50 percent of the forfeited credits already restored.

2. (No change.)

(c) Any inmate who feels that he or she meets the qualifications for restoration must submit an application for restoration of commutation credits to the Institutional Classification Committee (I.C.C.) for consideration at the appropriate time intervals. The I.C.C. will not act unless an inmate submits an application. A recommendation on restoration shall be made in accordance with this subchapter by the I.C.C. and forwarded to the Superintendent, who shall then order the restoration.

Example: An inmate commits a disciplinary infraction on June 30, [1979] **1987**. The sanction imposed includes a forfeiture of 160 commutation credits. The inmate receives no findings of guilty through the disciplinary process between June 30, [1979] **1987** and June 30, [1980] **1988**. [He,] **The inmate,** therefore, has 40 credits restored on June 30, [1980] **1988**. [He] **The inmate** is again free of guilty findings from June 30, [1980] **1988** through June 30, [1981] **1989** and [receives] **has** another 40 **credits restored**. [He] **The inmate** is to be paroled **or will reach the expiration of his or her maximum sentence** on March 30, [1982] **1990**. Thus, he **or she** will only serve nine months (or ¾) of the third year. The Superintendent, in his or her discretion, may restore 75 percent of **the** 40 credits or 30 credits as of March 30, [1982] **1990**.

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INSURANCE

(a)

DIVISION OF FRAUD

Automobile Physical Damage Insurance Inspection Procedures

Proposed Amendments: N.J.A.C. 11:3-36.2, 36.4, 36.5, 36.6 and 36.7

Proposed New Rule: N.J.A.C. 11:3-36.11

Authorized By: Samuel F. Fortunato, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:33B-33.

Proposal Number: PRN 1991-254.

Submit comments by June 5, 1991 to:
Verice M. Mason, Assistant Commissioner
Department of Insurance
Legislative and Regulatory Affairs
20 West State Street
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

On January 25, 1991, the Department of Insurance ("Department") adopted its concurrent reproposed rules N.J.A.C. 11:3-36 (see 23 N.J.R. 579(a)). These rules were effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 54:14B-4(a) as implemented by N.J.A.C. 1:30-4.5), except for changes upon adoption which were effective on publication (see N.J.A.C. 1:30-4.3). These rules establish procedures for the inspection of an automobile by the insurer prior to the issuance of physical damage insurance coverage. In the Department's continuing review of its insurance inspection procedures, it recognized the need to delay the implementation of these rules in order for insurers to amend their current policy language (see 23 N.J.R. 1132(c)). Upon the Department's examination of this issue, it recognized the need to achieve a level of continuity between procedures used by insurers in this region. Since the New York regulation provided the foundation for the Department's procedures, the Department believes it is desirable to incorporate several aspects of the New York regulation in order to facilitate the implementation of these rules by many insurers which do business in both states. Therefore, the Department proposes amendments to its inspection procedures.

The Department's proposed amendment to the definition of an authorized representative (N.J.A.C. 11:3-36.2), clarifies that an authorized representative may be located inside or outside of this State. The Department also provides a definition for a "nonowned automobile" and a "temporary substitute automobile."

The Department's proposed amendments to N.J.A.C. 11:3-36.4 no longer requires an insured to provide documentation of a new car at the time of application or within seven days thereafter. The Department's proposed amendments to N.J.A.C. 11:3-36.4 permit an insurer to waive a mandatory inspection when the insured automobile is insured under a commercially rated policy which insures five or more automobiles (instead of 10 or more automobiles). The Department's proposed amendments to this rule also permits an insurer to waive an inspection if the named insured has been continuously insured for automobile insurance with the same insurer for at least four policy years. Additionally, the Department's proposed amendment will permit an insurer to waive an inspection if the individual insured's coverage is being transferred by an independent insurance agent to a new insurer and the previous insurer provides the new insurer with a copy of the inspection report.

The Department's proposed amendment to N.J.A.C. 11:3-36.5(a) addresses the deferral of inspections. This section permits an insurer upon an insured's request for coverage to defer the mandatory inspection for seven calendar days. The Department's proposed amendment permit an insurer to defer a mandatory inspection on new business. These rules further permit an insurer to provide the insured with the same type and level of physical damage coverage which covered the replaced automobile, without a request for coverage by the insured. These rules permit insurers to provide insureds with automatic physical damage coverage for three days including the day on which the automobile is acquired. The Department's proposed amendment provides that when an insurer receives a request for coverage by telephone the name of the person giving the inspection notice must be included in the insurer's file on the insured. These rules provide procedures for the deferral of renewal inspections and renewal inspection notice requirements. The following are examples of how the deferral procedures operate.

Example 1:

For a new car, under a new policy, upon an insured's request for coverage, an insurer may waive a mandatory inspection or conduct an inspection. When an insurer waives a mandatory inspection, the insured must provide documentation 60 days prior to the next policy renewal date; if no documentation is submitted, the insurer shall require an inspection on renewal.

Example 2:

For a new car, which is an additional car on a current policy, upon an insured's request for coverage, an insurer may waive a mandatory inspection or conduct an inspection. If an insurer decides to conduct an inspection, the insurer may defer the mandatory inspection for seven days. Once an insurer decides to waive an inspection, the insured must provide documentation 60 days prior to the next policy renewal date. If no documentation is submitted, the insurer shall require an inspection on renewal.

Example 3:

For a new car, which is a replacement automobile under a current policy, upon an insured's request for coverage, an insurer follows the same procedure under Example 2.

Example 4:

For a new car, which is a replacement automobile under a current policy for which there has been physical damage coverage for at least the 12-month period preceding the replacement date, the insurer may provide the insured with the same type and level of physical damage coverage for three days without a request for coverage. The insured still must notify the insurer before the three day period ends. The insurer then decides to either waive the mandatory inspection or conduct an inspection. If an insurer decides to waive the inspection, the insured must provide documentation 60 days prior to the next policy renewal date.

The Department's proposed amendment to N.J.A.C. 11:3-36.6 include standards and procedures for the inspection of an additional or replacement automobile acquired outside of New Jersey and which will be located outside of New Jersey until after the expiration of the deferral period. The rule also provides similar procedures for when an automobile is to be inspected upon renewal and the automobile will be temporarily located outside of the State.

The Department's proposed amendment to N.J.A.C. 11:3-36.7(e) prevents an insurer from suspending physical damage coverage on a new automobile due to an insured's failure to provide the appropriate documentation within seven days. The amendment requires an insurer to condition payment of a physical damage claim upon receipt of the documents by the insurer. These rules require an insurer to inspect an automobile on renewal if the appropriate documentation is not received at least 60 days prior to the next policy renewal date.

The Department's proposed amendment to N.J.A.C. 11:3-36.7(f) includes procedures for the suspension of physical damage coverage if an insured fails to have the automobile inspected prior to the expiration of the deferral period for renewal inspections. These rules also provide procedures to address the insurer's failure to mail or deliver inspection notices.

The Department's proposed new rule N.J.A.C. 11:3-36.11 provides insurers with language that may be used to amend automobile insurance policies.

Social Impact

The proposed new rule and amendments are designed to improve the physical damage insurance inspection system which curtails fraudulent physical damage claims.

The proposed new rule and amendments will affect all New Jersey insureds who have or will obtain physical damage insurance coverage on their automobile(s). The proposed new rule and amendments will affect insureds who may have to make their automobile available for inspection on renewal as well as insureds who may purchase a new automobile or have been continuously insured with the same insurer for four or more years.

The proposed new rule and amendments affect insurers in that it provides procedures for insurers to follow in deferring a mandatory inspection for additional or replacement automobiles as well as new

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business and renewal business. The proposed amendments provide insurers with additional authority to waive inspections.

Economic Impact

The Department expects the proposed new rule and amendments to improve the physical damage inspection system and further help stabilize premiums on physical coverage. The Department expects that some insurers may incur some costs as a result of the proposed new rule and amendments, but the Department believes that these costs will be offset by the cost savings resulting from a system that more closely parallels that of a neighboring state and ultimately balanced a reduction in fraudulent claims. The proposed new rule does not require insurers to hire additional personnel to implement the proposed amendments.

Regulatory Flexibility Analysis

The proposed new rule imposes 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. The endorsement set forth in the rule, or a similar one approved by the Department, must be added to policies providing automobile physical damage coverage. The proposed amendments provide minor changes, as described in the Summary, in a system already mandated by prior rules. These amendments should reduce costs of compliance for all insurers.

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 need the requirements of the Act, no differentation in requirements based upon business size can be provided.

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

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 **other than the insured, whether located inside or outside of this State**.

. . .

"Nonowned automobile" means a private passenger automobile in the possession of the insured or being operated by the insured which is neither owned by nor furnished for the regular use of either the named insured or any relative (as defined in the policy), other than a temporary substitute automobile.

. . .

"Temporary substitute automobile" means any private passenger automobile not owned by the insured, while temporarily used with the permission of the owner as a substitute for an owned automobile, when the latter is withdrawn from normal use because of breakdown, repair, servicing, loss or destruction.

11:3-36.4 Waivers of mandatory inspection

(a) 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 or within seven days thereafter] with the following:

i.-iii. (No change.)

2.-3. (No change.)

4. When the insured automobile is insured under a commercially rated policy which insures [10] **five** or more automobiles;

5. (No change.)

[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;]

Recodify existing 7. and 8. as **6. and 7.** (No change in text).

8. When the named insured has been continuously insured for automobile insurance with the same insurer, or an affiliate of the insurer, for four or more policy years.

9. Where an individual insured's coverage is being transferred by an independent insurance agent to a new insurer and the previous insurer provides the new insurer with a copy of the inspection report.

i. If the new insurer does not receive a copy of the inspection report 60 days prior to the first annual renewal date, the insurer, upon renewal of the automobile physical damage insurance, shall require a physical inspection in accordance with N.J.A.C. 11:3-36.5.

(b) and (c) (No change.)

11:3-36.5 Deferral of inspections

(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.] **the mandatory inspection required by N.J.A.C. 11:3-36.3 for seven calendar days following the effective date of coverage, upon an insured's requests for coverage for automobile physical damage insurance on an additional or replacement automobile.**

(b) An insurer may defer the mandatory inspection under any of the following circumstances:

1. On new business for seven calendar days following the effective date of coverage; and

2. On replacement automobiles, an insurer may provide the same type and level of physical damage coverage which covered the replaced automobile, without a request for coverage by the insured. Such automatic coverage prior to the insured's request for coverage shall be for a period of three days, including the day on which the automobile is acquired. The three-day period shall be extended by one day for each Saturday, Sunday or any New Jersey State legal holiday falling within the period. The insurer's election shall apply only to automobiles replacing covered automobiles which were insured by the insurer for physical damage coverage for at least the 12-month period preceding the replacement date and such election once made shall apply to all the insurer's private passenger automobile insurance. An insurer which makes an election pursuant to this clause shall file an appropriate policy endorsement with the Commissioner and furnish a copy of such endorsement to all of it insureds who have physical damage coverage.

[1.]**(c)** When an inspection is deferred pursuant to (a) **or (b)** above, the insurer or producer shall:

[i.]**1.** At the time the insurance application is completed, obtain the Acknowledgment 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.]**2.** At the time the 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. **Documentation of such verbal notices shall include the name of the person giving the notice.**

[2.]**(d)** In addition to the notice requirements set forth in [(a)1i] **(c)1** and [ii] **2** 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.]**1.** The insurer shall retain documentation of the required notice **in (c) above** in the insurer's file on the insured.

(e) When an insurer requires an insured's automobile to be inspected as a condition for any annual renewal of physical damage coverage, the insurer shall provide notice and coverage as follows:

1. Whenever a renewal of physical damage coverage is conditioned upon inspection, the insurer shall mail or deliver a written Notice of Insurance Inspection (Appendix B) to the insured at least 30 days prior to the renewal date. The insurer's file on the insured shall reflect the mailing of such notice.

2. If the insured has not responded to the Notice of Insurance Inspection, the insurer shall, at least 10 days prior to the expiration of the above 30-day deferral period, mail a second Notice of Insurance Inspection to the insured, to the producer of record, and any lienholders, restating that failure to have the automobile inspected prior to the expiration of the deferral period will result in suspension of physical

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damage coverage. A certificate of mailing of the second notice to the insured shall be retained by the insurer. The insurer shall assist the insured in arranging a convenient appointment for the required inspection. The written notice of the inspection requirement shall clearly inform the insured of the failure to comply with the inspection requirement will result in the suspension of automobile physical damage coverage. The notice shall also state that a copy of the inspection report will be given to the insured.

[(b)]**(f)** (No change in text).

11:3-36.6 Standards and procedures for inspection

(a) (No change.)

(b) If the insured acquires an additional or replacement automobile outside of New Jersey, and such automobile will be located outside New Jersey until after the expiration of the deferral period required by N.J.A.C. 11:3-36.5, 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.

(c) If the insured automobile required to be inspected upon renewal is temporarily located outside of New Jersey when the required notice of inspection is mailed to the insured, and such automobile will continue to be located outside of New Jersey until the expiration of the deferral period by N.J.A.C. 11:3-36.5, the insurer shall arrange to conduct the inspection by an authorized representative before the expiration of the deferral period at a place which shall not be more than 50 miles from the temporary location.

Recodify existing (b) and (c) as **(d) and (e)** (No change to text.)

[(d)]**(f)** The insurer shall utilize authorized representatives and systems to implement the provisions of this subchapter which meet the following standards:

1.-3. (No change.)

4. Takes photographs as required in [(c)]**(e)**2 through 3 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)] **(j)** below;

6.-9. (No change.)

Recodify existing (e)-(j) as **(g)-(l)** (No change to text.)

11:3-36.7 Suspension of physical damage coverages

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

(e) Physical damage coverage on a new automobile shall **not** be suspended **during the term of the policy** due to the insured's failure to provide the documents required by N.J.A.C. 11:3-36.4(a)1 [within seven calendar days. A reinstatement of physical damage coverage shall be effective upon inspection].

1. Payment of a physical damage claim shall be conditioned upon the receipt of such document(s) by the insurer. No physical damage claim occurring after the effective date of coverage shall be payable until the document(s) are provided to the insurer.

2. If the above document(s) are not submitted by the insured 60 days prior to the next policy renewal date, the insurer shall require an inspection upon renewal.

(f) For renewal inspections, if the insured fails to have the insured automobile inspected before the expiration of the 30-calendar day deferral period required by N.J.A.C. 11:3-36.5(e)1, physical damage coverage on the insured automobile shall be suspended effective at 12:01 A.M. on the day following the last day of the deferral and suspension shall continue until such inspection is effected. The insurer, however, must reinstate coverage for automobile physical damage if the insured thereafter completes the inspection. Any such reinstatement shall be effective at the time of the inspection and, for the purposes of this subchapter, shall not be considered new business.

1. If the insurer fails to mail or deliver the initial written notice of inspection to the insured in the accordance with N.J.A.C. 11:3-36.5(e), it shall, nevertheless, give written notice of the inspection requirement, and automobile physical damage coverage shall continue without the required inspection past the renewal date for up to 30 days from the same of the delayed notice.

2. An insurer shall make every effort to conduct a renewal inspection in advance of the normal inspection period for such risk, in order to mitigate any hardship to the insured which would otherwise result.

3. If an automobile is not inspected due to the fault of the insurer, physical damage coverage on the automobile shall not lapse.

11:3-36.11 Required amendatory endorsements

(a) For all policies providing automobile physical damage coverage issued on or after June 1, 1991, or renewed on or after July 1, 1991, insurers may adopt any one of the following procedures:

1. Amend the policy by adding thereto the endorsements as set out in (c) below, which may include the option set forth in (d) below and which is hereby deemed approved upon filing with the Department;

2. Submit for Department approval the insurer's own similar endorsement; or

3. Submit for Department approval the insurer's basic policy form incorporating the substance of the endorsements set out in (c) below, which may include the option set forth in (d) below.

(b) An insurer which adopts any of the above procedures may subsequently submit filings under any of the other procedures.

(c) The required endorsement is as follows: New Jersey Mandatory Inspection Endorsement for Physical Damage Coverage. Notwithstanding any conflicting provisions contained in the automobile physical damage coverage of this policy, it is agreed that the following conditions are added:

1. The company or its authorized representative has the right to inspect any private passenger automobile, including a nonowned automobile, insured or intended to be insured under this policy before physical damage coverage shall be effective.

2. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile.

3. When an inspection is required by the company the insured shall cooperate and make the automobile available for the inspection.

(d) Insurers which elect to provide physical damage coverage for a replacement automobile for three days without an insured's request for coverage in accordance with N.J.A.C. 11:3-36.5 may substitute the following provision for item 2 in the endorsement in (c) above:

1. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile. However, this provision does not apply to a replacement private passenger automobile, for a period of three days, including the day on which the automobile is acquired, if:

i. The automobile is acquired during the policy period; and

ii. There was Physical Damage Coverage on the vehicle replaced for at least the 12-month period preceding the replacement date.

(1) The three-day period in paragraph 1 above shall be extended by one day for each Saturday, Sunday or New Jersey State holiday falling within the three-day period.

(a)

DIVISION OF ACTUARIAL SERVICES

Minimum Standards for Medicare Supplement Coverage

Proposed Amendments: N.J.A.C. 11:4-16.6 and 16.8; 11:4-23.1 through 23.10

Proposed New Rules: N.J.A.C. 11:4-23.7, 23.9, 23.10, 23.13, 23.14, 23.15 and 23.16

Authorized By: Samuel F. Fortunato, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22A-1 et seq., 17:23A-1 et seq., 17:35C-1 et seq., 17:48-1 et seq., 17:48A-1 et seq., 17:48E-1 et seq., 17B:26-1 et seq., 17B:26A-1 et seq., 17B:27-26 et seq. and 17B:30-1 et seq.

Proposal Number: PRN 1991-253.

Submit comments by June 5, 1991 to:

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

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The agency proposal follows:

Summary

These proposed amendments and new rules are intended to effectuate the purpose of the Medicare Catastrophic Coverage Repeal Act of 1989 ("MCCRA"), P.L. 101-234, and those sections of the Medicare Catastrophic Coverage Act of 1988 ("MCCA"), P.L. 100-360, which were not repealed by the MCCRA. These proposed amendments and new rules substantially incorporate the provisions of the model Medicare supplement minimum standards regulation developed by the National Association of Insurance Commissioners ("NAIC") and adopted December 7, 1989 in accordance with the requirements of the MCCA and the MCCRA. The model regulation developed by the NAIC represents the Federal standards for Medicare supplement policies by way of reference in 42 U.S.C. 1395ss(m).

One of the most significant aspects of the Federal legislation is the emphasis on consumer protection issues. The legislation indicates the Federal government's awareness of and desire to stem consumer problems in this specific line of insurance. The NAIC has developed model provisions to facilitate increased monitoring and general regulation of problem areas, including the development of (1) standards for producer compensation to inhibit the practice of churning policies; (2) standards for marketing which are intended to inhibit deceptive marketing and sales techniques; (3) standards by which to determine whether a purchase of coverage is in the individual's best interest, or is excessive and abusive; (4) requirements for companies to report multiple sales of policies to one individual; and (5) prohibitions against the use of preexisting conditions or waiting periods in replacement coverage. These proposed new rules and amendments incorporate all of the NAIC provisions related to the points stated above, as well as other provisions of the NAIC regulation.

In addition to complying with the Federal requirements for maintenance of an approved Medicare supplement regulatory program, the Department of Insurance is also attempting to centralize the rules for Medicare supplement products in N.J.A.C. 11:4-23 by removing most references to Medicare supplement standards from N.J.A.C. 11:4-16 as a means of simplifying administration of the rules. Two subchapters were traditionally utilized because of subtle and not-so-subtle differences previously permitted between individual and group policies. These differences have disappeared over the last several years, reducing the need for, or desirability of, two separate subchapters in addressing Medicare Supplement minimum standards. N.J.A.C. 11:4-23 is intended to be the primary source of regulation of Medicare supplement policies contracts or certificate issued in this State, regardless of the type of insurer involved, and regardless of whether the product is intended for group or individual coverage.

The Department is not proposing the repeal of the Medicare Supplement Minimum Standards Transition Rules for 1990, set forth at N.J.A.C. 11:4-25. A repeal of this subchapter may occur at a future date. The Department is of the opinion that there are no conflicts between the rules of N.J.A.C. 11:4-25 or the proposed amendments and new rules of N.J.A.C. 11:4-23; therefore, a repeal of N.J.A.C. 11:4-25 is not necessitated at this time.

Proposed amendments to N.J.A.C. 11:4-16.6 reference the minimum standards requirements of N.J.A.C. 11:4-23. The benefit standards and certain other relevant requirements contained in N.J.A.C. 11:4-16.6(j) are proposed for deletion.

Proposed amendments to N.J.A.C. 11:4-16.8 reference the disclosure requirements and prescribed formats of N.J.A.C. 11:4-23.11. It is proposed that the parallel standards of N.J.A.C. 11:4-16.8(a)15 be deleted.

Proposed amendments to N.J.A.C. 11:4-16.8(n) are intended to update the limited benefit policy outline of coverage form to correctly reflect current Medicare benefits and deductible and copayment requirements.

N.J.A.C. 11:4-23.1 sets forth the purpose of the subchapter. Proposed amendments alter certain language choices, but do not alter the context of the rule.

N.J.A.C. 11:4-23.2 sets forth the applicability and scope of the rules. In accordance with the proposed amendments, the rules of subchapter 23 are applicable to policies and contracts issued out-of-State if a certificate of the out-of-State policy or contract has been delivered or issued for delivery in New Jersey.

N.J.A.C. 11:4-23.3 sets forth the definitions applicable for the subchapter. Several definitions have been added for sake of clarity. The definition of "Medicare supplement policy" has been amended to remove an exclusion which had previously been provided to group conversion policies.

N.J.A.C. 11:4-23.4 sets forth certain terms and definitions which apply to policies, when and where the terms are used. A definition is proposed for "totally disabled."

N.J.A.C. 11:4-23.5 sets forth certain contractual provisions and restrictions which are prohibited. It is proposed that no policy may refer to itself as a Medicare supplement or Medigap policy unless it complies with this State's minimum benefit standards.

N.J.A.C. 11:4-23.6 sets forth the minimum benefit requirements for Medicare supplement policies. It is proposed that certain notice requirements be moved from N.J.A.C. 11:4-23.6 to N.J.A.C 11:4-23.11. The Department is also proposing that forms for riders and endorsements be filed 30 days prior to the effective date of Medicare benefit changes, rather than 45 days subsequent to the change. Additionally, there are proposed amendments regarding replacements or conversions of group contracts, transition benefit requirements and standard benefits for Medicare supplement policies.

N.J.A.C. 11:4-23.7 sets forth certain standards for claims payment, including a provision that insurers comply with Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

N.J.A.C. 11:4-23.8 provides for loss ratio standards and rate filing requirements for Medicare supplement policies.

N.J.A.C. 11:4-23.9 establishes filing requirements for out-of-State group policies.

N.J.A.C. 11:4-23.10 establishes restrictions on the compensation arrangements for producers.

N.J.A.C. 11:4-23.11 sets forth the required disclosure provisions for Medicare supplement policies. This rule includes standards for outlines of coverage, a buyer's guidebook and notice requirements to be provided prior to the effective date of Medicare benefit changes.

N.J.A.C. 11:4-23.12 sets forth the requirements for application forms and notices for replacement coverage. It is proposed that application forms contain questions to discern whether the applicant is already covered by another policy or eligible for another form of assistance, such as Medicaid. These questions are intended to avoid unnecessary and unwise duplicative purchases of coverage.

N.J.A.C. 11:4-23.13 establishes filing requirements for submission of advertising materials used or intended for use by insurers.

N.J.A.C. 11:4-23.14 establishes requirements for the monitoring of marketing practices. Additionally, this proposed new rule sets forth certain practices which are prohibited in New Jersey.

N.J.A.C. 11:4-23.15 requires agents to make a reasonable effort to determine the appropriateness of any sale of Medicare supplement insurance.

N.J.A.C. 11:4-23.16 requires insurers to report annually on any individual who has more than one policy with the insurer.

N.J.A.C. 11:4-23.17 provides for the rules to be severable.

Social Impact

The primary goal of the proposed new rules and rule amendments is to increase consumer protection by discouraging the sale of multiple policies to individuals who do not need additional policies and who may not be able to afford them. Although some education may be required to teach certain consumers that additional policies do not necessarily equal additional benefits, the impact for most consumers is expected to be positive.

The impact upon producers may not be as positive. These proposed new rules and rule amendments add significant social responsibilities to the producer's role, while restricting compensation arrangements. The Department does not expect that these new rules and amendments will cause any producer to stop servicing the Medicare supplement market, but recognizes that many producers may be less enthusiastic than previously.

The Department anticipates that with the proposed new rules and amendments and their subsequent adoption, there will be encouragement for expansion of the market. The Department recognizes that its approach to Medicare supplement products has created the impression among insurers that New Jersey is a hostile market for this line of business, and as a result choices in the market have become more and more limited. The Department expects that as it becomes more mainstream on the consumer and loss ratio issues that insurers will again write Medicare supplement coverage in New Jersey.

Economic Impact

The economic impact is not entirely clear. Producer's compensation arrangements will be restricted, and may create economic disincentives for some producers. The full impact for any specific producer will depend

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upon the arrangement that existed between the agency and insurer prior to the time these proposed new rules and amendments become effective.

Insurers can expect to incur additional costs for Medicare supplement products as a result of these new rules and amendments. These additional costs are likely to stem from annual reports on policyholders and claims practices, development of auditable marketing practices, and changes in application forms and replacement forms. Additional economic impact may result from restrictions on pre-existing condition exclusions, waiting periods, probationary periods and other similar provisions. However, restrictions on compensation arrangements will have a positive economic impact for some insurers, because generally it means lower commissions and fewer fringe benefits, such as bonuses.

Some insureds may see an increase in their premiums, but the Department does not expect that premium increases will be uniform across insurers, or that all insurers will seek them. The Department expects to incur some increase in costs for storage of filed advertising material, but anticipates that other costs inherent in the proposed new rules and rule amendments will be absorbed by current resources.

Regulatory Flexibility Analysis

The proposed new rules and rule amendments do impose new and additional recordkeeping and reporting requirements on both agents and insurers. Insurers are required to develop and implement auditable marketing practices, file advertising materials with the Department, and report annually on multiple policy sales to policyholders. In addition to the foregoing requirements, out-of-State insurers not previously subject to New Jersey law will be required to comply with this State's form filing requirements and loss ratio reporting requirements.

Agents are required to maintain records of specific transactions with their Medicare-eligible clients, developing a retrievable paper trail. Agents must record various coverages sold to a Medicare-eligible client, indicating whether such coverage is still in force. Agents must also document the assistance provided to a client and the agent's believe that coverage sold to the client was appropriate. Although the additional recordkeeping and reporting requirements are rather extensive, the Department assumes that most, if not all, of the new requirements reflect extensions of current insurer and agent practices, and therefore will not require the insurer or agent to employ additional or out-of-house professional services which the insurer or agent would not have otherwise have utilized (For example, marketing consultants).

Furthermore, these new rules and amendments may have an economic impact upon certain entities which are "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While the Department is not aware of any insurer writing Medicare supplement coverage which qualifies as a small business, the Department believes many of the agencies involved are small businesses. These agencies will be impacted, probably adversely, by the restrictions on producer compensation. These agencies will also incur some costs, which may be more than nominal, in complying with the recordkeeping requirements imposed by the proposed new rules and rule amendments.

However, it is the Department's opinion that in order for the proposed new rules and rule amendments to be effective, no differences in treatment between larger and small businesses can be implemented realistically. Moreover, these proposed new rules and rule amendments are substantially based upon Federal rules, which do not provide for exemptions or other special treatment for any specific business entity. The Department is obligated to incorporate rules which are at least as stringent as the Federal rules in order to retain certification of its Medicare supplement regulatory program. Exemptions for small businesses would contravene the stringency requirement.

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

11:4-16.6 Minimum standards for benefits

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

(c) General rules include the following:

1. All policies, except short-term nonrenewable policies, **Medicare supplement policies** and as otherwise provided in this paragraph, shall provide that the policyholder shall have the right to return the policy within 10 days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. With respect to **Medicare supplement policies and** policies issued pursuant to direct response solicitation, the policy shall provide that the policyholder shall have the right to return the policy within [thirty] **30** days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

2.-22. (No change.)

(d)-(i) (No change.)

(j) "Medicare supplement coverage" is a health insurance policy sold to a Medicare eligible person, which is designed primarily to supplement Medicare, or is advertised, marketed, or otherwise purported to be a supplement to Medicare and which meets the [following] minimum benefit standards and **other requirements set forth in N.J.A.C. 11:4-23.** [rules:

1. Policies issued prior to January 1, 1989 shall include:

i. Coverage of the Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

ii. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges to the extent not covered by Medicare during use of Medicare's lifetime hospital inpatient reserve days;

iii. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare for an additional period of not less than 365 days;

iv. Coverage of Part A Medicare eligible expenses for skilled nursing facility confinement to the extent not covered by Medicare from the 21st day through the 100th day in any Medicare benefit period; and

v. Coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of $200.00 of such expenses and to a maximum calendar year benefit of at least $5,000.

2. Policies issued on or after January 1, 1989 shall provide coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of $200.00 of such expenses and to a maximum calendar year benefit of at least $5,000.

3. Medicare supplement coverage shall comply with the following:

i. Medicare supplement coverage shall not be subject to any exclusions, limitations, or reductions (other than as permitted in this section and other applicable laws and regulations) which are not consistent with the exclusions, limitations, or reductions permissible under Medicare, other than a provision that coverage is not provided for any expenses to the extent of any benefit available to the insured person under Medicare;

ii. Medicare supplement coverage shall not indemnify losses resulting from sickness on a different basis than losses resulting from accidents;

iii. Medicare supplement coverage shall provide that benefits designed to cover the cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount, copayment percentage factors, and out-of-pocket maximums;

iv. Terms used in Medicare supplement coverage shall be defined at least as favorably as the corresponding Medicare terms;

v. Notwithstanding N.J.A.C. 11:4-16.4(a)3 and 16.5(j) and (1), preexisting condition limitations shall not exclude coverage for more than six months after the effective date of coverage under the policy for a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of the coverage;

vi. The term "Medicare eligible expenses" shall mean health care expenses of the kind covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

vii. At least 30 days prior to the effective dates of any Medicare benefit changes, notice shall be provided to New Jersey insureds describing the revisions to the Medicare program and the resulting modifications made to the Medicare supplement coverage to eliminate duplication of Medicare benefits, as required by N.J.A.C. 11:4-16.5(d);

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viii. The notices mandated by (j)3vii above shall be in the format set forth in the Appendix to subchapters 16 and 23 of this chapter, Exhibit C (Notice of Changes in Medicare and Your Medicare Supplement Coverage), which is incorporated herein as part of this rule. Notices shall not contain or be accompanied by any solicitation. No modifications shall be made to an existing Medicare supplement policy when the notices are sent except those necessary to eliminate duplication of Medicare benefits;

ix. Existing Medicare supplement policies shall be appropriately amended or endorsed to eliminate benefit duplications with Medicare which are caused by Medicare benefit changes. Any riders or endorsements shall specify the benefits deleted, or shall otherwise result in a clear description of the Medicare supplement benefits provided by the policy. Such riders or endorsements shall be submitted to the Commissioner for filing within 45 days after the effective dates of Medicare benefit changes;

x. Appropriate premium adjustments for existing Medicare supplement policies shall be made to reflect the benefit changes required by the Medicare Catastrophic Coverage Act of 1988. The revised rates shall produce loss ratios at least equal to those originally anticipated. The premium rates and supporting documentation required by N.J.A.C. 11:4-18.4 shall be submitted to the Commissioner for filing within 45 days after the effective dates of Medicare benefit changes specified in the Act. Rate revisions to reflect any other required Medicare benefit changes may be made; and

xi. Premium reductions resulting from benefit changes required by the Medicare Catastrophic Coverage Act of 1988 shall be made in the form of premium refunds or premium credits no later than 60 days after the effective date of Medicare benefit changes.]

(k) (No change.)

11:4-16.8 Required disclosure provisions

(a) General disclosure requirements are as follows:

1.-9. (No change.)

10. All policies, except short-term nonrenewable policies, **Medicare supplement policies** and as otherwise provided in this paragraph, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within 10 days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. With respect to **Medicare supplement policies and** policies issued pursuant to a direct response solicitation, the policy shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within 30 days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

11.-13. (No change.)

14. An informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare, shall be furnished by each insurer to each such Medicare eligible person in connection with the purchase of a health insurance policy, other than a short-term nonrenewal policy, **regardless of whether the policy purchased is advertised, solicited or issued as a Medicare supplement policy meeting the requirements of N.J.A.C. 11:4-23.** The full text of the approved guide appears as an Appendix to subchapters 16 and 23 of this chapter, Exhibit A, and is entitled "Bridging the Medicare Gaps: A Guide to Medicare Supplements."

15. To ensure uniformity in the content, form and printing of the guide **specified in (a)14 above**, each insurer shall comply with the [following] requirements **of N.J.A.C. 11:4-23.11.**[:

i. Insurers or their printers shall use only the printing negatives authorized by the Department of Insurance. Information concerning the purchase of the negatives is available from the Department of Insurance, Division of Public Affairs;

ii. The guide shall be printed according to the following specifications:

(1) The size of the pages shall be 7 x 10 inches;

(2) The guide shall be printed in two colors, black and PMS 321;

(3) The inside pages of the guide shall be printed on 70 pound dull Centura or approved equal;

(4) The cover of the guide is to be printed on 8 pt. Champion Kromekote cover, coated two sides;

(5) The cover shall be die cut on back to form a glued pocket two inches deep; and

(6) The guide is to be saddle stitched (two staples);

iii. A chart entitled "Medicare Deductibles and Copayments for 19__" shall be included in the back pocket of each guide. A sample copy of this chart appears as an Appendix to subchapters 16 and 23 of this chapter, Exhibit B. To ensure uniform design, content and printing of the chart, the Department of Insurance, Division of Enforcement, will provide sample copies of the chart to insurers, to the format of which insurers must adhere exactly.]

16. (No change.)

(b) Outline of coverage—general rules include:

1. No individual health insurance policy shall be delivered or issued for delivery in this State unless the appropriate outline of coverage in [section 8] (c) through (n) [of this subchapter] **below** is completed as to such policy and:

i. For policies offered for sale as Medicare [Supplement Coverage] **supplement policies,** the outline [is delivered to the applicant at the time application is made and, except for the direct response policy, acknowledgement of receipt or certification of delivery of such outline of coverage is provided to the insured] **meets the requirements set forth at N.J.A.C. 11:4-23.11**; and

ii. (No change.)

2.-8. (No change.)

(c)-(k) (No change.)

(l) An outline of coverage regarding Medicare supplement coverage, [in the form prescribed below,] shall be issued in connection with policies [meeting the standard of] **in compliance with** N.J.A.C. 11:4-16.6(j). The [items included in the] outline of coverage **shall meet the requirements of N.J.A.C. 11:4-23.11.** [must appear in the sequence set forth as follows:

(COMPANY NAME AND ADDRESS)
(POLICY NUMBER WHEN AVAILABLE)
MEDICARE SUPPLEMENT COVERAGE
OUTLINE OF COVERAGE

1. Medicare Supplement Coverage—This type of policy is designed to help pay some or all of Medicare's deductibles and copayments. It also helps pay costs above Medicare's limits.

2. Read Your Policy Carefully—This outline of coverage briefly describes the important features of your policy. (Your agent, broker or other company representative will explain each item to you so that you fully understand what you are buying.) For more information about the costs not paid by Medicare and what to look for in policy provisions, read the (Shopper's Guide) that was given to you with this form.

This form is not the insurance contract. Only the policy itself spells out the rights and obligations of both you and your insurance company. It is important that you READ YOUR POLICY CAREFULLY. REMEMBER, if you are not satisfied with your policy, you have (10-30) days to return it to the company and get your money back.

3. Annual Premium $_____ You Pay $_____ per_____ .

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Inpatient Hospital Benefits	Medicare—Part A	Insurance Policy Pays
You are hospitalized for an unlimited number of days per calendar year.	You pay the first $_____ Deductible. Medicare pays balance.	$ _____

Skilled Nursing Facility Benefits	Medicare—Part A	Insurance Policy Pays
You are admitted to a skilled nursing facility. You are a patient in this facility for up to 8 days during a calendar year.	You pay $_____ per day.* Medicare pays balance of reasonable charges.	$ _____
You remain in the facility for any of the next 142 days—9th-150th day.	You pay nothing. Medicare pays 100%.	
You remain in the facility after 150 days of confinement.	You pay full amount. Medicare pays nothing.	$ _____

*Payment will only be made if the skilled nursing facility is approved by Medicare and if the care given is medically necessary. NEITHER MEDICARE NOR THIS POLICY WILL PAY FOR CUSTODIAL OR REST HOME CARE.

Medical Service Benefits	Medicare—Part B	Insurance Policy Pays
You receive physician services, medical supplies, ambulance and other covered services.	You pay the first $_____ Deductible.	$ _____
	Medicare pays 80% of the remaining "reasonable and necessary" charge. You pay the remaining 20% of the "reasonable and necessary" charge.	Medicare eligible expenses to the extent not covered by Medicare after you have paid $_____ of these charges.
	You pay the portion of the bill that exceeds the "reasonable and necessary" charge.	_____ **

**Unless this space is filled in with a specific dollar amount or percentage, the policy will not pay for charges that exceed Medicare's determination of "reasonable and necessary" charges.

4. (Statement that the policy (certificate) does or does not cover the following:)

i. Private duty nursing;

ii. Skilled nursing home care costs (beyond what is covered by Medicare);

iii. Custodial nursing home care costs;

iv. Intermediate nursing home care costs;

v. Home health care above number of visits covered by Medicare;

vi. Physician charges (above Medicare's reasonable charge);

vii. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);

viii. Care received outside of USA;

ix. Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for or the costs of eyeglasses or hearing aids.

5. (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in 4 above.)

6. (A description of policy provisions respecting renewability or continuation of coverage, including any reservation of right to change premiums.)

FOR ADDITIONAL INFORMATION ABOUT POLICY BENEFITS OR CLAIMS, TELEPHONE (COLLECT) (TOLL FREE) (LOCAL NUMBER)]

(m) (No change.)

(n) An outline of coverage regarding limited benefit health coverage sold to Medicare eligible persons, in the form prescribed below, shall be issued to Medicare eligible persons in connection with policies which do not meet the minimum standards of N.J.A.C. 11:4-16.6(d), (e), (f), (g), (h), (i) and (j). The items included in the outline of coverage must appear in the sequence set forth as follows:

(COMPANY NAME & ADDRESS)
(POLICY NUMBER WHEN AVAILABLE)
LIMITED BENEFITS HEALTH COVERAGE
FOR MEDICARE ELIGIBLE PERSONS
OUTLINE OF COVERAGE

1. Limited Benefit Health Coverage—This type of policy will provide you with limited benefits only. It is not designed to provide hospital and medical coverage for the costs not paid by Medicare.

2. Read Your Policy Carefully—This outline of coverage briefly describes the important features of your policy. (Your agent, broker and other company representatives will explain each item to you so that you fully understand what you are buying.) For more information about the costs not paid by Medicare and what to look for in policy provisions, read the (Shopper's Guide) that was given to you with this form.

This form is not the insurance contract. Only the policy itself spells out rights and obligations of both you and your insurance company. It is important that you READ YOUR POLICY CAREFULLY. REMEMBER, if you are not satisfied with your policy, you have (10-30) days to return it to the company and get your money back.

3. Annual Premium $_____ You Pay $_____ per_____.

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Inpatient Hospital Benefits	Medicare—Part A	Insurance Policy Pays
You are hospitalized [for an unlimited number of days per calendar year.] **during a benefit period for:**		
Up to 60 days	You pay the first $_____ deductible. Medicare pays balance.	$_____
61 to 90 days	**You pay $_____ copayment. Medicare pays balance.**	$_____
91 to 150 days	**You pay $_____ copayment. Medicare pays balance.**	$_____
Beyond 150 days	**You pay all cost Medicare pays nothing.**	$_____

Skilled Nursing Facility Benefits	Medicare—Part A	Insurance Policy Pays
You are admitted to a skilled nursing facility. You are a patient in this facility for up to [8] **20** days during a benefit period.	You pay [$_____ per day] **nothing**. Medicare pays [balance of reasonable cost] **100%.***	$_____
You remain in the facility for any of the next [142] **80** days—[9th-150th] **21st-100th** day.	You pay [nothing] $_____ **copayment per day**. Medicare pays [100%*] **balance of reasonable costs**.	$_____ per day
You remain in the facility after [150] **100** days of comfinement.	You pay full amount. Medicare pays nothing.	$_____ per day.

*Payment will only be made if the skilled nursing facility is approved by Medicare and if the care given is medically necessary. NEITHER MEDICARE NOR THIS POLICY WILL PAY FOR CUSTODIAL CARE OR REST HOME CARE.

Medical Service Benefits	Medicare—Part B	Insurance Policy Pays
You receive physician services, medical supplies, ambulance and other covered services.	You pay the first $_____ deductible. Medicare pays 80% of the remaining "reasonable and necessary" charge.	$_____
	You pay the remaining 20% of the "reasonable and necessary" charge while you are in the hospital.	Medicare eligible expenses to the extent not covered by Medicare after you have paid $_____ of these charges.
	You pay the remaining 20% of the "reasonable and necessary" charge when you are not hospitalized.	Medicare eligible expenses to the extent not covered by Medicare after you have paid $_____ of these charges.
	You pay the portion of the bill that exceeds the "reasonable and necessary" charge.	_____**

**Unless this space is filled in with a specific dollar amount or percentage, the policy will not pay for charges that exceed Medicare's determination of "reasonable and necessary" charges.

4. (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay or in any other manner operate to qualify payment of the benefits described in 3 above.)

5. (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

FOR ADDITIONAL INFORMATION ABOUT POLICY BENEFITS OR CLAIMS, TELEPHONE (COLLECT) (TOLL-FREE) (LOCAL NUMBER) _____ .

(o) (No change.)

SUBCHAPTER 23. **MINIMUM STANDARDS FOR** MEDICARE SUPPLEMENT [POLICIES AND CONTRACTS] **COVERAGE**

11:4-23.1 Purpose

This subchapter provides for the reasonable standardization of coverage and **the** simplification of terms and benefits of Medicare [Supplement] **supplement** policies[, contracts and certificates issued on a group basis]; [to] facilitates [public understanding and] comparison of such policies [and contracts] **in order to increase public understanding**; [to] eliminates provisions [contained in such policies] which may be misleading or confusing in connection with [their] **the**

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purchase **of such policies** or with the settlement of claims; and [to] provides for full disclosure in the sale of health **care service benefits and** insurance [and service corporation coverages] to persons eligible for Medicare by reason of age.

11:4-23.2 Applicability and scope

(a) Except as otherwise specifically provided **in N.J.A.C. 11:4-23.8 and 23.9**, this subchapter shall apply to:

1. All [group] Medicare supplement policies, **as defined by this subchapter,** [and individual and group subscriber Medicare Supplement contracts] delivered or issued for delivery in this State on or after (the effective date **of the proposed amendments and new rules**);

2. All certificates **as defined by this subchapter,** issued under group Medicare [Supplement] **supplement** policies [or subscriber contracts], which [policies or contracts] **certificates** have been delivered or issued for delivery in this State **on or after (the effective date of these proposed amendments and new rules)**.

[(b) This subchapter shall not apply to:

1. Individual health insurance policies delivered or issued for delivery in this State;

2. Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this regulation; or

3. Medicare Supplement policies or subscriber contracts issued to employees or members as additions to franchise plans in existence on the effective date of this regulation.]

11:4-23.3 Definitions

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

"Applicant" means:

1. In the case of a group [Medicare supplement] policy, the proposed certificate holder;

2. In the case of an individual [Medicare supplement subscriber contract] **policy**, the person who seeks to contract for [hospital or medical service benefits;] **coverage.**

[3. In the case of a group Medicare Supplement subscriber contract, the person eligible for service benefit coverage.]

"Certificate" means [:1. Any] **any** certificate **or other document which sets forth or summarizes the essential features of the coverage** issued under a group [Medicare Supplement] policy, which [policy] **certificate or other document** has been delivered or issued for delivery in this State[;].

[2. Any certificate issued under an individual or group Medicare Supplement contract, which contract has been delivered or issued for delivery in this State.]

"Coverage" means:

1. Any arrangement whereby an insurer agrees to indemnify or reimburse an individual or group member for some portion or part of the health related costs incurred by that individual or member, subject to the terms of the written agreement and law; and

2. Any arrangement whereby an insurer agrees to provide direct or indirect health care services to the individual or group member, subject to the terms of the written agreement and law.

"Insured" means any applicant provided coverage by an insurer.

"Insurer" means any person who contracts to provide health services, reimburse the cost of health service in whole or in part, or provide an indemnity in the event that health services are used, in return for a prepaid or postpaid premium or other consideration.

"Medicare [Supplement] **supplement** policy" means[:

1.A] **a** group **or individual** [accident and sickness insurance] policy which is advertised, marketed or designed primarily as, **or is otherwise held out to be,** a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age. This term does not include[: i.A] **a** policy of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization.[; or

ii. A policy of any professional, trade or occupational association for its members or former retired members, or combination thereof, if the association:

(1) Is composed of individuals all of whom are actively engaged in the same profession, trade or occupations;

(2) Has been maintained in good faith for purposes other than obtaining insurance;

(3) Has been in existence for at least 2 years prior to the date of its initial offering of the contract or plan to its members.

iii. Individual policies issued pursuant to a conversion privilege under a policy of group or individual insurance when the group policy includes provisions which are inconsistent with the requirements of this subchapter; or

2. A group or individual subscriber contract which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age. The term does not include:

i. A contract of one or more employers or labor organizations, or of the trustees of a fund established by one of more employers or labor organizations, or combination thereof, for employees or former employees or combination thereof or for members or former members, or combination thereof, of the labor organizations; or

ii. A contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if the association:

(1) Is composed of individuals all of whom are actively engaged in the same profession, trade or occupations;

(2) Has been maintained in good faith for purposes other than obtaining hospital or medical service benefits;

(3) Has been in existence for at least 2 years prior to the date of its initial offering of the contract or plan to its members.

iii. Individual contracts issued pursuant to a conversion privilege under a contract of group or individual service benefits when the group or individual contract includes provisions which are inconsistent with the requirements of this subchapter.]

"Policy" shall mean any policy, contract, certificate or other document which sets forth or summarizes the essential features of the coverage issued to an individual or group by an insurer, for the purpose of providing Medicare supplement coverage, including any such policy issued pursuant to a conversion privilege to an individual 65 years of age or older, except as otherwise provided in this subchapter or Federal law.

11:4-23.4 Policy definitions and terms

(a) No [group insurance] policy [or individual or group subscriber contract] may be advertised, solicited[,] or issued for delivery in this State as a Medicare [Supplement] **supplement** policy unless such policy [or subscriber contract] contains definitions or terms which conform to the requirements of this section.

1. "Accident," "accidental injury," or "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 characterization.

i. [The definition of injury] **"Injury"** shall not be **defined** more restrictively than [an accidental] **as a** bodily injury sustained by the covered person **as a result of an accident,** which **injury** is the direct cause of the loss, independent of disease, bodily infirmity or any other cause, and which occurs while [insurance or service corporation] coverage is in force.

ii. Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, mandatory motor vehicle no-fault plan, unless prohibited by law[, or injuries occurring while the covered person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit].

2.-5. (No change.)

6. "Medicare eligible expenses" shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payments of benefits by insurers [or hospital or medical service corporations] for Medicare eligible expenses [may]

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shall be conditioned upon the same or less restrictive payment conditions **as are applicable to Medicare claims**, including **the** determinations of medical necessity [as are applicable to Medicare claims].

7. (No change.)

8. "Nurse" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse,"[,] "trained nurse,"[,] or "registered nurse" are used without specific instruction, then the use of such terms requires the insurer [or hospital or medical service corporation] to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the Board of Nursing or any other registry board of the State.

9. "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician."[.] The use of such terms requires an insurer [or hospital or medical service corporation] to recognize and to accept, to the extent of its obligation under the policy or contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

10.-11. (No change.)

12. "Totally disabled" shall not be defined more restrictively than as:

i. An injury or sickness that continuously confines an individual in a hospital or skilled nursing facility; or

ii. A continuous disability resulting from an injury or sickness not requiring confinement of an individual in a hospital or skilled nursing facility, but which a physician certifies as preventing that individual from engaging in the normal activities of a person of like age and sex in good health.

11:4-23.5 Prohibited provisions

(a) No [Medicare Supplement] policy [may] **shall** be advertised, solicited, or issued for delivery in this State **as a Medicare supplement policy** if [such policy] **it** limits or excludes coverage by type of illness, accident, treatment, or medical condition, except as follows:

1.-9. (No change.)

10. Territorial limitations **outside the United States**.

(b) Medicare [Supplement] **supplement** policies [may] **shall** not contain limitations or exclusions of the type enumerated in (a) 1, 5, 9[,] or 10 above that are more restrictive than those of Medicare.

(c) No Medicare [Supplement] **supplement** policy [may] **shall** provide benefits which duplicate the benefits available to a covered person under Part A or Part B of Medicare.

(d) No Medicare [Supplement] **supplement** policy [may] **shall** use waiver[s] **endorsements or riders** to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(e) The terms "Medicare supplement," "Medigap" and words of similar import shall not be used unless the policy or contract is issued in compliance with N.J.A.C. 11:4-23.6 and all other sections of this subchapter.

11:4-23.6 Minimum benefit standards

(a) No [group insurance] policy [or individual or group subscriber contract may] **shall** be advertised, solicited, or issued for delivery in this State as a Medicare Supplement policy [which] **if it** does not meet the minimum standards contained in this section. These are minimum standards, and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(b) The following general standards apply to Medicare [Supplement] **supplement** policies and are in addition to all other requirements of this subchapter.[:]

1. A Medicare [Supplement] **supplement** policy [may] **shall** not deny a claim for losses incurred as a result of a preexisting condition after six months from the effective date of coverage, **nor shall a preexisting condition be defined more restrictively than as set forth at N.J.A.C. 11:4-23.4(a)11.**[;]

2. A Medicare [Supplement] **supplement** policy [may] **shall** not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents[;].

3. A Medicare [Supplement] **supplement** policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amounts and copayment percentage factors and out of pocket maximums, **in response to which premiums may be correspondingly modified subject to the requirements of N.J.A.C. 11:4-23.8**[;].

4. A Medicare [Supplement] **supplement** policy shall not:

i. Provide for termination of coverage of an eligible spouse because of termination of coverage of the insured[, or subscriber,] other than for nonpayment of premium; or

ii. Provide for termination of a covered person's coverage by the insurer [or hospital or medical service corporation] solely on the grounds of age or deterioration of health.

5. (No change.)

[6. At least 30 days prior to the effective dates of any Medicare benefit changes, notice shall be provided to New Jersey insureds describing the revisions to the Medicare program and the resulting modifications made to the Medicare supplement coverage to eliminate duplication of Medicare benefits, as required by N.J.A.C. 11:4-23.5(d).

7. The notices mandated by (b)6 above shall be in the format set forth in the Appenidix to subchapters 16 and 23 of this chapter, Exhibit C (Notice of Changes in Medicare and your Medicare supplement Coverage), which is incorporated herein as part of this rule. Notices shall not contain or be accompanied by any solicitations. No modifications shall be made to an existing Medicare supplement policy when the notices are sent except those necessary to eliminate duplication of Medicare benefits.]

[8.]**6.** Existing Medicare supplement policies shall be appropriately amended or endorsed to eliminate benefit duplications with Medicare which are caused by Medicare benefit changes. Any rider or endorsements shall specify the benefits deleted, or shall otherwise result in a clear description of the Medicare supplement benefits provided by the policy. Such riders or endorsements shall be submitted [to] **for filing by** the **Commissioner** [commissioner for filing within 45 days after the effective dates of Medicare benefit changes].

[9. Appropriate premium adjustments for existing Medicare supplement policies shall be made to reflect the benefit changes required by the Medicare Catastrophic Coverage Act of 1988. The revised rates shall produce loss ratios at least equal to those originally anticipated. The premium rates and supporting documentation shall be submitted to the commissioner within 45 days after the effective dates of Medicare benefit changes specified in the Act. Rate revisions to reflect any other required Medicare benefit changes may be made.

10. Premium reductions resulting from benefit changes required by the Medicare Catastrophic Coverage Act of 1988 shall be made in the form of premium refunds or premium credits no later than 60 days after the effective date of Medicare benefit changes.]

(c) Except as may be authorized by the Commissioner, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

1. The insurer shall offer individuals covered under group policies at least the following two coverage choices when a group policyholder terminates the group Medicare supplement policy without replacing that policy as provided in (c)3 below:

i. An individual guaranteed renewable Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

ii. An individual Medicare supplement policy which provides only such benefits as are required to meet this State's minimum standards.

2. If membership in a group is terminated, the insurer shall:

i. Offer the individual whose membership is terminated such conversion opportunities as are described in (c)1 above; or

ii. Offer the individual whose membership is terminated continuation of coverage under the group policy, but only at the option of the group policyholder.

3. If a group policy holder replaces one group Medicare supplement policy by another group Medicare supplement policy, the succeeding insurer shall offer coverage to all persons who were covered under the

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old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusions for preexisting conditions that would have been covered under the group policy which was replaced.

(d) Benefit conversion requirements for the transition of policy compliance between the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360) and the Medicare Catastrophic Coverage Repeal Act of 1989 (P.L. 101-234) are as follows:

1. Effective January 1, 1990, no Medicare supplement policy in force in this State shall contain benefits provided by Medicare.

2. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

3. For Medicare supplement policies subject to the minimum standards adopted by this State pursuant to the Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be as set forth at (e) below.

[(c)]**(e)** The minimum benefit standards for Medicare [Supplement] **supplement** policies are:

1. [For policies issued prior to January 1, 1989;] **Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;**

[i.]**2.** Coverage of the Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

[ii.]**3.** Coverage of Part A Medicare eligible expenses incurred as daily hospital charges to the extent not covered by Medicare during use of Medicare's lifetime hospital inpatient reserve days;

[iii.]**4.** Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations) unless replaced in accordance with Federal regulations or already paid for under Part B;

[iv.]**6.** Coverage of Part B Medicare eligible expenses to the extent not covered by Medicare **regardless of hospital confinement,** subject to a maximum calendar year out-of-pocket **amount equal to the Medicare Part B** deductible [of $200.00 of such expenses and to a maximum calendar year benefit of at least $5,000.];

7. Coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations), unless replaced in accordance with Federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

[2. For policies issued on or after January 1, 1989, coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of $200.00 of such expenses and to a maximum calendar year benefit of at least $5,000.]

11:4-23.7 Standards for claims payment

(a) Every insurer providing Medicare supplement policies shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

(b) Compliance with the requirements set forth in (a) above must be certified on the Medicare supplement experience reporting form.

(c) Payment of benefits for Medicare eligible expenses shall be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, as are applicable to Medicare claims.

11:4-[23.7]**23.8** Loss ratio standards

(a) Medicare [Supplement] **supplement** policies shall [be expected to] return to policyholders in the form of aggregate benefits under the policy, [as estimated] for the entire period for which rates are computed to provide coverage[, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices]:

1. At least 75 percent of the aggregate amount of premiums or subscription charges collected in the case of group policies **and policies issued as conversions from group policies.**

2. (No change.)

(b) [Medicare Supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies under (a) above.] **Every insurer shall submit annually for filing by the Commissioner its rates, rating schedule and all other supporting documentation which the Commissioner may require, including ratios of incurred losses to earned premiums by number of years of policy duration to demonstrate that the insurer is in compliance with the applicable loss ratio standard of (a) above and that the period for which the policy is rated is reasonable. Every insurer shall provide annually the following information:**

1. For the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates which have been in force for three years or more; and

2. The expected losses in relation to premiums over the entire period for which the policy is rated, subject to a demonstration of an expected third-year loss ratio which is greater than or equal to the applicable percentage of (a) above for policies or certificates in force less than three years.

(c) Every insurer may submit a rate increase for filing by the Commissioner whenever the expected aggregate loss ratio for the policy or certificate becomes greater than the anticipated loss ratio for that policy or certificate. The rate increase shall be such that, following the increase, the expected aggregate loss ratio shall not be less than the anticipated loss ratio. The anticipated loss ratio shall continue to meet the applicable standards of (a) above.

(d) Every insurer shall submit for filing by the Commissioner a rate reduction whenever the expected aggregate loss ratio reported for a policy or certificate is less than the anticipated loss ratio for that policy or certificate, and the requirements of (b) above may not be met.

(e) When a rate adjustment is requested pursuant to a change in the policy necessary to eliminate benefit duplication with Medicare, the submission for a rate change shall include any riders, endorsements or policy forms needed to accomplish the Medicare supplement coverage modification necessary to eliminate benefit duplications with Medicare. All such forms shall result in a clear description of the Medicare supplement benefits provided by the policy.

11:4-23.9 Filing requirements for out-of-State group policies

(a) No insurer shall deliver or issue for delivery in this State any Medicare supplement or limited benefit health policy or certificate, any written application therefor, or any printed rider or endorsements to be applied thereto, unless the forms thereof have been submitted to and filed by the Commissioner.

1. At the expiration of 30 days after submission, the form shall be deemed filed unless affirmatively disapproved for filing by the Commissioner prior thereto.

2. If any such form is disapproved for filing by the Commissioner during the said 30-day period, it may not be delivered or issued for delivery unless and until such disapproval for filing is withdrawn. Such disapproval shall be subject to review in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1.

3. The Commissioner may extend the 30-day period no more than another 30 days if written notice is provided to the insurer before the expiration of the initial 30 day period, in which event all but this paragraph shall apply to the extended period.

4. Forms filed by or deemed filed by the Commissioner may subsequently be withdrawn from filing. Insurers shall have the right to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. An insurer may continue to deliver or issue for delivery such forms until a final decision in accordance with the withdrawal is rendered, following the request for a hearing, or, if no hearing is requested, delivery or issuance for delivery of such forms may continue no later than 30 days following notice of the withdrawal of that form.

(b) Disapproval for filing, or withdrawals of approval of the filing of any form, must be stated in writing with the grounds therefor included in the statement, in accordance with the rules of this State.

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11:4-23.10 Compensation arrangements

(a) No insurer or other entity shall provide to any producer a first year commission or first year compensation for the sale of Medicare supplement policies in an amount which exceeds 200 percent of the commission or compensation to be provided by that insurer or other entity for the selling or servicing of that policy in the second year or period of that policy.

(b) The commission or other compensation which shall be provided for a reasonable number of subsequent renewal years shall be the same as that commission or compensation provided in the second year or period.

(c) No insurer or other entity shall provide compensation or commission to any producer, nor shall any producer receive commission or other compensation greater than the renewal commission or compensation payable by the replacing insurer on renewal policies or certificates when an existing policy is replaced, except when benefits under the new policy are clearly and substantially greater than those of the replaced policy.

(d) For purposes of this section, "compensation" means a pecuniary or nonpecuniary renumeration of any kind relating to the sale of a policy or certificate, including, but not limited to:

1. Bonuses;
2. Gifts;
3. Prizes;
4. Awards; and
5. Finders fees.

11:4-[23.8]**23.11** Required disclosure provisions

(a) General rules concerning required disclosure provisions include the following:

1. Medicare [Supplement] **supplement** policies shall include a renewal[,] **or** continuation [or nonrenewal] provision. The language or specification of such provision must be consistent with the type of policy to be issued. Such provision shall be appropriately captioned and shall [clearly state the duration, where limited, or renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. Such provision shall] appear on the first page of [individual] policies and certificates.

2. Every insurer shall provide upon delivery of a policy or certificate information relevant to the premiums payable by the applicant to whom the policy or certificate was issued. This information shall appear on the schedule page of or as an attachment to the policy or certificate.

[2.]**3.** Except for riders or endorsements by which the insurer [or hospital or medical service corporation] effectuates a request made in writing by the insured [or subscriber], exercises a specifically reserved right under a Medicare [Supplement] **supplement** policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits[, all]:

i. All riders or endorsements added after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage shall require signed acceptance by the insured [or subscriber.];

ii. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium or subscription charge during the policy term, shall be agreed to in writing signed by the insured [or subscriber], except if the increased benefits or coverage [is] **are required by the minimum standards for Medicare supplement insurance policies, or if** required by **other** law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth clearly.

[3.]**4.** A Medicare [Supplement] **supplement** policy which provides for the payment of benefits based on standards described as "usual and customary," [,] "reasonable and customary,"[,] or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

[4.]**5.** If a Medicare [Supplement] **supplement** policy contains any limitations with respect to preexisting conditions, such limitations [must] **shall** appear as a separate paragraph in the policy and be labeled as "Preexisting Condition Limitations,"[,] "Preexisting Condition Exclusions,"[,] or words of similar import.

[5.]**6.** Medicare [Supplement] **supplement** policies or certificates[, other than those issued pursuant to direct response solicitation,] shall have a notice prominently printed on the first page or attached thereto stating in substance that the [policyholder or certificate holder] **insured** shall have the right to return the policy or certificate within [10] **30** days of its delivery and to have the premium or subscription charge **or fees** refunded if, after examination of the policy or certificate, the insured [person or subscriber] is not satisfied for any reason. [Medicare Supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for Medicare by reason of age shall have a notice prominently printed on the first page or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium or subscriber charge refunded, if after examination the insured person or subscriber is not satisfied for any reason.]

[6.]**7.** Insurers [and hospital and medical service corporations] issuing policies[,] **or** certificates [or subscriber contracts] which provide hospital or medical expense coverage on an expense incurred, indemnity, or service benefit basis, other than incidentally, to **a** person(s) eligible for Medicare by reason of age shall provide for delivery to all applicants an informational brochure, which is intended to improve the buyer's ability to select the most appropriate coverage, and **to** improve the buyer's understanding of Medicare. **Delivery of the informational brochure shall be made whether or not policies are advertised, solicited or issued as Medicare supplement policies as set forth by this subchapter.** The full text of the approved guide appears as an Appendix to subchapters 16 and 23 of this chapter, Exhibit A, and is entitled "Bridging the Medicare Gaps: A Guide to Medicare Supplements."[.]

[7.]**8.** To ensure uniformity in the content, [format] **form** and printing of the guide, each insurer shall comply with the following requirements:

i.-iii. (No change.)

[8.]**9.** Except in the case of direct response insurers [or service corporations], delivery of the guide shall be made to the applicant at the time of application, and acknowledgement of receipt of the guide shall be obtained by the insurer [or service corporation]. Direct response insurers [or service corporations] shall deliver the guide to the applicant upon request, but not later than the time of policy or certificate delivery.

[9.]**10.** Except as otherwise provided in (c) below, the terms "Medicare [Supplement] **supplement,**"[,] "Medigap,"[,] and words of similar import shall not be used unless the policy [or contract] is issued in compliance with N.J.A.C. 11:4-23.6 **and all other sections of this subchapter**.

(b) Outline of Coverage requirements for Medicare [Supplement] **supplement** policies include:

1. Insurers [or service organizations] issuing Medicare [Supplement] **supplement** policies **or certificates** for delivery in this State shall provide an outline of coverage to all applicants at the time application is made. Except for direct response policies, acknowledgement of receipt of such outline shall be obtained from the applicant.

2. (No change.)

3. The outline of coverage provided to applicants pursuant to (b)1 above shall be in the form prescribed below:

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(COMPANY NAME)
OUTLINE OF MEDICARE
SUPPLEMENT COVERAGE
AND PREMIUM INFORMATION

Use this outline to compare benefits and premiums among policies.

1.-3. (No change.)

4. (A brief summary of the major benefit gaps in Medicare Parts A & B with a parallel description of supplemental benefits, including dollar amounts (**and indexed copayments or deductibles, as appropriate**), provided by the Medicare Supplement coverage in the following order.)

[Service] **Description**	[Benefit]	[Medicare Pays]	This Coverage Pays**	You Pay
I. Minimum Standards				
[HOSPITALIZATION] **PART A: INPATIENT HOSPITAL SERVICES:** Semi-private room and board[, general nursing and miscellaneous]	[Each calendar year]	[All but ($560)]		
Miscellaneous hospital services and supplies [. Includes meals, special care units], **such as** drugs, lab tests, [diagnostic] x-rays, [medical supplies,] **and** operating **room** [and recovery room, anesthesia and rehabilitation].				
[POST-HOSPITAL SKILLED NURSING CARE In a facility approve by Medicare.]	[First 8 Days]	[All but $25.50 per day of reasonable costs]		
	[Additional 142 days]	[100% of reasonable costs]		
	[Beyond 150 days]	[Nothing]		
BLOOD				
PART B				
MEDICAL EXPENSES **Services of a physician/ outpatient services**	[Physician's services, inpatient and outpatient medical services and supplies at a hospital, physical and speech therapy and ambulance service.]	[80% of reasonable charge (after $75) deductible)]		
Medical supplies other than prescribed drugs				
BLOOD				
MISCELLANEOUS				
Immunosuppressive drugs				
II. Additional Benefits				
PART A:				
Part A deductible				
Private rooms				
In-house private nurses				
Skilled nursing facility care				
PARTS A & B:				
Home health services				

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PART B:

Part B deductible

Medical charges in excess of Medicare allowable expenses (percentage paid)

OUT-OF-POCKET MAXIMUM

PRESCRIPTION DRUGS

MISCELLANEOUS

Respite care benefits

Expenses incurred in foreign countries

OTHER:

TOTAL PREMIUM

IN ADDITION TO THIS OUTLINE OF COVERAGE, (INSURER) WILL SEND YOU AN ANNUAL NOTICE, 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES, WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

****If this policy does not provide coverage for a benefit listed above, the insurer must state "no coverage" beside that benefit in the first column.**

5. (Statement that the policy (certificate) does or does not cover the following:)

i.-iv. (No change.)

v. Home health care above number of visits covered by Medicare;

Recodify existing v.-viii. as **vi.-ix.** (No change in text.)

6. (A description of any policy (certificate) provisions which exclude, eliminate, restrict, reduce, limit, delay or in any other manner operate to qualify payments of the benefits described in [N.J.A.C. 11:4-23.8(5)] **section 4** above. Also, include conspicuous statements:

i. (No change.)

ii. That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.)

7.-8. (No change.)

(c) [Any group] **All** health [insurance policy or individual or group subscriber contract] **and disability income policies**, other than a Medicare [Supplement] **supplement** policy, issued for delivery in this State to persons eligible for Medicare by reason of age shall notify insureds under the policy [or subscriber contract] that the policy [or subscriber contract] is not a Medicare [Supplement] **supplement** policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy [or subscriber contract], or, if no outline of coverage is delivered, to the first page of the certificate or [subscriber contract] **policy** delivered to insureds. Such notice shall be in no less than 12 point type and shall contain the following language:

"THIS IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide, available from the company."

(d) At least 30 days prior to the effective dates of any Medicare benefit changes, notice shall be provided to New Jersey insureds describing the revisions of the Medicare program and the resulting modifications made by the insurer to an insured's Medicare supplement or limited benefit health policy to eliminate duplication of Medicare benefits.

1. The notices shall be in the format set forth in the Appendix to subchapters 16 and 23 of this chapter, Exhibit C (Notice of Changes in Medicare and Your Medicare Supplement Coverage), which is incorporated herein as part of this rule.

2. No modifications shall be made to an existing Medicare supplement policy or limited benefit health policy when notices are sent except those necessary to eliminate duplication of Medicare benefits.

3. Notices shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement or limited benefit health policy.

4. Notices shall provide information as to when any premium adjustment is to be made due to changes in Medicare.

5. Information on benefit modifications and premium adjustments shall be in outline form and in clear and simple terms to facilitate comprehension.

6. Notices shall not contain or be accompanied by any solicitation.

7. No notice shall contain benefits and premium information for more than one policy form.

11:4-[23.9]**23.12** Requirements for **application forms and** replacement **coverage**

(a) Application forms shall include [a] questions designed to elicit information as to whether a Medicare [Supplement] **supplement** policy **or certificate** is intended to replace any [other] accident and sickness **or Medicare supplement** policy or certificate presently in force, **or is intended to be additional to any such policies or certificates**. A supplementary application or other form to be signed by the applicant **and agent, except where coverage is not sold through an agent,** containing such [a] questions may be used. **The questions shall be substantially as follows:**

1. Do you have another Medicare supplement policy or certificate in force, including any health care service contract or health maintenance organization contract?

2. Have you had any medicare supplement policy or certificate in force during the last twelve (12) months?

i. If so, with which company?

ii. If the policy or policies lapsed, when did the lapse or lapses occur?

3. Are you covered by Medicaid?

4. Do you intend to replace any of your medical or health coverage with the policy or certificate for which you are applying?

(b) Agents shall list any other health policies which they have sold to the applicant that are currently in force, and any such policies sold to the applicant within the previous five years that are no longer in force, clearly indicating which policies are in force and which are not.

[(b)]**(c)** Upon determining that a sale will involve replacement, an insurer [or service corporation,] or its agent, shall furnish to the applicant, prior to the issuance or delivery of the Medicare [Supplement] **supplement** policy **or certificate,** a notice regarding replacement of accident and sickness coverage. One copy of such notice **signed by the applicant and the agent, except where coverage is sold without an agent,** shall be provided to the applicant, and an additional **signed** copy [signed by the applicant] shall be retained by the insurer [or service corporation]. A direct response insurer [or service corporation] shall deliver to the applicant at the time of the issuance of the policy (certificate) the notice regarding replacement of accident and sickness coverage. In no event, however, will such a notice be required in the replacement of "accident only" coverage.

(d) Insurers shall include a waiver of all preexisting condition exclusion clauses, waiting periods, elimination periods or probationary periods in a replacement policy for at least that same period of duration of the conditional clause(s) in the applicant's existing policy which has expired at the time of issuance of the replacement policy, to the extent of the benefits of the existing policy.

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[(c)](e) The notice required by [(b)] (c) above [for other than a direct response insurer or service corporation] shall be [the following] **substantially as follows:**

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS **OR MEDICARE SUPPLEMENT** COVERAGE

(Insurance Company's Name and Address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate accident and sickness **or Medicare supplement** coverage and replace it with coverage issued by (Company Name). Your new **(policy)** (certificate) provides [ten (10)] **thirty (30)** days within which you may decide without cost whether you desire to keep the coverage. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness and other health coverage you may have, and terminate your present coverage only if, after due consideration, you find that purchase of this new coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT, BROKER OR OTHER REPRESENTATIVE: (Direct solicitation insurers may delete the review statement.) (Use additional pages for comments as necessary.)

I have reviewed your current medical or health coverage. I believe the replacement involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) **(The following is to be included by all insurers.)** Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy whereas a similar claim might have been payable under your present coverage.

(2) (To be included by all insurers.) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods or probationary periods in the new policy (or coverage) for similar benefits to the extent such time had partially or fully expired under the original policy.

[(2)]**(3) (To be included by all insurers.) If you are replacing existing Medicare supplement coverage, you** [You] may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. That is not only your right, it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

[(3)]**(4) (To be included only if insurance is sold through an agent, broker or other representative.)** If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to answer truthfully and completely all questions on the application concerning your medical/health history. Failure to include all material medical information on **the** application may provide a basis for the company to deny any future claims and to refund your premium (subscription charge) as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(5) (To be included only by direct response insurers if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out.

_____

Signature of Agent, Broker or Other Representative
(Direct response insurers may omit this signature line.)

_____

Typed Name and Address of Agent or Broker
(Direct response insurers may omit this line of identification.)

The above "Notice [of] **to** Applicant" was delivered to me on:

_____

[(Date)] **Date**

_____

[(Applicant's Signature)] **Applicant's Signature**

(Direct response insurers may omit the above signatory statement.)

_____

Insurance Company Name

[(d) The notice required above for a direct response insurer or service corporation shall be as follows:

NOTICE OF APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS COVERAGE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness coverage and replace it with the policy delivered herewith issued by (Company Name). Your new policy provides thirty (30) days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the protection available to you under the new policy.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been paybable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within ten (10) days if any information is not correct and complete, or if the past medical history has been left out of the application.

_____

(Company Name)]

[(e)](f) Item (1) of the notice set forth in [N.J.A.C. 11:4-23.9(c) and (d)] (e) above may be omitted **or modified** if preexisting conditions are covered under the new coverage.

11:4-23.13 Filing requirements for advertising

(a) Every insurer providing Medicare supplement or limited benefit health policies in this State shall file with the Commissioner a copy of all advertisements to which residents of this State will have access, and through which the insurer intends, or by implication purports to the reasonable targeted consumer its intent to make its Medicare supplement or limited benefit health product(s) available for purchase or enrollment in this State, whether through written, radio, television or other electronic media, at least 30 days prior to the date on which the advertisement is to be used in this State, or made accessible to residents of this State.

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(b) All advertisements shall be in accord with the standards set out in N.J.A.C. 11:2-11 and any other disclosure and advertising rules which may be applicable to insurers.

(c) The Commissioner may disapprove an advertisement at any time if the advertisement is not in compliance with this rule or is in violation of the Trade Practices Act, N.J.S.A. 17B:30-1 et seq. An advertisement which has been disapproved by the Commissioner shall continue to be disapproved until disapproval is withdrawn by the Commissioner.

(d) The Commissioner may institute any and all procedures and penalties available pursuant to the Medicare Supplement Acts of this State and the Trade Practices Act, N.J.S.A. 17B:30-1 et seq., against an insurer who is determined by the Commissioner to be in violation of this rule.

(e) All actions of the Commissioner are subject to review pursuant to the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

11:4-23.14 Standards for marketing

(a) Every insurer or other entity marketing Medicare supplement insurance coverage in this State, directly or through its producers, shall:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

2. Establish marketing procedures to assure excessive insurance is not sold or issued to any consumer;

3. Establish procedures for determining whether a replacement policy contains benefits clearly and substantially greater than the benefits provided under the replaced policy and thereby institute guidelines as to when first year commissions or replacement commissions are appropriate pursuant to N.J.A.C. 11:4-23.10;

4. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

5. Make every reasonable effort to identify when a prospective applicant or enrollee already has Medicare supplement and/or accident and sickness coverage, the quantity of such policies and extensiveness of such coverage; and

6. Establish procedures which are auditable for purposes of verifying compliance with this section.

(b) Practices which are prohibited in this State, in addition to those set forth in the Trade Practices Act, N.J.S.A. 17B:30-1 et seq., include, but are not limited to, the following:

1. Twisting; that is, knowingly making any misleading representations or incomplete or fraudulent comparisons of any policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convey any policy or to purchase any policy with another insurer;

2. High pressure tactics; that is, employing any method of marketing having the effect of or tending to induce the purchase or to recommend the purchase of coverage through force, fright, explicit or implied threat, or undue pressure; and

3. Cold lead advertising; that is, making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance, and that further contact with the consumer will be made by an insurance agent or insurance company.

11:4-23.15 Appropriateness of recommended purchase and excessive coverage

(a) In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of Medicare supplement coverage which will provide an individual with more than one Medicare supplement policy or certificate is prohibited; however, additional Medicare supplement coverage may be sold to an individual if, when combined with that individual's health coverage already in force, the individual would receive coverage of no more than 100 percent of the individual's actual medical expenses allowable under the combined policies.

11:4-23.16 Reporting of multiple policies

Every insurer shall report annually, on or before March 1, to the Commissioner, the policy and certificate number and date of issuance of each policy or certificate, grouped by individual policyholders, for every individual resident of this State for which the insurer has in force more than one Medicare supplement policy or certificate.

11:4-[23.10]**23.17** Severability

If any provision of this [rule] **subchapter** or the application thereof to any person or circumstance [if for any reason] is held to be invalid **for any reason**, the remainder of the [rule] **subchapter** and the application of such provision to other persons or circumstances shall not be affected thereby.

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY STATE BOARD OF MORTUARY SCIENCE

Continuing Education

Reproposed New Rules: N.J.A.C. 13:36-10

Authorized By: Board of Mortuary Science, Maurice W. McQuade, Executive Director.

Authority: N.J.S.A. 45:7-38.

Proposal Number: PRN 1991-229.

Submit written comments by June 5, 1991 to:
Maurice W. McQuade, Executive Director
Board of Mortuary Science
Post Office Box 45009
Newark, New Jersey 07101

The agency proposal follows:

Summary

On November 20, 1989, the New Jersey State Board of Mortuary Science proposed new rules establishing a continuing education requirement for its licensees (see 21 N.J.R. 3655(a)). A notice of adoption of the new rules, published in the New Jersey Register on December 17, 1990 at 22 N.J.R. 3756(b), was subsequently withdrawn based upon advice of the Attorney General that such action should be taken because the Board failed to vote for adoption of the proposal at a public meeting within one year following the proposal's publication in the New Jersey Register (see 23 N.J.R. 117(a)). The Board is now reproposing the establishment of a continuing education requirement by a restatement of the original proposal in its entirety. As a condition to renewal, licensees must accumulate 10 credit hours of Board approved courses, seminars or programs during the biennial licensing period. The 10 credit hour requirement applies to all licensees except those individuals who are in their first licensing period or are serving on active duty in the United States Armed Forces. Subsection (b) of proposed N.J.A.C. 13:36-10.4 provides the Board with the discretion to waive the continuing education requirement upon a showing of good cause by the licensee. The remaining sections establish a credentials committee, the requirements for program and sponsor approval, and a credit hour reporting procedure.

Social Impact

The proposed new rules are designed to encourage mortuary science professionals to keep abreast of changes in their profession. By requiring funeral directors and practitioners licensed by the Board to take continuing education courses, the profession will maintain a higher lever of skill and in turn will be better able to serve the public.

Economic Impact

The economic impact upon licensees is expected to be relatively slight, since only the fees paid to cover the costs of the continuing education course, seminar or program are involved. However, there is always the possibility that licensees may increase amounts charged to consumers in order to help recoup the licensees' costs.

Regulatory Flexibility Analysis

It is unclear whether the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., was intended to cover individual practicing professionals, but on the assumption that it is applicable, the following statement is relevant.

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The Board of Mortuary Science currently licenses 745 funeral homes and 1,850 practitioners. The proposed new rules are uniformly applicable to all licensees, without distinction as to the size of the professional practice. Compliance requirements—10 hours of continuing education during a biennial period—are minimal, yet carry out the Board's intended purpose of protecting the public's best interests. Renewal of licensure will now necessitate the reporting of continuing education credits and the retention of records related thereto.

Additional rules applying to program sponsors, who may or may not be licensees, simply mandate Board approval of courses represented as fulfilling continuing education requirements; the filing of the necessary application for approval cannot be considered a burden.

No adverse economic impact on small businesses is anticipated because the cost of continuing education is a negligible component of the total cost of doing business, well-justified by the need to maintain professional competence. Professional instructional services will obviously be necessary, however, and must be utilized by all licensees (except those with exemptions or waivers) if the rules are to accomplish their goal.

Full text of the proposal follows:

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.

"Actively participating" means practicing mortuary science within the State of New Jersey for more than three months out of any calendar year.

"Board" means the New Jersey State Board of Mortuary Science, 124 Halsey Street, 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, 124 Halsey Street, 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; or

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 developments 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 relating 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,

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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.

(a)

DIVISION OF CONSUMER AFFAIRS
BOARD OF OPTOMETRISTS
Notice of Administrative Correction
Fees
Proposed Amendments: N.J.A.C. 13:38-5.1
Proposed Repeal: N.J.A.C. 13:38-3.6

Take notice that the Board of Optometrists has discovered an error in the notice of proposal published in the April 15, 1991 New Jersey Register at 23 N.J.R. 1064(a) concerning proposed amendments to N.J.A.C. 13:38-5.1 and the proposed repeal of N.J.A.C. 13:38-3.6. In the listing of the address to which written comments on the proposal are to be sent, the Zip Code was erroneously printed as "10101;" the correct Zip Code is "07101."

Submit written comments by May 15, 1991 to:
Susan H. Gartland, Executive Director
Board of Optometrists
P.O. Box 45012
Newark, New Jersey 07101

(b)

STATE BOARD OF CHIROPRACTIC EXAMINERS
Insurance Forms
Proposed New Rule: N.J.A.C. 13:44E-2.3

Authorized By: The State Board of Chiropractic Examiners, Charles Bender, D.C., President.
Authority: N.J.S.A. 45:9-41.23(h).
Proposal Number: PRN 1991-95.

Submit written comments by June 5, 1991 to:
Jay Church, Executive Director
State Board of Chiropractic Examiners
1207 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Chiropractic Examiners, which has recently assumed responsibility for the practice of chiropractic in New Jersey, is proposing a new rule, N.J.A.C. 13:44E-2.3, Insurance forms. The rule is intended to advise licensees of their duties and responsibilities in connection with the preparation and submission of insurance claim forms.

Subsections (a) and (b) of the proposed new rule define what the Board will deem to be professional misconduct with regard to a chiropractor's completion of insurance claim forms. Subsection (c) clarifies the Board's position that waiver of the co-payment feature of any insurance plan without disclosure of the waiver to the third party payor shall be considered fraudulent conduct. The precise manner in which notice of any waiver of co-payment is to be provided is set forth in this subsection.

In order to clarify that the treating chiropractor has responsibility for accurate completion of claim forms, subsection (d) requires licensees to personally sign all forms to be submitted to a third party payor. This means that the signature cannot be delegated or rubber-stamped, nor can it be substituted by a mechanical signature. If a patient receives treatment from more than one chiropractor in a multi-chiropractic practice, the duty to verify the accuracy of and sign the form shall be that of the chiropractor of record.

Subsections (e) and (f) concern electronic claims processing. It appears that this method of processing insurance forms already has begun with some insurance carriers and is likely to be the norm in the not-too-distant future. The Board believes this method of claims processing may offer substantial savings of time and money to the benefit of everyone involved in the claims submission process. Accordingly, subsection (e) permits electronic claims processing. The chiropractor would be required, however, to manually sign and submit to the third party payor, at least quarter-annually, a written confirmation of the claim data. Subsection (f) states that the chiropractor who verifies claim data submitted electronically is responsible for all of the data submitted as if it were submitted on an individual claim basis.

Social Impact

The proposed new rule will benefit Board licensees in that they will be clearly advised of what constitutes professional misconduct with regard to completion of insurance claim forms as well as of the Board's disclosure requirements in connection with any co-payment waiver. The requirement that the chiropractor sign all claim forms (or, in the case of electronically submitted claims, all written confirmations) will benefit the chiropractic patient, who will be assured that the chiropractor has reviewed all claims to ensure accuracy of the data and details of the treatment program that has or will be rendered. In clearly delineating the chiropractor's responsibilities with regard to insurance claim forms, the proposed rule will also aid the Board in fulfilling its statutory duty to ensure high standards of competency and integrity in the profession and to prevent unsafe, fraudulent or deceptive practices.

Economic Impact

Pursuant to this rule, the licensee will be required to manually sign all claim forms or verifications and to include on the form certain information in the event co-payment is waived. Most, if not all, chiropractors currently review the information submitted on claim forms; the additional time needed to manually sign the form or, if necessary, to disclose any co-payment waiver, is economically insignificant. Licensees who process claims electronically, as well as their patients, will benefit from the provisions permitting this method of claims processing. The elimination of individual claim forms will expedite the patient's benefits and will save the cost of printing, mailing and processing these forms, thereby reducing the chiropractor's adminsitrative costs.

Regulatory Flexibility Analysis

If, for the purpose of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., chiropractors are deemed "small businesses" within the meaning of the statute, the following statement is applicable:

The proposed new rule will apply to the approximately 2,800 licensees of the Board of Chiropractic Examiners. Compliance requirements include a personal, original signature on all third party insurance claim forms or, in the case of electronically submitted claims, on a written confirmation form. The confirmation form must be submitted to the third party payor at least quarter-annually. In the event a licensee chooses to waive an insurance co-payment, a brief disclosure statement must be included on the claim form or bill submitted to the third party payor. The Board anticipates that compliance will require only a small percentage of the chiropractor's time, and that therefore the cost of complying with these requirements is economically insignificant. In any event, any economic impact on the chiropractor is more than outweighed by the protection this rule provides to the chiropractic patient. The new rule involves no capital costs or reporting requirements, and no professional services are needed in order to comply. The sole recordkeeping requirement is that written confirmations of the accuracy of claims data submitted electronically must be kept on file for seven years. As stated, the intent of the requirement of a manual signature on claim forms or confirmations is to ensure that the treating chiropractor assumes responsibility for accurate completion of these forms. Therefore, no exemptions, whether for small or large practices, are possible, since this would frustrate the intent of the rule.

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Full text of the proposed new rule follows:

13:44E-2.3 Insurance forms

(a) Professional misconduct shall be construed to include, but not be limited to, the use or employment of dishonesty, fraud, deception or misrepresentation by a licensee in submitting any claim form, bill, or governmental assistance form to a third party payor for chiropractic services rendered to a patient enrolled in an insurance plan.

(b) It shall be professional misconduct for a licensee rendering chiropractic services to a patient enrolled in any insurance plan to submit to a third party payor any claim form, bill, or governmental assistance form which contains any of the following:

1. Any treatment date which does not accurately reflect the date when the services were actually rendered;

2. Any description of a chiropractic service which does not accurately reflect the actual service provided; or

3. Any service which cannot be justified by the licensee as necessary and proper.

(c) A licensee who renders chiropractic services to a patient enrolled in any insurance plan with co-payment features and intends to waive any further payment by the patient shall, when submitting any claim form or bill to the third party payor, complete the claim form or bill as follows:

1. Enter on the chiropractor's statement a fee in the amount the licensee actually intends to collect for the service billed assuming that the patient shall make no further payment; or

2. Type, print or stamp on the face of the statement, or on a label affixed thereto, in legible characters at least ten points in height, the following words:

I/WE WAIVE CO-PAYMENTS. IT IS MY/OUR INTENTION TO EITHER (CHECK ONE)

☐ BILL THE PATIENT $
AFTER RECEIPT FROM YOU OF $_____

☐ WAIVE ANY FURTHER PAYMENT FROM THE PATIENT AFTER RECEIPT FROM YOU OF $_____

(d) All submissions to a third party payor including, but not limited to, claim forms, bills, or governmental assistance forms shall be manually signed by the patient's treating chiropractor. The form may be completed by an employee for the signature of the treating chiropractor, but the treating chiropractor shall be responsible for the accuracy of all information contained on the form. In the event the patient is treated by more than one chiropractor in a multi-chiropractic practice, the duty to verify the accuracy of the information on the form and to manually sign the form shall be that of the designated chiropractor of record pursuant to N.J.A.C. 13:44E-2.4.

(e) Subsection (d) above not withstanding, a treating chiropractor need not manually sign individual claim forms if the respective third party payors have agreed in writing to an electronic method for claim submission. In that case, the treating chiropractor (or the chiropractor of record if one is so designated pursuant to N.J.A.C. 13:44E-2.4) shall review and manually sign a written confirmation of the accuracy of the claim data no less frequently than every three months. The chiropractor shall keep copies of such written confirmation on file for a period of seven years.

(f) Any chiropractor who verifies claim data pursuant to (e) above is responsible for all of the claim data submitted as if it were submitted in a form manually signed on an individual claim basis.

(a)

STATE BOARD OF CHIROPRACTIC EXAMINERS

Chiropractor of Record; Fee Reimbursement

Proposed New Rule: N.J.A.C. 13:44E-2.4

Authorized By: Board of Chiropractic Examiners, Jay Church, Executive Director.

Authority: N.J.S.A. 45:9-41.23(h).

Proposal Number: PRN 1991-235.

Submit written comments by June 5, 1991 to:
Jay Church, Executive Director
State Board of Chiropractic Examiners
Post Office Box 45004
Newark, NJ 07101

The agency proposal follows:

Summary

The State Board of Chiropractic Examiners is proposing a new rule, N.J.A.C. 13:44E-2.4, concerning the designation of a "chiropractor of record" to be primarily responsible for the chiropractic care of a patient.

The rule provides that the chiropractor of record is to be identified on the patient record. In the absence of a designation, the owner of the practice in which the patient was treated will be presumed to be the chiropractor of record. Each chiropractor of record and any other care provider must sign or initial those entries on the record pertaining to his or her treatment. A change in the chiropractor of record would require a written acknowledgment in the patient's record by the subsequent chiropractor, who would be presumed to have reviewed the patient's history and records, examined the patient and either developed a new treatment plan or concurred with the continuance of the pre-existing treatment plan.

In order to address a difficulty the Board often encounters when it orders restoration of fees for services provided at multi-chiropractor practices, the rule also provides that a licensee found to have rendered services in violation of N.J.S.A. 45:1-21 and the owner of the facility will be jointly and severally responsible for any fee reimbursement to the patient. Many chiropractors at large facilities are salaried employees or receive only a small percentage of the fees for services. When the Board directs repayment of fees in accordance with N.J.S.A. 45:1-22(d), it is not feasible for the Board to trace the apportionment of fees received in such a facility. Nevertheless, some licensees will maintain that they should not be obligated to pay restitution because they did not directly receive the fees paid by the patient or insurance carrier. Inasmuch as the immediate treating chiropractor and the owner may both benefit from the patient's patronage, the Board's position is that both should be jointly and severally responsible for making the patient financially whole if the services are rendered in violation of N.J.S.A. 45:1-21.

Social Impact

It is anticipated that this proposed new rule will have a positive social impact by designating a single chiropractor who will be primarily responsible for patient care. Such designation on the patient record will enable other persons reviewing the records to identify the professional who rendered specific treatment. This should benefit the patient seeking to understand or make use of his or her records, as well as any other subsequent treating chiropractor who may need a consultation concerning the care previously rendered.

Economic Impact

Compliance with this rule may require a small modification in recordkeeping practices, but it should have no substantial economic impact upon Board licensees. Many multi-chiropractor practices already keep records in a manner similar to that required by the proposed rule. The aspect of the rule which creates joint and several responsibility for the repayment of fees will have a notable economic impact. In most instances, it is not feasible for the Board to trace the apportionment of fees paid for a given treatment or procedure. It is the Board's position that where the return of fees for improper or deficient treatment is directed, either the licensee who rendered the deficient treatment, as the professional directly responsible for the patient's care, or the owner of the facility, as a beneficiary of the fees, should be responsible. If any indemnification or contribution is warranted between or among the professionals, it is the Board's position that it should not impede the return of fees to the patient.

Regulatory Flexibility Analysis

If, for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., chiropractors are deemed "small businesses" within the meaning of the statute, the following statement is applicable.

The proposed new rule will apply to Board licensees who practice in a multi-chiropractic facility and to the owners of such facilities. Compliance requirements include identification on patient records of the name of the chiropractor of record, who must sign or initial each entry. Any other person who renders conjunctive services must also sign or initial each entry on the patient record pertaining to the services he or she provided. If the chiropractor of record is changed, written acknowledg-

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ment by the subsequent chiropractor of record is required to be placed in the patient's record. The rule involves no reporting requirements and no professional services are needed in order to comply. The Board estimates that the time required to sign or initial patient record entries or to prepare a written acknowledgment of a change in the chiropractor of record is economically insignificant, and in any event many multi-chiropractor facilities already have in place similar recordkeeping practices. The Board considers these requirements to be reasonable and necessary for the protection of the public health, safety and welfare. For that reason, the requirements must be uniformly applied to all licensees without differentiation as to size of practice. The rule also provides that a licensee found to have rendered deficient services and the facility owner will be held jointly and severally liable if the Board directs a fee reimbursement. Although owners of multi-chiropractor facilities will be exposed to greater liability, this requirement must apply to small business owners to ensure that patients will be reimbursed for deficient treatment.

Full text of the proposed new rule follows:

13:44E-2.4 Chiropractor of record; fee reimbursement

(a) Each patient in a chiropractic facility shall have a chiropractor of record who shall remain primarily responsible for assuring the proper implementation of the chiropractic services to be rendered to such patient regardless of whether the services are rendered by the chiropractor of record or by any other person rendering chiropractic services or ancillary treatment to the patient.

(b) The name of the chiropractor of record shall be conspicuously identified on the patient record. If the chiropractor of record is not identified on the patient record, it shall be presumed that the chiropractor of record is the owner of the practice in which the patient was treated.

(c) Each chiropractor or any other person rendering services shall sign or initial each entry on the patient record pertaining to the services he or she provided. If no such entry appears on the patient record, it shall be presumed that such service was rendered by the chiropractor of record, unless the latter shall establish the identity of the individual who provided such services.

(d) In a multi-chiropractor practice, the chiropractor of record shall remain the same until a subsequent chiropractor affirmatively notes in the patient record that he or she is currently the chiropractor of record. In the event that the chiropractor of record leaves the practice, a successor chiropractor shall be designated if the patient elects to continue treatment in the facility.

(e) A new chiropractor of record shall review the patient's history and chiropractic records, examine the patient, if necessary, and either develop a new treatment plan or continue the pre-existing plan.

(f) Any licensee found to have rendered services in violation of N.J.S.A. 45:1-21 and the owner of the facility in which the licensee renders such services shall be jointly and severally responsible for any restoration of patient fees as may be ordered by the Board.

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules

Appeals

Proposed Amendments: N.J.A.C. 13:70-13A.1, 13A.2, 13A.3 and 13A.7

Proposed Repeal and New Rule: N.J.A.C. 13:70-13A.5

Authorized By: New Jersey Racing Commission, Charles K. Bradley, Deputy Director.

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

Proposal Number: PRN 1991-251.

Submit written comments by June 15, 1991 to:
Charles K. Bradley, Deputy Director
New Jersey Racing Commission
200 Woolverton Street
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments and new rule, which have been recommended by the Office of Administrative Law, more specifically set forth an individual's right to a contested case hearing where there is a possibility of an individual's license being suspended or revoked. The proposed new rule also states that the hearing will be conducted pursuant to the Administrative Procedure Act and the Uniform Administrative Procedure Rules.

Social Impact

The proposed amendments and new rule will have a positive impact on the racing industry in that the new and amended rules more specifically define an individual's right to a contested hearing when an individual has been suspended by the State Steward or any official representing the Racing Commission.

Economic Impact

The proposed amendments and new rule will not have an economic impact on the racing industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments and new rule do not impose reporting, recordkeeping or other compliances on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and new rule more specifically define an individual's right to a contested hearing and have no impact on small businesses.

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

13:70-13A.1 Right of Appeal

[When any] **Any** person [is] disciplined by the stewards or any official representing the Commission pursuant to the laws of New Jersey or rules of the Commission[,] **may appeal** said penalty [may be appealed] to the Commission and **request** a hearing [requested].

13:70-13A.2 Imposition of penalty; Commission

The Commission may directly impose any disciplinary action provided for in its rules [and regulations].

13:70-13A.3 Nature of proceedings

All hearings before the Stewards [and Commission] will be de novo proceedings and shall be accompanied by notice and an opportunity to be heard.

13:70-13A.5 [Acting or appeals] **Hearings**

[The Commission shall act on all appeals in accordance with the laws of the State of New Jersey and the rules and regulations promulgated by the Commission.]

(a) Hearings in any appeal to the Commission shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B and 52:14F, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) If a license has been suspended pending hearing, the hearing shall be expedited.

13:70-13A.7 Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to [the right of appeal contained in] this subchapter [and the laws of the State of New Jersey].

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(a)

NEW JERSEY RACING COMMISSION

Harness Rules

Appeals

Proposed Amendments: N.J.A.C. 13:71-3.1, 3.2, 3.4 and 3.7

Proposed Repeals and New Rules: N.J.A.C. 13:71-3.3 and 3.5

Proposed Repeals: N.J.A.C. 13:71-3.4 and 3.8

Authorized By: New Jersey Racing Commission, Charles K. Bradley, Deputy Director.

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

Proposal Number: PRN 1991-252.

Submit written comments by June 5, 1991 to:
Charles K. Bradley, Deputy Director
New Jersey Racing Commission
200 Woolverton Street
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments, new rules and repeals, which have been recommended by the Office of Administrative Law, more specifically set forth an individual's right to a contested case hearing where there is a possibility of an individual's license being suspended or revoked. Proposed new rule N.J.A.C. 13:71-3.5 also states that the hearing will be conducted pursuant to the Administrative Procedure Act and the Uniform Administrative Procedure Rules.

Social Impact

The proposed amendments, new rules and repeals will have a positive impact on the racing industry in that the new and amended rules more specifically define an individual's right to a contested hearing when an individual has been suspended by the Board of Judges and/or State Steward or any official representing the Racing Commission.

Economic Impact

The proposed amendments, new rules and repeals will not have an economic impact on the racing industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments, new rules and repeals do not impose reporting, recordkeeping or other compliances on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments, new rules and repeals more specifically define an individual's right to a contested hearing and have no impact on small businesses.

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

13:71-3.1 Right of appeal

[When any] **Any** person [is] disciplined by the **board of** judges, **State** steward or any official representing the Commission [pursuant to the law of New Jersey or rules of the Commission, said penalty] may [be] appeal[ed] **the penalty pursuant to the procedures of this subchapter** [to the Commission and a hearing requested].

13:71-3.2 Imposition of penalty; Commission

The Commission may directly impose any disciplinary action provided for in its rules [and regulations].

[13:71-3.3 Exhaustion of remedies

All appeals from decision of the board of judges must be initially heard by the steward before the Commission will accept jurisdiction.]

[13:71-3.4 Nature of proceedings

All hearings before the board of judges, steward and Commission will be de novo proceedings and shall be accompanied by notice and opportunity to be heard.]

13:71-3.3 Stewards hearing

(a) All appeals from decisions of the board of judges shall be considered by the State steward. Such appeal hearing shall be a de novo proceeding and the steward may modify any penalty imposed by the board of judges upon notice and opportunity to be heard afforded to the affected person or persons.

(b) The decision of the State steward shall be final unless an appeal is filed with the Commission.

13:71-[3.5]**3.4** Appeal procedure

[In the event that an] **Any** appeal [is taken to the Commission, said appeal] must be filed in writing at the office of the Commission within three days of the date of imposition of penalty by the Commission, **State** steward or **board of** judges.

13:71-[3.6]**3.5** [Acting on appeals] **Hearings**

[The Commission shall act on all appeals in accordance with the laws of the State of New Jersey and the rules and regulations promulgated by the Commission.]

(a) Hearings in any appeal to the Commission shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B and 52:14F, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) If a license has been suspended pending hearing, the hearing shall be expedited.

13:71-[3.7]**3.6** Frivolous appeals

(No change in text.)

[13:71-3.8 Steward's hearing

All appeals from decisions of the board of judges shall be considered by the state steward. Such appeal hearing shall be de novo proceeding and the steward may modify any penalty imposed by the board of judges upon notice and opportunity to be heard afforded to the affected persons or person.]

13:71-[3.9]**3.7** Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to [the right of appeal contained in] this subchapter [and the laws of the State of New Jersey].

13:71-[3.10]**3.8** Stay pending appeals

(No change in text.)

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Customer Lists and Billing Information

Proposed New Rule: N.J.A.C. 14:12-6.1

Authorized By: Board of Public Utilities, George H. Barbour and Jeremiah F. O'Connor, Commissioner.

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

BPU Docket Number: EX90040304.

Proposal Number: PRN 1991-244.

A **public hearing** concerning this proposal will be held on:
May 23, 1991 at 10:00 A.M.
Newark City Hall
Council Chambers Room
920 Broad Street
Newark, New Jersey 07102

Submit written comments by June 6, 1991 to:
Robert Chilton, Director
Electric Division
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

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The agency proposal follows:

Summary

The Board of Public Utilities (Board) has adopted a series of initiatives over the past decade to foster an expanded penetration of energy efficiency and load management measures into the homes and businesses of the State. Specifically, the Board has approved a number of utility conservation programs designed to provide rebates, grants, loans and other incentives for residents and businesses to purchase and/or install conservation measures. In 1988, the Board approved a competitive bidding procedure whereby electric utilities in the State periodically issue Requests for Proposals (RFP) to solicit non-utility supply-side and demand-side projects to meet forecasted needs for additional capacity and energy. As a result of this procedure, a number of contracts have been executed between electric utilities and energy service companies for delivery of demand-side management (DSM) capacity and energy savings.

In addition, the Board has elsewhere in this issue of the New Jersey Register proposed N.J.A.C. 14:12, Demand Side Management Resource Plan rules, by which certain incentives would be provided to electric and gas utilities to encourage promotion of and investment in energy conservation measures. These expanded conservation initiatives are expected to be implemented in large part by contractors, energy service companies and other third parties participating in utility-sponsored programs.

In addition, the Board is of the opinion that utility customer lists and related billing information should be made available to qualified participating contractors in order to render the marketing of these programs more efficient. The proposed new rule would require that utilities make such customer information available to contractors, energy service companies or other parties who are procured by the utility to market, install or otherwise provide demand side management services to utility customers.

It is the view of the Board that such information has been developed through efforts supported by ratepayer funds. Accordingly, to the extent that the effectiveness of DSM programs can be improved through the controlled release of such information to the benefit of ratepayers, said release is appropriate.

Social Impact

The proposed new rule is intended to enhance the ability of third parties involved in the marketing, installation or other provision of DSM services to utility customers to efficiently identify eligible customers. This will improve the cost-effectiveness of DSM programs, which enures to the benefit of utility ratepayers, and will also enhance the ability of third party energy service companies and contractors to compete with utilities for the provision of DSM services. The increased cost-effectiveness of DSM programs and enhanced competition in the energy services market will lead to greater penetration of energy efficiency measures, thereby resulting in lower customer bills, reduced need to site and construct or purchase new energy supply facilities, as well as reduce combustion of fossil fuels. This will, among other things, improve the environmental quality of the State as well as reduce the State's dependence on imported energy sources.

Economic Impact

The proposed new rule will have negligible economic impact on utilities since the information already exists. Energy service companies and contractors stand to benefit by enhancing their ability to identify potential customers for DSM services. In order to avoid potential negative impacts on utility customers, the proposed rules prohibit disclosure of customer information by contractors. It is not the intent of the proposed rules that such sensitive information be disseminated publicly.

Regulatory Flexibility Statement

The proposed new rule does not require a small business regulatory flexibility analysis since it does not specifically apply or impact on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed rules place requirements only on 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 enhance 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 new rules follows:

SUBCHAPTER 6. CUSTOMER LISTS AND BILLING INFORMATION

14:12-6.1 Release of information

(a) Upon execution and award of a Demand Side Management (DSM) contract by a utility to a qualified energy service company (ESCO) to procure delivery of DSM services, a utility shall have available, at the request of said ESCO, utility customer lists and usage information related to the target customer group, subject to the following:

1. That said energy service company shall agree that release of such customer information to other entities or members of the public is expressly prohibited;

2. That use of said information for purposes other than those directly related to the execution of the contract with the utility to deliver energy services is expressly prohibited;

3. The customer list and usage information shall be treated as confidential throughout the DSM project and shall not be duplicated or distributed beyond those ESCO employees directly involved on the DSM project; and

4. Upon completion of the DSM project all information related to customer listings, usage etc., so provided shall be returned to the Company.

(b) The utility shall require each affected ESCO to enter into a protective agreement which includes the provisions set forth in (a) above, prior to the release of customer list and usage information.

(a)

BOARD OF PUBLIC UTILITITES

Demand Side Management Resource Plan

Reproposed New Rules: N.J.A.C.14:12

Authorized By: Board of Public Utilities, George H. Barbour and Jeremiah F. O'Connor, Commissioner.

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

BPU Docket Number: EX90040304.

Proposal Number: PRN 1991-245.

A **public hearing** concerning this reproposal will be held on:

May 23, 1991 at 10:00 A.M. at:
Newark City Hall
Council Chambers Room
920 Broad Street
Newark, New Jersey 07102

Submit written comments by June 6, 1991 to:

Robert Chilton, Director
Electric Division
Board of Public Utilities
Two Gatetway 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 ratemaking incentive mechanisms to remove some of the existing barriers and to encourage energy conservation investments. The pre-proposal posed questions regarding the aformentioned subjects in order 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 record remained open for written comments until July 9, 1990.

It was the view of the majority of the commenters on the pre-proposal that the provision of some form of financial incentives to the utilities would foster an increased penetration of installed conservation, load

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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.

It is 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. 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 wide 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 on 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 programs which to accomplish numerous DSM objectives including the performance of energy audits and the provision of energy information, appliance rebates, subsidized loans, and grants. 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 criteria including environmental, project viability and reliability 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, weighting criteria include, inter alia, environmental impacts, fuel diversity and project viability. 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 the annual fuel clause. This differs from the rate treatment accorded utility-constructed plant, which is placed in rate base with its cost recovered over its useful life and 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 intended to be considered on an equal and competitive basis and where the outcome produces a combination of the two which maximizes 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 comments received in the pre-proposal stage generally supported the concept of providing financial incentives for utilities to implement DSM programs, that is, to remove the sales erosion disincentive and provide utilities with the opportunity to earn a return on investments in DSM measures. Indeed, a number of 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 any rules which may be promulgated in order to afford utilities some latitude in fashioning programs to meet the needs of their respective service territories. 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.

To that end, the Board proposed new rules N.J.A.C. 14:12 entitled "Demand Side Management Resource Plan" in BPU Docket No. EX90040304. Said proposal was published in the December 17, 1990 New Jersey Register at 22 N.J.R. 3699(a). The proposed rules provided utilities with the opportunity to recover program costs and lost revenues, and to earn returns on investments in energy efficiency measures based upon a sharing of program savings between utilities and ratepayers. The proposed rules also included methodologies for measuring costs, benefits and levels of incentives, as well as a proxy approach for valuing environmental externalities.

A public hearing concerning the proposed rules was held on December 20, 1990, and written comments were received through January 16, 1991. A majority of the comments can be placed into three main categories. First, independent plumbing, heating and cooling contractors expressed strong opposition to the proposed rules because of their perception that the rules were intended to encourage utilities to directly sell, install and maintain high efficiency appliances and other measures to the exclusion of small businesses. Second, utilities expressed concerns regarding the applicability of the various cost benefit methodologies and the interaction of utility programs with programs being administered by energy service companies as a result of the utilities' competitive bidding solicitations. Third, energy service companies expressed concerns that the proposed rules would permit utilities to monopolize the energy service market thereby eliminating many of the benefits which result from the existing competitive bid process. Various other comments were received concerning the appropriateness of proposed core programs, quantification of environmental externalities and other issues. In addition, Public Service Electric and Gas (PSE&G) reiterated its desire to implement a standard price offer for DSM projects as opposed to the shared savings approach. Moreover, in approving PSE&G's 1990 competitive bidding filing, the Board committed to resolving the so-called "double-count" bill savings issue. Based on these comments, substantial revisions to the proposed rules have been made, thereby requiring additional public notice and comment. The current proposal, therefore, supersedes and replaces the proposal at 22 N.J.R. 3699(a). It should be noted that N.J.A.C. 14A:20, proposed for repeal in the original proposal, expired on Februry 3, 1991, pursuant to Executive Order No. 66 (1978). Therefore, no repeal action is necessary.

The Board is committed to assuring that independent contractors, suppliers and energy service companies have a meaningful, and indeed, a central role in the implementation of energy conservation programs. The Board believes that, while utility expertise and resources should play a vital role in designing and marketing programs, the continued use of financial incentives and reliance on the non-utility infrastructure for the direct installation of measures is an appropriate means by which utilities may deliver energy conservation services. To that end, the effect that utility conservation programs have on competitive markets will be an important factor considered by the Board and its staff in reviewing proposed DSM plans.

At the public hearing on December 20, 1990, Commissioner Scott A. Weiner, then President of the Board, questioned the appropriateness of utilities being in the business of directly selling and installing appliances or energy conservation measures, except in unique circumstances where no sales, delivery and/or installation mechanism for a particular measure existed and that a rulemaking to that effect should be explored. It was the conclusion of subsequent legal research, however, that the Board does not have the jurisdiction to ban utilities from such activities. Therefore, the Board will not prohibit utilities from explicitly servicing or installing appliances or energy conservation measures. Legislative changes would be necessary to provide the necessary jurisdiction. However, the Board will continue to oversee such activities to ensure that the charges are reasonable and to ensure there is no cross-subsidization of these activities. Moreover, the BPU can and will carefully review the impact of utility DSM programs on existing competitive supply, distribution and installation markets. It should also be noted that during the comment period the utilities repeatedly stated their intent to utilize third parties to supply and install the bulk if not all of program measures.

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The Board believes that the proposed rules will result in benefits to all sectors of the energy services market, including the creation of jobs for small and independent contractors and distributors. The proposed rules are intended to foster an expanded investment in energy efficiency measures in the State which will replace the construction of generating facilities and fuel purchases which could result in a flow of dollars out of the State.

It is the Board's conclusion that the goal and intent of the proposed rules was not clearly expressed in the original proposal, thus leading to the strong objection and justifiable concerns expressed by the contractors. The language in the reproposed new rules has been clarified to specifically state the Board's intent to maintain and enhance a competitive supply, distribution and installation market. References to a particular minimum block or percentage reserved for independent contractors, which was the subject of concern among a large component of the commenters, has been omitted.

The major issues addressed by the utilities involved the applicability of the various cost benefit tests required to be filed, as well as the interaction of utility DSM programs with the programs being implemented by energy service companies (ESCO(s)) as a result of the utilities integrated bid (supply and demand) solicitations for capacity and energy.

In response to these concerns, certain modifications to the proposed rules were made. Applicability of the various cost benefit methodologies has been defined as establishing a formula for determining incentives and requiring that program measures pass the "Total Resource Cost" test as defined in the proposed rules. The rules have been modified to allow for standard pricing offers to be used. This would permit PSE&G, as well as other utilities, to implement the standard price offer concept espoused in its comments. It is the Board's view that at the outset, a variety of concepts should be explored in order to gather a broad range of experience. The role of competitive bidding for DSM projects has also been clarified in the proposed rules. The new proposed rules maintain flexibility in order to allow a utility to design a DSM program that meets its specific capacity and energy needs.

Several modifications have been made which address the concern of the ESCOs that the proposed rules will allow utilities to monopolize the energy services market. These modifications include the addition of an option for a utility to use standard offers as a means of procuring energy savings. Standard offers would also be made available to ESCOs at prices and terms equivalent to those given to utilities.

If a utility opts for the shared savings approach, which provides the utility with greater control over program design and pricing, the utility would be required to continue to issue an integrated (supply and demand) bid as required by the Stipulation of Settlement. The Board believes that both approaches will result in ESCOs playing a significant role in the energy services market. Further, the Board in its continued oversight of utility programs, can insure that the programs will enhance rather than discourage the role of ESCOs in the delivery of energy services.

The reproposed new rules set forth herein include the following additional provisions.

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." These programs will provide 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 benefits derived from the program (defined as avoided cost savings to the utility plus environmental benefits). For standard offer programs, utilities will have an opportunity to earn profits based on the difference between the cost of the program and the standard offer payment. Along with the program descriptions, each affected 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 costs 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 there has been less experience to date with calculations of 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.

The framework for utility shared savings incentives provided for in the proposed rules offers two general options. First, consistent with the originally-published rules, utilities will be allowed the opportunity to earn incentives based upon a shared savings of a portion of the program's net benefits. A second option by which utilities may earn incentives is via the standard pricing offer approach. A standard price offer can be developed and made available for utility programs and for programs implemented by ESCOs, other third parties and end users who meet certain minimum requirements. The price will be based on avoided cost and will include adjustments for environmental externalities and lost contributions to fixed revenues. Profits will result to the extent that savings are delivered at a unit cost below the standard price.

The proposed rules provide an important distinction between the standard offer approach and the shared savings approach. If a utility opts for the standard offer approach, it must make standard offers available to all ESCOs and host facilities that meet the minimum criteria established. A standard offer of broad scope and application can be expected to bring forth a large block of cost-effective DSM measures, thus supplanting the need for an integrated bid. Moreover, it is the Board's view that a broad standard offer and competitive bid cannot simultaneously coexist, because of problems associated with different players in the market receiving different price signals. On that basis, if a utility requires additional capacity and energy, and opts to procure it through a competitive solicitation, the utility will not be required to issue an integrated (supply and demand side) bid.

If a utility opts for the shared savings approach, however, there is no guarantee that the market potential for DSM will be fully exploited, since the scope and penetration of measures is more directly controlled. On that basis, if a utility chooses this option, any competitive bid solicitation will be required to continue to be integrated (supply and demand side).

In order to introduce a degree of risk sharing and allocation commensurate with the opportunity for earning incentives, the proposed rules provide for utilities to incur negative incentives to the extent that program costs exceed program benefits.

The establishment of a methodology by which the cost-effectiveness of DSM programs is ascertained, and the adoption of a basis for utility incentives, presents a regulatory dilemma. The total resource cost (TRC) test has gained wide acceptance in other jurisdictions. It was the primary test used to judge the cost-effectiveness of New Jersey utility programs in the August 1990 Conservation Analysis Team (CAT) study, and it was advocated for use by a number of utilities and other commenters to the proposed rules published at 22 N.J.R. 3699(a). The TRC test analyzes programs from a societal viewpoint, essentially holding that, in order to be cost effective, the total cost of a DSM program as measured by utility program costs plus contributions by a participant must not exceed utility avoided cost savings, related line losses and reserve margin savings, and incidental savings (plus externalities where included). Because bill savings represent a benefit to the participant and a cost to the non-participating ratepayer, from a societal standpoint this component nets out.

While it is appropriate for the Board to consider DSM programs from a societal perspective—ensuring that efficient programs are pursued—the impact of programs on utility costs and rates cannot be ignored. From the perspective of non-participating utility ratepayers, the erosion of revenues resulting from an individual utility customer undertaking energy conservation will put upward pressure on their rates, at least in the short run, as they pick up a greater share of the utility's fixed cost. One approach by which to mitigate this effect is to make DSM programs universal, so that essentially every customer has the opportunity to become a participant and therefore lower his or her bill. Thus, while rates may increase, the total bills of customers or total cost of the utility declines. However, while this is a worthy goal, it cannot be assumed that all customers, no matter how broad a range of programs is offered, will participate. As a result, while the TRC remains an appropriate measure of cost-effectiveness, the impact of DSM programs on utility rates should be given consideration as well.

To that end, the proposed rules establish the TRC as the determinant of the cost-effectiveness of a program. A program must be demonstrated to pass the TRC in order to gain initial approval. However, the proposed rules establish a formula to determine the appropriate level of utility contribution toward a DSM measure which takes into account rate impact. The appropriate level of utility contribution will be determined by subtracting fixed cost revenue erosion (considered as a cost) from the sum of avoided cost savings, associated line loss savings and reserve margin

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savings, incidental savings and environmental externalities (considered as benefits). Fixed cost revenue erosion is determined as the average retail rate of the utility less gross receipts and franchise taxes and fuel costs, all multiplied by 0.8. By applying a multiplier of 0.8 to fixed costs revenue erosion, the Board is allowing for a small increase in rates. However, programs of broad application should be offered to afford each customer the opportunity to participate and therefore lower his or her overall bill. Such broad opportunities will enable businesses to avail themselves of energy efficiency technologies which lower overall bills and thereby improve competitiveness, and will also allow residential customers and governmental bodies to reduce energy bills.

The appropriate level of utility contribution, as determined by the above-described formula, will be used as both the basis for utility shared savings mechanisms and the standard pricing offer. Additional contributions from participating customers, in the form of direct payments or shared savings, will be permitted up to the point where the total of utility payments (costs) plus participant costs equals the benefits as defined in the TRC (avoided costs, related line losses and reserve margin savings, incidental savings and environmental externalities).

The rules also provide a framework to reflect the potential environmental benefits associated with DSM technoloiges. The quantification of environmental costs associated with electric generation and natural gas combustion is an evolving endeavor. Three states, New York, Massachusetts and Nevada, have adopted specific values for environmental externalities for inclusion in the least cost planning process of utilities. The Board also takes note of a 1990 Report prepared by the Pace University Center for Environmental Legal Studies for the New York State Energy and Developmental Authority and United States Department of Energy, which studied the existing literature valuing environmental costs of electric utility operations. Driven primarily by air pollution costs related to SO_2 , NO_x , particulates and CO_2 , the report develops environmental costs for coal-fired, natural gas fired and oil-fired generating facilities, among others. To summarize, the Pace study establishes environmental costs of $.045 per kilowatt-hour (kwh) for a coal-fired facility meeting new source performance standards (NSPS), $0.11 per kwh for a gas-fired combined cycle facility, $.03 per kwh for an oil-fired combustion turbine and $.032 per kwh for a steam plant burning low sulfur oil. It should be noted that the environmental externality values adopted in Nevada and Massachusetts closely follow the figures established in the Pace Report.

Making the conservative assumption that all coal-fired units from which New Jersey utilities purchase electricity meet NSPS (which will not be the case for a number of years), and employing a weighted average of New Jersey electric fuel mix (including purchases) of 50 percent coal, 10 percent gas and 10 percent oil, electric generation produces an average air pollution environmental cost of 2.65 cents per kwh. However, the predominant marginal generating unit technologies appearing in the New Jersey utilities' capacity plans are natural gas-fired combustion turbines or combined cycle units. The Pace Report estimates the environmental cost of generation from the avoided production plant is more on the order of 1.0 cent per kwh. However, the avoided gas-fired combustion turbine or combined cycle facility would be expected to run from several hundred to several thousand hours per year predominantly during peak and shoulder periods. As a result, baseload energy efficiency DSM measures can be expected to avoid generation from existing plant, likely coal-fired facilities, during off-peak hours.

In consideration of the factors noted, the proposed rules establish an average value for electric environmental externalities of 2.0 cents per kwh. The rules also provide for time differentiation of environmental costs to take into account the previously enunciated factors.

For natural gas, the value for environmental externalities is established in the proposed rules at $.95/MMBtu (one million British thermal units), which approximates the environmental costs established in the Pace Report for natural gas combustion at an electric generating facility. As with the electric figures, this value is considered conservative since the gas-fired electric generating unit is assumed to have various emission controls not present at natural gas end user premises.

It is recognized that the environmental values established in the proposed rules represent merely an approximation, and will likely be the subject of further study and refinement. However, it is important that a starting point be established for purposes of assessing the benefits of DSM programs. The proposed rules provide for modification of these values in future DSM plan filings as the base of information in this field evolves.

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 "Core Programs." The utilities are provided the flexibility 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. Some utilities objected to certain of the Core Programs, based upon their poor performance as assessed in the CAT study. However, the proposed rules do not require that all existing utility programs be continued, and they also provide the flexibility to incorporate program modifications recommended in the CAT study to improve overall cost-effectiveness.

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 the 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.

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 or standard price offer 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 1991 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 or standard price offer for procurement of DSM measures in natural gas customer end 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 or standard price offer for natural gas DSM measures should prove substantially more problematic than bidding for electricity DSM applications. 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 or standard price offer 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 expired 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 to the Board. Among those duties was 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, the expiration of N.J.A.C. 14A:20 will be allowed to stand.

Social Impact

The reproposed new 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

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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 reducing 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. Finally, the proposed rules are intended to insure the development of a competitive market for the delivery of conservation programs where appropriate.

Economic Impact

The reproposed new 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 overall utility bills and therefore enhancing the State's competitive position. Finally, but no less important, the rules are intended to create significant business opportunities for independent entities such as energy service companies and energy efficiency equipment suppliers and installers. As increased investment in energy efficiency will divert business from out-of-State bulk fuel suppliers to in-State providers of energy efficiency equipment, the overall economic impact on the State will be positive.

Regulatory Flexibility Statement

The reproposed new rules do not require a small business regulatory flexibility analysis since they do not specifically apply or impact on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules place requirements only on 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 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 new rules follows:

CHAPTER 12
DEMAND SIDE MANAGEMENT

SUBCHAPTER 1. 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 society, 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 resources and 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 fairly compete for Demand Side Management (DSM) business opportunities.

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.

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

"Core Programs" means a set of conservation programs required to be performed by the utilities and which are not subject to the incentive ratemaking formulae 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 which provides energy efficiency and load management equipment and services to end user customers.

"Fixed cost revenue erosion" means the reduction in contribution towards a utility's fixed costs resulting from a reduction in energy usage from a DSM program. This figure is determined on a per unit basis by dividing total retail revenues minus the sum of gross receipts and franchise taxes and fuel costs by total retail sales.

"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" means the end user at whose site the DSM measure or service will be installed or rendered.

"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 within a particular program to be installed or rendered in the targeted customers' premises or in the utility's 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.

"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 (including line loss factors and reserve margin savings), incidental savings and environmental externalities 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 file no later than 90 days from 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 kilowatt-hours (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;

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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 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. 14:12-4.1.

i. Unless otherwise directed by the Board, a utility's Core Programs menu must include the following:

(1) The Home Energy Savings Program (HESP) as described in N.J.A.C. 14:38. However, in order to increase the overall cost effectiveness of the Program, the utility may incorporate features such as target marketing, and prescreening of applicants to ensure that an otherwise eligible applicant has not had a prior utility—sponsored energy audit within a specified number of years at his or her present location, or does not reside in a residence that was constructed after a specified date;

(2) A Low Income Direct Grant and/or Seal-Up Program;

(3) A Commercial and Apartment Conservation Service (CACS) energy audit program; features similar to those described in (a)4i(1) above which enhance program cost effectiveness may be incorporated by the utility;

(4) A program encouraging the energy efficient design of new construction;

(5) Informational programs designed to foster conservation awareness;

(6) Educational programs designed to enhance the understanding of energy efficiency in the school systems;

(7) 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

(8) 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 of 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, installation or maintenance of program measures;

(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; and

(4) An analysis of the impact of the program on the competitive aspects of existing market infrastructures involved in the sales and installation or other provision of similar measures and/or services.

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.

6. Each utility must prepare an Executive Summary of its DSM Plan filing which provides a brief overview of the Plan including:

i. An overall target savings;

ii. A brief description of the programs offered, including the manner of implementation, the projected savings and a measurement plan;

iii. An incentive mechanism and/or standard price offer description;

iv. A basis for the incentives or standard offer, including a summary of avoided costs;

v. A cost recovery mechanism; and

vi. A revenue adjustment mechanism.

7. Each utility must demonstrate an effort to offer DSM program opportunities to all sectors of its customer base, or demonstrate why such a broad spectrum is not achievable.

SUBCHAPTER 3. INCENTIVES

14:12-3.1 Basis for incentives

(a) Unless otherwise approved or directed by the Board, the basis for the opportunity to earn an incentive shall take one of the following formats:

1. A base percentage return on investment as set forth in N.J.A.C. 14:12-3.4(e) for each Performance-Based Program. To the base return shall be added incentives based upon a shared savings of the achieved net benefits associated with the individual programs set forth in its Plan; or

2. A DSM standard price offer for general application or for particular DSM measures, which establishes a per unit price for energy and capacity savings which a utility will pay to third parties and/or receive through rates for DSM projects which meet minimum viability, technological, measurement and verification criteria. Such a standard offer energy and capacity price will be established based upon the criteria set forth in N.J.A.C. 14:12-4.3.

14:12-3.2 Net benefits

(a) Net benefits of the program shall be defined as the difference between the net present value of benefits associated with the program and the net present value of program costs.

(b) The net benefits calculation can be expressed utilizing the following formula:

$NB = NPV_B - NPV_C$, where

NB = net benefits

NPV_B = net present value benefits of the energy and capacity savings, calculated using the following formula:

$$\sum_{t=1}^{L} \frac{(E \times AEC)}{(1 + DR)^{t-1}} + \frac{(C \times ACC)^{t-1}}{(1 + DR)}$$

where
- t = years
- L = duration of program measure
- E = kilowatt-hours (electric utilities) or therms (gas utilities) of energy avoided in year t by virtue of the DSM measures
- C = kilowatts (electric utilities) or peak therms (gas utilities) of demand avoided in year t by virtue of the DSM measures
- AEC = avoided energy cost (cents per kwh or cents per therm) as approved by the Board. In addition to energy costs AEC must include an adjustment for transmission and/or distribution line losses and a specific incorporation of environmental externalities as provided in N.J.A.C. 14:12-3.7.
- ACC = avoided capacity cost including appropriate reserve margin savings, as approved by the Board
- DR = discount rate
- NPV_C = net present value of total costs as recovered from ratepayers, including program costs, base level of return and a factor initially set at 0.8 times the fixed cost revenue erosion as adjusted by the Board from time to time.

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(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 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 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 non utility-provided energy sources (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.

(b) 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 pursuant to N.J.A.C. 14:12-3.1(a) 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) Actual net benfits 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 for that program by the Board pursuant to N.J.A.C. 14:12-3.6, and subject to the approved verification plan also filed pursuant to N.J.A.C. 14:12-3.6. Modifications to the measurement plan shall be applied prospectively. 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.

(d) In the event that achieved net benefits of individual programs are less than zero, negative incentives shall result. These negative incentives, determined as a percentage of negative net benefits, 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 retroactively applied changes in the measurement criteria.

(e) 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 zero) as established in (b) through (d) above shall be added to (subtracted from) the base return. In order to mitigate against an undue emphasis on expenditure levels rather than achieved savings, the allowed base return shall be capped at 500 basis points below the authorized overall rate of return of the utility.

(f) 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. Unless otherwise permitted by the Board, allowed shared savings percentages will be inversely related to the base level of return.

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 to ensure that they reflect implementation experience as well as advances in measurement techniques. Said review shall be undertaken at least every two years concurrent 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.

(f) In order to ensure a competitive DSM marketplace, measurement criteria for utility Performance-Based Programs must be consistent with measurement requirements imposed by the utility on third parties pursuant to competitive bid solicitations or standard price offers.

(g) Each utility shall fund the procurement of a contractor in order to provide for independent verification of utility Performance-Based Program measure installation, maintenance and consistency with the measurement plan. Said contractor shall be selected by and report directly to the Board.

14:12-3.6 Benefit-Cost Test

In order to receive Board approval and be eligible for incentives, each Performance-Based Program must be demonstrated to result in a benefit/cost ratio of at least 1.0 as defined by the Total Resource Cost test.

14:12-3.7 Environmental externalities

(a) The avoided societal cost of environmental impacts related to construction and operation of electric and natural gas supply projects and electric and natural gas consumption, otherwise referred to as environmental externalities, shall be explicitly reflected in net benefits calculations and standard pricing offers as a benefit of DSM projects.

1. For the initial DSM Plan filing and until otherwise modified by the Board, the following environmental externality values will apply:

i. For electric utility DSM programs, the environmental externality value shall be $.02 per kilowatt-hour (kwh). The electric environmental externalities shall be time-differentiated consistent with time differentiation of avoided cost schedules in order to reflect the changing mix of generation sources during different time periods. Nonetheless, the average value shall be $.02 per kwh.

ii. For gas utility DSM programs, the environmental externality value shall be $.95 per one million British thermal units (MMBtu).

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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 or some other period 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 Standard pricing offers

(a) In the event that a utility opts to make available, pursuant to N.J.A.C. 14:12-3.1(a)2, a standard price offer in lieu of Performance-Based Programs, the standard price offer shall contain the following:

1. A price for which the utility will pay third-parties who meet minimum threshold requirements for delivery of verifiable energy and capacity savings from DSM measures. The utility may also propose to deliver verifiable DSM savings through various programs and be permitted to receive revenues equivalent to the standard price offer for delivery of such savings; and

2. The maximum price at which the standard offer may be set as determined by the following formula:

i. Avoided Energy Costs (plus line losses) plus Avoided Capacity Costs (plus reserve margin savings) plus Environmental Externalities minus Fixed Cost Revenue Erosion times 0.8;

ii. An appropriate discount below the formula may be applied to reflect the anticipated benefits which would result from a competitive bid; and

3. A demonstration that measures or programs, procured via a standard price offer, are cost-effective pursuant to the requirements of N.J.A.C. 14:12-3.6.

(b) The utilities' DSM Plan shall be designed in a manner so that third party energy service companies and other independent contractors, suppliers and end users are provided with an opportunity to participate in the provision of DSM services at customer premises and the opportunity to propose innovative DSM applications. To that end, in addition to other provisions of this chapter, each utility that opts for the shared savings approach must make available, as part of its DSM Plan, a standard pricing offer for electric and/or gas energy and capacity savings delivered by non-utility entities via DSM measures or applications not specifically covered by utility-sponsored Core or Performance-Based Programs.

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. The recovery between base rate changes of fixed cost contribution losses as specified in (a)1 above.

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 competitive bidding or standard pricing offer procedure.

(b) For competitive bidding, 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 block size to be targeted.

(f) Review by the Board of bidding and standard offer procedures in subsequent DSM Plan filings shall be based upon the experience with the pilot bidding procedure.

14:12-4.6 DSM bidding for electric utilities

(a) To the extent that, notwithstanding DSM initiatives undertaken pursuant to this chapter, an electric utility projects a need for additional generating capacity to be procured via a competitive bid procedure, said competitive bid procedure must continue to be integrated to include solicitation of bids from DSM projects, subject to the following:

1. The basis for establishing the ceiling price for DSM bids as well as evaluation criteria must be consistent with the formulae and guidelines for utility DSM incentives and standard price offers as established in this chapter; and

2. A utility which implements, pursuant to this chapter, a DSM standard pricing offer which remains open to third-party DSM project concurrent with the bid solicitation process will be exempt from including DSM in the bidding procedure.

SUBCHAPTER 5. AGENCY REVIEW

14:12-5.1 Impact on non-utility markets

(a) In reviewing each proposed DSM program, the Board will assess the impact on existing non-utility market infrastructures involved in the sales and installation or other provision of DSM measures and/or services.

1. The Board's review of proposed DSM programs will take into account the Board's policy to encourage the development of non-utility market infrastructures.

2. The existence or absence of an infrastructure for the distribution, sales or installation of a particular DSM measure or service will bear on the Board's assessment with respect to paragraph (a) above.

14:12-5.2 Consistency with competitive bid programs

Review by the Board of each proposed DSM program will include an assessment of pricing, quality assurance mechanisms, measurement plans and savings verification plans. This review is to ensure that utility-sponsored programs are held to similar standards as comparable projects designed and implemented by non-utility interests pursuant to a DSM competitive bid solicitation process or standard pricing offer implemented by the utility.

14:12-5.3 Public notice and hearing

(a) Prior to filing its DSM Plan, each utility must contact the Board and its staff to arrange for a pre-filing conference at which a date for public hearing on the DSM Plan shall be established.

(b) Concurrent with its DSM Plan filing, each utility shall provide appropriate public notice of its filing, the date, time and location of the public hearing, and a contact for obtaining a copy of the Executive Summary prepared pursuant to N.J.A.C. 14:12-2.2(e).

(c) Within 45 days of receipt of a utility's DSM Plan filing pursuant to this chapter, the Board will conduct a public hearing to solicit comments on the proposed Plan. Provision will also be made for written comments to be submitted to the Board.

14:12-5.4 Board approval

The DSM Plan shall be implemented as soon as practicable following Board approval.

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TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Speed Limits
Route N.J. 57 in Warren County
Proposed Amendment: N.J.A.C. 16:28-1.38

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.
Proposal Number: PRN 1991-224.

Submit oral or written comments by June 5, 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
(609) 530-2041

The agency proposal follows:

Summary

The proposed amendment will establish revised "speed limit" zones along Route N.J. 57 in the Township of Mansfield, Warren County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a review of current conditions, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the revisions to current "speed limit" zones along Route N.J. 57 in Warren County are warranted, and the Department, therefore, proposes to amend N.J.A.C. 16:28-1.38.

The speed zones along Route N.J. 57 will be amended, changing their locations and designating them by mileposts in addition to providing other landmarks as reference points.

Social Impact

The proposed amendment will establish revised "speed limit" zones along Route N.J. 57 in the Township of Mansfield, Warren County, for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. The revised speed limit zones provide the motoring public specific areas and locations within the municipality to which they are applicable. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department will incur direct and indirect costs for mileage, personnel and equipment. The Department will bear the costs for the installation of any additional "speed limit" zone signs as necessary. The sign costs vary based upon the materials used, their size and the 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 does not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment primarily affects the motoring public and governmental entities responsible for the enforcement of the rules.

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

16:28-1.38 Route 57

(a) The rate of speed designated for the certain part of State highway Route N.J. 57 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Warren County:

i.-v. (No change.)

vi. Mansfield Township:

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

(3) Zone 3: 50 miles per hour between 1465 feet west of Old Turnpike Road and [Brantwood Terrace] **Hazen Road** (approximate mileposts 15.56 to [18.93] **18.60**); thence

(4) Zone 4: [40] **45** miles per hour between [Brantwood Terrace] **Hazen Road** and [1,100] **500** feet east of [Airport] **Claremont** Road (approximate mileposts [18.93 to 19.54] **18.60 to 18.76**); thence

(5) Zone 5: [50] **40** miles per hour between [1,100] **500** feet east of [Airport] **Claremont** Road and the Town of Hackettstown westerly line (approximate mileposts [19.54] **18.76** to 20.53); thence

vii. (No change.)

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Speed Limits
Routes N.J. 324 in Gloucester County; N.J. 79 in Monmouth County; N.J. 44 in Gloucester County; and N.J. 48 in Salem County
Proposed Repeals and New Rules: N.J.A.C. 16:28-1.60, 1.93 and 1.107
Proposed New Rule: N.J.A.C. 16:28-1.45

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.
Proposal Number: PRN 1991-209.

Submit oral or written comments by June 5, 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
609-530-2041

The agency proposal follows:

Summary

The proposed repeals and new rules will establish "speed limit" zones along Routes N.J. 324 in Logan Township, Gloucester County; N.J. 79 in Freehold and Marlboro Townships, and Freehold and Matawan Boroughs, Monmouth County; N.J. 44 in Logan, West Deptford and Greenwich Townships, and Paulsboro Borough, Gloucester County; and N.J. 48 in Penns Grove Borough and Carneys Point Township in Salem County for the efficient flow of traffic, the enhancement of safety, and well-being of the populace.

The Department's Bureau of Traffic Engineering and Safety Programs, in the interest of safety and to complete a review of current conditions, conducted traffic investigations and surveys. The investigations and surveys proved that the establishment of "speed limit" zones along Routes N.J. 324 in Gloucester County; N.J. 79 in Monmouth County; N.J. 44 in Gloucester County; and N.J. 48 in Salem County were warranted.

The Department, therefore, proposes to add new rule N.J.A.C. 16:28-1.45 and repeal and propose as new rules N.J.A.C. 16:28-1.60, 1.93 and 1.107, based upon the traffic investigations and surveys.

Social Impact

The proposed repeals and new rules will establish "speed limit" zones along Routes N.J. 324 in Logan Township, Gloucester County; N.J. 79 in Freehold and Marlboro Townships, and Freehold and Matawan Boroughs, Monmouth County; N.J. 44 in Logan, West Deptford and Greenwich Townships, and Paulsboro Borough, Gloucester County; and N.J. 48 in Penns Grove Borough and Carneys Point Township, Salem County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zone signs.

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Sign costs vary based upon the materials used, their size and the method of procurement. Motorists who violate the rules will be assessed the appropriate fine as established by N.J.S.A. 39 and the State of New Jersey "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed repeals 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 rules primarily affect the motoring public and the governmental entities responsible for enforcement of the rules.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 16:28-1.60, 1.93 and 1.107.

Full text of the proposed new rules, N.J.A.C. 16:28-1.45, 1.60, 1.93 and 1.107 follows:

16:28-1.45 Route 324

(a) The rate of speed designated for the certain parts of State highway Route 324 described in this subsection shall be established and adopted as the maximum legal rate of speed.

1. For both directions of traffic.

i. Gloucester County:

(1) Logan Township:

(A) 50 miles per hour for the entire length.

16:28-1.60 Route 79

(a) The rate of speed designated for the certain parts of State highway Route N.J. 79 described in this subsection shall be established and adopted as the maximum legal rate of speed.

1. For both directions of traffic:

i. Monmouth County:

(1) Freehold Township:

(A) Zone 1: 40 miles per hour from Route U.S. 9 to Daniels Way—Moreau Avenue (approximate mileposts 0.00 to 0.35); thence

(B) Zone 2: 35 miles per hour from Daniels Way—Moreau Avenue to the southerly line of Freehold Borough (approximate mileposts 0.35 to 0.57); thence

(2) Freehold Borough:

(A) Zone 1: 35 miles per hour from the northerly line of Freehold Township to Route N.J. 33 (Park Avenue) (approximate mileposts 0.57 to 0.74); thence

(B) Zone 2: 30 miles per hour from Route N.J. 33 (Park Avenue) to Douglas Road, except for 25 miles per hour when passing through the Saint Rose of Lima School zone (mileposts 0.98 to 1.15) and the Freehold High School zone (mileposts 1.97 to 2.17) 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 (approximate mileposts 0.74 to 2.20); thence

(C) Zone 3: 40 miles per hour from Douglas Road to the southerly line of Freehold Township (approximate mileposts 2.20 to 2.40); thence

(3) Freehold Township:

(A) Zone 3: 40 miles per hour from the northerly line of Freehold Borough to Ryan Boulevard (approximate mileposts 2.40 to 2.50); thence

(B) Zone 4: 50 miles per hour from Ryan Boulevard to the southerly line of Marlboro Township (approximate mileposts 2.50 to 3.90); thence

(4) Marlboro Township:

(A) Zone 1: 50 miles per hour from the northerly line of Freehold Township to 235 feet north of Brandon Road (approximate mileposts 3.90 to 5.33); thence

(B) Zone 2: 40 miles per hour from 235 feet north of Brandon Road to 415 feet north of Buck Lane (approximate mileposts 5.33 to 5.79); thence

(C) Zone 3: 50 miles per hour from 415 feet north of Buck Lane to Brown Road, except for 35 miles per hour when passing through the Marlboro High School zone, (mileposts 6.36 to 6.64) and the Central Elementary School zone, (mileposts 7.32 to 7.42) 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 (approximate mileposts 5.79 to 9.38); thence

(D) Zone 4: 40 miles per hour from Brown Road to Church Lane (approximate mileposts 9.38 to 10.18); thence

(E) Zone 5: 45 miles per hour from Church Lane to the southerly line of Matawan Borough (approximate mileposts 10.18 to 10.95); thence

(5) Matawan Borough:

(A) Zone 1: 40 miles per hour from the northerly line of Marlboro Township to Claire Court (approximate mileposts 10.95 to 11.69); thence

(B) Zone 2: 30 miles per hour from Claire Court to Route N.J. 34 (approximate mileposts 11.69 to 12.13).

16:28-1.93 Route 44

(a) The rate of speed designated for the certain parts of State highway Route N.J. 44 described in this subsection shall be established and adopted as the maximum legal rate of speed.

1. For both directions of traffic in Gloucester County:

i. Logan Township:

(1) 50 miles per hour between Barkers Avenue and the Greenwich Township southerly line (approximate mileposts 0.00 to 2.14); thence

ii. Greenwich Township:

(1) Zone 1: 50 miles per hour between the Logan Township northerly line and 1950 feet south of Veterans Avenue (approximate mileposts 2.14 to 2.68); thence

(2) Zone 2: 40 miles per hour between 1950 feet south of Veterans Avenue and 50 feet south of Veterans Avenue (approximate mileposts 2.68 to 3.04); thence

(3) Zone 3: 35 miles per hour between 50 feet south of Veterans Avenue and the Borough of Paulsboro southwesterly line (Billingsport Road), except for 25 miles per hour when passing through the Gibbstown Elementary School zone (mileposts 3.51 to 3.74) 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 (approximate mileposts 3.04 to 5.18); thence

iii. Borough of Paulsboro:

(1) 35 miles per hour between the northeasterly line of Greenwich Township (Berkley Road) and the southerly line of West Deptford Township (Mantua Creek) (approximate mileposts 5.26 to 6.31); thence

iv. West Deptford Township:

(1) Zone 1: 35 miles per hour between the northerly line of Paulsboro and 755 feet north of the northerly line of Paulsboro (Mantua Creek) (approximate mileposts 6.31 to 6.45); thence

(2) Zone 2: 50 miles per hour between 755 feet north of the northerly line of Paulsboro (Mantua Creek) and 800 feet south of Church Street (approximate mileposts 6.45 to 8.37); thence

(3) Zone 3: 40 miles per hour between 800 feet south of Church Street and Salem Avenue (approximate mileposts 8.37 to 9.07); thence

(4) Zone 4: 45 miles per hour between Salem Avenue and Route I-295—U.S. 130 (approximate mileposts 9.07 to 9.60).

2. For northbound direction for traffic in Gloucester County:

i. Greenwich Township:

(1) 35 miles per hour between the Borough of Paulsboro southwesterly line (Billingsport Road) and the Borough of Paulsboro southwesterly line (Berkley Road) (approximate mileposts 5.18 to 5.26).

3. For southbound direction of traffic in Gloucester County:

i. Borough of Paulsboro:

(1) 35 miles per hour between the northwesterly line of Greenwich Township (Billingsport Road) and the northeasterly line of Greenwich Township (Berkley Road) (approximate mileposts 5.18 to 5.26).

16:28-1.107 Route 48

(a) The rate of speed designated for the certain parts of State highway Route N.J. 48 described in this subsection shall be established and adopted as the maximum legal rate of speed.

1. For both directions of traffic in Salem County:

i. Penns Grove Borough:

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(1) Zone 1: 25 miles per hour from Route U.S. 130 (Main Street) to South Torton Street (approximate mileposts 0.00 to 0.14); thence

(2) Zone 2: 30 miles per hour from South Torton Street to the Carneys Point Township—Penns Grove Borough corporate line (approximate mileposts 0.14 to 0.27); thence

ii. Carneys Point Township:

(1) Zone 1: 30 miles per hour from the Penns Grove Borough—Carneys Point corporate line to Cedarwood Avenue (approximate mileposts 0.27 to 0.36); thence

(2) Zone 2: 40 miles per hour from Cedarwood Avenue to 625 feet west of East End Avenue, except for 30 miles per hour when passing through the Penns Grove High School zone, (mileposts 0.63 to 0.81) 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 (approximate mileposts 0.36 to 0.84); thence

(3) Zone 3: 50 miles per hour from 625 feet west of East End Avenue to Route U.S. 40 (approximate mileposts 0.84 to 4.26).

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Speed Limits

Routes U.S. 202 in Morris County; N.J. 15 in Morris County; and N.J. 12 in Hunterdon County

Proposed Amendments: N.J.A.C. 16:28-1.67 and 1.76

Proposed Repeal and New Rule: N.J.A.C. 16:28-1.129

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1991-216.

Submit comments by June 5, 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, repeal and new rule will establish revised "speed limit" zones along Routes U.S. 202 in Bernard Township, Somerset County and Harding Township, Morris County; N.J. 15 in Wharton Borough, Morris County; and N.J. 12 in the Boroughs of Frenchtown and Flemington and the Townships of Kingwood, Franklin, Delaware and Raritan, Hunterdon County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

The Department's Bureau of Traffic Engineering and Safety Programs, in the interest of safety, and as part of a review of current conditions, conducted traffic investigations and surveys. The investigations and surveys proved that the establishment of revised "speed limit" zones along Routes U.S. 202 in Morris County; N.J. 15 in Morris County; and N.J. 12 in Hunterdon County were warranted.

The Department, therefore, proposes to amend N.J.A.C. 16:28-1.67 and 1.76, and repeal and propose new rule N.J.A.C. 16:28-1.129 based upon the traffic investigations and surveys.

Social Impact

The proposed amendments and new rule will establish revised "speed limit" zones along Routes U.S. 202 in Bernard Township, Somerset County and Harding Township, Morris County; N.J. 15 in Wharton Borough, Morris County and N.J. 12 in the Boroughs of Frenchtown and Flemington and the Townships of Kingwood, Franklin, Delaware and Raritan, Hunterdon County for the 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 any additional "speed limit" zone signs. The costs involved in the installation of signs vary based upon the size, materials used and the method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the New Jersey "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments and new rule 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 rule primarily affects the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:2-1.67 Route U.S. 202

(a) The rate of speed designated for the certain parts of State highway Route U.S. 202 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:

i.-xiv. (No change.)

xv. [40 miles per hour to the intersection of Madisonville Road (Bernards Township) (milepost 38.95); thence] **In Bernards Township, Somerset County, and Harding Township, Morris County:**

(1) 40 miles per hour to the intersection of Madisonville Road (Bernards Township) (milepost 37.92); thence

(2) 50 miles per hour between Madisonville Road (Bernards Township) and North Maple Avenue (Bernards Township) (approximate mileposts 37.92 to 38.95); thence

(3) 45 miles per hour between North Maple Avenue (Bernards Township) and a point 1450 feet north of Glen Alpin—Tempe Wick Road (Harding Township) (approximate mileposts 38.95 to 41.03); thence

(4) 50 miles per hour between a point 1450 feet north of Glen Alpin—Tempe Wick Road (Harding Township) and a point 800 feet south of Frederick Street (Morris Township) (approximate mileposts 41.03 to 42.67); thence

[xvi. 50 miles per hour to a point 800 feet south of the intersection of Frederick Street, Morris Township; thence]

Recodify [xvii]-[xxii] as **xvi.-xxi.** (No change in text.)

16:28-1.76 Route 15

(a) The rate of speed for the certain parts of State highway Route 15 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. (No change.)

2. For northbound traffic in Morris County:

i. In Wharton Borough:

[i.] (A) Zone 3: 55 miles per hour [inWharton Borough] extending through Rockaway Township, Jefferson Township, Morris County, and into Sparta Township, Sussex County, to the northerly terminus of Route 181 (milepost 14.2).

(B) 35 miles per hour along Route N.J. 15 Ramp (northbound North Main Street) from its southerly intersection with North Main Street (County Road 634) to its northerly intersection with northbound Route N.J. 15.

3.-4. (No change.)

16:28-1.129 Route 12

[(a) The rate of speed designated for State highway Route 12 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic in Hunterdon County:

i. Frenchtown Borough:

(1) Zone 1: Fifty miles per hour between the start of New Jersey Department of Transportation jurisdiction (in the vicinity of Horseshoe Bend Road) and the easterly Frenchtown Borough-westerly Kingwood Township Line. (milepost .95-1.0)

ii. Kingwood Township:

(1) Fifty miles per hour within corporate limits. (milepost 1.0-6.15)

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iii. Franklin Township:

(1) Fifty miles per hour within corporate limits. (milepost 6.15-6.55)

iv. Delaware Township:

(1) Fifty miles per hour within corporate limits. (milepost 6.55-7.5)

v. Raritan Township:

(1) Fifty miles per hour between the easterly Delaware Township-westerly Raritan Township line and 100 feet west of Old Croton Road. (milepost 7.5-10.55)

(2) Zone 2: forty-five miles per hour between 100 feet west of Old Croton Road and the easterly Raritan Township-westerly Flemington Borough line. (milepost 10.55-11.0)

vi. Flemington Borough:

(1) Forty-five miles per hour between the easterly Raritan Township-westerly Flemington Borough line and 1050 feet west of Brown Street. (milepost 11.0-11.2)

(2) Zone 3: Forty miles per hour between 1050 feet west of Brown Street and the Routes 12, 31, and U.S. 202 Traffic Circle. (milepost 11.2-11.7)]

(a) The rate of speed designated for State highway Route 12 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Hunterdon County:

i. Frenchtown Borough:

(1) Mileposts 0.00 to 0.95 under the jurisdiction of the Delaware River Joint Toll Bridge Commission, Municipal and County: 40 miles per hour between Horseshoe Bend Road and the Kingwood Township line (approximate mileposts 0.95 to 1.01); thence

ii. Kingwood Township:

(1) 50 miles per hour between the Borough of Frenchtown easterly line and the Franklin Township westerly line (approximate mileposts 1.01 to 6.13); thence

iii. Franklin Township:

(1) 50 miles per hour between the Kingwood Township easterly line and the Delaware Township westerly line (approximate mileposts 6.13 to 6.55); thence

iv. Delaware Township:

(1) 50 miles per hour between the Franklin Township easterly line and the Raritan Township westerly line (Croton Road) (approximate mileposts 6.55 to 7.49); thence

v. Raritan Township:

(1) Zone 1: 50 miles per hour between the Delaware Township easterly line (Croton Road) and Douglas Court (approximate mileposts 7.49 to 10.44); thence

(2) Zone 2: 45 miles per hour between Douglas Court and Sergentsville-Flemington Road (County Road 523) (approximate mileposts 10.44 to 10.74); thence

(3) Zone 3: 40 miles per hour between Sergentsville-Flemington Road (County Road 523) and the Borough of Flemington westerly line (approximate mileposts 10.74 to 10.98); thence

vi. Flemington Borough:

(1) Zone 1: 40 miles per hour between the Raritan Township westerly line and South Main Street (County Road 611) (approximate mileposts 10.98 to 11.45); thence

(2) Zone 2: 30 miles per hour between South Main Street (County Road 611) and Route N.J. 31—Route U.S. 202 (Circle) (approximate mileposts 11.45 to 11.70).

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Speed Limits
Route N.J. 179 in Hunterdon County
Proposed Amendment: N.J.A.C. 16:28-1.158

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1991-204.

Submit comments by June 5, 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 will establish revised "speed limit" zones along Route N.J. 179 in the City of Lambertville, and the Townships of West Amwell and East Amwell in Hunterdon County for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

The Department's Bureau of Traffic Engineering and Safety Programs, as part of a review of current conditions, conducted traffic investigations. The investigations proved that the establishment of revised "speed limit" zones along Route 179 in the City of Lambertville, the Townships of West Amwell and East Amwell, Hunterdon County, were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.158 based upon the traffic investigations. The Department is revising the speed zones by changing their locations and designating them by milepost, in addition to other landmarks.

Social Impact

The proposed amendment will establish revised "speed limit" zones along Route 179 in the City of Lambertville, the Townships of West Amwell and East Amwell, Hunterdon County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. The revised speed zones provide the motoring public with 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.

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 N.J.S.A. 39, and the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment primarily affects the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:28-1.158 Route 179

(a) The rate of speed designated for the certain parts of State Highway Route 179 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:

i. In the City of Lambertville, Hunterdon County:

(1) Zone one: 25 mph between the northerly end of the Delaware Bridge and Route **N.J.** 165 (**approximate** [milepost] **mileposts** 0.05 to [0.39] **0.37**); **thence;**

(2) Zone two: 40 mph between Route **N.J.** 165 and 475 feet north of Hancock Street (**approximate** [milepost] **mileposts** [0.39] **0.37** to 0.69); **thence;**

(3) Zone three: 45 mph between 475 feet north of Hancock Street and the [City of Lambertville -] Township of West Amwell [corporate] **southerly** line (**approximate** [milepost] **mileposts** 0.69 to 0.90).

ii. In the Township of West Amwell, Hunterdon County:

[(1) Zone four: 50 mph between the West Amwell Township—City of Lambertville corporate line and 375 feet north of Melborne Lane (milepost 0.90 to 6.24);]

(1) Zone one: 45 mph between the Lambertville City northerly line and Woodward Avenue (approximate mileposts 0.90 to 1.13); thence

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(2) Zone two: 50 mph between Woodward Avenue and the southwesterly line of East Amwell Township (50 feet south of Cedar Crest Drive) (approximate mileposts 1.13 to 4.47).

iii. In the Township of East Amwell, Hunterdon County:

[(1) Zone five: 35 mph between 375 feet north of Melborne Lane and Route N.J. 31—County Road 579 Connection (milepost 6.24 to 6.34);

(2) Zone six: 30 mph between Route N.J. 31—County Road 579 connection and 400 feet north of Wertsville Road (County Road 602) (milepost 6.34 to 6.53);

(3) Zone seven: 35 mph between 400 feet north of Wertsville Road (County Road 602) and 325 feet south of Larison Lane (milepost 6.53 to 6.77);

(4) Zone eight: 45 mph between 325 feet south of Larison Lane and Route U.S. 202 and N.J. 31 (milepost 6.77 to 7.46)].

(1) Zone one: 50 mph between Route U.S. 202 Ramp "L" and Route U.S. 202 Frontage Road (approximate mileposts 5.47 to 5.84); thence

(2) Zone two: 35 mph between the West Amwell Township northeasterly line (Melborne Lane) and Route N.J. 31 (approximate mileposts 6.13 to 6.41); thence

(3) Zone three: 30 mph between Route N.J. 31 and 470 feet north of Westville Road (approximate mileposts 6.41 to 6.57); thence

(4) Zone four: 35 mph between 470 feet north of Westville Road and Larison Lane (approximate mileposts 6.57 to 6.80); thence

(5) Zone five: 40 mph between Larison Lane and 445 feet north of Fox Hunt Road (approximate mileposts 6.80 to 7.02); thence

(6) Zone six: 45 mph between 445 feet north of Fox Hunt Road and the Route N.J. 31—Route U.S. 202 Circle (approximate mileposts 7.02 to 7.46).

2. For northbound direction of traffic:

i. In the Township of West Amwell, Hunterdon County:

(1) 50 mph between the southwesterly line of East Amwell Township (50 feet south of Cedar Crest Drive) and Route U.S. 202 Ramp "L" (approximate mileposts 4.47 to 5.47); thence

(2) 50 mph between Route U.S. 202 Frontage Road and the West Amwell Township northwesterly line (Melborne Lane) (approximate mileposts 5.84 to 6.13).

3. For southbound direction of traffic:

i. In the Township of East Amwell, Hunterdon County:

(1) Zone one: 50 mph between the Township of West Amwell northwesterly line (50 feet south of Cedar Crest Drive) and Route U.S. 202 Ramp "L" (approximate mileposts 4.47 to 5.47; thence

(2) 50 mph between Route U.S. 202 Frontage Road and the West Amwell Township northeasterly line (Melborne Lane) (approximate mileposts 5.84 to 6.13).

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Handicapped Parking Space
Route U.S. 30 in Camden County
Proposed Amendment: N.J.A.C. 16:28A-1.21

Authorized By: Edward G. Baker, Acting Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1991-205.

Submit comments by June 5, 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 will establish a handicapped parking space in Haddon Township, Camden County, on the northbound side of U.S. Route 30, for the use of only those persons who have been issued "Handicapped" vehicle identification cards by the Division of Motor Vehicles, Department of Law and Public Safety. Based upon a request forwarded from the local government, the Department conducted a study and determined that the designation of a handicapped parking space at the requested location was warranted. Therefore, the Department proposes to establish such a space, for the benefit of those individuals who have been issued "Handicapped" vehicle identification cards by the Division of Motor Vehicles.

Social Impact

The establishment of a designated parking space will assist those individuals who have been issued "Handicapped" vehicle identification cards by the Division of Motor Vehicles by providing a space to park their vehicles in close proximity to their destination. Since only one space is involved, there is no significant social cost to those drivers not possessing a "Handicapped" card.

Economic Impact

The municipality will bear the cost of installation of the sign designating the handicapped parking space. The costs for the sign and for the installation will vary, depending upon the method of procurement used. Motorists who violate the rule will be assessed the appropriate fine, as established by N.J.S.A. 39 and the "Statewide Violations Bureau Schedule," issued pursuant to New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not impose any reporting, recordkeeping or compliance requirements on small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment affects the motoring public and the governmental entities responsible for enforcing the rule.

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

16:28A-1.21 Route U.S. 30

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

(c) The certain part of Route U.S. 30 described in this subsection shall be designated and established as a restricted parking space for the sole use of persons who have been issued "Handicapped" vehicle identification cards by the New Jersey Division of Motor Vehicles. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following handicapped parking space:

1. Restricted parking in Haddon Township, Camden County:

i. Along the northbound (easterly) side:

(1) Beginning 35 feet from the prolongation of the southerly curb line of West Collongwood Avenue and extending 44 feet therefrom.

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Turn Prohibitions
Route N.J. 73 in Burlington County
Proposed Amendment: N.J.A.C. 16:31-1.17

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1991-265.

Submit comments by June 5, 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 will establish left turn and "U" turn restrictions along Route N.J. 73 in Evesham Township, Burlington County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

The Department's Bureau of Traffic Engineering and Safety Programs, as part of a review of current conditions, conducted a traffic investigation. The investigation proved that the establishment of left turn and "U" turn

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restrictions along Route N.J. 73 in Evesham Township, Burlington County, was warranted.

The Department, therefore, proposes to amend N.J.A.C. 16:31-1.17 based upon the traffic investigation.

The Department has internally recodified the rule to indicate turn prohibitions by municipality and county.

Social Impact

The proposed amendment will establish left turn and "U" turn restrictions along Route N.J. 73 in Evesham Township, Burlington County, for the 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 will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no left turn" and "no "U" turn" signs. Sign costs vary depending upon the size, type of material used, and the method of procurement. Motorists who violate the rules will be assessed the appropriate fine, in accordance with the New Jersey" Statetwide Violations Bureau Schedule, issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule primarily affects the motoring public and the governmental entities responsible for the enforcement of the rule.

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

16:31-1.17 Route 73

(a) Turning movements of traffic on the certain parts of State highway Route 73 described in this [section] **subsection** are regulated as follows:

1. No left [turns] **turn** in [Winslow Township,] Camden County[,]: [southbound on Route 73 to eastbound on Pump Branch Road.]

i. In Winslow Township:

(1) From southbound on Route 73 to eastbound on Pump Branch Road.

2. No left turn in Burlington County:

i. Evesham Township:

(1) From westbound on Baker Boulevard to southbound Route N.J. 73.

3. No "U" turn in Burlington County:

i. Evesham Township:

(1) From northbound on Route N.J. 73 to southbound on Route N.J. 73.

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Turn Prohibitions
Route N.J. 49 in Cumberland County
Proposed New Rule: N.J.A.C. 16:31-1.30

Authorized By: Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1991-213.

Submit oral and written comments by June 5, 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
(609) 530-2041

The agency proposal follows:

Summary

The proposed new rule will establish a "U" turn restriction along Route N.J. 49 in the City of Millville, Cumberland County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

The Department's Bureau of Traffic Engineering and Safety Programs in the interest of safety and as part of a review of current conditions, conducted a traffic investigation. The investigation proved that the establishment of a "U" turn restriction along Route N.J. 49 in the City of Millville, Cumberland County, was warranted.

The Department therefore proposes new rule N.J.A.C. 16:31-1.30, based upon the traffic investigation.

Social Impact

The proposed new rule will establish a "U" turn restriction along Route N.J 49 in the City of Millville, Cumberland County for the 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 will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "No "U" turn" zone signs. Motorists who violate the rules will be assessed the appropriate fine as established in N.J.S.A. 39 and the State of New Jersey "Statewide Violation Bureau Schedule," issued under the New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed new rule does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule primarily affects the motoring public and the governmental entities responsible for enforcement of the rule.

Full text of the proposed new rule follows:

16:31-1.30 Route 49

(a) Turning movements on the certain parts of State highway Route N.J. 49 described in this subsection are regulated as follows:

1. No "U" turn:

i. In Cumberland County:

(1) City of Millville:

(A) In both directions between the overpass of Route N.J. 55 and Wade Boulevard.

OTHER AGENCIES

(b)

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Negotiations and Impasse Procedure; Mediation, Fact-finding and Arbitration
Proposed Readoption with Amendments: N.J.A.C. 19:12

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

Authority: N.J.S.A. 34:13A-5.4(e), 6(b), 11 and 16(h).

Proposal Number: PRN 1991-226.

Submit comments by June 5, 1991 to:

James W. Mastriani, Chairman
Public Employment Relations Commission
495 West State St.
CN 429
Trenton, NJ 08625-0429

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66 (1978), the Public Employment Relations Commission proposes to readopt N.J.A.C. 19:12. These rules concern procedures for resolving negotiations disputes between public employers and employee representatives through mediation, fact-finding and arbitration. The chapter will expire on August 7, 1991. The readoption of the chapter will

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allow continued implementation of the mandates of the New Jersey Employer-Employee Relations Act. The proposed readoption is necessary to continue these rules in full force and effect.

A summary of the text of each section in N.J.A.C. 19:12 follows:

N.J.A.C. 19:12-1.1, Purpose of procedures, explains that the rules provide procedures for timely resolving negotiations impasses.

N.J.A.C. 19:12-2.1, Commencement of negotiations, specifies the time periods for commencing negotiations.

N.J.A.C. 19:12-3.1, Initiation of mediation, details the provisions for securing a Commission-appointed mediator.

N.J.A.C. 19:12-3.2, Appointment of mediator, specifies who may be appointed a mediator.

N.J.A.C. 19:12-3.3, Mediator's function, states that a mediator is to assist all parties to come to a voluntary agreement and that the mediator may hold separate or joint conferences and recommend fact-finding.

N.J.A.C. 19:12-3.4, Mediator's confidentiality, provides that all information disclosed by a party to a mediator shall be confidential.

N.J.A.C. 19:12-3.5, Mediator's report, provides for the submission of one or more confidential reports to the Director of Conciliation concerning the progress of mediation.

N.J.A.C. 19:12-4.1, Initiation of fact-finding, specifies the procedures for initiating fact-finding if mediation has been unsuccessful.

N.J.A.C. 19:12-4.2, Appointment of fact-finder, specifies the procedures for appointing a fact-finder and who may be appointed.

N.J.A.C. 19:12-4.3, Fact-finder's function, specifies the duties and powers of fact-finders and the allocation of costs of fact-finding.

N.J.A.C. 19:12-5.1, Function of the Commission, provides that the Commission will maintain an arbitration panel whose members are available to assist in the arbitration of unresolved grievances.

N.J.A.C. 19:12-5.2, Request for submissions of panel, specifies the procedures for requesting the submission of a panel.

N.J.A.C. 19:12-5.4, Code of Professional Responsibility for Arbitrators of Labor Management Disputes, obligates arbitrators to be guided by the codes of professional responsibility of the National Academy of Arbitrators, American Arbitration Association and the Federal Mediation and Conciliation Service.

N.J.A.C. 19:12-5.5, Time and place of hearing, specifies the procedures for setting a hearing.

N.J.A.C. 19:12-5.6, Adjournments, sets the standard for granting adjournments.

N.J.A.C. 19:12-5.7, Arbitration in the absence of a party, empowers the arbitrator to proceed with a duly scheduled hearing in the absence of a party who has failed to obtain an adjournment.

N.J.A.C. 19:12-5.8, Filing of briefs, specifies the procedures for filing briefs.

N.J.A.C. 19:12-5.9, Award, specifies when an award must be issued, how it must be issued, and what must be in writing.

N.J.A.C. 19:12-5.10, Subpoena power, authorizes the arbitrator to issue a subpoena.

N.J.A.C. 19:12-5.11, Cost of arbitration, provides that the parties must bear the cost of arbitration.

The Commission has amended the title of this chapter, to provide greater clarity.

The proposed amendment to N.J.A.C. 19:12-3.4 would make the grant of confidentiality to a mediator attempting to resolve a negotiations impasse consistent with the grant of confidentiality provided by N.J.S.A. 34:13A-16(h).

The proposed amendment to N.J.A.C. 19:12-4.3 would make two changes. The first would conform N.J.A.C. 19:12-4.3(a) to an analogous rule, N.J.A.C. 19:16-5.7(d), by providing that fact-finding hearings will not be public unless the parties so agree. Currently the rule requires the agreement of the parties and the fact-finder to open hearings to the public. The other change would add a subsection with language similar to that found in analogous rules, N.J.A.C. 19:12-3.4, N.J.A.C. 19:16-3.4, N.J.A.C. 19:16-4.3 and N.J.A.C. 19:16-5.7(c), as amended by this rulemaking readoption and a concurrent proposal, published elsewhere in this issue of the New Jersey Register. These rules provide that information disclosed by a party to mediators, faet-finders and interest arbitrators while functioning in a mediatory capacity shall not be divulged voluntarily or by compulsion. They also provide that all files, records, reports, documents or other papers received or prepared by mediators, fact-finders and interest arbitrators while so serving shall be confidential and that such confidential records and testimony regarding any mediation conducted by a mediator, fact-finder of interest arbitrator, shall be not produced on behalf of any party in any type of proceeding under N.J.S.A. 34:13A-1.1 et seq. This shield of confidentiality had been omitted from the text of N.J.A.C. 19:12-4.3.

Social Impact

The readoption of this subchapter with the proposed minor changes will permit the continued smooth functioning of mediation, fact-finding and arbitration procedures which have worked to resolve negotiations impasses and contractual disputes between public employers and public employees without the disruption of public services and within budget submission deadlines. Public employers and employees will continue to benefit from prompt, precise and clear procedures for resolving their disputes. Readoption will permit the public to continue to benefit from the prompt and peaceful resolution of such disputes.

Economic Impact

Readoption of these rules will promote harmonious management-labor relations, reduce disruption in governmental services, and coordinate negotiations with budget submission deadlines. The parties to fact-finding shall bear their own costs while the Commission shall bear the costs of the fact-finder's services and necessary expenses unless subsequent legislation mandates otherwise. The parties shall bear the cost of arbitration.

Regulatory Flexibility Statement

The proposed readoption imposes no reporting, recordkeeping or other compliance requirements on small businesses, as the term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules provide standards for negotiations between public employers and employees, in the case of disputes.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:12.

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

CHAPTER 12
NEGOTIATIONS AND IMPASSE PROCEDURE; **MEDIATION, FACT-FINDING AND ARBITRATION**

19:12-3.4 Mediator's confidentiality

Information disclosed by a party to a mediator in the performance of mediation functions shall not be divulged voluntarily or by compulsion. All files, records, reports, documents or other papers received or prepared by a mediator while serving in such capacity shall be classified as confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by him or her, on behalf of any party to any cause pending in any type of proceeding **under the New Jersey Employer-Employee Relations Act, as amended,** including, but not limited to, unfair practice proceedings under [Chapter 14 of these rules] **N.J.A.C. 19:14**.

19:12-4.3 Fact-finder's function

(a) The appointed fact-finder shall, as soon as possible after appointment, meet with the parties [of] **or** other representatives, make inquiries and investigations, hold hearings, which shall not be public unless all parties [and the fact-finder] agree to have them public, or take such other steps as are deemed appropriate in order to discharge his or her function.

(b) (No change.)

(c) Information disclosed by a party to a fact-finder while functioning in a mediatory capacity shall not be divulged by the fact-finder voluntarily or by compulsion. All files, records, reports, documents or other papers received or prepared by a fact-finder while serving in a mediatory capacity shall be classified as confidential. The fact-finder shall not produce any confidential records of, or testify in regard to, any mediation conducted by him or her, on behalf of any party to any cause pending in any type of proceeding under the New Jersey Employer-Employee Relations Act, as amended, including, but not limited to, unfair practice proceedings under N.J.A.C. 19:14.

Recodify (c)-(f) as **(d)-(g)** (No change in text.)

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(a)

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Negotiations, Impasse Procedures and Compulsory Interest Arbitration of Labor Disputes in Public Fire and Police Departments

Proposed Readoption with Amendments: N.J.A.C. 19:16

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

Authority: N.J.S.A. 34:13A-5.4(e), 6(b), 11 and 14 et seq.

Proposal Number: PRN 1991-263.

Submit comments by June 5, 1991 to:
James W. Mastriani, Chairman
Public Employment Relations Commission
CN 429
495 West State St.
Trenton, NJ 08625-0429

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66 (1978), the Public Employment Relations Commission proposes to readopt N.J.A.C. 19:16. These rules provide for implementation of P.L. 1977, c.85, an act which provides for compulsory interest arbitration of labor disputes in public fire and police departments and supplements the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1.1 et seq. The chapter will expire on August 7, 1991. The proposed readoption is necessary to continue these rules in full force and effect. A summary of the text of each section in N.J.A.C. 19:16 follows:

N.J.A.C. 19:16-1.1, Purpose of procedures, explains that these rules implement P.L. 1977, c.85, providing for compulsory interest arbitration of labor disputes in public fire and police departments.

N.J.A.C. 19:16-2.1, Commencement of negotiations specifies the time periods for commencing negotiations and requires that negotiations commence no later than 150 days before the employer's required budget submission date.

N.J.A.C. 19:16-3.1, Initiation of mediation, details the procedures for securing a Commission-appointed mediator.

N.J.A.C. 19:16-3.2, Appointment of a mediator, specifies who may be appointed as a mediator.

N.J.A.C. 19:16-3.3, Mediator's function, states that the mediator is to assist the parties to reach a voluntary agreement and that the mediator may hold separate or joint conferences.

N.J.A.C. 19:16-3.4, Mediator's confidentiality, provides that information disclosed by a party to a mediator shall be confidential.

N.J.A.C. 19:16-3.5, Mediator's report, provides for the submission of one or more confidential reports to the Director of Conciliation concerning the progress of mediation.

N.J.A.C. 19:16-4.1, Initiation of fact-finding, specifies the procedures for jointly or separately initiating fact-finding, if mediation has been unsuccessful and for responding to separate requests.

N.J.A.C. 19:16-4.2, Appointment of a fact-finder, specifies the procedures for appointing a fact-finder and who may be appointed.

N.J.A.C. 19:16-4.3, Fact-finder's function, specifies the duties and powers of fact-finders and the allocation of costs of fact-finding.

N.J.A.C. 19:16-5.1, Scope of compulsory interest arbitration, states that this subchapter relates to notification requirements, compulsory interest arbitration proceedings and the designation of arbitrators to resolve impasses in collective negotiations involving public employers and exclusive employee representatives of public fire and police departments.

N.J.A.C. 19:16-5.2, Initiation of compulsory interest arbitration, specifies the procedures for commencing interest arbitration proceedings.

N.J.A.C. 19:16-5.3, Notification requirement, requires parties to notify the Director of Arbitration at least 60 days before the employer's budget submission date whether they have agreed upon a terminal procedure resolving negotiations impasses. If they have, the parties shall reduce the procedure to writing and submit it to the Director of Arbitration for approval.

N.J.A.C. 19:16-5.4, Contents of the notification or petition requesting the initiation of compulsory interest arbitration, specifies what must be contained in a petition requesting the initiation of compulsory interest arbitration or a 60-day notification concerning the terminal procedure for disputes.

N.J.A.C. 19:16-5.5, Response to the notification or petition requesting the initiation of compulsory interest arbitration, specifies when a response to a notification or petition must be filed, how it must be served, what it must say and what a party must do if a dispute exists concerning the negotiability or economic identity of a proposal.

N.J.A.C. 19:16-5.6, Appointment of an arbitrator or panel of arbitrators, requires the Commission to maintain a panel of compulsory interest arbitrators and specifies the procedures for selecting an arbitrator from the panel or using one or more other arbitrators.

N.J.A.C. 19:16-5.7, Conduct of the arbitration proceeding, specifies the arbitrator's jurisdiction, duties and powers to conduct arbitration proceedings, including hearings, adjournments, ex parte proceedings, briefs and subpoenas. The rule further provides for the confidentiality of information disclosed in arbitration; the use of final offer arbitration on economic items as a package and non-economic items issue-by-issue if a different terminal procedure has not been chosen and approved; and the barring of any arbitration award on any issue which is the subject of a scope of negotiations petition pending with the Commission.

N.J.A.C. 19:16-5.8, Stenographic record, provides that stenographic records are not required, but may be made at the expense of the requesting party.

N.J.A.C. 19:16-5.9, Opinion and award, provides that an opinion and award must be issued as expeditiously as possible after the close of hearing, must be signed, must be based on a reasonable determination of the issues, giving due weight to statutory criteria, and must set forth reasons for the result.

N.J.A.C. 19:16-5.10, Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, obligates arbitrators to be guided by the code of professional responsibility of the National Academy of Arbitrators, American Arbitration Association, and the Federal Mediation and Conciliation Service.

N.J.A.C. 19:16-5.11, Cost of arbitration, requires the parties to bear the costs of the arbitrator's services in accordance with a fee schedule adopted by the Commission; parties must also pay the costs of their appointees to arbitration panels.

N.J.A.C. 19:16-6.1, Purpose of procedure, states that these rules provide an expeditious procedure for resolving disputes concerning whether an issue is economic or noneconomic for purposes of interest arbitration.

N.J.A.C. 19:16-6.2, Procedure, specifies the procedures for initiating issue definition proceedings, for responding to petitions, and for determining these issues.

N.J.A.C. 19:16-7.1, Failure to submit a notice or other document, provides that such failure shall not provide the basis for any delay in these proceedings, nor shall it otherwise prevent a dispute's resolution through compulsory interest arbitration.

The proposed amendment to N.J.A.C. 19:16-3.4 would make the grant of confidentiality to a mediator attempting to resolve a negotiations impasse in a public police or fire department consistent with the grant of confidentiality provided by N.J.S.A. 34:13A-16(h).

Two changes are proposed for N.J.A.C. 19:16-4.3. The first would conform the text of subsection (a) to that of an analogous rule, N.J.A.C. 19:16-5.7(d), by providing that fact-finding hearings will not be public unless the parties so agree. The rule now requires the agreement of the parties and the fact-finder to open hearings to the public. The second proposed change would make the same change for fact-finders in subsection (c) of this rule as is proposed for mediators under N.J.A.C. 19:16-3.4.

The proposed amendment to N.J.A.C. 19:16-5.7(c) would make the grant of confidentiality to an interest arbitrator acting in a mediatory capacity to resolve a negotiations impasse in a public police or fire department consistent with the grant of confidentiality provided by N.J.S.A. 34:13A-16(h).

Social Impact

The readoption of this subchapter will permit the continued smooth functioning of mediation, fact-finding and compulsory interest arbitration procedures which have worked to resolve negotiations impasses without the disruption of public services and within budget submission deadlines. Public employers and employees will continue to benefit from prompt, precise and clear procedures for resolving their disputes. Readoption of these rules will permit the public to continue to benefit from the prompt and peaceful resolution of negotiations disputes.

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Economic Impact

Generally, the rules help the prompt and peaceful resolution of negotiations disputes without disruption of public services and within budget submission deadlines. Specifically, the parties to fact-finding shall bear their own costs while the Commission shall bear the costs of the fact-finder's services and necessary expenses. The parties shall bear the cost of arbitration in accordance with the Commission's fee schedule and shall pay their own appointees to arbitration panels.

Regulatory Flexibility Statement

The proposed readoption imposes no reporting, recordkeeping, or other compliance requirements on small businesses as the term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules provide standards for negotiations between public employers and police and fire personnel, in the case of disputes.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:16.

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

19:16-3.4 Mediator's confidentiality

Information disclosed by a party to a mediator in the performance of mediation functions shall not be divulged by the mediator voluntarily or by compulsion. All files, records, reports, documents or other papers received or prepared by a mediator while serving in such capacity shall be classified as confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by him or her, on behalf of any party to any cause pending in any type of proceeding under the **New Jersey Employer-Employee Relations Act, as amended,** including, but not limited to, unfair practice proceedings under N.J.A.C. 19:14.

19:16-4.3 Fact-finder's function

(a) The appointed fact-finder shall, as soon as possible after appointment, meet with the parties or other representatives, make inquiries and investigations, hold hearings, which shall not be public unless all parties [and the fact-finder] agree to have them public, or take such other steps as are deemed appropriate in order to discharge his or her function.

(b) (No change.)

(c) Information disclosed by a party to a fact-finder while functioning in a mediatory capacity shall not be divulged by the fact-finder voluntarily or by compulsion. All files, records, reports, documents or other papers received or prepared by a fact-finder while serving in a mediatory capacity shall be classified as confidential. The fact-finder shall not produce any confidential records of, or testify in regard to, any mediation conducted by him or her, on behalf of any party to any cause pending in any type of proceeding **under the New Jersey Employer-Employee Relations Act, as amended,** including, but not limited to, unfair practice proceedings under [chapter 14 of these rules] **N.J.A.C. 19:14**.

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

19:16-5.7 Conduct of the arbitration proceeding

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

(c) Information disclosed by a party to an arbitrator while functioning in a mediatory capacity shall not be divulged by the arbitrator voluntarily or by compulsion. All files, records, reports, documents or other papers received or prepared by an arbitrator while serving in a mediatory capacity shall be classified as confidential. The arbitrator shall not produce any confidential records of, or testify in regard to, any mediation conducted by the arbitrator, on behalf of any party to any cause pending in any type of proceeding **under the New Jersey Employer-Employee Relations Act, as amended,** including, but not limited to, unfair practice proceedings under [chapter 14 of these rules] **N.J.A.C. 19:14**.

(d)-(k) (No change.)

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Violations; Political Communications

Proposed New Rule: N.J.A.C. 19:25-17.2

Proposed Amendment: N.J.A.C. 19:25-11.10

Authorized By: Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44A-6.

Proposal Number: PRN 1991-234.

Submit comments by June 5, 1991 to:
Gregory E. Nagy, Legal Director
Election Law Enforcement Commission
CN 185
Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

The Election Law Enforcement Commission (hereafter, the Commission) proposes to adopt a new rule concerning reporting and record keeping violations, and to amend its rule concerning political communications.

The proposed new rule at N.J.A.C. 19:25-17.2 would establish the principle that each reporting transaction incorrectly reported, omitted, or filed late, constitutes a separate violation of the act. For example, a report filed late that contained five separate reporting transactions would be treated as five separate violations. Under current practice, the late filing of a report is deemed as a single violation regardless of the number of reporting transactions it contains. For the purposes of the proposed rule, a reporting transaction is the receipt of a contribution, the making of an expenditure, or the occurrence of any other event subject to reporting requirements. Similarly, each record keeping transaction that is not made or retained as required constitutes a separate violation.

The Commission also proposes to amend N.J.A.C. 19:25-11.10, concerning communications that may be deemed as being political and therefore subject to campaign reporting. An expenditure (including an expenditure for a communication) made by a candidate, or a political committee, out of funds deposited in a campaign account is subject to reporting under the act because all campaign account transactions must be reported. However, expenditures not made from a campaign account are not generally subject to reporting unless they are spent to aid or promote a candidate. The proposed amendment would clarify the conditions under which an expenditure for a communication by a person or an entity other than a candidate becomes subject to reporting requirements.

Under the proposed text of N.J.A.C. 19:25-11.10(a), the term "political communication" is defined as a communication that contains an explicit appeal for the election or defeat of a candidate, and which is circulated to an audience of persons substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed. Therefore, if a person or entity expends funds to pay for flyers, or media broadcasts, which specifically advocate the election of a candidate in an upcoming election, and the flyers or broadcasts are circulated to an audience substantially comprised of voters within that candidate's geographic election district, the expenditure becomes subject to the reporting requirements of the act. If the communication contains no specific words of election advocacy, such as "vote for (name of a candidate)," or similar language, the communication generally is not subject to reporting unless made under circumstances set forth in subsection (b).

The proposed amendment is intended to comport with the election advocacy standard established by the United States Supreme Court to protect undue infringement of free speech; see *Buckley v. Valeo*, 424 U.S. 1 (1976), and *Federal Election Commission v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986).

The existing text of subsection (a) provides that a political communication is one ". . . circulated to 10 or more persons." That standard does not appear in the act, does not provide any requirement that the persons receiving the communication be voters, and does not take into consideration the total number of persons eligible to vote for the office the candidate is seeking. The Commission believes the proposed standard of ". . . an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed . . ." more appropriately correlates the number of communication recipients with the

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total number of persons eligible to vote for the office the candidate is seeking in testing whether the communication should be deemed as political. Therefore, a letter circulated to more than a few persons, that is a measurable percentage of the persons eligible to vote for a candidate, would be deemed to constitute a reportable political communication.

The existing text of subsection (a) which provides for "an unambiguous reference to an upcoming election" appears to be too broad to meet the election advocacy test, and therefore has been deleted.

The proposed text of subsection (a) includes "broadcast matter" among the enumerated categories of communications which might become subject to the reporting and record keeping requirements of the act. The inclusion of "broadcast matter" in the proposed language is intended to clarify that election advocacy communications made via electronic media are subject to the act as political communications.

N.J.A.C. 19:25-11.10(b) concerns communications that do not contain explicit election advocacy language, but nevertheless will be deemed to be reportable political communications because of the circumstances surrounding their circulation. Typically, such communications are circulated to constituents of an incumbent officeholder shortly before the election date and are paid for with public funds. An example is a newsletter publication circulated by a governmental entity shortly before an election which contains a laudatory article about an incumbent officeholder seeking reelection; see *In re Dawes,* 156 N.J. Super. 195 (App. Div. 1978), and *ELEC v. Brown,* 206 N.J. Super. 196, (App. Div. 1985). In those opinions, the officeholder-candidate was required to report as an "in-kind" contribution the fair market value of the circulated newsletter even though the text did not contain explicit election advocacy language.

The proposed amendment expands the time period during which such communications on behalf of a non-gubernatorial candidate may be deemed as political, the change being from 60 days before the date of an election to 90 days before the date of an election (see N.J.A.C. 19:25-11.10(b)1). There is no proposed change in the time period pertinent to a gubernatorial candidate, and the time period therefore remains from January 1st of the year in which a gubernatorial election is held to the date of the primary election for a primary election gubernatorial candidate, and from the day following the date of the primary to the date of the general election for a general election gubernatorial candidate.

The "10 or more persons" standard in subsection (b) is proposed to be replaced by the "audience substantially comprised" of voters standard (see proposed N.J.A.C. 19:25-11.10(b)2). Finally, a new requirement has been added that the candidate cooperated, consented, consulted or otherwise participated in the production, circulation, or broadcast of the communication (see proposed N.J.A.C. 19:25-11.10(b)4. In the absence of some candidate participation in the communication, the candidate cannot be held responsible for reporting of a communication expenditure made independently of the candidate.

The reporting requirements generated by political communication expenditures are set forth in N.J.A.C. 19:25-11.11, and no amendments to that section are contemplated.

Social Impact

The proposed new rule concerning violations, N.J.A.C. 19:25-17.2, will affect a candidate, filing entity, treasurer or other person responsible for reporting or record keeping requirements, who violates the act or rules. In particular, larger filing entities and their treasurers will be affected because the proposed rule will enhance the Commission's ability to impose penalties on a report that contains several violations, and it is the larger entities that have more transactions to report or record. The Commission has observed a dramatic increase in contribution and expenditure activity in recent years. For example, a single campaign report by a political committee in the 1989 general election reported more than $6.5 million in receipts, and a single political party committee quarterly report in that year reported over $2 million in receipts. The existing practice of treating all reporting violations contained in a single report as a single violation may inadvertently encourage a substantial filing entity to risk incurring a single penalty, which cannot exceed $1,000 for a first offense, rather than incur costs for accurate reporting and record keeping services that may exceed the penalty maximum. Under the proposed new rule, each reporting transaction (for example, receipt of a contribution) filed late, filed incorrectly, or omitted would constitute a violation. The Commission believes that historically civil penalties have proven to be more effective in promoting compliance than has imposition of criminal penalties by authorities outside of the Commission's jurisdiction. Therefore, to insure that civil penalties remain a meaningful deterrent and are a truer reflection of the number of violations, this new rule is being proposed.

The proposed amendment to N.J.A.C. 19:25-11.10, Political communications, will affect candidates, political committees, or other filing entities or persons who circulate communications to voters, or participate in and benefit from such circulation. The new subsection (a) excludes from the scope of the rule organizations that circulate a communication on public issues but fall outside of campaign reporting because the communication does not contain any explicit election advocacy. The Commission recognizes that some of these communications may be intended to have some influence on the voting public, but constitutional considerations compel considerable latitude in permitting such communications without reporting consequences when they do not contain explicit election advocacy language, and are not paid for with funds subject to the act, or prepared or circulated with the consent, consultation or cooperation of a candidate's campaign.

Of particular social importance is the extension of the preelection period from 60 to 90 days (see proposed N.J.A.C. 19:25-11.10(b)). The Commission believes that an incumbent officeholder particularly should not receive politically beneficial publicity paid for with public funds without acquiring reporting responsibilities for the fair market value of production and circulation of that publicity if the candidate-officeholder cooperated, consented or consulted in the production or circulation of the publicity. Under the existing rule, such a communication circulated to voters for a non-gubernatorial candidate as close as 61 days before the election escapes reporting. The amendment changes that date to 91 days before an election, a date the Commission believes is far enough in advance of a non-gubernatorial election to justify it as a non-political and therefore non-reportable communication to constituents.

Economic Impact

The Commission is unaware of any significant economic impact of the proposed new rule on violations, except for the intended result that the Commission's ability to impose civil penalties for violations of the act be enhanced. Candidates and filing entities with numerous and more complex transactions may choose to invest more funds for accurate and comprehensive compliance.

The Commission does not perceive any significant economic impact from the proposed N.J.A.C. 19:25-11.10, other than possibly relieving issue-oriented organizations not conducting election advocacy activity from incurring reporting and record keeping expenses. Since all candidates must file campaign reports under the act, extending the circumstances under which a candidate has to report receipt of an in-kind contribution (that is, the fair market value of the production and circulation of the publicity) does not raise any significant compliance cost.

Regulatory Flexibility Statement

The proposed new rule and the repeal and new rule do not impose any record keeping, reporting, or other compliance requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rule and the repeal and new rule affect candidates, treasurers, and other entities or persons with filing responsibilities under the act.

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

19:25-11.10 Political communication

[(a) A communication circulated to 10 or more persons that contains an appeal for votes for a candidate in an upcoming election, solicits campaign contributions or otherwise makes an unambiguous reference to an upcoming election shall be deemed to be a political communication and any costs associated with production or circulation shall be subject to campaign reporting.]

(a) The term "political communication" means any written statement, pamphlet, advertisement or other printed or broadcast matter containing an explicit appeal for the election or defeat of a candidate which is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed. Words such as "Vote for (name of candidate)," "Vote against (name of opposing candidate)," "Elect (name of candidate)," "Support (name of candidate)," "Defeat (name of opposing candidate)," "Reject (name of opposing candidate)," and other similar explicit political directives constitute examples of appeals for the election or defeat of a candidate.

[(b) A communication that does not contain any of the elements described in (a) above shall nevertheless be deemed political and

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subject to campaign reporting if all of the following criteria are applicable to the communication:

1. The communication is circulated to 10 or more persons and contains a statement or reference concerning the governmental or political objectives or achievements of a candidate in an upcoming election;

2. The communication is circulated to an audience that is comprised substantially of persons eligible to vote for the public office being elected in the upcoming election; and

3. The communication is circulated fewer than 60 days before the date of any election in which the candidate referred to is seeking elected office, except that in the case of a candidate for nomination for the office of Governor in a primary election, the period of time that a communication may be deemed political shall be on or after January 1st in a year in which a primary election for Governor is being conducted, and in the case of a candidate for election to the office of Governor in a general election, the period of time that a communication may be deemed political shall begin on the day following the date of the gubernatorial primary election.]

(b) A written statement, pamphlet, advertisement or other printed or broadcast matter that does not contain an explicit appeal pursuant to (a) above for the election or defeat of a candidate shall be deemed to be a political communication if it meets the following conditions:

1. The communication is circulated or broadcast within 90 days of the date of any election in which the candidate on whose behalf the communication is made is seeking elected office; except that in the case of a candidate for nomination for the office of Governor in a primary election, the period of time that a communication shall be deemed political shall be on or after January 1st in a year in which a primary election for Governor is being conducted, and in the case of a candidate for election to the office of Governor in a general election, the period of time that a communication shall be deemed political shall begin on the day following the date of the gubernatorial primary election;

2. The communication is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the communication was made;

3. The communication contains a statement or reference concerning the governmental or political objectives or achievements of the candidate; and

4. The production, circulation or broadcast of the communication, or any cost associated with the production, circulation or broadcast of the communication, has been made in whole or in part with the cooperation of, prior consent of, in consultation with, or at the request or suggestion of the candidate.

(c) Nothing contained in (b) above shall be construed to require reporting of a communication by an incumbent officeholder seeking reelection [which communication] **if it** is circulated **or broadcast** to constituents for the sole and limited purpose of communicating governmental events requiring those constituents to make applications or take other actions within a specified time period, or **if it is circulated or broadcast to constituents** for the sole and limited purpose of communicating facts relevant to a bona fide public emergency.

SUBCHAPTER 17. COMPLAINTS AND OTHER PROCEEDINGS; **VIOLATIONS**

19:25-17.2 Violations

(a) The term "reporting transaction" means the receipt of a contribution, the making of an expenditure, or the occurrence of any other event which is subject to the reporting requirements of the act or this chapter.

(b) The term "record keeping transaction" means the receipt of a contribution, the making of an expenditure, or the occurrence of any other event which is subject to the record keeping requirements of the act or regulations.

(c) Each reporting transaction that is not reported in the manner or not filed on the date established for reporting or filing by the act or regulations shall constitute a violation of the act subject to the penalties provided in N.J.S.A. 19:44A-22.

(d) Each record keeping transaction which is not made or maintained in the manner prescribed by the act or regulations shall constitute a violation of the act subject to the penalties provided in N.J.S.A. 19:44A-22.

(a)

CASINO CONTROL COMMISSION

Applications
Reapplication After Denial or Revocation
Proposed Amendment: N.J.A.C. 19:41-8.8

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

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a) and 5:12-70(a).

Proposal Number: PRN 1991-239.

Submit comments by June 5, 1991 to:
Mary S. LaMantia, Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

The Casino Control Commission rule at N.J.A.C. 19:41-8.8 sets forth standards and procedures for reapplication by individuals whose licensure, qualification or approval has been denied or revoked by the Commission. At present, petitions for permission to reapply in accordance with N.J.A.C. 19:41-8.8 are submitted to the Chairman of the Commission, who is authorized to summarily deny or grant such requests. The proposed amendment would provide that petitions for reapplication are to be considered and determined by the full Commission.

Social Impact

The proposed amendment is not anticipated to have any significant social impact, since only the Commission's procedures for consideration of reapplication petitions are modified.

Economic Impact

The proposed amendment affects only the Commission's procedures for granting permission to reapply for a license, qualification or approval, and are not expected to have any significant economic impact on either the applicants or the regulatory agencies.

Regulatory Flexibility Statement

The proposed amendment pertains to reapplication requests by individual applicants only, and therefore does not impact upon small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:41-8.8 Reapplication by natural person after denial or revocation

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

(c) Any natural person whose licensure, qualification[,] or approval has been denied or revoked on the basis of one or more of the enumerated statutory and regulatory provisions set forth in (b) above may reapply for such licensure, qualification or approval as follows:

1. Prior to reapplication, said person shall submit [to the Chairman of the Casino Control Commission] a verified petition, with supporting affidavits, requesting that such reapplication be permitted, and showing with particularity the satisfaction of the condition precedent to reapplication specified in (b) above.

2. The [Chairman shall have the authority to either summarily] **Commission may** deny the petition or [to] grant the petition and issue an order authorizing reapplication [by said person].

[3. If the Chairman denies the petition, said person may appeal this determination in writing to the full Commission within 45 days of denial, said appeal to be considered and determined by the Commission within 45 days of the receipt of the notice of appeal by the Commission.]

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[4.]3. The [Chairman] **Commission** shall grant the petition only upon a showing that the condition precedent specified in (b) above has been satisfied in accordance with the provisions of this regulation.

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

(f) Any person whose licensure, qualification or approval has been denied or revoked on the basis of any statutory or regulatory provision which has been subsequently repealed or modified in such a manner so as to obviate the grounds for such denial or revocation may petition the [Chairman] **Commission**, in accordance with the procedures set forth in (c) above, to be permitted to reapply. The petition shall specify with particularity the repeal or modification of the statutory or regulatory provision at issue and the circumstances of the prior denial or revocation which warrant the allowance of such reapplication. The [Chairman] **Commission** shall grant the petition only upon a showing that the repeal or modification of the statutory or regulatory provision which was the basis of such denial or revocation justifies the conclusion that [there would be a reasonable likelihood that the Commission would alter its previous decision] **the prior decision should be modified**.

(g) Any natural person whose licensure, qualification or approval has been denied or revoked and who is barred from reapplication for five years by (a), (b)5 or (b)7 above may petition the [Chairman] **Commission** to permit early reapplication at any time. The petition shall be verified and supported by affidavits and shall include written argument for the relief sought. It shall state with particularity any grounds upon which revocation or denial was based, and the facts and circumstances which warrant early reapplication. Upon receipt of such petition, the [Chairman] **Commission** shall offer the Division an opportunity to state its position in writing. Based upon the petition and any written submission from the Division, the [Chairman] **Commission** may [either:

1. Summarily] deny the petition[;] or,

[2. Grant the petition] if [he] **it** finds that there exist extraordinary facts and circumstances warranting early reapplication, **grant the petition**.

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Casino Licensee's Organization; Surveillance Department Transfer Restrictions
Proposed Amendments: N.J.A.C. 19:45-1.1, 1.3, 1.10, 1.11 and 1.12

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

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a), 5:12-70(j) and 5:12-99.

Proposal Number: PRN 1991-237.

Submit comments by June 5, 1991 to:
David C. Missimer
Senior Assistant Counsel
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

In order to insure the integrity of casino gaming operations, the Casino Control Act ("Act"), N.J.S.A. 5:12-1 et seq., among other things, requires the Casino Control Commission to prescribe standards for the management and control of casino licensee personnel, including the establishment of tables of organization and responsibility. (See N.J.S.A. 5:12-70(j) and 5:12-99(a)(3).) At present, the rules adopted by the Commission to implement this statutory obligation set forth specific requirements mandating not only operational departments but reporting lines for department managers as well. The changes proposed here would establish standards for management controls and supervisory tables of organization as required by N.J.S.A. 5:12-70(j), but would free the licensee from mandatory and inflexible reporting structures as long as the general regulatory standards were met.

The internal controls required by N.J.A.C. 19:45-1.11 are designed to create a system of checks and balances within the personnel structure of a casino licensee so that no individual is in a position to perpetrate a fraud or conceal an error in the conduct of casino operations. The establishment of mandatory operating departments enables the implementation of the detailed accounting and operational internal controls which are required by the Act, many of which are dependent upon the joint execution of transactions by specified representatives of independent departments.

The proposed amendments would make various modifications to the Commission rules governing the internal structure of a casino licensee's organization. N.J.A.C. 19:45-1.11 currently requires a casino licensee to establish, at a minimum, eight operational departments, outlines the general responsibilities of those eight departments and mandates certain management reporting lines for the supervisors of those departments. The most significant amendments contained in this proposal would eliminate mandated management reporting lines for the supervisors of six of the required departments. The requirements governing the surveillance and internal audit departments, which are treated separately, would also be modified.

The proposed amendments would allow each casino licensee to establish its own management reporting structure as long as the structure complied with the objective standards set forth in proposed N.J.A.C. 19:45-1.11(a). In sum, these criteria would require that each casino licensee's management structure insure, to the greatest extent possible, that: (1) managers and supervisors have access to information which enables them to be held accountable for their actions; (2) areas of responsibility are not so extensive as to be impractical to monitor; (3) secondary personnel are available to maintain the efficient operation of the casino at all times; and (4) all incompatible functions are segregated. In addition, the proposed amendments would revise the mandated reporting lines for the surveillance and internal audit departments to give casino licensees additional options in establishing upper management control of these highly sensitive departments.

The purpose of these amendments is to permit casino licensees to exercise more discretion in determining the structure of their organizations. While the Commission maintains that strict regulatory requirements are appropriate when addressing the composition and responsibility of the operating departments which actually conduct gaming operations, the Commission recognizes that the precise manner in which a casino licensee chooses to establish and implement organizational policy is a decision which is more appropriate left to casino management. Of course, a casino licensee may be held accountable by the Commission should its chosen organizational structure fail to protect the integrity of its casino operations or meet the standards set forth in the rules.

The proposed amendments would add a ninth mandatory operating department to the eight departments currently required by N.J.A.C. 19:45-1.11. As the gaming industry in Atlantic City has become more developed, all casino licensees have increasingly relied upon the use of computers to control and manage their casino operations. The amendment would recognize this development by codifying a department of management information systems as an essential element of a casino licensee's operating organizational structure.

The proposed amendments would also revise and recodify the post employment transfer restriction which is currently imposed on surveillance department employees by N.J.A.C. 19:45-1.11(c). In addition to moving these provisions to N.J.A.C. 19:45-1.10, the proposed amendments would simplify the standard which must be satisfied for an otherwise prohibited transfer to occur. Under the proposed amendments, a former surveillance department employee would be permitted to accept employment in an otherwise restricted position, without seeking any further approval from the Commission, as soon as one year has expired since his or her termination of employment with the surveillance department. Experience has demonstrated that a flat one-year post-employment restriction, without any further showing of inability to compromise surveillance or security systems, is adequate to assure the continued integrity of casino operations.

The proposal includes several other amendments to Chapter 45: a definition of "chief executive officer" would be added to N.J.A.C. 19:45-1.1 to make clear that, regardless of the form of business organization or job title which is utilized, each casino licensee or applicant is required to identify an individual who is located at the casino hotel site who is primarily responsible and accountable for the daily operations of the casino hotel facility; certain general provisions concerning the minimum requirements for a casino licensee's system of internal procedures

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and administrative and accounting controls which are currently codified at N.J.A.C. 19:45-1.11(a) would be recodified to N.J.A.C. 19:45-1.3, which generally describes internal control requirements. Further amendments to N.J.A.C. 19:45-1.3 include the following: N.J.A.C. 19:45-1.3(a) is amended to reduce the mandatory maximum application period for internal control submissions to 60 days; N.J.A.C. 19:45-1.3(c) is amended to reduce to 60 days the time for submission of any changes to the licensee's system of internal procedures and administrative and accounting controls; N.J.A.C. 19:45-1.3(c) is also amended to reduce the time period in which the Commission shall make a determination concerning a submission for changes in previously submitted control plans as no later than 60 days following receipt of the changes; and, finally, N.J.A.C. 19:45-1.3(c) is amended to read that if there is no determination made within 60 (reduced from 90) days and there is no agreement to extend the period for making such a determination, then the changes will be deemed approved. Several minor amendments to N.J.A.C. 19:45-1.12 are proposed in order to conform the language of this section to other proposed amendments or current practices.

Social Impact

The proposed amendments are not anticipated to have any social impact on the gaming public or the regulatory agencies. The proposed amendments to N.J.A.C. 19:45-1.11 would give casino licensees and applicants more discretion in determining how the casino gaming policy of each company would be formulated and implemented. The Commission is confident, however, that the statutory goals of strict regulation and oversight will be maintained by requiring casino licensees to establish organizational structures in conformance with the criteria contained in the proposed amendments to N.J.A.C. 19:45-1.11(a).

Economic Impact

The proposed amendments are not anticipated to have any significant economic impact on the gaming public, casino licensees or applicants, or the regulatory agencies.

Regulatory Flexibility Statement

The proposed amendments will only affect the operations of casino licensees and applicants or individual employees, none of which qualifies as a small business under the provisions of 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 clearly indicates otherwise.

. . .

"Chief executive officer" means the natural person located at a casino hotel facility who is ultimately responsible for the daily conduct of an applicant's or casino licensee's hotel and gaming business, regardless of the applicant's or casino licensee's form of business association or the particular title which the person holds.

19:45-1.3 Licensee's system of internal [control] **controls**

(a) Each casino licensee shall submit to the Commission and Division a description of its system of internal procedures and administrative and accounting controls [as part of the requirement of Section 99 of the Casino Control Act] **in accordance with section 99 of the Act.** Such submission shall be made at least [120] **60** days before gaming operations are to commence, unless otherwise directed by the Commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the licensee[.] **and shall include, without limitation, the following:**

1. Administrative controls which include, without limitation, the procedures and records that are concerned with the decision making processes leading to management's authorization of transactions; and

2. Accounting controls which have as their primary objectives the safeguarding of assets and the reliability of financial records and are consequently designed to provide reasonable assurance that:

i. Transactions are executed in accordance with management's general and specific authorization;

ii. Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and N.J.A.C. 19:45-1.6, and to maintain accountability for assets;

iii. Access to assets is permitted only in accordance with management authorization; and

iv. The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(b) The Commission shall review each submission required by (a) above and with the advice of the Division shall determine whether it conforms to the requirements of the [Casino Control] Act and [to this regulation] **the Commission's rules** and whether the system submitted provides adequate and effective controls for the operations of the casino licensee. If the Commission finds any insufficiencies, it shall specify [same] **such insufficiencies** in writing to the casino licensee, [who] **which** shall make appropriate alterations. When the Commission determines a submission to be adequate in all respects, it shall **so** notify the casino licensee [of same]. No casino licensee shall commence gaming operations[,] unless and until [such] **its** system of **internal** controls is approved by the Commission.

(c) Each casino licensee shall submit to the Commission and the Divsion any changes to [the] **its** system of internal procedures and administrative and accounting controls previously determined by the Commission in (b) above to be adequate in all respects at least [90] **60** days before the changes are to become effective, unless otherwise directed by the Commission. The proposed changes [shall be submitted to the Commission and such changes] may be approved or disapproved by the [Chairman unless any Commissioner indicates the changes should be considered by the entire] Commission [in which case such changes shall be so considered] **consistent with the standards contained in (b) above.** No casino licensee shall alter its internal controls unless and until such changes are approved. However, the Commission shall make a determination concerning a submission for changes in previously submitted control plans no later than [90] **60** days following receipt of the [submission] **changes** unless the Commission and the casino licensee agree to extend the period for making such a determination. If there is no determination made within [90] **60** days and there is no agreement to extend the period for making such a determination, then the [submission] **changes** shall be deemed to be approved.

(d) The submission required by (a) above shall be accompanied by a report of an independent certified public accountant licensed to practice in New Jersey stating that the submitted system conforms in all respects to the standards of internal control set forth in the [Casino Control] Act and [this regulation] **the Commission's rules** or in what respects the system does not conform.

19:45-1.10 Closed circuit television system; **surveillance department control; surveillance department restrictions**

(a) (No change.)

(b) The closed circuit television system shall include, but need not be limited to, the folowing:

1.-3. (No change.)

4. One or more monitoring rooms in the establishment which shall be in use at all times by the employees or agents **of the surveillance department** of the licensee assigned to monitor the activities in the casino and to be used as necessary by the inspectors and agents of the Commission and Division.

5. (No change.)

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

(g) [Employees] **Surveillance department employees** or agents of the licensee assigned to monitor the activities shall be independent of [the casino, the slot, the security, and the cashiers' cage] **all other** departments. **In addition to any other restrictions contained in the Act and the rules promulgated thereunder, no present or former surveillance department employee shall accept employment as a casino key employee or casino employee with the same casino hotel or prospective casino hotel in which the surveillance department employee was previously employed or within any other casino hotel or prospective casino hotel whose surveillance department is under the operational control of the same person who controlled the surveillance department in which the surveillance department employee had been previously**

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employed, unless one year has passed since the former surveillance department employee worked in the surveillance department.

(h) (No change.)

19:45-1.11 Casino licensee's organization

[(a) Each casino licensee shall have a system of internal control that includes the following:

1. Administrative control which includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management's authorization of transactions; and

2. Accounting control which includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records and are consequently designed to provide reasonable assurance that:

i. Transactions are executed in accordance with management's general and specific authorization which shall include the requirements of this chapter;

ii. Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and N.J.A.C. 19:45-1.6, and to maintain accountability for assets;

iii. Access to assets is permitted only in accordance with management authorization which shall include the requirements of this chapter; and

iv. The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.]

[(b) The] **(a) Each** casino licensee's system of internal [control] **controls** shall [provide for], **in accordance with the provisions of N.J.A.C. 19:45-1.11A, include tables of organization. Each casino licensee shall be permitted, except as otherwise provided in this section, to tailor its organizational structure to meet the needs or policies of its own particular management philosophy. The proposed organizational structure of each casino licensee shall be approved by the Commission in the absence of a conflict between the organizational structure and the criteria listed below, which criteria are designed to maintain the integrity of casino operations. Each casino licensee's tables of organization shall provide for:**

[1. Competent personnel with integrity and an understanding of prescribed procedures; and

2. The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his duties.]

1. A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;

2. The segregation of incompatible functions so that no employee is in a position to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of his or her duties;

3. Primary and secondary supervisory positions which permit the authorization or supervision of necessary transactions at all relevant times; and

4. Areas of responsibility which are not so extensive as to be impractical for one person to monitor.

[(c)]**(b)** [Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:] **In addition to satisfying the requirements of (a) above, each casino licensee's system of internal controls shall include, at a minimum, the following departments and supervisory positions. Each of these departments and supervisors shall be required to cooperate with, yet perform independently of, all other departments and supervisors. Mandatory departments are as follows:**

1. A surveillance department supervised by a **casino key employee holding a license endorsed with the position of** director of surveillance [who shall cooperate with, yet perform independently of all other departments and shall report directly to the Board of Directors, or its audit committee, or equivalent regarding matters of policy, purpose, responsibilities and authority and indirectly to the Chief Executive Officer or his or her equivalent, for daily operations]. **The supervisor of the surveillance department shall be subject to the reporting requirements specified in (c) below.** The [director of] surveillance **department** shall be responsible for, [but not limited to] **without limitation**, the following:

i.-vii. (No change.)

viii. The communication in writing **to the supervisor of the credit department** of accurate and verifiable information [regarding casino patrons to the credit manager] which may be relevant in determining a patron's credit worthiness.

[2. In addition to the restrictions contained in the Casino Control Act and the regulations promulgated thereunder, no present or former surveillance department employee shall accept employment as a casino key employee or casino employee with the same casino hotel or prospective casino hotel in which the surveillance department employee was previously employed or within any other casino hotel or prospective casino hotel whose surveillance department is under the operational control of the same person who controlled the surveillance department in which the surveillance department employee was previously employed. However, the Commission upon being petitioned, may waive the restriction if:

i. One year has passed since the former surveillance department employee worked in the surveillance department; and

ii. Casino surveillance and security systems will not be jeopardized or compromised by the former surveillance department employee; and

iii. Errors, irregularities or illegal acts cannot be perpetrated and concealed by the former surveillance department employee's knowledge of the surveillance system.]

[3.]**2.** An internal audit department supervised by [an executive who shall perform independently of all other departments and shall report directly to the Board of Directors, or its audit committee, or equivalent regarding matters of policy, purpose, responsibilities and authority and indirectly to the Chief Executive Officer or his equivalent for daily operations] **a casino key employee holding a license endorsed with the position of audit department executive. The supervisor of the internal audit department shall be subject to the reporting requirements specified in (c) below.** [Such] **The internal** audit department shall be responsible for, [but not limited to] **without limitation**, the following:

i.-v. (No change.)

3. A management information system ("MIS") department supervised by a casino key employee holding a license endorsed with the position of executive employee. The MIS department shall be responsible for the control and operation of all computer systems used by the casino licensee in the conduct of casino operations including, without limitation, the security and maintenance of:

i. Access codes and other electronic data processing controls used to insure the reliability of computer generated and stored data;

ii. Computer tapes, disks or other electronic storage media containing data relevant to casino operations; and

iii. Computer hardware and software used in the conduct of casino operations.

4. A [casino] **table games** department supervised by a casino [manager who shall perform independently of all other departments and shall report directly to the Vice President of Casino Operations, or his equivalent, or the Chief Executive Officer] **key employee holding a license endorsed with the position of casino manager.** The [casino manager] **table games department** shall be responsible for the operation and conduct of the following games:

i.-vi. (No change.)

5. A slot department supervised by a [slot department manager who shall perform independently of all other departments and shall report directly to the Vice President of Casino Operations, or his or her equivalent, or the Chief Executive Officer] **casino key employee holding a license endorsed with the position of slot department manager**. The slot department [manager] shall be responsible for the operation of the slot machines and bill changers.

6. A credit department supervised by a **casino key employee holding a license endorsed with the position of** credit manager [who shall cooperate with, yet perform independently of, all other departments and shall report directly to the Vice President of Casino Operations or his equivalent]. The credit [manager] **department** shall be responsible for the credit function including, [but not limited to] **without limitation,** the following:

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i.-iii. (No change.)

iv. The communication in writing of the names and addresses of casino patrons with newly approved credit limits to [, at a minimum,] the [directors] **supervisors** of **the** security and surveillance **departments** on a daily basis in accordance with the casino licensee's [normal business practice (such practice must be submitted in writing to both the Commission and Division)] **approved procedures**.

7. A security department supervised by a [director of security who shall cooperate with, yet perform independently of, all other departments and shall report directly to the Chief Executive Officer or his equivalent or to a senior executive having no incompatible functions] **casino key employee holding a license endorsed with the position of director of security**. The [director of] security **department** shall be responsible for the overall security of the establishment including, [but not limited to] **without limitation**, the following:

i.-viii. (No change.)

ix. The communication in writing **to the supervisor of the credit department** of accurate and verifiable information [regarding casino patrons to the credit manager] which may be relevant in determining a patron's credit worthiness.

8. A casino accounting department supervised by a casino **key employee holding a license endorsed with the position of** controller [who shall perform independently of all other departments and shall report directly to the Controller, or the Chief Financial Officer or equivalent]. **The supervisor of the casino accounting department shall also be responsible for the control and supervision of the cashier's cage.** The casino [controller] **accounting department** shall be responsible for, [but not limited to] **without limitation**, the following:

i. Accounting controls;

ii. The preparation and control of records and data [required by this chapter]; **and**

iii. The control of stored data, the supply of unused forms, and the accounting for and comparing of forms used in operating the casino [and required by this chapter; and

iv. The control and supervision of the cashiers' cage].

9. A cashier's cage supervised by a **casino key employee holding a license endorsed with the position of** cage manager [who shall supervise cage and slot cashiers, change persons and casino clerks and cooperate with, yet perform independently of, the casino, slot, and security departments and shall be under the supervision of, and report directly to, the casino controller]. **The supervisor of the cashiers' cage shall report to the supervisor of the casino accounting department and shall be responsible for the control and supervision of cage and slot cashiers, change persons and casino clerks. The cashiers' cage may be separated into independent operations for table games and slot machines. If a casino licensee elects to operate both a table games cage and a slot machine cage, each independent cage operation shall be supervised by a casino key employee holding a license endorsed with the position of cage manager.** The cashiers' cage shall be responsible for, [but not limited to] **without limitation**, the following:

i. (No change.)

ii. The approval, exchange, redemption and consolidation of patron checks received for the purposes of gaming [in conformity with this chapter];

iii. The receipt, distribution and redemption of gaming chips and plaques [in conformity with this chapter]; and

iv. Such other functions normally associated with the operation of a cashiers' cage.

(c) The supervisors of the surveillance and internal audit departments required by (b) above shall comply with the following reporting requirements:

1. Each supervisor shall report directly to the chief executive officer of the casino licensee regarding administrative matters and daily operations; provided, however, a casino licensee may allow each of these supervisors to report directly to a management executive of the licensee other than the chief executive officer if that executive reports directly to the chief executive officer.

2. Each supervisor shall report directly to one of the following persons or entities regarding matters of policy, purpose, responsibility and authority. The hiring, termination and salary of each supervisor shall also be controlled by one of the following persons or entities:

i. The independent audit committee of the casino licensee's board of directors;

ii. The independent audit committee of the board of directors of any holding company of the casino licensee which has absolute authority to direct the operations of the casino licensee;

iii. The senior surveillance or internal audit executive of any holding company included in (c)2ii above if such executive reports directly to the independent audit committee of the board of directors of the holding company; or

iv. For casino licensees or holding companies which are not corporate entities, the non-corporate equivalent of any of the persons or entities listed in (c)2i through iii above.

(d) Each casino licensee shall designate compliance officers in conformity with the following:

1. The compliance officer shall:

i. Have the authority to direct the personnel in each department to comply with the [Casino Control] Act, this chapter, and the directives of the Commission and Division; and

ii. Be available in the establishment at all times.

2. (No change.)

(e) The casino licensee's personnel shall be trained in all internal and accounting control practices and procedures relevant to each employee's individual function. Special instructional programs shall be developed by the casino licensee in addition to any on-the-job instruction sufficient to enable all members of the departments required by this section to be throughly conversant and knowledgeable with the appropriate and required manner of performance of all transactions relating to their functions. [(f)] A written description of all instructional and on-the-job training to be and being provided shall be submitted to the Commission for review.

[(g)]**(f)** Functions described in this section shall be performed only by persons [bearing the particular title and licensed to the particular position, or persons licensed to supervise that particular position appropriate to such functions, under the Casino Control Act] **holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to perform such functions, or by persons holding the appropriate license and position endorsement to supervise persons performing such functions, subject to the limitations imposed by (a) above.**

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) Each casino licensee shall be required to employ the following personnel in the operation of its casino, regardless of the position titles assigned to such personnel by the casino licensee in its approved jobs compendium. Functions described in this section shall be performed only by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to perform such functions, or by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to supervise persons performing such functions, subject to the limitations imposed by N.J.A.C. 19:45-1.11(a).

[(a)]**(b)** The following personnel shall be used to operate [and conduct] **the** table games in an establishment:

1. Casino clerk shall be the person located at a desk in the pit to prepare[, under the supervision and direction of the Cage Manager,] documentation required for the operation of **table** games including [but not limited to], **without limitation,** Requests for Fills, Requests for Credits, and Counter Checks.

2. (No change.)

3. [Stickman] **Stickperson** shall be the [person] **dealer** assigned to each craps table to control the dice and may be responsible for the proposition wagers made at the [gaming] **craps** table.

4. [Boxman] **Boxperson** shall be the first level supervisor assigned the responsibility of directly participating in and supervising the operation and conduct of the craps game.

5. [Floorman] **Floorperson** shall be:

i.-iv. (No change.)

6.-7. (No change.)

8. Casino manager shall be the executive assigned the responsibility and authority for the **supervision and management of the overall** operation of **casino licensee's** table games including, [but not limited

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to] **without limitation**, the hiring and terminating of all casino personnel, and the creation of high employee morale and good customer relations, all in accordance with the policies and practices established by the **casino licensee's** board of directors or **non-corporate** equivalent.

9. Each casino licensee [would] **shall** staff its craps tables with at least three dealers and one boxperson per table and at least one floorperson supervising no more than two craps tables at all times while those tables are open for gaming. There shall also be at least one additional supervisor in each pit for every two craps tables at which patrons are playing. This additional supervisor shall either be a boxperson or floorperson and shall be assigned the responsibility of supervising craps tables within a pit as directed by [Casino] **casino** management. A pit is defined as not more than eight craps tables under the supervision of a common pit boss. Examples:

i.-ii. (No change.)

[(b)]**(c)** The following personnel shall be used to [conduct and] operate [a] **the** slot department in an establishment:

1.-4. (No change.)

5. Slot department manager shall be the executive assigned the [overall] responsibility and authority for the **supervision and management of the overall operation of the casino licensee's** slot [machine and bill changer operation] **machines and bill changers** including, [but not limited to] **without limitation**, the hiring and terminating of all slot department personnel and the creation of high employee morale and good customer relations, all **in accordance** with the policies and practices established by the **casino** licensee's board of directors or **non-corporate** equivalent.

[(c)]**(d)** (No change.)

[(d) Functions described in this section shall be performed only by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to perform such functions, or by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to supervise persons performing such functions, subject to the limitations imposed by N.J.A.C. 19:45-1.11(b)2.]

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls; Gaming Equipment

Progressive Jackpots; Jackpots of Merchandise or Other Things of Value; Slot Machines

Proposed Amendments: N.J.A.C. 19:45-1.37, 1.39, 1.40A and 19:46-1.26

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

Authority: N.J.S.A. 5:12-70(f) and (i), and 5:12-100(e) and (h).

Proposal Number: PRN 1991-221.

Submit comments by June 5, 1991 to:
David C. Missimer
Senior Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

The proposed amendments result from rulemaking petitions which were filed by International Games Technology (IGT) (see 22 N.J.R. 3647(c)) a licensed manufacturer of slot machines (PRN 276001), and Harrah's Casino Hotel, a licensed casino (PRN 004106) filed January 4, 1991. The principal purpose of the proposed amendments is to permit casino licensees greater flexibility in offering progressive jackpots and jackpots of merchandise or other things of value.

The proposed amendments would allow casinos to establish time limits of not less than 30 days for the offering of progressive and merchandise jackpots. Under the current rules, casino licensees are not permitted to remove such jackpots or modify the terms under which they are offered to the public until the jackpots are actually won.

Three alternatives are proposed at N.J.A.C. 19:45-1.39(i) concerning when notice of the time limits for progressive jackpots must be provided. Alternative A requires that notice of the time limit be provided when a jackpot is initially offered. Alternative B also requires notice as of the time the jackpot is initially offered, but includes a "grandfather clause" which would allow casino licensees to post a time limit for any progressive jackpot offered prior to the effective date of the amendment. Alternate C permits notice of the time limit to be given at any time, even subsequent to the time the jackpot is initially offered.

Two alternatives are proposed at N.J.A.C. 19:45-1.40A(l) concerning the posting of time limits for merchandise jackpots. Alternative A requires that notice of the time limit be provided when the merchandise jackpot is initially offered. Alternative B permits notice of the time limit to be given at any time, even subsequent to its initial posting without a time limit.

Alternative B to N.J.A.C. 19:45-1.39(i), relating to progressive jackpots, includes, as noted, a grandfather provision which permits casino licensees to establish a time limit of not less than 30 days for a progressive jackpot which was initially offered prior to the effective date of the amendment. This provision is included because under the existing rules casino licensees are not permitted to establish a time limit for offering progressive jackpots, not even if notice of such a limit is given at the time the jackpot is initially offered. The existing rules do, however, permit casino licensees to establish a time limit for offering merchandise jackpots at the time the jackpot is initially offered. Thus, a similar grandfather provision is not necessary for Alternative A to N.J.A.C. 19:45-1.40A(l), relating to merchandise jackpots.

Please note that the Commission may adopt different alternatives for progressive jackpots and merchandise jackpots (for example, Alternative A for N.J.A.C. 19:45-1.39(i), and Alternative B for N.J.A.C. 19:45-1.40A(l)), as it deems appropriate.

The proposed amendments also add a new subsection (j) to N.J.A.C. 19:45-1.39 which codifies the longstanding Commission requirement that all linked progressive slot machines must have the same probability of hitting the combination that will award the progressive jackpot. A narrow exception to this rule is permitted when, as a practical matter, short-term variations are necessary to change the probability of these slot machines, provided that the change is completed expeditiously and in accordance with procedures that have been filed with and approved by the Commission. A similar subsection is also proposed for the rule governing merchandise jackpots, N.J.A.C. 19:45-1.40A(p).

The proposed amendments also permit casino licensees to increase the probability of a patron's winning a progressive or merchandise jackpot at any time prior to the jackpot being won or a previously established time limit expiring. The amendments would not permit the probability to be decreased unless the jackpot is won or a time limit has expired.

Additionally, the proposed amendments would permit casino licensees to change the rate of progression on a progressive jackpot at any time, within notice or any other requirements. Under the current rule, casino licensees are not permitted to change the rate of progression once an amount appears on a progressive meter.

The proposed amendments also modify requirements for removing slot machines which offer progressive or merchandise jackpots. When such machines are not returned to the gaming floor within five days, the casino must offer the progressive or merchandise jackpot on a slot machine which offers the same or a greater probability of winning that jackpot, and accepts a denomination of coin or token not greater than the denomination of the machine which was removed. Also, if a casino licensee established a time limit for offering a progressive or merchandise jackpot on a slot machine which is removed, the amendments require such limit to be extended by the number of days the jackpot is not offered on the gaming floor.

Finally, the proposed amendments eliminate the duplication in the Commission's rules concerning the display and notice requirements for slot machines. This is accomplished by simply cross-referencing the display requirements of N.J.A.C. 19:45-1.37(a)4 in N.J.A.C. 19:46-1.26(a)5.

Social Impact

The proposed amendments are not anticipated to have a significant social impact. The only effect of the amendments may be to change the type of game offered at certain slot machines in Atlantic City. If utilized creatively by casino licensees, the flexibility offered by the proposed amendments may generate additional interest and enthusiasm in slot gaming.

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Economic Impact

The proposed amendments should have a beneficial impact upon casino licensees. The amendments allow casinos to make use of new strategies in marketing their slot machines to increase patronl play and gaming revenue.

Because the proposed amendments permit casinos to limit the offering of progressive jackpots, they could result in fewer such jackpots being paid. Under the existing rules, a casino cannot remove such a jackpot until it is won. However, because of the competitive pressures of the market, the Commission does not anticipate any significant reduction in the payment of progressive jackpots by casino licensees. Thus, the proposed amendments are not likely to have any significant adverse economic impact on persons who patronize progressive slot machines.

Regulatory Flexibility Statement

A regulatory flexibility statement is not required for these proposed amendments. The proposed amendments affect only licensed casinos in Atlantic City, none of which is a small business as defined in 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]):

19:45-1.37 Slot machines and bill changers; identification; signs; meters

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1.-3. (No change.)

4. A dislay on the front of the slot machine that [clearly represents its] **provides fair notice of the following:**

i. The rules of play, character combinations [requiring] **which will award** payouts, and the [amount of the] related payouts[. In addition, a casino licensee shall display on the slot machine either

i. A]; **and**

ii. If the slot machine offers a payout of merchandise or some other thing of value, a clear description of [any] **the** merchandise or thing of value [offered as a payout], including [the] **its** cash equivalent value [of the merchandise or thing of value offered] **(unless the payout is an annuity jackpot)**, the dates the merchandise or thing of value will be offered if the casino licensee establishes a time limit [upon initially] **for** offering the merchandise or thing of value **as provided in N.J.A.C. 19:45-1.40A,** and the availability or unavailability to the patron of the optional cash equivalent value authorized by N.J.A.C. 19:45-1.40A(m).[; or

ii.] The **display need only contain the** name or a brief description of the merchandise or thing of value offered[;], provided[, however,] **that** a sign containing **all of** the information specified [in (a)4i above] **in (a)4ii above** shall be displayed in a location [approved by the Commission.] near the slot machine[.] **as approved by the Commission; and**

iii. If the slot machine offers a progressive jackpot, the dates the progressive jackpot will be offered and the payout limit, if the casino licensee establishes a time limit or payout limit as provided in N.J.A.C. 19:45-1.39. The display need not contain this information provided that a sign which does contain this information shall be displayed in a location near the slot machine as approved by the Commission.

5.-6. (No change.)

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

19:45-1.39 Progressive slot machines

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

(f) No ["]progressive meter(s)["] shall be turned back to a lesser amount unless [the]:

1. The amount indicated has been actually paid to a winning patron[,]; [or the]

2. The progressive jackpot amount won by the patron has been recorded in accordance with an approved system of internal controls[,]; [or the]

3. The time limit for the progressive jackpot established pursuant to (i) below has expired; or

4. The change [in the meter(s) reading] is necessitated by a slot machine or meter(s) malfunction, in which case an explanation must be entered on the Progressive Slot Summary required in (j) below and the Commission inspector must preapprove the resetting in writing.

(g) Once an amount appears on a ["]progressive meter(s),["], the [rate of progression and the] probability of hitting the combination that will award the progressive jackpot may not be [changed until there has been a winner of the payout amount registered on the meter or the payout limit, as described in (i) below, is registered on the "progressive meter(s)"] **decreased unless the progressive jackpot has been won by a patron or the time limit for offering the progressive jackpot established pursuant to (i) below has expired.**

(h) (No change.)

Alternative A

(i) [The payout limit, if any, shall be posted on the slot machine and shall be clearly visible to the patron.] **A casino licensee may establish a time limit of not less than 30 days for the offering of a progressive jackpot by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4 at the time the progressive jackpot is initially offered. Upon the expiration of such time limit, the casino liceensee may reduce the amount on the progressive jackpot meter, remove the progressive slot machine from the gaming floor, or decrease the probability of hitting the combination that will award the progressive jackpot. A casino licensee may also establish a payout limit for a progressive jackpot by providing notice of the payout limit in accordance with N.J.A.C. 19:45-1.37(a)4 prior to the time the payout limit is registered on the progressive meter.**

Alternative B

(i) [The payout limit, if any, shall be posted on the slot machine and shall be clearly visible to the patron.] **A casino licensee may establish a time limit of not less than 30 days for the offering of a progressive jackpot by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4 at the time the progressive jackpot is initially offered. A casino licensee may also establish a time limit of not less than 30 days for the offering of a progressive jackpot which was initially offered prior to (the effective date of this amendment) by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4. Upon the expiration of such time limit, the casino licensee may reduce the amount on the progressive jackpot meter, remove the progressive slot machine from the gaming floor, or decrease the probability of hitting the combination that will award the progressive jackpot. A casino licensee may also establish a payout limit for a progressive jackpot by providing notice of the payout limit in accordance with N.J.A.C. 19:45-1.37(a)4 prior to the time the payout limit is registered on the progressive meter.**

Alternative C

(i) [The payout limit, if any, shall be posted on the slot machine and shall be clearly visible to the patron.] **A casino licensee may, at any time, establish a time limit of not less than 30 days for the offering of a progressive jackpot by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4. Upon the expiration of such time limit, the casino licensee may reduce the amount on the progressive jackpot meter, remove the progressive slot machine from the gaming floor, or decrease the probability of hitting the combination that will award the progressive jackpot. A casino licensee may also establish a payout limit for a progressive jackpot by providing notice of the payout limit in accordance with N.J.A.C. 19:45-1.37(a)4 prior to the time the payout limit is registered on the progressive meter.**

(j) Slot machines which are linked to offer the same progressive jackpot shall have the same probability of hitting the combination that will award that jackpot, provided, however, that the probability may vary among such machines when necessary to enable a casino licensee to institute a change in the probability which is otherwise permitted by this section, if the change is completed expeditiously in accordance with procedures that have been filed with and approved by the Commission.

Recodified existing (j) as (**k**) (No change in text.)

[(k)](**l**) [Unless] **Except as** otherwise authorized by [the Commission] **this section**, a progressive slot machine removed from the gaming floor shall be returned to or replaced on the gaming floor within five days. The amount on the ["]progressive meter(s)["] on

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the returned or replacement machine shall not be less than the amount of the ["]progressive meter(s)["] at the time of removal. If the machine is not returned or replaced, then the ["]progressive meter(s)["] amount at the time of removal shall, **within five days of the slot machine's removal,** be added to [like] **a slot** machine [or machines as] approved by the Commission **which machine offers the same or a greater probability of winning the progressive jackpot, and accepts a denomination of coin or token not greater than the denomination accepted by the slot machine which was removed. Any time limit for the offering of a progressive jackpot shall be extended by the number of days during which the progressive jackpot was not offered as the result of any action taken by a casino licensee pursuant to this subsection.**

19:45-1.40A Jackpot payouts of merchandise or other things of value

(a)-(k) (No change.)

Alternative A

(l) [(Reserved)] **A casino licensee may establish a time limit of not less than 30 days for the offering of a jackpot of merchandise or other thing of value by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4 at the time the jackpot is initially offered.**

Alternative B

(l) [(Reserved)] **A casino licensee may, at any time, establish a time limit of not less than 30 days for the offering of a jackpot of merchandise or other thing of value by providing notice of the time limit in accordance with N.J.A.C. 19:45-1.37(a)4.**

(m) (No change.)

(n) Any advertising involving slot machine payouts of any merchandise or thing of value by the casino licensee shall include an accurate description of the merchandise or thing of value [offered and, except for annuity jackpots, the cash equivalent value of the merchandise or thing of value offered and], the dates the merchandise or thing of value will be offered if the casino licensee establishes a time limit [upon initially] **for** offering the merchandise or thing of value **pursuant to (l) above, and, except for annuity jackpots, the cash equivalent value of the merchandise or thing of value**. Any advertising concerning annuity jackpots shall also provide clear notice of the following:

1.-2. (No change.)

(o) Until the expiration of any time limit established in accordance with [(n)] **(l)** above or, if no such time limit is [initially] established by the casino licensee, [or the payout is an annuity jackpot,] until the merchandise or thing of value offered as a slot machine payout is won by a patron, a casino licensee shall not [change the odds of winning] **decrease the probability of hitting the combination that will award** the merchandise or thing of value, **increase** the denomination of the machine, nor in any other way vary the terms upon which the merchandise or thing of value is offered to the public [until it is won by a patron. Repair or replacement of a slot machine offering any merchandise or thing of value shall be governed by the restrictions applicable to progressive jackpot machines pursuant to N.J.A.C. 19:45-1.39, whether or not the merchandise or thing of value is offered in conjunction with a progressive jackpot payout].

(p) Slot machines which are linked to offer the same merchandise jackpot shall have the same probability of hitting the combination that will award that jackpot, provided, however, that the probability may vary among such machines when necessary to enable a casino licensee to institute a change in the probability which is otherwise permitted by this section, if the change is completed expeditiously in accordance with procedures that have been filed with and approved by the Commission.

(q) Except as otherwise authorized by this section, a slot machine which offers merchandise or some other thing of value as a payout which is removed from the gaming floor shall be returned to or replaced on the gaming floor within five days. If the machine is not returned or replaced, the merchandise or thing of value shall, within five days of the slot machine's removal, be offered as a payout on a slot machine approved by the Commission which offers the same or a greater probability of winning the merchandise or thing of value, and accepts a denomination of coin or token not greater than the denomination accepted by the slot machine which was removed. Any time limit for offering a jackpot of merchandise or other thing of value shall be extended by the number of days during which the merchandise or thing of value was not offered as the result of any action taken by a casino licensee pursuant to this subsection.

19:46-1.26 Slot machines and bill changers; identification; signs; meters; other devices

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1.-4. (No change.)

5. A display on the front of the slot machine that [clearly represents its rules of play, character combinations requiring payouts, and the amount of the related payouts. In addition, a casino licensee shall display on the slot machine either:

i. A clear description of any merchandise or thing of value offered as a payout, including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the casino licensee establishes a time limit upon initially offering the merchandise or thing of value and the availability or unavailability to the patron of the optional cash equivalent value authorized by N.J.A.C. 19:45-1.40A(m); or

ii. The name or a brief description of the merchandise or thing of value offered; provided, however, a sign containing the information specified in (a)5i above shall be displayed in a location approved by the Commission near the slot machine] **includes the information required by N.J.A.C. 19:45-1.37(a)4;**

6.-8. (No change.)

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

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Complimentary Distribution Programs

Proposed New Rule: N.J.A.C. 19:45-1.47

Proposed Amendments: N.J.A.C. 19:45-1.1, 1.2 and 1.46

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

Authority: N.J.S.A. 5:12-69, 5:12-70(a), 5:12-99 and 5:12-102(m).

Proposal Number: PRN 1991-238.

Submit comments by June 5, 1991 to:
David C. Missimer, Senior Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

The Commission's current rules recognize three categories of complimentary distribution programs: (1) coupon redemption programs which provide complimentary cash or slot tokens; (2) programs which provide complimentary cash or slot tokens but do not use coupons; and (3) all other types of programs. The first type of program, which involves the greatest distribution of assets by casino licensees, is governed by the detailed requirements of N.J.A.C. 19:45-1.46(c) through (n). The second type of program, because it involves the distribution of cash, requires the submission of internal controls by the licensee to the Commission at least 15 days prior to the implementation of the program. The absence of a Commission objection to the proposed internal controls is deemed an approval thereof. The third type of program simply requires the casino licensee to prepare internal controls prior to the implementation of the program, which controls have to be maintained by the licensee as an accounting record.

The proposed amendments would allow casino licensees to implement complimentary distribution programs much more rapidly, thereby providing casino licensees with additional flexibility in marketing their casino hotel facilities. Under the proposed amendments, casino licensees would

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be permitted to implement complimentary distribution programs which involve the distribution of less than $75,000 in cash or other complimentary services or items (other than coupon redemption programs involving cash or programs which involve the conduct of gaming) by simply preparing appropriate internal controls prior to the implementation of the programs.

Coupon redemption programs involving cash or slot tokens would continue to be governed by N.J.A.C. 19:45-1.46, and other programs involving the conduct of gaming or $75,000 or more in complimentaries would require the submission of internal controls to the Commission at least 15 days in advance of implementation. Even programs in these latter two categories, however, could be implemented immediately if the casino licensee had previously received approval of the same control procedures for a program which was identical in all material aspects to the new program (see proposed N.J.A.C. 19:45-1.47(d)).

Finally, the proposed amendment to N.J.A.C. 19:45-1.1 includes a definition of complimentary distribution program referencing N.J.A.C. 19:45-1.47 to distinguish the issuance of complimentaries under such programs from the distribution of complimentaries by casino licensees to known individuals whose casino patronage is being sought or rewarded. Complimentaries issued in these latter situations are required to be reported on the daily complimentary reports established in N.J.A.C. 19:45-1.2 and are unrelated to the general promotional activities intended to be governed by N.J.A.C. 19:45-1.46 and 1.47.

Social Impact

The proposed amendments and new rule offer casino licensees greater flexibility in organizing and implementing complimentary distribution programs without the necessity of preapproval. As a result, there may be more variety in such programs and casinos may make use of them more frequently. Those patrons who are able to take advantage of the savings or prizes offered by such programs should benefit by any increase in their use.

Economic Impact

The proposed amendments and new rule should result in cost savings to casino licensees by eliminating the need to receive regulatory approval of most complimentary distribution programs. They could also result in savings to the Commission and Division, who would otherwise be required to review such programs.

Regulatory Flexibility Statement

The proposed amendments and new rule would affect only the operation of casino licensees, none of which qualifies as a small business 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 clearly indicates otherwise.

. . .

"Compensation" means direct or indirect payments for services performed including, but not limited to, salary, wages, bonuses, deferred payments, and overtime and premium payments.

"Complimentary distribution program" is defined in N.J.A.C. 19:45-1.47.

19:45-1.2 Accounting records

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

(c) The detailed, supporting, and subsidiary records shall include, but not necessarily be limited to:

1.-2. (No change.)

3. Records supporting the accumulation of the costs and number of persons, by category of service, for regulated complimentary services. Such records shall include, on a daily basis, the name of each person provided with complimentary services, the category of services provided, the retail value of the aggregate of each category of service provided to such person, and the person authorizing the receipt of such service. A copy of this record shall be submitted to the Division of Gaming Enforcement's office located on the casino premises no later than two days subsequent to its preparation. Excepted from this requirement are the individual names of persons authorizing or receiving complimentary tickets for theatre or other entertainment events with a face value of less than $25.00, parking, beverages served in bars and the casino or complimentary services or items, including cash or slot tokens, issued pursuant to a complimentary distribution program regulated by N.J.A.C. 19:45-1.46 **or 19:45-1.47**.

4.-9. (No change.)

19:45-1.46 Procedure for control of coupon redemption [and other] complimentary distribution programs **involving complimentary cash or slot tokens**

(a) The procedures contained in [(c) through (n) below] **this section** shall apply to casino licensees offering coupon redemption programs which entitle patrons to redeem coupons for complimentary cash or slot tokens including, but not limited to, complimentary cash or slot tokens issued in connection with bus programs. No complimentary cash or slot tokens may be distributed by a casino licensee under any coupon redemption program that does not comply with the requirements of this section.

(b)[Detailed procedures controlling all programs entitling patrons to complimentary cash or slot tokens not regulated by (a) above shall be submitted by the casino licensee to the Commission and Division at least 15 days prior to implementing the program. The procedures for all such programs shall be deemed acceptable by the Commission unless the casino licensee is notified in writing to the contrary. Detailed procedures controlling all programs entitling patrons to complimentary items or services other than cash or slot tokens shall be prepared prior to implementation as an accounting record by the casino licensee. Complimentary items or services, including cash or slot tokens, distributed through programs regulated by this subsection shall be reported in accordance with the procedures contained in (l) and (n) below.] (**Reserved**)

(c)-(k) (No change.)

(l) Each casino licensee shall file a monthly report with the Commission and Division which shall [include the following information:

1. For all programs regulated by (a) above, each licensee shall] list by type of coupon, the total number of coupons used, the total number of coupons redeemed, the total value of the complimentary cash or slot tokens given to patrons in redemption of coupons and any liability to patrons remaining on unredeemed coupons[; and

2. For all programs regulated by (b) above, each licensee shall list, by program offered during the month, a description of the complimentary items and services provided, the total number of persons receiving complimentary items or services, the total dollar amount of complimentary items or services provided, and the names of all persons receiving a complimentary item or service in a dollar amount equal to or greater than $100.00].

(m) (No change.)

(n) In addition to the monthly report required to be filed in (l) above, the casino licensee shall accumulate both the dollar amount of and the number of persons redeeming coupons pursuant to [(a) above, and the dollar amount of and the number of persons receiving complimentary items or services pursuant to (b) above,] **this section** and shall include this information on the quarterly complimentary report required by N.J.A.C. 19:45-1.9. Complimentary items or services[, including cash and slot tokens,] distributed through programs regulated by this section shall not be subject to the daily complimentary report requirements imposed pursuant to N.J.A.C. 19:45-1.2.

19:45-1.47 Procedures for control of complimentary distribution programs not included in N.J.A.C. 19:45-1.46

(a) All complimentary distribution programs not regulated by N.J.A.C. 19:45-1.46 shall be subject to the requirements of this section. For the purposes of this chapter, a complimentary distribution program is a promotion or contest pursuant to which complimentary items or services are provided directly or indirectly by a casino licensee to the public without regard to the identity of the individual recipients.

(b) Detailed procedures controlling a complimentary distribution program regulated by this section shall be prepared by the casino licensee prior to the implementation of the program and maintained as an accounting record.

(c) If a complimentary distribution program regulated by this section should be anticipated to result in the distribution of $75,000 or more in complimentary items or services, including cash and slot tokens, or

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will involve the conduct of gaming in any way, the casino licensee shall submit its proposed control procedures to the Commission and Division at least 15 days prior to the proposed implementation date of the program. The control procedures for any such program shall be deemed acceptable by the Commission unless the casino licensee is notified in writing to the contrary. For purposes of determining whether a complimentary distribution program exceeds or will exceed the $75,000 limit, a casino licensee shall be required to aggregate the value of all substantially identical complimentary distribution programs which have been offered during the six month period preceding the proposed implementation date of the program and which will be offered during the initial six months of the program.

(d) Notwithstanding any other provision of this section, a casino licensee may implement a new complimentary distribution program which is included in (c) above without submitting its control procedures to the Commission for approval if the Commission has previously approved the use by that licensee of the same control procedures for a complimentary distribution program which is identical in all material aspects to the new program.

(e) Each casino licensee shall file a monthly report with the Commission and Division which shall list, by program offered during the month, a description of the complimentary items and services provided, the total number of persons receiving complimentary items or services, the total dollar amount of complimentary items or services provided, and the names of all persons receiving a complimentary item or service in a dollar amount equal to or greater than $100.00.

(f) In addition to the monthly report required to be filed in (e) above, the casino licensee shall accumulate both the dollar amount of and the number of persons receiving complimentary items or services pursuant to this section and shall include this information on the quarterly complimentary report required by N.J.A.C. 19:45-1.9. Complimentary items or services, including cash and slot tokens, distributed through programs regulated by this section shall not be subject to the daily complimentary report requirements imposed pursuant to N.J.A.C. 19:45-1.2.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Notice of Public Hearing
Bundled Drug Services
Proposed Amendments: N.J.A.C. 10:51-1.1, 1.14, 3.3 and 3.12; 10:52-1.1; 10:53-1.1; 10:54-1.1 and 1.16; 10:56-1.1 and 1.4; 10:57-1.1 and 1.18; and 10:66-1.2
Proposed New Rules: N.J.A.C. 10:52-1.22; 10:53-1.17; and 10:66-1.10

Take notice that the Department of Human Services will hold a **public hearing** on May 31, 1991 on the proposed amendments and new rules which appeared in the February 4, 1991 issue of the New Jersey Register at 23 N.J.R. 281(a). The proposed amendments and new rules concern payment for bundled drug services under the New Jersey Medicaid (Title XIX) Program.

A request for a public hearing on these proposed amendments and new rules was filed by the New Jersey Department of the Public Advocate pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-4(a)(3).

A "bundled drug" is described as one that is marketed or distributed by the manufacturer or distributor as a combined package, which includes not only the cost of the drug but also ancillary services, such as case management and laboratory testing.

In general, the proposed amendments and new rules enable the Commissioner to deny payment for a bundled drug service, with certain exceptions. One exception is based on the cost of the bundled drug service vis-a-vis the component parts. The other exception is based upon medical necessity.

The "medical necessity" exception pertains to persons who are already receiving a bundled drug service. Prior authorization must be obtained from the Division of Medical Assistance and Health Services if Medicaid is to continue payment for the bundled drug service.

The **public hearing** concerning the proposed amendment will be held May 31, 1991 at the following location and time:

New Jersey Office of Administrative Law
Quakerbridge Road
Quakerbridge Plaza, Building 9
Hearing Room One
Hamilton Township
Trenton, New Jersey
10:00 A.M.-12:00 A.M.
1:00 P.M.-4:00 P.M.

Individuals interested in testifying at the hearing must advise the Division of Medical Assistance and Health Services, Mercerville, New Jersey by telephone at (609) 588-2655 no later than 12:00 noon on May 30, 1991 and provide their name(s), organization represented, and the telephone number. Interested speakers will be limited to 10 minutes of oral testimony. Interested parties may submit written testimony at the hearing.

Written testimony may also be submitted by June 7, 1991 to:

Henry W. Hardy, Esq.
Division of Medical Assistance and Health Services
CN-712
Trenton, New Jersey 08625

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmacy Manual
Pharmaceutical Services; Limitations on Coverage for Non-Legend Drugs; Prior Authorization
Proposed Amendments: N.J.A.C. 10:51-1.2, 1.13, 1.14, 1.20
Proposed Repeal and New Rules: N.J.A.C. 10:51: Appendices B, C, D and E

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

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

Agency Control Number: 91-P-8.

Proposal Number: PRN 1991-247.

Submit comments by June 5, 1991 to:

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

A copy of the proposed amendments are available for public review at any of the 17 Medicaid District Offices or at the 21 county welfare agencies.

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 10:51, The Pharmacy Manual, are being made in response to the pending State appropriations legislation, and are intended to apply to pharmaceutical services under the New Jersey Medicaid Title XIX Program. The proposed amendments do not apply to the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program.

The proposed amendments restrict the coverage of non-legend, that is, over-the-counter, drugs to insulin, antacids, insulin syringes, and family planning drugs and devices.

The Appendices to N.J.A.C. 10:51 indicate the list of covered products. For example, Appendix B lists diabetic testing materials, insulin, and antacids; Appendix C lists insulin syringes and/or needles; and Appendix D lists devices.

The non-legend drugs that are being removed from coverage include such items as cough and cold preparations, vitamin/vitamin mineral combinations, topical preparations, laxatives, eye drops, asthma preparations, etc.

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There is one other revision effected by the proposed amendments: the current Medicaid policy allows a provider to request prior authorization from the Division and obtain approval for dispensing a non-legend drug that is medically necessary even if it is not listed in one of the Appendices. There is a proposed amendment at N.J.A.C. 10:51-1.14 to the effect that prior authorization will not be granted if the drug is not on the list of covered non-legend drugs. The amendment is intended to prevent prior authorization of non-covered drugs. The objective is to ensure compliance with the intent of the pending State Appropriations legislation to limit coverage of non-legend drugs to a specific list.

Social Impact

The proposed amendments impact upon Medicaid recipients because they will not be able to obtain coverage for certain non-legend drugs currently covered by Medicaid. Medicaid recipients will not be able to avail themselves of the provision of requesting prior authorization for items that are not on the list of covered non-legend drugs.

The proposed amendments will impact upon pharmaceutical providers, who will have to insure that when dispensing a non-legend drug, and when submitting a claim to Medicaid, that the product is covered. Pharmacists will not be reimbursed for claims submitted for non-covered products. Providers will not be able to obtain prior authorization for non-covered items.

Economic Impact

The deletion of certain non-legend drugs is expected to save approximately $1,200,000 annually (Federal-State share combined).

There is no cost to the Medicaid recipient for drugs and drug products that are covered. Medicaid recipients will have to pay for those non-legend drugs that are not covered.

Regulatory Flexibility Analysis

Pharmaceutical providers could be considered small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments apply equally to all pharmaceutical providers, hereinafter referred to as providers. There is no differentiation based upon size. The rationale for this statement is that providers will be reimbursed for non-legend drugs that are included as covered under the Medicaid (Title XIX) program, and will be denied payment for those non-legend drugs that are classified as non-covered. It is the list of covered items, not the size of the pharmacy, that is controlling.

The proposed amendments impose reporting, recordkeeping and compliance requirements for providers who must be aware of the non-legend drugs that are covered and the prior authorization requirements in order to be certain that the non-legend drugs that they dispense to a Medicaid recipient are covered under the program so that the recipient receives medically necessary services and the provider can be reimbursed for dispensing them. The Division currently maintains a list of covered items in Appendices B, C, D, and E and distributes them to providers. Appendix B is referenced, but not reproduced, in the New Jersey Administrative Code. Appendices C, D, and E are printed as full text in the Code. Therefore, the revised listing of these Appendices is not a new requirement for pharmaceutical providers. These appendices have been periodically updated to add or delete drugs or drug products.

Providers may need accountants and other professional services to comply with the pharmaceutical requirements of the New Jersey Medicaid Program. It is not anticipated the proposed amendments will necessitate the hiring of additional professional staff. It should be noted that providers are required by state law to maintain sufficient records to document recipients who receive service, dates of service, nature of service, etc. (N.J.S.A. 30:4D-12).

There should be no capital costs associated with the proposed amendments.

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

10:51-1.2 Covered pharmaceutical services

(a) Covered pharmaceutical services include:

1. Prescribed drugs, legend and non-legend, as [defined in this Subchapter;] **follows:**

[2.]**i.** Contraceptive devices and contraceptive supplies ([that is,] **such as** diaphragms, jellies, **foams** and rubber prophylactics);

ii. Over-the-counter, family planning supplies (such as pregnancy test kits);

iii. Devices listed in Appendix D;

[3.]**iv.** Diabetic testing materials [(that is Clinitest, Testape)] **listed in Appendix B;**

[4.]**v.** [Hypodermic] **Insulin** syringes and/or needles **listed in Apendix C;**

[5. Legend devices (debrisan).]

vi. Insulin listed in Appendix B; and

vii. Antacids listed in Appendix B.

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

10:51-1.13 Services requiring prior authorization

(a) The therapeutic classes and dosage forms listed below require prior authorization, obtained by the prescriber from the **appropriate** Medicaid District Office (**MDO**) **professional staff**. If the prior authorization request is approved, an authorization number will be provided and must appear on the prescriber's original or valid transcribed prescription. The space labeled "Check if Prior Authorized Service" on the Prescription Claim Form (MC-6) must be checked and the "prior authorization" number provided must be entered in the proper space.

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

[5. Non-legend medication not listed in Appendix B or C to this subchapter.]

[6.]**5.** (No change in text.)

10:51-1.14 Services not eligible for reimbursement

(a) The following classes of prescription drugs are not eligible for reimbursement:

1.-7. (No change in text.)

8. Non-legend drug products not listed in Appendix B or C[, except when prior authorization has been obtained (see Section 1.13)];

9.-16. (No change in text.)

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

10:51-1.20 Non-legend drugs

(a) The only non-legend drug products**, devices or supplies** that are eligible for reimbursement under the New Jersey [Health Services (Medicaid)] **Medicaid** Program are:

1. Those items listed in Appendices B and C;

[2.]**i.** Contraceptive materials listed in Appendix B;

[3.]**ii.** Diabetic testing material listed in Appendix B;

[4.]**iii.** [General non] **Non**-legend [drugs] **antacids** listed in Appendix B;

[5.]**iv.** [Hypodermic] **Insulin** syringes and/or needles listed in Appendix C[.];

v. Insulin listed in Appendix B; and

vi. Family planning supplies listed in Appendix B.

(b) (No change.)

AGENCY NOTE: As the Editor's Note at Appendix B in N.J.A.C. 10:51 states, the current Appendix is not published in the Code. For purposes of this proposal, the current Appendix B proposed for repeal is reproduced herein.

[APPENDIX B
General Non-Legend Drugs

Editor's Note: The list of "General Non-Legend Drugs" was filed as a part of this appendix but is not reproduced here. For a copy of this list, write to the Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.

A.S.A. ENSEALS 325MG 100	TAB	0000002-0125-02
A.S.A. ENSEALS 650MG 100	TAB	0000002-0132-02
A.S.A. SUPP/LILLY 325MG 6	SUPP	0000002-1915-16
A.S.A. SUPP/LILLY 650MG 6	SUPP	0000002-1916-16
ABDEC DROPS 50CC	EACH	0000071-2323-35
ACETAMINOPHEN CAPS 500MG 100 GENERIC	CAP	0000999-0520-01
ACETAMINOPHEN ELIXIR 120CC	CC	0000999-9090-04
ACETAMINOPHEN SUPP 120MG/ UPSHER-SMITH 12	SUPP	0000245-0121-12
ACETAMINOPHEN SUPP 650MG/UPSHER-SMITH 12	SUPP	0000245-0122-12

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ACETAMINOPHEN TABS 325MG 100 GENERIC	TAB	0000999-9091-01
ACHROMYCIN TOPICAL OINTMENT 15GM	EACH	0000005-4796-56
ACHROMYCIN TOPICAL OINTMENT 30GM	EACH	0000005-4796-55
ACIDULIN PULVULES 340MG 100	CAP	0000002-0631-02
ACTIDIL SYRUP 480CC	CC	0000081-0016-96
ACTIDIL TABLETS 100	TAB	0000081-0014-55
ACTIFED CAPSULES 20	CAP	0000081-0020-20
ACTIFED SYRUP 120CC	CC	0000081-0019-82
ACTIFED TABLETS 24	TAB	0000081-0018-24
ADRENALIN CHL SOL/ORAL 1/100 7.5CC	EACH	0000071-3014-09
ADRENALIN CHL SOL/TOP 1/1000 30CC	EACH	0000071-3003-13
ADVIL CAPLETS 200MG 100	TAB	0000573-0160-40
ADVIL TABLETS 200MG 100	TAB	0000573-0150-40
AFRIN NASAL SOL (NOSE DROPS) 20CC	EACH	0000085-0756-06
AFRIN NASAL SPRAY 15CC	EACH	0000085-0756-05
AFRIN NASAL SPRAY 30CC	EACH	0000085-0756-08
AFRIN PEDIATRIC NOSE DROPS 20CC	EACH	0000085-0632-04
AFRINOL REPETABS (NOW OTC) 100	TAB	0000085-0258-05
ALCOHOL, ISOPROPYL 91% LILLY 120CC	CC	0000002-2330-58
ALCON-EFRIN-12 DROPS 30CC	CC	0000998-0101-30
ALCON-EFRIN-25 DROPS 30CC	CC	0000998-0102-30
ALCON-EFRIN-25 SPRAY 30CC	CC	0000998-0112-30
ALCON-EFRIN-50 DROPS 30CC	CC	0000998-0103-30
ALLBEE C-800 PLUS IRON TABLETS 60	TAB	0000031-0678-62
ALLBEE C-800 TABLETS 60	TAB	0000031-0677-62
ALLBEE CAPLETS W/VITAMIN C 100	TAB	0000031-0673-66
ALLBEE-T TABLETS 100	TAB	0000031-0688-63
ALTERNAGEL LIQUID 360CC	CC	0000038-0860-12
ALU-CAP CAPSULES 100	CAP	0000089-0105-10
ALU-TAB TABLETS 250	TAB	0000089-0107-25
ALUDROX SUSPENSION 360CC	CC	0000008-0023-01
AMERICAINE HEMORRHOIDAL OINT 30GM	EACH	0000235-0375-16
AMMONIUM CHL COMP SYR-NJF 480CC	CC	0000999-7001-16
AMMONIUM CHL ENSEALS 500MG 100	TAB	0000002-0101-02
AMMONIUM CHL TABS 500MG E.C. GENERIC	TAB	0000999-7000-01
AMOSAN POWDER 20	EACH	0000041-0850-20
AMOSAN POWDER 40	EACH	0000041-0850-40
AMPHOJEL SUSPENSION 360CC	CC	0000008-0010-01
AMPHOJEL TABLETS 300MG 100	TAB	0000008-0119-01
AMPHOJEL TABLETS 600MG 100	TAB	0000008-0013-03
ANACIN-3 MAX STR CAPLETS 100	TAB	0000573-0285-30
ANACIN-3 MAX STR TABLETS 100	TAB	0000573-0292-30
ANTIMINTH SUSPENSION 60CC	CC	0000069-6400-23
ANUSOL OINTMENT 30GM	EACH	0000071-3075-13
ANUSOL SUPPOSITORIES 12	SUPP	0000071-1088-07
APATATE LIQUID 120CC	CC	0000482-0130-13
APETIMAR PLAIN LIQUID 120CC	CC	0012939-0999-33
APETIMAR W/IRON LIQUID 120CC	CC	0012939-0998-33
AQUASOL-A DROPS 30CC	EACH	0000053-4210-30
AQUASOL-E CAPS 100 UNITS 100	CAP	0000053-4491-00
AQUASOL-E CAPS 400 UNITS 30	CAP	0000053-4470-30
AQUASOL-E DROPS (FORMERLY 15CC) 12CC	EACH	0000053-5800-12
ARTHRALGEN TABLETS 100	TAB	0000031-1462-63
ARTHROPAN LIQUID 240CC	CC	0000034-5410-80
ASCORBIC ACID SEE: VIT C		
ASCORBICAP CAPSULES 500MG 50	CAP	0000187-0015-50
ASCRIPTIN TABLETS 100	TAB	0000067-0145-68
ASCRIPTIN-A/D TABLETS 100	TAB	0000067-0147-68
ASPIRIN SUPPOSITORIES 120MG (12) GENERIC	SUPP	0000999-7009-12
ASPIRIN SUPPOSITORIES 325MG (12) GENERIC	SUPP	0000999-7010-12
ASPIRIN SUPPOSITORIES 650MG (12) GENERIC	SUPP	0000999-7011-12
ASTHMANEFRIN SOLUTION 15CC	EACH	0000766-5010-11
ASTHMANEFRIN SOLUTION 30CC	EACH	0000766-5010-12
AUREOMYCIN TOPICAL OINTMENT 15GM	EACH	0000005-4442-56
AUREOMYCIN TOPICAL OINTMENT 30GM	EACH	0000005-4442-55
AVEENO BAR (DRY) 3OZ	EACH	0020494-0034-00
AVEENO BAR (MEDICATED) 3OZ	EACH	0020494-0034-05
AVEENO BAR (REGULAR) 3OZ	EACH	0020494-0034-10
AVEENO BATH 240GM	EACH	0020494-0034-40
AVEENO BATH 480GM	EACH	0020494-0034-30
AVEENO LOTION 240CC	EACH	0020494-0034-50
AVEENO SHOWER AND BATH OIL 240CC	EACH	0020494-0034-53
B-NUTRON TABLETS 100	TAB	0000998-0027-01
BACID CAPSULES 100	CAP	0000235-0105-01
BACIGUENT OINTMENT 15GM	EACH	0000009-0200-01
BACIGUENT OINTMENT 30GM	EACH	0000009-0200-02
BACITRACIN OINT 15GM GENERIC	EACH	0000999-7020-01
BACITRACIN OINT 30GM GENERIC	EACH	0000999-7020-02
BACITRACIN OINT 60GM GENERIC	EACH	0000999-7020-03
BACITRACIN OINTMENT/LILLY 15GM	EACH	0000002-1825-47
BACITRACIN OINTMENT/LILLY 30GM	EACH	0000002-1825-67
BACITRACIN NEO-POLYMYX-B 15GM GENERIC	EACH	0000999-7040-15
BACITRACIN NEO-POLYMYX-B 30GM GENERIC	EACH	0000999-7040-30
BALNEOL LOTION 90CC	CC	0000032-1960-71
BASALJEL CAPSULES 100	CAP	0000008-0472-01
BASALJEL SUSPENSION 360CC	CC	0000008-0131-01
BASALJEL SUSP/EXTRA STRENGTH 360CC	CC	0000008-0474-01
BASALJEL SWALLOW TABLETS 100	TAB	0000008-0473-01
BECOTIN PULVULES 100	CAP	0000777-0662-02
BECOTIN W/VIT C PULVULES 100	CAP	0000777-0677-02
BECOTIN-T TABLETS 100	TAB	0000777-0322-02
BEMINAL FORTE W/VIT C CAPSULES 100	CAP	0000573-0323-20
BEMINAL STRESS PLUS W/IRON TABS 60	TAB	0000573-0325-15
BEMINAL STRESS PLUS W/ZINC TABS 60	TAB	0000573-0328-15
BEMINAL-500 TABLETS 100	TAB	0000573-0320-30
BENOXYL 5 LOTION 30CC	EACH	0000145-3517-05
BENOXYL 5 LOTION 60CC	EACH	0000145-3517-07
BENOXYL 10 LOTION 30CC	EACH	0000145-3514-05
BENOXYL 10 LOTION 60CC	EACH	0000145-3514-07
BENYLIN COUGH SYRUP 120CC	CC	0000071-2195-17
BETADINE DOUCHE 240CC	EACH	0000034-2320-80
BETADINE OINTMENT 30GM	EACH	0000034-2340-10
BETADINE SKIN CLEANSER 120CC	EACH	0000034-2350-40
BETADINE SOLUTION 240CC	EACH	0000034-2100-80
BETADINE SOLUTION 480CC	EACH	0000034-2100-88
BETALIN COMP PULVULES 100	CAP	See Vit B Comp
BETALIN COMPLEX ELIXIR 480CC	CC	See Vit B Comp
BETALIN-S TABLETS 50MG 100	TAB	0000002-2062-02
BETALIN-S TABLETS 100MG 100	TAB	0000002-2063-02
BILRON PULVULES 150MG 100	CAP	0000002-0661-02
BILRON PULVULES 300MG 100	CAP	0000002-0641-02
BISACODYL SUPPOSITORY 12 GENERIC	SUPP	0000999-0513-01
BISACODYL TABLET 100 GENERIC	TAB	0000999-0512-01
BONACAL-PLUS TABLETS 100	TAB	0000482-0104-23
BONINE TABLETS 25MG 100	TAB	0000662-2010-66
BRONKAID MIST COMPLETE 10CC	EACH	0000024-4082-10
BRONKAID MIST COMPLETE 15CC	EACH	0000024-4082-15
BRONKAID MIST REFILL 15CC	EACH	0000024-4083-16
BRONKAID TABLETS 60	TAB	0000024-4081-06
BRONKOTABS 100	TAB	0000024-1006-10
BROWN MIXTURE 120CC GENERIC	CC	0000999-8020-04
BUTESIN PICRATE OINTMENT 30GM	EACH	0000074-4392-01
C.V.P. CAPSULES 100	CAP	0000053-5981-00
CAL CARB-HD 30	EACH	0000224-0427-30
CAL-SUP TABLETS 100	TAB	0000890-0110-10
CALCICAPS 100	TAB	0000998-0028-01
CALCIOMAR TABLETS 60	TAB	0012939-0517-60
CALCIUM GLUC TABS/LILLY 500MG 100	TAB	0000002-2039-02

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CALCIUM GLUC TABS/LILLY 1GM 100	TAB	0000002-2036-02
CALCIUM GLUC TABS/UPJOHN 975MG 60	TAB	0000009-0251-01
CALCIUM GLUC W/VIT D TABS 100	TAB	0000002-4107-02
CALCIUM LACT TABS 325MG GENERIC	TAB	0000999-5008-01
CALCIUM LACT TABS 325MG/LILLY 100	TAB	0000002-2013-02
CALCIUM LACT TABS 325MG/W-C 100	TAB	0000047-0533-24
CALCIUM LACT TABS 650MG GENERIC	TAB	0000999-5009-01
CALCIUM LACT TABS 650MG/LILLY 100	TAB	0000002-2014-02
CALCIUM LACT TABS 650MG/W-C 100	TAB	0000047-0604-24
CALDECORT CREAM 15GM	EACH	0000235-0646-51
CALDECORT CREAM 30GM	EACH	0000235-0646-61
CAMA ARTHRITIS PAIN RELIEVER 100	TAB	0000043-0104-51
CAMALOX SUSPENSION 360CC	CC	0000067-0180-71
CAMALOX TABLETS 50	TAB	0000067-0185-50
CE-VI-SOL DROPS 50CC	EACH	0000087-0400-01
CECON SOLUTION 50CC	EACH	0000074-3492-01
CELLUVISC LUB. OPHTH. SOL. 30	EACH	0000023-4554-30
CENTRUM JR TABLETS 60	TAB	0000005-4234-19
CENTRUM TABLETS 100	TAB	0000005-4239-30
CEROSE-DM LIQUID 120CC	CC	0000008-4204-02
CEVALIN TABLETS 500MG 100	TAB	0000002-2067-02
CHERACOL SYRUP 120CC	CC	0000009-0945-02
CHERACOL-D SYRUP 120CC	CC	0000009-0820-02
CHLOR-TRIMETON SYRUP 120CC	CC	0000085-0835-03
CHLOR-TRIMETON TABS 4MG 24	TAB	0000085-0080-01
CHLOR-TRIMETON TABS 8 MG 100	TAB	0000085-0374-02
CHLOR-TRIMETON TABS 12MG 100	TAB	0000085-0009-02
CHLORPHENIRAMINE CAPS 8MG/ PUREPAC 100	CAP	0000228-1234-10
CHLORPHENIRAMINE TABS 4MG/ PUREPAC 100	TAB	0000228-1231-10
CHLORPHENIRAMINE TABS 8MG/URL 1000	TAB	0000677-0038-10
CITRACAL TABLETS 100	TAB	0000178-0800-01
CITRUCEL FIBER LAXATIVE 480GM	EACH	0000068-0418-16
CITRUCEL FIBER LAXATIVE 900GM	EACH	0000068-0418-30
CITRUCEL POWDER 210GM	EACH	0000068-0419-07
CITRUCEL POWDER 300GM	EACH	0000068-0419-10
CLUSIVOL CAPSULES 100	CAP	0000573-0610-30
CLUSIVOL SYRUP 240CC	CC	0000573-0620-20
CLUSIVOL TABLETS 130	TAB	0000573-0625-30
CO-ADVIL CAPLETS 20	CAP	0000573-0575-20
CO-ADVIL CAPLETS 48	CAP	0000573-0575-30
CO-ADVIL CAPLETS 100	CAP	0000573-0575-40
CO-TYLENOL CHILD'S LIQUID 120CC	CC	0000045-0189-04
CO-TYLENOL TABLETS 50	TAB	0000045-0172-50
COD LIVER OIL CAPS 100/SCHERING	CAP	0000085-0917-05
COD LIVER OIL LIQUID (360CC) GENERIC	CC	0000999-5020-12
COD LIVER OIL TABS/SCHERING 100	TAB	0000085-0452-02
COD LIVER OIL TABS W/VIT C/ SCHERING 100	TAB	0000085-0604-06
COD LIVER OIL/SQUIBB 360CC	CC	0000003-0926-40
COD LIVER OIL/SQUIBB-MINT 360CC	CC	0000003-0927-40
COLACE CAPSULES 50MG 60	CAP	0000087-0713-02
COLACE CAPSULES 100MG 60	CAP	0000087-0714-02
COLACE LIQUID 30CC	EACH	0000087-0717-02
COLACE SYRUP 240CC	CC	0000087-0720-01
CONAR EXPECTORANT 480CC	CC	0000029-1749-34
CONAR LIQUID SUSP/SUGARLESS 480CC	CC	0000029-1739-34
CONAR-A TABLETS 100	TAB	0000029-1729-30
CONVERSPAZ IMP CAPS (FORM RX) 100	CAP	0000225-0351-15
CONVERZYME IMP CAPS (FORM RX) 100	CAP	0000225-0366-15
CORICIDIN DEMILETS 36	TAB	0000085-0075-05
CORICIDIN NASAL MIST SPRAY 15CC	EACH	0000085-0238-15
CORICIDIN TABLETS 100	TAB	0000085-0522-04
CORICIDIN-D TABLETS 100	TAB	0000085-0307-04
CORTAID CREAM W/ALOE 0.5% 15GM	EACH	0000009-3373-01
CORTAID CREAM W/ALOE 0.5% 30GM	EACH	0000009-3373-04
CORTAID LOTION 0.5% 30CC	EACH	0000009-0932-02
CORTAID OINTMENT W/ALOE 0.5% 15GM	EACH	0000009-3419-01
CORTAID OINTMENT W/ALOE 0.5% 30GM	EACH	0000009-3419-04
CORYBAN-D CAPSULES 24	CAP	0074300-0044-50
COSANYL COUGH SYRUP 120CC	CC	0011010-0001-04
COSANYL-DM COUGH SYRUP 120CC	CC	0011010-0002-04
CREAMALIN TABLETS 100	TAB	0000024-0294-04
D-S-S CAPSULES 100MG/W-C 100	CAP	0000047-0247-24
DASIN CAPS/NATURAL 100	CAP	0000029-2035-30
DAYALETS FILMTABS 100	TAB	0000074-3925-01
DAYALETS PLUS IRON FILMTABS 100	TAB	0000074-6667-01
DAYALETS-M SEE: DYALETS PLUS IRON		
DEBROX DROPS 15CC	EACH	0000088-1021-05
DEBROX DROPS 30CC	EACH	0000088-1021-01
DECHOLIN TABLETS 100	TAB	0000026-8121-51
DEGEST-2 DROPS 15CC	EACH	0000077-0655-15
DELACORT LOTION 0.5% 60CC	EACH	0000394-0839-33
DELACORT LOTION 0.5% 120CC	EACH	0000394-0839-32
DELCID SUSPENSION 240CC	CC	0000068-0264-08
DELSYM LIQUID 90CC	CC	0000045-0288-03
DEMAZIN REPETABS 100	TAB	0000085-0751-04
DEMAZIN SYRUP 120CC	CC	0000085-0513-01
DERMOPLAST LOTION 90CC	EACH	0000573-0845-20
DERMOPLAST SPRAY 82.5CC	EACH	0000573-0855-20
DERMOLATE ANTI ITCH CREAM 30GM	EACH	0000085-0129-05
DESENEX OINTMENT 25.5GM	EACH	0000235-0955-51
DESENEX OINTMENT 51GM	EACH	0000235-0955-63
DESENEX POWDER 42.5GM	EACH	0000235-0956-53
DESENEX POWDER 85GM	EACH	0000235-0956-65
DESENEX SOLUTION 45CC	EACH	0000235-0800-53
DI-GEL LIQUID 360CC	CC	0041100-0713-80
DI-GEL TABLETS 90	TAB	0041100-0577-90
DIA-QUEL LIQUID 120CC	CC	0052836-0333-33
DIALOSE CAPSULES 100	CAP	0000038-0470-10
DIALOSE PLUS CAPSULES 100	CAP	0000038-0475-10
DIALUME CAPSULES 100	CAP	0000053-3250-01
DICAL-D TABLETS 100	TAB	0000074-3741-13
DICALCIUM PHOS TABS 500MG GENERIC	TAB	0000999-5022-01
DICALCIUM PHOS TABS/LILLY 500MG 100	TAB	0000002-2061-02
DICALCIUM PHOS W/COMBO TABS GENERIC	TAB	0000999-5021-01
DICALCIUM PHOS W/VIT D PULV 100	CAP	0000002-0652-02
DILONE TABLETS 100	TAB	0025866-0052-40
DIMACOL CAPSULES 100	CAP	0000031-1653-63
DIMACOL LIQUID 480CC	CC	0000031-1662-25
DIMETANE DECONGESTANT ELIXIR 120CC	CC	0000031-2127-12
DIMETANE DECONGESTANT TABLETS 24	TAB	0000031-2117-54
DIMETANE ELIXIR 120CC	CC	0000031-1807-12
DIMETANE EXTENTABS 8MG 100	TAB	0000031-1868-63
DIMETANE EXTENTABS 12MG 100	TAB	0000031-1843-63
DIMETANE TABLETS 24	TAB	0000031-1857-54
DIMETAPP ELIXIR 120CC	CC	0000031-2230-12
DIMETAPP EXTENTABS 100	TAB	0000031-2277-63
DIMETAPP TABLETS 24	TAB	0000031-2254-54
DIOCTYL SOD SULFO SEE: D-S-S		
DIOCTYL SOD SULFO CAPS 50MG 100	CAP	0000999-9095-01
DIOCTYL SOD SULFO CAPS 100MG 100	CAP	0000999-9096-01
DISOPHROL CHRONOTABS 100	TAB	0000085-0555-02
DISOPHROL TABLETS 100	TAB	0000085-0340-04
DOCUSATE SOD. 100MG CAP GENERIC	CAP	0000999-0514-01
DOCUSATE SOD. 250MG CAP GENERIC	CAP	0000999-0515-01
DOCUSATE SOD. SYRUP 20MG/5ML 480CC GENERIC	CC	0000999-0516-01
DONNAGEL SUSPENSION 120CC	CC	0000031-3016-12
DONNAGEL PG SUSPENSION 180CC	CC	0000031-3083-15
DORCOL CHILDRENS COUGH SYRUP 120CC	CC	0000043-0537-14
DOXIDAN CAPSULES 100	CAP	0000039-0036-10
DOXINATE CAPSULES 240MG 100	CAP	0000039-0006-10
DRAMAMINE LIQUID 480CC	CC	0000014-1736-80

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DRAMAMINE TABLETS 100	TAB	0037000-7500-30
DRISTAN ADVANCED FORMULA TABS 48	TAB	0000573-1238-27
DRISTAN LONG LASTING SPRAY 30CC	EACH	0000573-1191-30
DRISDOL DROPS 60CC	EACH	0000024-0391-02
DRIXORAL TABLETS 100	TAB	0000085-0147-02
DUADACIN CAPSULES 100	CAP	0000039-0022-10
DULCOLAX SUPPOSITORIES 50	SUPP	0000597-0052-50
DULCOLAX TABLETS 100	TAB	0000597-0012-00
DUO C.V.P. CAPSULES 100	CAP	0000053-5911-00
DUOLUBE OINTMENT 3.5GM	EACH	0010119-9901-38
ECOTRIN TABLETS 325MG 100	TAB	0049692-0901-20
EFFERSYLLIUM INST POWDER (16OZ) 480GM	GM	0000038-0440-16
EMETROL LIQUID 120CC	EACH	0000013-2113-45
EMPIRIN ANALGESIC TABLETS 100	TAB	0000081-0210-55
EN-CEBRIN PULVULES 100	CAP	0000002-0812-02
ENDECON TABLETS 60	TAB	0000056-0030-60
ENGRAN-HP TABLETS 100	TAB	0000003-0478-50
ENUCLENE OPH DROPS 15CC	EACH	0000065-0083-15
ENZACTIN CREAM 30GM	EACH	0000573-1436-10
EPHEDRINE SULF CAPS 25MG 100 GENERIC	CAP	0000999-7060-01
EPHEDRINE SULF PULV 25MG 100	CAP	0000002-0624-02
EPHEDRINE SULF SYRUP (USP) 480CC	CC	0000002-2528-05
EPROLIN GELSEALS 100MG 100	CAP	0000002-0266-02
ESTIVIN OPH DROPS 7.5CC	EACH	0000065-0540-25
FEDAHIST DECONGESTANT SYRUP 120CC	CC	0000091-0052-04
FEDAHIST EXPECTORANT PEDIATRIC DROPS 30CC	EACH	0000091-0051-30
FEDAHIST EXPECTORANT SYRUP 120CC	CC	0000091-0057-04
FEDAHIST TABLETS 100	TAB	0000091-0050-01
FEOSOL ELIXIR 480CC	CC	0049692-0940-56
FEOSOL SPANSULES 30	CAP	0049692-0941-13
FEOSOL TABLETS 100	TAB	0049692-0942-20
FER-IN-SOL CAPSULES 100	CAP	0000087-0742-01
FER-IN-SOL DROPS 50CC	EACH	0000087-0740-02
FER-IN-SOL SYRUP 480CC	CC	0000087-0741-01
FERANCEE TABLES 100	TAB	0000038-0650-10
FERANCEE-HP TABLETS 60	TAB	0000038-0863-60
FERGON CAPSULES 30	CAP	0000024-1016-03
FERGON ELIXIR 480CC	CC	0000024-1019-16
FERGON TABLETS 100	TAB	0000024-1015-10
FERMALOX TABLETS 100	TAB	0000067-0260-68
FERO-GRAD 500 FILMTABS 100	TAB	0000074-7238-01
FERO-GRADUMET FILMTABS 100	TAB	0000074-6852-02
FERRO-SEQUELS TABLETS 100	TAB	0000005-5267-23
FERROUS GLUC TABS 325MG GENERIC	TAB	0000999-7070-01
FERROUS SULF ENSEALS/RED 100	TAB	0000002-0102-02
FERROUS SULF TABS 325MG GENERIC	TAB	0000999-7071-01
FERROUS SULF TABS/LILLY 325MG 100	TAB	0000002-0313-02
FESTAL II TABLETS 100	TAB	0000039-0101-10
FIBERALL POWDER (NATURAL) 300GM	EACH	0000083-0270-69
FIBERALL POWDER (ORANGE) 300GM	EACH	0000083-0290-69
FIBERALL POWDER (NATURAL) 450GM	EACH	0000083-0270-70
FIBERALL POWDER (ORANGE) 450GM	EACH	0000083-0290-70
FIBERALL TABLETS 18	TAB	0000083-0310-18
FIBERALL WAFERS 14	WAFER	0000083-4030-86
FIBER GUARD TABLETS 100	TAB	0000573-1485-20
FIBRAD POWDER 414GM	EACH	0070074-0504-35
FILIBON TABLETS 100	TAB	0000005-4294-23
FIOGESIC TABLETS 100	TAB	0000078-0225-05
FLEET BAG ENEMA W/CASTILE SOAP 1500CC	EACH	0000132-0901-10
FLEET ENEMA ADULT 135CC	CC	0000132-0201-40
FLEET ENEMA PEDIATRIC 67.5CC	EACH	0000132-0202-20
FLEET MIN OIL ENEMA 135CC	EACH	0000132-0301-40
FLORICAL CAPSULES 100	CAP	0000394-0102-02
FOSTEX 5% GEL (BENZOYL PEROX) 45GM	EACH	0000072-3300-02
FOTOTAR CREAM 2% 90GM	EACH	0000163-0526-03
FOTOTAR CREAM 2% 480CM	EACH	0000163-0526-05
FUNGACETIN OINTMENT 30GM	EACH	0000154-3010-01
GAVISCON FOAMTABS 100	TAB	0000088-1175-47
GAVISCON LIQUID 360CC	CC	0000088-1171-12
GELFOAM PACKS 2CM EACH JAR	EACH	0000009-0364-01
GELFOAM STERILE POWDER 1GM	GM	0000009-0433-01
GELUSIL LIQUID 360CC	CC	0000071-2036-22
GELUSIL TABS 100	TAB	0000071-0034-24
GELUSIL-II LIQUID 360CC	CC	0000071-2042-22
GELUSIL-II TABLETS 80	TAB	0000071-0043-22
GELUSIL-M LIQUID 360CC	CC	0000071-2044-22
GELUSIL-M TABLETS 100	TAB	0000071-0045-24
GEMNISYN TABLETS 100	TAB	0000091-0171-01
GENTIAN VIOLET SOL 1% 30CC GENERIC	EACH	0000999-7080-30
GENTIAN VIOLET SOL 2% 30CC GENERIC	EACH	0000999-7081-30
GENTLAX-S TABLETS 60	TAB	0000154-5500-60
GERILETS FILMTABS 100	TAB	0000074-6424-01
GERIPLEX-FS KAPSEALS 100	CAP	0000071-0544-24
GERIPLEX-FS LIQUID 480CC	CC	0000071-2454-23
GERIX ELIXIR 480CC	CC	0000074-6441-01
GEVRABON LIQUID 480CC	CC	0000005-5250-35
GEVRAL TABLETS 100	TAB	0000005-4289-23
GEVRAL-T TABLETS 100	TAB	0000005-4286-23
GLUTOFAC TABLETS 90	TAB	0000482-0153-90
GLY-OXIDE SOLUTION 15CC	EACH	0000088-1010-05
GLY-OXIDE SOLUTION 60CC	EACH	0000088-1010-02
GONIOSOL SOLUTION 15CC	EACH	0000058-0701-15
GUAIFENESIN SYRUP 120CC	CC	0000005-3399-24
GUAIFENESIN SYRUP W/DM 120CC	CC	0000005-3460-24
HALTRAN TABLETS 200MG 30	TAB	0000009-3402-02
HALTRAN TABLETS 200MG 50	TAB	0000009-3402-03
HEXA-BETALIN TABS 50MG 100	TAB	0000002-2072-02
HISTADYL-E.C. SYRUP 120CC	CC	0000002-5125-58
HYDROCIL INSTANT POWDER 3.7GM	EACH	0000032-1808-57
HYDROCIL INSTANT POWDER 250GM	EACH	0000032-1808-66
HYDROCORTISONE CREAM 5% 15GM GENERIC	EACH	0000999-0504-01
HYDROCORTISONE CREAM 5% 30GM GENERIC	EACH	0000999-0504-02
HYDROCORTISONE CREAM 5% 120GM GENERIC	EACH	0000999-0504-03
HYDROCORTISONE CREAM 5% 480GM GENERIC	EACH	0000999-0504-04
HYDROCORTISONE LOTION 5% 30CC GENERIC	EACH	0000999-0505-01
HYDROCORTISONE LOTION 5% 60CC GENERIC	EACH	0000999-0505-02
HYDROCORTISONE LOTION 5% 120CC GENERIC	EACH	0000999-0505-03
HYDROCORTISONE OINTMENT 5% 30GM GENERIC	EACH	0000999-0506-01
HYDROCORTISONE OINTMENT 5% 120GM GENERIC	EACH	0000999-0506-02
HYDROCORTISONE SPRAY 0.5%/RUGBY 45CC	EACH	0000536-8340-76
HYDROCORTISONE SPRAY 0.5%/SCHEIN 45CC	EACH	0000364-7303-80
HYTONE CREAM 0.5% 30GM	EACH	0000066-0182-01
I.L.X. ELIXIR 360CC	CC	0000482-0105-15
I.L.X. ELIXIR W/B12 360CC	CC	0000482-0106-15
I.L.X. TABLETS W/B12 100	TAB	0000482-0110-23
IBERET FILMTABS 60	TAB	0000074-6863-01
IBERET LIQUID 240CC	CC	0000074-7173-01
IBERET-500 FILMTABS 60	TAB	0000074-7235-01
IBERET-500 LIQUID 240CC	CC	0000074-8422-02
IBEROL FILMTABS 100	TAB	0000074-6829-01
IBEROL-F FILMTABS 100	TAB	0000074-1460-13

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IBUPROFEN 200MG TABLET 100 GENERIC	TAB	0000999-0509-01
IMODIUM A-D LIQUID 120CC	CC	0000045-0293-04
INCREMIN SYRUP W/IRON 120CC	EACH	000005-5604-58
IPECAC SYRUP/NOT LILLY 30CC GENERIC	EACH	0000999-7095-30
IPSATOL SYRUP 120CC	CC	0000482-0650-04
IRCON TABLETS 200MG 100	TAB	0000482-0628-01
ISOCLOR LIQUID 480CC	CC	0000235-2264-01
ISOCLOR TABLETS 100	TAB	0000235-2265-01
ISOCLOR TIMESULES 100	CAP	0000235-2266-01
ISOPTO FRIN 15CC	EACH	0000998-0406-15
ISOPTO PLAIN 15CC	EACH	0000998-0404-15
ISOPTO TEARS 15CC	EACH	0000998-0408-15
KANULASE TABLETS 50	TAB	0000043-0038-50
KAOPECTATE CONC 240CC	CC	0000009-3465-01
KAOPECTATE SUSPENSION 360CC	CC	0000009-0400-04
KAOPECTATE SUSP BILINGUAL 360CC	CC	0000009-0425-03
KASDENOL POWDER 10GM	EACH	0000998-0006-10
KENWOOD THERA LIQ SEE: THERAPEUTIC LIQUID		
KONDREMUL LIQUID 480CC	CC	0000235-0121-00
KONSYL POWDER (10oz) 300GM	EACH	0000224-1801-06
KONSYL POWDER (15oz) 450GM	EACH	0000224-1801-07
LACRI-LUBE S.O.P. OPH OINT 3.5GM	EACH	0000023-0309-04
LACRIL OPH DROPS 15CC	EACH	0000023-0045-15
LACTINEX GRANULES 12	EACH	0000011-8367-12
LACTINEX TABLETS 50	TAB	0000011-8368-50
LEDERPLEX CAPSULES 100	CAP	0000005-4280-23
LEDERPLEX LIQUID 360CC	CC	0000005-4299-63
LIPO-NICIN CAPSULES 300MG	CAP	0000248-1850-01
LIPO-NICIN TABLETS 100MG 100	TAB	0000248-4904-01
LIPO-NICIN TABLETS 250MG 100	TAB	0000248-1750-01
LIPOFLAVONOID CAPSULES 100	CAP	0055499-0501-17
LIPOTRIAD CAPSULES 100	CAP	0055499-0500-17
LIPOTRIAD LIQUID 480CC	CC	0055499-0505-30
LIQUIFILM TEARS 15CC	EACH	0011980-0025-15
LIQUIFILM TEARS 30CC	EACH	0011980-0025-30
LIQUIPRIN DROPS 35CC	EACH	0000766-5611-39
LIVITAMIN CAPSULES 100	CAP	0000029-2500-30
LIVITAMIN CHEWABLE TABLETS 100	TAB	0000029-2540-30
LIVITAMIN LIQUID 480CC	CC	0000029-2530-34
LYTEERS SOLUTION 15CC	EACH	0000077-0643-15
LYTREN NURSETTE 240CC	*EACH	0000087-0294-03
MAALOX #1 TABLETS 100	TAB	0000067-0335-68
MAALOX SUSPENSION 360CC	CC	0000067-0330-71
MAALOX THERAPEUTIC CONC 360CC	CC	0000067-0334-71
MAALOX THERAPEUTIC CONC TABS 48	TAB	0000067-0344-48
MAALOX-PLUS E.S. SUSP 360CC	CC	0000067-0333-71
MAALOX-PLUS SUSPENSION 360CC	CC	0000067-0332-71
MAALOX-PLUS TABLETS 50	TAB	0000067-0339-50
MAALOX-PLUS TABLETS (STRIP) -UD-100	TAB	0000067-0339-67
MAG-B-6 TABLETS 100	TAB	0017324-7777-01
MAG-TAB S.R. 60	TAB	0000013-4201-16
MAG-TAB S.R. 100	TAB	0000013-4201-17
MALTSUPEX LIQUID 240CC	EACH	0000037-9001-12
MALTSUPEX POWDER 240GM	EACH	0000037-9101-12
MALTSUPEX TABLETS 100	TAB	0000037-9201-01
MARDROPS PEDIATRIC DROPS 30CC	EACH	0012939-0412-30
MAREZINE TABLETS 12	TAB	0000081-0652-15
MEDICONE SUPPOSITORIES 12	EACH	0000244-0004-12
MEDICONE SUPPOSITORIES 24	EACH	0000244-0004-24
MEDICONE UNGUENT 45GM	EACH	0000244-0005-04
MEDIHALER-EPI W/ADAPTER 15CC	EACH	0000089-0755-21
MEDIHALER-EPI REFILL 15CC	EACH	0000089-0755-11
MEDIPREN CAPLETS 100	TAB	0000045-0197-70
MEDIPREN TABLETS 100	TAB	0000045-0199-70
MERC. OXIDE OPH OINT/YELLOW 1% 3.5GM	EACH	0000002-1855-17
MERC. OXIDE OPH OINT/YELLOW 2% 3.5GM	EACH	0000002-1856-17
METAMUCIL PACKETS 16	EACH	0037000-7401-60
METAMUCIL PACKETS 30	EACH	0037000-7401-70
METAMUCIL POWDER ANY FLAVOR 198GM	EACH	0037000-0010-02
METAMUCIL POWDER ANY FLAVOR 397GM	EACH	0037000-0010-03
METAMUCIL POWDER ANY FLAVOR 595GM	EACH	0037000-0010-04
METHISCHOL CAPSULES 100	CAP	0000053-4941-00
MI-CEBRIN TABLETS 100	TAB	0000777-0319-02
MI-CEBRIN-T TABLETS 100	TAB	0000777-0320-02
MITROLAN TABLETS 36	TAB	0000031-1535-57
MODANE BULK POWDER 420GM	EACH	0000013-5025-72
MODANE MILD TABLETS 100	TAB	0000013-5121-17
MODANE PLUS TABLETS 100	TAB	0000013-5151-17
MODANE TABLETS 100	TAB	0000013-5131-17
MOL-IRON TABLETS 100	TAB	0000085-0297-02
MOL-IRON TABS W/VIT C 100	TAB	0000085-0418-02
MULTICEBRIN TABLETS 100	TAB	0000002-0371-02
MULTIVIT. CAPS/TABS GENERIC	CAP	0000999-5030-01
MULTIVIT. LIQUID GENERIC	CC	0000999-5034-16
MULTIVIT. LIQUID W/MINERALS GENERIC	CC	0000999-5035-16
MULTIVIT. W/MIN CAPS/TABS GENERIC	CAP	0000999-5032-01
MULTIVIT. THERA CAPS/TABS GENERIC	CAP	0000999-5031-01
MULTIVIT. THERA LIQUID GENERIC	CC	0000999-5036-16
MULTIVIT. THERA W/MIN CAPS/TABS GENERIC	CAP	0000999-5033-01
MURO TEARS SOLUTION 15CC	EACH	0010119-9904-15
MUROCEL SOLUTION 15CC	EACH	0000303-9902-15
MYADEC TABLETS (NEW FORM) 130	TAB	0000071-0335-26
MYCIGUENT CREAM 15GM	EACH	0000009-0523-01
MYCIGUENT OINTMENT 15GM	EACH	0000009-0666-01
MYCIGUENT OINTMENT 30GM	EACH	0000009-0666-02
MYCITRACIN OINTMENT 15GM	EACH	0000009-0700-04
MYCITRACIN OINTMENT 30GM	EACH	0000009-0700-05
MYLANTA LIQUID 360CC	CC	0000038-0610-12
MYLANTA TABLETS 100	TAB	0000038-0620-10
MYLANTA-II LIQUID 360CC	CC	0000038-0652-12
MYLANTA-II TABLETS 60	TAB	0000038-0651-60
MYLICON DROPS 30CC	EACH	0000038-0630-03
MYLICON TABLETS 40MG 100	TAB	0000038-0450-10
MYLICON-80 TABLETS 100	TAB	0000038-0858-10
NALDECON-CX ADULT LIQUID 120CC	CC	0000015-5661-40
NALDECON-DX ADULT LIQUID 120CC	CC	0000015-5669-40
NALDECON-DX CHILD SYRUP 120CC	CC	0000015-5666-40
NALDECON-DX PEDIATRIC DROPS 30CC	EACH	0000015-5667-30
NALDECON-DX SENIOR LIQUID 120CC	CC	0000015-5659-01
NALDECON-DX SENIOR LIQUID 480CC	CC	0000015-5659-02
NALDECON-EX CHILD SYRUP 120CC	CC	0000015-5663-40
NALDECON-EX PEDIATRIC DROPS 30CC	EACH	0000015-5662-30
NALDECON-EX SENIOR LIQUID 120CC	CC	0000015-5658-01
NALDECON-EX SENIOR LIQUID 480CC	CC	0000015-5658-02
NALDEGESIC TABLETS 100	TAB	0000015-5656-60
NATABEC KAPSEALS 100	CAP	0000071-0390-24
NATABEC-F.A. KAPSEALS 100	CAP	0000071-0541-24
NATALINS TABLETS 100	TAB	0000087-0700-01
NEO-CALGLUCON SYRUP 480CC	CC	0000078-0056-33
NEO-SYNEPHRINE DROPS .125% 15CC	EACH	0000024-1345-05
NEO-SYNEPHRINE DROPS .25% 15CC	EACH	0000024-1347-05
NEO-SYNEPHRINE DROPS .5% 15CC	EACH	0000024-1351-05
NEO-SYNEPHRINE DROPS 1% 15CC	EACH	0000024-1355-05
NEO-SYNEPHRINE NASAL JELLY EACH TUBE	EACH	0000024-1367-01
NEO-SYNEPHRINE SPRAY .25% 15CC	EACH	0000024-1348-03

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NEO-SYNEPHRINE SPRAY .5% 15CC	EACH	0000024-1353-01
NEOMYCIN TOP OINTMENT/LILLY 30GM	EACH	0000002-1821-67
NEOMYCIN TOP OINTMENT GENERIC 15GM	EACH	0000999-9086-01
NEOMYCIN TOP OINTMENT GENERIC 30GM	EACH	0000999-9086-02
NEOSPORIN CREAM 15GM	EACH	0000081-0737-94
NEOSPORIN OINTMENT 15GM	EACH	0000081-0730-88
NEOSPORIN OINTMENT 30GM	EACH	0000081-0730-87
NIACIN TABLETS 25MG GENERIC	TAB	0000999-5040-01
NIACIN TABLETS 50MG GENERIC	TAB	0000999-5041-01
NIACIN TABLETS 50MG/LILLY 100	TAB	0000002-1043-02
NIACIN TABLETS 50MG/SQUIBB 100	TAB	0000003-0611-50
NIACIN TABLETS 100MG GENERIC	TAB	0000999-5042-01
NIACIN TABLETS 100MG/LILLY 100	TAB	0000002-1042-02
NIACIN TABLETS 100MG/SQUIBB 100	TAB	0000003-0612-50
NIACIN TABLETS 500MG/SQUIBB 100	TAB	0000003-0537-50
NIACINAMIDE TABLETS 25MG GENERIC	TAB	0000999-5050-01
NIACINAMIDE TABLETS 50MG GENERIC	TAB	0000999-5051-01
NIACINAMIDE TABLETS 100MG GENERIC	TAB	0000999-5052-01
NIACINAMIDE TABLETS 50MG/LILLY 100	TAB	0000002-1046-02
NIACINAMIDE TABLETS 100MG/LILLY 100	TAB	0000002-2053-02
NICO-400 CAPSULES 100	CAP	0052604-1575-01
NICOBID TEMPULES 125MG 100	CAP	0000075-2835-01
NICOBID TEMPULES 250MG 100	CAP	0000075-2840-01
NICOBID TEMPULES 500MG 100	CAP	0000075-2841-01
NICOTINAMIDE SEE: NIACINAMIDE		
NICOTINIC ACID SEE: NIACIN		
NORMAL SALINE NASAL DROPS 15CC GENERIC	EACH	0000999-0201-01
NORMAL SALINE NASAL DROPS 30CC GENERIC	EACH	0000999-0202-01
NORMAL SALINE NASAL DROPS 60CC GENERIC	EACH	0000999-0203-01
NORMAL SALINE NASAL DROPS 90CC GENERIC	EACH	0000999-0204-01
NORMAL SALINE NASAL DROPS 120CC GENERIC	EACH	0000999-0205-01
NORMAL SALINE NASAL DROPS 180CC GENERIC	EACH	0000999-0206-01
NORMAL SALINE NASAL DROPS 240CC GENERIC	EACH	0000999-0207-01
NORMAL SALINE NASAL DROPS 480CC GENERIC	EACH	0000999-0208-01
NOVAFLOR CAPSULES 16	CAP	0000576-0275-16
NOVAHISTINE ELIXIR 120CC	CC	0000068-0469-04
NOVAHISTINE EXPECT 120CC	CC	0000068-1028-04
NOVAHISTINE-DH LIQUID 120CC	CC	0000068-1027-04
NOVAHISTINE-DMX LIQUID 120CC	CC	0000068-1015-04
NTZ L.A. NASAL SPRAY 15CC	EACH	0000024-1312-02
NTZ L.A. NASAL DROPS 15CC	EACH	0000024-1311-03
NUPERCAINAL OINTMENT 60GM	EACH	0000083-5812-86
NUPERCAINAL SUPPOSITORIES 12	EACH	0000083-5841-12
NUPERCAINAL SUPPOSITORIES 24	EACH	0000083-5841-25
NUPRIN TABLETS 200MG 100	TAB	0019810-0076-04
OPTILETS-M-500 TABLETS 100	TAB	0000074-4286-13
OPTILETS-500 FILMTABS 100	TAB	0000074-4287-13
ORABASE EMOLLIENT 5GM	EACH	0000126-0063-45
ORABASE EMOLLIENT 15GM	EACH	0000126-0063-88
ORABASE W/BENZOCAINE 5GM	EACH	0000126-0065-45
ORABASE W/BENZOCAINE 15GM	EACH	0000126-0065-88
ORAZINC 220MG (50MG/ZINC) 100	CAP	0000394-0499-02
OREXIN TABLETS 100	TAB	0000038-0280-10
ORNACOL CAPSULES 20	CAP	0049692-0930-12
ORNEX CAPLETS 24	TAB	0049692-0927-24
ORTHOXICOL SYRUP 120CC	CC	0000009-3476-02
OS-CAL TABLETS 100	TAB	0000088-1650-47
OS-CAL/FORTE TABLETS 100	TAB	0000088-1653-47
OS-CAL/500 CHEWABLE 60	TAB	0000088-1657-41
OS-CAL/500 TABLETS 500MG 60	TAB	0000088-1651-41
OS-CAL/500+D TABLETS 60	TAB	0000088-1654-41
OTRIVIN NASAL DROPS 20CC	EACH	0000028-6114-58
OTRIVIN NASAL SPRAY 0.1% 15CC	EACH	0000028-6118-57
OTRIVIN PED NASAL DROPS .05% 20CC	EACH	0000028-6116-58
OXY—5 LOTION 30CC	EACH	0000766-7101-12
OXY—10 LOTION 30CC	EACH	0000766-7500-12
PABALATE TABLETS 100	TAB	0000031-5816-63
PANCREATIN ENSEALS TRIPLE STR 100	TAB	0000002-0104-02
PANCREATIN TABLETS 325MG 100	TAB	0000002-2026-02
PAREPECTOLIN 120CC	CC	0000075-0660-60
PEDIACARE CHEWABLE TABLETS 24	TAB	0000045-0196-24
PEDIACARE COLD FORMULA 120CC	CC	0000045-0193-04
PEDIACARE COUGH-COLD FORMULA 120CC	CC	0000045-0194-04
PEDIACARE DROPS 15CC	EACH	0000045-0286-15
PEDIALYTE R.T.U. BOTTLES 240CC	*EACH	0000074-6470-08
PEDIALYTE R.T.U. BOTTLES 960CC	*EACH	0000074-6470-32
PEDIALYTE R.T.U. 960CC (FRUIT FLAVOR)	*EACH	0000074-6471-32
PENNTUSS SUSPENSION 120CC	CC	0000018-0818-38
PEPTENZYME ELIXIR 480CC	CC	0000021-0206-16
PERCOGESIC TABLETS 90	TAB	0025866-0049-50
PERDIEM PLAIN GRANULES 100GM	EACH	0046213-0695-68
PERDIEM PLAIN GRANULES 250GM	EACH	0046213-0695-70
PERDIEM GRANULES 100GM	EACH	0000067-0690-68
PERDIEM GRANULES 250GM	EACH	0000067-0690-70
PERI-COLACE CAPSULES 60	CAP	0000087-0715-02
PERI-COLACE SYRUP 240CC	CC	0000087-0721-01
PERI-WASH LIQUID 120CC	EACH	0011701-0014-04
PERI-WASH II LIQUID 120CC	EACH	0011701-0009-04
PERITINIC TABLETS 60	TAB	0000005-5124-19
PERSISTIN TABLETS 50	TAB	0000235-0122-00
PHARMA-CORT CREAM 0.5% 22.5GM	EACH	0000228-1489-75
PHAZYME TABLETS 100	TAB	0000021-1400-01
PHAZYME-95 TABLETS 100	TAB	0000021-1420-01
PHENAPHEN CAPSULES 325MG 1000	CAP	0000031-6207-74
PHENERGAN DECONG. COLD FORMULA 120CC	CC	0000008-0693-02
PHENERGAN DECONG. COLD FORMULA 240CC	CC	0000008-0693-04
PHENERGAN DM COUGH FORMULA 120CC	CC	0000008-0694-02
PHENERGAN DM COUGH FORMULA 240CC	CC	0000008-0694-04
PHOSPHALJEL SUSPENSION 360CC	CC	0000008-0111-01
POLY-VI-SOL DROPS 50CC	EACH	0000087-0402-03
POLY-VI-SOL TABLETS 100	TAB	0000087-0412-03
POLY-VI-SOL TABLETS CIRCUS SHAPE 100	TAB	0000087-0414-02
POLY-VI-SOL W/IRON TABS CIRCUS SHAPE 100	TAB	0000087-0456-02
POLY-VI-SOL W/IRON DROPS 50CC	EACH	0000087-0405-01
POLY-VI-SOL W/IRON TABLETS 100	TAB	0000087-0455-02
POLYSPORIN OINTMENT 15GM	EACH	0000081-0798-88
POLYSPORIN OINTMENT 30GM	EACH	0000081-0798-87
POLYSPORIN POWDER 10GM	EACH	0000081-0793-99
POLYSPORIN SPRAY 90GM	EACH	0000081-0792-05
POSTURE TABLETS 300GM 100	TAB	0000573-2725-30
POSTURE TABLETS 600MG 60	TAB	0000573-2730-20
POSTURE-D TABLETS 300MG 100	TAB	0000573-2735-30
POSTURE-D TABLETS 600MG 60	TAB	0000573-2740-20
POVIDINE-IODINE OINTMENT 30GM GENERIC	EACH	0000999-0510-01
POVIDINE-IODINE OINTMENT 480GM GENERIC	EACH	0000999-0510-02

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POVIDINE-IODINE SOLUTION 240CC GENERIC	CC	0000999-0511-01
POVIDINE-IODINE SOLUTION 480CC GENERIC	CC	0000999-0511-02
PRACTIMIN-B W/IRON & LYSINE TABS 100	TAB	0017324-2222-01
PREFRIN OPH SOLUTION 20CC	EACH	0011980-0036-07
PREPARATION-H OINTMENT 30GM	EACH	0000573-2870-10
PREPARATION-H OINTMENT 60GM	EACH	0000573-2870-20
PREPARATION-H SUPPOSITORIES 12	EACH	0000573-2880-10
PRIMATENE MIST COMPLETE 15CC	EACH	0000573-2910-20
PRIMATENE MIST REFILL 15CC	EACH	0000573-2910-30
PRIMATENE MIST REFILL 22.5CC	EACH	0000573-2910-40
PRIMATENE-M TABLETS 60	TAB	0000573-2931-20
PRIMATENE-P TABLETS 60	TAB	0000573-2940-30
PRIVINE NASAL SOLUTION 20CC	EACH	0000083-6511-58
PRIVINE NASAL SPRAY 15CC	EACH	0000083-6534-57
PROBEC-T TABLETS 60	TAB	0000038-0840-60
PROPHYLLIN POWDER PACKETS 12	EACH	0000263-5182-12
PROXIGEL 34GM	EACH	0000021-0150-12
PRUNICODEINE 480CC	CC	0000002-2336-05
PSEUDOEPHEDRINE 30MG TABS 24 GENERIC	TAB	0000999-0517-01
PSEUDOEPHEDRINE 30MG TABS 100 GENERIC	TAB	0000999-0517-02
PSEUDOEPHEDRINE 60MG TABS 100 GENERIC	TAB	0000999-0518-01
PSEUDOEPHEDRINE SYRUP 120CC GENERIC	CC	0000999-0519-01
PSEUDOEPH. & TRIPROLIDINE SYRUP 120CC GENERIC	CC	0000999-0508-01
PSEUDOEPH. & TRIPROLIDINE TABS 24 GENERIC	TAB	0000999-0507-01
PSEUDOEPH. & TRIPROLIDINE TABS 100 GENERIC	TAB	0000999-0507-02
PYRIDOXINE SEE: HEXA-BETALIN		
PYRIDOXINE TABLETS 10MG GENERIC	TAB	0000999-5070-01
PYRIDOXINE TABLETS 25MG GENERIC	TAB	0000999-5071-01
PYRIDOXINE TABLETS 50MG GENERIC	TAB	0000999-5072-01
PYRIDOXINE TABLETS 100MG GENERIC	TAB	0000999-5073-01
PYRROXATE CAPSULES 24	CAP	0000009-3212-01
QUELIDRINE SYRUP 120CC	CC	0000074-6883-04
QUININE SULF CAPS 325MG 100 GENERIC	CAP	0000999-7030-01
QUININE SULF PULVULES 200MG 100	CAP	0000002-0627-02
QUININE SULF PULVULVES 325MG 100	CAP	0000002-0629-02
REFRESH ARTIFICIAL TEARS 30CC	EACH	0000023-0506-01
REHYDRALYTE SOLUTION 240CC	*EACH	0000074-0162-01
RESOL R.T.U. SOLUTION 960CC	*EACH	0000008-0625-04
RIBO-B-C TABLETS SEE: RNA-BC		
RIBOFLAVIN TABLETS 5MG GENERIC	TAB	0000999-5080-01
RIBOFLAVIN TABLETS 10MG GENERIC	TAB	0000999-5081-02
RIBOFLAVIN TABLETS 10MG 100	TAB	0000999-1063-02
RIBOFLAVIN TABLETS 25MG GENERIC	TAB	0000999-5082-03
RIBOFLEX TABLETS 100	TAB	0017324-5555-01
RIBOMINS TABLETS 100	TAB	0017324-3333-01
RIOPAN CHEWABLE TABLETS 100	TAB	0000573-3194-35
RIOPAN SUSPENSION 360CC	CC	0000573-3200-20
RIOPAN SWALLOW TABLETS 100	TAB	0000573-3197-35
RIOPAN PLUS 2 CHEWABLE TABLETS 60	TAB	0000573-3215-30
RIOPAN PLUS 2 SUSP 360CC	CC	0000573-3220-20
RIOPAN PLUS SUSPENSION 360CC	CC	0000573-3210-20
RNA-BC TABS (PREV: RIBO-B-C) 100	TAB	0017324-4444-01
ROBITUSSIN SYRUP/EXP 120CC	CC	0000031-8624-12
ROBITUSSIN-AC SYRUP 120CC	CC	0000031-8674-12
ROBITUSSIN-CF SYRUP 120CC	CC	0000031-8677-12
ROBITUSSIN D.A.C. 120CC	CC	0000031-8680-12
ROBITUSSIN-DM SYRUP 120CC	CC	0000031-8684-12
ROBITUSSIN-PE SYRUP 120CC	CC	0000031-8695-12
ROMILAR CHILDRENS COUGH SYRUP 90CC	CC	0010158-0190-20
ROMILAR-CF SYRUP 90CC	CC	0010158-0180-40
RU-TUSS EXPECTORANT 480CC	CC	0000048-3010-16
RU-TUSS LIQUID 480CC	CC	0000048-1009-16
RYNA LIQUID 120CC	CC	0000037-0638-66
RYNA-C LIQUID 120CC	CC	0000037-0522-66
RYNA-CX LIQUID 120CC	CC	0000037-0801-66
RYNA-TUSSADINE EXP LIQUID 480CC	CC	0000037-0725-68
RYNA-TUSSADINE EXP TABLETS 100	TAB	0000037-0721-92
SALINEX NASAL DROPS 15CC	EACH	0000451-4500-85
SALINEX NASAL MIST 50CC	EACH	0000451-4500-50
SENOKOT GRANULES 60GM	EACH	0000034-1100-20
SENOKOT GRANULES 180GM	EACH	0000034-1100-60
SENOKOT GRANULES 360GM	EACH	0000034-1100-84
SENOKOT SUPPOSITORIES 6	EACH	0000034-1700-06
SENOKOT SYRUP 240CC	CC	0000034-1800-80
SENOKOT TABLETS 100	TAB	0000034-1200-80
SENOKOT-S TABLETS 60	TAB	0000034-1210-60
SERUTAN GRANULES 180GM	EACH	0053100-1353-10
SERUTAN GRANULES 540GM	EACH	0053100-1355-10
SERUTAN POWDER 210GM	EACH	0053100-1363-10
SERUTAN POWDER 400GM	EACH	0053100-1365-10
SERUTAN POWDER 1.32LB	EACH	0053100-1367-10
SIGTAB TABLETS 90	TAB	0000009-0461-02
SILAIN TABLETS 100	TAB	0000031-8831-63
SILAIN GEL LIQUID 360CC	CC	0000031-8858-22
SIMRON CAPSULES 100	CAP	0000068-0620-61
SIMRON PLUS CAPSULES 100	CAP	0000068-0626-61
SINGLET TABLETS 100	TAB	0000068-0102-61
SINULIN TABLETS 100	TAB	0000086-0066-10
SINUTAB II TABLETS 24	TAB	0012547-3645-40
SLOW-FE TABLETS 30	TAB	0000083-0125-47
SOD. CHL. OPH OINT 5% (MURO-128) 3.5GM	EACH	0000303-9905-38
SOD. CHL. OPH SOL 5% (MURO-128) 15CC	EACH	0000303-9928-15
SOD. CHL. OPH SOL 5% (MURO-128) 30cc	EACH	0000303-9928-30
SOD. SALICYLATE ENSEALS 325MG 100	TAB	0000002-0110-02
SOD. SALICYLATE ENSEALS 650MG 100	TAB	0000002-0111-02
SOD. SALICYLATE TABS 325MG-EC GENERIC	TAB	0000999-7050-01
SOD. SALICYLATE TABS 650MG-EC GENERIC	TAB	0000999-7051-01
SORVITE LIQUID 240CC	CC	0000463-9022-08
SPECTROCIN OINTMENT 15GM	EACH	0000003-0616-30
SPECTROCIN OINTMENT 30GM	EACH	0000003-0616-50
STEP 2 NIT REMOVAL SYSTEM 60CC	CC	0052761-0652-02
STERILE SOD CHLOR SOL 0.45% 3CC	CC	0049502-0620-03
STERILE SOD CHLOR SOL 0.45% 5CC	CC	0049502-0620-05
STERILE SOD CHLOR SOL 0.45% 10CC	CC	0049502-0020-10
STERILE SOD CHLOR SOL 0.9% 3CC	CC	0049502-0030-03
STERILE SOD CHLOR SOL 0.9% 5CC	CC	0049502-0030-05
STERILE SOD CHLOR SOL 0.9% 10CC	CC	0049502-0030-10
STERILE SOD CHLOR SOL 3.0% 10CC	CC	0049502-0040-10
STERILE SOD CHLOR SOL 10.0% 10CC	CC	0049502-0041-10
STOKES EXPECTORANT (120CC) GENERIC	CC	0000999-8030-04
STRESSCAPS 100	CAP	0000005-4205-23
STRESSTABS-600 60	TAB	0000005-4124-19
STRESSTABS-600 W/IRON 60	TAB	0000005-4126-19
STRESSTABS-600 W/ZINC 60	TAB	0000005-4125-19
STUART FORMULA TABLETS 100	TAB	0000038-0866-10
STUART PRENATAL TABLETS 100	TAB	0000038-0071-10
STUARTINIC TABLETS 60	TAB	0000038-0862-60
SUDAFED 12-HOUR CAPSULES 40	CAP	0000081-0876-40
SUDAFED CHILD'S LIQUID 120CC	CC	0000081-0862-82
SUDAFED COUGH SYRUP 120CC	CC	0000081-0875-82
SUDAFED TABLETS 30MG 100	TAB	0000081-0865-55
SUDAFED TABLETS 60MG 100	TAB	0000081-0868-55
SUDAFED-PLUS SYRUP 120CC	CC	0000081-0871-82
SUDAFED-PLUS TABLETS 24	TAB	0000081-0870-24
SURBEX FILMTABS 100	TAB	0000074-4876-13
SURBEX FILMTABS W/VIT C 100	TAB	0000074-4877-13

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SURBEX-T FILMTABS 100	TAB	0000074-4878-13
SURBEX-750 W/IRON TABS 50	TAB	0000074-8029-50
SURBEX-750 W/ZINC TABS 50	TAB	0000074-8152-50
SURFAK CAPSULES 50MG 100	CAP	0000039-0002-10
SURFAK CAPSULES 240MG 100	CAP	0000039-0003-10
SYLLAMALT PWDR (10oz) 300GM	EACH	0000037-9301-13
TEARISOL OPH SOLUTION 15CC	EACH	0000058-0725-15
TEDRAL ELIXIR 480CC	CC	0000071-2242-23
TEDRAL TABLETS 100	TAB	0000071-0230-24
TELDRIN SPANSULES 12MG 48	CAP	0049692-0924-48
TEMPRA CHEWABLE TABLETS 30	TAB	0000087-0738-01
TEMPRA DROPS 15CC	EACH	0000087-0730-01
TEMPRA SYRUP 120CC	CC	0000087-0733-04
TERPIN HYD ELIXIR/GENERIC (120cc)	CC	0000999-8000-04
TERPIN HYD ELIXIR/LILLY 480CC	CC	0000002-2433-05
TERPIN HYD W/COD ELIXIR (120cc) GENERIC	CC	0000999-8001-04
TERPIN HYD W/COD ELIXIR/LILLY 480CC	CC	0000002-2434-05
TERPIN HYD W/DEXTRO ELIX GENERIC (120cc)	CC	0000999-8002-04
TERRAMYCIN TOP OINT 30GM	EACH	0074300-0043-30
TERRAMYCIN TOP POWDER 30GM	EACH	0074300-0043-40
THERA-COMBEX H-P KAPSEALS 100	CAP	0000071-0550-24
THERAGRAN LIQUID 120CC	EACH	0000003-0826-31
THERAGRAN TABLETS 100	TAB	0000003-0842-50
THERAGRAN-M TABLETS 100	TAB	0000003-0849-50
THERAMINERALS TABLETS 100	TAB	0000463-6174-01
THERAPEUTIC LIQUID/KENWOOD 360CC	CC	0000482-0116-15
THEREMMS TABLETS 100	TAB	0000463-6175-01
THIAMINE ELIXIR GENERIC (480CC)	CC	0000999-6005-16
THIAMINE TABLETS 10MG GENERIC	TAB	0000999-6000-01
THIAMINE TABLETS 25MG GENERIC	TAB	0000999-6001-01
THIAMINE TABLETS 50MG GENERIC	TAB	0000999-6002-01
THIAMINE TABLETS 100MG GENERIC	TAB	0000999-6003-01
THIAMINE TABLETS 250MG GENERIC	TAB	0000999-6004-01
TINACTIN CREAM 15GM	EACH	0000085-0715-05
TINACTIN LIQUID AEROSOL 120CC	EACH	0000085-0165-02
TINACTIN POWDER 45GM	EACH	0000085-0444-05
TINACTIN POWDER AEROSOL 100GM	EACH	0000085-0254-06
TINACTIN SOLUTION 10CC	EACH	0000085-0333-05
TITRALAC LIQUID 360CC	CC	0000089-0950-12
TITRALAC TABLETS 100	TAB	0000089-0355-10
TOCOPHEREX-H.P. SEE: VIT. E		
TRI-VI-SOL DROPS 50CC	EACH	0000087-0403-03
TRI-VI-SOL W/IRON DROPS 50CC	EACH	0000087-0453-03
TRIAMINIC-DM COUGH FORMULA 120CC	CC	0000043-0526-04
TRIAMINIC EXPECT (REFORMULATED) 120CC	CC	0000043-0525-04
TRIAMINIC EXPECT W/COD 120CC	CC	0000043-0528-04
TRIAMINIC SYRUP (REFORMULATED) 120CC	CC	0000043-0524-04
TRIAMINIC CHEW TABLETS 24	TAB	0000043-0075-24
TRIAMINICIN TABLETS 100	TAB	0000043-0074-51
TRIAMINICOL COLD SYRUP 120CC	CC	0000043-0536-04
TRIMO-SAN JELLY COMP 120GM	EACH	0000396-5030-00
TRIMO-SAN JELLY REFILL 120GM	EACH	0000396-5030-10
TRIND SYRUP 150CC	CC	0000087-0750-44
TRIND-DM SYRUP 150CC	CC	0000087-0753-44
TROPH-IRON LIQUID 120CC	CC	0049692-0952-04
TROPHITE LIQUID 120CC	CC	0049692-0945-44
TROPHITE TABLETS 50	TAB	0049692-0946-15
TUCKS CREAM 40GM	EACH	0000071-3022-14
TUCKS OINTMENT 40GM	EACH	0000071-3021-14
TUSSAGESIC TABLETS 100	TAB	0000043-0030-51
TUSSAR-2 SYRUP 480CC	CC	0000075-3666-01
TUSSAR-SF SYRUP 120CC	CC	0000075-3665-05
TYLENOL CHEW TABLETS 80MG 30	TAB	0000045-0485-32
TYLENOL CHEW TABLETS (GRAPE) 30	TAB	0000045-0477-30
TYLENOL DROPS 15CC	EACH	0000045-0186-15
TYLENOL ELIXIR (CHILDREN'S) 120CC	CC	0000045-0187-04
TYLENOL EX STR CAPLETS 100	TAB	0000045-0449-09
TYLENOL EX STR TABLETS 100	TAB	0000045-0499-60
TYLENOL EX STR LIQUID 240CC	CC	0000045-0500-08
TYLENOL JR STRENGTH CAPLETS 30	TAB	0000045-0470-15
TYLENOL TABLETS 100	TAB	0000045-0496-60
ULTRA TEARS OPH SOL 15CC	EACH	0000998-0412-15
UNICAP CAPSULES 90	CAP	0000009-0138-02
UNICAP CHEWABLE TABLETS 90	TAB	0000009-0198-02
UNICAP SENIOR TABLETS 90	TAB	0000009-3340-01
UNICAP TABLETS 90	TAB	0000009-3342-01
UNICAP-M TABLETS 90	TAB	0000009-3336-01
UNICAP-PLUS IRON TABLETS 90	TAB	0000009-0285-03
UNICAP-T TABLETS 60	TAB	0000009-3338-01
URSINUS INLAY TABLETS 100	TAB	0000043-0109-51
VALADOL LIQUID 120CC	CC	0000003-0351-25
VALADOL TABLETS 100	TAB	0000003-0355-50
VAPONEFRIN SOLUTION 7.5CC	EACH	0000235-1201-03
VAPONEFRIN SOLUTION 15CC	EACH	0000235-1201-04
VAPONEFRIN SOLUTION 30CC	EACH	0000235-1201-05
VI-AQUA CAPSULES 100	CAP	0000053-4321-00
VI-DAYLIN ADC DROPS 50CC	EACH	0000074-0105-04
VI-DAYLIN DROPS 50CC	EACH	0000074-0103-04
VI-DAYLIN DROPS 480CC	CC	0000074-3606-03
VI-DAYLIN PLUS IRON DROPS 50CC	EACH	0000074-0116-01
VI-DAYLIN IRON/ADC DROPS 50CC	EACH	0000074-0117-01
VI-DAYLIN CHEW TABLETS 100	TAB	0000074-4519-13
VI-DAYLIN PLUS IRON CHEW TABS 100	TAB	0000074-4520-13
VI-DAYLIN PLUS IRON LIQUID 480CC	CC	0000074-6992-03
VI-PENTA INFANT DROPS 50CC	EACH	0000004-1011-02
VI-PENTA MULTIVIT-DROPS 50CC	EACH	0000004-1013-02
VICON PLUS CAPSULES 60	CAP	0000173-0305-22
VICON-C CAPSULES 60	CAP	0000173-0273-22
VIGRAN TABLETS 100	TAB	0000003-0342-51
VIGRAN PLUS IRON TABLETS 2x90	TAB	0000003-0415-61
VIOFORM CREAM 3% 30GM	EACH	0000083-8462-96
VIOFORM OINTMENT 3% 30GM	EACH	0000083-8467-96
VISINE EYE DROPS 15CC	EACH	0074300-0080-30
VISINE EYE DROPS 22.5CC	EACH	0074300-0013-60
VISINE EYE DROPS 30CC	EACH	0074300-0030-80
VIT. A CAPS 10,000U GENERIC	CAP	0000999-6019-01
VIT. A CAPS 25,000U NATURAL GENERIC	CAP	0000999-6020-01
VIT. A CAPS 25,000U SOLUBLE GENERIC	CAP	0000999-6022-01
VIT. A CAPS 25,000U SYNTHETIC GENERIC	CAP	0000999-6024-01
VIT. A CAPS 25,000U NAT/LEDERLE 100	CAP	0000005-3294-57
VIT. A CAPS 25,000U NAT/TOWN-PLSN 100	CAP	0000157-0614-01
VIT. B COMP CAPSULES GENERIC	CAP	0000999-6026-01
VIT. B COMP CAPS W/VIT C 100 GENERIC	CAP	0000999-9052-01
VIT. B COMP ELIXIR/LILLY 480CC	CC	0000002-2604-05
VIT. B COMP ELIXIR GENERIC 480CC	CC	0000999-6030-16
VIT. B COMP PULVULES 100	CAP	0000002-0643-02
VIT. B COMP LIQ W/IRON GENERIC 120CC	CC	0000999-9053-04
VIT. B COMP TABS/SQUIBB 100	TAB	0000003-0204-61
VIT. B-1 SEE: THIAMINE		
VIT. B-1 TABS 100MG/SQUIBB 100	TAB	0000003-0916-50
VIT. B-2 SEE: RIBOFLAVIN		
VIT. B-6 SEE: PYRIDOXINE		
VIT. B12 TABLETS 5MCGM GENERIC	TAB	0000999-6040-01
VIT. B12 TABLETS 25MCGM GENERIC	TAB	0000999-6041-01
VIT. B12 TABS 25MCGM SOLUBLE GENERIC	TAB	0000999-6044-01
VIT. B12 TABLETS 50MCGM GENERIC	TAB	0000999-6042-01

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VIT. B12 TABS 50MCGM SOLUBLE GENERIC	TAB	0000999-6045-01
VIT. B12 TABLETS 100MCGM GENERIC	TAB	0000999-6043-01
VIT. B12 TABS 100MCGM SOLUBLE GENERIC	TAB	0000999-6046-01
VIT. C TABLETS 25MG GENERIC	TAB	0000999-5002-01
VIT. C TABLETS 50MG GENERIC	TAB	0000999-5003-01
VIT. C TABLETS 100MG GENERIC	TAB	0000999-5004-01
VIT. C TABLETS 250MG GENERIC	TAB	0000999-5005-01
VIT. C TABLETS 500MG GENERIC	TAB	0000999-5006-01
VIT. C TABLETS 1000MG GENERIC	TAB	0000999-5007-01
VIT. C TABLETS 250MG CHEWABLE GENERIC	TAB	0000999-5023-01
VIT. C TABLETS 250MG/SQUIBB CHEW 100	TAB	0000003-0112-50
VIT. C TABS 500MG CHEWABLE GENERIC	TAB	0000999-5024-01
VIT. C TABS 500MG/LILLY 100	TAB	0000002-2067-02
VIT. C TABS 500MG/SQUIBB 100	TAB	0000003-0197-50
VIT. E CAPS 30IU GENERIC	CAP	0000999-6050-01
VIT. E CAPS 50IU GENERIC	CAP	0000999-6051-01
VIT. E CAPS 100IU GENERIC	CAP	0000999-6052-01
VIT. E CAPS 200IU GENERIC	CAP	0000999-6053-01
VIT. E CAPS 400IU GENERIC	CAP	0000999-6054-01
VIT. E CAPS 600IU GENERIC	CAP	0000999-6055-01
VITRON-C PLUS TABLETS 100	TAB	0000235-1125-02
VITRON-C TABLETS 100	TAB	0000235-0123-00
WINGEL SUSPENSION 360CC	CC	0000024-2247-05
WINGEL TABLETS 100	TAB	0000024-2249-06
WYANOIDS RELIEF FACTOR SUPP 12	EACH	0000008-0659-01
WYANOIDS SUPPOSITORIES 12	EACH	0000008-0015-01
X-PREP LIQUID 75CC	EACH	0000152-1000-25
XERAC-BP 5 GEL 45GM	EACH	0000096-0790-45
XERAC-BP 5 GEL 90GM	EACH	0000096-0790-90
XERAC-BP 10 GEL 45GM	EACH	0000096-0791-45
XERAC-BP 10 GEL 90GM	EACH	0000096-0791-90
XYLOCAINE OINTMENT 2.5% -OTC- 35GM	EACH	0000186-0335-01
Z-BEC TABLETS 60	TAB	0000031-0689-62
ZE CAPSULES 60	CAP	0000642-0101-60
ZENTINIC PULVULES 60	CAP	0000002-0719-60
ZENTRON CHEWABLE TABLETS 50	TAB	0000002-2001-50
ZENTRON LIQUID 240CC	CC	0000002-2466-88
ZEPHIRAN CHL AQUE SOL 1:750 240CC	CC	0000024-2521-04
ZEPHIRAN CHL CONC SOL 17% 120CC	CC	0000024-2534-02
ZINCFRIN DROPS 15CC	EACH	0000998-0512-15
ZINCONATE TABLETS 100	TAB	0017324-6666-01
ZYMACAP CAPSULES 90	CAP	0000009-0363-02

CONTRACEPTIVE MATERIALS

BECAUSE CONTRACEPTIVE FOAM 10GM	EACH	0000085-0439-01
CONCEPTROL APPLICATORS 6	EACH	0000062-3252-08
CONCEPTROL APPLICATORS 10	EACH	0000062-3252-10
CONCEPTROL DISP GEL (6PAK)	EACH	0000062-3250-01
CONCEPTROL DISP GEL (10PAK)	EACH	0000062-3250-02
CONCEPTROL STARTER (DELFEN) 70GM	EACH	0000062-3252-77
CONCEPTROL REFILL (DELFEN) 70GM	EACH	0000062-3252-00
DELFEN FOAM W/APPL 20GM	EACH	0000062-3130-11
DELFEN FOAM REFILL 20GM	EACH	0000062-3130-13
DELFEN FOAM REFILL 50GM	EACH	0000062-3130-12
EMKO FOAM W/APPL 40GM	EACH	0000085-0050-01
EMKO FOAM REFILL 40GM	EACH	0000085-0050-02
EMKO FOAM REFILL 90GM	EACH	0000085-0050-03
EMKO PRE-FIL FOAM W/APPL 30GM	EACH	0000085-0354-01
EMKO PRE-FIL FOAM REFILL 60GM	EACH	0000085-0354-02
ENCARE OVALS INSERTS 12	EACH	0011926-0221-12
GYNOL-II JELLY W/APPL 81GM	EACH	0000062-3180-00
GYNOL-II JELLY REFILL 126GM	EACH	0000062-3180-01
KOROMEX CREAM W/APPL 115GM	EACH	0000027-0020-01
KOROMEX FOAM W/APPL 40GM	EACH	0000027-0030-35
KOROMEX GEL W/APPL 126GM	EACH	0000027-0060-61
KOROMEX JELLY W/APPL 126GM	EACH	0000027-0015-11
NORFORMS SUPPOSITORIES 6	EACH	0000149-0101-06
NORFORMS SUPPOSITORIES 12	EACH	0000149-0101-12
NORFORMS SUPPOSITORIES 24	EACH	0000149-0101-24
ORTHO-CREME W/APPL 70GM	EACH	0000062-3190-77
ORTHO-CREME REFILL 70GM	EACH	0000062-3190-00
ORTHO-CREME REFILL 115GM	EACH	0000062-3190-01
ORTHO-GYNOL JELLY W/APPL 81GM	EACH	0000062-3170-77
ORTHO-GYNOL JELLY REFILL 81GM	EACH	0000062-3170-02
ORTHO-GYNOL JELLY REFILL 126GM	EACH	0000062-3170-01
PROPHYLACTICS, RUBBER ONLY, PKG OF 3	EACH	0000999-9000-03
PROPHYLACTICS, RUBBER ONLY, PKG OF 12	EACH	0000999-9000-12
PROPHYLACTICS, RUBBER ONLY, PKG OF 36	EACH	0000999-9000-36
RAMSES JELLY W/APPL 85GM	EACH	0000234-0003-03
RAMSES JELLY REFILL 142GM	EACH	0000234-0003-05
SEMICID VAGINAL SUPP 10	EACH	0000573-3301-10
TODAY CONTRACEPTIVE SPONGE 3	EACH	0000573-3685-10
TODAY CONTRACEPTIVE SPONGE 6	EACH	0000573-3685-20
TODAY CONTRACEPTIVE SPONGE 12	EACH	0000573-3685-30

INSULIN PREPARATIONS

ACTRAPID INSULIN U100	CC	0000003-2440-10
INSULIN BEEF NPH U100 ANY SIZE ILETIN-II	CC	0000002-8312-01
INSULIN BEEF LENTE U100 ANY SIZE ILETIN-II	CC	0000002-8412-01
INSULIN BEEF REG U100 ANY SIZE ILETIN-II	CC	0000002-8212-01
INSULIN BEEF PROT ZN U100 ANY SIZE ILETIN-II	CC	0000002-8112-01
INSULIN HUMULIN BR U100 ANY SIZE	CC	0000002-8216-01
INSULIN HUMULIN REG U100 ANY SIZE	CC	0000002-8215-01
INSULIN HUMULIN NPH U100 ANY SIZE	CC	0000002-8315-01
INSULIN HUMULIN ULTRALENTE U100 ANY SIZE	CC	0000002-8615-01
INSULIN HUMULIN 70/30 U100 ANY SIZE	CC	0000002-8715-01
INSULIN ILETIN LENTE U40 ANY SIZE	CC	0000002-8440-01
INSULIN ILETIN LENTE U100 ANY SIZE	CC	0000002-8410-01
INSULIN ILETIN NPH U40 ANY SIZE	CC	0000002-8340-01
INSULIN ILETIN NPH U100 ANY SIZE	CC	0000002-8310-01
INSULIN ILETIN PROT ZN U40 ANY SIZE	CC	0000002-8140-01
INSULIN ILETIN PROT ZN U100 ANY SIZE	CC	0000002-8110-01
INSULIN ILETIN REG U40 ANY SIZE	CC	0000002-8240-01
INSULIN ILETIN REG U100 ANY SIZE	CC	0000002-8210-01
INSULIN ILETIN SEMILENTE U40 ANY SIZE	CC	0000002-8540-01
INSULIN ILETIN SEMILENTE U100 ANY SIZE	CC	0000002-8510-01
INSULIN ILETIN ULTRALENTE U40 ANY SIZE	CC	0000002-8640-01
INSULIN ILETIN ULTRALENTE U100 ANY SIZE	CC	0000002-8610-01
INSULIN NORDISK MIXTARD U100	CC	0050445-0300-01
INSULIN NORDISK NPH U100	CC	0050445-0200-01
INSULIN NORDISK QUICK U100	CC	0050445-0100-01
INSULIN NORDISK/INSULATARD HUMAN NPH U100	CC	0050445-0222-01
INSULIN NORDISK/MIXTARD HUMAN	CC	0050445-0333-01
INSULIN NORDISK/VELOSULIN HUMAN REG U100	CC	0050445-0111-01
INSULIN PORK LENTE U100 ANY SIZE ILETIN-II	CC	0000002-8411-01
INSULIN PORK NPH U100 ANY SIZE ILETIN-II	CC	0000002-8311-01
INSULIN PORK PROT ZN U100 ANY SIZE ILETIN-II	CC	0000002-8111-01
INSULIN PORK REG U100 ANY SIZE ILETIN-II	CC	0000002-8211-01

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INSULIN SQUIBB REG U40 ANY SIZE	CC	0000003-3511-15
INSULIN SQUIBB REG U100 ANY SIZE	CC	0000003-3512-15
INSULIN SQUIBB ISO/NPH U40 ANY SIZE	CC	0000003-3521-15
INSULIN SQUIBB ISO/NPH U100 ANY SIZE	CC	0000003-3522-15
INSULIN SQUIBB LENTE U40 ANY SIZE	CC	0000003-3527-15
INSULIN SQUIBB LENTE U100 ANY SIZE	CC	0000003-3528-15
INSULIN SQUIBB SEMILENTE U100 ANY SIZE	CC	0000003-3552-15
INSULIN SQUIBB ULTRALENTE U100 ANY SIZE	CC	0000003-3572-15
LENTARD INSULIN U100	CC	0000003-2443-10
MONOTARD INSULIN U100	CC	0000003-2442-10
NOVOLIN HUMAN LENTE INSULIN U100	CC	0000003-1835-10
NOVOLIN HUMAN REG INSULIN U100	CC	0000003-1833-10
NOVOLIN HUMAN NPH U100	CC	0000003-1834-10
NOVOLIN 70/30 NPH	CC	0000003-1837-10
NOVOLIN N PENFILL CARTRIDGES 5	CART	0000003-1834-15
NOVOLIN R PENFILL CARTRIDGES 5	CART	0000003-1833-15
NOVOLIN 70/30 PENFILL CARTRIDGES	CART	0000003-1837-15
SEMITARD INSULIN U100	CC	0000003-2441-10
ULTRATARD INSULIN U100	CC	0000003-2445-10
DIABETIC TESTING MATERIAL		
ACETEST REAGENT TABS 100	EACH	0000193-2381-21
ALBUSTIX REAGENT STRIPS 100	EACH	0000193-2870-21
AMES DEXTRO SYSTEM LANCETS 100	EACH	0000193-5574-21
AMES GLUCO SYSTEM LANCETS 100	EACH	0000193-5509-21
AUTOCLIX LANCET DEVICE	EACH	0050924-0507-01
AUTOCLIX LANCETS 100	EACH	0050924-0509-10
AUTOLET COMBO PAC (USI)	EACH	0000999-3100-01
AUTOLET KIT (AMES)	EACH	0000193-2790-01
AUTOLET KIT (USI)	EACH	0000999-3000-01
AUTOLET LANCETS (USI) 200	EACH	0000999-3300-01
AUTOLET PLATFORMS (AMES) (REGULAR) 200	EACH	0000193-2791-27
AUTOLET PLATFORMS (AMES) (SUPER) 200	EACH	0000193-2797-27
AUTOLET PLATFORMS ORANGE (USI) 200	EACH	0000999-3600-01
AUTOLET PLATFORMS YELLOW (USI) 200	EACH	0000999-3500-01
B-D AUTOLANCE	EACH	0000293-5771-01
B-D MICRO-FINE LANCETS 100	EACH	0000293-5770-01
BILI-LABSTIX REAGENT STRIPS 100	EACH	0000193-2814-21
BILI-LABSTIX SG REAGENT STRIPS 100	EACH	0000193-2742-21
CHEMSTRIP BG STRIPS 25	EACH	0050924-0501-25
CHEMSTRIP BG STRIPS 50 USE W/ACCU-CHECK BG	EACH	0050924-0503-50
CHEMSTRIP BG STRIPS 50 USE W/ACCU-CHECK II	EACH	0050924-0502-50
CHEMSTRIP BG STRIPS 100 USE W/ACCU-CHECK II	EACH	0050924-0508-10
CHEMSTRIP BG KIT	EACH	0050924-0505-25
CHEMSTRIP UG STRIPS 100	EACH	0050924-0511-10
CHEMSTRIP UGK STRIPS 50	EACH	0050924-0514-50
CHEMSTRIP UGK STRIPS 100	EACH	0050924-0513-10
CLINISTIX REAGENT STRIPS 50	EACH	0000193-2844-50
CLINITEST ANALYSIS SET PKG	EACH	0000193-2128-01
CLINITEST REAGENT TABS FOIL 100	EACH	0000193-2159-21
CLINITEST REAGENT TABS 36	EACH	0000193-2127-36
CLINITEST REAGENT TABS 100	EACH	0000193-2126-21
COMBISTIX REAGENT STRIPS 100	EACH	0000193-2867-21
DEXTROSTIX REAGENT STRIPS 10	EACH	0000193-2888-10
DEXTROSTIX REAGENT STRIPS 25	EACH	0000193-2888-25
DEXTROSTIX REAGENT STRIPS 100	EACH	0000193-2888-21
DIASCAN TEST STRIPS 50	EACH	0021292-0505-50
DIASTIX REAGENT STRIPS 50	EACH	0000193-2802-50
DIASTIX REAGENT STRIPS 100	EACH	0000193-2802-21
GLUCOLET ENDCAPS (REGULAR) 100	EACH	0000193-5633-21
GLUCOLET ENDCAPS (SUPER) 100	EACH	0000193-5634-21
GLUCOLET LANCING DEVICE	EACH	0000193-5632-01
GLUCOSCAN TEST STRIPS 50	EACH	0053885-0031-50
GLUCOSCAN TEST STRIPS 100	EACH	0053885-0073-10
GLUCOSTIX REAGENT STRIPS 50	EACH	0000193-2627-50
GLUCOSTIX REAGENT STRIPS 100	EACH	0000193-2628-21
KETO-DIASTIX REGEANT STRIPS 50	EACH	0000193-2882-50
KETO-DIASTIX REAGENT STRIPS 100	EACH	0000193-2882-21
KETOSTIX REAGENT STRIPS 50	EACH	0000193-2880-50
KETOSTIX REAGENT STRIPS 100	EACH	0000193-2880-21
MICROSTIX-NITRITE	EACH	0000193-3007-03
MONOJECTOR LANCET DEVICE	EACH	0008881-6021-17
MONOLET BLOOD LANCETS 200	EACH	0008881-6020-18
MULTISTIX 7 REAGENT STRIPS 100	EACH	0000193-2305-21
MULTISTIX 8 REAGENT STRIPS 100	EACH	0000193-2303-21
MULTISTIX 9 REAGENT STRIPS 100	EACH	0000193-2301-21
MULTISTIX 8 SC REAGENT STRIPS 100	EACH	0000193-2304-21
MULTISTIX 9 SG REAGENT STRIPS 100	EACH	0000193-2302-21
MULTISTIX 10 SG REAGENT STRIPS 100	EACH	0000193-2300-21
MULTISTIX REAGENT STRIPS 100	EACH	0000193-2820-21
MULTISTIX SG REAGENT STRIPS 100	EACH	0000193-2741-21
N-MULTISTIX REAGENT STRIPS 100	EACH	0000193-2829-21
N-MULTISTIX SG REAGENT STRIPS 100	EACH	0000193-2740-21
N-MULTISTIX-C REAGENT STRIPS 100	EACH	0000193-2862-21
N-URISTIX REAGENT STRIPS 100	EACH	0000193-2854-21
ONE TOUCH TEST STRIPS 50	EACH	0053885-0918-50
SOFT TOUCH LANCETS 100	EACH	0050924-0585-10
SOFT TOUCH LANCETS DEVICE	EACH	0050924-0580-01
TES-TAPE 1 PKG	EACH	0000002-2344-41
TES-TAPE 2 PKGS	EACH	0000002-2344-02
TRENDSTRIPS REAGENT STRIPS 25	EACH	0000503-2526-05
TRENDSTRIPS REAGENT STRIPS 50	EACH	0000503-5026-05
UNILET LANCETS (USI) 200	EACH	0000999-3400-01
URISTIX 4 REAGENT STRIPS 100	EACH	0000193-2307-21
URISTIX REAGENT STRIPS 100	EACH	0000193-2855-21
VISIDEX II REAGENT STRIPS 25	EACH	0000193-2660-25]

[APPENDIX C

Hypodermic Syringes and/or Needles

This listing provides assigned codes, which will serve as product identification for hypodermic syringes and/or needles, for the purpose of reimbursement. The assigned code must be placed in the drug code area of the Prescription Claim Form (MC-6) when preparing claims for hypodermic syringes and/or needles.

Exception: When a prescribed hypodermic syringe and/or needle is dispensed which is not suitably described under the "product description" in the assigned code listing. In such instances, the product should be described on the reverse side of the claim form (MC-6) and the statement, "Hypodermic Syringe and/or Needle" should be placed in the product name area on the face of the claim form. The description of hypodermic syringe and/or needle is intended to be generic in nature; and, therefore, is not limited to specific trade-name products. When reporting "quantity dispensed" on the claim form (MC-6) indicate in arabic numerals the number of syringes, needles or syringe/needle units dispensed. Example: If two packages of 10 syringe/needle units are prescribed and dispensed, enter "20" in the metric quantity. Do not place any additional information in the metric quantity area.

When reusable syringes and/or needles are prescribed and dispensed, "Days Supply" area on the Prescription Claim Form (MC-6) should indicate "N/A" (non-applicable).

APPENDIX C

Hypodermic Syringes and Needles
Assigned Product Codes for All Brands

Product Description	Reporting Unit	Assigned Product Code
Needles, Disposable		
18G to 20G, all lengths	Each	0000293-5105-01
21G, up to 1½"	Each	0000293-5107-01
21G, 2"	Each	0000293-5106-01
22G to 25G, all lengths	Each	0000293-5108-01

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26G, all lengths	Each	0000293-5109-01
27G, all lengths	Each	0000293-5110-01
Needles, Reusable		
18G to 22G, up to 2"	Each	0000293-1055-01
23G to 27G, all lengths	Each	0000293-1201-01
Syringes and Needle Units, Disposable		
Insulin, U40, w/26G, ½" needle	Each	0000293-5567-01
Insulin, U40, Micro-fine, 1cc	Each	0000293-8413-01
Insulin, U100, Micro-fine, ½cc lodose	Each	0000293-8465-01
Insulin, U100, Micro-fine, 1cc	Each	0000293-8410-01
Insulin, U-100, 28G, 3/10cc	Each	0000293-8430-01
Pen Needle (for use with Novapen)	Each	0000003-1852-35
Regular, 3cc, w/any size needle	Each	0000293-5570-01
Regular, 5cc, w/any size needle	Each	00293-5630-01
Regular, 10cc, w/any size needle	Each	00293-5641-01
Tuberculin, 1cc, w/any size needle	Each	0000293-5623-01
Insulin, Lodose, ½cc	Each	0000293-8471-01
Insulin, Lodose, 1cc	Each	0000293-8412-01
Syringes Only, Disposable		
Tuberculin, 1cc	Each	0000293-5602-01
Regular, 5cc	Each	0000293-5603-01
Syringes Only, Glass Reusable with Disposable Needles		
Insulin, 1cc, U40, W/30 Disp. Needles 26G, ½"	Each	0000293-5008-01
Syringes Only, Glass Reusable		
Insulin, Short Type, Glass Tip, 1cc for U40, U80, U40-U80	Each	0000293-2022-01
Insulin, Long Type, Glass Luer Tip, U100 0.35cc	Each	0000293-2049-01
Insulin, Long Type, Glass Luer Tip, U100 1cc	Each	0000293-2029-01
Regular, Any Style Tip, 2cc	Each	0000293-2300-01
Regular, Any Style Tip, 3cc	Each	0000293-2306-01
Regular, Any Style Tip, 5cc	Each	0000293-2301-01
Tuberculin, ¼cc	Each	0000293-2001-01
Tuberculin, ½cc	Each	0000293-2002-01
Tuberculin, 1cc	Each	0000293-2004-01]

[APPENDIX D
Legend Devices

Instructions for use:

1. Diaphragms are reported on the MC-6 claim form as "each" (1 in metric quantity).
2. Only those legend devices listed in Appendix D are reimbursable under the New Jersey Health Services (Medicaid) Program.

Legend Devices

Product Description	Reporting Unit	Assigned Product Code
Actiderm Dermatological Patch 5	Each	00003-0375-05
Aerochamber Device	Each	0000456-3154-67
Aerochamber with Mask 1	Each	00456-8745-13
Debrisan Beads 25gm	Each	0000137-0024-05
Debrisan Beads 60gm	Each	0000137-0024-06
Debrisan Beads 120gm	Each	0000137-0024-12
Debrisan Beads 7 Unit Doses of 4gm	GM	0000137-0024-17
Debrisan Beads 14 Unit Doses of 4gm	GM	0000137-0024-27
Debrisan Paste 6 Unit Doses of 10gm	GM	0000137-0024-10
Diaphragm-All Flex Kit any size pkg.	Each	0000062-3301-00
Diaphragm-Koro-Flex any size pkg.	Each	0000027-0136-60
Diaphragm-Koro-Flex Set any size pkg.	Each	0000027-0536-70
Diaphragm-Koromex any size pkg.	Each	0000027-0131-75
Diaphragm-Koromex Set any size pkg.	Each	0000027-0541-80
Diaphragm-Ortho Kit/Coil any size pkg.	Each	0000062-3341-00
Diaphragm-Ortho Kit/Flat any size pkg.	Each	0000062-3381-00
Diaphragm-Ramses Kit any size pkg.	Each	0000234-0602-12
Envisan Tretment Multipack 1	Each	00088-5000-02
Gelfoam Sterile Powder 1gm	Each	0000009-0433-01
Healon Inj./Disp. Syringe	Each	0000016-0311-04
Inhal-Aid Drug Delivery System	Each	0000085-4600-01
Inspirease Drug Delivery System	Each	0000085-4602-01
Inspirease Replacement Bags 12	Bag	00085-4602-12
Intal Spinhaler Inhaler	Each	0000585-1011-01
Novolin Pen Insulin Deliv. Syst. 1	Each	00003-1875-35
Ortho Universal Introducer	Each	0000062-3630-00
Respigard II Nebulizer 20	Neb.	00293-1240-30
Respigard II Nebulizer 50	Neb.	00293-1240-31
Swivel Nut and Tail Piece Connector 1 (For use with Respigard)	Each	00293-1935-00]

[APPENDIX E
Protein Replacements and Other Special Items

THE FOLLOWING PRODUCTS
REQUIRE PRIOR AUTHORIZATION

Instructions for use:

The following products have been added to the Medicaid File for claim processing purposes.

Contact the appropriate Medicaid District Office (MDO) for prior authorization.

When prior authorization has been obtained from the Medicaid District Office, complete the claim form MC-6. Report the quantity dispensed only as total number of cans, bottles, capsules, nursettes, etc., dispensed. DO NOT report grams or cc. Use only the NDC's or product codes listed for each product.

Product Description	Reporting Unit	NDC or Product Code
Alimentum Liquid 32 oz	Each	70074-0602-37
Casec powder 3.33 oz	Each	0000087-0390-47
Citrotein Powder 14 oz	Each	00212-1700-08
Compleat-B		
Compleat-B R.T.U.† 8 oz Bottles		
Compleat-B R.T.U.† 8 oz cans	Each	00212-0200-51
Ensure liquid-can 8 oz	Each	00074-4014-08
Ensure liquid-can 32 oz	Each	00074-5564-32
Ensure liquid-bottle 8 oz	Each	00074-5562-08
Ensure powder 14 oz	Each	00074-5561-14
Ensure plus liquid-bottle 8 oz	Each	00074-3021-08
Ensure plus liquid-can 8 oz	Each	00074-9780-08
Flexical powder 2 oz	Each	00087-0569-41
Flexical powder 1 lb	Each	00087-0569-42
Gevral protein 1/2 lb	Each	00005-4226-61
Gevral protein 5 lb	Each	00005-4226-70
Isocal liquid-can 8 oz	Each	00087-0355-01
Isocal liquid-can 12 oz	Each	00087-0355-02
Isocal liquid-can 32 oz	Each	00087-0355-44
Isocal liquid-bottle 8 oz	Each	00087-0356-01
Lactrase Capsules 100	Cap	0000091-3505-01
Lofenalac powder 2.5 lb	Each	0000087-0340-02
Lonalac powder 1 lb	Each	00087-0391-01
Meat base formula 15oz	Each	00999-2504-01
Meritene powder 1 lb	Each	00212-1220-02
Meritene powder 4.5 lb	Each	00212-1220-03
Meyenberg goat milk liq. 14 oz	Each	00999-0400-01
Meyenberg goat milk pdr. 14 oz	Each	00999-0400-02
Nursoy concentr. 13 oz	Each	00008-0481-05
Nursoy R.T.U.† 32 oz	Each	00008-0452-05
Nutramigen powder 1 lb	Each	00087-0338-01
Osmolite R.T.U.† 8 oz cans	Each	0000074-0709-08
Portegen powder 1 lb	Each	00087-0387-01
Pregestimil pdr. 1 lb	Each	00087-0367-01
Probana powder 1 lb	Each	00087-0346-01
Prosobee conc. liq. 13 oz	Each	00087-0308-01
Prosobee R.T.U.† liq. 8 oz	Each	00087-0308-42
Prosobee R.T.U.† liq. 32 oz	Each	00087-0309-01
Polycose liquid 4 oz	Each	00074-5554-04
Polycose powder 14 oz	Each	00074-5000-14
Resource Crystals Packets 2 oz	Pkt	0000212-3233-25
Resource Liquid (any flavor) 8 oz	Each	00212-3371-62

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Resource Plus Liquid (any flavor) 8 oz	Each	00212-3381-62
Similac isomil conc. 13 oz	Each	00074-2110-01
Similac isomil R.T.U.† 8 oz	Each	00074-0173-01
Similac isomil R.T.U.† 32 oz	Each	00074-0230-01
Soyalac concentr. 14 oz	Each	41470-0053-60
Soyalac R.T.U.† 14 oz	Each	41470-0052-50
Soyalac R.T.U.† 32 oz	Each	41470-0052-70
Soyalac powder 1 lb	Each	41470-0053-00
Sustacal liquid 8 oz	Each	00087-0350-42
Sustacal liquid 12 oz	Each	00087-0350-01
Sustacal liquid 32 oz	Each	00087-0350-44
Sustacal Powder 1 lb	Each	00087-0353-44
Sustacal powder 3.8 lb	Each	0000087-0353-43
Sustacal Pudding (any flavor) 5 oz	Each	00087-0410-41
Sustagen powder 1 lb	Each	00087-0394-01
Sustagen powder 5 lb	Each	00087-0393-03
Tolerex Packets 6x80 gm	Each	00149-0458-01
Vivonex del. syst. 10 syst.	Each	00149-0050-10
Vivonex flavor pak 60X2.33GM	Each	00149-0058-02
Vivonex T.E.N. Packets 10x80 gm	Each	00149-0067-01]

†R.T.U. means ready to use

APPENDIX B
General Non-Legend Drugs

This list replaces all previous issued non-legend drug lists. This listing is divided into sections on general non-legend drugs, contraceptive materials, insulin and diabetic testing material. Reimbursable products are listed in each section alphabetically.

Because diaphragms are legend devices they are priced at cost plus a dispensing fee. They are listed in Appendix D under contraceptive materials. All other listed items are to be charged at no more than the provider's usual and customary retail selling price, including sheath contraceptives which are listed generically as "prophylactics—rubber" under contraceptive materials. All non-legend preparations are coded according to the National Drug Code number and must be dispensed and charged only in accordance with the sizes listed at no more than the provider's usual and customary retail selling price. All eligible non-legend preparations shall be reimbursed only in accordance with the number of units actually dispensed (tabs, caps, ccs, gms, suppositories or packets, each, etc.). Payment will be based on the maximum allowable charge set forth in this subchapter, prorated on the package size or the reporting unit listed in Appendix B. All reporting units listed as "each" (package) in Appendix B are limited to reimbursement for one dispensing unit per claim. For non-legend preparations not listed in Appendix B, prior authorization from the Medicaid District Office is required in order to be reimbursed (see N.J.A.C. 10:51-1.13 of this subchapter). All items, other than insulin, having a reporting "quantity dispensed" of "one" and only one such unit is allowed per claim.

Insulin may be dispensed in multiple vials in accordance with "days supply" regulations. The appropriate National Drug Code number as listed in Appendix B should be entered on the claim form. The multiple metric quantity should be listed in the "quantity dispensed" space on the claim form.

For example, four vials of insulin are reported as "40" in the "quantity dispensed" space and the National Drug Code listed for the particular strength is entered in the "NDC" space.

APPENDIX B
GENERAL NON-LEGEND DRUGS

ALGENIC ALKA LIQUID 360CC	CC	00536-0111-83
ALGENIC ALKA TABLETS 100	TAB	00536-3013-01
ALGENIC ALKA E.S. TABLETS 100	TAB	00536-3016-01
ALGICON TABLETS 50	TAB	00067-0360-40
ALKETS TABLETS 100	TAB	00009-0243-01
ALMACONE LIQUID 12 OZ	CC	00536-0025-83
ALMACONE LIQUID GALLON	CC	00536-0025-90
ALMACONE TABLETS 100	TAB	00536-3035-01
ALMACONE TABLETS 1000	TAB	00536-3035-10
ALMACONE II LIQUID 12 OZ	CC	00536-0015-83
ALMACONE II LIQUID GALLON	CC	00536-0015-90
ALMA-MAG LIQUID 12 OZ	CC	00536-0175-83
ALU-CAP CAPSULES 100	CAP	00089-0105-10
ALU-TAB TABLETS 250	TAB	00089-0107-25
ALUDROX SUSPENSION 360CC	CC	00008-0023-01
ALUDROX TABLETS 100	TAB	00008-0022-03
AMPHOJEL SUSPENSION 360CC	CC	00008-0010-01
AMPHOJEL TABLETS 300MG 100	TAB	00008-0119-01
AMPHOJEL TABLETS 600MG 100	TAB	00008-0013-03
ANTA-GEL LIQUID 12 OZ	CC	00879-0444-14
ANTA-GEL II 12 OZ	CC	00879-0396-12
BASALJEL CAPSULES 100	CAP	00008-0472-01
BASALJEL CAPSULES 500	CAP	00008-0472-03
BASALJEL SUSPENSION 360CC	CC	00008-0131-01
BASALJEL SUSP/EXTRA STRENGTH 360CC	CC	00008-0474-01
BASALJEL SWALLOW TABLETS 100	TAB	00008-0473-01
BISODOL POWDER 3 OZ	GM	00573-0351-10
BISODOL POWDER 5 OZ	GM	00573-0351-20
BISODOL TABLETS 30	TAB	00573-0371-20
BISODOL TABLETS 100	TAB	00573-0371-30
CALCILAC TABLETS 100	TAB	00364-0052-01
CALCILAC TABLETS 1000	TAB	00364-0052-02
CALCIUM CARBONATE TABLETS 500MG 120	TAB	00615-0871-12
CALCIUM CARBONATE TABLETS 600MG 100	TAB	00304-1304-01
CALCIUM CARBONATE TABLETS 600MG 72	TAB	00904-3232-62
CALCIUM CARBONATE TABLETS 1250MG 60	TAB	00054-4122-21
CALCIUM CARBONATE TABLETS 1250MG 100	TAB	00054-4120-25
CALCIUM CARBONATE TABLETS 10GM 1000	TAB	00304-1741-00
CALCIUM CARBONATE TABLETS 10GM 100	TAB	00002-2035-02
CALCIUM CARBONATE TABLETS 10GM 1000	TAB	00002-2035-04
CALCIUM CARBONATE TABLETS 10GM 1000	TAB	00536-3414-10
CALCIUM CARB. W/VIT. D 60	TAB	00304-1569-66
CALCIUM CARB. W/VIT. D 60	TAB	00904-3234-52
CALCIUM CARB. W/VIT. D 600MG 60	TAB	00839-7081-05
CALCIUM CARB. W/VIT. D 10GM 60	TAB	00839-7009-05
CAL-GLYCINE SF TABLETS 250	TAB	00536-3430-02
CAL-GLYCINE SF TABLETS 1000	TAB	00536-3430-10
CAMALOX SUSPENSION 360CC	CC	00067-0180-71
CAMALOX TABLETS 50	TAB	00067-0185-50
CITROCARBONATE GRANULES 5 OZ	GM	00009-0220-07
CITROCARBONATE GRANULES 8 OZ	GM	00009-0220-03
CITROCARBONATE GRANULES 10 OZ	GM	00009-0220-08
CREAMALIN TABLETS 100	TAB	00024-0294-04
DIALUME CAPSULES 100	CAP	00053-3250-01
DIALUME CAPSULES 500	CAP	00053-3250-02
ENO SPARKLING ANTACID 3.5 OZ	EACH	53100-8617-00
ENO SPARKLING ANTACID 7 OZ	EACH	53100-8618-00
FERMALOX TABLETS 100	TAB	00067-0260-68
GAVISCON TABLETS 30	TAB	00088-1175-30
GAVISCON TABLETS 100	TAB	00088-1175-47
GAVISCON LIQUID 180CC	CC	00088-1171-14
GAVISCON LIQUID 60CC	CC	00088-1171-12
GAVISCON ES LIQUID 360CC	CC	00088-1173-12
GAVISCON ES TABLETS 360	TAB	00088-1174-30
GAVISCON ES TABLETS 100	TAB	00088-1174-47
GAVISCON-2 TABLETS 48	TAB	00088-1172-37
GELUSIL LIQUID 360CC	CC	00071-2036-22
GELUSIL TABLETS 50	TAB	00071-0034-19
GELUSIL TABLETS 100	TAB	00071-0034-24
GELUSIL TABLETS 165	TAB	00071-0034-27
GELUSIL TABLETS 1000	TAB	00071-0034-32
GELUSIL-II LIQUID 360CC	CC	00071-2042-22
GELUSIL-II TABLETS 80	TAB	00071-0043-22

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GELUSIL-M LIQUID 360CC	CC	00071-2044-22
GELUSIL-M TABLETS 100	TAB	00071-0045-24
LOWSIUM PLUS SUSPENSION 360CC	CC	00536-1290-83
LOWSIUM SUSPENSION 360CC	CC	00536-1280-83
MAALOX E.S. TABLETS 24	TAB	00067-0340-24
MAALOX E.S. TABLETS 50	TAB	00067-0340-50
MAALOX E.S. TABLETS 100	TAB	00067-0340-67
MAALOX PLUS SUSPENSION—CHERRY 360CC	CC	00067-0336-71
MAALOX PLUS SUSPENSION—CHERRY 480CC	CC	00067-0336-16
MAALOX PLUS SUSPENSION—MINT 360CC	CC	00067-0338-71
MAALOX PLUS SUSPENSION—MINT 480CC	CC	00067-0338-16
MAALOX PLUS E.S. SUSPENSION 150CC	CC	00067-0333-62
MAALOX PLUS E.S. SUSPENSION 360CC	CC	00067-0333-71
MAALOX PLUS E.S. SUSPENSION 780CC	CC	00067-0333-44
MAALOX PLUS TABLETS 50	TAB	00067-0339-50
MAALOX PLUS TABLETS 100	TAB	00067-0339-67
MAALOX SUSPENSION 150CC	CC	00067-0330-62
MAALOX SUSPENSION 360CC	CC	00067-0330-71
MAALOX SUSPENSION 780CC	CC	00067-0330-44
MAALOX TABLETS 100	TAB	00067-0335-68
MAALOX TABLETS—CHERRY 50	TAB	00067-0341-50
MAALOX TABLETS—CHERRY 100	TAB	00067-0341-68
MAALOX T.C. LIQUID 360CC	CC	00067-0334-71
MAALOX T.C. TABLETS 48	TAB	00067-0344-48
MAALOX WHIP E.S. LIQUID 240CC	CC	00067-0370-66
MILK OF MAGNESIA LIQUID 360CC	CC	00304-0356-79
MILK OF MAGNESIA LIQUID 480CC	CC	00304-0356-98
MILK OF MAGNESIA LIQUID 480CC	CC	00472-0788-16
MILK OF MAGNESIA LIQUID 480CC	CC	54274-0921-16
MILK OF MAGNESIA LIQUID 360CC	CC	00719-4560-81
MILK OF MAGNESIA LIQUID 480CC	CC	00719-4560-83
MILK OF MAGNESIA LIQUID 480CC	CC	00781-6535-16
MILK OF MAGNESIA LIQUID 360CC	CC	00182-6084-39
MILK OF MAGNESIA LIQUID 480CC	CC	00182-6084-40
MILK OF MAGNESIA LIQUID 480CC	CC	00879-0201-16
MILK OF MAGNESIA LIQUID 960CC	CC	00879-0201-32
MILK OF MAGNESIA LIQUID 480CC	CC	51432-0626-20
MILK OF MAGNESIA LIQUID 360CC	CC	00904-0788-14
MILK OF MAGNESIA LIQUID 480CC	CC	00904-0788-16
MILK OF MAGNESIA LIQUID 360CC	CC	00839-5390-67
MILK OF MAGNESIA LIQUID 480CC	CC	00839-5390-69
MILK OF MAGNESIA LIQUID 480CC	CC	00228-1421-16
MILK OF MAGNESIA LIQUID 960CC	CC	00228-1421-32
MILK OF MAGNESIA LIQUID 360CC	CC	00536-1470-83
MILK OF MAGNESIA LIQUID 480CC	CC	00536-1470-85
MILK OF MAGNESIA LIQUID 360CC	CC	00364-7321-78
MILK OF MAGNESIA LIQUID 480CC	CC	00364-7321-16
MILK OF MAGNESIA LIQUID 360CC	CC	00003-0553-41
MILK OF MAGNESIA LIQUID 720CC	CC	00003-0553-61
MILK OF MAGNESIA LIQUID 360CC	CC	00677-0818-32
MILK OF MAGNESIA LIQUID 480CC	CC	00615-0738-16
MILK OF MAGNESIA TABLETS 1000	TAB	00536-4034-10
MYGEL LIQUID 360CC	CC	11845-0870-12
MYGEL PLUS LIQUID 360CC	CC	11845-0871-12
MY-GEL SUSPENSION 360CC	CC	00781-6532-42
PHOSPHAGEL SUSPENSION 360CC	CC	00081-0111-01
RIOPAN SUSPENSION 360CC	CC	00573-3200-20
RIOPAN CHEWABLE TABLETS 60	TAB	00573-3194-30
RIOPAN CHEWABLE TABLETS 100	TAB	00573-3194-35
RIOPAN SWALLOW TABS 60	TAB	00573-3197-30
RIOPAN SWALLOW TABS 100	TAB	00573-3197-35
RIOPAN PLUS SUSPENSION 180CC	CC	00573-3210-10
RIOPAN PLUS SUSPENSION 360CC	CC	00573-3210-20
RIOPAN PLUS CHEWABLE TABLETS 60	TAB	00573-3205-30
RIOPAN PLUS CHEWABLE TABLETS 100	TAB	00573-3205-35
RIOPAN PLUS 2 SUSPENSION 180CC	CC	00573-3220-10
RIOPAN PLUS 2 SUSPENSION 360CC	CC	00573-3220-20
RULOX SUSPENSION 360CC	CC	00536-1950-83
RULOX SUSPENSION 780CC	CC	00536-1950-78
RULOX NO. 1 TABLETS 100	TAB	00536-4496-01
RULOX NO. 1 TABLETS 1000	TAB	00536-4496-10
RULOX NO. 2 TABLETS 100	TAB	00536-4497-01
RULOX PLUS SUSPENSION 360CC	CC	00536-1990-83
RULOX PLUS TABLETS—CHERRY 50	TAB	00536-4501-06
RULOX PLUS TABLETS—LEMON 50	TAB	00536-4498-06
SILAIN TABLETS 100	TAB	00031-8831-63
SILAIN-GEL LIQUID 360CC	CC	00031-8858-22
SIMAAL GEL LIQUID 360CC	CC	00364-7249-78
SIMAAL II LIQUID 360CC	CC	00364-7308-78
SODIUM BICARBONATE TABLETS 5GM 100	TAB	00002-1024-02
SODIUM BICARBONATE TABLETS 5GM 1000	TAB	00536-4540-10
SODIUM BICARBONATE TABLETS 10 GM 1000	TAB	00304-1599-00
SODIUM BICARBONATE TABLETS 10GM 100	TAB	00002-2029-02
SODIUM BICARBONATE TABLETS 10GM 1000	TAB	00002-2029-04
SODIUM BICARBONATE TABLETS 10GM 100	TAB	00228-1583-10
SODIUM BICARBONATE TABLETS 10GM 1000	TAB	00536-4544-10
SODIUM BICARBONATE TABLETS 10GM 1000	TAB	00364-0251-02
SODIUM BICARBONATE TABLETS 10GM 1000	TAB	00677-0131-10
TITRALAC TABLETS 40	TAB	00089-0355-04
TITRALAC TABLETS 100	TAB	00089-0355-10
TITRALAC PLUS TABLETS 100	TAB	00089-0539-37
TITRALAC PLUS LIQUID 360CC	CC	00089-0950-12
TRICONSIL TABLETS 100	TAB	00781-1888-01
WINGEL LIQUID 180CC	CC	00024-2247-03
WINGEL LIQUID 360CC	CC	00024-2247-05
WINGEL TABLETS 50	TAB	00024-2249-05
WINGEL TABLETS 100	TAB	00024-2249-06

CONTRACEPTIVE MATERIALS

BECAUSE CONTRACEPTIVE FOAM 10GM	EACH	00085-0439-01
CONCEPTROL PREFILLED APPLICATOR (6PAK)	EACH	00062-3250-01
CONCEPTROL PREFILLED APPLICATOR (10PAK)	EACH	00062-3250-02
DELFEN FOAM W/APPL 20GM	EACH	00062-3130-11
DELFEN FOAM REFILL 20GM	EACH	00062-3130-13
DELFEN FOAM REFILL 50GM	EACH	00062-3130-12
EMKO FOAM W/APPL 40GM	EACH	00085-0050-01
EMKO FOAM REFILL 40GM	EACH	00085-0050-02
EMKO FOAM REFILL 90GM	EACH	00085-0050-03
GYNOL-II JELLY W/APPL 2.5 OZ	EACH	00062-3180-10
GYNOL-II JELLY REFILL 3.8 OZ	EACH	00062-3180-12
NORFORMS SUPPOSITORIES 6	EACH	00149-0101-06
NORFORMS SUPPOSITORIES 12	EACH	00149-0101-12
NORFORMS SUPPOSITORIES 24	EACH	00149-0101-24
ORTHO-CREME REFILL 2.15 OZ	EACH	00062-3190-04
ORTHO-CREME REFILL 3.45 OZ	EACH	00062-3190-05
ORTHO-GYNOL JELLY W/APPL 2.5 OZ	EACH	00062-3170-05
ORTHO-GYNOL JELLY REFILL 2.5 OZ	EACH	00062-3170-06
ORTHO-GYNOL JELLY REFILL 3.8 OZ	EACH	00062-3170-07
PROPHYLACTICS, RUBBER ONLY, PKG OF 3	EACH	00999-9000-03
PROPHYLACTICS, RUBBER ONLY, PKG OF 12	EACH	00999-9000-12
PROPHYLACTICS, RUBBER ONLY, PKG OF 36	EACH	00999-9000-36
SEMICID VAGINAL SUPP 10	EACH	00573-3301-10
SEMICID VAGINAL SUPP 20	EACH	00573-3301-21
TODAY CONTRACEPTIVE SPONGE 3	EACH	00573-3685-10

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TODAY CONTRACEPTIVE SPONGE 6	EACH	00573-3685-20
TODAY CONTRACEPTIVE SPONGE 12	EACH	00573-3685-30

INSULIN PREPARATIONS

ACTRAPID INSULIN U100	CC	00003-2440-10
INSULIN BEEF NPH U100 ANY SIZE ILETIN-II	CC	00002-8312-01
INSULIN BEEF LENTE U100 ANY SIZE ILETIN-II	CC	00002-8412-01
INSULIN BEEF REG U100 ANY SIZE ILETIN-II	CC	00002-8212-01
INSULIN BEEF PROT ZN U100 ANY SIZE ILETIN-II	CC	00002-8112-01
INSULIN HUMULIN BR U100 ANY SIZE	CC	00002-8216-01
INSULIN HUMULIN REG U100 ANY SIZE	CC	00002-8215-01
INSULIN HUMULIN NPH U100 ANY SIZE	CC	00002-8315-01
INSULIN HUMULIN ULTRALENTE U100 ANY SIZE	CC	00002-8615-01
INSULIN HUMULIN 70/30 U100 ANY SIZE	CC	00002-8715-01
INSULIN ILETIN LENTE U40 ANY SIZE	CC	00002-8440-01
INSULIN ILETIN LENTE U100 ANY SIZE	CC	00002-8410-01
INSULIN ILETIN NPH U40 ANY SIZE	CC	00002-8340-01
INSULIN ILETIN NPH U100 ANY SIZE	CC	00002-8310-01
INSULIN ILETIN PROT ZN U40 ANY SIZE	CC	00002-8140-01
INSULIN ILETIN PROT ZN U100 ANY SIZE	CC	00002-8110-01
INSULIN ILETIN REG U40 ANY SIZE	CC	00002-8240-01
INSULIN ILETIN REG U100 ANY SIZE	CC	00002-8210-01
INSULIN ILETIN SEMILENTE U40 ANY SIZE	CC	00002-8540-01
INSULIN ILETIN SEMILENTE U100 ANY SIZE	CC	00002-8510-01
INSULIN ILETIN ULTRALENTE U40 ANY SIZE	CC	00002-8640-01
INSULIN ILETIN ULTRALENTE U100 ANY SIZE	CC	00002-8610-01
INSULIN PORK LENTE U100 ANY SIZE ILETIN-II	CC	00002-8411-01
INSULIN PORK NPH U100 ANY SIZE ILETIN-II	CC	00002-8311-01
INSULIN PORK PROT ZN U100 ANY SIZE ILETIN-II	CC	00002-8111-01
INSULIN PORK REG U100 ANY SIZE ILETIN-II	CC	00002-8211-01
INSULIN SQUIBB REG U40 ANY SIZE	CC	00003-3511-15
INSULIN SQUIBB REG U100 ANY SIZE	CC	00003-3512-15
INSULIN SQUIBB ISO/NPH U40 ANY SIZE	CC	00003-3521-15
INSULIN SQUIBB ISO/NPH U100 ANY SIZE	CC	00003-3522-15
INSULIN SQUIBB LENTE U40 ANY SIZE	CC	00003-3527-15
INSULIN SQUIBB LENTE U100 ANY SIZE	CC	00003-3528-15
INSULIN SQUIBB SEMILENTE U100 ANY SIZE	CC	00003-3552-15
INSULIN SQUIBB ULTRALENTE U100 ANY SIZE	CC	00003-3572-15
LENTARD INSULIN U100	CC	00003-2443-10
MONOTARD INSULIN U100	CC	00003-2442-10
NOVOLIN HUMAN LENTE INSULIN U100	CC	00003-1835-10
NOVOLIN HUMAN REG INSULIN U100	CC	0003-1833-10
NOVOLIN HUMAN NPH U100	CC	00003-1834-10
NOVOLIN 70/30 NPH	CC	00003-1837-10
NOVOLIN N PENFILL CARTRIDGES 5	CART	00003-1834-15
NOVOLIN R PENFILL CARTRIDGES 5	CART	00003-1833-15
NOVOLIN 70/30 PENFILL CARTRIDGES	CART	00003-1837-15
SEMITARD INSULIN U100	CC	00003-2441-10
ULTRATARD INSULIN U100	CC	00003-2445-10

DIABETIC TESTING MATERIAL

ACETEST REAGENT TABS 100	EACH	00193-2381-21
ALBUSTIX REAGENT STRIPS 100	EACH	00193-2870-21
AMES GLUCO SYSTEM LANCETS 100	EACH	00193-5509-21
AUTOLET COMBO PAC (USI)	EACH	00999-3100-01
AUTOLET KIT (AMES)	EACH	00193-2790-01
AUTOLET KIT (USI)	EACH	00999-3000-01
AUTOLET LANCETS (USI) 200	EACH	00999-3300-01
AUTOLET PLATFORMS (AMES) (REGULAR) 200	EACH	00193-2791-27
AUTOLET PLATFORMS (AMES) (SUPER) 200	EACH	00193-2797-27
AUTOLET PLATFORMS ORANGE (USI) 200	EACH	00999-3600-01
AUTOLET PLATFORMS YELLOW (USI) 200	EACH	00999-3500-01
B-D AUTOLANCE	EACH	00293-5771-01
B-D MICRO-FINE LANCETS 100	EACH	00293-5770-01
BILI-LABSTIX REAGENT STRIPS 100	EACH	00193-2814-21
CHEMSTRIP BG STRIPS 25	EACH	50924-0501-25
CHEMSTRIP BG STRIPS 50 USE W/ACCU-CHEK BG	EACH	50924-0503-50
CHEMSTRIP BG STRIPS 50 USE W/ACCU-CHEK II	EACH	50924-0502-50
CHEMSTRIP BG STRIPS 100 USE W/ACCU-CHEK II	EACH	50924-0508-10
CHEMSTRIP BG KIT	EACH	50924-0505-25
CHEMSTRIP K STRIPS 25	EACH	50924-0516-25
CHEMSTRIP K STRIPS 100	EACH	50924-0515-10
CHEMSTRIP UG STRIPS 100	EACH	50924-0511-10
CHEMSTRIP UGK STRIPS 50	EACH	50924-0514-50
CHEMSTRIP UGK STRIPS 100	EACH	50924-0513-10
CLINISTIX REAGENT STRIPS 50	EACH	00193-2844-50
CLINITEST ANALYSIS SET PKG	EACH	00193-2128-01
CLINITEST REAGENT TABS FOIL 100	EACH	00193-2159-21
CLINITEST REAGENT TABS 36	EACH	00193-2127-36
CLINITEST REAGENT TABS 100	EACH	00193-2126-21
COMBISTIX REAGENT STRIPS 100	EACH	00193-2867-21
DEXTROSTIX REAGENT STRIPS 10	EACH	00193-2888-10
DEXTROSTIX REAGENT STRIPS 25	EACH	00193-2888-25
DEXTROSTIX REAGENT STRIPS 100	EACH	00193-2888-21
DIASCAN TEST STRIPS 50	EACH	56151-0505-50
DIASTIX REAGENT STRIPS 50	EACH	00193-2802-50
DIASTIX REAGENT STRIPS 100	EACH	00193-2802-21
*EXACTECH TEST STRIPS 50	EACH	00338-8597-00
GENERAL PURPOSE LANCETS 100	EACH	00999-3325-01
*GLUCOFILM TEST STRIPS 25	EACH	00193-2585-25
*GLUCOFILM TEST STRIPS 50	EACH	00193-2582-50
*GLUCOFILM TEST STRIPS 100	EACH	00193-2583-25
GLUCOLET ENDCAPS (REGULAR) 100	EACH	00193-5700-21
GLUCOLET ENDCAPS (SUPER) 100	EACH	00193-5701-21
GLUCOLET LANCING DEVICE	EACH	00193-5976-10
GLUCOSCAN TEST STRIPS 50	EACH	53885-0173-12
GLUCOSCAN TEST STRIPS 100	EACH	53885-0174-12
GLUCOSTIX REAGENT STRIPS 50	EACH	00193-2627-50
GLUCOSTIX REAGENT STRIPS 100	EACH	00193-2628-21
KETO-DIASTIX REAGENT STRIPS 50	EACH	00193-2882-50
KETO-DIASTIX REAGENT STRIPS 100	EACH	00193-2882-21
KETOSTIX REAGENT STRIPS 20	EACH	00193-2880-20
KETOSTIX REAGENT STRIPS 50	EACH	00193-2880-50
KETOSTIX REAGENT STRIPS 100	EACH	00193-2880-21
MICROSTIX-NITRITE	EACH	00193-3007-03
MONOJECTOR LANCET DEVICE	EACH	08881-6021-17
MONOLET BLOOD LANCETS 200	EACH	08881-6020-18
MULTISTIX 7 REAGENT STRIPS 100	EACH	00193-2305-21
MULTISTIX 9 REAGENT STRIPS 100	EACH	00193-2301-21
MULTISTIX 8 SG REAGENT STRIPS 100	EACH	00193-2304-21
MULTISTIX 9 SG REAGENT STRIPS 100	EACH	00193-2302-21
MULTISTIX 10 SG REAGENT STRIPS 100	EACH	00193-2300-21
MULTISTIX REAGENT STRIPS 100	EACH	00193-2820-21
MULTISTIX SG REAGENT STRIPS 100	EACH	00193-2741-21
N-MULTISTIX REAGENT STRIPS 100	EACH	00193-2829-21
N-MULTISTIX SG REAGENT STRIPS 100	EACH	00193-2740-21
ONE TOUCH TEST STRIPS 50 VIAL	EACH	53885-0232-12
ONE TOUCH TEST STRIPS 50 FOIL-WRAPPED	EACH	53885-0254-50
SOFT TOUCH LANCETS 100	EACH	50924-0585-10
SOFT TOUCH LANCET DEVICE	EACH	50924-0580-01

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TES-TAPE 1 PKG	EACH	00002-2344-41
*TRACER BG TEST STRIPS	EACH	50924-0535-50
TRENDSTRIPS REAGENT STRIPS 25	EACH	54993-2526-05
TRENDSTRIPS REAGENT STRIPS 50	EACH	54993-5026-05
UNILET LANCETS (USI) 200	EACH	00999-3400-01
URISTIX 4 REAGENT STRIPS 100	EACH	00193-2307-21
URISTIX REAGENT STRIPS 100	EACH	00193-2855-21

*Not Payable in PAAD (Reference is made to N.J.S.A. 30:4D-22d.)

APPENDIX C
Insulin Syringes and/or Needles

This listing provides assigned codes, which will serve as product identification for hypodermic syringes and/or needles, for the purpose of reimbursement. The assigned code must be entered in the drug code area of the prescription claim form (MC-6) when preparing claims for hypodermic syringes and/or needles.

Exception: When a prescribed syringe and/or needle is dispensed which is not listed under the "Product Description" section, the product should be described on the reverse side of the claim form (MC-6) and the statement, "Syringe and/or Needle" should be entered in the product name area on the face of the claim form. The description of syringe and/or needle is intended to be generic in nature; therefore, it is not limited to specific tradename products. When reporting "quantity dispensed" on the claim form (MC-6), indicate the number of syringes, needles or syringe/needle units dispensed. Example: If 2 packages of 10 syringe/needle units are prescribed and dispensed, enter "20" in the metric quantity box. Do not place any additional information in the metric quantity area.

When reusable syringes and/or needles are prescribed and dispensed, enter N/A (Non-applicable) in the "Days Supply" area on the prescription claim form (MC-6).

APPENDIX C
HYPODERMIC SYRINGE AND NEEDLES ASSIGNED PRODUCT CODES FOR ALL BRANDS*

Product Description	Reporting Unit	Assigned Product Code
NEEDLES, DISPOSABLE		
22G TO 25G, ALL LENGTHS	EACH	00293-5108-01
26G, ALL LENGTHS	EACH	00293-5109-01
27G, ALL LENGTHS	EACH	00293-5110-01
PEN NEEDLE (FOR USE WITH NOVOPEN)	EACH	00003-1852-35
NEEDLES, REUSABLE		
23G TO 27G, ALL LENGTHS	EACH	00293-1201-01
SYRINGES AND NEEDLE UNITS, DISPOSABLE		
INSULIN, U40, W/26G, ½" NEEDLE	EACH	00293-5567-01
INSULIN, U40 MICRO-FINE, 1cc	EACH	00293-8413-01
INSULIN, U100, MICRO-FINE, ½cc LODOSE	EACH	00293-8465-01
INSULIN, U100, MICRO-FINE, 1cc	EACH	00293-8410-01
INSULIN, U100, 28G, 3/10cc	EACH	00293-8430-01
INSULIN, LODOSE, ½cc	EACH	00293-8471-01
INSULIN, LODOSE, 1cc	EACH	00293-8412-01
INSULIN, 29G, 3/10cc	EACH	00293-8431-01
INSULIN, 29G, ½cc	EACH	00293-8466-01
INSULIN, 29G, 1cc	EACH	00293-8411-01
SYRINGES ONLY, GLASS REUSABLE WITH DISPOSABLE NEEDLES		
INSULIN, 1cc, U40, W/30 DISP NEEDLES 26G, ½"	EACH	00293-5008-01
SYRINGES ONLY, GLASS REUSABLE		
INSULIN, SHORT TYPE, GLASS TIP, 1cc FOR U40, U80, U40-80	EACH	00293-2022-01
INSULIN, LONG TYPE, GLASS LUER TIP U100 0.35cc	EACH	00293-2049-01
INSULIN, LONG TYPE, GLASS LUER TIP, U100 1cc	EACH	00293-2029-01

*NOTE: The Product Codes listed have been assigned for all syringes and needles or combination thereof, regardless of manufacturer.

APPENDIX D
LEGEND/NON-LEGEND DEVICES

Instructions for use:

1. Diaphragms are reported on the MC-6 claim form as "each" (enter "1" in metric quantity box).
2. Only those devices Legend or Non-Legend listed in Appendix D are reimbursable under the New Jersey Medicaid Program.

LEGEND DEVICES		
DEBRISAN BEADS 25GM	EACH	00137-0024-05
DEBRISAN BEADS 60GM	EACH	00137-0024-06
DEBRISAN BEADS 120GM	EACH	00137-0024-12
DEBRISAN BEADS 7 UNIT DOSES OF 4 GM	GM	00137-0024-17
DEBRISAN BEADS 14 UNIT DOSES OF 4 GM	GM	00137-0024-27
DEBRISAN PASTE 6 UNIT DOSES OF 10GM	GM	00137-0024-10
DIAPHRAGM—ALL FLEX KIT ANY SIZE PKG.	EACH	00062-3301-00
DIAPHRAGM—KORO-FLEX KIT ANY SIZE PKG.	EACH	00027-0136-60
DIAPHRAGM—KORO-FLEX SET ANY SIZE PKG.	EACH	00027-0536-70
DIAPHRAGM—KOROMEX ANY SIZE PKG.	EACH	00027-0131-75
DIAPHRAGM—KOROMEX SET ANY SIZE PKG.	EACH	00027-0541-80
DIAPHRAGM—ORTHO KIT/COIL ANY SIZE PKG.	EACH	00062-3341-00
DIAPHRAGM—ORTHO KIT/FLAT ANY SIZE PKG.	EACH	00062-3381-00
ENVISAN TREATMENT MULTIPAK	EACH	00088-5000-02
GELFOAM STERILE POWDER IGM	EACH	00009-0433-01
HEALON INJ/DISP. SYRINGE (4 X .75CC)	EACH	00016-0311-04
INHAL-AID DRUG DELIVERY SYSTEM	EACH	00085-4600-01
INSPIREASE DRUG DELIVERY SYSTEM	EACH	00085-4602-02
INSPIREASE REPLACEMENT BAGS	EACH	00085-4602-12
INTAL SPINHALER INHALER	EACH	00585-1011-01
NOVOLIN PEN INSULIN DELIVERY DEVICE	EACH	00003-1875-35
ORTHO UNIVERSAL INTRODUCER	EACH	00062-3630-00
NON-LEGEND DEVICES		
ACTIDERM DERMATOLOGICAL PATCH 5	EACH	00003-0375-05
AEROCHAMBER DEVICE	EACH	00456-3154-67
AEROCHAMBER WITH MASK	EACH	00456-8745-13
RESPIGARD II NEBULIZER 20	NEB.	00293-1240-30
RESPIGARD II NEBULIZER 50	NEB.	00293-1240-31
SWIVEL NUT AND TAIL PIECE CONNECTOR (For use with Respigard)	EACH	00293-1935-00

APPENDIX E
PROTEIN REPLACEMENTS AND OTHER SPECIAL ITEMS

The following products require prior authorization:

Instructions for use:

The following products have been added to the Medicaid File for claim processing purposes.

Contact the appropriate Medicaid District Office (MDO) for prior authorization.

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When prior authorization has been obtained from the Medicaid District Office Unit, complete the claim form MC-6. Report the quantity dispensed only as total number of cans, bottles, capsules, nursettes, etc., dispensed. DO NOT report grams or cc. Use only the NDCs or product codes listed for each product.

APPENDIX E
PROTEIN REPLACEMENTS
AND OTHER SPECIAL ITEMS

Product Description	Reporting Unit	Assigned Product Code
ALIMENTUM LIQUID 32OZ	EACH	70074-0602-37
CASEC POWDER 2.5 OZ	EACH	00087-0390-07
CITROTEIN POWDER 14OZ	EACH	00212-1700-08
COMPLEAT-B R.T.U. 8 OZ BOTTLE	EACH	00212-0200-40
COMPLEAT-B R.T.U. 8 OZ CAN	EACH	00212-0200-51
ENSURE LIQUID 8 OZ CAN ALL FLAVORS	EACH	00074-4014-08
ENSURE LIQUID 32 OZ CAN	EACH	00074-5564-32
ENSURE LIQUID 8 OZ BOTTLE	EACH	00074-5562-08
ENSURE LIQUID 14 OZ	EACH	00074-5561-14
ENSURE PLUS LIQUID 8 OZ BOTTLE	EACH	00074-3021-08
ENSURE PLUS LIQUID 8 OZ CAN ALL FLAVORS	EACH	00074-9780-08
GEVRAL PROTEIN 0.5 LB	EACH	00005-4223-61
GEVRAL PROTEIN 5 LB	EACH	00005-4223-70
ISOCAL LIQUID 8 OZ CAN	EACH	00087-0355-01
ISOCAL LIQUID 12 OZ CAN	EACH	00087-0355-02
ISOCAL LIQUID 32 OZ CAN	EACH	00087-0355-44
ISOCAL LIQUID 8 OZ BOTTLE	EACH	00087-0356-01
LACTRASE CAPSULES 100	CAP	00091-3500-01
LOFENALAC POWDER 1 LB	EACH	00087-0340-42
LOFENALAC POWDER 2.5 LB	EACH	00087-0340-01
LONALAC POWDER 1 LB	EACH	00087-0391-01
MEAT BASE FORMULA 15 OZ	EACH	00999-2504-01
MERITENE POWDER 1 LB ALL FLAVORS	EACH	00212-1220-02
MERITENE POWDER 4.5 LB ALL FLAVORS	EACH	00212-1220-03
MEYENBERG GOAT MILK LIQUID 14.5 OZ	EACH	00999-0400-01
MEYENBERG GOAT MILK POWDER 14 OZ	EACH	00999-0400-02
NURSOY CONCENTRATE 13 OZ	EACH	00008-0481-01
NURSOY R.T.U. 32 OZ	EACH	00008-0452-04
NUTRAMIGEN POWDER	EACH	00087-0338-01
OSMOLITE R.T.U. 8 OZ CAN	EACH	00074-0709-08
PEDIALYTE R.T.U. BOTTLES 240CC	EACH	00074-6470-08
PEDIALYTE R.T.U. BOTTLES 960CC	EACH	00074-6470-32
PEDIALYTE R.T.U. 960CC	EACH	00074-6471-32
PEDIASURE 8OZ CAN	EACH	70074-4037-30
POLYCOSE LIQUID 4 OZ	EACH	00074-5554-04
POLYCOSE POWDER 14 OZ	EACH	00074-5000-14
PORTAGEN POWDER 1 LB	EACH	00087-0387-01
PREGESTIMIL POWDER 1 LB	EACH	00087-0367-01
PROSOBEE CONCENTRATE LIQUID 13OZ	EACH	00087-0308-01
PROSOBEE R.T.U. LIQUID 8 OZ	EACH	00087-0309-42
PROSOBEE R.T.U. LIQUID 32 OZ	EACH	00087-0309-01
PULMOCARE 8OZ CAN (ANY FLAVOR)	EACH	70074-4069-90
RESOURCE CRYSTALS PACKETS 2 OZ	PKT	00212-3233-25
RESOURCE LIQUID 8OZ (ANY FLAVOR)	EACH	00212-3371-62
RESOURCE PLUS LIQUID 8OZ (ANY FLAVOR)	EACH	00212-3381-62
RICELYTE 32OZ	EACH	00087-1403-02
SIMILAC ISOMIL CONCENTRATE 13 OZ	EACH	00074-2110-01
SIMILAC ISOMIL R.T.U. 8 OZ	EACH	00074-0173-01
SIMILAC ISOMIL R.T.U. 32 OZ	EACH	00074-0230-01
SOYALAC CONCENTRATE 13 OZ	EACH	41470-0535-00
SOYALAC R.T.U. 32 OZ	EACH	41470-0527-00
SOYALAC POWDER 14 OZ	EACH	40470-0533-00
SUSTACAL LIQUID 8 OZ ALL FLAVORS	EACH	00087-0350-42
SUSTACAL LIQUID 12 OZ ALL FLAVORS	EACH	00087-0350-01
SUSTACAL LIQUID 32 OZ ALL FLAVORS	EACH	00087-0350-44
SUSTACAL POWDER 1 LB	EACH	00087-0353-44
SUSTAGEN POWDER 1 LB	EACH	00087-0394-01
SUSTAGEN POWDER 5 LB	EACH	00087-0393-03
TOLEREX PACKETS 6X 80GM	EACH	00149-0458-01
VIVONEX DELIVERY SYSTEM 10 SYSTEM	EACH	00149-0050-10
VIVONEX FLAVOR PAK 2.33 GM ALL FLAVORS	EACH	00149-0058-02
VIVONEX T.E.N. PACKETS 10X 80GM	EACH	00149-0067-01

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hospital Services Manual, Special Hospital Services Manual

Reduction in Reimbursement for Covered Hospital Outpatient Services for General Hospitals, Special (Classification A and B) Hospitals and Private Psychiatric Hospitals

Proposed Amendments: N.J.A.C. 10:52-1.6 and 1.14; 10:53-1.5 and 1.13

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4D-6(a)(2); 30:4D-7.
Agency Control Number: 91-P-7.
Proposal Number: PRN 1991-248.

Submit comments by June 5, 1991 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN-712
Trenton, NJ 08625-0712

A copy of the proposed amendments is available for public review at any of the 17 Medicaid District Offices or at the 21 county welfare agencies.

The agency proposal follows:

Summary

The proposed amendments establish a 4.4 percent reduction in the interim payments for covered outpatient hospital services rendered to Medicaid eligible patients by general hospitals, special hospitals (Classification A and B), and private psychiatric hospitals. The proposed amendments also provide that final settlements for covered outpatient services will be the lower of costs or charges, minus 4.4 percent.

This reduction in reimbursement will be effective July 1, 1991 and will remain in effect until further notice. This reduction in reimbursement is necessary in order to comply with the expenditure levels recommended in the State Fiscal Year 1992 proposed State budget.

Social Impact

The proposed amendments do not impact on any Medicaid recipients receiving Medicaid covered outpatient services in general, special or private psychiatric hospitals. However, the proposed amendments do impact on these hospitals through a reduction in reimbursement.

Economic Impact

Medicaid recipients are not required to pay toward the cost of Medicaid covered outpatient services in general, special (Classification A and B) and private psychiatric hospitals. The proposed amendments will reduce payment to providers. The New Jersey Medicaid Program will reimburse these hospitals approximately $130 million for outpatient services in State Fiscal Year 1992 and the 4.4 percent reduction in the reimbursement rate amounts to $5.6 million.

Regulatory Flexibility Statement

There are no hospitals in the State that are considered small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments apply to all general hospitals and special hospitals (Classification A and B), and private psychiatric hospitals with no differentiation based upon size.

The proposed amendments impose no new reporting, recordkeeping or compliance requirements for the hospitals in their cost reporting requirements.

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

10:52-1.6 Outpatient hospital services—basis of payment

(a) (No change.)

(b) The New Jersey Medicaid Program shall reimburse providers for covered services in a hospital outpatient department consistent with the following conditions and reimbursement methodology:

1.-2. (No change.)

3. Effective for services rendered on or after July 1, 1991, and until further notice, the Division shall reduce the reimbursement rates for covered outpatient services in general hospitals by 4.4 percent. Also, the final settlement for covered outpatient services shall be the lower of costs or charges minus 4.4 percent.

(c) (No change.)

10:52-1.14 Hospital benefits in an approved private psychiatric hospital

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

(c) Effective for services rendered on or after July 1, 1991, and until further notice, the Division shall reduce the reimbursement rates for covered outpatient services in the private psychiatric hospitals by 4.4 percent. Also, the final settlement for covered outpatient services shall be the lower of costs or charges minus 4.4 percent.

Recodify existing (c)-(e) as **(d)-(f)** (No change in text.)

10:53-1.5 Outpatient hospital services: general provisions **and basis of payment**

(a) Outpatient hospital services in special hospitals are:

1.-2. (No change.)

3. Effective for services rendered on or after July 1, 1991, and until further notice, the Division shall reduce the reimbursement rates for covered outpatient services in the special (Classification A and B) hospitals by 4.4 percent. Also, the final settlement for covered outpatient services shall be the lower of costs or charges minus 4.4 percent.

10:53-1.13 Hospital benefits in an approved private psychiatric hospital

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

(c) Effective for services rendered on or after July 1, 1991, and until further notice, the Division shall reduce the reimbursement rates for covered outpatient services in the private psychiatric hospitals by 4.4 percent. Also, final settlement for covered outpatient services shall be the lower of costs or charges minus 4.4 percent.

Recodify existing (c)-(e) as **(d)-(f)** (No change in text.)

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Chiropractic Services

Proposed Readoption with Amendments: N.J.A.C. 10:68

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

Authority: N.J.S.A. 30:4D-6b(9); 7, 7a, b and c; 30:4D-12; 42 C.F.R. 440.60.

Agency Control Number: 91-P-2.

Proposal Number: PRN 1991-249.

Submit comments by June 5, 1991 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN-712
Trenton, N.J. 08625-0712

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 10:68, the Manual for Chiropractic Services, expires on July 7, 1991. The Division of Medical Assistance and Health Services has conducted an administrative review of the rules and has determined that both subchapters 1 and 2 of N.J.A.C. 10:68 should be continued because the rules are necessary, reasonable, adequate, efficient and responsive for the purposes for which they were promulgated. Therefore, the Division is now proposing these rules for readoption, with certain technical amendments in order to update references and to codify long-standing procedures related to reimbursement.

The Forward to N.J.A.C. 10:68 is being deleted for technical reasons and to update Code text. Subchapter 1 describes the services available and provider qualifications for chiropractic services. Chiropractic services are limited to manual manipulation of the spine and must be provided personally by the chiropractor. Chiropractic services can be rendered in the provider's office, the patient's home, or in a nursing facility or sheltered boarding home. Chiropractors practicing in states other than New Jersey are not eligible for reimbursement under the New Jersey Health Services Program.

A "chiropractor" is defined as a doctor of chiropractic licensed to practice chiropractic within the limits of his license by the New Jersey State Board of Chiropractic Examiners and fulfills those qualifications requirements for certification as an eligible provider under Title XVIII of the Social Security Act. Licensing for chiropractors was formerly under the authority of the New Jersey State Board of Medical Examiners; pursuant to P.L. 1989 c.153 (N.J.S.A. 45:9-41.6 et seq.), authority over chiropractors was transferred to the State Board of Chiropractic Examiners. Text at N.J.A.C. 10:68-1.1, Definitions, is amended to reflect this change in the definition of chiropractor.

A chiropractor may prescribe services to be rendered by a physical therapist. The prescription, or written authorization, must be specific as to the treatment regimen and goals designed to elevate the patient to his or her maximum level of functioning.

Chiropractors are required to keep individual records to fully disclose the nature of the services rendered, dates of service, etc. If physical therapy is being provided by a physical therapist under the direction of a chiropractor, then the therapist must make specific entries on the patient's chart. These entries must be reviewed at least every 30 days by the chiropractor.

Subchapter 2 describes the billing procedures used by chiropractors. These procedures are basically the same for all fee-for-service providers.

The rule instructs providers to verify recipient/patient eligibility, obtain prior authorization when necessary, and file claims within the time frames specified in N.J.A.C. 10:49-1.12. The broad general rule is that all Medicaid claims must be submitted within one year from date of service to comply with Federal regulations (42 CFR 447.45(d)).

The rules also indicate the procedures to be followed for combination Medicare/Medicaid claims (see N.J.A.C. 10:68-2.5). There is also a description at N.J.A.C. 10:68-2.8 of the procedure to be used for filing a claim via an automated data exchange if the provider wishes to use this process.

The Division is proposing an amendment to N.J.A.C. 10:68-1.4(a) by adding the HCPCS Procedure Code that is used by chiropractors participating in the Medicaid Program, and deleting the current outdated text. This codification represents existing policy; there is no change in reimbursement procedures and the fee schedule associated with this amendment. Further, the proposed amendment to N.J.A.C. 10:68-1.4(a) corrects the text to read "Commissioner, Department of Human Services" rather than an outdated reference to "Commissioner, Institutions and Agencies." The proposed amendment to N.J.A.C 10:68-1.4(b) is a codification to rule text by incorporating "notes 1 and 2" into the rule text as 10:68-1.4(b) 1 and 2.

N.J.A.C. 10:68 has been amended once since the last readoption. Subchapter 2 was amended to indicate that the HCFA-1500 NJ was to be used when the provider submitted a combination Medicare/Medicaid claim for reimbursement (see 18 N.J.R. 1053(b), 18 N.J.R. 1594(a)).

Social Impact

The rules proposed for readoption potentially impact on all Medicaid recipients who might need chiropractic services. The chapter specifically impacts on those Medicaid recipients who are or will receive treatment from a chiropractor.

The rules impact upon chiropractors who are licensed by the New Jersey State Board of Medical Examiners. Chiropractors licensed in states other than New Jersey are not eligible for reimbursement under the New Jersey Medicaid Program.

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The rule needs to be continued so that both the Medicaid recipient and Medicaid provider understand the services that are available under the New Jersey Medicaid Program.

In addition, the continuation of subchapter 2 is necessary in order for providers to be aware of the requirements for submitting a claim to the New Jersey Medicaid Program.

Economic Impact

There is no cost to the Medicaid recipient for chiropractic services.

There is no change in the fee schedule for chiropractors associated with rules proposed for readoption, which is based upon the HCPCS Procedure Code.

The Division of Medical Assistance and Health Services spent approximately $232,402 (Federal-State share combined) in State FY 1990.

The chapter needs to be continued to insure that Medicaid recipients can receive chiropractic services when they are medically necessary, and Medicaid providers can be reimbursed for rendering these services.

Regulatory Flexibility Statement

The rules proposed for readoption pertain to chiropractors, 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, chiropractors 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 chiropractors because the standard of practice is the same whether the chiropractor 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 this proposed readoption. The rules proposed for readoption do not require the chiropractor to hire the services of a nurse to assist with his/her practice unless he/she chooses to do so. A chiropractor is not required to hire an accountant unless he/she chooses to do so. The rules proposed for readoption are designed to minimize the adverse economic impact on chiropractors by requiring them to maintain only those patient records which would be part of their regular 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 rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:68.

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

[FOREWORD

The New Jersey Medical Assistance and Health Services Act (Chapter 413, Laws of 1968) established a program of assistance and services for defined groups of persons to enable them to secure quality medical care. This is the New Jersey version of a program commonly known as "Medicaid" or "Title XIX." Identifying persons eligible for such assistance and services this will be known as the New Jersey Health Services Program.

This manual is designed for use by providers billing for services furnished under the program. It contains informational procedural material needed to assist the provider in prompt and efficient payment of claims and to answer questions which patients may ask about the program. The procedures described in this manual have been devised to achieve the goals of the program with due consideration to the needs of the covered persons and effective relationship with providers.

A careful effort has been made to insure that the provisions of the law and the regulations are accurately reflected. This issuance should help to assure that the law is uniformly applied without regard to where covered services are furnished.

The manual is designed to accommodate new pages as administrative changes in procedure are made. Accordingly, revised sections, pages or chapters will be issued as the need presents itself.]

10:68-1.1 Definitions

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

"Chiropractor" means a doctor of chiropractic licensed to practice chiropractic within the limits of his license by the New Jersey State Board of [Medical] **Chiropractic** Examiners and fulfills those qualification requirements for certification as an eligible provider under Title XVIII of the Social Security Act. Chiropractors practicing in states other than New Jersey are not eligible for reimbursement under the New Jersey Health Services Program.

. . . .

10:68-1.4 Basis of payment

(a) [Reimbursement for covered services furnished under the Health Services program shall be on the basis of the customary charge prevailing in the community for the same service, not to exceed an allowance determined reasonable by the Commissioner (Institutions and Agencies) and further limited by Federal policy relative to payment of practitioners and other individual providers.] **Chiropractors shall use HCPCS Code A2000—manual manipulation of the spine—when submitting a claim to the New Jersey Medicaid Program. (Reference is made to N.J.A.C. 10:54-4.)**

(b) In no event shall the charge to the program exceed the charge by the provider for identical services to other governmental agencies, or groups or individuals in the community. If a patient receives care from more than one member of a partnership or corporation in the same discipline, the maximum payment allowance would be the same as that of a single attending chiropractor.

[Note] 1[:]. Reimbursement for chiropractic services [will] **shall** be made only for periods when eligibility is current.

[Note] 2[:]. Reimbursment is not made for, and recipients may not be asked to pay for, broken appointments.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Case Management Services

Proposed New Rules: N.J.A.C. 10:73

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

Authority: N.J.S.A. 30:4D-6b(17); 30:4D-7, 7a, b and c; 30:4D-12; Section 1905(a)19 of the Social Security Act, codified as 42 U.S.C. 1396d; Section 1915g(1) and (2) of the Social Security Act, codified as 42 U.S.C. 1396n.

Agency Control Number: 91-P-5.

Proposal Number: PRN 1991-250.

Submit comments by June 5, 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 Department of Human Services (DHS) proposes to institute new rules as N.J.A.C. 10:73, Case Management Services Manual to govern the provision of case management services under the New Jersey Medicaid program. The provision of case management services under the Medicaid program is a joint initiative of the Division of Medical Assistance and Health Services and the Division of Mental Health and Hospitals under DHS. Following the definitions listed below, this Summary will provide a synopsis of the major features in the proposed new rules.

The following definitions are presented in this Summary to facilitate the discussion accompanying the proposed new rules.

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The term "case management services" means those services which will assist Medicaid recipients in gaining access to needed medical, social, educational and other services.

"Clinical case management" (CCM) is the combination of services provided to seriously mentally ill adults and children, who do not accept or engage in community mental health programs and/or who have multiple service needs and require extensive service coordination. The CCM services include, but are not limited to, assessment, service planning, service linkage, ongoing monitoring, ongoing clinical support, and advocacy (as integral but subordinate components of the overall service regimen).

The term "DMA&HS" shall refer to the Division of Medical Assistance and Health Services within the Department of Human Services.

The term "DMH&H" shall refer to the Division of Mental Health and Hospitals within the Department of Human Services.

The term "HCFA" shall refer to the Health Care Financing Administration within the Federal Department of Health and Human Services.

The term "HCPCS" shall refer to the Health Care Financing Administration Common Procedure Coding System. "HCPCS" codes are used by providers when submitting claims to the New Jersey Medicaid program for reimbursement.

"Liaison case management" means that part of the case management program targeted to seriously mentally ill individuals, who have been discharged from a State or county psychiatric hospital or psychiatric unit of a general acute care hospital who require short term assistance to ensure that they are linked to community mental health programs. Liaison Case Management services include, but are not limited to, assessment, service planning, service linkage, and time limited monitoring.

The proposed new rules authorize case management services to be provided by the New Jersey Medicaid program for a target group of seriously mentally ill adults and children who are at high risk of hospitalization or deterioration in their functioning. Mental health case management services include aggressive community outreach to promote linkage to other mental health programs and provide long term support.

The basic eligibility provisions are that the recipient meet the categorically needy or the optional categorically needy standards and be a member of the seriously mentally ill target group. Among those individuals eligible under the Medically Needy program, this service is available only to pregnant women.

Providers are required to conduct an initial risk assessment on a prospective CCM client to determine the "risk cateogry." If the client is believed eligible for CCM services, he or she shall be assigned to one of three possible risk categories. These categories are "high risk," "at risk," or "low risk." The term "high risk" is associated with clients who need a high intensity of service to promote stability and/or prevent decompensation. The term "at risk" refers to clients who are exhibiting signs of regression. The term "low risk" refers to clients who are currently stable, but who have a pattern of psychiatric hospitalization, recidivism, etc.

Services may be provided for one month without prior authorization in order to conduct the risk assessment and to provide medically necessary services without delay.

Providers may submit a claim for the initial evaluation month following an initial assessment performed during the initial client contact. An initial evaluation may be billed once per recipient per provider. If the recipient changes providers, the new provider may use the HCPCS code for the initial evaluation month.

The provider should initiate the request for prior authorization during the initial contact month. It is the provider's responsibility to obtain prior authorization before providing the service subsequent to the initial evaluation month.

Provider participation is limited to organizations who are certified by and under contract with DMH&H to the DMA&HS as meeting DMH&H requirements for case management providers. Provider participation is further limited to those DMH&H certified providers meeting the general provisions for participation in the Medicaid program as established at N.J.A.C. 10:49.

The proposed new rules further prescribe requirements for individual case managers within approved case management providers. Supervisors of case management are required to have a master's degree in one of several specified fields along with three years' post-degree work experience in the provision of mental health services. Individual case managers must have, at a minimium, a bachelor's degree and two years' experience in the provision of mental health services or related experience. Substitute educational and experience requirements are permitted if certified by DMH&H.

The proposed new rules set forth the basis of reimbursement, which is a fee-for-service basis, paid through monthly rates. There is one monthly rate of $100.00 for liaison case management whereby an average of two hours of face-to-face service is required. There are three monthly rates for clinical case management based upon the recipient's assessed risk level of hospitalization or deterioration in functioning. Reimbursement for services to clients will range from the rate of $350.00 per month for which an average of seven hours of face-to-face service is required. Finally, reimbursement for services to low-risk clients will be at the rate of $100.00 per month for which an average of two hours of face-to-face service is required.

The proposed new rules set forth a prior authorization process for clincial case management whereby providers must complete a prior authorization request form and a risk assessment instrument to document that the recipient is a member of the covered target group and the applicable risk level. The initial evaluation will not require prior authorization nor will liaison case management services which are time limited to two months post-hospitalization. Prior authorization will vary for an authorized period not to exceed 12 months.

Social Impact

The proposed new rules will impact existing DMH&H case management and liaison service providers by changing the payor mix for these services. Services which were previously financed primarily through DMH&H contracts by State Appropriations will, for Medicaid-eligible recipients, now be funded by the Medicaid program.

There will be no impact on recipients of this service as the only change pertains to the funding of the service. These rules will not cause individuals to be denied services other than those individuals that would have been denied services had these rules not been effected. The initiation of a prior authorization program and the Medicaid billing process will cause providers to incur moderately increased administrative costs over those which would be incurred without the proposal of the new rules.

Economic Impact

There is no cost to Medicaid recipients for this service.

It is anticipated that, with the implementation of the proposed new rules, the State will receive $2 million in Federal funding on an annualized basis. There should be no increase in State funds. The State matching funds for this program will be provided by DMH&H contract funds recovered as a result of the increased Medicaid funding.

Regulatory Flexibility Analysis

Those portions of the proposed new rules that impact on eligibility are not subject to the provisions of the Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq., because neither the recipients who apply for services nor governmental agencies who process the applications are small businesses as defined in the Act.

There are portions of the proposed new rules that govern providers of services which are primarily nonprofit social service and hospital corporations. There are approximately 70 of these agencies, many of which can be considered small businesses under the terms of the Act. The requirements of the proposed new rules apply equally to all providers regardless of size. Providers are required by law to maintain sufficient records to fully disclose the name of the patient being treated, dates and nature of service and any additional information as may be required by regulation. In addition, providers are required to submit timely and accurate documentation via the DMH&H, to the Fiscal Agent in order to be reimbursed (see N.J.S.A. 30:4D-12). These recordkeeping, reporting and compliance requirements are necessary to comply with Federal and State law cited above for the health, safety and general welfare of persons receiving case management services.

Providers will, with the exception of liaison case management services and the assessment month, need to obtain prior authorization from the DMH&H before providing or continuing services.

In order to comply with the requirements of the proposed new rules, providers will need the necessary clinical and administrative personnel to justify, document, provide and account for the services. This rule will require some recordkeeping related to the prior authorization process and Medicaid billing process which is not now required. There are no capital costs for small businesses that are currently performing case management services associated with these new rules.

Full text of the proposed new rules follow:

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CHAPTER 73
CASE MANAGEMENT SERVICES MANUAL

SUBCHAPTER 1. GENERAL PROVISIONS

10:73-1.1 Purpose and scope

(a) This manual outlines information about targeted case management services provided by approved New Jersey Medicaid Program providers.

1. There are various types of case management providers who will provide different types of case management services to targeted groups of Medicaid recipients, as allowed under Federal statute.

i. The first case management provider type described in this manual is the Case Management Program/Mental Health (CMP/MH) provider (see N.J.A.C. 10:73-2). Other case management provider types may be added to the manual as programs are developed.

(b) N.J.A.C. 10:73-2 describes the Case Management Program/Mental Health, providing a description of the individuals for whom the services are targeted; the case management services covered; the requirements and responsibilities of the agencies that will provide the services, including agency staff; the procedures required to provide services and the reimbursement for the provision of those services.

(c) N.J.A.C. 10:73-3 provides a listing of HCPCS Procedure Codes (HCFA Common Procedure Coding System).

10:73-1.2 Definitions

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

"Advocacy" means the ongoing process of assisting the client in receiving all benefits to which he or she is entitled by working toward the removal of barriers to receiving needed services.

"Assessment" means the ongoing process of identifying and reviewing a client's strengths, deficits, and needs based upon input from the client and significant others including family members and health professionals. The assessment process continues throughout the entire length of service. The assessments are updated periodically based upon availability of client infomation.

"Case management" means any activity under which responsibility for locating, coordinating and monitoring necessary and appropriate services for an individual rests with a specific person or organization.

"Case Management Program/Mental Health (CMP/MH)" under the Division of Mental Health and Hospitals means a distinct program administered jointly with the Division of Medical Assistance and Health Services to provide case management services. The program offers targeted case management services to seriously mentally ill individuals, both adults and children, who do not accept or engage in community mental health programs and/or who have multiple service needs and require extensive service coordination.

"Case management services" means those services which will assist a Medicaid recipient in gaining access to needed medical, social, educational, and other services.

"Client monitoring" means the ongoing review of the client's status and needs.

"Clinical case management" means the provision of face-to-face individualized clinical support services for a client who needs consistent contact to ensure engagement to the case manager and to help the person maintain stability and remain linked to needed services.

"Division of Medical Assistance and Health Services" (DMA&HS) is an organizational component of the New Jersey State Department of Human Services.

"Division of Mental Health and Hospitals" (DMH&H) is an organizational component of the New Jersey State Department of Human Services.

"HCFA" means Health Care Financing Administration of the United States Department of Health and Human Services.

"HCPCS" (Health Care Financing Administration Common Procedure Coding System) means a nationwide three level coding system. Level 01 codes are adapted from codes published by the American Medical Association in CPT-4 and are utilized primarily by physicians and independent clinical laboratories. Level 02 codes are assigned by HCFA for physician and non-physician services which are not in the CPT-4. Level 03 codes are assigned by the State Medicaid Agency and are used for services not identified by the CPT-4 or HCFA assigned codes.

"Initial evaluation month" means the initial month in which services are provided to a client.

"Liaison case management" means that part of the CMP/MH targeted to a seriously mentally ill individual, adult or child, who has been discharged from a State or county psychiatric hospital, psychiatric unit of a general acute care hospital or a specialty hospital, and who requires short-term assistance to ensure linkage to community mental health programs.

"Ongoing support services" means the provision of face-to-face individualized clinical support services for a client who needs such contact.

"Risk category" under CMP/MH means the three levels of clinical case management involvement, based upon assessed risk of hospitalization, functional level and willingness and/or ability to access needed services. The three risk categories are: high-risk, or intensive case management; at-risk, or supportive case management; and low-risk, or maintenance level case management.

"Services linkage" means the referral to and enrollment with other appropriate service providers to address the needs identified in the assessment.

"Service planning" means the process of organizing the outcomes of the assessment in collaboration with the client, significant others, potential service providers, and others as designated, to formulate a written service plan that addresses the client's needs, planned services to address these needs, and plans to motivate the client to utilize services. The service planning process continues throughout the client's entire program length of stay.

"Service provider monitoring" means the process of routine follow-up by case manager or by Division of Mental Health and Hospitals with the client's service providers to assess if services are provided as planned and if they meet the client's needs.

"Targeted case management" under Case Management Program/Mental Health (CMP/MH) is the provision of services targeted to adults and children with serious mental illness who are at high risk of hospitalization or deterioration in their functioning and who require an assertive community outreach service to meet their needs. Case management is for either long-term support (clinical case management) or linkage to other mental health services (liaison case management). Targeted case management services include, but are not limited to: assessment, service planning, services linkage, ongoing monitoring, ongoing clinical support and advocacy.

"Unit of service" under CMP/MH means a face-to-face contact with an enrolled client, or on behalf of an enrolled client, which lasts one hour in duration. Travel time shall not be included as part of the face-to-face time. Multiple contacts of less than one hour in duration may be aggregated to produce one unit of service.

SUBCHAPTER 2. CASE MANAGEMENT PROGRAM/ MENTAL HEALTH

10:73-2.1 Case Management Program/Mental Health (CMP/MH); general

(a) The CMP/MH is under the auspices of the Division of Mental Health and Hospitals and is administered jointly with the Division of Medical Assistance and Health Services. It is a program to provide case management services to seriously mentally ill Medicaid recipients, both children and adults, who do not accept nor engage in community mental health programs and/or who have multiple service needs and require extensive service coordination.

1. CMP/MH is for either long-term support (clinical case management) or short-term support (liaison case management).

(b) Case management services are not available to recipients of the Medically Needy Program, except pregnant women, nor recipients served in the DMAHS' Home and Community Based Services Waiver Program, Model Waivers, DDD Waiver or the Home Care Expansion Program.

1. For information on how to identify a Medicaid recipient, refer to N.J.A.C. 10:49-1.2, Administration.

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10:73-2.2 Individuals targeted to receive CMP/MH services

(a) Clinical case management services under CMP/MH are targeted to children and adults with serious mental illness who are at high risk of hospitalization or deterioration in their functioning and who require an assertive community outreach service to meet their needs. This targeted group is composed of individuals who meet at least two of the following:

1. Have repeated admissions to inpatient services. Priority will be given to persons with two or more admissions to inpatient psychiatric services within a 12-month period, or two or more uses of emergency/screening services within a 30-day time period;

2. Participate in mental health services, but are not receiving additional services which meet the individual's multiple needs, and who require extensive service coordination (for example, individuals who are dually diagnosed as mentally ill and chemical abusing, or children involved with DYFS and school systems);

3. Have a recent history of being a danger to self or others within a time period of three months;

4. Have a history of resistance or non-compliance in use of medication, resulting in a pattern of decompensation and rehospitalization;

5. Are in another service system and in need of assessment and possible treatment prior to linkage to case management (for example, residential, drug and alcohol programs, or shelters for the homeless); and/or

6. Reside with family, in boarding homes, or other residential settings and are not receiving needed mental health services.

(b) Liaison case management services under CMP/MH are targeted to children and adults who:

1. Recently were discharged from a State or county hospital or a general acute-care hospital psychiatric inpatient unit and in need of linkage services to ensure continuity of care with other mental health services; or

2. Have a recent history of a hospitalization as a result of mental illness and dangerousness to self or others.

10:73-2.3 Case management services provided under CMP/MH

(a) CMP/MH services shall include, but are not limited to, assessment, service planning, services linkage, ongoing monitoring, ongoing clinical support, and advocacy. These services are described below:

1. Assessment is the ongoing process of identifying, reviewing and updating a client's strengths, deficits, and needs, based upon input from the client and significant others including family members and community and hospital professionals. The assessment process continues throughout the entire length of stay. (See N.J.A.C. 10:73-2.9 for information about client's risk status.)

2. Service planning is the process of organizing the outcomes of the assessment in collaboration with the client, significant others, potential service providers, and others as designated, to formulate a written service plan that addresses the client's needs, planned services to address these needs, and plans to motivate the client to utilize services and remain in the community. The service planning process continues throughout the client's entire program length of stay.

3. Services linkage is the ongoing referral to, and enrollment in, a mental health and/or non-mental health program. Mental health program linkage means that the client has completed the mental health program's intake process, that the client has been accepted for service, and that the client has effectively participated in the program.

4. Ongoing monitoring consists of both client monitoring and service provider monitoring by the case manager:

i. Client monitoring is the ongoing review of the client's status and needs, the frequency of which is contingent upon the client's risk status and reported changes from the client, significant others and/or service providers. An update of the service plan may result from the monitoring process to address changing needs.

ii. Service provider monitoring is the process of routine follow-up with the client's service providers to assess if services are provided as planned and if they meet the client's needs. Provider monitoring may result in the adjustment of the service plan including provider changes. Service provider monitoring includes the following:

(1) Monitoring the plans, including the medication management plan for clients in need of such plans;

(2) Coordination of services from multiple providers including calling and coordinating treatment team meetings of a client's service providers until the client exits from the CM program.

5. Ongoing support services is the provision of face-to-face individualized clinical support services for clients who need consistent contact to ensure engagement to the case manager and to help the person maintain stability and remain linked to needed services. It includes support within the client's natural support system including family, friends, and employers and typically occurs where the client resides or frequents. The frequency of support services is contingent upon the client's risk status and individual needs.

6. Advocacy is the process of assisting the client in receiving all benefits to which he or she is entitled by working toward the removal of barriers to receiving needed services. Client advocacy is an ongoing activity of the case manager.

10:73-2.4 Requirements for providers participating in CMP/MH

(a) This section lists the specific provisions relevant to a provider who wishes to apply and be approved as a provider of CMP/MH services. N.J.A.C. 10:73-2.5 provides information about service responsibilities of the CMP/MH provider and N.J.A.C. 10:73-2.6 describes the responsibilities of staff members of a CMP/MH provider agency.

(b) The following are the specific provisions for provider participation in CMP/MH.

1. Any agency that wishes to provide CMP/MH services must be certified by the Division of Mental Health and Hospitals and under contract as an approved clinical case management and/or liaison provider and must be individually approved as a Medicaid provider by the New Jersey Medicaid Program.

2. Case management providers under CMP/MH shall comply with general Medicaid program policies regarding provider participation (see N.J.A.C. 10:49-1.3). Provider entities must be mental health provider organizations who contract with the New Jersey Division of Mental Health and Hospitals in accordance with the "Rules and Regulations Governing Community Mental Health Services and State Aid Under the Community Mental Health Services Act" N.J.A.C. 10:37 to provide clinical case management and/or liaison services.

3. Upon notification from DMH&H of a certified, under contract CMP/MH provider, the New Jersey Medicaid program shall forward the appropriate provider enrollment forms to the provider. (See N.J.A.C. 10:49-1.3, Eligible Providers.)

4. The CMP/MH provider shall receive written notification of approval or disapproval from the Division of Medical Assistance and Health Services.

i. If approved, the CMP/MH provider will be assigned a provider number by the Fiscal Agent.

ii. The New Jersey Medicaid Program will furnish a provider manual (which includes this chapter, other relevant chapters including N.J.A.C. 10:49 and additional non-regularity material) and an initial supply of pre-printed claim forms.

10:73-2.5 Service responsibilities of the CMP/MH provider

(a) The CMP/MH provider shall:

1. Provide ongoing support to persons, in their own environment, who are at risk of hospitalization or deterioration in function, to enable them to function in the community and to enable them to access other mental health services whenever possible;

2. Provide or arrange for a clinical off-site service capability to the target groups seven days a week;

3. Provide community-based engagement activities, coordination, and integration for the target group;

4. Provide ongoing, individualized clinical support and monitoring to maintain stability until the client participates effectively in other needed services; and

5. Seek and accept referrals of clients from emergency/screening services, local inpatient units and other structured sites, such as homeless shelters or jails, and other referral sites as identified at the local level.

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10:73-2.6 Staff members of a CMP/MH provider; responsibilities

(a) The following apply to the case management program supervisor:

1. Regarding his or her duties, the CMP/MH supervisor shall ensure the following:

i. Staff availability to meet the needs of program;

ii. Adequate levels of clinical staff supervision, skill development, and support;

iii. Development and appropriate documentation of the various CMP functions;

iv. Participation in the CMP quality assurance program;

v. Appropriate completion of and monitoring of affiliation agreements with other mental health, social and health services systems in conjunction with the systems coordinator; and

vi. Participation of the CMP in local mental health, health, and human services planning activities.

(b) The following apply to the case manager (CM):

1. Regarding his or her duties the CM providing clinical case management services shall:

i. Identify mentally ill clients in need of CMP/MH services regardless of residence (for example: homeless, shelter, family, boarding home);

ii. Provide clinical assessment of client's strengths, needs, resources, motivation, level of functioning, mental status, and risk category;

iii. Provide functional assessment of client's skills (daily living, self-care, social, vocational, etc.);

iv. Provide intensive community based engagement services to maximize the client's access to services and ability to function adequately and integrate into the community;

v. Provide or arrange for direct clinical intervention;

vi. Provide assessment of the need for crisis intervention, and assistance to providers of psychiatric emergency services in resolving crises;

vii. Provide assessment of substance abuse symptoms;

viii. Provide assessment of available social services, health and mental health resources and the ability of these services to meet each client's needs;

ix. Develop service plans with the primary goal to motivate client to access, appropriately use, and remain in community programs;

x. Develop and monitor a plan for medication management for the client in need of such a plan, in consultation with the county mental health system's psychiatric services components;

xi. Provide ongoing service planning and periodic reviews and revisions of such plans;

xii. Provide access to appropriate services, and ensure the client receives needed transportation in order to attend services;

xiii. Ensure that the client engages in the community mental health and non-mental health systems through provision of ongoing individualized clinical support and monitoring;

xiv. Provide clinical consultation with other providers in a client's network;

xv. Coordinate and integrate services from multiple providers until the client exists from the CMP/MH. This includes coordination of treatment team meetings of the service providers of a client in the community;

xvi. Monitor service delivery to meet a client's changing needs;

xvii. Identify resource gaps and problems of service delivery, and advocate for the resolution of these issues; and

xviii. Provide direct service support to the client's natural support system, including family, friends, employers, self-help and other natural support groups.

3. Regarding his or her duties, the CM providing liaison case management services shall:

i. Assess, as assigned, inpatients of State and county psychiatric hospitals and short term care facilities and determine patient assignment to either liaison case management or clinical case management services;

ii. Develop discharge plans, in conjunction with other State or county psychiatric hospital or short term care facility treatment team members, for clients assessed as able or willing to access or engage in necessary community mental health services within two calendar months after hospital discharge;

(1) Services rendered while the client is an inpatient in a State or county psychiatric hospital or psychiatric unit of a general acute care hospital are not billable activities;

iii. Ensure that planned community mental health and non-mental health service linkages occur for clients assessed as willing or able to link within two calendar months after hospital discharge; and

iv. Monitor the clients linkage to the primary mental health provider for two calendar months post discharge.

10:73-2.7 Prior authorization for clinical case management services

(a) Clinical case management services require prior authorization. (See N.J.A.C. 10:73-2.9(b) for exceptions concerning provision of services for a limited period of time while the prior authorization request is under review.)

1. Liaison case management services do not require prior authorization (see N.J.A.C. 10:73-2.11(c)).

(b) The CMP/MH provider shall request prior authorization from the Division of Mental Health and Hospitals, utilizing forms prescribed by that Division.

1. Prior authorization may be for up to 12 calendar months. It is the responsibility of the provider to request prior authorization before furnishing or rendering services. (See N.J.A.C. 10:49-1.8 regarding prior authorization.)

10:73-2.8 Basis of payment for CMP/MH services

(a) Reimbursement for services covered under the CMP/MH shall be determined by the Commissioner of the Department of Human Services. The provider of CMP/MH services shall be compensated on a monthly fee-for-service basis. Reimbursement is based upon HCPCS Codes as specified in N.J.A.C. 10:73-3.

1. The provider shall submit a claim form and identify the services performed by the use of procedure codes based on the Health Care Financing Administration's (HCFA) Common Procedure Coding System (HCPCS). Five HCPCS codes are assigned for the services provided under CMP/MH. If the services were provided to a child, the provider shall add a modifier (ZC) to the code to signify that the services were provided to a child.

2. The five CMP/MH services that shall be identified on a claim form and submitted for reimbursement are:

i. Initial Evaluation Month;

ii. High Risk—Intensive Case Management involvement;

iii. At Risk—Supportive Case Management involvement;

iv. Low Risk—Maintenance Level Case Management involvement; and

v. Liaison Case Management.

3. For rules regarding the three case management services (initial evaluation month, case management based on risk category, and liaison case management), see N.J.A.C. 2.9, 2.10 and 2.11, respectively.

(b) A provider may bill for only one case management service per calendar month; for example, for "initial evaluation month," or for one of the clinical case management's risk category services, or for liaison case management services.

1. A recipient who receives case management services is entitled to receive other approved mental health services that are rendered by authorized providers.

(c) Each provider shall make a charge for services to all clients, except as provided by legislation, with the proviso that no charge will be made directly to the Medicaid recipient.

(d) In no event shall the charge to the New Jersey Medicaid Program exceed the charge by the provider for identical services to other groups or individuals in the community.

1. Payment for CMP/MH services shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose, including, but not limited to, the Home and Community Based Service Waiver programs. Payment for CMP/MH services shall not duplicate payment for case management services which are an integral part of another provider service.

(e) See N.J.A.C. 10:49 for requirements for timely submission of claims.

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10:73-2.9 Procedures for providing initial risk assessment and evaluation for CMP/MH services

(a) Under clinical case management, the provider shall conduct an initial risk evaluation on a prospective CMP/MH client during the initial client contact(s) to determine the "risk category." If the prospective client is found to be eligible for CMP/MH services, he or she shall be assigned to a risk category described in (a)1-3, below. The provider shall immediately initiate a request for authorization to provide services beyond the first calendar month.

1. High risk (intensive case management involvement) shall be provided to clients who are in crisis and at immediate risk of decompensation, or who are experiencing situational crises which, without active intervention, would rapidly lead to decompensation and hospitalization.

2. At risk (supportive case management involvement) shall be provided to clients who exhibit signs of regression, who stop their medication, who are undergoing major transitions from an inpatient or residential treatment setting, or who are withdrawing or refusing needed aftercare services.

3. Low Risk (maintenance level case management involvement) shall be provided to clients who are stable but who have a pattern of psychiatric hospitalization, acute care recidivism, dropping out of mental health and non-mental health services, medication non-compliance, disruption of living, working program and social environments.

(b) The following apply to the initial evaluation month:

1. In order to facilitate the provision of services to the client while the initial risk evaluation is completed and the request for prior authorization is being evaluated, the initial contact(s) and services may be provided for one calendar month without authorization. The initial evaluation, risk assessment, and initial services within a calendar month shall be billed as "Initial Evaluation" using the appropriate HCPCS Codes as listed at N.J.A.C. 10:73-3.

2. A claim for an initial evaluation month (any part of a calendar month) may be submitted following an initial assessment performed on a prospective clinical case management client during the initial contacts. An initial evaluation month may be billed once per recipient per provider. In the event a recipient changes providers, the HCPCS code may be used for the initial month of service for the new provider.

i. An initial evaluation month visit may be billed by the same provider for the same recipient if there has been a lapse of more than 12 calendar months since the last case management service was provided.

3. During the initial evaluation month, the provider should initiate and submit the request for prior authorization to DMH&H for future service units.

i. The request for prior authorization must be received by DMH&H not later than one calendar month from the initial evaluation month.

4. A claim for an initial evaluation month will be reimbursed at the highest risk category rate within the CMP/MH rate structure. This will enable necessary services to be provided to the client.

10:73-2.10 Clinical case management services under CMP/MH

(a) Clinical case management services include, but are not limited to: assessment, service planning, services linkage, ongoing clinical support and advocacy (see N.J.A.C. 10:73-2.3(a)). These services require prior authorization from the DMH&H and claims will not be processed without the appropriate prior authorization approval.

(b) There are three levels (risk category) of clinical case management involvement based upon assessed risk of hospitalization, functional level, and willingness and/or ability to access needed services as defined by DMH&H. The three risk categories are: high risk, or intensive case management; at risk, or supportive case management; and low risk, or maintenance level case management (see N.J.A.C. 10:73-2.9).

1. A minimum average "unit of service" shall be provided per month for each of the three codes for case management (high risk, at risk and low risk) in order to earn reimbursement during the prior authorization period.

i. Initial evaluation month requires a minimum average of seven units of service per month.

ii. High risk (intensive case management involvement) requires a minimum average of seven units of service per month.

iii. At risk (supportive case management involvement) requires a minimum average of 3.5 units of service per month.

iv. Low risk (maintenance level case management involvement) requires a minimum average of two units of service per month.

v. Travel time shall not be included as part of the face-to-face time.

vi. Multiple contacts of less than one hour in duration may be aggregated to produce one unit of service.

2. The following apply in recipient hospitalization circumstances:

i. In the event a clinical case management recipient is hospitalized during a prior authorized period for less than a full month, the case manager provider may bill for services for the entire month. The provider cannot bill for services for any month that the client remains in a hospital or an inpatient psychiatric program for an entire calendar month.

(1) Upon discharge to the community, prior authorization is continued for a CMP/MH recipient if the recipient remains in the same risk level and has not exceeded the authorization period. No notice is required but the provider is expected to include this information in the recipient's chart.

(2) In the event a reassessment occurs following a hospitalization, appropriate documentation must be placed in the case file and a request for prior authorization for the new level of case management services must be forwarded to DMH&H, no later than 10 days after discharge. The case manager cannot bill a new assessment month and, until a new risk level category is authorized, must bill for continued services and the post hospital discharge assessment at the previously authorized risk category level.

ii. In the event a CMP/MH recipient's hospitalization extends beyond a prior authorized period, the provider shall request authorization from DMH&H to provide services post-discharge. Claims for an initial evaluation month will not be processed if the recipient continues with the same provider.

3. Each provider shall, within two months following the end of each prior authorization period, complete a reconciliation of services provided and payment received.

i. The reconciliation shall compare the units of service rendered during the authorization "period" and the initial evaluation month with the minimum required units of service during that period. If more units of service were provided than required, no adjustment will be made. If fewer units of service than the minimum were provided, the provider shall calculate the overpayment as follows:

(1) $50.00 shall be used as the hourly rate;

(2) The required units of service shall be determined by multiplying the number of months in the authorization period by the minimum average units of service per month as required under this section. If an initial evaluation month was billed for, seven units of service shall be added to the above calculation which was the required units of service only during the prior authorization period.

(3) The actual units of service provided during the authorization period (including initial evaluation month if applicable) shall be compared with the required units of service calculated above.

(4) The hourly rate shall be multiplied by the excess of required units of service over the actual units of service provided.

ii. In the event it is determined that the provider has received an overpayment, repayment shall be forwarded to the Medicaid Fiscal Agent within 30 days of reconciliation with appropriate documentation.

iii. DMH&H shall provide a form to reconcile and document services and payment which must be retained by the provider.

iv. Reconciliation and repayment, if applicable, must be completed within two months after the end of the prior authorization period.

Example: Mr. Jones is a client in a State psychiatric hospital whose treatment team is preparing a discharge plan. Mr. Jones is judged not to be able to effectively link with the community mental health system upon discharge and therefore the hospital treatment team incorporates a clinical case manager from an approved provider as

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part of the team (the XYZ Community Mental Health Center (CMHC)).

Together, the treatment team, Mr. Jones, and significant others prepare the discharge plan and treatment plan. The time spent by the clinical case manager (or liaison, had liaison staff been appropriate) while Mr. Jones is hospitalized is not billable to the Medicaid program.

On January 1, 19xx, discharge is planned for January 25. The clinical case manager initiates a request for prior authorization to the DMH&H to begin February 1. Mr. Jones is discharged on January 25. The XYZ CMHC continues to provide clinical case management services and receives the prior authorization from DMH&H on February 15, which is effective February 1, through July 31. Mr. Jones has been authorized at the high risk level.

The XYZ CMHC provides the following units of service and bills the following codes:

Period	Units	Code	Reimbursement*
1/25-1/31	5	Z5004**	$350.00
2/01-2/28	8	Z5000	$350.00
3/01-3/31	7	Z5000	$350.00
4/01-4/30	6	Z5000	$350.00
5/01-5/31	6	Z5000	$350.00
6/01-6/30	5	Z5000	$350.00
7/01-7/31	8	Z5000	$350.00
TOTAL	45		$2,450.00

*This is the reimbursement based upon the HCPCS codes as of the promulgation of this Chapter and is subject to change from time to time.

**Z5004 is initial evaluation month and therefore no prior authorization is required.

By July 1, the XYZ CMHC initiates a new request for prior authorization to be effective August 1. After July 31, the XYZ CMHC will need to reconcile the payment received ($2450.00) with the reimbursement earned based upon the number of units of service provided as follows:

REQUIRED SERVICE

1. Minimum units of service required during initial evaluation month (where applicable)	7
2. Minimum units of service required during each month of prior authorization period based on approved risk level	7
3. Number of months in authorization period	6
4. Minimum units of service required for authorization period (#2 x #3)	42
5. Total required units of service (#1 + #4)	49
6. Actual units of service provided	<45>
7. Excess of units required over <under> units provided	4

The XYZ CMHC provided four fewer units of service than required and therefore must calculate and make repayment as follows:

RATE/UNIT OF SERVICE

8. Monthly reimbursement for authorized risk level	$350.00
9. Divide by minimum required units of service	7
10. Rate/Unit of Service	$50.00

CALCULATION OF OVERPAYMENT

Excess of units required over provided (#7 above)	4
x Rate/Unit of service (#10 above)	x $ 50.00
Overpayment	$200.00

The XYZ CMHC forwards the overpayment to the Fiscal Agent by the end of the second month following the authorized period.

10:73-2.11 Liaison case management services under CMP/MH

(a) Services provided under the liaison case management include, but are not limited to:

1. Assessment and determination of need for services;
2. Development of discharge plans;
3. Assurance that mental health and non-mental health linkages occur; and
4. Monitoring of client linkage to mental health provider.

(b) Liaison case management services shall be billed for not more than two consecutive months and shall not be billed in connjunction with any other CMP/MH service.

(c) Services listed in (a)1 to 4 above are reimbursed on a monthly fee-for-service basis and do not require prior authorization.

(d) Liaison case management services shall be billed for the month of discharge and the month following discharge from an acute care hospital, psychiatric hospital, or inpatient psychiatric program.

(e) Liaison case management shall be billed for each discharge from a hospital if services are provided. The provider cannot bill for services for any month that the client remains in a hospital or an inpatient psychiatric program for an entire calendar month.

(f) If the case manager determines during this period of time that the client will need clinical case management services and the liaison case manager is a certified provider of clinical case management, then the case manager is responsible for completing the risk assessment documentation and submitting a prior authorization request to DMH&H as soon as possible but no later than 30 days prior to the end of the liaison services. If the liaison case manager is not a certified clinical case manager, then the liaison case manager must refer the client to the clinical case manager identified to serve the client's geographic area as soon as possible, but no later than 40 days prior to the end of liaison services.

(g) The reconciliation process described at N.J.A.C. 10:73-2.10(b)3 with respect to clinical case management shall be required for liaison case management. The minimum average units of service to be provided are two units per month, post hospital discharge.

10:73-2.12 Recordkeeping for CMP/MH services

(a) Case management providers shall keep individual records as are necessary to fully disclose the kind and extent of services provided to make sure information available as the DMA&HS or DMH&H or its agents may request.

1. The CMP/MH provider shall maintain the following data in support of all payment claims as required by the rules.

i. The name of the client;

ii. The name of the provider agency and staff person and the title of the individual providing service;

iii. The dates of service;

iv. The units of service (aggregated, if needed);

v. The length of face-to-face contact (excluding travel to or from client contact);

vi. The name of individual(s) with whom face-to-face contact was maintained on behalf of client; and

vii. A summary of services provided.

SUBCHAPTER 3. HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:73-3.1 Introduction

(a) The New Jersey Medicaid Program adopted the Health Care Financing Administration's (HCFA) Common Procedure Coding System (HCPCS). The HCPCS codes as listed in this subchapter are relevant to Medicaid case management services and must be used when filing a claim.

1. The responsibilities of the case management services provider when rendering services are listed in N.J.A.C. 10:73-2.

2. "P" is listed under Ind (indicator) which means that prior authorization is required.

3. "ZC" is listed under Mod (modifier) which means that service is rendered for children.

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10:73-3.2 HCPCS Codes for case management services

Ind	HCPCS Code	Mod	Description	Maximum Fee Allowance
P	Z5000		High Risk Intensive Case Management Program/Mental Health (CMP/MH) Adults, Monthly	$350.00
P	Z5000	ZC	High Risk Intensive Case Management Program/Mental Health (CMP/MH) Children, Monthly	$350.00
P	Z5001		At Risk Supportive Case Management Program/Mental Health (CMP/MH) Adults, Monthly	$175.00
P	Z5001	ZC	At Risk Supportive Case Management Program/Mental Health (CMP/MH) Children, Monthly	$175.00
P	Z5002		Low Risk Maintenance Case Management Program/Mental Health (CMP/MH) Adults, Monthly	$100.00
P	Z5002	ZC	Low Risk Maintenance Case Management Program/Mental Health (CMP/MH) Children, Monthly	$100.00
	Z5003		Liaison Case Management Program/Mental Health (CMP/MH) Adults, Monthly	$100.00
	Z5003	ZC	Liaison Case Management Program/Mental Health (CMP/MH) Children, Monthly	$100.00
	Z5004		Initial Evaluation Month, Case Management Program/Mental Health (CMP/MH), Adults	$350.00
	Z5004	ZC	Initial Evaluation Month, Case Management Program/Mental Health (CMP/MH), Children	$350.00

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Discharges of Petroleum and Other Hazardous Substances

Proposed Repeal and New Rules: N.J.A.C. 7:1E

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 58:10-23.11, 58:10-23.11-1, 58:10-46 to 50 and 13:1K, specifically 13:1K-18, 58:10-23.11d6, d14, and f6 and 58:10-47.

DEP Docket Number: 019-91-04.

Proposal Number: PRN 1991-255.

A **public hearing** concerning this proposal will be held on:

June 6, 1991, beginning at 9:00 A.M.
Lewis Herrmann Labor Education Center
Ryders Lane and Clifton Avenue
Cook College Campus, Rutgers University
New Brunswick, New Jersey

Submit written comments, and requests for copies of the proposed new rules, by June 12, 1991 to:

Samuel Wolfe
Administrative Pracice Officer
Office of Legal Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625-0402

The new rule will become operative 30 days after adoption by the Commissioner (see N.J.S.A. 58:10-23.11f2).

The agency proposal follows:

Summary

In July, 1990, the Legislature enacted amendments to the Spill Compensation and Control Act which provided stringent standards for discharge prevention and emergency response requirements for facilities storing or handling hazardous substances. The amendments strengthened the authority of the Department of Environmental Protection (Department) to require improvements in discharge prevention and safety measures, and added other provisions which strengthened the preventive character of the State's spill control program.

To implement these legislative amendments, the Department is proposing to repeal the existing subchapters of N.J.A.C. 7:1E and replace them with a comprehensive revision. The first four subchapters of existing N.J.A.C. 7:1E were originally proposed in 1979. Existing N.J.A.C. 7:1E-5 was originally proposed as N.J.A.C. 7:1-7 in 1986 and was moved to N.J.A.C. 7:1E in 1990. The comprehensive revision is better organized and updated, and incorporates legislative amendments to the Spill Compensation and Control Act (the Act) (N.J.S.A. 58:10-23.11) and provisions from the newly enacted Transportation of Hazardous Liquids Act (N.J.S.A. 58:10-46 to 50). These legislative amendments include those enacted in 1986 as well as those that were signed into law by Governor Florio as P.L. 1990, c.75 through 80, on July 21, 1990 that affect these administrative rules. The legislation expands the list of hazardous substances and subjects more facilities to the standards applicable to equipment used in the storage transfer, processing or use of hazardous substances. The requirements applicable to the preparation and submission of registrations, discharge prevention, containment and countermeasure plans, and discharge cleanup and removal plans have been revised by the new legislation. This proposal is part of the Department's continuing effort to prevent and mitigate discharges of substances harmful to human health and welfare and the environment, and to keep its administrative rules up to date.

The repeal of the existing subchapters as a whole is necessary for several reasons. In the years since these standards were proposed in 1979, changes in technology have occurred. Some of the 1979 standards are no longer appropriate. The existing 1979 rules are confusing and it is difficult for an owner or operator to determine what requirements are being placed on their facility and what items should be in their discharge prevention, containment and countermeasure (DPCC) plans and their discharge cleanup and removal (DCR) plans. The notification requirements in existing subchapter 5 are in conflict with those in existing subchapter 2. Also, amendments to the Act signed into law prior to 1990 had not been incorporated into the administrative rules. All of the changes entailed by these deficiencies are easier to follow and understand with proposed new rules rather than amendments to the existing rules.

The proposed new chapter contains six subchapters and three appendices. Many sections of these subchapters are contained in the existing 1979 rules. However, the proposed new rules reorganize these sections into different subchapters and locations. Subchapter 1 establishes the general provisions for the DPCC program, including the definitions that are used throughout the chapter. Subchapter 2 establishes the rules of the Department applicable to storing, transferring, processing or using hazardous substances and sets the standards for equipment and procedures utilized at major facilities. A registration for transmission pipelines is contained in subchapter 3. The Department's minimum requirements for the preparation and submission of registrations, DPCC plans, and DCR plans are the subject of subchapter 4. Subchapter 5 establishes the procedures for notification and reporting of discharges of hazardous substances, the reporting of malfunctions of leak detection systems, and response to discharges of hazardous substances. Civil administrative penalties for violations of the Act and this chapter are established in subchapter 6, as well as the procedures for requesting an adjudicatory hearing. Appendix A contains the list of hazardous substances, while

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Appendix B contains forms to be used to show financial responsibility. The forms for documenting mapped data are contained in Appendix C. Some of the provisions are discussed in more detail below.

N.J.A.C. 7:1E-1 provides clarity and needed guidance to the regulated community. Existing N.J.A.C. 7:1E-1.1 has been deleted. Thus, existing N.J.A.C. 7:1E-1.2, Scope, with some modification, is now N.J.A.C. 7:1E-1.1. The construction section, proposed N.J.A.C. 7:1E-1.2, is an expansion of existing N.J.A.C. 7:1E-1.5, and the severability section, proposed N.J.A.C. 7:1E-1.3, is a modified version of existing N.J.A.C. 7:1E-1.8. The existing N.J.A.C. 7:1E-1.7, Relationship to Federal and State Law, with some modification, is now N.J.A.C. 7:1E-1.4.

A new section on liability has been proposed at N.J.A.C. 7:1E-1.5. This section is being added to make it clear that the owner or operator of a major facility is responsible for ensuring compliance with the Act and these rules. Approval of a DPCC or DCR plan, or cleanup and removal activities, by the Department does not eliminate or reduce a facility's liability in connection with the discharge, or shift any liability to the Department.

The definitions section at N.J.A.C. 7:1E-1.6 is a combination of existing 1979 definitions from N.J.A.C. 7:1E-1.3 and 4.2 with some modifications. It defines the terms used in this chapter. This includes the terms "aboveground storage tank," "integrity testing," and "storage tank," which are found but not defined in the Act or the existing rule. "CFR," "EPA" and "SPCC plan" have been added since they were used in the existing 1979 rules but not defined. The definitions in the existing 1979 rule for "hazardous substance," "major facility" and "transmission pipeline" have been revised to reflect the Act in its current form.

A number of existing definitions have been modified in the proposed rule, such as "Department," "discharge," "owner or operator," "person," "storage capacity," "petroleum or petroleum products," "Regional Administrator," and "secondary containment or diversion system." The definition of "petroleum or petroleum products" has been revised to alleviate problems with it. The existing definition, if literally interpreted, could include vegetable oils as petroleum products while excluding crude oil. The new definition will better specify what substances fall into this category. A definition of "environmentally sensitive areas" has been included because this term is used in the most recent amemdments to the Act but not defined therein. Additionally, a number of definitions, such as "guarantor," "substantial business relationship," "controlling interest," and "tangible net worth" have been added to clarify the requirements for evidence of financial responsibility which were added to the proposed rules.

A few definitions from the existing 1979 rule are not being proposed for inclusion in the new rule. These are "Division," "hydrocarbon," "person in charge of a facility," "person responsible for causing a discharge," "best practicable technology," "existing facility or existing major facility," "shall or must," and "reportable discharge." The term "Division," "person in charge of a facility" and "existing facility or existing major facility" are no longer used in the rules, and therefore, do not need to be defined. "Person responsible for causing a discharge" has been replaced by the term "person responsible for a discharge." This reflects that it is most important for the discharge to be reported so that prompt cleanup can be initiated; placing blame for the discharge is of secondary importance. "Best practicable technology" has been replaced by the term "state of the art technology." The two terms are synonymous. As all discharges are prohibited, and there can be a cumulative effect from many small discharges, all discharges are reportable. The term "reportable discharge" is not needed.

The proposed rule includes a definition of "leak or leakage" which replaces "spill or spillage." "Leak" covers the release of a hazardous substance into secondary containment. This is not a discharge, and therefore is not prohibited by the Act. The use of the term "leak" is consistent with the Department's underground storage tank rules, N.J.A.C. 7:13B.

Several definitions have been added in this rule as a result of other proposed changes to the existing rule—these include "NJPDES permit," "NPDES permit," "standard operating procedure," "substantial reconstruction," "underground storage tank" and "Act." In addition, the proposed definitions for "agent(s) or officer(s) of the municipality," "transfer capacity," "impermeable," "incompatible materials" and "liquid" have been relocated from their positions in the existing 1979 rules. The definition of "impermeable" has been modified to be more precise and to provide greater protection for groundwater, especially in cases where a leak is not immediately detected. A summary of the changes made in the definitions is given in Table 1 below.

Table 1
Source of DPCC Definitions

(All definitions are found in the existing 1979 rules at N.J.A.C. 7:1E-1.3 unless noted otherwise.)

Terms used in existing 1979 rules but not previously defined

- aboveground storage tank
- CFR
- EPA
- integrity testing
- SPCC plan
- storage tank

Definitions used in existing rules but modified in proposed rule

- agent(s) or officer(s) of the municipality (N.J.A.C. 7:1E-5)
- cleanup and removal activities
- cleanup and removal costs
- Commissioner
- containment or containment activities
- DCR plan
- Department
- discharge
- discharge cleanup organizations
- DPCC plan
- hazardous substances
- impermeable (N.J.A.C. 7:1E-4.2)
- liquid
- major facility
- owner or operator
- person
- petroleum or petroleum products
- Regional Administrator (N.J.A.C. 7:1E-4.2)
- secondary containment or diversion system (N.J.A.C. 7:1E-4.1)
- storage capacity
- transmission pipeline

Definitions unchanged from existing rules

- facility
- incompatible materials (N.J.A.C. 7:1E-4.7)
- natural resources
- sewage
- sewage sludge
- transfer capacity (N.J.A.C. 7:1E-4.2)
- vessel
- waters

Definitions deleted from existing rules

- Act (N.J.A.C. 7:1E-5)
- best practicable technology (N.J.A.C. 7:1E-4.2)
- Division
- existing facility or existing major facility (N.J.A.C. 7:1E-4.2)
- hazardous substance (N.J.A.C. 7:1E-5)
- hazardous discharge (N.J.A.C. 7:1E-5)
- hydrocarbon
- industrial establishment (N.J.A.C. 7:1E-5)
- person in charge of a facility
- person responsible for causing a discharge
- reportable discharge (N.J.A.C. 7:1E-2.1)
- shall or must (N.J.A.C. 7:1E-4.2)
- spill or spillage

New definitions

- Act
- Affiliate
- API
- API 574
- API 653
- ASME
- ASME Section V
- ASME Sectin VIII
- ASME Section 10
- ASTM
- broker
- controlling interest
- diligent inquiry
- enviromentally sensitive area

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guarantor
leak or leakage
NJPDES permit
nonmiscible lighter-than-water
NPDES permit
person responsible for a discharge
potable water supply
process area
quality assurance or QA
quality control or QC
response coordinator
small business
standard operating procedure or SOP
state of the art technology
substantial business relationship
substantial reconstruction
tangible net worth
tertiary watershed
underground storage tank

The definition of "environmentally sensitive areas" has been developed for planning and use in relation to discharges of hazardous substances. The term is used in the Act, but is not defined therein or in existing Department rules. Environmentally sensitive areas may need special protection in the event of a discharge. By identifying and mapping such areas, major facilities will be better able to prioritize their responses to a discharge.

The definition of "transmission pipeline" has been modified so that a throughput capacity of 140 gallons per minute or greater rather than a storage capacity of 400,000 gallons is the determining factor for coverage under these rules. Throughput capacity instead of storage capacity was chosen because the throughput capacity has a more direct bearing on how large a discharge will be if the pipeline leaks or ruptures. Storage capacity does not. A throughput of 140 gallons per minute would result in a leak or discharge of up to 1400 gallons in the five to 10 minutes it would take to discover and stop transmission through the pipeline. This is a reasonable size cutoff to allow for maximum protection without overburdening industry.

The proposed definition of "transmission pipeline" excludes the transportation of a hazardous substance through onshore production or flow lines, refining, or manufacturing facilities, or storage terminals or in-plant piping systems associated with those facilities. This revised definition is not expected to cause a significant change in the number of facilities affected by the proposed rules, as a "transmission pipeline" is not a major facility and is subject only to registration requirements and the Federal requirements of 49 CFR 195.

The change in the definition of "major facility" from a facility with a storage capacity of 400,000 gallons or more of a hazardous substance to a facility with a total combined storage capacity of 20,000 gallons or more of hazardous substances other than petroleum products or 200,000 gallons or more for all kinds of hazardous substances, along with the change in the definiton of "hazardous substance," is expected to cause 650 additional facilities to be covered by these rules. This change is required under the 1986 amendments to the Act. All 21 counties in New Jersey contain facilities which will be covered by the proposed rules.

N.J.A.C. 7:1E-1.7 is a new section which expands the list of substances which are considered hazardous substances for the purposes of these rules. In addition to the substances defined in the existing 1979 rules at N.J.A.C. 7:1E-1.3, the proposed list includes substances designated as hazardous substances in 40 CFR 302.4 and substances designated as environmental hazardous substances in N.J.A.C. 7:1G-2.1, thereby reflecting changes made in the Act. In addition, those substances designated as extremely hazardous substances pursuant to 40 CFR 355, Appendices A and B and those substances designated as toxic chemicals pursuant to 40 CFR 372 have been added to the definition of "hazardous substances." This section also states that the versions of the lists used to prepare the consolidated list in Appendix A delineate hazardous substances for these rules. This is necessary because EPA may make changes to these lists. Any changes made at the Federal level will have to be specifically adopted by the Department. Sewage and sewage sludge are exempt from the definition of hazardous substance.

Another new section has been added at N.J.A.C. 7:1E-1.8, which describes those areas which would be most likely to be adversely affected by the discharge of a hazardous substance. In delineating these "environmentally sensitive areas," several factors were considered. These included importance to the quality of life in New Jersey, scarcity of the resource, importance placed on the area by other legislation both State and Federal, and the ecology of the area. A task force drawn from the diverse programs within the Department used these factors and concluded that those areas included in the proposed definition of "environmentally sensitive areas" are those that should be most protected from discharges in New Jersey. A description of those areas which are considered "environmentally sensitive" for the purposes of these rules follows.

Surface waters include all types of open water, such as rivers, streams, ponds, lakes, bays, canals, estuaries and high quality aquatic communities. High quality aquatic communities include category one waters, FW-1 waters, and trout production and maintenance waters as defined in N.J.A.C. 7:9-4. These must be protected to prevent water birds, animals and fish from being impacted by a discharge. In addition, waters important for recreational activities, such as boating and fishing, are included in this category and must be protected for their cultural and economic value. Freshwater waterways serving as passages to and from spawning areas are important for the survival of numerous varieties of fish and are thus to be protected. Water areas are wintering points for birds, such as the Canada Goose and other waterfowl, and breeding areas for colonial waterbirds and aquatic furbearers, such as otter, muskrat, beaver and mink.

Sources of water supply include feeder streams entering a water supply reservoir, reservoirs and buffer zones, surface water intakes, and water supply wells with their attendant wellhead protection areas. These must be protected to prevent contamination of drinking water supplies and widespread and long lasting contamination of aquifers.

Bay islands are non-oceanfront islands surrounded by tidal waters. Bay island corridors are those portions lying upland of wetlands and beaches including the filled water's edge. They provide valuable wildlife habitat and potential habitat for colonial nesting birds and threatened and endangered species.

Beaches and dunes include both natural and man-made features. Beaches are gently sloping, unvegetated areas of sand or other unconsolidated material that extend landward from the mean high water line to either: (1) the vegetation line, (2) a man-made feature generally parallel to the ocean, inlet, or bay waters, such as a retaining structure, seawall, bulkhead, road or boardwalk, except that sandy areas that extend fully under and landward of an elevated boardwalk are considered to be beach areas, or (3) the seaward or bayward foot of dunes, whichever is closest to the bay, inlet or ocean waters. Dunes are wind or wave deposited or manmade formations of vegetated or drifting wind-blown sand, that lie generally parallel to, and landward of, the beach, and between the upland limit of the beach and the foot of the most inland dune slope. These areas are migratory stopover areas and wintering areas for a great variety of migratory birds and are, therefore, ecologically important. They also support numerous other types of plant and animal life on a year-round basis. In addition, contamination of beaches in tourist areas could cause severe economic repercussions to the tourism industry in New Jersey.

Wetlands and wetland transition zones include coastal wetlands, freshwater wetlands, current or former cranberry bogs, and a buffer of 300 feet from the wetland edge. A coastal wetland is a bank, marsh, swamp, meadow, flat or other low land subject to tidal action in the State of New Jersey along the Delaware Bay and Delaware River, Raritan Bay, Barnegat Bay, Sandy Hook Bay, Shrewsbury River, including Navesink River, Shark River, and the coastal inland waterways extending southerly from Manasquan Inlet to Cape May Harbor, or at any inlet, estuary, or tributary waterway or any thereof, including those areas now or formerly conducted to tidal waters whose surface is at or below an elevation of one foot above local extreme high water, and upon which certain water-dependent types of vegetation may grow or is capable of growing. This vegetation includes salt meadow grass (Spartina patens), spike grass (Distichlis spicata), black grass (Juncus gerardi), saltmarsh grass (Spartina alterniflora), saltworts (Salicornia Europaea and Salicornia bigelovii), Sea Lavender (Limonium carolinianum), saltmarsh bulrushes (Scirpus robustus and Scirpus paludosus var. atlanticus), sand spurrey (Spergularia marina), switch grass (Panicum virgatum), tall cordgrass (Spartina pectinata), hightide bush (Iva frutescens var. oraria), cattails (Typha augustifolia and Typha latifolia), spike rush (Eleocharis rostellata), chairmaker's rush (Scirpus americana), bent grass (Agrostis palustris) and sweet grass (Hierochloe odorata). A freshwater wetland is an area that is saturated or inundatd by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions commonly known as hydrophytic

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vegetation. The various types of wetlands are host to a great variety of plant and animal life. Wetlands are also nesting and wintering areas for a significant number of birds. Therefore, wetlands are both economically and ecologically important resource areas.

Breeding areas for forest area nesting species include large tracts of contiguous forest with populations of one or more of neotropical migrant species. Breeding areas for colonial waterbirds are areas occupied by one or more of 15 species of colonially nesting birds (from one of the last five census counts). Breeding areas for aquatic furbearers include those areas which provide food, water or cover, or sites to rear young, for any of the following species: otter, muskrat, beaver or mink. Breeding areas are of vital importance to the survival of all species of birds and animals in New Jersey.

The migratory stopover areas for migrant shorebirds include all beaches and tidal marsh habitats along the Delaware Bay and Atlantic Coast from Cape May Point north to the Cohansey River and Cape May Point north to Sea Isle City. The migratory stopover areas for migrating raptors and passerines include the lower 10 kilometers of Cape May Peninsula. The contamination of a migratory stopover area during migration could result in death or injury for thousands of birds that do not make their permanent homes in New Jersey. This could seriously damage the population of some species.

Wintering areas include coastal tidal marshes and water areas (sounds, bays, rivers) from Raritan Bay South to Cape May and from Cape May North to Rancocas; waterfowl concentration areas, which include all water areas (streams, ponds, lakes), estates, municipal and county parks, corporate lands, and Fort Dix; and Atlantic white cedar stands. Prime fishing areas are those tidal or water's edge areas with a significant history of local fishing use. Finfish migratory pathways are waterways serving as passages to and from spawning areas.

Estuarine areas supporting various species of seagrasses include shipwrecks, artificial reefs, sites of known vessel remains, or similar structures. These areas of seagrass are important habitat areas for various species of fish. Shellfish harvesting waters are estuarine bay and river bottoms which are potentially productive for hard clams, soft clams, eastern oysters, bay scallops or blue mussels. These areas are of economic importance in New Jersey.

Forest and timber resource areas include prime timber forestland, which is land capable of growing 85 cubic feet of timber per acre, and forestland which is of local or recreational importance. These areas are of economic, cultural and ecological importance. They provide habitat for a wide variety of species, absorb carbon dioxide and other pollutants from the air, and generate oxygen.

Federal and State endangered or threatened plant and animal species and their habitat are identified pursuant to the Federal Endangered Species Act, 16 U.S.C. 1531 et seq., the New Jersey Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A, and the New Jersey Endangered Species List Act, N.J.A.C. 7:5C. These species and their habitat must be protected in the event of a discharge, since contamination could result in the loss of the entire population of a given species in New Jersey.

Federal and State wilderness areas included within the Natural Areas System or the State Register of Natural Areas pursuant to the Natural Areas System Act, and preserved land held by the New Jersey Natural Lands Trust pursuant to the New Jersey Natural Lands Trust Act, are important for recreational activities such as hiking and camping. They are also host to a variety of plant and animal life. Therefore, these areas are of both cultural and ecological importance.

Areas designated as wild, scenic, recreational or developed recreational rivers pursuant to the National Wild and Scenic Rivers Act or the New Jersey Wild and Scenic Rivers Act are culturally and ecologically important. They contain plant, animal and fish life, and are used for recreational activities such as boating, swimming and fishing.

Proposed N.J.A.C. 7:1E-1.9, an expansion of existing N.J.A.C. 7:1E-1.4, establishes that the Department has the right to enter and inspect any facility, vessel, property, building or equipment at any time. This now includes the right to take samples of materials, to take photographs or videotape of the facility, documents and records, and to interview personnel. These rights are necessary for the Department to adequately enforce these rules and the provisions of the Act at affected facilities. The existing provisions of N.J.A.C. 7:1E-1.4 greatly limit the Department's ability to perform inspections to determine compliance.

Proposed N.J.A.C. 7:1E-1.11 is an expansion and modification of existing N.J.A.C. 7:1E-4.6. The prohibition of discharges has been added to this section. N.J.A.C. 7:1E-1.11 delineates what facilities are subject to these rules. It clarifies the procedure for upgrading a major facility to meet the requirements of this chapter, and makes those requirements mandatory rather than suggested. The intent is to allow the owner or operator of a facility a reasonable period of time to upgrade that facility while minimizing the chances of a discharge.

N.J.A.C. 7:1E-2 sets forth the rules of the Department applicable to major facilities that store, transfer, process or use hazardous substances. This subchapter establishes the design standards for equipment and the type and frequencies of maintenance and inspections as well as personnel training and operating procedures requirements.

Proposed N.J.A.C. 7:1E-2.2, a revision of existing N.J.A.C. 7:1E-4.14(a) and 4.16, is applicable to all types of storage. It requires that aboveground storage tanks be provided with an adequate means of secondary containment. This section also establishes that pipes leading to and from aboveground tanks must be equipped with values sufficiently close to the tank that they can prevent the contents of the tank from escaping outside the secondary containment area in the event of a pipe rupture. A revision to the existing 1979 rules requires that the valves be either remotely activated or readily accessible to personnel in the event of a discharge. Recent discharges in New Jersey have emphasized the importance of being able to turn off valves when a pipe ruptures or is leaking. The sooner the source of the discharge can be controlled, the smaller the discharge will be and the quicker it can be cleaned up.

Additionally, this section establishes periodic integrity testing requirements for aboveground tanks and all appurtenant piping. A revision to the existing 1979 rules prescribes the method of determining the frequency of integrity testing and the schedule for the initially required static head product test or integrity test. This will ensure that all aboveground storage tanks have undergone at least one recent integrity test. Because several recent discharges have been caused by tank failures, this is an important protective measure. In no case will the period of time between tests exceed five years, unless the tank is covered by an inspection and maintenance program which is in compliance with the American Petroleum Institute's Standard 653.

The proposed rule revises the underground storage tank requirements to require compliance with the rules implementing the New Jersey Underground Storage of Hazardous Substances Act, N.J.A.C. 7:13B. This section also requires that drum storage areas be provided with impermeable secondary containment.

Proposed N.J.A.C. 7:1E-2.3, a revision of existing N.J.A.C. 7:1E-4.15, requires that tank car or tank truck loading/unloading areas be paved or surfaced with impermeable materials and that they be equipped with secondary containment. It also establishes procedures to be followed when transfers to or from a tank car or tank truck are performed. These procedures are to ensure that no leaks or accidents occur that result in a discharge.

Proposed N.J.A.C. 7:1E-2.4 is an expansion of existing N.J.A.C. 7:1E-4.18. It requires that in-facility piping for hazardous substances be labeled and/or coded to identify the hazardous substance transported by the pipe. Elevated pipes are to be identified by warning signs and positioned in such a way as to minimize the chances of a vehicular collision.

This section establishes that buried pipes must have product sensitive leak detection devices, if such devices represent state of the art technology, and, if any section of the pipe is exposed for any reason, it must be examined for deterioration and repaired if necessary. A revision to the existing 1979 rule requires that all newly installed buried pipes be double walled or have adequate secondary containment as well as a product sensitive leak detection device. Existing buried pipe which requires substantial reconstruction or replacement shall be upgraded to the new standard. Leaks from pipes, especially buried pipes, can be difficult to detect. Requiring these standards be met will reduce the likelihood of a discharge from a pipe.

Proposed N.J.A.C. 7:1E-2.5, a revision of existing N.J.A.C. 7:1E-4.17, establishes that process areas for hazardous substances are required to have a means of secondary containment. A revision to the existing 1979 rule requires that the system be made or lined with impermeable materials. A large quantity of hazardous substances can pass through a process area. If such areas are not adequately protected, discharges can result.

The standards applicable to secondary containment and diversion systems are contained in N.J.A.C. 7:1E-2.6. In order to ensure that secondary containment and diversion systems will be adequate to protect the environment from discharges, these provisions require such systems to be impermeable and to have sufficient volume.

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Proposed N.J.A.C. 7:1E-2.7 expands upon existing N.J.A.C. 7:1E-4.20. It requires that marine transfer facilities must comply with applicable U.S. Coast Guard Regulations, in particular 33 CFR 154 and 156. If oil or other non-miscible lighter-than-water hazardous substances are transferred at the facility, a length of boom sufficient to contain discharges must be maintained at the facility. The existing 1979 rule is revised to require that the boom be deployed prior to the transfer for materials with a flash point of less than 100 degrees Fahrenheit when current and wind conditions permit the effective use of such device and the device can be safely deployed. The length of boom must be capable of enclosing the vessel or vessels engaged in the transfer. The deployment of a boom prior to a transfer occurring removes concerns about response time in the event of a discharge.

Proposed N.J.A.C. 7:1E-2.8 is a new section which requires adequate lighting of marine transfer areas and the use of portable or fixed lighting on vessels engaged in night time transfers. These measures are to aid in the timely detection of discharges during hours of darkness.

Proposed N.J.A.C. 7:1E-2.9 is a recodification and modification of N.J.A.C. 7:1E-4.10 in the existing 1979 rules. The wording has been revised for clarity, and reference to the DPCC plan has been incorporated in subchapter 4.

Existing N.J.A.C. 7:1E-4.8 has been divided into three separate sections in the proposed rules: N.J.A.C. 7:1E-2.10, Leak detection and monitoring, N.J.A.C. 7:1E-2.11, Housekeeping and maintenance, and N.J.A.C. 7:1E-2.15, Recordkeeping. Under the existing 1979 rule, major facilities are required to carry out a regular program of maintenance and inspections for determining the conditions of pipes, transfer hoses, transfer equipment, containment systems, and safety equipment. The inspection program must also be capable of detecting leaks that could be caused by potential equipment failure. The proposed sections expand on the existing rule and prescribe the frequency and type of inspections and the type of records and documentation to be maintained at the facility as well as the length of time records must be retained and available for review by the Department.

In the 1979 rules, N.J.A.C. 7:1E-4.12 outlined the personnel training requirements for major facilities. Proposed N.J.A.C. 7:1E-2.12 and 2.14 expand and clarify these requirements. Under the Proposed rules, owners or operators of major facilities are required to carry out a formalized program for training employees in the handling of hazardous substances, safety training, and standard operating practices required to safely carry out their duties. The programs are required to include formalized classroom training and be written in a form understandable to the employee. The training is to be renewed on a yearly basis, and employee training records are to be maintained at the facility and available for Department review. The proper performance of a job is the first line of prevention of discharges. Human error is often the cause, or a contributing cause, to a discharge.

New subchapter 3 contains the list of information required to be submitted to the Department when transmission pipelines are registered. This information will enable the Department to determine the number and types of transmission pipelines in the State, and their potential as sources of discharges. This subchapter also requires all transmission pipelines to comply with 49 CFR 195. By establishing this requirement, the Department will be able to ensure that some minimum standards are being met, and a reduction in the potential for a discharge should result. Also, information about discharge response must be submitted to the Department to aid in determining if adequate response capability is maintained by transmission pipelines in New Jersey.

N.J.A.C. 7:1E-4 prescribes the rules of the Department for information to be submitted concerning discharge cleanup organizations and major facilities' DPCC and DCR plans.

Proposed N.J.A.C. 7:1E-4.2, a revision of existing N.J.A.C. 7:1E-4.19, establishes the registration procedures to be followed by owners or operators of discharge cleanup organizations required to register with the Department and the content of the registration information that must be submitted. Because discharge cleanup organizations will be required to register, major facilities will not have to repeat information concerning those organizations' cleanup capabilities in their individual plans. The Department will have the information in a central file.

Proposed N.J.A.C. 7:1E-4.3 requires owners or operators of major facilities to prepare DPCC plans and appoint a response coordinator responsible for insuring compliance with the DPCC plan. The following is a brief outline of the information required to be included in a DPCC plan for an existing facility:

(1) A general site plan and drainage plan of the facility along with a topographical map of the surrounding area which delineates environmentally sensitive areas;

(2) Descriptions of all storage areas, tank car and tank truck loading/unloading areas, pipes, secondary containment and diversion systems, flood hazard areas, and lighting used in marine transfer areas;

(3) The schedule or criteria for scheduling integrity testing for storage areas and appurtenant pipes; and

(4) Descriptions of the recordkeeping systems, physical security measures, outlines of the housekeeping and maintenance and personnel training programs, and a catalog list of all standard operating procedures.

The majority of information required above is presently required to be included in DPCC plans under the existing rules. Information not previously required includes topographical maps, the schedules or criteria for scheduling integrity testing for storage areas and appurtenant pipes, and a description of the lighting used in marine transfer areas. In addition, written documentation is now required for training programs, physical security measures at the facility, standard operating procedures, and recordkeeping systems. All of these items will enable the Department to assess how well the facility is complying with the appropriate standards.

Proposed N.J.A.C. 7:1E-4.4, a revision of existing N.J.A.C. 7:1E-4.21, requires owners or operators of major facilities to prepare and implement DCR plans. The plan consists of an action plan used in responding to discharges, a provision for annual emergency response drills, a list of containment and removal equipment and materials to which the facility has access through ownership, contract, or other means, and a list of the trained personnel who are available to operate such equipment. The DCR plan must also include the name and 24-hour telephone number of the facility's response coordinator who must be available at all times. Revisions to the existing 1979 rule require DCR plans to contain a plan identifying priorities for the off-site deployment of personnel and equipment in the event of a discharge as well as an environmentally sensitive areas protection plan certified by a marine biologist and an ornithologist, as required by the 1990 legislation. DCR plans are necessary to ensure that the facility knows how to respond to and mitigate a discharge.

Proposed N.J.A.C. 7:1E-4.5 clarifies the financial responsibility requirements which are contained in existing N.J.A.C. 7:1E-4.3. Owners or operators of major facilities are required to secure financial responsibility in the minimum amount of $1 million per occurrence and $2 million annual aggregate. The Department may allow the owner or operator to provide financial responsibility in a lesser amount, if sufficient to protect the environment and public health, safety and the environment. The allowable mechanisms which may be used to demonstrate financial responsibility are given and criteria established for their use. The Department needs some assurance that discharges will be cleaned up by the responsible party. Requiring some form of financial responsibility in a minimum amount ensures that at least that amount of money will be available to cover cleanup costs in the event of a discharge. The per occurrence and annual aggregate amounts were established based on information concerning market availability of insurance at standard rates, and standards of self-insurance.

A proposed new section, N.J.A.C. 7:1E-4.6, establishes the procedures, including time frames, for the preparation and submittal of DPCC and DCR plans. This new section incorporates part of N.J.A.C. 7:1E-4.4 from the existing 1979 rules. The new provisions in this section pertain to the schedule for submitting plans. The legislation signed into law in 1990 gives the Department three years from adoption of administrative rules to require submission of all DPCC and DCR plans from regulated facilities. In order to make the process as smooth and efficient as possible, the time period has been divided into six months intervals and the major facilities have been divided up by storage capacity. Larger facilities which should have existing DPCC and DCR plans that only need to be amended will be required to submit their plans within the first year and a half. Smaller facilities which have no existing plans and fewer resources will have up to three years to prepare their DPCC and DCR plans.

Proposed new sections N.J.A.C. 7:1E-4.7, 4.8 and 4.9 establish procedures for the review, approval and amendment of DPCC and DCR plans. Most of the provisions in these sections come from existing N.J.A.C. 7:1E-4.22 and 4.24, or directly from the Act. A provision on conditional approvals has been added. The Department can grant conditional approval to a plan for which the mapping of environmentally sensitive areas is incomplete or substandard. The conditional approval will require that the necessary mapping be completed within a specified time period.

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The mapping criteria incorporated in N.J.A.C. 7:1E-4.10 are new. These criteria have been established so that maps submitted to the Department as part of the DPCC and DCR plans will be compatible with the existing Geographic Information System (GIS). The Act specifically requires that topographic features, land use and drainage features and environmentally sensitive areas be delineated within a geographic range of major facilities that could be adversely affected by a discharge or other emergency.

The quality of mapped databases, either cartographic or digital, requires that certain standards be met. This becomes increasingly important as analog mapping evolves to digital databases on GIS. The Department maintains rigorous mapping and conversion standards for data to be input into the GIS. The detailed data specifications for developing these data coverages is detailed in Data Standards for New Jersey's Geographic Information System. This document details mapping standards, data automation, and documentation requirements, and is available from the Department's Division of Science and Research.

For delineations of required features, N.J.A.C. 7:1E-4.10 requires that each owner or operator employ mylar orthophoto basemaps (quarterquads), or other stable material basemaps which meet or exceed United States Geological Survey (USGS) National Map Accuracy Standards (NMAS) at a scale equal to or larger than 1:12,000. NMAS for 1:12,000 scale maps state that 90 percent of well-defined features must be within 1/30th of an inch of true horizontal position.

The basemaps must be based upon photography prepared no earlier than 1986. The Department has contracted with one vendor which prepared 1986 basemaps. The contractor can provide basemaps satisfying these requirements, at a price established under its contract with the Department. However, there is no requirement that owners or operators obtain basemaps from that contractor; basemaps prepared by any contractor are acceptable if they satisfy the requirements set forth in N.J.A.C. 7:1E-4.10. To enable owners or operators to determine which quarterquads they must obtain, the Department will provide them with a map template or list of each quarterquad by tertiary watershed upon request.

All the data derived for the required maps must be delineated on the quarterquads. Data from the unreferenced or unrectified sources, or on nonstable bases, must be evaluated to determine whether it is appropriate for these maps and therefore recompiled to a rectified basemap. New information interpreted from aerial photography or from photo basemaps must be derived in a manner which is compatible with other source data. The Department recognizes that all necessary data may not be readily available and may need to be developed by the facility's owner or operator. A plan can be conditionally approved without complete mapping, but the mapping must be completed within a given time period.

In many cases, cartographic data and digital data may already be available to assist the owner or operator in meeting the mapping tasks. For instance, the Department is in the process of delineating and digitizing freshwater wetlands for the State on the quarterquads. This information may be completed and available for the area of concern for a given facility. The USGS teritiary watersheds and USGS floodprone areas are also available in cartographic and digital form. Many features and classes can be distinguished directly from the photoimage of the mylar quarterquad basemaps. Any data which has been created from a stable base, georeferenced mapped source which is also timely and of appropriate scale can be used in mapping environmentally sensitive areas.

Data derived from rectified stable basemaps at 1:12,000 or larger may be directly transferred to the quarterquads photographically or by other acceptable methods. Data from sources which are not on stable base and/or are not georeferenced but which are deemed suitable in other respects, such as scale or content, must be recompiled to basemaps which do meet the standards established for the required maps. There exist several means by which data can be recompiled to the quarterquads, including redrafting the data by coincident features to a new overlay. In this case, features in common to both the manuscript map and the basemap are used to redelineate the linework or reposition points. In some cases, similar grids can be reproduced to recompile data. Also, the manuscript data can be resized to nominally fit the mylar basemap and transferred to an overlay by locally fitting by grid or common feature. In all cases, the draftsman must exercise good cartographic judgement in re-positioning the linework.

The derivation of land use and environmentally sensitive areas may require the interpretation of aerial photography in stereo to distinguish various classes. Such photography must be of suitable scale and quality to insure a good cartographic quality. Color infrared photographs of New Jersey are available from USGS. Color infrared photo transparencies at a scale larger than 1:58,000 and analyzed in stereo are recommended.

All delineations are to be made on matte finish stable base mylar overlays to stable basemap material such as mylar. This media represents a scale stable material which is suitable for digitization and use in GIS. It also maintains the spatial accuracy of data over long periods of time. Cartographic common sense must be used in sandwiching data layers onto the matte finish overlays. Mapped information should not be so crowded as to obscure the clarity of data of other features.

All maps shall have a minimum of four reference points (tics) for which the geographic coordinates are known spaced widely across the map. The coordinates for each tic shall be listed by the appropriate ticmark and shall be in New Jersey State Plane Feet.

The drainage and land use map shall include the land area within a one mile buffer around the facility boundary. Land use shall be mapped in this geographic range according to a modified classification based on Anderson et al., 1976, "A Land Use and Land Cover Classification System for Use with Remote Sensor Data," Geological Survey Professional Paper 964, U.S. Government Printing Office, Washington, D.C. This modified classification system is available from the Department's Division of Science and Research. In order to adequately describe the surrounding area, land use shall be classified and delineated to level II which includes 29 categories.

In addition, the owner or operator shall locate, delineate and label all major sewers, storm sewers, catchment or containment systems or basins, diversion systems and watercourses into which surface water runoff from the facility may drain.

Each facility shall map environmentally sensitive areas within the tertiary USGS watershed within which the facility resides. If the facility resides in the coastal zone, the geographic range shall be the stream basin which flows directly into the Atlantic Ocean. The tertiary watershed areas define ecological areas with unique hydrological parameters. In New Jersey, tertiary watersheds average 2.5 square miles in size. For the purpose of limiting the geographic range to be mapped, the facility may include only those areas offsite which are downgradient or topographically lower than the highest land point on the facility property. Should the owner or operator determine that areas upland of the downgradient could be adversely affected, these areas should be included in the mapping.

An additional area beyond the tertiary watershed shall be mapped, if the owner or operator determines that the maximum zone of potential impact is greater than the tertiary watershed. Such a zone will generally include water or wetland features which flow into watersheds or waterbodies downstream of the watershed in which the facility is located. In such areas, all environmentally sensitive areas within the USGS floodprone area shall be delineated. Should the zone include tidal areas, delineations of environmentally sensitive areas will include all tidally influenced waters downstream of the facility but up tributaries to the head of tide or limit of tidal influence.

Immediately downstream of a facility may be an open estuary or other waterbody. Should these areas be included in the maximum zone of potential impact, the environmentally sensitive areas within these open water areas and along the shoreline within the USGS floodprone area shall be delineated. Delineations may end at the State of New Jersey political boundary.

The map produced pursuant to this requirement shall be delivered to the State in digital format in addition to hardcopy. This may be accomplished by either scanning or hand digitizing and coding the cartographic information.

It is becoming common practice among qualified consultants who provide mapping services to compile data digitally as a cost efficient means of preparing hardcopy mapped products. In selecting consultant services, the facility owner or operator should be aware that consultants have the capability to provide data in both hardcopy and digital form.

Digital data must be delivered in a format compatible with the Department's GIS. This GIS is ARC/INFO running on a Prime 9955 superminicomputer. In addition, the Department maintains ARC/INFO on a UNIX based SUN Sparc Station. Compatible interchange formats include, but are not limited to, DXF, DLG-3-Optional, ARC/INFO, and UNIX. Formats must be readable in UNIX, DOS or PRIMOS.

Digital data tolerances must be such that the cartographic accuracy meets the following tests: 90 percent of all the features on the proof plot shall be within 0.01 inches of the centerline of the feature on the manuscript map. The remaining 10 percent of the features must be within 0.02 of an inch. Digital cartographic accuracy can be evaluated by proof plotting the digital data on stable base mylar at the same scale as the manuscript and overlaying this data to the original map. Edits are made where necessary. Plotter pen widths shall be 0.01 inches in liquid ink.

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Coding of features should follow Anderson et al., 1976, "A Land Use and Land Cover Classification System for Use with Remote Sensor Data," Geological Survey Professional Paper 964, U.S. Government Printing Office, Washington, D.C. and Cowardin et al. "Classification of Wetlands and Deepwater Habitats of the U.S.," U.S. Fish and Wildlife Service, 1979 (FWS/OBS-79/31). The remaining data shall be coded according to the classes of environmentally sensitive areas as defined for these rules. All attribute coding shall be 100 percent correct.

In addition, all digital data shall be topologically clean and free of errors. This includes the elimination of sliver polygons, overshoots, open polygons, uncoded features, unlabelled polygons, undetected intersections and node errors.

The owner or operator shall deliver digital data on nine track tape or 5¼ or 3½ inch diskette in the format that has been specified. Tapes and diskettes must be clearly labelled and include relevant information where appropriate, such as block size, blocking factor, and BPI for nine track tapes. Block size times blocking factor shall not exceed 30,000. In addition, the State requires two mylar copies and two paper copies.

The owners or operators of facilities which are in close proximity can pool their resources to perform the mapping. However, the maximum zone of impact must be determined for each facility separately, and that facility's maps must cover that zone. Each facility must submit the required maps to the Department.

N.J.A.C. 7:1E-4.11 contains the certifications that are required for the various items that are submitted to the Department. These certifications will ensure that plans, plan amendments and other items are reviewed and approved by the appropriate people prior to being sent to the Department.

N.J.A.C. 7:1E-5, as proposed, establishes the rules of the Department for notification and reporting of discharges of hazardous substances, the reporting of malfunctions of leak detection systems, and the response to discharges of hazardous substances.

Much of the information required in the proposed N.J.A.C. 7:1E-5 is presently required under the existing rules in subchapters 2, 4 and 5. Notifications of aircraft discharges (proposed N.J.A.C. 7:1E-5.4) and of malfunctions in leak detection systems (proposed N.J.A.C. 7:1E-5.5) are new requirements mandated by P.L. 1990, c.78. Both of these notifications are important as early warnings of possible problems. Aircraft fuel discharged from an airplane over New Jersey could result in odor complaints or other violations of environmental standards. Malfunctions of leak detection equipment impair the ability of the equipment to detect and warn of leaks.

The existing provisions of N.J.A.C. 7:1E-5, developed pursuant to the Hazardous Substance Discharge Reports and Notices Act, N.J.S.A. 13:1K-15 et seq., require the owner or operator of an industrial establishment or property to report to the municipality and the local board of health any discharge of a hazardous substance which is required to be reported to the Department pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. The Department proposes to recodify N.J.A.C. 7:1E-5 as part of proposed N.J.A.C. 7:1E-5 in order to include all discharge reporting requirements in one subchapter. The Department is also proposing minor changes to this subchapter to update the telephone number and address to which discharges shall be reported.

New sections on notification include N.J.A.C. 7:1E-5.2 and 5.6. A provision in the Act requiring notification of the Department concerning discharges which occurred prior to the date of the Act has been incorporated in N.J.A.C. 7:1E-5.2. N.J.A.C. 7:1E-5.3 requires immediate notification of a discharge, and provides that "immediate" means within 15 minutes of the time the person knew or reasonably should have known of the discharge. N.J.A.C. 7:1E-5.6 provides for justification of a delay in notification beyond 15 minutes. The Department recognizes that certain circumstances may preclude a person from making a notification within 15 minutes. In that case, a justification can be submitted to the Department.

Proposed N.J.A.C. 7:1E-5.7 has been taken directly from existing N.J.A.C. 7:1E-2.3, with some minor modifications. The requirements for confirmation reports contained in proposed N.J.A.C. 7:1E-5.8 are taken from existing N.J.A.C. 7:1E-5.5. Existing N.J.A.C. 7:1E-5.7 and 5.8 have been modified slightly and recodified as N.J.A.C. 7:1E-5.9 and 5.10.

Proposed N.J.A.C. 7:1E-5.11, a revision of existing N.J.A.C. 7:1E-4.23, requires that the owner or operator of a major facility amend the DPCC or DCR plans after a discharge if the Department finds such an amendment necessary.

With the provisions in proposed subchapter 5, the Department and local authorities will be better able to evaluate the environmental impact of discharges and to remediate the detrimental environmental impact of such discharges.

The Department is proposing new rules, N.J.A.C. 7:1E-6, to implement changes to the Act in regard to penalties, and to clarify the procedures governing assessment of civil administrative penalties and adjudicatory hearings.

The Department may assess a civil administrative penalty of not more than $50,000 for any discharge less than 100,000 gallons, not more than $10,000,000 for any discharge of 100,000 gallons or more, and not more than $50,000 for each violation of the Act or of any rule promulgated, or administrative order, operating requirement, or registration requirement pursuant to the Act.

For violations of N.J.A.C. 7:1E-1.11(a) (prohibition of discharges) penalties are calculated based on the size, cause, time it took to initiate a response, area of impact and effect on the environment of the discharge, and the discharge history of the facility. A base penalty is determined according to the number of gallons discharged. A final penalty is then calculated by applying a number of multiplier factors which may increase or decrease the penalty.

The factor "cause of the discharge" increases the penalty, if the cause was intentional or gross negligence, by 50 percent of the base penalty. If the discharge resulted from operational factors, there is no change to the penalty. Accidental discharges receive a 50 percent reduction in the total penalty, and a homeowner receives a 75 percent reduction in the penalty.

The time it took to initiate response to the discharge is another factor. If response took over two hours (poor), 20 percent of the base penalty is added to the penalty. A response within two hours (fair) results in no change to the penalty. A one hour response time (good) subtracts 20 percent of the base penalty from the penalty, and a 15 minute response subtracts 40 percent.

If the area of impact includes areas outside of the facility's boundary that contain water, a 20 percent increase to the penalty is added. If the area of impact was off of the facility but not into any surface water, the penalty is not changed. If the discharge was contained on the facility, 40 percent of the base penalty is subtracted from the total penalty.

The impact the discharge has on the environment will result in 100 percent of the base penalty being added to the total penalty if it involves a bird or fish kill. A 50 percent increase results from visible damage to flora or fauna, and there is no change to the penalty if no visible damage results from the discharge.

The last multiplier is the discharge history of the facility. If the facility has had five or more discharges in the past 12 months, 100 percent of the base penalty is added to the penalty. If there have been one to five discharges in the last 12 months, a 50 percent increase in the penalty results. If the facility has had no discharges in the previous 12 months, no change is made to the penalty.

For example, if a 54,000 gallon discharge occurred at a facility as a result of operational factors, with an area of impact off the facility into waters of the State, response was within 15 minutes, the facility had two previous discharges, and there was no visible damage to the environment, the total penalty would be calculated as follows: $30,000 (per base penalty table) + 0 - $12,000 + $6,000 + 0 + $15,000 = $39,000 (total penalty).

The multiplier factors have been incorporated into the penalty for discharges to allow the Department to fit the penalty to the situation. Facilities which react quickly to contain and mitigate a discharge, which is what these rules encourage them to do, should not be fined as heavily as facilities which do not react as quickly.

Penalties for violations of N.J.A.C. 7:1E-2, 3, 4 and 5 are determined according to the category of offense, the severity of the offense and whether the violation was a first, second or third offense.

N.J.A.C. 7:1E-6.6 and 6.7 establish specific penalties for submitting inaccurate or false information to the Department and for failure to allow lawful entry and inspection.

This subchapter also governs the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment, an administrative order, or denial or revocation of approval of a plan or amendment to a plan required under the Act.

In the existing 1979 rules, Appendix A consists of an enumeration of those lists which contain those substances considered to be hazardous substances. In addition to the substances defined in the existing rules, the proposed list includes substances designated as hazardous substances in 40 CFR 302.4 and substances designated as environmental hazardous substances in N.J.A.C. 7:1G-2.1 pursuant to the Worker and Community Right to Know Act, thereby reflecting changes made in the Act.

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In addition to those changes to the regulatory definition of hazardous substances required by the 1986 amendments to the Act, the Department is also proposing to add two additional groups of substances to that definition. These two groups are extremely hazardous substances pursuant to Section 302 of the Superfund Amendments and Reauthorization Act (SARA), promulgated at 40 CFR 355, Appendices A and B, and toxic chemicals pursuant to Section 313 of SARA, promulgated at 40 CFR 372. The SARA Section 313 list is also included in the current working draft of the Pollution Prevention Act and the Department contemplates adding the other list, SARA Section 302, to the definition of hazardous substances in its pollution prevention rules. In proposing this amendment the Department is moving toward identifying a more unified list of substances that would be regulated under its various programs. This will help ensure that a particular substance is not dealt with inconsistently.

Proposed Appendix A contains a consolidation of each of the individual lists of substances using the most current information available. The lists used to determine Appendix A are the prohibited and restricted use pesticide lists from the Pesticide Control Regulations at N.J.A.C. 7:30 (November 21, 1988 ed.); the hazardous substance list from 40 CFR 116.4 (July 1, 1989 ed.) adopted pursuant to Section 311 of the Federal Water Pollution Control Act amendments of 1972 as amended by the Clean Water Act of 1977; the toxic pollutant list from 40 CFR 401.15 (July 1, 1989 ed.) adopted pursuant to Section 307 of the Federal Water Pollution Control Act amendments of 1972 as amended by the Clean Water Act of 1977; the hazardous substance list from 40 CFR 302.4 (July 1, 1990 ed.) adopted pursuant to Section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980;" the environmental hazardous substances list from New Jersey Community Right to Know rules at N.J.A.C. 7:1G-2.1 (February 16, 1988 ed.); the extremely hazardous substance list from 40 CFR 355, Appendices A and B (July 1, 1989 ed.); and the toxic chemicals list from 40 CFR 372 (July 1, 1989 ed.). In addition, petroleum and petroleum products which are not specified on the list are considered hazardous substances.

The four new lists proposed for inclusion in Appendix A substantially increase the number of substances considered to be hazardous. The environmental hazardous substance list contains 153 substances or substance groups. The list from 40 CFR 302.4 contains approximately 700 substances with unique CAS numbers, 112 listed RCRA wastes having no CAS number, 35 substance groups (such as thallium and compounds), approximately 775 radionuclides, as well as a category for unlisted hazardous wastes with specific characteristics of toxicity, reactivity, ignitability and corrosivity.

Proposed Appendix A also updates the existing 1979 Appendix A to include the most current information available. The reference to N.J.A.C. 7:30 and the corresponding list of prohibited and restricted use pesticides have been updated to reflect regulatory changes. In addition, the 1989 edition of 40 CFR 116.4 and 401.15 has been used as the most current available listing of hazardous substances and toxic pollutants pursuant to the Clean Water Act.

By printing a consolidated list of hazardous substances, the Department is specifying which substances are covered in these rules. Having all of the lists incorporated into one list in the rules will assist facilities in identifying themselves as members of the regulated community; it will also save them a significant amount of time in obtaining and perusing all the proper lists. Identifying all substances for which the Department must be notified will be simple. Additionally, since the list printed in Appendix A supersedes in the event that any part of the original lists are changed, the regulated community is covered by a constant list rather than by a constantly changing list. All of these factors will aid in improved compliance with the rules.

A new Appendix B consists of financial forms to be completed by the owner or operator of a major facility to demonstrate proof of financial responsibility. This appendix has been added to the rules to aid the Department in determining compliance with the financial responsibility requirements of proposed N.J.A.C. 7:1E-4.5. Forms are given for each of the mechanisms that may be used by the owner or operator to secure financial assurance including self-insurance, guarantee, insurance or risk retention group coverage, surety bond, and letter of credit. The appropriate financial forms must be completed and maintained at the facility at all times and a copy of these forms submitted to the Department in the event of a discharge.

Appendix C contains the forms required to be used in documenting the data used in producing the maps. An explanation of the forms is included. The use of these forms will enable the Department to judge the quality and accuracy of the mapped information.

Table 2 contains a chart summarizing where portions of the existing 1979 rules can be found in the proposed rules.

TABLE 2
Existing N.J.A.C. 7:1E vs Proposed N.J.A.C. 7:1E

1979 Rule Citation		1991 Proposed Citation	
1.1	Authority	Deleted	
1.2	Scope	1.1	Scope
1.3	Definitions	1.6	Definitions
1.4	Access	1.9	Access
1.5	Liberal construction	1.2	Construction
1.6	Waiver	1.10	Waiver
1.7	Relationship to Federal and State law	1.4	Relationship to Federal and State law
1.8	Severability	1.3	Severability
2.1	Notification of discharges	5.3	Notification of discharges
2.2	Confirmation of notification; report	5.8	Confirmation report
2.3	Discharge response	5.7	Discharge response
3.1	Scope	Deleted	
3.2	Information to be filed with Division	4.2	Registration of discharge cleanup organizations
4.1	Scope	2.1	Scope
4.2	Definitions	1.6	Definitions
4.3	Information to be filed with the Division	Deleted	
4.4	Preparation and submission of plans	4.6	Preparation and submission of plans
4.5	Discharge prevention, containment and countermeasure (DPCC) plans	4.3	Discharge prevention, containment and countermeasure plans
4.6	Discharge prevention; policy	1.11	Applicability
4.7	Facility drainage and secondary containment	2.6	Facility drainage and secondary containment
4.8	Housekeeping, maintenance, inspections and records	2.11	Housekeeping and maintenance
		2.10	Leak detection and monitoring
4.9	Detection of discharges to ground water	2.10	Leak detection and monitoring
4.10	Flood hazard areas	2.9	Flood hazard areas
4.11	Security	2.13	Security
4.12	Personnel training	2.12	Employee training
4.13	Containment equipment	2.6	Facility drainage and secondary containment
4.14	Petroleum and hazardous substance bulk storage tanks	2.2	Storage
4.15	Tank car and tank truck loading/unloading areas	2.3	Tank car and tank truck loading/unloading areas
4.16	Drum storage areas for hazardous substances	2.2	Storage
4.17	Process areas for hazardous substances	2.5	Process areas for hazardous substances

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4.18	In-facility pipes for hazardous substances	2.4 In-facility pipes for hazardous substances
4.19	Transmission pipelines	3.3 Transmission pipelines
4.20	Marine transfer facilities	2.7 Marine transfer facilities
4.21	Discharge cleanup and removal plan	4.4 Discharge cleanup and removal plan
4.22	Amendment of plans by owners or operators	4.9 Amendment of plans by owners or operators
4.23	Amendment of plans following discharge	5.11 Amendment of plans following discharge
4.24	Denial or revocation of approval of DPCC or DCR plans or amendments; appeals	4.8 Denial or revocation of approval of DPCC or DCR plans or amendments
5.1	Scope	Deleted
5.2	Construction	Deleted
5.3	Definitions	1.6 Definitions
5.4	General program information	Deleted
5.5	Reporting responsibility of owners or operators of industrial establishments	5.3 Notification of discharges
5.6	Reporting liability	5.8 Confirmation reports
5.7	Reporting responsibility of the Department	5.9 Reporting responsibility of the Department
5.8	Reporting responsibility of local officials	5.10 Discharge reporting requirements of local officials
5.9	Procedures for inclusions or exemption of groups with SIC Codes from the definition of an industrial establishment	Deleted
5.10	Penalty assessment and injuctive relief	Deleted
Appendix A		Appendix A
Non-existent		1.5 State non-liability
Non-existent		1.7 Hazardous substances
Non-existent		2.8 Illumination
Non-existent		2.14 Standard operating procedures
Non-existent		4.1 Scope
Non-existent		4.5 Financial responsibility
Non-existent		4.10 Mapping criteria
Non-existent		4.11 Certifications
Non-existent		5.1 Scope
Non-existent		5.2 Notification of discharges which occurred before the January 23, 1980, amendments to the Act
Non-existent		5.4 Notification of aircraft discharges
Non-existent		5.5 Notification of malfunctions in leak detection systems
Non-existent		5.6 Justification of delay
Non-existent		Appendix B
Non-existent		Appendix C

Social Impact

The effects of discharges of hazardous substances on society are most obvious in the items in the news media. Nearly 44 million gallons of petroleum products pass through the New York Harbor area every day in a network of tankers, barges, refineries and storage terminals, and hundreds of miles of surface and submerged pipeline. In 1990, over one million gallons of oil were discharged into the New York Harbor. In some cases, shipping in the harbor was disrupted. In many cases, environmentally and economically important areas were adversely affected by these discharges. Other discharges around the State, from tank trucks on New Jersey roadways, to large storage tanks, have closed roads and caused other inconveniences.

The Discharge Prevention program as established in the six proposed subchapters of N.J.A.C. 7:1E will have a positive social effect across the State. Implementation of the Discharge Prevention Program is designed to prevent discharges of hazardous substances and reduce the number of emergency incidents associated with such discharges. It will significantly reduce the potential for adverse impacts on the environment and citizens of New Jersey.

New Jersey is the most densely populated state and the second leading producer of chemicals in the country. Many of the State's residential communities border industrial zones and are frequently intermingled with industrial facilities. As New Jersey's economy continues to expand, residential and commercial areas will continue to encroach upon industrial areas which store hazardous substances.

Major facilities which will be subject to these rules are widespread over the State's 21 counties at urban, suburban and rural sites. Approximately 250 major facilities have previously submitted DPCC and DCR plans to the Department. The proposed changes to the definition of major facility are projected to add approximately 650 additional facilities throughout 310 of the State's 567 municipalities.

The positive social effect is expected to be greatest among those whose place of work or residence is located near major facilities and those who utilize bodies of surface water which are close to major facilities. This group is expected to experience fewer discharges and the discharges they do experience are expected to be smaller and more quickly contained and cleaned up. The effects of a catastrophic discharge would be greatest in those counties where sensitive environmental areas are in close proximity to major facilities.

The proposed rules will reduce the probability and consequence of risks from storage and use of hazardous substances. The DPCC plans implemented pursuant to the proposed rules will create an inherently safer environment. The risk reduction may be in the form of better design, properly trained employees, safer equipment or reduction in the use of hazardous substances. The undertaking of risk reduction measures, including improved operating and maintenance procedures and improved training of the facility's operators, are designed to reduce the potential for and the severity of a discharge of a hazardous substance that may impact the surrounding area. The creation and implementation of a DCR plan will enable the facility and the community's local emergency planning committee to respond to and quickly mitigate the effects of a discharge should one occur. The proposed new rules will result in management practices dedicated to the prevention of discharges.

An important social effect of the proposed rules may be to increase the awareness of hazards in the community and improve how they are managed. Traditionally, chemical facilities have been sited based on factors such as: power and fuel supply, water supply, transportation, waste disposal, regulatory laws, taxes, site characteristics, community factors, and flood and fire control. Occasionally, plants sited on the basis of these factors alone have been constructed very near environmentally sensitive and residential areas. These rules may provide an increased awareness of the need for protection of the environment and the citizens of New Jersey from the hazards associated with hazardous substances.

One social effect of the Discharge Prevention program may be to increase the confidence society has in chemical operations. Certain facilities that have had repeated discharges of hazardous substances have affected the quality of life of the citizens in the community and the viability of the environment in different ways. There are the obvious effects on plants and wildlife and a constant fear of a future accident. The proposed rules will also have the effect of lessening the fear of a discharge to the environment.

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Economic Impact

The DPCC program is expected to increase the costs of doing business for major facilities. The increased costs will include preparing DPCC and DCR plans, facility upgrading to meet revised standards the retention of consultants, mapping of environmentally sensitive areas, preparation of environmentally sensitive areas protection plans, and securing financial assurance.

The economic effects of the proposed rules will depend directly on the existing level of discharge prevention measures in effect at a facility. There are three categories of affected facilities: 1) those having existing DPCC and DCR plans in compliance with the existing rules; 2) those which have implemented some discharge prevention measures, but are either not covered by or not in compliance with the existing rules; and 3) those having few, if any, discharge prevention measures in place at the facility.

Facilities with DPCC and DCR plans in compliance with the existing rules will have already met many of the requirements of the proposed rules. The cost to these facilities, therefore, will be limited primarily to upgrading equipment and procedures to meet the standards of the proposed rules and updating current DPCC and DCR plans. The costs involved will depend on the number and quantity of hazardous substances at the facility and the complexity of the operations involved.

One upgrade required at marine transfer facilities will be ensuring there is sufficient containment boom to deploy around vessels during transfers. The length of boom required will vary, dependent upon the following factors: the size of the vessel(s) utilizing the facility; whether the dock is capable of acting as an effective barrier; and whether transfers between vessels occur at the facility. Containment boom averages $25.00 per foot in cost. Affected vessels range from 300 to 550 in length. Therefore, the cost for boom will be $10,500 to $33,000. In addition to the cost of the boom there will be a cost for equipment, such as a boat, to deploy the boom.

Other costs for a facility with an existing plan are for employee training programs, integrity testing, transfer lighting, and recordkeeping. All of these costs are very facility specific. A training program can be run in-house, or contracted to an outside vendor. Costs for training one employee can therefore range from a few hundred to a few thousand dollars. Overall costs depend on how many employees must be trained and to what extent.

The requirement for integrity testing for all storage tanks will incur a cost of $1,000 to $4,000 a tank, not including the cost of taking the tank out of service, if necessary. Therefore, the total cost per facility will depend upon the number of tanks the facility has.

An additional major cost to these facilities will be topographical mapping and the preparation of environmentally sensitive areas protection plans. Neither the mapping nor the environmentally sensitive areas protection plan is required under the existing rules. It is anticipated that the cost of complying with these proposed requirements will be substantial.

The costs of mapping will vary widely. These costs are dependent upon the size of the facility, its proximity to a hydrologic feature, such as an estuary or stream, and the size of the hydrologic feature. The Department has estimated that a large facility will incur mapping costs of $125,000, on average. The average cost for a medium sized facility will be $35,000, and for a small facility will be $15,000. Considering high and low costs Statewide, the Department has determined that fulfilling the mapping requirements will cost industry as a whole $18 to $61 million.

It is expected that facilities that have DPCC and DCR plans in compliance with the existing rules will have obtained financial assurance in accordance with the existing rules. However, proposed changes to the rules establish minimum dollar amounts of financial assurance required to be obtained by owners or operators of major facilities. Whether facilities will incur additional costs as a result of this change will depend on the amount of financial assurance currently held by the facility. Liability insurance ranges in cost from $10,000 to $50,000 on an annual basis, dependent upon the facility being insured.

Many facilities which are not covered by or in compliance with the existing rules may have fulfilled many of the engineering and equipment requirements of the proposed rule through compliance with existing Federal, State and local regulations and ordinances and by following the recommendations of trade organizations such as American Petroleum Institute, National Fire Protection Association, and others. The new rules will require that these existing practices and procedures be formalized as part of the DPCC and DCR plans.

Facilities not covered by or in compliance with the existing rules will incur the same costs as facilities with plans in compliance with the rules in terms of mapping, environmentally sensitive areas protection plans and financial responsibility. The additional economic burden on these facilities will be a function of the number and type of discharge prevention measures already in place at the facility.

The results of a Departmental database survey indicate that approximately 650 major facilities do not have DPCC and DCR plans as defined by the proposed rules. It is estimated that 10 percent of the facilities covered under the proposed rules have only minimal discharge prevention measures in place and, therefore, have the highest potential for a discharge incident. Facilities that do not have working discharge prevention programs will incur the highest cost for developing and implementing DPCC and DCR plans.

Through the development of DPCC and DCR plans, facilities will be reducing their potential for discharges and providing for immediate response to and containment of discharges that do occur. A potential savings to the facility, the public and the environment could result from the reduced number and severity of discharges. Considerable cost savings may include a reduction in materials losses, corrective action costs, and legal claim costs. Insurance premiums may be lower due to increased discharge prevention measures implemented by the facility. Fewer and shorter periods of unexpected equipment breakdowns that result from improved preventative maintenance and operating programs may provide savings in excess of the costs of these programs. All of these potential savings may help to offset the costs of implementing a discharge prevention and response program. Furthermore, the potential savings in cleanup costs alone from preventing just one major discharge would dwarf the actual implementation costs of measures that may have otherwise prevented the discharge.

Environmental Impact

The proposed rules will have a positive environmental effect in New Jersey. The risk of environmental damage will be reduced because existing facilities will be operated, and new facilities designed, under management practices dedicated to reducing the probability, rate and quantity of discharges. Each facility will identify, map and plan how to best protect environmentally sensitive areas which could be affected by discharges from that facility. The prevention of even small discharges will benefit the environment. The potential of injury and death to plants and animals will be significantly reduced.

Plant, animal and marine life will directly benefit from the prevention of discharges of hazardous substances. The hazardous substance list for these rules contains solids, liquids and gases, all of which have the potential to cause harm to the people and the environment of New Jersey. In addition to the effect of a particular hazardous substance, the reaction products of that substance from contact the water, heat or oxygen can also be harmful. With current discharge cleanup technology, it is often not possible to recover all, or even most, of what was released during a discharge. Therefore, prevention of discharges is a primary goal of these rules. In those cases where a discharge does occur, discharge response and cleanup must be effective, particularly where environmentally sensitive areas are involved. If the substance which is discharged is not contained or retrieved, that substance penetrates the State's air, water and land resources and does damage.

The prevention of discharges of hazardous substances will have the benefit of reducing the potential for environmental damage. Plants and animals could be exposed and may be killed by ingestion, inhalation or absorption of the hazardous substance. Most substances which are toxic in humans are also toxic to vegetation, wildlife, and livestock. The concentrations at which the substance is toxic to vegetation and animals is, in some cases, lower than that for humans.

Oil destroys the insulating properties of feathers so that when birds become coated with oil, they lose their ability to regulate body temperature. When they try to clean their feathers, they swallow the oil. This can cause intestinal and liver damage and neurological problems.

Some of the chemicals in oil and other hazardous substances are very toxic, killing animals immediately. They also can do long term damage to animals' organs and inhibit reproductive capability, growth and the ability to survive. When larger animals eat small animals which have been contaminated, they ingest hazardous substances and endanger themselves.

Salt marsh grasses are very susceptible to petroleum and other hazardous substance discharges. These grasses provide habitat for animals and filter toxics from the water. Discharges of various hazardous substances have killed turtles, crabs, snails, worms and shellfish of all varieties, as well as wetland vegetation that serves as food and habitat for many species. Oil persists in wetlands for many years causing continuing prob-

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lems for the inhabitants of those wetlands which rely on them for subsistence.

When oil coats mudflats, tiny organisms are prevented from settling in the mud, thereby disrupting the food chain. Fiddler crabs and other organisms which are source of food for a number of birds are adversely affected. Crustaceans appear to be highly sensitive to petroleum.

A discharged hazardous substance can seep into the soil and may enter surface and ground water directly. Once ground water is contaminated, it is extremely difficult to clean up. In a ground water system, even a few gallons of gasoline can render a potable water well unfit for drinking. Heavy metals, such as mercury and cadmium, are highly toxic to birds and animals. These metals get into the soil and from there into area wildlife causing serious health effects. The remediation of areas damaged by a discharge of a hazardous substance often requires tremendous time and effort.

Hazardous substances which are released can be ingested directly by organisms and enter the food chain. Substances which enter surface and ground water could contaminate drinking water supplies and cause toxic effects through ingestion of the water. Contamination of the water may also result in fish kills, closure of the water body to fishing or shellfish harvest, loss of the recreational uses of the water body, and disruption of the water's flora and fauna. Oil contamination can reduce fish population by cutting off the oxygen supply. Contamination of soil can lead to loss of usefulness for agricultural purposes, or loss of acceptability for commercial uses.

A number of incident throughout the United States and the world demonstrate how serious a major discharge of hazardous substances can be. In March 1989, the Exxon Valdez spilled almost 11 million gallons of North Slope crude oil into the Prince William Sound. This was the largest oil spill in U.S. history. The effect on Alaskan marine and wildlife has been devastating.

There is currently a pool of oil under a refinery in El Segundo, California, that may be as much as 200 million gallons. This is the cumulative result of years of small discharges.

Recently, an estimated 30 million gallons of Kuwaiti crude oil was released into the Persian Gulf. The Persian Gulf is a highly environmentally sensitive area. The release of this substance will cause major, lasting environmental damage and cripple the region's fishing industry and desalination plants. Tiny food organisms are being killed by the oil, affecting the entire food chain. Many birds and other marine life are being killed by being coated with oil, while others are poisoned by toxic chemicals contained in the crude oil. Threatened marine life includes shrimp, sea turtles, sea cows, and dolphins. Cormorants and other birds are dying by the hundreds. These numbers will increase, as the migration season draws near. There is great concern for endangered species found in the gulf, including sea turtles and dugongs. The coral reefs are in grave danger. The spill occurred during the shrimp spawning season and, therefore, may interfere with the life cycle of the shrimp. Gulf fisheries are likely to be affected for decades.

The Arthur Kill shipping channel is the State's most oil polluted waterway. Since January of 1990, there have been six discharges of petroleum products into the Arthur Kill and the Kill Van Kull of more than 10,000 gallons with a total of over one million gallons released.

On January 1, 1990, a rupture of the Exxon pipeline between Linden and Bayonne spilled 567,000 gallons of home heating oil into the Arthur Kill. A Coast Guard investigation showed that one reason for such a large release was that it occurred at night and workers could not see the oil leaking into the kill. Another factor was a supposedly malfunctioning leak detection system that was ignored by employees.

On February 28, 1990, a barge at the Exxon Terminal released 30,000 gallons of No. 6 fuel oil.

On March 6, 1990, an explosion on the barge Cibro Savannah at the Citgo Petroleum terminal in Linden discharging 127,000 gallons of oil.

On June 7, 1990, the British tanker Nautilus ran aground, releasing more than 233,000 gallons of No. 6 fuel oil. This oil coated more than three miles of the Bayonne and Staten Island shorelines, with tar balls drifting as far south as Cape May County.

On July 18, 1990, at Exxon Bayway, a barge collision resulted in the release of more than 37,000 gallons of No. 2 heating oil.

On September 27, 1990, the unlicensed barge Sarah Frank sank near the Bayonne Bridge discharging between 40,000 and 50,000 gallons of No. 6 heating oil. A quantity of this oil coated the Bayonne shoreline.

Thousands of birds are jeopardized in the Arthur Kill on Shooter's Island, Prall's Island and the Island of Meadows. Prall's Island is a sanctuary for migratory birds. Petroleum discharges have resulted in the death of hundreds of fish, birds and other organisms.

However, this is not the only waterway which has been affected by discharges of hazardous substances in the past year. In August of 1990, over 1,000 large fish, such as carp, catfish, suckers and sunfish, were killed when 400 to 500 gallons of sodium hypochlorite were discharged into the Raritan River. In addition, a large number of crayfish and thousands of minnows were killed. Large numbers of wild creatures have been affected by hazardous substance discharges throughout the State.

Regulatory Flexibility Analysis

The proposed new rules would apply to all facilities which have a total combined storage capacity of hazardous substances at or above the quantities established in N.J.A.C. 7:1E-1.6 and in the definition of "major facility" in the Act. It is estimated that of the 900 facilities impacted by the Act, 39 percent are "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and will be affected by these rules.

In order to comply with the proposed rules, the small businesses will have to prepare and present to the Department for review a copy of their facility's DPCC and DCR plans. These plans must meet the requirements for the safe handling, use and storage of hazardous substances in order to prevent the discharge of the hazardous substance into the waters or lands of the State. These plans must also meet the requirements for appropriate response in the event of a discharge of a hazardous substance. In addition, the plans must include a map of environmentally sensitive areas surrounding the facility which could be affected by a discharge from the facility. Small businesses will have to keep records of employee training, simulated drills, integrity testing, inspections, monitoring, maintenance, and repairs. In complying with these rules, it is likely that small businesses will need to hire professional safety and environmental consultants and to implement changes in their facilities' operations or design to prevent or mitigate the consequences of a discharge.

It is expected that the initial capital costs for each small business could range from approximately $10,000 to $100,000. The need for expenditure of these costs arise from risks posed by the hazardous nature of the business of the facility. Accordingly, these costs will be dependent upon the number and type of storage areas at the facility, how many of the required protective measures are already in place, and the geographic extent of the required mapping. Annual compliance costs will range between $1,000 to $10,000, excluding the cost of liability insurance if that is the method by which the owner or operator establishes financial responsibility. The Department estimates the annual cost of liability insurance to be $10,000 to $50,000.

A major component of the capital costs is mapping. In order to reduce the cost and burden of preparing maps, the Department has incorporated a provision allowing small businesses to apply for a reduction in the mapping requirements. The Department believes this will reduce the maximum initial capital costs to approximately $70,000.

The cost of providing financial responsibility is part of the annual compliance cost. N.J.A.C. 7:1E-4.5 provides for a reduction in the amount of financial responsibility in some circumstances; small businesses may be among those owners and operators which can obtain that reduction, thereby reducing their annual compliance costs.

In developing these rules, the Department has balanced the need to protect the environment against the economic impact of the rules and has determined that a reduction in the mapping requirements is the only exception that can be incorporated for small businesses. As the size and effect of a discharge are not dependent on the size of the business responsible for it, any other reduction in the standards would endanger the environment, public health, and public safety, and, therefore, no additional exemption from coverage is provided.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:1E.

Full text of the proposed new rules follows:

CHAPTER 1E
DISCHARGES OF PETROLEUM AND OTHER HAZARDOUS SUBSTANCES

SUBCHAPTER 1. GENERAL PROVISIONS

7:1E-1.1 Scope

(a) This chapter covers the discharge of hazardous substances as defined in this chapter, excepting those pursuant to and in com-

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pliance with the conditions of a valid and effective Federal or State permit. These rules set forth guidelines and procedures to be followed by all persons in the event of a discharge of a hazardous substance. They also set forth certain registration, reporting, design and maintenance requirements for owners and operators of major facilities and transmission pipelines which handle hazardous substances.

(b) This subchapter prescribes the provisions that are generally applicable. The following shall govern how certain terms are defined for use in this chapter, which persons are subject to this chapter, and the Department's rights of access for determining compliance with this chapter and the Act.

7:1E-1.2 Construction

(a) These rules, being necessary to promote the public health and welfare, and to protect the environment, shall be liberally construed so as to permit the Department to discharge its statutory functions under the Act.

(b) The Commissioner may amend or repeal this chapter in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

7:1E-1.3 Severability

If any section, subsection, provision, clause or portion of this chapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

7:1E-1.4 Relationship to Federal and State Law

These rules are not intended to and do not relieve any person of the duty to comply with all other applicable laws, ordinances, rules, regulations or orders of governmental authorities governing activities regulated hereunder, including rules or regulations of the New Jersey Department of Environmental Protection, New Jersey Department of the Treasury, and other appropriate State, Federal and local agencies.

7:1E-1.5 State non-liability

(a) New Jersey State government is not liable for any damages arising from its actions or omissions relating to any plan, registration or map required pursuant to this chapter. No approval by the Department of any plan or of any cleanup and removal activities shall be a defense against liability for the discharge, nor shall it shift liability for the discharge to the Department.

(b) In the event of a discharge, the person responsible for the discharge shall be held liable to the extent determined by the Act.

7:1E-1.6 Definitions

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

"Aboveground storage tank" means any storage tank not defined as an underground storage tank.

"Act" means the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11.

"Affiliate" means, with respect to any person, another person:

1. Who has a controlling interest in such person;
2. In whom such person has a controlling interest; or
3. Who is under common control with such person.

"Agent(s) or officer(s) of the municipality" means a duly authorized representative of the municipality or local board of health, including, but not limited to, a member of the police, fire, or public works department, public health officer, township engineer, zoning officer, director of emergency management, or environmental compliance officer.

"API" means the American Petroleum Institute.

"API 574" means the API's Recommended Practice 574, entitled "Inspection of Piping, Tubing, Valves and Fittings."

"API 653" means the API's Standard 653, entitled "Tank Inspection, Repair, Alteration and Reconstruction."

"ASME" means the American Society of Mechanical Engineers.

"ASME Section V" means ASME Boiler and Pressure Vessel Code Section V, entitled "Nondestructive Examination."

"ASME Section VIII" means ASME Boiler and Pressure Vessel Code Section VIII, entitled "Pressure Vessels."

"ASME Section X" means ASME Boiler and Pressure Vessel Code Section X, entitled "Fiberglass-Reinforced Plastic Pressure Vessels."

"ASTM" means the American Society of Testing and Measurement.

"Broker" means any person who arranges for the transportation, treatment, storage or disposal of hazardous substances on behalf of another person.

"CFR" means the Code of Federal Regulations.

"Cleanup and removal activities" means actions to clean up and remove or attempt to clean up or remove a discharge of a hazardous substance or the source thereof, or to chemically neutralize the discharge, or measures to prevent or mitigate damages to the public health, safety or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources.

"Cleanup and removal costs" means all costs associated with cleanup and removal activities incurred by the State, its political subdivisions or their agents or any person with written approval of the Department.

"Commissioner" means the Commissioner of the Department of Environmental Protection or the person designated to act on his or her behalf pursuant to an administrative order.

"Containment" or "containment activities" means actions to limit or prevent the spread of a leak or discharge.

"Controlling interest" means any of the following:

1. The direct or indirect beneficial ownership, by the person asserted to have a controlling interest and any of such person's affiliates, of at least 50 percent of the voting stock or other equity interest in a person;
2. The holding of any direct or indirect beneficial interest, by the person asserted to have a controlling interest in any of such person's affiliates, in at least 50 percent of the income or profits of a person; or
3. The existence of any other relationship between the person asserted to have a controlling interest and the person controlled, which relationship in fact constitutes control over the affairs of the person controlled.

"DCR plan" means the discharge cleanup and removal plan required under N.J.A.C. 7:1E-4.

"Department" means the New Jersey Department of Environmental Protection.

"Diligent inquiry" means:

1. Conducting a diligent search of all documents which are reasonably likely to contain information related to a possible discharge, which documents are in such person's possession, custody or control, or in the possession, custody or control of any other person from whom the person conducting the search has legal right to obtain such documents; and
2. Making reasonable inquiries of current and former employees and agents whose duties include or included any responsibility for hazardous substances, and any other current and former employees or agents who may have knowledge or documents relevant to a discharge.

"Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or onto the lands of the State or into waters outside the jurisdiction of the State, when damage may result to the lands, waters or natural resources within the jurisdiction of the State. This term does not include "leak."

"Discharge cleanup organization" means an organization or association that engages in or intends to engage in cleanup and removal activities.

"DPCC plan" means the discharge prevention, containment and countermeasure plan required under N.J.A.C. 7:1E-4.

"Environmentally sensitive areas" means, for the purposes of planning for discharge control and mitigation, geographic areas which contain one or more significant natural or ecological resources as set forth in N.J.A.C. 7:1E-1.8.

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"EPA" means the U.S. Environmental Protection Agency.

"Facility" means any place or equipment that is used to refine, produce, store, hold, handle, transfer, process or transport hazardous substances.

"Guarantor" means a person who:

1. Possesses a controlling interest in the owner or operator;

2. Possesses a controlling interest in a person who possesses a controlling interest in the owner or operator;

3. Is controlled by a common parent firm that possesses a controlling interest in the owner or operator; or

4. Is engaged in a substantial business relationship with the owner or operator and issues the guarantee as an act incident to that business relationship.

"Hazardous substances" means petroleum, petroleum products, pesticides, solvents and other substances as set forth in N.J.A.C. 7:1E-1.7.

"Impermeable" means utilizing a layer of natural or man-made material of sufficient thickness, density and composition so as to have a maximum permeability for the hazardous substance being contained of 10^{-7} centimeters per second at the maximum anticipated hydrostatic pressure.

"Incompatible materials" means those substances which, if mixed, will create hazards greater than those posed by the individual substances alone, such as fire, explosion, or generation of toxic fumes.

"Integrity testing" means a method of testing structures where hydrostatic testing using water or other liquid or pneumatic testing is done in combination with a system of nondestructive testing which includes shell thickness testing. The nondestructive testing procedures shall be adequate to detect cracks, leaks, and corrosion, erosion or other wall thinning to less than a predetermined minimum thickness to ensure sufficient structural strength. Nondestructive integrity tests techniques include magnetic particle tests, acoustic emission tests, electromagnetic particle or eddy current tests, radiography and radiation tests, liquid penetrant tests, or ultrasonic tests.

"Leak" or "leakage" means any escape of a hazardous substance from the ordinary containers employed in the normal course of storage, transfer, processing or use, into a secondary containment or diversion system.

"Liquid" means having a viscosity between 0.2 centipoise and 3000 centipoise inclusive at one atmosphere (760.0 millimeters of mercury) pressure and temperatures between -20 and 120 degrees Fahrenheit (-29 and 49 degrees centigrade).

"Major facility" means any facility having total combined storage capacity of:

1. 20,000 gallons or more for hazardous substances other than petroleum or petroleum products;

2. 200,000 gallons or more for hazardous substances of all kinds; or

3. An appropriate equivalent measure as set by the Director of the Division of Taxation in the Department of the Treasury for hazardous substances which are not commonly measured by volume.

A vessel shall be considered a major facility only when hazardous substances are transferred between vessels. A "transmission pipeline" is not a major facility.

"Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust, or otherwise controlled by the State.

"NJPDES permit" means a permit or permit-by-rule issued by the Department pursuant to N.J.A.C. 7:14A.

"Nonmiscible lighter-than-water" means having a density less than water and not mixing with water to an appreciable degree.

"NPDES permit" means a permit or permit-by-rule issued by EPA pursuant to 40 CFR 122.

"Owner or operator" means any person who, with respect to:

1. A vessel, owns, operates or charters by demise such vessel;

2. Any facility, owns such facility, or operates it by lease, contract or other form of agreement; and

3. Abandoned or derelict facilities, owned or operated such facility immediately prior to such abandonment, or the owner at the time of the discharge.

"Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, as well as individuals, and when used to designate the owner of property which may be subject to this chapter, includes this State, the United States, any other state of the United States, and any foreign country or government, and any political subdivisions or agents, lawfully owning or possessing property in this State.

"Person responsible for a discharge" means:

1. Any person whose act or omission results or has resulted in a discharge;

2. Each owner or operator of any facility, vehicle or vessel from which a discharge has occurred;

3. Any person who owns or controls any hazardous substance which is discharged;

4. Any person who has directly or indirectly caused a discharge;

5. Any person who has allowed a discharge to occur; or

6. Any person who brokers, generates or transports the hazardous substance discharged.

"Petroleum" or "petroleum products" means any bituminous liquid that is essentially a complex mixture of hydrocarbons of different types with small amounts of other substances, such as compounds of oxygen, sulfur or nitrogen, or metallic compounds, or any of the useful liquid products obtained from such a liquid by various refining processes, such as fractional distillation, cracking, catalytic reforming, alkylation and polymerization. This term shall include, but not be limited to, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils and purified hydrocarbons. Hydrocarbons listed by specific chemical name pursuant to N.J.A.C. 7:1E-1.7 shall not be considered "petroleum" or "petroleum products" unless such purified hydrocarbons are to be used in the refining or blending of crude petroleum or petroleum stock in this State.

"Potable water supply" means surface water or ground water fit for human consumption.

"Process area" means an area in which an action, operation or treatment embracing chemical, industrial, manufacturing or processing factors, methods, or forms is carried out. These factors, methods or forms include, but are not limited to, batch or continuous chemical reactions, distillation, blending and mixing operations, refining and re-refining processes, and separation processes.

"Quality assurance" or "QA" means a system for integrating the quality of planning, quality assessment, and quality improvement efforts of various groups in an organization. In pollution measurement, quality assurance is concerned with all activities affecting the quality of the measurements, as well as establishment of methods and techniques to assure the quality of the measurements.

"Quality control" or "QC" means the application of standard operating procedures for obtaining prescribed standards of performance in a monitoring and measurement process.

"Regional Administrator" means the Regional Administrator of EPA for the Federal region which includes the State of New Jersey.

"Response coordinator" means the individual at the major facility who is responsible for the management of the DPCC and DCR plans at the facility and who shall possess sufficient corporate authority and technical background to resolve issues relating to the execution of the DPCC and DCR plans based on information provided by manufacturing, engineering, maintenance, safety and environmental representatives.

"Secondary containment or diversion system" means any structures, devices or combinations thereof supplementary to the ordinary containers employed in the normal course of storage, transfer, processing or use, designed and operated to prevent leaks of hazardous substances from becoming discharges.

"Sewage" means domestic sewage, including the contents and effluents of septic tanks, public sewer systems and public sewage treatment plants.

"Sewage sludge" means the dried or semi-liquid residue of a sewage treatment process.

"Small business" means any business which is resident in New Jersey, independently owned and operated, not dominant in its field, and employs fewer than 100 full time employees.

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"SPCC plan" means a Federal Spill Prevention Control and Countermeasure plan developed and approved pursuant to 40 CFR 112.

"Standard operating procedure" or "SOP" means the document setting forth the operating procedures covering all details of any operation involving a hazardous substance which is stored, processed, transferred or used at the facility.

"State of the art technology" means up-to-date technology reflected in equipment or procedures that, when applied at a major facility, will result in a significant reduction in the probability of a discharge. The technology represents an advancement in reduction of leaks or discharges and shall have been demonstrated at a similar facility to be reliable in commercial operation or in a pilot operation on a scale large enough to be translated into commercial operation. The technology shall be in the public domain at reasonable cost commensurate with the reduction in probability of leaks or discharges achieved, or otherwise available at reasonable cost commensurate with the reduction in probability of leaks or discharges achieved.

"Storage capacity" means that capacity which is dedicated to, used for, or intended to be used for storage of hazardous substances of all kinds. This term shall include, but not be limited to, above- and underground storage tanks, drums, reservoirs, containers, bins, and the intended or actual use of open land or unenclosed space. For a storage tank, the total volumetric design capacity of the tank shall be the storage capacity.

"Storage tank" means any tank or reservoir which is a container for hazardous substance(s) and which is primarily used for bulk storage.

"Substantial business relationship" means the extent of a business relationship necessary under applicable State law to insure that a guarantee contract issued incident to that relationship is valid and enforceable.

"Substantial reconstruction" means any restoration, refurbishment, renovation or relocation of existing equipment which incurs costs equal to 50 percent or more of the replacement value of the equipment, or which impairs the physical integrity of the equipment or its monitoring systems.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Tertiary watershed" means drainage basins which are emptied via third-order channels, as delineated by the United States Geological Survey. A small percentage of land drains directly into higher-order streams without passing through a third-order channel. This occurs predominately at the edge of large bays and the ocean.

"Transfer capacity" means the maximum quantity of hazardous substances which can be transferred into or out of a facility in a 24-hour period.

"Transmission pipeline" means new and existing pipe and any equipment, facility, rights-of-way, or building used or intended for use in the transportation of a hazardous substance by a pipeline and having a throughput capacity of 140 gallons per minute (530 liters per minute) or greater. This term does not include the transportation of a hazardous substance through onshore production or flow lines, refining, or manufacturing facilities, or storage terminals or inplant piping systems associated with those facilities. Any pipe which is not a transmission pipeline will be considered an in-facility pipe.

"Underground storage tank" means any tank defined as such in N.J.A.C. 7:14B.

"Vessel" means every description of watercraft or other contrivance that is practicably capable of being used as a means of commercial transportation of hazardous substances upon the waters, whether or not self propelled.

"Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State.

7:1E-1.7 Hazardous substances

(a) All substances listed in Appendix A to this chapter, incorporated herein by reference, and in any of the following shall be considered hazardous substances for the purposes of this chapter:

1. Petroleum and petroleum products;

2. Pesticides designated as prohibited or restricted use, pursuant to N.J.A.C. 7:30 (effective as of August 21, 1988);

3. Substances designated as environmental hazardous substances, pursuant to N.J.A.C. 7:1G-2.1 (effective as of February 16, 1988);

4. Substances designated as hazardous substances in 40 CFR 116.4 (July 1, 1989 ed.);

5. Substances designated as toxic pollutants in 40 CFR 401.15 (July 1, 1989 ed.);

6. Substances designated as hazardous substances in 40 CFR 302.4 (July 1, 1990 ed.);

7. Substances designated as extremely hazardous substances in 40 CFR 355, Appendices A and B (July 1, 1989 ed.); and

8. Substances designated as toxic chemicals in 40 CFR 372 (July 1, 1989 ed.).

(b) In the event of a difference between any list included in (a) above and the list contained in Appendix A to this chapter, the list in Appendix A shall supersede.

(c) Sewage and sewage sludge shall not be considered hazardous substances for the purposes of this chapter.

7:1E-1.8 Environmentally sensitive areas

(a) For the purposes of designing and implementing a DPCC and a DCR plan, pursuant to N.J.A.C. 7:1E-4, the following shall be considered environmentally sensitive areas:

1. Surface waters, including without limitation the following: large rivers as defined in N.J.A.C. 7:7E-4.7; medium rivers, streams and creeks as defined in N.J.A.C. 7:7E-4.8; ponds and lakes as defined in N.J.A.C. 7:7E-4.9; canals as defined in N.J.A.C. 7:7E-3.8; trout maintenance waters, trout production waters, FW1 and category one waters as defined at N.J.A.C. 7:9-4.4; estuaries, as defined in 33 U.S.C. § 1330(k); and bays, including without limitation open bays, semi-enclosed bays and back bays, as defined in N.J.A.C. 7:7E-4.4 and 4.5;

2. Sources of water supply, including without limitation the following: water supply systems, as defined at N.J.A.C. 7:19-6.2; public community water systems, public noncommunity water systems, public water systems, and water systems, as defined at N.J.A.C. 7:10-1.3; public water distribution systems, as defined at N.J.A.C. 7:10-13.2; and public water supply systems, as defined at N.J.S.A. 58:11-65;

3. Bay islands, as defined at N.J.A.C. 7:7E-3.21, and barrier island corridors, as defined at N.J.A.C. 7:7E-3.20;

4. Beaches, as defined in N.J.A.C. 7:7E-3.22;

5. Dunes, as defined in N.J.A.C. 7:7E-3.16;

6. Wetlands and wetland transition areas, including without limitation the following: freshwater wetlands and wetland transition areas, as defined at N.J.A.C. 7:7A-1.4; wetlands, as defined in N.J.A.C. 7:7E-3.27; and cranberry bogs, as defined at N.J.A.C. 7:7E-3.29;

7. Breeding areas for forest area nesting species, colonial waterbirds or aquatic furbearers;

8. Migratory stopover areas for migrant shorebirds, raptors or passerines;

9. Wintering areas, including coastal tidal marshes and water areas, waterfowl concentration areas and Atlantic white cedar stands;

10. Prime fishing areas, as defined in N.J.A.C. 7:7E-3.4;

11. Finfish migratory pathways, as defined in N.J.A.C. 7:7E-3.5;

12. Estuarine areas supporting various species of submerged vegetation, as defined in N.J.A.C. 7:7E-3.6;

13. Shellfish harvesting waters as defined in N.J.A.C. 7:7E-3.2 and 7:9-4.4;

14. Forest areas, including prime forestland and unique forestland;

15. Habitat for Federal and State endangered or threatened plant and animal species identified pursuant to the Federal Endangered Species Act of 1973, P.L. 93-205; the New Jersey Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A, and the New Jersey Endangered Species List, N.J.A.C. 7:5C-5.1;

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16. Federal and State wilderness areas, including areas included within the Natural Areas System or the State Register of Natural Areas pursuant to the Natural Areas System Act, N.J.S.A. 13:1B-15.12a et seq. and 15.4 et seq., and N.J.A.C. 7:2-11, and preserved land held by the New Jersey Natural Lands Trust pursuant to the New Jersey Natural Lands Trust Act, N.J.S.A. 13:1B-15.119 et seq.; and

17. Areas designated as wild, scenic, recreational, or developed recreational rivers, pursuant to the National Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq., or the New Jersey Wild and Scenic Rivers Act, N.J.S.A. 13:18-45 et seq. and N.J.A.C. 7:38.

7:1E-1.9 Access

(a) The Department and its representatives shall have the right to enter and inspect any facility, vessel, building or equipment, or any portion thereof, at any time, in order to ascertain compliance or noncompliance with the Act, this chapter, or any order, or consent order or agreement issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any materials at the facility; to sketch, photograph or videotape any portion of the facility, vessel, building or equipment; to copy or photograph any document or records necessary to determine such compliance or noncompliance; and to interview any employees or representatives of the owner or operator or their contractors. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.

(b) Any person who may be subject to liability for a discharge shall provide the Department with access to any real or personal property owned, operated, occupied or controlled by such person, which property the Department reasonably believes may contain information pertinent to the discharge for which such person may be subject to liability. The Department may take samples, photographs, videotape and statements of fact, and photocopy documents, for the purpose of obtaining such information.

(c) Any person who owns, operates, occupies or controls real property which the Department reasonably believes may contain information pertinent to a discharge, or at which monitoring equipment or records required by a plan or permit are kept, shall provide the Department with access to such real property and such monitoring equipment and records, for the purposes of inspection, sampling, copying or photographing.

(d) Owners or operators, and any employees or representatives thereof, shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection.

7:1E-1.10 Waiver

The Department, when it determines that the application of these rules would impair expeditious containment or cleanup and removal of discharges, or endanger life, health, safety or the environment, may waive any provision of these rules.

7:1E-1.11 Applicability

(a) No person shall cause, suffer, allow or permit a discharge of a hazardous substance, unless such discharge is pursuant to and in compliance with a valid and effective Federal or State permit.

(b) Major facilities, as defined in N.J.A.C. 7:1E-1.6, are required to meet the standards of this chapter. The Department shall grant the owner or operator of a major facility a reasonable period of time, in light of all circumstances including economic feasibility, to upgrade to meet the standards of these rules if the major facility proves to the satisfaction of the Department that such a time period is needed. The rate of such upgrading shall be proposed by the owner or operator as part of the DPCC and DCR plans submitted pursuant to N.J.A.C. 7:1E-4.

(c) A non-major facility which adds storage capacity so as to become a major facility shall be considered a major facility.

(d) The Department may require of any major facility which has been granted a period to upgrade, the installation of alternative prevention and/or detection devices such as alarms, so as to minimize the chances of a discharge, and may, in addition, require the owner or operator of such a major facility to demonstrate an enhanced ability to prevent, expeditiously contain and/or clean up and remove a discharge from the portion of the facility to which a time period to upgrade has been granted. If the Department requires the installation of alternative prevention and/or detection devices, the owner or operator shall propose the devices to be used, subject to the Department's approval.

(e) The Department recognizes that the designs of major facilities differ, and, therefore, appropriate methods of discharge prevention are necessarily site-specific. Wherever in these rules a particular method of discharge prevention is mandated, the owner or operator of a major facility may substitute an alternate method if he or she can demonstrate to the satisfaction of the Department that such alternate method will provide protection against discharges at least equivalent to the method it is intended to replace.

SUBCHAPTER 2. PREVENTION AND CONTROL OF DISCHARGES AT MAJOR FACILITIES

7:1E-2.1 Scope

This subchapter prescribes the rules of the Department applicable to major facilities storing, transferring, processing or using hazardous substances. The following shall govern the standards for equipment and procedures utilized at major facilities.

7:1E-2.2 Storage

(a) Aboveground storage tanks shall meet the following standards:

1. Aboveground storage tank installations shall be provided with an adequate means of secondary containment, designed and built pursuant to N.J.A.C. 7:1E-2.6, and 40 CFR 112, including amendments and supplements, where applicable.

2. The base underlying the storage tank shall be made of or surfaced with a material impermeable to passage or chemical attack by the stored substance under the conditions of storage prevailing within the tank. Existing storage tanks shall be exempt from this requirement until such time as they may require substantial reconstruction or replacement, unless the Department orders a storage tank removed from service because of the likelihood of a discharge. Before such a tank is returned to service, it must meet this requirement.

3. Pipes leading to and from aboveground storage tanks which enter the tank below the liquid level shall be equipped with valves that can be remotely activated or are readily accessible in the event of a leak or discharge, and which are sufficiently close to the tank that they can prevent the contents of the tank from escaping outside the secondary containment area in the event of a pipe rupture outside the containment area. Such pipes shall not penetrate or pass through any walls, dikes or berms used as secondary containment, unless the impermeability and integrity of the secondary containment is not impaired.

4. Aboveground storage tanks and all appurtenant piping shall be subject to initial integrity or static head product testing on a schedule which takes into account the age of the tank, proximity to potable water supplies, the leak record of the tank for the preceding five years, and the date of the tank's last integrity test, as delineated in Table 1 below, and according to the schedule in Table 2 below. Thereafter, each aboveground storage tank and its appurtenant piping shall undergo integrity testing at intervals based on the construction material of the tank, substances stored, soil conditions, corrosion allowance remaining, corrosion rate, leak history of the tank, degree of risk and the results of visual inspections, as described in the DPCC plan pursuant to N.J.A.C. 7:1E-4.3(d). In no case shall the period of time between tests exceed five years, unless the tank has an inspection and maintenance program that is in compliance with API 653, incorporated herein by reference. Integrity testing should be performed in compliance with accepted industry standards, which include, but are not limited to, API 574, API 653, ASME Section V, ASME Section VIII, and ASME Section X, incorporated herein by reference.

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Table 1
Testing Schedule Factors

Factor	Points
Age of tank (years)	
> 50	10
26-50	6
10-25	3
< 10	1
Proximity to potable water supplies (feet)	
≤ 500	5
> 500	1
Number of leaks in past five years	
≥ 2	25
1	5
0	1
Years since last integrity test	
≥ 5	15
> 1 but < 5	5
≤ 1	1

Table 2
Initial Testing Schedule

Total points from Table 1	Deadline for testing
> 30	February 1, 1992
21-30	August 1, 1992
11-20	February 1, 1993
≤ 10	August 1, 1993

5. A report on the initial integrity testing or static head product testing required by (a)4 above shall be submitted to the Department within 30 days of the completion of the test. This report shall include identification of the facility and the equipment tested, the age of equipment, the test method(s) used, date of the test(s), name and affiliation of the person performing the test, the summary test results, any repairs performed after the tests, and the expected service life of the equipment. The report shall be certified pursuant to N.J.A.C. 7:1E-4.11, and shall be sent to:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
CN 027
Trenton, New Jersey 08625-0027

(b) Underground storage tanks shall meet the requirements of N.J.A.C. 7:14B.

(c) If a storage tank is served by internal heating coils, such coils, the pipes leading to and from them, and the appurtenances to which they connect, must be designed so that any leakage passing from the tank into the heating coil system will be captured and contained in a secondary containment or wastewater treatment system.

(d) Storage tank installations shall be equipped with fail-safe devices capable of detecting overfills. Every storage tank shall have a high liquid level alarm with an audible or visual signal designed to alert plant personnel of overfills, and:

1. A high liquid level pump cutoff device designed to stop flow at a predetermined level;

2. Direct communication between tank gauger and pumping station; or

3. Fast response systems for determining liquid levels, such as monitored visible gauges or computer links.

(e) Storage tank overfill lines, where they exist, shall be directed into secondary containment, other tanks, or other containment holding areas.

(f) Mobile or portable storage tanks shall be positioned or located so as to be protected by secondary containment pursuant to N.J.A.C. 7:1E-2.6. Such storage tanks shall not be located in areas subject to periodic flooding or washout, unless adequately protected so as to prevent hazardous substances stored therein from being carried off or discharged at times of flooding or washout.

(g) Drum storage areas shall be equipped with adequate secondary containment pursuant to N.J.A.C. 7:1E-2.6.

7:1E-2.3 Tank car or tank truck loading/unloading areas

(a) All tank car or tank truck loading/unloading areas employed in the transfer of hazardous substances shall be paved or surfaced in the area of transfer with impermeable materials, and equipped with an adequate means of secondary containment, designed and built pursuant to N.J.A.C. 7:1E-2.6.

(b) Prior to the filling of any tank car or tank truck, the lowermost drain and all outlets of such vehicle shall be examined in accordance with the applicable SOP to insure they are closed.

(c) During filling and prior to departure of any tank car or tank truck, the lowermost drain and all outlets of such vehicles shall be closely examined for leakage, in accordance with the appropriate SOP, and if necessary, tightened, adjusted, repaired or replaced so as to prevent liquid leakage in transit. All manifolds on tank cars or tank trucks shall be flanged or capped, and valves secured, prior to leaving transfer areas.

(d) A system to prevent tank car or tank truck departure before complete disconnect of transfer lines, such as a physical barrier (that is, wheel chocks) or brake interlock system, shall be utilized in transfer areas.

(e) Tank cars in the process of being loaded or unloaded shall be attended at reasonable intervals during the procedure, and shall be attended during topping off, in accordance with the appropriate SOP. Tank trucks in the process of being loaded or unloaded shall be attended at all times during the procedure, in accordance with the appropriate SOP.

7:1E-2.4 In-facility pipes for hazardous substances

(a) Where practicable, each in-facility pipe at a major facility containing a hazardous substance shall be marked by lettering, color banding or color coding to indicate the substance transferred through it.

(b) New buried piping installations shall be double walled, or have adequate secondary containment pursuant to N.J.A.C. 7:1E-2.6 and a product-sensitive leak detection device, where such devices are state-of-the-art technology.

(c) Existing buried pipes shall be equipped with product-sensitive leak detection devices, where such devices are state-of-the-art technology.

(d) If a section of buried pipe is exposed for any reason, the owner or operator shall ensure that it is carefully examined for deterioration, and if found to be deteriorated, shall be repaired or replaced. Existing pipes which require substantial reconstruction or replacement shall be upgraded to the standards applicable to new buried piping.

(e) Pipes removed from service shall be capped or blank-flanged and marked as to origin, or physically removed.

(f) Pipe supports should be designed so as to minimize abrasion and corrosion and allow for expansion and contraction.

(g) If in-facility pipes are elevated across roadways, gate check-in procedures, warning signs or other means shall be used to minimize the chance of a vehicular collision with the pipes.

7:1E-2.5 Process areas at major facilities for hazardous substances

(a) Drainage from production facilities, including buildings, and other process areas shall be engineered so as to provide a means of secondary containment or diversion for leaked hazardous substances.

(b) Process wastewater and cooling water pipes, plant drains and similar installations which drain into sewers, storm drains, public wastewater treatment plants, watercourses or other routes which drain to the waters of the State shall be engineered so that leaks of hazardous substances will not escape through them to waters of the State. If hazardous substances captured in secondary containment systems will drain into process wastewater lines, provision must be made to ensure compliance with the applicable NPDES or NJPDES permit before the water is discharged.

7:1E-2.6 Facility drainage and secondary containment

(a) All portions or areas of a major facility in which hazardous substances are routinely refined, produced, stored, held, handled,

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processed, or transferred shall be designed so that any leak will be prevented from becoming a discharge.

(b) Impermeable secondary containment or diversion structures to prevent leaked hazardous substances from becoming discharges include:

1. Dikes, berms or retaining walls;
2. Curbing;
3. Gutters, culverts and drainage systems;
4. Diversion ponds, lagoons, retention basins, holding tanks, sumps, slop tanks and other collecting systems;
5. Drip pans; or
6. Other equivalent means approved by the Department.

(c) Secondary containment or diversion systems, structures or equipment shall meet the following standards;

1. The secondary containment or diversion system must block all probable routes by which leaked hazardous substances could reasonably be expected to become discharges;

2. The capacity of the secondary containment or diversion system shall include an additional capacity to accommodate six inches of rainwater, if the secondary containment or diversion structure is located such that rainwater could accumulate in it, and shall be:

i. For storage areas, the volume of the largest tank or drum utilizing the system;

ii. For tank car or tank truck loading/unloading areas, the volume of the largest compartment in any tank car or tank truck utilizing the area;

iii. For buried pipes, the maximum volumetric flow rate multiplied by the maximum amount of time between the detection of a leak and the shutdown of the pipe; or

iv. For process areas, the volume of the largest piece of equipment in the area, or the volumetric flow rate through the area multiplied by the maximum amount of time between the detection of a leak and the shutdown of the system, whichever is greater;

3. All components of the secondary containment or diversion system shall be made of or lined with impermeable materials, which must be maintained in an impermeable condition. Existing systems for existing aboveground storage tanks are exempt from this requirement if the existing system:

i. Can protect ground water for the period of time needed to clean up and remove a leak, up to the entire volume of the largest tank utilizing the system;

ii. Allows the visual detection of leaks; and

iii. Is inspected daily;

4. No process area, transfer area, diked storage area or other storage area, or secondary containment or diversion system appurtenant thereto shall drain into a watercourse, or into a ditch, sewer, pipe or storm drain that leads directly or indirectly into a watercourse or public sewage treatment plant, unless provision is made to:

i. Retain, by valves or other positive means, any accumulated precipitation until its condition can be ascertained; or

ii. Intercept any leaked hazardous substances in a permitted industrial wastewater treatment or pretreatment facility or other facility operated in accordance with a valid and effective NJPDES or NPDES permit;

5. Catchment basins, lagoons, and so forth, shall not be located in a manner that would subject them to flooding;

6. Incompatible materials shall not be stored within the same containment area if there is a substantial likelihood of them mixing in the event of leakage. This restriction does not apply to process areas where the substances are brought into proximity as part of a production process; and

7. Provision shall be made for promptly removing leaked hazardous substances from a secondary containment or diversion system. Secondary containment systems shall not be used as backup storage systems nor for any other purpose that would impair their capacity to contain leaks.

(d) A major facility handling nonmiscible lighter-than-water hazardous substances, which is adjacent to, or sufficiently near a body of surface water such that a leak from the facility would be reasonably expected to become a discharge, shall maintain on site flotation boom and/or filter fences and/or sorbent materials sufficient to contain and prevent the further spread of discharges.

7:1E-2.7 Marine transfer facilities

(a) All rules and regulations of the U.S. Coast Guard which apply to oil transfer facilities, in particular 33 CFR 154 and 156, are herein expressly adopted by reference, and are further made applicable as well to all marine transfer facilities which transfer in the liquid state any hazardous substances other than oil.

(b) If oil or other nonmiscible lighter-than-water hazardous substances are transferred at the facility, there shall be kept available a length of flotation boom or other containment device sufficient to totally enclose a vessel while engaged in the transfer of hazardous substances from a vessel to the facility or from the facility to a vessel.

(c) When transferring hazardous substances between vessels, the containment device shall be capable of encircling both vessels.

(d) A containment device shall be deployed prior to commencing the transfer of any nonmiscible lighter-than-water hazardous substance with a flash point in excess of 100 degrees Fahrenheit (38 degrees centigrade) as measured by the Penske-Martens closed cup flash test (ASTM D-93, incorporated herein by reference), when current and wind conditions permit the effective use of such devices and the device can be safely deployed without endangering any personnel, any vessel, or obstructing any shipping channel. This provision does not apply to the transfer of any hazardous substance to be used as a fuel or a lubricant by the vessel.

(e) When conditions prohibit the immediate deployment of a containment device, such containment device shall be maintained on a standby basis during the transfer for rapid deployment in the event of a discharge.

(f) When transferring or receiving hazardous substances where the vessel is docked parallel to the dock, the containment device is to originate at some point before the bow and terminate at some point behind the stern of the vessel so that the dock itself constitutes one side of the contained area, if the dock is capable of acting as an effective barrier.

(g) In the case of an "open pier" or a "finger dock" where the vessel is docked perpendicular to the dock, the boom is to encircle the entire vessel except for the area of the dock the vessel sits adjacent to, if the dock is capable of acting as an effective barrier.

(h) If a containment device is required by the Department to be in place during a transfer of a hazardous substance, the device shall be deployed not less than 15 feet from the vessel prior to commencemnt of the transfer operation, except in the case where a dock may act as part of the containment.

(i) Transfer operations shall not commence, or if commenced shall be discontinued, if:

1. Weather forecasts predict for the vicinity of the facility that winds will reach gale force, or that heavy rain, sleet, snow or other storm conditions will substantially reduce visibility or otherwise increase the risk of discharges, of if severe weather conditions occur after transfer operations have been commenced;

2. Fire occurs in the vicinity of the transfer operation or a nearby portion of the transfer facility;

3. At any time the transfer system is functioning contrary to the standard operating procedures of the facility;

4. A break occurs in the transfer system;

5. There is an apparent discrepancy between the quantity of hazardous substance transferred and received;

6. The communication system is not operative;

7. Hazardous substances are observed in the water near any transfer component, unless it can be ascertained that the hazardous substances are not being discharged from the vessel or the marine transfer facility involved in the transfer operation; or

8. A discharge occurs during transfer. Transfer shall not be resumed until after the discharge has been reported to the Department, and the Department or Federal on-scene coordinator under the National Contingency Plan pursuant to 40 CFR 1510 is satisfied that adequate steps have been taken to contain the discharge and to prevent further discharges. Under certain circumstances, it may be necessary to continue transfer operations even though a discharge

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has occurred, for example, in order to off-load the contents of a vessel which is leaking.

(j) When a containment device is deployed, prior to its removal, all discharged hazardous substances contained by the device shall be properly cleaned up and removed.

(k) Any containment device deployed shall be retrieved upon completion of the transfer, or at such time as it is no longer needed to prevent the spread of or to divert a discharge.

7:1E-2.8 Illumination

(a) Major facilities which transfer hazardous substances to or from vessels between the hours of sunset and sunrise shall perform all such transfers using fixed lighting that shall adequately illuminate:

1. Each transfer connection point in use at the facility;

2. Each transfer connection point in use on the vessel;

3. Each hazardous substances transfer work area at the facility; and

4. Each hazardous substances transfer work area on the vessel.

(b) Major facilities which transfer hazardous substances to or from vessels between the hours of sunset and sunrise shall perform all such transfers using fixed or portable lighting that shall adequately illuminate surface area of the water surrounding the vessel sufficient to determine that no discharge is occurring.

(c) Adequate lighting shall mean any lighting which complies with U.S. Coast Guard rules or regulations applicable to oil transfers facilities, particularly 33 CFR 154.570.

7:1E-2.9 Flood hazard areas

Hazardous substances stored within the 100-year flood hazard area of any watercourse as delineated by the Department in N.J.A.C. 7:13-7.1 or stored within an area known by the owner or operator of the major facility to be subject to a high probability of flooding shall be adequately protected so as to prevent such hazardous substances from being carried off by or being discharged into flood waters.

7:1E-2.10 Leak detection and monitoring

(a) All equipment and portions of the major facility in service shall be visually inspected in accordance with standard operating procedures pursuant to N.J.A.C. 7:1E-2.14, in order to detect any leaks or dicharges. Visual inspections shall be performed at a minimum according to the following schedule:

1. Prior to each use, all transfer area lighting, and all transfer valves, pumps, flanges and connections, unless they are not readily accessible;

2. Once daily, process areas and all secondary containment systems for aboveground storage tanks which are not impermeable;

3. Once weekly, all other storage areas and secondary containment or diversion systems, and all aboveground pipes;

4. Once quarterly, valves, pumps, flanges, connections and equipment which are not readily accessible, and all security fences and locks; and

5. Once every five years, the interior of tanks, unless the tank has an inspection and maintenance program that is in compliance with API 653, incorporated herein by reference.

(b) Records shall be kept for all visual inspections. These records shall document that inspections were performed, any problems found, and the subsequent correction of such problems.

(c) Unless a leak is likely to be detected by personnel, product gauging, an automatic leak detection system, or other means acceptable to the Department, the owner or operator of a major facility shall implement a ground water monitoring program approved by the Department and satisfying the requirements of N.J.A.C. 7:14A-6.

7:1E-2.11 Housekeeping and maintenance

(a) Hazardous substances shall be kept in containers suitable for their storage or processing at all times except when being transferred between containers. Containers shall be compatible with the substances stored therein and resistant to chemical attack by the substances. Hazardous substances shall be kept protected from the elements and the possibility of leakage.

(b) Tanks, pipes, valves, glands, drums or other equipment leaking hazardous substances shall be promptly repaired, replaced or taken out of use following detection of a leak, unless provision is made to capture and contain leaking hazardous substances in a drip pan or other appropriate containment device. If such provision is made, the leaking item shall be repaired, replaced or taken out of use within 15 days after the leak is detected unless the shutdown of a process unit is necessary. A leak shall be repaired at the earliest period in which either the process is not in operation or the particular unit is out of service, whichever occurs first.

(c) Cleanup of all leaks or discharges of hazardous substances shall begin promptly upon detection. Loose quantities of hazardous substances shall not be allowed to persist on grounds, floors, walls or equipment, or any other places within the facility.

(d) The facility shall keep on hand, in convenient locations, adequate quantities of sorbent materials, chemical neutralizing agents or other materials as needed, sufficient to contain and clean up such small leaks or discharges as may be expected to occur in the ordinary operations of the facility.

(e) The facility shall maintain an adequate supply of protective safety equipment, such as chemically resistant coveralls, boots, or gas masks, in convenient locations for use by any personnel who are required to clean up leaked or discharged hazardous substances. Where protective safety equipment is required by any regulation of the Federal Occupational Safety and Health Administration, compliance with such regulation shall be deemed to fulfill this requirement.

(f) Secondary containment or diversion systems shall be maintained in good repair, free of cracks through which hazardous substances could be discharged.

(g) Flexible hoselines which are used to transfer hazardous substances shall be visually inspected prior to each use. Visibly damaged, deteriorated or discarded hoses shall be immediately taken out of service and removed from the work area.

7:1E-2.12 Employee training

(a) Owners or operators of major facilities shall implement an appropriate program for training their employees involved in the handling of hazardous substances and shall maintain a written description of the program.

(b) The training program shall include, at the minimum, the following;

1. A written job description which includes the duties and responsibilities for each position, and the education, experience and training necessary to qualify for the position;

2. Procedures to determine whether an employee has demonstrated the ability to carry out the duties and responsibilities of a specific position; and

3. Specified time periods of in-house training for each position covering orientation, specific hazardous substances training and on-the-job training, trainee evaluation, final qualification, and periodic refresher training. A procedure shall be established for tracking the progress of each employee at regular intervals and shall be included in the written description required by (a) above. In addition, the maximum period of time for each training program shall be established within which the employee must achieve qualified status.

(c) The training which employees will receive shall, at a minimum, include:

1. General orientation and initial training of new employees before assignment to hazardous substance operations, which shall include instruction on the general site rules and practices, safety procedures and equipment, and the DCR plan, including identification of all environmentally sensitive areas delineated in the plan;

2. Classroom training for new or newly assigned employees involved with hazardous substances. This training shall cover the details of standard operating procedures and safety training specific to a hazardous substance, including a detailed review of the hazardous substance material safety data sheets, the safe handling practices for the hazardous substance, the hazards of the operation involving the hazardous substance, and emergency procedures regarding fires, leaks and discharges;

3. On-the-job training for newly assigned employees, including, but not limited to:

i. Equipment familiarization;

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ii. Operating data collection and entry;
iii. Actual equipment startup and shutdown;
iv. Control and adjustment of operating conditions; and
v. The application of standard operating procedures to actual conditions; and
4. Refresher training at least once a year which shall present an overview and updated information on the standard operating procedures, hazardous substances material safety data sheets, safe handling of the hazardous substances, and procedures to be followed in the event of a leak or discharge.
(d) The training program shall specify the qualifications required for the personnel responsible for training employees working with hazardous substances.
(e) Documentation of all training, evaluation and qualifying activities for each employee shall be kept at the facility and shall include identification of all personnel trained, their job titles, subjects covered and training dates.
(f) Owners or operators shall have procedures to insure that all employees utilized by outside contractors have received appropriate training.

7:1E-2.13 Security
(a) Major facilities shall be adequately illuminated so that personnel on the premises can detect intruders, leaks or discharges during hours of darkness.
(b) Major facilities shall have security consisting of:
1. Fencing adequate to prevent unauthorized entry (full fencing on land) of all portions or areas within which hazardous substances are stored, processed, transferred or used, with entrance gates locked and/or guarded when the facility is unattended, and either locked, guarded or under observation by personnel at all other times; or
2. All of the following:
i. Valves which will permit escape of a tank's or other container's contents to the surface securely locked in the closed position when in non-operating or standby status;
ii. Starter controls on all pumps locked in the "off" position when the pumps are in non-operating or standby status unless the controls are located at a site accessible only to authorized personnel, which site is itself attended or locked; and
iii. The manifolds of all pipes securely capped or blank-flanged when not in service or standby service for an extended time.

7:1E-2.14 Standard operating procedures
(a) The standard operating procedures shall be written in English in a manner understandable by employees of the major facility and shall also be written in the language of fluency of employees not fluent in English.
(b) A copy of the standard operating procedures shall be readily available to employees.
(c) A copy of material safety data sheets or fact sheets for each hazardous substance used or stored at the facility shall be readily available to employees.
(d) The standard operating procedures shall include, but not be limited to:
1. Simplified process flow sheets and a process description defining the operation and showing flows, temperatures and pressures;
2. Procedures and conditions for normal operation;
3. A description of abnormal conditions, including the control and mitigating procedures to be followed to return to normal conditions;
4. A description of leak or discharge conditions which could occur, including the control and mitigation procedures to be followed to reduce the impact of the leak or discharge conditions;
5. Pre-startup procedures;
6. Startup procedures including conditions to be maintained during startup;
7. Shutdown procedures including provisions for normal and emergency shutdown and details on the condition of equipment to be maintained after shutdown;
8. A description of the type, location and purpose of containment systems and devices, leak monitoring equipment and alarms;
9. Safety procedures related to each specific operation in the standard operating procedures;
10. Procedures for visual inspection of equipment;
11. Procedures to prepare equipment for maintenance and inspection of maintenance work upon completion and prior to placement of equipment in service; and
12. Log sheets and checklists where appropriate to the operation.
(e) A generic SOP may be written when more than one piece of the same equipment is located at the facility. Such a generic SOP must cover all hazardous substances used by all the equipment and must delineate any special conditions associated with a specific piece of equipment or hazardous substance.
(f) Modifications to the standard operating procedures shall be incorporated into the standard operating procedures prior to their implementation.
(g) A current index of the standard operating procedures with corresponding latest dates of issue shall be maintained and readily available.

7:1E-2.15 Recordkeeping
(a) The owner or operator of a major facility shall maintain records of employee training and drills for discharge prevention, hazardous substances inventories, and confirmation reports on discharges pursuant to N.J.A.C. 7:1E-5.8 for a period of 10 years.
(b) The owner or operator of a major facility shall maintain records of integrity testing, inspection, major maintenance, and major repair of all structures, equipment, and detection or monitoring, prevention or safety devices related to discharge prevention and response for the lifetime of the structure, equipment or device.
(c) All records shall be available for inspection upon the request of the Department or appropriate local agencies.
(d) Records may be kept in an electronic or computerized form if they are adequately backed up.

SUBCHAPTER 3. TRANSMISSION PIPELINES

7:1E-3.1 Scope
This subchapter prescribes the rules of the Department for information to be submitted concerning transmission pipelines. The following rules shall govern the preparation and submission of registrations.

7:1E-3.2 Registration of transmission pipelines
(a) By February 1, 1992, the owner or operator of a transmission pipeline shall submit the following information to the Department, on forms provided by the Department:
1. The business name(s), address and telephone number of the owner or operator of the facility;
2. The name and business address of the owner or operator's registered agent;
3. The storage capacity of any facility;
4. A description of the hazardous substances which are stored, held, handled, transferred or transported by the facility;
5. The transfer capacity and the average daily throughput, on an annual basis, of the transmission pipeline for each hazardous substance;
6. An accurate map or maps, showing the location of each of the owner or operator's pipeline facilities, storage areas, transfer areas, or other structures in or on which hazardous substances are stored or handled, the geographical features of the surrounding area, and the location at which the pipeline facility enters or leaves the State;
7. An inventory of all types of pipe used for the transmission of hazardous substances, including a history of major repairs, maintenance and leaks from all pipes; and
8. Any certifications required, pursuant to N.J.A.C. 7:1E-4.11.
(b) Any change in the information supplied pursuant to (a) above shall be reported to the Department within 60 days.
(c) The information required by (a) or (b) above shall be sent to:
Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
CN 027
Trenton, New Jersey 08625-0027
Attention: Pipeline Registration

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7:1E-3.3 Standards

All transmission pipelines shall conform to 49 CFR 195, "Transportation of Liquids by Pipeline", and any future supplements and amendments thereto.

7:1E-3.4 Discharge cleanup information

(a) By February 1, 1992, the owner or operator of a transmission pipeline shall submit the following information to the Department at the address specified in N.J.A.C. 7:1E-3.2(c):

1. A summary of the action plan used in responding to, and minimizing health and environmental dangers from, fires, explosions or discharges, including the deployment of personnel and equipment, the chain of command for an emergency response action, and notification procedures pursuant to N.J.A.C. 7:1E-5;

2. A list of containment and removal equipment and materials to which the transmission pipeline has access through ownership, contract or other means, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communications devices. If access to equipment is by contract with or membership in a discharge cleanup organization which has filed information with the Department pursuant to N.J.A.C. 7:1E-4.2, it is sufficient to supply the name of the organization in lieu of an equipment list;

3. A list of the trained personnel who are available to operate such equipment and a brief description of their qualifications. If personnel to be used for this purpose are employees of a discharge cleanup organization which has filed information with the Department pursuant to N.J.A.C. 7:1E-4.2, it is sufficient to supply the name of the organization in lieu of a personnel list. In lieu of supplying a list of names, the owner or operator may supply a list of job titles of employees who will be assigned to operate containment and removal equipment, and a statement of the minimum qualifications that will be required of each employee so assigned;

4. The name, title and 24-hour business telephone number of facility's response coordinator or other person authorized to hire contractors and release funds for discharge response, containment, cleanup and removal. A response coordinator or alternate shall be available at all times; and

5. Procedures for the recycling or disposal of hazardous substances or contaminated soil, debris, and so forth, gathered during cleanup and removal operations.

SUBCHAPTER 4. REGISTRATIONS AND PLANS

7:1E-4.1 Scope

This subchapter prescribes the rules of the Department for information to be submitted concerning major facilities and discharge cleanup organizations. The following rules shall govern the preparation and submission of registrations, discharge prevention, containment and countermeasure plans, and discharge cleanup and removal plans.

7:1E-4.2 Registration of discharge cleanup organizations

(a) Discharge cleanup and removal organizations, other than owners or operators of major facilities covered by DCR plans who intend to clean up only discharges from their own facilities, shall submit in writing to the Department on or before January 1 of each year the following information:

1. The name of the organization;

2. The form of the organization, such as corporation, cooperative or association;

3. Name(s) of executive officer(s);

4. The mailing address;

5. The address, telephone number, and name of the manager of each office maintained by the organization;

6. The name and address of the registered agent of the organization, if applicable;

7. A list of the containment and removal equipment owned, leased, contracted or otherwise available for immediate response by the organization, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, sorbents, hand tools and communication devices, and the location(s) of such equipment;

8. Names of the trained personnel who are available to operate such equipment and a brief description of their qualifications;

9. Areas of the State where the organization will respond to discharges;

10. Hours during which the organization will be available to respond to discharges. If other than around-the-clock, the organization shall supply the Department with at least two telephone numbers by which the organization can be reached during off-hours in an emergency;

11. A brief record of the organization's response history in New Jersey and other states for the previous two years, indicating the magnitude of discharges and the types of hazardous substances handled; and

12. Any certifications required pursuant to N.J.A.C. 7:1E-4.11.

(b) Two copies of the information required by (a) above shall be sent to the Department at:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
CN 027
Trenton, New Jersey 08625-0027
Attention: Discharge Cleanup Organization Submission

7:1E-4.3 Discharge prevention, containment and countermeasure plans

(a) The owner or operator of a major facility shall prepare a DPCC plan demonstrating compliance with the standards in N.J.A.C. 7:1E-2, and shall appoint a response coordinator for each site who shall be responsible for insuring compliance with the DPCC plan, the Act and this chapter. The response coordinator shall submit all reports required by this chapter to the Department.

(b) The DPCC plan shall contain the following general information:

1. The name, telephone number and location of the facility including street and mailing address, county, municipality, tax lot and block number, and the coordinate centroid in New Jersey State Plane;

2. The name(s), telephone number(s) and business address(es) of the owner or operator of the facility;

3. The name and business address of the owner's or operator's registered agent, if applicable;

4. A general site plan, which accurately reflects the current facility, showing the location of storage tanks, drum storage areas, process buildings, transfer areas, and any other structures in or on which hazardous substances are stored or handled, or which are used for the prevention of discharges, and all facility fencing and gates. It shall be drawn to a scale in the range of one inch equals 30 feet to one inch equals 200 feet, such that it is sufficient to delineate all items to be mapped, and shall be certified by a licensed land surveyor;

5. A drainage and land use map, in the format prescribed in N.J.A.C. 7:1E-4.10, which accurately reflects the current facility and the surrounding area, including the location of all major sewers, storm sewers and all watercourses into which the surface water runoff from the facility drains and the location of all supply or monitoring wells;

6. Topographical maps, in the format prescribed in N.J.A.C. 7:1E-4.10, covering all surrounding area which could be affected by a discharge from the facility, including environmentally sensitive areas; and

7. The anticipated date on which the facility will become operational, if the facility is a new one.

(c) If the facility has experienced two or more discharge events within the previous 12 months, the DPCC plan shall include a description of each such event, corrective action taken, and plans for preventing recurrences.

(d) The DPCC plan shall include, at a minimum, the following technical information:

1. A description of all storage areas, the schedule or criteria for scheduling integrity testing and maintenance or reconstruction, pursuant to N.J.A.C. 7:1E-2.2;

2. A description of any tank car or tank truck loading/unloading area, pursuant to N.J.A.C. 7:1E-2.3;

3. A description of all secondary containment or diversion systems, including their capacity and materials of construction, pursuant to N.J.A.C. 7:1E-2.6;

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4. A description of the fixed and portable lighting in use in marine transfer areas, pursuant to N.J.A.C. 7:1E-2.8;

5. A description of any flood hazard areas, and any measures, implemented to protect hazardous substances from flood waters, pursuant to N.J.A.C. 7:1E-2.9;

6. A description of all leak detection or monitoring procedures, pursuant to N.J.A.C. 7:1E-2.10;

7. An outline of the housekeeping and maintenance program, pursuant to N.J.A.C. 7:1E-2.11;

8. An outline of the personnel training program and procedures for insuring proper training of contractors, including a catalog list of all pertinent documents, pursuant to N.J.A.C. 7:1E-2.12;

9. A description of the physical security measures at the facility, pursuant to N.J.A.C. 7:1E-2.13;

10. A catalog list of all standard operating procedures that have been written pursuant to N.J.A.C. 7:1E-2.14; and

11. A description of the recordkeeping system employed by the facility, pursuant to N.J.A.C. 7:1E-2.15.

(e) The DPCC plan shall include a schedule, to be approved by the Department, for upgrading equipment or portions of the facility to meet the requirements of this chapter.

(f) The owner or operator shall maintain and make available for Department review, at either the facility or the Department's offices at the discretion of the Department, the following updated documentation including a catalog list of all such documents showing title, identification number and date of issue:

1. Facility inventory of hazardous substances;

2. Updated process flow and piping and instrumentation diagrams;

3. Standard operating procedures;

4. Facility emergency response plan;

5. Job classifications and job descriptions; and

6. Housekeeping and maintenance program procedures and records.

7:1E-4.4 Discharge cleanup and removal plan

(a) The owner or operator of a major facility shall prepare and implement a DCR plan containing, at a minimum, the following information:

1. A summary of the action plan used in responding to, and minimizing health and environmental dangers from, fires, explosions, or discharges of hazardous substances, including the deployment of personnel and equipment, the chain of command for an emergency response action and notification procedures, pursuant to N.J.A.C. 7:1E-5. The action plan shall provide for annual emergency response drills to determine the currency and adequacy of, and personnel familiarity with, the emergency response action plan. When possible, this annual drill can be combined with other required emergency response drills;

2. A list of containment and removal equipment and materials to which the facility has access through ownership, contract or other means, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communications devices. If access to equipment is by contract with or membership in a discharge cleanup organization which has filed information with the Department pursuant to N.J.A.C. 7:1E-4.2, it is sufficient to supply the name of the organization in lieu of an equipment list. A copy of all current contracts or agreements between the owner or operator and a discharge cleanup organization for emergency response service shall be maintained at the facility or with the facility's registered agent and shall be available to the Department for review upon request;

3. A list of the trained personnel who are available to operate such equipment and a brief description of their qualifications. If personnel to be used for this purpose are employees of a discharge cleanup organization which has filed information with the Department pursuant to N.J.A.C. 7:1E-4.2, it is sufficient to supply the name of the organization in lieu of a personnel list. In lieu of supplying a list of names, the owner or operator may supply a list of job titles of employees who will be assigned to operate containment and removal equipment, and a statement of the minimum qualifications that will be required of each employee so assigned;

4. The name, title and 24-hour business telephone number of the facility's response coordinator or other person authorized to hire contractors and release funds for discharge response, containment, cleanup and removal. A response coordinator or alternate shall be available at all times;

5. A plan identifying priorities for the off-site deployment of personnel and equipment to protect residential, environmentally sensitive, or other areas from a discharge based on use, seasonal sensitivity, or other relevant factors;

6. An environmentally sensitive areas protection plan, certified pursuant to N.J.A.C. 7:1E-4.11 by a marine biologist and ornithologist acceptable to the Department that shall:

i. Identify all environmentally sensitive areas that could be affected by a discharge from the facility. The mapping required by N.J.A.C. 7:1E-4.3(b)6 may serve as this identification;

ii. Identify the seasonal sensitivity of the areas;

iii. Provide for an environmental assessment of the impact of any discharge on the identified areas; and

iv. Provide for the protection from, and mitigation of, any potentially adverse impact on the identified areas in the event of a discharge;

7. Procedures for the recycling or disposal of hazardous substances or contaminated soil, debris, and so forth, gathered during cleanup and removal operations;

8. A copy of an agreement with the local emergency planning committee or committees that coordinates the emergency responses of the parties to the agreement; and

9. A description of financial responsibility pursuant to N.J.A.C. 7:1E-4.5.

(b) Each major facility shall have available to it, by ownership or by arrangement with a discharge cleanup organization which is registered with the Department pursuant to N.J.A.C. 7:1E-4.2, adequate equipment and personnel to clean up any discharge that occurs at the facility.

7:1E-4.5 Financial responsibility

(a) The owner or operator of a major facility shall demonstrate financial responsibility for taking corrective action resulting from the discharge of a hazardous substance, and for the removal of any abandoned structure owned or operated, as the case may be, by the owner or operator.

(b) The owner or operator of a major facility shall demonstrate financial responsibility in the minimum amount of $1 million per occurrence and $2 million annual aggregate; provided, however, that if the owner or operator establishes to the satisfaction of the Department that a lesser amount will be sufficient to protect the environment and public health, safety and welfare, the Department may accept evidence of financial responsibility in such lesser amount. In determining the sufficiency of the amount of financial responsibility, the Department may consider factors including, without limitation, the nature and quantity of the hazardous substances which may be present at the facility, and the proximity and nature of environmentally sensitive areas located near the facility.

(c) The required per occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

(d) Financial responsibility may be established by any one, or by any combination, of the following mechanisms:

1. Financial test of self-insurance;

2. Guarantee;

3. Insurance or risk retention group coverage;

4. Surety bond; or

5. Letter of credit.

(e) The owner or operator of any major facility which demonstrates financial responsibility pursuant to the requirements of the Federal Oil Pollution Act of 1990, P.L. 101-380, shall be deemed to have demonstrated financial responsibility in accordance with this chapter and the Act.

(f) An owner or operator may use self-insurance in combination with a guarantee only if, for the purposes of meeting the requirements of the financial test under this rule, the financial statements of the

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owner or operator are not consolidated with the financial statements of the guarantor.

(g) To pass the financial test of self-insurance, the owner or operator or guarantor must meet the criteria of (g)1 or 2 below based on the year-end financial statements of the latest completed fiscal year and maintain onsite a letter signed by the chief financial officer worded as specified in Appendix B, incorporated herein by reference. This letter shall be updated within 120 days of the close of each financial reporting year. In addition:

1. The owner or operator or guarantor must have a tangible net worth of at least $10 million, and the owner or operator or guarantor must:

i. Have a tangible net worth of at least 10 times the required aggregate amount in (b) above plus any other liability coverage for which the owner or operator is using the test to demonstrate financial responsibility to the State or EPA;

ii. Either file financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A; and

iii. Have year-end financial statements which do not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification; or

2. The owner or operator or guarantor must have a bond rating of AAA, AA, A or BBB from Standard and Poor's, or Aaa, Aa, A or Baa from Moody's, or net working capital of at least six times the required amount, and the owner or operator, or the guarantor, must have:

i. A tangible net worth of at least six times the applicable aggregate amount in (b) above;

ii. U.S. assets that are at least 90 percent of total assets or at least six times the required aggregate amount; and

iii. Fiscal year-end financial statements filed with U.S. Securities and Exchange Commission, Energy Information Administration, or Rural Electrification Administration, or examined by a certified public accountant accompanied by the accountant's report of the examination.

(h) If an owner or operator or guarantor using the financial test of self-insurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

(i) The Department may require reports of financial condition at any time from the owner or operator, or guarantor. If the Department finds, on the basis of such reports or other information, that the owner or operator, or guarantor, no longer meets the financial test requirements of (g) above, the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.

(j) If the owner or operator fails to obtain alternate coverage within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Department that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Department of such failure within 10 days.

(k) To demonstrate financial responsibility through a guarantee:

1. Within 120 days of the close of each financial reporting year, the guarantor must demonstrate that it meets the financial test criteria set forth in (g) above by completing the letter from the chief financial officer as specified in Appendix B and must deliver the letter to the owner or operator and the Department. If the guarantor fails to meet the requirements of (g) above, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and the Department. If the Department notifies the guarantor that he or she no longer meets the requirements of (g) above, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Department. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification or 120 days after the date the Department receives the notification, whichever is later, as evidenced by the return receipt. The owner or operator must obtain alternate coverage within 30 days; and

2. The guarantee must be worded as specified in Appendix B, and a copy of the guarantee maintained at the facility at all times.

(l) To demonstrate financial responsibility through liability insurance:

1. Such insurance must be obtained from a qualified insurer or risk retention group. It may be in the form of a separate insurance policy or an endorsement to an existing insurance policy;

2. An existing insurance policy must be amended by an endorsement worded as specified in Appendix B and a separate insurance policy must be evidenced by a certificate of insurance worded as specified in Appendix B. A copy of this endorsement or certificate must be maintained at the facility at all times;

3. Cancellation or any other termination of the liability insurance by the insurer or group will be effective only upon written notice and only after the expiration of 60 days after the date on which the insured receives the written notice or 60 days after the date on which the Department receives the written notice, whichever is later; and

4. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(m) To demonstrate financial responsibility through a surety bond:

1. The surety company issuing the bond must be among those listed as acceptable sureties on Federal bonds in the latest Circular 570 of the U.S. Department of the Treasury;

2. The surety bond must be worded as specified in Appendix B, and a copy of the surety bond maintained at the facility at all times;

3. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate sums;

4. The owner or operator who uses a surety bond to meet the requirements of (a) above must establish a standby trust fund when the surety bond is acquired. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or New Jersey agency. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Department;

5. The surety(ies) may cancel the bond by sending written notice of cancellation by certified mail to the principal and the Department, provided, however, that the cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal or the date of receipt of the notice of cancellation by the Department, whichever is later, as evidenced by the return receipt; and

6. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(n) To demonstrate financial responsibility through a letter of credit:

1. The issuing agency must be an entity that has the authority to issue letters of credit in the State and whose letter-of-credit operations are regulated and examined by a State agency;

2. The letter of credit must be worded as specified in Appendix B, and a copy of the letter of credit maintained at the facility at all times;

3. The owner or operator who uses a letter of credit to meet the requirements of (a) above must establish a standby trust fund when the letter of credit is acquired. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or New Jersey agency. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Department;

4. The letter of credit must be irrevocable with a term specified by the issuing institution, and must provide that credit be automati-

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cally renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator and the Department by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator receives the notice or on the date when the Department receives the notice, whichever is later, as evidenced by the return receipt; and

5. Within 60 days of receipt of a notice of cancellation or other termination, the owner or operator shall provide alternative financial assurance as specified in this section.

(o) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code:

1. Naming an owner or operator as debtor, the owner or operator shall notify the Department by certified mail of such commencement; or

2. Naming the provider of financial assurance as debtor, the provider shall notify the owner or operator by certified mail of such commencement, and the owner or operator shall then notify the Department.

(p) An owner or operator will be deemed to be without the required demonstration of financial responsibility in the event of commencement of bankruptcy or other incapacity of his or her provider of financial assurance. Within 30 days after receiving notice of such an event, the owner or operator shall submit to the Department an alternate demonstration of financial responsibility.

(q) Owners or operators of major facilities who are unable to demonstrate evidence of financial responsibility by the date of the submission of a DCR plan may apply to the Department for suspension of enforcement. In order to receive suspension of enforcement, the owner or operator must demonstrate that:

1. Methods of financial responsibility are not practicable to him or her; and

2. A good faith effort has been made to secure financial responsibility in the full aggregate amount.

(r) The Department may establish an alternate minimum amount of financial responsibility in lieu of suspending enforcement.

7:1E-4.6 Preparation and submission of plans

(a) The owner or operator of a major facility shall prepare a DPCC plan and a DCR plan in accordance with N.J.A.C. 7:1E-4.3 and 4.4. The DPCC and DCR plans shall be prepared and submitted as a single document.

(b) The owner or operator of an existing major facility shall submit a DPCC plan and a DCR plan, certified pursuant to N.J.A.C. 7:1E-4.11, to the Department at the address in (g) below. Such plans shall be submitted no later than the following dates:

1. By February 1, 1992, all facilities with a storage capacity for hazardous substances of all kinds of at least 300,000 gallons, but less than one million gallons;

2. By August 1, 1992, all facilities with a storage capacity for hazardous substances of all kinds of at least one million gallons, but less than four million gallons;

3. By February 1, 1993, all facilities with a storage capacity for hazardous substances of all kinds of four million gallons or greater;

4. By August 1, 1993, all facilities with a storage capacity for hazardous substances other than petroleum or petroleum products of at least 80,000 gallons, but less than 200,000 gallons, or for hazardous substance of all kinds of at least 200,000 gallons, but less than 300,000 gallons;

5. By February 1, 1994, all facilities with a storage capacity for hazardous substances other than petroleum or petroleum products of at least 40,000 gallons, but less than 80,000 gallons; and

6. By August 1, 1994, all facilities with a storage capacity for hazardous substances other than petroleum and petroleum products of at least 20,000 gallons, but less than 40,000 gallons.

(c) The owner or operator of a new major facility shall submit a DPCC plan and a DCR plan, certified pursuant to N.J.A.C. 7:1E-4.11, to the Department at least 180 days prior to the anticipated operational date of the facility, and shall implement the approved plans prior to operating the facility.

(d) If plans call for facilities, procedures, methods or equipment not yet fully operational, these items shall be listed separately and a schedule for installation and operational status shall be provided.

(e) Within 60 calendar days of receipt of a DPCC and a DCR plan, the Department shall notify the owner or operator in writing as to whether all information required by (a) above to begin technical review of the plans has been submitted. A list of additional information required will be included if the plans are deemed incomplete.

(f) Unless time is extended by the Department, such additional information as outlined in this subchapter as the Department may require shall be submitted within 30 days of receipt of the Department's request. If additional information requested by the Department is not submitted within the 30-day period, the Department may deny approval of the plan without prejudice to resubmission.

(g) Two copies of a DPCC or DCR plan shall be submitted to the Department for approval. Copies shall be sent to:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
CN 027
Trenton, New Jersey 08625-0027
Attention: Plan Submittal

7:1E-4.7 Approval and conditional approval of plans

(a) The Department shall act to approve or deny approval of a complete submission of a DPCC or DCR plan, pursuant to N.J.A.C. 7:1E-4.6, within 180 days of receipt, or no later than the date on which the new major facility is issued treatment works approvals pursuant to N.J.A.C. 7:14A-12 which are required as conditions precedent to lawful operation of the facility, whichever is longer.

(b) If the Department finds a plan to be incomplete or denies approval of a plan, the owner or operator shall have 30 days within which to submit an acceptable plan, unless the Department extends the time for good cause shown.

(c) The Department may conditionally approve a plan if the maps required pursuant to N.J.A.C. 7:1E-4.3(b)5 or 6 are incomplete or are not in the format prescribed by N.J.A.C. 7:1E-4.10. The Department shall grant such conditional approval if the Department determines that:

1. The plan otherwise satisfies all of the requirements of this subchapter; and

2. The owner or operator is making a good faith effort to provide complete, acceptable maps.

(d) The conditional approval under (c) above shall set forth a date on which the conditional approval will expire unless the owner or operator has provided maps which satisfy the requirements of N.J.A.C. 7:1E-4.10.

(e) Implementation of the DPCC and DCR plans shall begin immediately upon receipt of the Department's approval.

(f) The Department may inspect major facilities prior to approving DPCC or DCR plans and at reasonable intervals thereafter in order to ascertain compliance with the plans.

(g) The major facility shall keep a copy of the approved or conditionally approved plan onsite at all times.

7:1E-4.8 Denial or revocation of approval of DPCC or DCR plans or amendments

(a) The Department shall state in writing its reasons for denying or revoking approval of any DPCC or DCR plans or amendments thereto.

(b) The Department may revoke its approval of a DPCC or DCR plan if the owner or operator fails to comply with an approved schedule for bringing the facility's plan into compliance with the requirements of these rules, or submits to the Department false or willfully misleading information.

(c) The owner or operator of a major facility who is aggrieved by any decision of the Department to deny or revoke approval of a DPCC or DCR plan or amendment thereto has the right to a hearing before the Department, pursuant to the procedure outlined in N.J.A.C. 7:1E-6.

7:1E-4.9 Amendment of plans by owners or operators

(a) Notice of proposed new construction or installation, substantial modification or replacement of any aboveground storage tank,

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other aboveground enclosed storage space, any appurtenant structures, or leak detection or other monitoring, prevention, or safety systems or devices shall be provided to the Department at least 60 days prior to the commencement of construction, installation or modification. This provision does not apply to construction, installation or modification contained in a schedule for upgrading in an approved DPCC plan.

(b) Within 30 days of any change, the owner or operator of a major facility having an approved DPCC or DCR plan shall report to the Department any change in facility design, construction, operation or maintenance which will materially affect the facility's potential for discharges of hazardous substances or the substance of existing plans. The owner or operator shall amend the DPCC or DCR plan to reflect such changes, and shall certify the amendments pursuant to N.J.A.C. 7:1E-4.11, prior to submission to the Department for approval.

(c) The Department shall act on proposed amendments within 60 days.

(d) Amendments to DPCC or DCR plans shall be implemented promptly upon approval by the Department.

(e) Notwithstanding compliance with (a) above, at least once every three years following approval or conditional approval of the DPCC and DCR plans, the owner or operator shall renew the DPCC and DCR plans. The renewal shall consist of revised plans or a certification that the existing plans on file with the Department are current. Renewals shall be accompanied by a summary of leaks and discharges at the facility since the plan approval, conditional approval, or renewal. A revised plan may be required at the time of renewal so as to incorporate into the plan all amendments adopted since the approval, conditional approval, or last renewal. All renewals shall be certified pursuant to N.J.A.C. 7:1E-4.11. Any DPCC or DCR plan which is not renewed within three years of the date of approval, conditional approval, or last renewal, shall be considered expired.

7:1E-4.10 Mapping criteria

(a) Drainage and land use, and topographical maps delineating environmentally sensitive areas, required pursuant to N.J.A.C. 7:1E-4.3(b)5 and 6, shall meet the following standards:

1. All delineations for required features shall employ mylar orthophoto basemaps (quarterquads) or other stable material basemaps which meet or exceed National Map Accuracy Standards established by the United States Geological Survey at a scale equal to or larger than 1:12,000, such as 1:9,600.

2. All delineations shall be made on matte finish stable base mylar overlays to the basemaps.

3. Mapped information shall not be so crowded as to obscure the clarity of data of any features.

4. All maps shall have a minimum of four reference points (tics) widely spaced across the map for which the geographic coordinates are known. The coordinates for each tic shall be listed by the appropriate ticmark and shall be in New Jersey State Plane Feet.

5. Delineations shall be made with a standard 000 drafting/technical pen producing a line width of 0.01 inches. In all cases, the drafted line shall bisect the feature being delineated.

6. Data from sources which are not on stable base and/or are not georeferenced, but which are suitable in other respects, must be recompiled to rectified stable basemaps.

7. Data provided on the maps shall be documented with respect to cartographic information on the forms in Appendix C, incorporated herein by reference.

(b) Drainage and land use maps, required pursuant to N.J.A.C. 7:1E-4.3(b)5, shall:

1. Classify and delineate all land use areas to level II of the Anderson et al. (1976) modified classification, incorporated herein by reference, for the land area within a one mile buffer from the major facility's boundary. This boundary includes all lands owned or used by the owner or operator at a given location;

2. Locate, delineate and label all major sewers, storm sewers, catchment or containment systems or basins, diversion systems, and watercourses into which surface water run-off from the facility drains; and

3. Locate, delineate and label all water supply wells and wellhead protection areas within a one mile buffer from the major facility's boundary.

(c) Topographical maps showing environmentally sensitive areas, required pursuant to N.J.A.C. 7:1E-4.3(b)6, shall:

1. Cover that area of the tertiary watershed in which the facility is located which is downgradient or topographically lower than the highest land point within the major facility and which could be affected by a discharge as delineated in (c)2i below. At a minimum, this shall include the 100 year floodplain; and

2. Extend to the maximum area of potential impact, if that area is greater than the tertiary watershed. This area shall be the lesser of the following:

i. The distance and path an uncontrolled discharge would travel in 48 hours taking into account the largest tank, container, or vessel compartment utilized by the facility, the loss of secondary containment, consideration of tertiary containment, the dispersivity of the hazardous substance, temperature extremes, average rainfall and stream flows, tidal cycles, prevailing winds, and potential threat to the environment. All floodprone areas and water or wetlands features within the maximum area shall be included, at a minimum;

ii. The distance downstream from the facility at which the concentration of the hazardous substance would fall below EPA's Quality Criteria for Water issued by EPA's Office of Water Regulations and Standards, including all floodprone areas around any surface water or wetlands features; or

iii. Fifteen miles from the facility boundary, including all floodprone areas around any surface water or wetland features.

(d) Drainage and land use and topographical maps of environmentally sensitive areas required by N.J.A.C. 7:1E-4.3(b)5 and 6, shall be submitted in digital and hardcopy form. Hardcopy shall consist of two mylar copies and two paper copies. Digital shall be nine track tape, or 5¼ or 3½ inch diskette, clearly labelled and including relevant information where appropriate, such as block size, blocking factor and BPI for nine track tape. The digital copy shall meet the following standards:

1. Digital data shall be in a format compatible with the Department's Geographic Information System, which is ARC/INFO running on a PRIME 9955 and a UNIX based Sparc Station. Compatible formats include, but are not limited to, DXF, DLG-3-Optional, and UNIX.

2. Proof plots of digital data shall be made on mylar and compared to the original manuscript. Plotter pen widths shall be 0.01 inches in liquid ink.

3. The proof plot shall meet the following test: 90 percent of the digitized features shall be within 0.01 inches of the centerline of the feature on the manuscript map, and the remaining 10 percent of the features must be within 0.02 inches.

4. Coding of features shall follow approved classification systems as accepted by State and Federal agencies. All attribute coding shall be 100 percent correctly coded.

5. All digital data shall be topographically clean and free of errors, including, but not limited to, silver polygons, overshoots, open polygons, uncoded features, unlabelled polygons, and undetected intersections.

6. All maps shall be edge matched prior to digitization to eliminate cartographic errors and reduce digital problems.

(e) An owner or operator may apply for an exemption from compliance with the mapping criteria set forth above.

1. The application shall be in writing and shall contain the following:

i. A copy of a written estimate of the cost of preparing the required maps in accordance with the criteria set forth in this section; and

ii. An affidavit, signed and sworn to by the person required to provide certifications pursuant to N.J.A.C. 7:1E-4.11(c), stating that the owner or operator is a small business and that incurring the cost of obtaining maps in compliance with this section would substantially impair the owner or operator's ability to continue as a going concern.

2. The owner or operator shall submit such certified financial statements as the Department requests.

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3. The Department shall grant the exemption if it determines that the cost of obtaining maps in compliance with this section would substantially impair the owner or operator's ability to continue as a going concern. The grant of the exemption shall set forth other mapping criteria, which the Department determines will satisfactorily serve the purposes of this subchapter.

7:1E-4.11 Certifications

(a) Any person who submits a registration, summary test results, plan, plan amendment or plan renewal, or confirmation report to the Department shall include, as an integral part of the registration, summary test results, plan, plan amendment or plan renewal, or confirmation report, the following certification, signed by the highest ranking individual with direct knowledge and overall responsibility for the information contained in the certified documents:

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

(b) In addition to the certification in (a) above, any person who submits a plan, plan amendment or plan amendment to the Department shall include, as an integral part of the plan, plan amendment or plan amendment, the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this plan and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fine or imprisonment or both, for submitting false, inaccurate or incomplete information."

(c) The additional certification in (b) above shall be signed by the ranking official, as follows:

1. For a corporation, a principal executive officer of at least the level of vice president;

2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively;

3. For a municipality, the mayor or equivalent official;

4. For a county, the county executive or equivalent official;

5. For the State, an official of at least the rank of agency director; or

6. For any other public agency, a principal executive officer or ranking elected official.

(d) Notwithstanding the provisions of (b) above, the certification contained in (a) above shall be the only certification required if the individual required in (a) above to sign the certification is the same individual required in (c) above to sign the additional certification.

(e) Any person submitting a DCR plan containing an enviromentally sensitive areas protection plan, or submitting an amendment or renewal to the environmentally sensitive areas protection plan, shall include, as an integral part of the plan, plan amendment or plan renewal, a certification, signed by a marine biologist and an ornithologist stating that the environmentally sensitive areas protection plan identifies those environmentally sensitive areas that could be affected by a discharge from this facility and the seasonal sensitivity of those areas, provides for protection from, and mitigation of, any potentially adverse impact on the identified areas, and for an environmental assessment in the event of a discharge.

SUBCHAPTER 5. DISCHARGE NOTIFICATION, RESPONSE AND REPORTING

7:1E-5.1 Scope

This subchapter prescribes the rules of the Department notification and reporting of discharges of hazardous substances, the reporting of malfunctions of leak detection systems, and response to discharges of hazardous substances. The following rules shall govern the procedures for notification of the Department, response to a discharge of a hazardous substance, and follow-up reporting.

7:1E-5.2 Notification of discharges which occurred before the January 23, 1980, amendments to the Act

(a) All persons responsible for a discharge who have not previously reported a discharge which occurred prior to January 23, 1980, shall immediately notify the Department in writing of such discharge at the address given at N.J.A.C. 7:1E-5.8(e).

(b) All persons responsible for a discharge pursuant to (a) above who previously reported a discharge which occurred prior to January 23, 1980, shall immediately correct or supplement the prior notice to the Department if any of the information in the prior notice is determined to be false, misleading or inaccurate, or if additional relevant information is discovered which has not been previously reported to the Department.

(c) Any persons responsible for a discharge is required to notify the Department of a discharge, pursuant to (a) above, shall conduct a diligent inquiry to determine whether any such discharge has occurred.

7:1E-5.3 Discharge notification

(a) Immediately after a discharge commences, any person or person responsible for a discharge who knows or should know of the discharge, shall immediately notify the Department at (609) 292-7172. In the event that this number is inoperable, any person or persons responsible for a discharge shall immediately notify the State Police at (609) 882-2000.

(b) Notification received by the Department pursuant to (a) above within 15 minutes of the time that the person responsible for a discharge knew, or reasonably should have known, of the occurrence of a discharge shall be considered immediate. It shall be presumed that notification received by the Department more than 15 minutes after the person responsible for a discharge knew, or reasonably should have known, of the discharge is not immediate. The person responsible for the discharge may rebut this presumption by satisfying the requirement of N.J.A.C. 7:1E-5.6.

(c) Any notification performed by any person responsible for a discharge pursuant to (a) and (b) above shall include, but not be limited to, the following information.

1. The name, title, affiliation, address and telephone number of the person reporting the discharge;

2. The location of the discharge, with as much specificity as the Department requests, and in any event with sufficient specificity to enable the Department to direct its agents and employees and any other person to the discharge site, including:

i. For discharges from sites located on land, the name of the site, the street address, the municipality, and the county;

ii. For discharges on, under or into water, the name of the water body, location of the discharge with reference to a fixed point or points, and a description of the area which the discharge may reach.

3. The common name of the hazardous substance(s) discharged;

4. An estimate of the quantity of each hazardous substance discharged, including best estimates if the quantities are unknown;

5. The date and time at which the discharge began, the date and time at which the discharge was discovered, and, if the discharge has ended, the date and time at which it ended;

6. The actions such person proposes to take to contain, clean up and remove the hazardous substance(s) discharged;

7. The name and address of any person responsible for the discharge.

(d) A copy of the requirements in (c) above, printed in a conspicuous format, shall be displayed by the owner or operator of any vessel which is ordinarily docked in this State in a prominent place on the bridge or pilot house of any such vessel, and by the owner or operator or any onshore facility at any transfer areas and the operations center of any such facility.

7:1E-5.4 Notification of aircraft discharges

(a) In the case of a discharge of a hazardous substance used as fuel from an aircraft into the airspace over the lands or waters of New Jersey, any person responsible for a discharge shall notify the Department at (609) 292-7172. In the event that this number is inoperable, any person or persons responsible for a discharge shall immediately notify the State Police at (609) 882-2000.

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(b) Any person responsible for a discharge who notifies the Department pursuant to (a) above shall report:
1. The person causing the discharge;
2. The amount of hazardous substance discharged;
3. The time the discharge occurred;
4. The location in the aircraft flight path of the discharge;
5. The wind speed and direction; and
6. The area likely to be affected by the discharge.

7:1E-5.5 Notification of malfunctions in leak detection systems

(a) The owner or operator of a major facility shall immediately notify the Department at (609) 292-7172 of any malfunction of a leak detection or other discharge monitoring, prevention or safety system or device. In the event that this number is inoperable, any person or persons responsible for a discharge shall immediately notify the State Police at (609) 882-2000.

(b) Notification received by the Department pursuant to (a) above within 15 minutes of the time that the owner or operator knew, or reasonably should have known, of the occurrence of a malfunction shall be considered immediate. It shall be presumed that notification received by the Department more than 15 minutes after the owner or operator knew, or reasonably should have known, of the malfunction is not immediate. The owner or operator may rebut this presumption by satisfying the requirements of N.J.A.C. 7:1E-5.6.

(c) Within two hours of the initial notification, the owner or operator shall notify the Department that one of the following situations exists:
1. The malfunction has been repaired;
2. An alternate leak detection system has been activated for the equipment utilizing the malfunctioning system; or
3. The equipment protected by the leak detection system has been taken out of service.

7:1E-5.6 Justification of delay

(a) The Department, at its discretion, may determine that a period of longer than 15 minutes for initiating the notification of the Department of a discharge is immediate if the person responsible for the discharge can show, by clear and convincing evidence, that the notification of the Department was initiated as soon as possible or reasonable and that notification within 15 minutes was impossible or unreasonable because of:
1. Essential immediate response activities;
2. The circumstances under which the discharge occurred;
3. The circumstances under which the discharge was first discovered; or
4. Some other valid cause or reason.

(b) A person who does not initiate the notification of the Department of a discharge within 15 minutes and who desires to establish that the notification was as immediate as reasonably possible under the circumstances in which the discharge occurred, shall submit a sworn affidavit so attesting with the written confirmation report required by N.J.A.C. 7:1E-5.8. This affidavit shall set forth the circumstances of the discharge to establish that the notification of the Department was as immediate as reasonably possible under the circumstances in which the discharge occurred. The affidavit shall be signed by the person or persons required to sign any certifications pursuant to N.J.A.C. 7:1E-4.11, and shall include, but not be limited to, the following information:
1. The address of the facility at which the discharge occurred;
2. The date and time at which the discharge began and the date and time at which it ceased;
3. The name, job title, affiliation, business telephone number and business address of the individual who first discovered the discharge;
4. The date, the time, and the circumstances under which the discharge was first discovered;
5. The reason(s), if any, why the discharge was not immediately discovered;
6. The date and time which the discharge was first reported to the Department;
7. The name, business telephone number, and business address of the individual who first notified the Department of the discharge;
8. Any reason why initiation of notification of the Department within 15 minutes of the onset of the discharge was impossible or unreasonable; and
9. A demonstration that initiation of notification was carried out as soon as possible or reasonable.

7:1E-5.7 Discharge response

(a) Any person responsible for a discharge shall take immediate action to stop the discharge and shall take all necessary and appropriate measures to contain, mitigate, cleanup and remove the discharge, or shall follow the action plan in the facility's approved DCR plan, prepared and implemented in accordance with N.J.A.C. 7:1E-4. All persons shall coordinate such actions with the Department.

(b) No person shall apply chemicals to a discharge without the prior approval of the Department or the Federal on-scene coordinator under the National Contingency Plan pursuant to 40 CFR 300, unless such application is necessary to prevent or mitigate a situation that poses a serious and imminent threat to human life. In any such situation of imminent threat to human life, the owner or operator shall make reasonable efforts to secure the approval of the Department or the Federal on-scene coordinator before applying chemicals. Approval to apply chemicals may be obtained verbally, including by telephone. Application of chemicals pursuant to a DCR plan approved by the Department shall be deemed to have prior approval. Unauthorized use of chemicals shall be regarded as a discharge in violation of N.J.A.C. 7:1E-1.11.

(c) Upon learning that a discharge of a hazardous substance has occurred, the Department may act to contain, mitigate, clean up and remove the discharge, unless it determines that such action will be done properly and expeditiously by the person responsible for the discharge, or by any other authorized person.

(d) The Department, at its discretion, may observe, supervise or participate in any aspect of containment, or cleanup and removal activities. In the exercise of its supervisory power, the Department may order any person to cease cleanup and removal activities and other discharge-related operations if it determines that the person is not capable of properly containing, cleaning up or removing a discharge, or if the Department determines that person is failing to conduct cleanup operations in a proper and expeditious manner.

7:1E-5.8 Confirmation report

(a) Any person responsible for a discharge reporting a discharge or leak detection system malfunction who has notified the Department pursuant to N.J.A.C. 7:1E-5.3 or 5.5 shall send to the Department a written confirmation report within 30 days of said notification.

(b) Any person required to submit a confirmation report pursuant to (a) above shall include the following in the confirmation report:
1. The name, address and telephone number of the individual that reported the discharge or leak detection malfunction pursuant to N.J.A.C. 7:1E-5.3 and 5.5 above;
2. The name, address and telephone number of the individual submitting the confirmation report if different from the individual identified in (b)1 above;
3. If the person identified in (b)2 above is either not subject to the provisions of this subchapter, or is submitting the confirmation report on behalf of another person, the name, address, and telephone number of the person subject to the provisions of this subchapter for whom the confirmation report is being submitted;
4. The name, address and telephone number of each person in any way responsible for the discharge;
5. The name, address and telephone number of each owner and operator of the facility at which the discharge occurred, or the vessel or vehicle from which the discharge occurred;
6. The source of the discharge, if known;
7. The location of the discharge, as follows:
i. For discharge from sites located on land, the name of the site, the street address, the tax lot and block, the municipality, the county, any Department or EPA ID numbers of facilities involved, and a site map identifying the area in which the discharge occurred and the surrounding area;

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ii. For discharges on, under or into water, the name of the water body, the latitude and longitude of the place the discharge originated, and a map identifying the areas affected by the discharge;

8. A list of the common name and Chemical Abstract Service number of each of the hazardous substances discharged;

9. A list of the quantities of each hazardous substance discharged, including best estimates if the quantities are unknown;

10. The date and time at which the discharge began, the date and time at which the discharge was discovered, the date and time at which the discharge ended, and the date and time at which the Department was notified pursuant to N.J.A.C. 7:1E-5.3 or 5.5;

11. A detailed description of the measures taken to contain, cleanup and remove the discharge, summary of costs incurred, and proof of proper disposal of all hazardous substances discharged;

12. The corrective actions or countermeasures taken, including a description of equipment repairs or replacements;

13. Additional preventative measures taken or proposed to minimize the possibility of recurrence;

14. The name, addresses and telephone numbers of all entities involved in containment, cleanup or removal of the discharge;

15. A description of the type, quantity, location and date of all samples taken at or around the site of the discharge, whether before, during or after any containment, cleanup or removal;

16. The results of all analyses of samples described in (b)15 above; if the data are unavilable within 30 days due to laboratory delay, any person may apply to the Department at the address specified in N.J.A.C. 7:1E-5.8(d) and (e) for an extension of the deadline, not to exceed an additional 90 days; the decision as to whether or not to grant such an extension rests solely with the Department; the results shall include:

i. The name, address and telephone number of any person conducting sample analyses;

ii. Quality assurance/quality control procedures utilized for sample collection and analyses;

iii. Rationale for the location, number and frequency of samples collected;

iv. A detailed description of the sample methodology for all samples, as follows:

(1) Types of sample containers and closures, cleaning procedures of sample containers/closures and sampling equipment;

(2) Use of quality assurance samples (for example, blanks and duplicates);

(3) Groundwater monitoring well permit numbers, designs and installation techniques; and

(4) Chain of custody procedures and sample documentation;

v. A description of the analytical methodologies performed by parameter and rationale for selection of monitoring parameters and analytical methodologies; and

vi. A list by parameter of the concentrations of each hazardous substance analyzed for;

17. For major facilities, a copy of all financial responsibility documents required by N.J.A.C. 7:1E-4.5 in accordance with N.J.A.C. 7:1E-4.5(e) or Appendix B;

18. Information supplementing any information previously provided to the Department if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate or misleading;

19. Any other information concerning the discharge which the Department may request; and

20. A fully executed certification pursuant to N.J.A.C. 7:1E-4.11.

(c) Any person responsible for a discharge shall promptly notify the Department in writing of any additional or corrected information which becomes available after the submission of a confirmation report, within 10 days of the availability of that information. Such information shall reference the date, title and author of the confirmation report which is being supplemented.

(d) Any person required to submit a confirmation report for a discharge at a major facility or transmission pipeline shall submit the confirmation report to:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
401 East State Street
CN 027
Trenton, New Jersey 08625-0027
Attention: Discharge Confirmation Report

(e) Any person required to submit a confirmation report other than those referenced in (d) above shall submit the confirmation report to:

Hazardous Waste Enforcement Element
New Jersey Department of Environmental Protection
401 East State Street
CN 028
Trenton, New Jersey 08625-0028

7:1E-5.9 Reporting responsibilities of the Department

(a) Upon obtaining any information which leads it to suspect that a discharge has occurred in a municipality's jurisdiction, the Department shall immediately notify orally the contact persons for the governing body of the municipality and the local board of health as specified in (b) below, unless these entities have been notified previously.

(b) The governing body of the municipality and the local board of health shall provide the Department with the name, address and telephone number of a 24 hour contact point and an alternate 24 hour contact point. The governing body of the municipality and the local board of health may change the contact point and alternate contact point upon written notice to the Department. If a contact point and an alternate contact point are not specified, the local police department or local fire department shall be the points designated by the Department to receive notification pursuant to (a) above.

(c) Within 10 days of the initial oral notification required by (a) above, the Department shall issue a letter confirming and, if appropriate, expanding upon that initial oral notification.

(d) The Department shall take appropriate action to verify that a discharge has occurred as suspected, including the authorization of agent(s) or officer(s) of the municipality or local board of health by an appropriate Department official to investigate the site of the suspected discharge. Such investigation shall include conducting visual assessment of the site of the discharge and contacting any persons potentially responsible for the discharge.

(e) The agent(s) or officer(s) of the municipality shall report all findings to the Department.

7:1E-5.10 Discharge reporting requirements of local officials

(a) When any governing body of a municipality or local board of health obtains information which leads it to suspect that a discharge has occurred, the governing body or local board of health shall immediately notify, as specified in (b) below, the Department, unless the Department has already been notified of the discharge.

(b) The governing body or local board of health shall provide the Department with information regarding any discharge pursuant to (a) above in the format specified at N.J.A.C. 7:1E-5.3(a).

(c) The local governing body and the local board of health shall coordinate all responses to the discharge with the Department.

7:1E-5.11 Amendment of plans following a discharge

(a) Following submission of a confirmation report pursuant to N.J.A.C. 7:1E-5.8, the Department may review a facility's DPCC and DCR plans and may require the owner or operator of the facility to amend the plans if it finds that a plan does not meet the requirements of this chapter or that amendment of the plan is necessary to prevent and contain similar discharges.

(b) Amendments required by the Department shall become part of the DPCC or DCR plan within 30 days after approval by the Department, unless the Department specifies another effective date. The owner or operator shall implement the amendment of the plan as soon as possible, in accordance with a schedule submitted by the owner or operator and approved by the Department.

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SUBCHAPTER 6. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:1E-6.1 Scope

This subchapter shall govern the Department's assessment of civil administrative penalties for violation of any provision of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, including any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act. This subchapter shall also govern the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment, an administrative order, or a denial or revocation of approval of a plan or amendment to a plan required under the Act.

7:1E-6.2 Applicability

(a) The Department may assess a civil administrative penalty of not more than $50,000 for any discharge less than 100,000 gallons, not more than $10,000,000 for any discharge of 100,000 gallons or more, and not more than $50,000 for each violation of the Act or of any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act.

(b) Each violation of any provision of the Act, or any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant thereto shall constitute a separate and distinct offense.

(c) Each day during which a violation continues shall constitute an additional, separate, and distinct offense.

(d) The Department may, in its discretion, treat an offense as a first offense solely for civil administrative penalty determination purposes, if the violator has not committed the same offense in the five years immediately preceding the date of the pending offense.

(e) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provisions provided for by the Act, or any other statute, in connection with the violation for which the assessment is levied.

7:27A-6.3 Procedures for issuance of administrative orders and assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act or any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act, the Department shall, by means of an administrative order or notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one offense in a single administrative order or notice of civil administrative penalty assessment or in multiple administrative orders or notices of civil administrative penalty assessment. This Administrative Order or Notice of Civil Administrative Penalty Assessment shall:

1. Identify the section of the Act, rule, plan, request, order or directive violated;

2. Concisely state the facts which constitute the violation;

3. Order such violation to cease;

4. Specify the amount of the civil administrative penalty to be imposed; and

5. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:1E-6.4.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's Final Order in a contested case or when a Notice of Civil Administrative Penalty becomes a Final Order, as follows:

1. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:1E-6.4, a Notice of Civil Administrative Penalty Assessment becomes a Final Order on the 21st calendar day following receipt by the violator;

2. If the Department denies the hearing request pursuant to the standards in the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of such denial; or

3. If an adjudicatory hearing is conducted, a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of a Final Order in a contested case.

(c) If a civil administrative penalty is not paid within 30 calendar days of the date of a Final Order, and the penalty is not contested pursuant to N.J.A.C. 7:1E-6.4, or any payment pursuant to a payment schedule entered into with the Department is not made, an interest charge shall accrue on the amount of the penalty from the 30th calendar day that amount was due and owing.

(d) If a civil administrative penalty is appealed pursuant to N.J.A.C. 7:1E-6.4, and the amount of the penalty is upheld, in whole or in part, a rate of interest shall be calculated on that amount as of the 30th calendar day from the date the amount was due and owing under the administrative order.

(e) The rate of interest charged on any late penalty shall be that established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

(f) The Department may assess and recover, by civil administrative order, the costs of any investigation, cleanup or removal, and the reasonable costs of preparing and successfully enforcing a civil administrative penalty. The assessment may be recovered at the same time as a civil administrative penalty, and shall be in addition to the penalty assessment.

(g) Any person who violates a provision of the Act or a Court order issued pursuant thereto, or who fails to pay a civil administrative penalty in full or to agree to a schedule of payments therefor, shall be subject to a civil penalty not to exceed $50,000 per offense. Any penalty so incurred may be recovered with costs in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq. in the Superior Court or a municipal court.

(h) Any conveyance used or intended for use in the willful discharge of a hazardous substance is subject to forfeiture to the State.

7:1E-6.4 Procedures for requesting and conducting adjudicatory hearings

(a)If the Department does not receive a hearing request within 20 calendar days after receipt by the violator of an administrative order or notice of civil administrative penalty assessment or denial or revocation of approval of a plan or amendment being challenged, the Department shall deny the hearing request.

(b) To request an adjudicatory hearing to contest an administrative order or notice of civil administrative penalty assessment issued pursuant to the Act, or the denial or revocation of approval of any plan or amendment to a plan required pursuant to the Act, the violator shall submit the following information in writing to the Department at the address in (e) below:

1. The name, address, and telephone number of the violator and its authorized representative;

2. The violator's defenses to each of the Department's findings of fact in the administrative order or notice of civil administrative penalty assessment stated in short and plain terms;

3. An admission or denial of each of the Department's findings of fact in the administrative order or notice of civil administrative penalty assessment, or denial or revocation of approval of a plan or amendment to a plan. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings, but shall make all denials as specific denials of designated findings. For each finding the violator denies, the violator shall allege the fact or facts as the violator believes it or them to be;

4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

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(c) If the violator fails to include all the information required by (b) above, the Department may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Requests for adjudicatory hearings shall be sent to:

Office of Legal Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625-0402
Attention: Hearing Request

7:1E-6.5 Civil administrative penalty determination—general

(a) For violations other than those set forth in N.J.A.C. 7:1E-6.6 through 6.8, the Department may assess a civil administrative penalty for offenses described in this subchapter within the following ranges:

1. Up to $20,000 for the first offense;
2. Up to $35,000 for the second offense; and
3. Up to $50,000 for the third and each subsequent offense.

(b) The Department may, in its discretion, set the amount determined pursuant to (a) above to assess a civil administrative penalty on the basis of the following factors:

1. The compliance history of the violator;
2. The number, frequency and severity of the offense(s);
3. The measures taken by the violator to mitigate the effects of the current offense and to prevent future offenses;
4. The deterrent effect of the penalty; or
5. Other specific circumstances of the violator or offense.

7:1E-6.6 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty against each violator who submits inaccurate information or who makes a false statement, representation, or certification in any DPCC plan, DCR plan, registration, record, or other document submitted or maintained, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Act or any rule, regulation, plan, order or directive pursuant thereto.

(b) Each time the violator submits inaccurate or false information to the Department shall be an additional, separate, and distinct offense.

(c) The Department shall determine the amount of the civil administrative penalty for offenses described in this section based on the conduct of the violator as follows:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty, for each act or omission, is up to $20,000 for the first offense, up to $40,000 for the second offense, and up to $50,000 for the third and each subsequent offense; and

2. For all other conduct, the civil administrative penalty, for each act or omission, is up to $1,000 for the first offense, up to $2,000 for the second offense, and up to $5,000 for the third and each subsequent offense.

7:1E-6.7 Civil administrative penalty for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty against each violator who refuses, inhibits or prohibits immediate lawful entry and inspection of any premises, building, vessel or place, except private residences, by an authorized Department representative.

(b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection of any premises, building, or place, except private residences, by an authorized Department representative, shall be an additional, separate and distinct offense.

(c) The amount of the civil administrative penalty for offenses described in this section is up to $10,000 for the first offense, up to $20,000 for the second offense, and up to $50,000 for the third and each subsequent offense.

7:1E-6.8 Civil administrative penalties for violations of rules adopted pursuant to the Act

(a) Civil administrative penalties for offenses described in (c)2 and 4 below shall not be assessed until the time allotted under the applicable schedule for upgrading approved by the Department has expired.

(b) Civil administrative penalties for offenses described in (c)2 and 4 below, exclusive of registration requirements, shall apply to major facilities only. All other civil administrative penalties shall apply to all persons.

(c) The Department shall determine the amount of the civil administrative penalty for offenses described in this section on the basis of the provision violated and the frequency of the violation. The number of the following paragraphs corresponds to the number of the corresponding subchapter in N.J.A.C. 7:1E.

1. The violations of N.J.A.C. 7:1E-1, General Provisions, and the civil administrative penalties for each violation are as set forth in the following table, unless modified by (d) below. In no case shall the assessed penalty be less than zero or more than the statutory limit.

Citation

N.J.A.C. 7:1E-1.11(a)

Base Penalty for each Violation

Gallons	Penalty
0-9	$ 500
10-55	$ 1,000
56-499	$ 2,000
500-999	$ 3,000
1,000-4,999	$ 5,000
5,000-9,999	$ 7,500
10,000-19,999	$ 10,000
20,000-29,999	$ 15,000
30,000-39,999	$ 20,000
40,000-49,999	$ 25,000
50,000-59,999	$ 30,000
60,000-69,999	$ 35,000
70,000-79,999	$ 40,000
80,000-89,999	$ 45,000
90,000-99,999	$ 50,000
100,000-149,000	$ 75,000
150,000-199,000	$ 100,000
200,000-299,999	$ 200,000
300,000-399,999	$ 400,000
400,000-499,999	$ 800,000
500,000-599,999	$ 1,000,000
600,000-699,999	$ 2,000,000
700,000-799,999	$ 3,000,000
800,000-899,999	$ 4,000,000
900,000-999,999	$ 5,000,000
1,000,000-1,999,999	$ 6,000,000
2,000,000-2,999,999	$ 7,000,000
3,000,000-3,999,999	$ 8,000,000
4,000,000-4,999,999	$ 9,000,000
5 million or greater	$10,000,000

The base penalty may be reduced or increased by applying the following factors:

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Cause of Discharge	
Intentional or Gross Negligence	50% increase from base
Operational	No change from base
Accidental	50% reduction from base
Homeowner	75% reduction from base
Initiate Response to Discharge (from the time the discharge occurred)	
Poor—over 2 hours	20% increase from base
Fair—within 2 hours	No change from base
Good—within 1 hour	20% reduction from base
Excellent—within 15 minutes	40% reduction from base
Area of Impact	
Off the facility and into waters of the State	20% increase from base
Off the facility but not into waters of the State	No change from base
Contained on the facility	40% reduction from base
Impact on Environment	
Bird/Fish Kill	100% increase from base
Visible Damage to Flora/Fauna (includes damage to beaches)	75% increase from base
No Visible Damage	No change from base
Discharge History (Number of discharges within the previous 12 months)	
Five or more discharges	100% increase from base
1-5 discharges	50% increase from base
Zero discharges	No change from base

2. The violations of N.J.A.C. 7:1E-2, Prevention and Control of Discharges, and the civil administrative penalty amounts for each violation are as set forth in the following table, unless revised pursuant to (d) below:

Category of Offense	Citation	First Offense	Second Offense	Third or Subsequent Offense
Inadequate secondary containment for an above ground storage tank	2.2(a)1	$20,000	$40,000	$50,000
Failure to surface the base underlying a storage tank with impermeable material	2.2(a)2	$20,000	$40,000	$50,000
Failure to equip a pipe with remotely activated or readily accessible valves	2.2(a)3	$10,000	$20,000	$50,000
Failure to perform integrity testing	2.2(a)4	$15,000	$30,000	$50,000
Failure to submit summary test results	2.2(a)5	$ 1,000	$ 2,000	$ 5,000
Improper design of heating coil system	2.2(c)	$10,000	$20,000	$50,000
Failure to equip storage tanks with devices capable of detecting overfills and initiating shutdown mechanisms	2.2(d)	$15,000	$30,000	$50,000
Failure to direct overfill lines into appropriate holding areas	2.2(e)	$15,000	$30,000	$50,000
Failure to locate mobile or portable storage tanks in areas protected by secondary containment	2.2(f)	$15,000	$30,000	$50,000
Location of mobile or portable storage tanks in areas subject to flooding or washout	2.2(f)	$20,000	$40,000	$50,000
Failure to equip drum storage areas with adequate secondary containment	2.2(g)	$15,000	$30,000	$50,000
Failure to surface a tank car or tank truck loading/unloading area with impermeable material or to equip area with secondary containment	2.3(a)	$20,000	$40,000	$50,000
Failure to inspect the lowermost drain and all outlets of a tank car or tank truck prior to filling	2.3(b)	$ 5,000	$10,000	$25,000
Failure to examine for leakage during filling and secure valves on all manifolds of a tank car or tank truck prior to departure	2.3(c)	$ 5,000	$10,000	$25,000
Failure to provide a physical barrier, brake interlock or similar system in a transfer area	2.3(d)	$10,000	$20,000	$50,000
Failure to attend a tank car at reasonable intervals during a transfer and during topping off	2.3(e)	$10,000	$20,000	$50,000

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Failure to attend a tank truck at all times during a transfer	2.3(e)	$10,000	$20,000	$50,000
Failure to properly mark in-facility pipes	2.4(a)	$ 5,000	$10,000	$25,000
Failure to double wall or have adequate secondary containment and a leak detention device for new buried in-facility pipes	2.4(b)	$15,000	$30,000	$50,000
Failure to equip existing in-facility buried pipe with leak detection devices	2.4(b), (c)	$15,000	$30,000	$50,000
Failure to examine exposed in-facility buried pipe and make necessary repairs or replacements	2.4(d)	$15,000	$30,000	$50,000
Failure to upgrade in-facility pipe when required	2.4(d)	$15,000	$30,000	$50,000
Failure to cap, blank-flange or physically remove in-facility pipe removed from service	2.4(e)	$10,000	$20,000	$50,000
Failure to minimize the chance of vehicular collision with in-facility pipe	2.4(g)	$ 5,000	$10,000	$50,000
Improper design of a drainage system	2.5(a), (b)	$15,000	$30,000	$50,000
Failure to treat a hazardous substance which drained into process wastewater lines	2.5(b)	$20,000	$40,000	$50,000
Inadequate or improper secondary containment	2.6(a), (b), (c)	$20,000	$40,000	$50,000
Failure to maintain adequate containment devices	2.6(d), 2.7(b), (c)	$10,000	$20,000	$50,000
Failure to deploy or maintain a containment device on standby when required	2.7(d), (e)	$20,000	$40,000	$50,000
Failure to properly deploy a containment device	2.7(f), (g), (h)	$15,000	$30,000	$50,000
Commencement or continuation of transfer operations during unacceptable conditions	2.7(i)	$15,000	$30,000	$50,000
Failure to properly clean up and remove a discharge prior to removing a containment device	2.7(j)	$20,000	$40,000	$50,000
Failure to retrieve a containment device	2.7(k)	$ 5,000	$10,000	$25,000
Improper or inadequate illumination	2.8	$15,000	$30,000	$50,000
Failure to protect a hazardous substance from being carried off or discharged into flood waters	2.9	$20,000	$40,000	$50,000
Failure to conduct visual inspections	2.10(a)	$10,000	$20,000	$50,000
Failure to keep documentation of visual inspections	2.10(b)	$ 1,000	$ 2,000	$ 5,000
Failure to implement a groundwater monitoring program	2.10(c)	$20,000	$40,000	$50,000
Failure to keep hazardous substances in suitable containers	2.11(a)	$10,000	$20,000	$50,000
Failure to protect hazardous substances from the elements and the possibility of spillage	2.11(a)	$10,000	$20,000	$50,000
Failure to repair, replace or take out of service any leaking equipment	2.11(b)	$10,000	$20,000	$50,000
Failure to clean up a spill of a hazardous substance	2.11(c), (d)	$20,000	$40,000	$50,000
Failure to maintain a supply of safety equipment	2.11(e)	$10,000	$20,000	$50,000
Failure to maintain secondary containment or diversion systems in good repair	2.11(f)	$20,000	$40,000	$50,000
Failure to visually inspect flexible hoseline prior to each use and replace if necessary	2.11(g)	$10,000	$20,000	$50,000
Failure to implement a training program	2.12(a), (b), (c), (d), (f)	$15,000	$30,000	$50,000
Failure to keep documentation of all training	2.12(e)	$ 1,000	$ 2,000	$ 5,000
Failure to provide adequate security or to follow security procedures	2.13	$ 5,000	$10,000	$25,000
Failure to establish standard operating procedures (SOPs)	2.14(d)	$10,000	$20,000	$50,000
Failure to make copies of the SOPs or MSDS or fact sheets in all appropriate language readily available	2.14(a), (b), (c)	$ 5,000	$10,000	$25,000

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Failure to incorporate modifications of procedures into the SOPs prior to implementation	2.14(f)	$ 5,000	$10,000	$25,000
Failure to maintain and make available a current index of SOPs	2.14(g)	$ 1,000	$ 2,000	$ 5,000
Failure to maintain required records	2.15	$ 1,000	$ 2,000	$ 5,000

3. The violations of N.J.A.C. 7:1E-3, Transmission Pipelines, and the civil administrative penalty amounts for each violation, are as set forth in the following table, unless modified pursuant to (d) below:

Category of Offense	Citation	First Offense	Second Offense	Third or Subsequent Offense
Failure to register	3.2(a)	$ 5,000	$10,000	$25,000
Failure to complete registration form	3.2(a)	$ 1,000	$ 2,000	$ 5,000
Failure to report a change in information	3.2(b)	$ 1,000	$ 2,000	$ 5,000
Failure to conform to 49 CFR 195	3.3	$10,000	$20,000	$50,000
Failure to submit the required information	3.4	$ 5,000	$10,000	$25,000

4. The violations of N.J.A.C. 7:1E-4, Plans and Registrations, and the civil administrative penalty amounts for each violation, are as set forth in the following table, unless modified pursuant to (d) below:

Category of Offense	Citation	First Offense	Second Offense	Third or Subsequent Offense
Failure to register annually	4.2(a)	$ 5,000	$10,000	$25,000
Failure to complete registration form	4.2(a)	$ 1,000	$ 2,000	$ 5,000
Failure to appoint a response coordinator	4.3(a)	$ 5,000	$10,000	$25,000
Failure to submit a DPCC or DCR plan	4.3(a), 4.4(a)	$20,000	$40,000	$50,000
Failure to maintain on-site and make available any required plans or documentation	4.3(f), 4.7(f)	$ 1,000	$ 2,000	$ 5,000
Failure to have adequate cleanup equipment and personnel available	4.4(b)	$10,000	$20,000	$50,000
Failure to demonstrate financial responsibility	4.5(a), (b)	$15,000	$30,000	$50,000
Failure to notify of bankruptcy commencement	4.5(o)	$ 1,000	$ 2,000	$ 5,000
Failure to submit information when requested by the Department	4.6(e)	$ 1,000	$ 2,000	$ 5,000
Failure to submit an amendment	4.9(a)	$ 5,000	$10,000	$25,000
Failure to provide notice of new construction, installation or modification	4.7	$ 1,000	$ 4,000	$ 5,000
Failure to renew DPPC/DCR plans	4.8	$ 5,000	$10,000	$25,000
Failure to provide any required certification	4.11	$ 5,000	$10,000	$25,000

5. The violations of N.J.A.C. 7:1E-5, Notification, Response and Reporting, and the civil administrative amounts for each violation, are as set forth in the following table, unless modified pursuant to (d) below:

Category of Offense	Citation	First Offense	Second Offense	Third or Subsequent Offense
Failure to immediately notify the Department of a discharge	5.2(a), 5.3(a)	$10,000	$20,000	$50,000
Failure to provide all required information upon notification	5.2(c), 5.3(a), 5.4(b)	$ 1,000	$ 2,000	$ 5,000
Failure to prominently display notification requirements	5.3(b)	$ 5,000	$10,000	$25,000
Failure to notify the Department of a discharge of aircraft fuel	5.4(a)	$ 5,000	$10,000	$25,000
Failure to notify of a malfunction in a leak detection system	5.5(a)	$ 5,000	$10,000	$25,000
Failure to notify of the status of a malfunctioning leak detection system	5.5(b)	$ 1,000	$ 2,000	$ 5,000

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Failure to attempt to stop and contain a discharge or to follow the DCR action plan	5.7(a)	$20,000	$40,000	$50,000
Failure to submit a confirmation report	5.8(a)	$ 5,000	$10,000	$25,000
Failure to include all required information in a confirmation report	5.8(b), 5.8(c)	$ 1,000	$ 2,000	$ 5,000
Failure to coordinate any remedial action with the Department	5.9(f)	$ 5,000	$10,000	$25,000
Failure to file a requested amendment following a discharge	5.11(a)	$ 5,000	$10,000	$25,000
Failure to provide the Department with requested information or to respond to an administrative order	5.12(a)	$ 5,000	$10,000	$25,000

(d) The Department may modify the amount of a civil administrative penalty under (c) above, based upon any or all of the following:

1. Mitigating or extenuating circumstances;
2. The implementation of prevention measures in addition to those minimally required by applicable statute or rule;
3. The full payment by the violator of a specified part of the civil administrative penalty assessed if made within a time period established by the Department in an administrative order or notice of civil administrative penalty assessment and provided that the violator waives the right to request an adjudicatory hearing on the civil administrative penalty; or
4. Any other circumstances or conditions acceptable to the Department.

APPENDIX A
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION LIST OF HAZARDOUS SUBSTANCES

Name	CAS Number
Bottom sludge generated from the processing, blending, and treatment of waste oil in waste oil processing facilities	—
Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	—
Cyanidation wastewater tailing pond sediment from mineral metals recovery operations.	—
Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulation containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)	—
Leachate resulting from the treatment, storage, or disposal of wastes classified by more than one waste code under Subpart D, or from a mixture of wastes classified under Subparts C and D of this part. (Leachate resulting from the management of one or more of the following EPA Hazardous Wastes and no other hazardous wastes retains its hazardous waste code(s): F020, F021, F022, F023, F026, F027 and/or F028.)	—
Oil spill cleanup residue which: A. is contaminated beyond saturation; or B. the generator fails to demonstrate that the spill material was not one of the listed hazardous waste oils.	—
Plating sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process.	—
Processes wastes, including but not limited to, distillation, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalized processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in 261.31 or 261.32.)	—
Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.	—
Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process.	—
Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.	—
Spent cyanide bath solutions from mineral metals recovery operations.	—
Spent cyanide plating bath solutions from electroplating operations.	—
Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.	—
Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.	—
The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride. 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	—
The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-tri-chloro-1,2,2-trifluoroethane, orthodichloro benzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.	—
The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of	

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the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. ——

The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. ——

The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. ——

The following used and unused waste oils: metal working oils; turbine lubricating oils; diesel lubricating oils; and quenching oils ——

Waste automotive crankcase and lubricating oils from automotive service and gasoline stations, truck terminals, and garages ——

Waste oil and bottom sludge generated by gasoline stations when gasoline and oil tanks are tested, cleaned, or replaced ——

Waste oil and bottom sludge generated from tank cleanouts from residential/commerical fuel oil tanks ——

Waste petroleum oil generated when tank trucks or other vehicles or mobile vessels are cleaned, including, but not limited to, oily ballast water from product transport units of boats, barges, ships, or other vessels ——

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. ——

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.) ——

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.) ——

Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating carbon steel, and (6) chemical etching and milling of aluminum. ——

Wastewater treatment sludges from chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. ——

Acenaphthene	83-32-9
Acenaphthylene	208-96-8
Acetaldehyde	75-07-0
Acetamide	60-35-5
Acetic acid	64-19-7
Acetic anhydride	108-24-7
Acetone	67-64-1
Acetone cyanohydrin	75-86-5
Acetone thiosemicarbazide	1752-30-3
Acetonitrile	75-05-8
3-(alpha-acetonyl benzyl)-4-hydroxy-coumarin and salts	——
Acetophenone	98-86-2
2-Acetylaminofluorene	53-96-3
Acetyl bromide	506-96-7
Acetyl chloride	75-36-5
1-Acetyl-2-thiourea	591-08-2
Acrolein	107-02-8
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Acrylyl chloride	814-68-6
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Alanine, 3- [p-bis(-chloroethyl) amino] phenyl]-,L-	148-82-3
Alar	1596-84-5
Aldicarb	116-06-3
Aldrin	309-00-2
Allyl alcohol	107-18-6
Allyl chloride	107-05-1
Aluminum (fume or dust)	7429-90-5
Aluminum oxide	1344-28-1
Aluminum phosphide	20859-73-8
Aluminum sulfate	10043-01-3
2-Aminoanthraquinone	117-79-3
4-Aminoazobenzene	60-09-3
4-Aminobiphenyl	92-67-1
1-Amino-2-methylanthraquinone	82-28-0
2-Amino-1-methylbenzene	95-53-4
4-Amino-1-methylbenzene	106-49-0
5-(Aminomethyl)-3-isoxazolol	2763-96-4
p-Aminopropiophenone	70-69-9
Aminopterin	54-62-6
4-Aminopyridine	504-24-5
N-Aminothioxomethyl acetamide	591-08-2
Amiton	78-53-5
Amiton oxalate	3734-97-2
Amitraz	33089-61-1
Amitrole	61-82-5
Ammonia	7664-41-7
Ammonium acetate	631-61-8
Ammonium benzoate	1863-63-4
Ammonium bicarbonate	1066-33-7
Ammonium bichromate	7789-09-5
Ammonium bifluoride	1341-49-7
Ammonium bisulfite	10192-30-0
Ammonium carbamate	1111-78-0
Ammonium carbonate	506-87-6
Ammonium chloride	12125-02-9

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Ammonium chromate	7788-98-9
Ammonium citrate, dibasic	3012-65-5
Ammonium fluoborate	13826-83-0
Ammonium fluoride	12125-01-8
Ammonium hydroxide	1336-21-6
Ammonium hypophosphite	7803-65-8
Ammonium nitrate	6484-52-2
Ammonium nitrate (solution)	6484-52-2
Ammonium oxalate	1113-38-8
Ammonium persulfate	7727-54-0
Ammonium picrate	131-74-8
Ammonium silicofluoride	16919-19-0
Ammonium sulfamate	7773-06-0
Ammonium sulfate (solution)	7783-20-2
Ammonium sulfide	12135-76-1
Ammonium sulfite	10196-04-0
Ammonium tartrate	3164-29-2
Ammonium thiocyanate	1762-95-4
Ammonium thiosulfate	7783-18-8
Ammonium vanadate	7803-55-6
Amphetamine	300-62-9
Amyl acetate	628-63-7
iso-Amyl acetate	123-92-2
sec-Amyl acetate	626-38-0
tert-Amyl acetate	625-16-1
Aniline	62-53-3
Aniline, 2,4,6-trimethyl-	88-05-1
o-Anisidine	90-04-0
p-Anisidine	104-94-9
o-Anisidine hydrochloride	134-29-2
Anthracene	120-12-7
Antimony	7440-36-0
Antimony compounds	——
Antimony pentachloride	7647-18-9
Antimony pentafluoride	7783-70-2
Antimony potassium tartrate	28300-74-5
Antimony tribromide	7789-61-9
Antimony trichloride	10025-91-9
Antimony trifluoride	7783-56-4
Antimony trioxide	1309-64-4
Antimycin A	1397-94-0
Antu	86-88-4
Aroclor 1016	12674-11-2
Aroclor 1221	11104-28-2
Aroclor 1232	11141-16-5
Aroclor 1242	53469-21-9
Aroclor 1248	12672-29-6
Aroclor 1254	11097-69-1
Aroclor	11096-82-5
Arsenic	7440-38-2
Arsenic acid	7778-39-4
Arsenic compounds	——
Arsenic disulfide	1303-32-8
Arsenic (III) oxide	1303-36-2
Arsenic pentoxide	1303-28-2
Arsenic trioxide	1327-53-3
Arsenic trisulfide	1303-33-9
Arsenous trichloride	7784-34-1
Arsine	7784-42-1
Arsonous dichloride, phenyl-	696-28-6
Asbestos	1332-21-4
Auramine	492-80-8
Avitrol	504-24-5
Azaserine	115-02-6
Azinphos-ethyl	2642-71-9
Azinphos-methyl	86-50-0
Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8, 8a,8b-hexahydro-8a-methoxy-5-methyl,[1aS-(1aalpha,8beta, 8aalpha,8balpha)]-	50-07-7
Barium	7440-39-3
Barium cyanide	542-62-1
Bendiocarb	22781-23-3
Benomyl	17804-35-2
3,4-Benzacridine	225-51-4
Benz[c]acridine	225-51-4
Benzal chloride	98-87-3
Benzamide	55-21-0
1,2-Benzanthracene	56-55-3
Benz[a]anthracene	56-55-3
Benzenamine	62-53-3
Benzenamine, 4,4'-carbonimidoylbis(N,N- dimethyl-	492-80-8
Benzenamine, 4-chloro- 2-methyl-, hydrochloride	3165-93-3
Benzenamine, 2-methyl-	95-53-4
Benzenamine, 4-methyl-	106-49-0
Benzenamine, 2-methyl-hydrochloride	636-21-5
Benzenamine, 4-nitro-	100-01-6
Benzenamine, 3-(trifluoromethyl)-	98-16-8
Benzene	71-43-2
Benzenearsonic acid	98-05-5
Benzene, 1-(chloromethyl)-4-nitro-	100-14-1
Benzenediamine, ar-methyl-	95-80-7
	496-72-0
	823-40-5
	25376-45-8
1,2-Benzenedicarboxylic acid anhydride	85-44-9
1,2-Benzenedicarboxylic acid, di-n-octyl ester	117-84-0
Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-	72-54-8
1,3-Benzenediol	108-46-3
1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino) ethyl]-	51-43-4
Benzeneethanamine, alpha, alpha-dimethyl-	122-09-8
Benzene, hexahydro	110-82-7
Benzene, 1-methyl-1,2,4-dinitro-	——
Benzene, 1-methyl-2,4-dinitro-	121-14-2
Benzene, 1-methyl-2,6-dintro-	606-20-2
Benzene, 1,2-methylenedioxy-4-allyl-	94-59-7
Benzene, 1,2-methylenedioxy-4-propenyl-	94-58-6
Benzene, 1,2-methylenedioxy-4-propyl	——
Benzenesulfonyl chloride	98-09-9
Benzenethiol	108-98-5
Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4- meth-oxy-	72-43-5
Benzidine	92-87-5
Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-	3615-21-2
1,2-Benzisothiazolin-3-one, 1,1-dioxide	81-07-2
1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts	——
Benzo[a] anthracene	56-55-3
1,3-Benzodioxole, 5-(2-propenyl)-	94-59-7
1,3-Benzodioxole, 5-propyl-	94-58-6
Benzo(b)fluoranthene	205-99-2
Benzo(k)fluoranthene	207-08-9
Benzo[j,k]fluorene	206-44-0
Benzoic acid	65-85-0
Benzonitrile	100-47-0
Benzo[rst]pentaphene	189-55-9
Benzo[ghi]perylene	191-24-2
2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, and salts, when present at concentrations greater than 0.3%	81-81-2
Benzo[a]pyrene	50-32-8
p-Benzoquinone	106-51-4
Benzotrichloride	98-07-7
Benzoyl chloride	98-88-4
Benzoyl peroxide	94-36-0
1,2-Benzphenanthrene	218-01-9
Benzyl chloride	100-44-7
Benzyl cyanide	140-29-4
Beryllium	7440-41-7
Beryllium chloride	7787-47-5
Beryllium compounds	7440-41-7
Beryllium dust	7440-41-7

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Beryllium fluoride	7787-49-7
Beryllium nitrate	13597-99-4
BHC	608-73-1
alpha-BHC	319-84-6
beta-BHC	319-85-7
delta-BHC	319-86-8
gamma-BHC	58-89-9
Bicyclo[2.2.1]heptane-2-carbonitrile, 5-chloro-6-((((methyla	15271-41-7
Biphenyl	92-52-4
Bis(2-chloroethoxy) methane	111-91-1
Bis(2-chloroisopropyl)ether	108-60-1
Bis(chloromethyl) ether	542-88-1
Bis(2-chloro-1-methylethyl)ether	108-60-1
Bis(chloromethyl) ketone	534-07-6
Bis(2-ethylhexyl) adipate	103-23-1
Bis(2-ethylhexyl)phthalate	117-81-7
Bithionol	97-18-7
Bitoscanate	4044-65-9
2,2'-Bloxirane	1464-53-5
Bomyl	122-10-1
Boron trichloride	10294-34-5
Boron trifluoride	7637-07-2
Boron trifluoride compound with methyl ether (1:1)	353-42-4
Brodifacoum	56073-10-0
Bromadiolone	28772-56-7
Bromine	7726-95-6
Bromine cyanide	506-68-3
Bromoacetone	598-31-2
Bromoform	75-25-2
4-Bromophenyl phenyl ether	101-55-3
Bromoxynil	1689-84-5
Bromoxynil butyrate	3861-41-4
Brucine	357-57-3
1,3-Butadiene	106-99-0
Butanoic acid, 4-[bis(2-chloroethyl)	——
2-Butanone	78-93-3
2-Butanone, 3,3-dimethyl-1-(methylthio)-, 0-[methylamino) carbonyl] oxime	39196-18-4
2-Butanone peroxide	1338-23-4
2-Butenal	4170-30-3
2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy] methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester,[1S-(1alpha(Z),72S*,3R*),7aalpha]]-	303-34-4
Butyl acetate	123-86-4
iso-Butyl acetate	110-19-0
sec-Butyl acetate	105-46-4
tert-Butyl acetate	540-88-5
Butyl acrylate	141-32-2
n-Butyl alcohol	71-36-3
sec-Butyl alcohol	78-92-2
tert-Butyl alcohol	75-65-0
Butylamine	109-73-9
iso-Butylamine	78-81-9
sec-Butylamine	13952-84-6
tert-Butylamine	75-64-9
Butyl benzyl phthalate	85-68-7
1,2-Butylene oxide	106-88-7
n-Butyl phthalate	84-74-2
Butyraldehyde	123-72-8
Butyric acid	107-92-6
iso-Butyric acid	79-31-2
C.I. Acid Green 3	4680-78-8
C.I. Basic Green 4	569-64-2
C.I. Basic Red 1	989-38-8
C.I. Direct Black 38	1937-37-7
C.I. Direct Blue 6	2602-46-2
C.I. Direct Brown 95	16071-86-6
C.I. Disperse Yellow 3	2832-40-8
C.I. Food Red 5	3761-53-3
C.I. Food Red 15	81-88-9
C.I. Solvent Orange 7	3118-97-6
C.I. Solvent Yellow 1	60-09-3
C.I. Solvent Yellow 14	842-07-9
C.I. Solvent Yellow 3	97-56-3
C.I. Solvent Yellow 34	492-80-8
C.I. Vat Yellow 4	128-66-5
Cacodylic acid	75-60-5
Cadmium	7440-43-9
Cadmium acetate	543-90-8
Cadmium bromide	7789-42-6
Cadmium chloride	10108-64-2
Cadmium compounds	——
Cadmium oxide	1306-19-0
Cadmium products	7440-43-9
Cadmium stearate	2223-93-0
Calcium arsenate	7778-44-1
Calcium arsenite	52740-16-6
Calcium carbide	75-20-7
Calcium chromate	13765-19-0
Calcium cyanamide	156-62-7
Calcium cyanide	592-01-8
Calcium dodecylbenzenesulfonate	26264-06-2
Calcium hypochlorite	7778-54-3
Camphechlor	8001-35-2
Camphene, octachloro-	8001-35-2
Cantharidin	56-25-7
Captafol	2939-80-2
Captan	133-06-2
Carbachol chloride	51-83-2
Carbamic acid, methyl-, O-(((2,4-dimethyl-1, 3-dithiolan-2-y	26419-73-8
Carbamic acid, methylnitroso-, ethyl ester	615-53-2
Carbamide, N-ethyl-N-nitroso-	759-73-9
Carbamide, N-methyl-N-nitroso-	684-93-5
Carbamide, thio-	62-56-6
Carbamimidoselenoic acid	——
Carbaryl	63-25-2
Carbofuran	1563-66-2
Carbon bisulfide	75-15-0
Carbon disulfide	75-15-0
Carbonic acid, dithallium(I) salt	6533-73-9
Carbonic dichloride	75-44-5
Carbonic difluoride	353-50-4
Carbon oxyfluoride	353-50-4
Carbon tetrachloride	56-23-5
Carbonyl chloride	75-44-5
Carbonyl fluoride	353-50-4
Carbonyl sulfide	463-58-1
Carbophenothion	786-19-6
Catechol	120-80-9
Chloramben	133-90-4
Chlorambucil	305-03-3
Chloranil	116-29-0
Chlordane	57-74-9
Chlordane (Technical Mixture and Metabolites)	57-74-9
Chlordane, alpha & gamma isomers	57-74-9
Chlordane, technical	——
Chlordimeform	6164-98-3
Chlorfenvinfos	470-90-6
Chlorinated benzenes	——
Chlorinated ethanes	——
Chlorinated naphthalene	——
Chlorinated phenols	——
Chlorine	7882-50-5
Chlorine cyanide	506-77-4
Chlorine dioxide	10049-04-4
Chlormephos	24934-91-6
Chlormequat chloride	999-81-5
Chlornaphazine	494-03-1
Chloroacetaldehyde	107-20-0
Chloroacetic acid	79-11-8
2-Chloroacetophenone	532-27-4

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Chloroalkyl Ethers	——
p-Chloroaniline	106-47-8
Chlorobenzene	108-90-7
Chlorobenzilate	510-15-6
2-Chloro-1,3-butadiene	126-99-8
4-Chloro-m-cresol epoxy-	——
4-Chloro-m-cresol	59-50-7
p-Chloro-m-cresol	59-50-7
Chlorodibromomethane	124-48-1
Chloroethane	75-00-3
Chloroethyl chloroformate	627-11-2
2-Chloroethyl vinyl ether	110-75-8
Chloroform	67-66-3
Chloromethyl ether	542-88-1
Chloromethyl methyl ether	107-30-2
2-Chloronaphthalene	91-58-7
Chlorophacinone	3691-35-8
o-Chlorophenol	95-57-8
4-Chlorophenyl phenyl ether	7005-72-3
1-(o-Chlorophenyl)thiourea	5344-82-1
Chloroprene	126-99-8
3-Chloropropionitrile	542-76-7
Chlorosulfonic acid	7790-94-5
Chlorothalonil	1897-45-6
4-Chloro-o-toluidine hydrochloride	3165-93-3
Chloroxuron	1982-47-4
Chlorpyrifos	2921-88-2
Chlorthiophos	21923-23-9
Chromic acetate	1066-30-4
Chromic acid	1333-82-0
Chromic acid, calcium salt	13765-19-0
Chromic chloride	10025-73-7
Chromic sulfate	10101-53-8
Chromium	7440-47-3
Chromium compounds	——
Chromous chloride	10049-05-5
Chrysene	218-01-9
Cobalt	7440-48-4
Cobalt carbonyl	10210-68-1
Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-	62207-76-5
Cobaltous bromide	7789-43-7
Cobaltous formate	544-18-3
Cobaltous sulfamate	14017-41-5
Coke Oven Emissions	——
Coking: ammonia still lime sludge from coking operations	——
Coking: decanter tank far sludge from coking operations	——
Colchicine	64-86-8
Copper	7440-50-8
Copper arsenate	10103-61-4
Copper compounds	——
Copper cyanide	544-92-3
Coumafuryl	117-52-2
Coumaphos	56-72-4
Coumatetralyl	5836-29-3
Creosote	8001-58-9
p-Cresidine	120-71-8
Cresol	——
Cresol(s)	1319-77-3
m-Cresol	108-39-4
Cresol (mixed isomers)	1319-77-3
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresols	——
Crimidine	535-89-7
Crotonaldehyde	4170-30-3
Cumene	98-82-8
Cumene hydroperoxide	80-15-9
Cupferron	135-20-6
Cupric acetate	142-71-2
Cupric acetoarsenite	12002-03-8
Cupric chloride	7447-39-4
Cupric nitrate	3251-23-8
Cupric oxalate	5893-66-3
Cupric sulfate	7758-98-7
Cupric sulfate, ammoniated	10380-29-7
Cupric tartrate	815-82-7
Cyanazine	21725-46-2
Cyanide	57-12-5
Cyanide compounds	——
Cyanides (soluble salts and complexes), not otherwise specified	——
Cyanogen	460-19-5
Cyanogen bromide	506-68-3
Cyanogen chloride	506-77-4
Cyanogen iodide	506-78-5
Cyanophos	2636-26-2
Cyanuric fluoride	675-14-9
1,4-Cyclohexadienedione	——
2,5-Cyclohexadiene-1,4-dione	106-51-4
Cyclohexane	110-82-7
Cyclohexanone	108-94-1
Cycloheximide	66-81-9
Cyclohexylamine	108-91-8
2-Cyclohexyl-4,6-dinitrophenol	131-89-5
Cyclophosphamide	50-18-0
Cyhexatin	13121-70-5
2,4-D Esters	94-11-1
	94-79-1
	94-80-4
	1320-18-9
	1928-38-7
	1928-61-6
	1929-73-3
	2971-38-2
	25168-26-7
	53467-11-1
2,4-D, salts and esters	——
2,4-d butoxyethanol ester	1929-73-3
2,4-D Diethanolamine salt	5742-19-18
2,4-D Dimethylamine salt	2008-39-1
2,4-D Ethyl ester	533-23-3
2,4-D 2-ethylhexyl ester	1928-43-4
2,4-D isooctyl ester	25168-26-7
2,4-D, isopropyl ester	94-11-1
2,4-D Methyl ester	1928-38-71
2,4-D, mixed butyl esters	94-80-4
2,4-D mixed isobutyl esters	1713-15-1
2,4-D, Propylene glycol butyl ether esters	1928-45-6
2,4-D Sodium salt	2702-72-9
Daminozide	1596-84-5
Daunomycin	20830-81-3
DDE	72-55-9
11,17-Dimethoxy-18-[(3,4,5- trimethoxybenzoyl)oxy]-methyl ester, (3Beta, 16beta, 17alpha, 18beta, 20alpha)-yohimban-16-carboxylic acid	50-55-5
DDT metabolites	——
Decaborane(14)	17702-41-9
Decabromodiphenyl oxide	1163-19-5
Demeton	8065-48-3
Dialifor	10311-84-9
Di-allate	2303-16-4
Diamine	302-01-2
2,4-Diaminoanisole	615-05-4
2,4-Diaminoanisole sulfate	39156-41-7
4,4'-Diaminodiphenyl ether	101-80-4
2,4-Diaminotoluene	95-80-7
Diaminotoluene (mixed isomers)	25376-45-8
Diazinon	333-41-5
Diazomethane	334-88-3
1,2:5,6-Dibenzanthracene	53-70-3
Dibenz[a,h]anthracene	53-70-3

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Dibenzo[a,h]anthracene	53-70-3
Dibenzofuran	132-64-9
1,2:7,8-Dibenzopyrene	189-55-9
Dibenz[a,i]pyrene	189-55-9
Diborane	19287-45-7
1,2-Dibromo-3-chloropropane	96-12-8
di-n-butyl phthalate	84-74-2
Dicamba	1918-00-9
Dichlobenil	1194-65-6
Dichlone	117-80-6
m-Dichlorobenzene	541-73-1
S-(2,3-Dichloroallyl)diisopropylthiocarbamate	2303-16-4
Dichlorobenzene	25321-22-6
1,2-Dichlorobenzene	95-50-1
1,3-Dichlorobenzene	541-73-1
1,4-Dichlorobenzene	106-46-7
m-Dichlorobenzene	——
Dichlorobenzene (mixed isomers)	25321-22-6
o-Dichlorobenzene	95-50-1
p-Dichlorobenzene	106-46-7
Dichlorobenzidine	91-94-1
Dichlorobromomethane	75-27-4
1,4-Dichloro-2-butene	764-41-0
Dichlorodifluoromethane	75-71-8
3,5-Dichloro-N (1,1-dimethyl-2-propynyl) benzamide	23950-58-5
Dichlorodiphenyldichloroethane	72-54-8
Dichloro diphenyl trichloroethane	50-29-3
1,1-Dichloroethane	75-34-3
1,2-Dichloroethane	107-06-2
1,1-Dichloroethylene	75-35-4
1,2-Dichloroethylene	540-59-0
1,2-Dichloroethylene (E)	156-60-5
Dichloroethylenes (mixture)	25323-30-2
Dichloroethyl ether	111-44-4
Dichloroisopropyl ether	108-60-1
Dichloromethane	75-09-2
Dichloromethoxy ethane	111-91-1
Dichloromethyl ether	542-88-1
Dichloromethylphenylsilane	149-74-6
2,4-Dichlorophenol	120-83-2
2,6-Dichlorophenol	87-65-0
(2,4-Dichlorophenoxy)acetic acid	94-75-7
2,4-Dichlorophenoxyacetic acid, salts and esters	——
Dichlorophenylarsine	696-28-6
Dichloropropane	26638-19-7
1,1-Dichloropropane	78-99-9
1,3-Dichloropropane	142-28-9
n-,2,3 Dichloropropanol	616-23-9
Dichloropropene	542-75-6
Dichloropropene(s)	26952-23-8
1,3-Dichloropropene	542-75-6
2,3-Dichloropropene	78-88-6
Dichloropropene-Dichloropropene (mixture)	8003-19-8
2,2-Dichloropropionic acid	75-99-0
1,3-Dichloropropylene	542-75-6
Dichlorvos	62-73-7
Dicofol	115-32-2
Dicrotophos	141-66-2
Dieldrin	60-57-1
1,2:3,4-Diepoxybutane	1464-53-5
Diepoxybutane	1464-53-5
Diethanolamine	111-42-2
Diethylamine	109-89-7
Diethylarsine	692-42-2
Diethylcarbamazine citrate	1642-54-2
Diethyl chlorophosphate	814-49-3
N,N'-Diethylhydrazine	1615-80-1
O,O-Diethyl S-methyl dithiophosphate	3288-58-2
Diethyl-p-nitrophenyl phosphate	311-45-5
Diethyl phthalate	84-66-2
O,O-Diethyl O-pyrazinyl phosphorothioate	297-97-2
Diethylstilbestrol	56-53-1
Diethyl sulfate	64-67-5
Digitoxin	71-63-6
Diglycidyl ether	2238-07-5
Digoxin	20830-75-5
1,2-Dihydro-3,6-pyradizinedione	123-33-1
Dihydrosafrole	94-58-6
Dimefox	115-26-4
Dimethoate	60-51-5
3,3'-Dimethoxybenzidine	119-90-4
Dimethylamine	124-40-3
Dimethylaminoazobenzene	60-11-7
N,N-Dimethylaniline	121-69-7
7,12-Dimethylbenz[a]anthracene	57-97-6
3,3'-Dimethylbenzidine	119-93-7
alpha, alpha-Dimethylbenzylhydroperoxide	80-15-9
Dimethylcarbamyl chloride	79-44-7
Dimethyldichlorosilane	75-78-5
Dimethylhydrazine	57-14-7
1,2-Dimethylhydrazine	540-73-8
3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl] oxime	39196-18-4
Dimethylnitrosamine	62-75-9
alpha, alpha-Dimethylphenethylamine	122-09-8
2,4-Dimethylphenol	105-67-9
Dimethyl-p-phenylenediamine	99-98-9
Dimethyl phosphorochloridothioate	2524-03-0
Dimethyl phthalate	131-11-3
Dimethyl sulfate	77-78-1
Dimetilan	644-64-4
Dinitrobenzene (mixed isomers)	25154-54-5
m-Dinitrobenzene	99-65-0
o-Dinitrobenzene	528-29-0
p-Dinitrobenzene	100-25-4
4,6-Dinitro-o-cresol	534-52-1
4,6-Dinitro-o-cresol and salts	——
Dinitrophenol	25550-58-7
2,4-Dinitrophenol	51-28-5
2,5-Dinitrophenol	329-71-5
2,6-Dinitrophenol	573-56-8
Dinitrotoluene	25321-14-6
2,4-Dinitrotoluene	121-14-2
2,6-Dinitrotoluene	606-20-2
3,4-Dinitrotoluene	610-39-9
Dinocap	39300-45-3
Dinoseb	88-85-7
Dinoterb	1420-07-1
Di-n-octyl phthalate	117-84-0
1,4-Dioxane	123-91-1
Dioxathion	78-34-2
Diphacinone	82-66-6
Diphenylamine	122-39-4
Diphenylhydrazine	122-66-7
1,2-Diphenylhydrazine	122-66-7
Diphosphoric acid, tetraethyl ester	107-49-3
Dipropylamine	142-84-7
Di-n-propylnitrosamine	621-64-7
Diquat	85-00-7
Disulfoton	298-04-4
Dithiazanine iodide	514-73-8
Dithiobiuret	541-53-7
2,4-Dithiobiuret	32976-88-8
Dithiopyrophosphoric acid, tetraethyl ester	——
Diuron	330-54-1
Dodecylbenzenesulfonic acid	27176-87-0
EBDCs	——
Emetine, dihydrochloride	316-42-7
Endosulfan	115-29-7
alpha-Endosulfan	959-98-8
beta-Endosulfan	33213-65-9
Endosulfan metabolites	——
Endosulfan sulfate	1031-07-8
Endothall	145-73-3

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Endothion	2778-04-3
Endrin	72-20-8
Endrin aldehyde	7421-93-4
Endrin metabolites	——
Epichlorohydrin	106-89-8
Epinephrine	51-43-4
EPN	2104-64-5
2,3-Epoxy-1-propanol	556-52-5
Ergocalciferol	50-14-6
Ergotamine tartrate	379-79-3
Ethanal	75-07-0
Ethanamine, 1,1-dimethyl-2-phenyl-	122-09-8
Ethanedinitrile	460-19-5
1,2-Ethanediylbiscarbamodithioic acid	——
Ethane, 1,1'-[methylenebis(oxy)] bis(2-chloro-	111-91-1
Ethanenitrile	75-05-8
Ethanesulfonyl chloride, 2-chloro-	1622-32-8
Ethanethioamide	62-55-5
Ethanol, 1,2-dichloro-, acetate	10140-87-1
Ethanol, 2,2'-(nitrosoimino)bis-	1116-54-7
Ethanoyl chloride	75-36-5
Ethenamine, N-methyl-N-nitroso-	——
Ethene, trans-1,1-dichloro-	——
Ethion	563-12-2
Ethoprophos	13194-48-4
2-Ethoxyethanol	110-80-5
N-4-Ethoxyphenyl acetamid	62-44-2
Ethyl acetate	141-78-6
Ethyl acrylate	140-88-5
Ethylbenzene	100-41-4
Ethylbis(2-chloroethyl)amine	538-07-8
Ethyl carbamate	51-79-6
Ethyl chloroformate	541-41-3
Ethyl cyanide	107-12-0
Ethylenebis(dithiocarbamic acid)	——
Ethylenebisdithiocarbamic acid, salts & esters	111-54-6
Ethylenediamine	107-15-3
Ethylenediamine-tetraacetic acid (EDTA)	60-00-4
Ethylene dibromide	106-93-4
Ethylene dichloride	107-06-2
Ethylene fluorohydrin	371-62-0
Ethylene glycol	107-21-1
Ethylene oxide	75-21-8
Ethylenimine	151-56-4
Ethyl ether	60-29-7
Ethylidene dichloride	75-34-3
Ethyl methacrylate	97-63-2
Ethyl methanesulfonate	62-50-0
Ethylthiocyanate	542-90-5
Explosives: pink/red water from TNT operation	——
Explosives: spent carbon from the treatment of wastewater containing explosives	——
Explosives: wastewater treatment sludges from the manufacturing and processing of explosives	——
Explosives: wastewater treatment sludges from the manufacturing formulation and loading of lead-based initiating compounds	——
Famphur	52-85-7
Fenaminosulf	140-56-7
Fenamiphos	22224-92-6
Fenitrothion	122-14-5
Fensulfothion	115-90-2
Fenthion	55-38-9
Ferric ammonium citrate	1185-57-5
Ferric ammonium oxalate	2944-67-4
	55488-87-4
Ferric chloride	7705-08-0
Ferric dextran	9004-66-4
Ferric fluoride	7783-50-8
Ferric nitrate	10421-48-4
Ferric sulfate	10028-22-5
Ferroalloys: emission control dust or sludge from ferrochromium production	——
Ferroalloys: emission control dust or sludge from ferrochromiumsilicon	——
Ferrous ammonium sulfate	10045-89-3
Ferrous chloride	7758-94-3
Ferrous sulfate	7720-78-7
Fluenetil	4301-50-2
Fluminic acid, mercury (III) salt	——
Fluometuron	2164-17-2
Fluoranthene	206-44-0
N-2-Fluorenylacetamide	53-96-3
Fluorene	86-73-7
Fluorine	7782-41-4
Fluoroacetamide	640-19-7
Fluoroacetic acid	144-49-0
Fluoroacetic acid, sodium salt	62-74-8
Fluoroacetyl chloride	359-06-8
Fluorouracil	51-21-8
Fonofos	944-22-9
Formaldehyde	50-00-0
Formaldehyde cyanohydrin	107-16-4
Formetanate hydrochloride	23422-53-9
Formic acid	64-18-6
Formothion	2540-82-1
Formparanate	17702-57-7
Fosthietan	21548-32-3
Freon 113	76-13-1
Fuberidazole	3878-19-1
Fulminic acid, mercury(II) salt	628-86-4
Fumaric acid	110-17-8
Furan	110-00-9
2-Furancarbo-carboxaldehyde	——
2-Furancarboxaldehyde	98-01-1
Furfural	98-01-1
Furfuran	110-00-9
Gallium trichloride	13450-90-3
Glycidylaldehyde	765-34-4
Haloethers	——
Halomethanes	——
Heptachlor	76-44-8
Heptachlor (and epoxide)	76-44-8
Heptachlor epoxide	1024-57-3
Heptachlor metabolites	——
Hexachlorobenzene	118-74-1
Hexachloro-1,3-butadiene	87-68-3
Hexachlorobutadiene	87-68-3
Hexachlorocyclohexane (all isomers)	606-73-1
Hexachlorocyclohexane (gamma isomer)	58-89-9
Hexachlorocyclopentadiene	77-47-4
Hexachloroethane	67-72-1
Hexachlorohexahydro-exo, exo-dimethanonaphthalene	——
Hexachloronaphthalene	1335-87-1
Hexachlorophene	70-30-4
Hexachloropropene	1888-71-7
Hexaethyl tetraphosphate	757-58-4
Hexamethylenediamine, N,N'-dibutyl-	4835-11-4
Hexamethylphosphoramide	680-31-9
Hydrazine	302-01-2
Hydrazine sulfate	10034-93-2
Hydrochloric acid	7647-01-0
Hydrocyanic acid	74-90-8
Hydrofluoric acid	7664-39-3
Hydrogen chloride	7647-01-0
Hydrogen cyanide	74-90-8
Hydrogen fluoride	7664-39-3
Hydrogen peroxide (Conc. 52%)	7722-84-1
Hydrogen phosphide	7803-51-2
Hydrogen selenide	7783-07-5
Hydrogen sulfide	7783-06-4
Hydroperoxide, 1-methyl-1-phenylethyl-	80-15-9

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Hydroquinone	123-31-9
Hydroxylamine	7803-49-8
2-Imidazolidinethione	96-45-7
Indeno(1,2,3-cd)pyrene	193-39-5
Ink formulation: solvent washes & sludges, caustic wastes & sludges or water washes & sludges from cleaning tubs & equipment used in the formulation of ink from pigments/driers/soaps & stabilizers containing CR & Pb	——
Inorganic arsenic	7440-38-2
Inorganic arsenicals	——
Inorganic chemicals: brine purification muds from the mercury cell process in chlorine production where separately prepurified brine is not used	——
Inorganic chemicals: chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production	——
Inorganic chemicals: wastewater treatment sludge from the mercury cell process in chlorine production	——
Inorganic pigments: oven residue from the production of chrome oxide green pigments	——
Inorganic pigments: wastewater treatment sludge from the production of chrome green pigments	——
Inorganic pigments: wastewater treatment sludge from the production of chrome yellow and orange pigments	——
Inorganic pigments: wastewater treatment sludge from the production of iron blue pigments	——
Inorganic pigments: wastewater treatment sludge from the production of molybdate orange pigments	——
Inorganic pigments: wastewater treatment sludge from the production of zinc yellow pigments	——
Iron and steel: emission control dust/sludge from the primary production of steel in electric furnaces	——
Iron and steel: spent pickle liquor generated by steel finishing operations of facilities with the iron and steel industry (SIC Codes 331 and 332)	——
Iron dextran	9004-66-4
Iron, pentacarbonyl-	13463-40-6
Isobenzan	297-78-9
Isobutyl alcohol	78-83-1
Isobutyraldehyde	78-84-2
Isobutyronitrile	78-82-0
Isocyanic acid, 3,4-dichlorophenyl ester	102-36-3
Isocyanic acid, methylester	624-83-9
Isodrin	465-73-6
Isofluorphate	55-91-4
Isophorone	78-59-1
Isophorone diisocyanate	4098-71-9
Isoprene	78-79-5
Isopropanolamine dodecylbenzene sulfonate	42504-46-1
Isopropyl alcohol (mfg-strong acid process)	67-63-0
Isopropyl chloroformate	108-23-6
4,4'-Isopropylidenediphenol	80-05-7
Isopropylmethylpyrazolyl dimethylcarbamate	119-38-0
Isosafrole	120-58-1
3(2H)-isoxazolone, 5-(aminomethyl)-	2763-96-4
Kelthane	115-32-2
Kepone	143-50-0
Lactonitrile	78-97-7
Lasiocarpine	303-34-4
Lead	7439-92-1
Lead acetate	301-04-2
Lead acetic acid	301-04-2
Lead arsenate	10102-48-4
Lead, bis(acetato-O)tetrahydroxytn-	1335-32-6
Lead chloride	7758-95-4
Lead compounds	——
Lead fluoborate	13814-96-5
Lead fluoride	7783-46-2
Lead iodide	10101-63-0
Lead nitrate	10099-74-8
Lead phosphate	7446-27-7
Lead stearate	1072-35-1
	7428-48-0
	52652-59-2
	56189-09-4
Lead subacetate	1335-32-6
Lead sulfate	7446-14-2
Lead sulfide	1314-87-0
Lead thiocyanate	592-87-0
Leptophos	21609-90-5
Lethane 384	112-56-1
Lewisite	541-25-3
Lindane	58-89-9
Lithium chromate	14307-35-8
Lithium hydride	7580-67-8
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Maleic hydrazide	123-33-1
Malononitrile	109-77-3
Maneb	12427-38-2
Manganese	7439-96-5
Manganese, tricarbonyl methylcyclopentadienyl	12108-13-3
Mechlorethamine	51-75-2
Melphalan	148-82-3
Mephosfolan	950-10-7
Mercaptodimethur	2032-65-7
Mercuric acetate	1600-27-7
Mercuric chloride	7487-94-7
Mercuric cyanide	592-04-1
Mercuric nitrate	10045-94-0
Mercuric oxide	21908-53-2
Mercuric sulfate	7783-35-9
Mercuric thiocyanate	592-85-8
Mercurous nitrate	10415-75-5
Mercury	7439-97-6
Mercury compounds	7439-97-6
Mercury fulminate	628-86-4
Metaldehyde	108-62-3
Metharcrolein diacetate	10476-95-6
Methacrylic anhydride	760-93-0
Methacrylonitrile	126-98-7
Methacryloyl chloride	920-46-7
Methacryloyloxyethyl isocyanate	30674-80-7
Methamidophos	10265-92-6
Methane, isocyanato-	624-83-9
Methane, oxybis (chloro)-	542-88-1
Methanesulfonyl fluoride	558-25-8
Methanethiol	74-93-1
Methane, trichloro-	67-66-3
Methanoic acid	64-18-6
4,7-Methano-1 H-indene,1,4,5,6,7,8,8-heptechloro-3a,4,7,7a-tetrahydro-	76-44-8
Methanol	67-56-1
Methapyrilene	91-80-5
Methidathion	950-37-8
Methiocarb	2032-65-7
Methomyl	16752-77-5
Methoxychlor	72-43-5
2-Methoxyethanol	109-86-4
Methoxyethylmercuric acetate	151-38-2
Methyl acrylate	80-62-6
	96-33-3
2-Methylaziridine	75-55-8
Methyl bromide	74-83-9
1-Methylbutadiene	504-60-9
Methyl chloride	74-87-3
Methyl 2-chloroacrylate	80-63-7

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Methyl chlorocarbonate	79-22-1
Methylchloroform	——
3-Methylcholanthrene	56-49-5
Methyl demeton	919-86-8
4,4'-Methylenebis(2-chloroaniline)	101-14-4
4,4'-Methylenebis(N,N-dimethyl)benzenamine	101-61-1
Methylenebis(phenylisocyanate)	101-68-8
2,2'-Methylenebis (3,4,6-trichlorophenol)	70-30-4
Methylene bromide	74-95-3
Methylene chloride	75-09-2
4,4'-Methylenedianiline	101-77-9
Methylene oxide	50-00-0
Methyl ethyl ketone	78-93-3
Methyl ethyl ketone peroxide	1338-23-4
Methyl hydrazine	60-34-4
Methyl iodide	74-88-4
Methyl isobutyl ketone	108-10-1
Methyl isocyanate	624-83-9
Methyl isothiocyanate	556-61-6
2-Methyllactonitrile	75-86-5
Methyl mercapton	74-93-1
Methylmercuric dicyanamide	502-39-6
N-Methyl-N'-nitro-N-nitrosoguanidine	70-25-7
Methyl parathion	298-00-0
Methyl phenkapton	3735-23-7
Methyl phosphonic dichloride	676-97-1
Methyl tert-butyl ether	1634-04-4
Methyl thiocyanate	556-64-9
Methylthiouracil	56-04-2
Methyltrichlorosilane	75-79-6
Methyl vinyl ketone	78-94-4
Metolcarb	1129-41-5
Mevinphos	7786-34-7
Mexacarbate	315-18-4
Michler's ketone	90-94-8
Mirex	2385-85-5
Mitomycin C	50-07-7
Molybdenum trioxide	1313-27-5
Monocrotophos	6923-22-4
Monoethylamine	75-04-7
Monomethylamine	74-89-5
Muscimol	2763-96-4
Mustard gas	505-60-2
Naled	300-76-5
Naphthalene	91-20-3
Naphthalene compounds	——
1,4-Naphthalenedione	130-15-4
Naphthenic acid	1338-24-5
1,4-Naphthoquinone	130-15-4
Naphthylamine	91-29-3
1-Naphthylamine	134-32-7
2-Naphthylamine	91-59-8
alpha-Naphthylthiourea	86-88-4
Nickel	7440-02-0
Nickel ammonium sulfate	15699-18-0
Nickel carbonyl	13463-39-3
Nickel chloride	7718-54-9
Nickel compounds	——
Nickel cyanide	557-19-7
Nickel hydroxide	12054-48-7
Nickel nitrate	14216-75-2
Nickel sulfate	7786-81-4
Nickel tetracarbonyl	13463-39-3
Nicotine	54-11-5
Nicotine salts	——
Nicotine sulfate	65-30-5
Nitric acid	7697-37-2
Nitric acid, thallium(1+) salt	10102-45-1
Nitric oxide	10102-43-9
Nitrilotriacetic acid	139-13-9
p-Nitroaniline	100-01-6
5-Nitro-o-anisidine	99-59-2
Nitrobenzene	98-95-3
4-Nitrobiphenyl	92-93-3
Nitrocyclohexane	1122-60-7
Nitrofen	1836-75-5
Nitrogen dioxide	10102-44-0
Nitrogen mustard	51-75-2
Nitrogen oxide	10102-43-9
Nitrogen (II) oxide	——
Nitrogen (IV) oxide	——
Nitrogen oxide NO2	10544-72-6
Nitroglycerin	55-63-0
Nitrophenol (mixed isomers)	25154-55-6
2-Nitrophenol	88-75-5
m-Nitrophenol	554 84-7
o-Nitrophenol	88-75-5
p-Nitrophenol	100-02-7
Nitrophenols	——
2-Nitropropane	79-46-9
Nitrosamines	——
N-Nitrosodi-n-butylamine	924-16-3
N-Nitrosodiethanolamine	1116-54-7
N-Nitrosodiethylamine	55-18-5
Nitrosodimethylamine	62-75-9
N-Nitrosodiphenylamine	86-30-6
p-Nitrosodiphenylamine	156-10-5
N-Nitrosodi-n-propylamine	621-64-7
N-Nitroso-N-ethylurea	759-73-9
N-Nitroso-N-methylurea	684-93-5
N-Nitroso-N-methylurethane	615-53-2
N-Nitrosomethylvinylamine	4549-40-0
N-Nitrosomorpholine	59-89-2
N-Nitrosonornicotine	16543-55-8
N-Nitrosopiperidine	100-75-4
N-Nitroso-N-propylamine	——
N-Nitrosopyrrolidine	930-55-2
Nitrotoluene	1321-12-6
m-Nitrotoluene	99-08-1
o-Nitrotoluene	88-72-2
p-Nitrotoluene	99-99-0
5-Nitro-o-toluidine	99-55-8
Norbormide	991-42-4
5-Norbornene-2, 3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite	——
Octachloronaphthalene	2234-13-1
Octamethyl pyrophosphoramide	152-16-9
Organic chemicals: heavy ends from the fractionation column in ethyl chloride production	——
Organic chemicals: aqueous spent animony catalyst waste from fluoromethanes production	——
Organic chemicals: bottom stream from the acetonitrile column in the production of acrylonitrile	——
Organic chemicals: bottom stream from the wastewater stripper in the production of acrylonitrile	——
Organic chemicals: bottoms from the acetonitrile purification column in the production of acrylonitrile	——
Organic chemicals: centrifuge and distillation residues from toluene diisocyanate production	——
Organic chemicals: column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDHM) from carboxylic acid hydrazines	——
Organic chemicals: column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene	——
Organic chemicals: combined wastewater streams generated from nitrobenzene/aniline production	——
Organic chemicals: condensed column overheads from intermediate separation from the production of 1,1-	

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dimethylhydrazine (UDMH) from carboxylic acid hydrazides	—
Organic chemicals: condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDHM) from carboxylic acid hydrazines	—
Organic chemicals: condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	—
Organic chemicals: distillation bottom tars from the production of phenol/acetone from cumene	—
Organic chemicals: distillation bottoms from aniline production	—
Organic chemicals: Distillation bottoms from the production of 1,1,1-trichlorethane	—
Organic chemicals: distillation bottoms from the production of acetaldehyde from ethylene	—
Organic chemicals: distillation bottoms from the production of anhydride from ortho-xylene	—
Organic chemicals: distillation bottoms from the production of nitrobenzene by the nitration of benzene	—
Organic chemicals: distillation bottoms from the production of phthalic anhydride from naphthalene	—
Organic chemicals: distillation light ends from the production of phthalic anhydride from naphghalne	—
Organic chemicals: distillation of light ends from the production of phthalic anhydride from ortho-xylene	—
Organic chemicals: distillation or fractionation column bottoms from the production of chlorobenzenes	—
Organic chemicals: distillation side cuts from the production of acetaldehyde from ethylene	—
Organic chemicals: heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production	—
Organic chemicals: heavy ends (still bottoms) from the purification column in the production of epichlorohydrin	—
Organic chemicals: heavy ends from the distillation of ethylene dichloride in ethylene dichloride production	—
Organic chemicals: heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	—
Organic chemicals: heavy ends from the heavy ends column from the product of 1,1,1-trichloroethane	—
Organic chemicals: heavy ends or distillation residues from the production of carbon tetrachloride	—
Organic chemicals: organic condensate from the solvent recovery column in the production of toluene diisocvanate via phosgenation of toluenediamine	—
Organic chemicals: process residues from aniline extraction from the production of aniline	—
Organic chemicals: product washwaters from the production of dinitrotoluene via nitration of toluene	—
Organic chemicals: reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene	—
Organic chemicals: separated aqueous stream from the reactor product washing step in the production of chlorobenzenes	—
Organic chemicals: spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	—
Organic chemicals: spent catalyst from the hydrochlorinator reactor in the production 1,1,1-trichloroethane	—
Organic chemicals: spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides	—
Organic chemicals: still bottoms from the distillation of benzyl chloride	—
Organic chemicals: still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	—
Organic chemicals: stripping still tails from the production of methy ethyl pyridines	—
Organic chemicals: vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	—
Organic chemicals: waste from the product stream stripper in the production of 1,1,1-trichloroethane	—
Organic chemicals: wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene	—
Organorhodium Complex (PMN-82-147)	—
Osmium oxide	12036-02-1
Osmium oxide (T-4)-	20816-12-0
Osmium tetroxide	20816-12-0
Ouabain	630-60-4
Oxamyl	23135-22-0
1,2-Oxathiolane, 2,2-dioxide	1120-71-4
2H-1,3,2-Oxazaphosphorine, 2 [bis (2-chlorethyl) amino] benzene-	—
Oxentane, 3,3-bis(chloromethyl)-	78-71-7
Oxirane	75-21-8
Oxiranecarboxyaldehyde	765-34-4
10, 10'-Oxybisphenoxarsine	58-36-6
Oxydisulfoton	2497-07-6
Oxyfluorfen	42874-03-3
Ozone	10028-15-6
Paraformaldehyde	30525-89-4
Paraldehyde	123-63-7
Paraquat	1910-42-5
Paraquat methosulfate	2074-50-2
Parathion	56-38-2
Paris green	12002-03-8
Pentaborane	19624-22-7
Pentachlorobenzene	608-93-5
Pentachloroethane	76-01-7
Pentachloronitrobenzene	82-68-8
Pentachlorophenol	87-86-5
Pentadecylamine	2570-26-5
1,3-Pentadiene	504-60-9
Peracetic acid	79-21-0
Perchloroethylene	127-18-4
Perchloromethylmercaptan	594-42-3
Pesticides: 2,6-Dichlorophenol waste from the production of 2,4-D	—
Pesticides: baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts	—
Pesticides: by-product salts generated in the production of MSMA and cacodylic acid	—
Pesticides: filter cake from the filtration of diethylphosphorodithoic acid in the production of phorate	—
Pesticides: filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane	—
Pesticides: filtration, evaporation, and centrifugation solids from the production of ethylenbisdithiocarbamic acid and its salts	—
Pesticides: heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T	—
Pesticides: process wastewater (including supermates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salt	—

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Pesticides: reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts	——
Pesticides: spent absorbent and wastewater separator solids form the production of methyl bromide	——
Pesticides: still bottoms from toluene reclamation distillation in the production of disulfoton	——
Pesticides: untreated process wastewater from the production of toxaphene	——
Pesticides: untreated wastewater from the production of 2,4-D	——
Pesticides: vacuum stripper discharge from the chlordane chlorinator in the production of chlordane	——
Pesticides: wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane	——
Pesticides: wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide	——
Pesticides: wastewater from the washing and stripping of phorate production	——
Pesticides: wastewater treatment sludge from the production of chlordane	——
Pesticides: wastewater treatment sludge from the production of phorate	——
Pesticides: wastewater treatment sludge from the production of toxaphene	——
Pesticides: wastewater treatment sludges from the production of disulfoton	——
Pesticides: wastewater treatment sludges generated in the production of creosote	——
Petroleum refining: API separator sludge from the petroleum refining industry	——
Petroleum refining: dissolved air flotation (DAF) float from the petroleum refining industry	——
Petroleum refining: heat exchanger bundle cleaning sludge from the petroleum refining industry	——
Petroleum refining: slop oil emulsion solids from the petroleum refining industry	——
Petroleum refining: tank bottoms (leaded) from the petroleum refining industry	——
Phenacetin	62-44-2
Phenanthrene	85-01-8
Phenarsazine chloride	578-94-9
Phenol	108-95-2
Phenol, 2,4-dinitro-6-(1-methylprophyl)	88-85-7
Phenol, 2,4-dinitro-6-methyl- salts	——
Phenol, methyl-	1319-77-3
Phenol, 3-(1-methylethyl)-, methylcarbamate	64-00-6
Phenol, 2-(1-methylpropyl)-4,6-dinitro	88-85-7
Phenol, 2,2'-thiobis[4-chloro-6-methyl-	4418-66-0
Phenyl dichloroarsine	696-28-6
p-Phenylenediamine	106-50-3
1,10-(1,2-Phenylene)pyrene	193-39-5
Phenylhydrazine hydrochloride	59-88-1
Phenylmercuric acetate	62-38-4
2-Phenylphenol	90-43-7
Phenylsilatrane	2097-19-0
Phenylthiourea	103-85-5
Phorate	298-02-2
Phosacetim	4104-14-7
Phosalone	2310-17-0
Phosfolan	947-02-4
Phosgene	75-44-5
Phosmet	732-11-6
Phosphamidon	13171-21-6
Phosphine	7803-51-2
Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl)amino	50782-69-9
Phosphonothioic acid, methyl-, O-ethyl O-(4-methylthio)phen	2703-13-1
Phosphonothioic acid, methyl-, O-(4-nitrophenyl) O-phenyl es	2665-30-7
Phosphoric acid	7664-38-2
Phosphoric acid, dimethyl 4-(methylthio) phenyl ester	3254-63-5
Phosphoric acid, lead salt	7446-27-7
Phosphorothioic acid, O,O-dimethyl-O-[p-((dimethylamino)-sulfonyl)phenyl] ester	52-85-7
Phosphorothioic acid, O,O-dimethyl-5-(2-(methylthio)ethyl)es	2587-90-8
Phosphorus	7723-14-0
Phosphorus oxychloride	10025-87-3
Phosphorus pentachloride	10026-13-8
Phosphorus pentasulfide	1314-80-3
Phosphorus pentoxide	1314-56-3
Phosphorus sulfide	1314-80-3
Phosphorus trichloride	7719-12-2
Phthalate esters	——
Phthalic anhydride	85-44-9
Physostigmine	57-47-6
Physostigmine, salicylate (1:1)	57-64-7
2-Picoline	109-06-8
Picric acid	88-89-1
Picrotoxin	124-87-8
Pindone	83-26-1
Piperidine	110-89-4
Pirimicarb	23103-98-2
Pirimifos-esthyl	23505-41-1
Polychlorinated biphenyls (PCBs)	——
	1336-36-3
	11096-82-5
	11097-69-1
	11104-28-2
	11141-16-5
	12672-29-6
	12674-11-2
	53469-21-9
Polychlorinated terphenyls	——
Polynuclear aromatic hydrocarbons	——
Potassium arsenate	7784-41-0
Potassium arsenite	10124-50-2
Potassium bichromate	7778-50-9
Potassium chromate	7789-00-6
Potassium cyanide	151-50-8
Potassium hydroxide	1310-58-3
Potassium permanganate	7722-64-7
Potassium silver cyanide	506-61-6
Primary aluminum: spent potliners from primary aluminum reduction	——
Primary copper: acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production	——
Primary lead: surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities	——
Primary zinc: sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production	——
Promecarb	2631-37-0
Pronamide	23950-58-5
1-Propanamine	107-10-8
Propanedinitrile	109-77-3
Propanenitrile	107-12-0
Propanenitrile, 3-chloro-	542-76-7
Propane, 2,2'-oxybis(2-chloro-	108-60-1
1,3-Propane sultone	1120-71-4
1,Propanol,2,3-dibromo-, phosphate (3:1)	126:72-7
2-Propanone	67-64-1
Propargite	2312-35-8
Propargyl alcohol	107-19-7

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Propargyl bromide	106-96-7
2-Propenenitrile	107-13-1
2-Propenenitrile, 2-methyl-	126-98-7
2-Propenoic acid, ethyl ester	140-88-5
2-Propenoic acid, 2-methyl-, ethyl ester	97-63-2
2-Propen-1-ol	107-18-6
beta-Propiolactone	57-57-8
Propionaldehyde	123-38-6
Propionic acid	79-09-4
Propionic anhydride	123-62-6
Propoxur	114-26-1
n-Propylamine	107-10-8
Propyl chloroformate	109-61-5
Propylene (Propene)	115-07-1
Propylene dichloride	78-87-5
Propyleneimine	75-55-8
Propylene oxide	75-56-9
1,2-Propylenimine	75-55-8
Prothoate	2275-18-5
2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl) amino]-	66-75-1
Pyrene	129-00-0
Pyrenthrins	121-21-1
	121-29-9
	8003-34-7
4-Pyridinamine	504-24-5
Pyridine	110-86-1
Pyridine, 2-[(2-dimethylamino)-2-thenylamino]-	——
Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)	54-11-5
Pyridine, 2-methyl-5-vinyl-	140-76-1
Pyridine, 4-nitro,-1-oxide	1124-33-0
Pyriminil	53558-25-1
Pyrophosphoric acid, tetraethyl ester	——
Pyrrole, tetrahydro-N-nitroso-	107-49-3
Pyrrolidine, 1-nitroso	930-55-2
Quaternary ammonium compounds	——
Quinoline	91-22-5
Quinone	106-51-4
Quintozene	82-68-8
Radionuclides	——
Red squill	507-60-8
Reserpine	50-55-5
Resorcinol	108-46-3
Saccharin and salts	81-07-2
Safrole	94-59-7
Salcomine	14167-18-1
Sarin	107-44-8
Secondary lead: emission control dust/sludge from secondary lead smelting	——
Secondary lead: waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting	——
Selenious acid	7783-00-8
Selenious acid, dithallium(1+) salt	12039-52-0
Selenium	7782-49-2
Selenium compounds	——
Selenium dioxide	7446-08-4
Selenium disulfide	7488-56-4
Selenium oxide	7446-08-4
Selenium oxychloride	7791-23-3
Selenium sulfide	7488-56-4
Selenourea	630-10-4
Semicarbazide hydrochloride	563-41-7
Silane, (4-aminobutyl)diethoxymethyl-	3037-72-7
Silver	7440-22-4
Silver compounds	——
Silver cyanide	506-64-9
Silver nitrate	7761-88-8
Silvex	93-72-1
Sodium	7440-23-5
Sodium arsenate	7631-89-2
Sodium arsenite	7784-46-5
Sodium azide	26628-22-8
Sodium bichromate	10588-01-9
Sodium bifluoride	1333-83-1
Sodium bisulfite	7631-90-5
Sodium cacodylate	124-65-2
Sodium chlorate	7775-09-9
Sodium chromate	7775-11-3
Sodium cyanide	143-33-9
Sodium dodecylbenzenesulfonate	25155-30-0
Sodium flouride	7681-49-4
Sodium fluoroacetate	62-74-8
Sodium hydrosulfide	16721-80-5
Sodium hydroxide	1310-73-2
Sodium hypochlorite	7681-52-9
Sodium methylate	124-41-4
Sodium monofluoroacetate	62-74-8
Sodium nitrite	7632-00-0
Sodium phosphate, dibasic	7558-79-4
Sodium phosphate, tribasic	7601-54-9
Sodium selenate	13410-01-0
Sodium selenite	10102-18-8
Sodium sulfide	1313-82-8
Sodium tellurite	10102-20-2
Stannane, acetoxytriphenyl-	900-95-8
Stannous flouride	7783-47-3
4,4'-Stilbenediol, alpha, alpha'-diethyl-	56-33-1
Streptozotocin	18883-66-4
Strobane	8001-50-1
Strontium sulfide	1314-96-1
Strontium chromate	7789-06-2
Strychnidin-10-one-and salt	57-24-9
Strychnine	57-24-9
Strychnine salts	——
Strychnine, sulfate	60-41-3
Styrene	100-42-5
Styrene oxide	96-09-3
Sulfotep	3689-24-5
Sulfoxide, 3-chloropropyl octyl	3569-57-1
Sulfur dioxide	7446-09-5
Sulfuric acid	7664-93-9
Sulfuric acid, dithallium(1+) salt	7446-18-6
	10031-59-1
Sulfuric acid, thallium(I) salt	7446-18-6
Sulfur monochloride	12771-08-3
Sulfur phosphide	1314-80-3
Sulfur selenide	7446-34-6
Sulfur tetrafluoride	7783-60-0
Sulfur trioxide	7446-11-9
2,4,5-T amines	1319-72-8
	2008-46-0
	3813-14-7
	6369-96-6
	6369-97-7
2,4,5-T esters	1928-47-8
	2545-59-7
	25168-15-4
	61792-07-2
2,4,5-T salts	13560-99-1
Tabun	77-81-6
2.3.6-TBA and related polychlorbenzoic acids, dimethylamine salts	50-31-7
Tellurium	13494-80-9
Tellurium hexafluoride	7783-80-4
Terbufos	13071-79-9
Terephthalic acid	100-21-0
1,2,4,5-Tetrachlorobenzene	95-94-3
2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)	1746-01-6
1,1,2,2-Tetrachloroethane	79-34-5
1,1,1,2-Tetrachloroethane	630-20-6
Tetrachloroethylene	127-18-4
2,3,4,6-Tetrachlorophenol	58-90-2
Tetrachlorvinphos	961-11-5

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Tetraethyldithiopyrophosphate	3689-24-5
Tetraethyllead	78-00-2
Tetraethylpyrophosphate	107-49-3
Tetraethyltin	597-64-8
Tetrahydrofuran	109-99-9
Tetramethyllead	75-74-1
Tetranitromethane	509-14-8
Tetraphosphoric acid, hexaethyl ester	757-58-4
Thallic oxide	1314-32-5
Thallium(I) acetate	563-68-8
Thallium(I) acetic acid, salt	563-68-8
Thallium(I) carbonate	6533-73-9
Thallium chloride	7791-12-0
Thallium	7440-28-0
Thallium compounds	——
Thallium(I) nitrate	10102-45-1
Thallium oxide	1314-32-5
Thallium(I) selenide	12039-52-0
Thallium selenite	12039-52-0
Thallium sulfate	7446-18-6
	10031-59-1
Thallous carbonate	6533-73-9
Thallous chloride	7791-12-0
Thallous malonate	2757-18-8
Thallous sulfate	7446-18-6
Thioacetamide	62-55-5
Thiocarbazide	2231-57-4
4,4′-Thiodianiline	139-65-1
Thiodiphosphoric acid, tetraethyl ester	3689-24-5
Thiofanox	39196-18-4
Thioimidodicarbonic diamide	541-53-7
Thiomethanol	74-93-1
Thionazin	297-97-2
Thiophenol	108-98-5
Thiosemicarbazide	79-19-6
Thiourea	62-56-6
Thiourea, (2-methylphenyl)-	614-78-8
Thiram	137-26-8
Thorium dioxide	1314-20-1
Titanium tetrachloride	7550-45-0
TOK	1836-75-5
Toluene	108-88-3
Toluenediamine	95-80-7
	496-72-0
	823-40-5
	25376-45-8
Toluene-2,4-diisocyanate	584-84-9
Toluene-2,6-diisocyanate	91-08-7
o-Toluidine hydrochloride	636-21-5
o-Toluidine	95-53-4
p-Toluidine	106-49-0
Toxaphene	8001-35-2
2,4,5-TP esters	32534-95-5
2,4,5-TP	——
Trans-1,4-dichlorobutene	110-57-6
Triamiphos	1031-47-6
Triaziquone	68-76-8
Triazofos	24017-47-8
Tribromomethane	75-25-2
Tributyltin	56-35-9
Trichlorfon	52-68-6
Trichloroacetaldehyde	75-87-6
Trichloroacetyl chloride	76-02-8
1,2,4-Trichlorobenzene	120-82-1
Trichloro(chloromethyl)silane	1558-25-4
Trichloro(dichlorophenyl)silane	27137-85-5
1,1,1-Trichloroethane	71-55-6
1,1,2-Trichloroethane	79-00-5
Trichloroethene	79-01-6
Trichloroethylene	79-01-6
Trichloroethylsilane	115-21-9
Trichloromethanesulfenyl chloride	594-42-3
Trichloromethanethiol	75-70-7
Trichloromonofluoromethane	75-69-4
Trichloronate	327-98-0
Trichlorophenol	25167-82-2
2,3,4-Trichlorophenol	15950-66-0
2,3,5-Trichlorophenol	933-78-8
2,3,6-Trichlorophenol	933-75-5
2,4,5-Trichlorophenol	95-95-4
	88-06-2
2,4,6-Trichlorophenol	88-06-2
3,4,5-Trichlorophenol	609-19-8
(2,4,5-Trichlorophenoxy)acetic acid	93-76-5
(2,4,5-Trichlorophenoxy)acetic acid esters	93-79-8
Trichlorophenylsilane	98-13-5
1,2,3-Trichloropropane	96-18-4
Triethanolamine dodecylbenzene sulfonate	27323-41-7
Triethoxysilane	998-30-1
Triethylamine	121-44-8
Trifluralin	1582-09-8
Trimethylamine	75-50-3
1,2,4-Trimethylbenzene	95-63-6
Trimethylchlorosilane	75-77-4
Trimethylolpropane phosphite	824-11-3
Trimethyltin chloride	1066-45-1
sym-Trinitrobenzene	99-35-4
1,3,5-Trioxane,2,4,6-Trimethyl-	123-63-7
Triphenyltin chloride	639-58-7
Triphenyltin hydroxide	76-87-9
Tris(2-chloroethyl)amine	555-77-1
Tris(2,3-dibromopropyl) phosphate	126-72-7
Trypan blue	72-57-1
Uracil mustard	66-75-1
Uranium peroxide	19525-15-6
Uranyl acetate	541-09-3
Uranyl nitrate	36478-76-9
Uranyl sulfate	1314-64-3
Urea, N-ethyl-N-nitroso-	759-73-9
Urea, N-methyl-N-nitroso-	684-93-5
Urethane	51-79-6
Valinomycin	2001-95-8
Vanadic acid, ammonium salt	7803-55-6
Vanadium (fume or dust)	7440-62-2
Vanadium oxide	1314-62-1
Vanadium pentoxide	1314-62-1
Vanadyl sulfate	27774-13-6
Veterinary pharmaceuticals: distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo arsenic compounds	——
Veterinary pharmaceuticals: residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	——
Veterinary pharmaceuticals: wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	——
Vinyl acetate	108-05-4
Vinyl acetate monomer	108-05-4
Vinyl chloride	75-01-4
Vinylidene chloride	75-35-4
Warfarin	81-81-2
Warfarin sodium	129-06-6
Wood preservation: bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosole and/or pentachlorophenol	——
Xylene	1330-20-7
Xylene (mixed isomers)	1330-20-7
m-Xylene	108-38-3
o-Xylene	95-47-6
p-Xylene	106-42-3

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Xylenes	1330-20-7
Xylenol	1300-71-6
2,6-Xylidine	87-62-7
Xylylene dichloride	28347-13-9
Zinc	7440-66-6
Zinc acetate	557-34-6
Zinc ammonium chloride	14639-97-5
	14639-98-6
	52628-25-8
Zinc and compounds	——
Zinc borate	1332-07-6
Zinc bromide	7699-45-8
Zinc carbonate	3486-35-9
Zinc chloride	7646-85-7
Zinc cyanide	557-21-1
Zinc, dichloro(4,4-dimethyl-5((((methylamino) carbonyl)oxy)im	58270-08-9
Zinc fluoride	7783-49-5
Zinc formate	557-41-5
Zinc hydrosulfite	7779-86-4
Zinc nitrate	7779-88-6
Zinc phenolsulfonate	127-82-2
Zinc phosphide	1314-84-7
Zinc phosphide, when present at concentration greater than 10 percent	1314-84-7
Zinc silicofluoride	16871-71-9
Zinc sulfate	7733-02-0
Zineb	12122-67-7
Zirconium nitrate	13746-89-9
Zirconium potassium fluoride	16923-95-8
Zirconium sulfate	14644-61-2
Zirconium tetrachloride	10026-11-6

—— Bottom sludge generated from the processing, blending, and treatment of waste oil in waste oil processing facilities

—— Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substition.

—— Cyanidation wastewater tailing pond sediment from mineral metals recovery operations.

—— Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulation containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.).

—— Leachate resulting from the treatment, storage, or disposal of wastes classified by more than one waste code under Subpart D, or from a mixture of wastes classified under Subparts C and D of this part. (Leachate resulting from the management of one or more of the following EPA Hazardous Wastes and no other hazardous wastes retains its hazardous waste code(s): F020, F021, F022, F023, F026, F027 and/or F028.

—— Oil spill cleanup residue which: A. is contaminated beyond saturation; or B. the generator fails to demonstrate that the spill material was not one of the listed hazardous waste oils.

—— Plating sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process.

—— Process wastes, including but not limited to, distillation, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalized processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in 261.31 or 261.32).

—— Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.

—— Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process.

—— Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.

—— Spent cyanide bath solutions from mineral metals recovery operations.

—— Spent cyanide plating bath solutions from electroplating operations.

—— Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.

—— Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.

—— The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride. 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of 10 percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004 and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

—— The following spent halogenated solvents; tetrachloro ethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, orthodichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of 10 percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

—— The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of 10 percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

—— The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of 10 percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

—— The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/

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blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of 10 percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

—— The following used and unused waste oils: metal working oils; turbine lubricating oils; diesel lubricating oils; and quenching oils

—— Waste automotive crankcase and lubricating oils from automotive service and gasoline stations, truck terminals, and garages

—— Waste oil and bottom sludge generated by gasoline stations when gasoline and oil tanks are tested, cleaned, or replaced

—— Waste oil and bottom sludge generated from tank cleanouts from residential/commercial fuel oil tanks

—— Waste petroleum oil generated when tank trucks or other vehicles or mobile vessels are cleaned, including, but not limited to, oily ballast water from product transport units of boats, barges, ships, or other vessels

—— Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.

—— Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.).

—— Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophena from highly purified 2,4,5-trichlorophenol.

—— Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating carbon steel, and (6) chemical etching and milling of aluminum.

—— Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.

—— 3-(alpha-acetonyl benzyl)-4-hydroxy-coumarin and salts

—— Antimony compounds

—— Arsenic compounds

—— Benzene, 1-methyl-1,2,4-dinitro-

—— Benzene, 1,2-methylenedioxy-4-propyl

—— 1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts

—— Butanoic acid, 4-[bis(2-chloroethyl)

—— Cadmium compounds

—— Carbamimidoselenoic acid

—— Chlordane, technical

—— Chlorinated benzenes

—— Chlorinated ethanes

—— Chlorinated naphthalene

—— Chlorinated phenols

—— Chloroalkyl Ethers

—— 4-Chloro-m-cresol epoxy-

—— Chromium compounds

—— Coke Oven Emissions

—— Coking: ammonia still lime sludge from coking operations

—— Coking: decanter tank far sludge from coking operations

—— Copper compounds

—— Cresol

—— Cresols

—— Cyanide compounds

—— Cyanides (soluble salts and complexes), not otherwise specified

—— 1,4-Cyclohexadienedione

—— 2,4-D, salts and esters

—— DDT metabolites

—— m-Dichlorobenzene

—— 2,4-Dichlorophenoxyacetic acid, salts and esters

—— 4,6-Dinitro-o-cresol and salts

—— Dithiopyrophosphoric acid, tetraethyl ester

—— EBDCs

—— Endosulfan metabolites

—— Endrin metabolites

—— 1,2-Ethanediylbiscarbamodithioic acid

—— Ethenamine, N-methyl-N-nitroso-

—— Ethene, trans-1,1-dichloro-

—— Ethylenebis(dithiocarbamic acid)

—— Explosives: pink/red water from TNT operations

—— Explosives: spent carbon from the treatment of wastewater containing explosives

—— Explosives: wastewater treatment sludges from the manufacturing and processing of explosives

—— Explosives: wastewater treatment sludges from the manufacturing formulation and loading of lead-based initiating compounds

—— Ferroalloys: emission control dust or sludge from ferrochromium production

—— Ferroalloys: emission control dust or sludge from ferrochromiumsilicon

—— Fluminic acid, mercury (III) salt

—— 2-Furancarbo-carboxaldehyde

—— Haloethers

—— Halomethanes

—— Heptachlor metabolites

—— Hexachlorohexahydro-exo,exo-dimethanonaphthalene

—— Ink formulation: solvent washes & sludges, caustic wastes & sludges or water washes & sludges from cleaning tubs & equipment used in the formulation of ink from pigments/driers/soaps & stablizers containing Cr & Pb

—— Inorganic arsenicals

—— Inorganic chemicals: brine purification muds from the mercury cell process in chlorineproduction where separately prepurified brine is not used.

—— Inorganic chemicals: chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production

—— Inorganic chemicals: wastewater treatment sludge from the mercury cell process in chlorine production

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—— Inorganic pigments: oven residue from the production of chrome oxide green pigments
—— Inorganic pigments: wastewater treatment sludge from the production of chrome green pigments
—— Inorganic pigments: wastewater treatment sludge from the production of chrome yellow and orange pigments
—— Inorganic pigments: wastewater treatment sludge from the production of iron blue pigments
—— Inorganic pigments: wastewater treatment sludge from the production of molybdate orange pigments
—— Inorganic pigments: wastewater treatment sludge from the production of zinc yellow pigments
—— Iron and steel: emission control dust/sludge from the primary production of steel in electric furnaces
—— Iron and steel: spent pickle liquor generated by steel finishing operations of facilities with the iron and steel industry (SIC Codes 331 and 332)
—— Lead compounds
—— Methylchloroform
—— Naphthalene compounds
—— Nickel compounds
—— Nicotine salts
—— Nitrogen (II) oxide
—— Nitrogen (IV) oxide
—— Nitrophenols
—— Nitrosamines
—— N-Nitroso-N-propylamine
—— 5-Norbornene-2, 3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite
—— Organic chemicals: heavy ends from the fractionation column in ethyl chloride production
—— Organic chemicals: aqueous spent animony catalyst waste from fluoromethanes production
—— Organic chemicals: bottom stream from the acetonitrile column in the production of acrylonitrile
—— Organic chemicals: bottom stream from the wastewater stripper in the production of acrylonitrile
—— Organic chemicals: bottoms from the acetonitrile purification column in the production of acrylonitrile
—— Organic chemicals: centrifuge and distillation residues from toluene diisocyanate production
—— Organic chemicals: column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDHM) from carboxylic acid hydrazines
—— Organic chemicals: column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene
—— Organic chemicals: combined wastewater streams generated from nitrobenzene/aniline production
—— Organic chemicals: condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides
—— Organic chemicals: condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDHM) from carboxylic acid hydrazines
—— Organic chemicals: condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene
—— Organic chemicals: distillation bottom tars from the production of phenol/acetone from cumene
—— Organic chemicals: distillation bottoms from aniline production
—— Organic chemicals: Distillation bottoms from the production of 1,1,1-trichloroethane
—— Organic chemicals: distillation bottoms from the production of acetaldehyde from ethylene
—— Organic chemicals: distillation bottoms from the production of anhydride from ortho-xylene
—— Organic chemicals: distillation bottoms from the production of nitrobenzene by the nitration of benzene
—— Organic chemicals: distillation bottoms from the production of phthalic anhydride from naphthalene
—— Organic chemicals: distillation light ends from the production of phthalic anhydride from naphghalene
—— Organic chemicals: distillation of light ends from the production of phthalic anhydride from orthopxylene
—— Organic chemicals: distillation or fractionation column bottoms from the production of chlorobenzenes
—— Organic chemicals: distillation side cuts from the production of acetaldehyde from ethylene
—— Organic chemicals: heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production
—— Organic chemicals: heavy ends (still bottoms) from the purification column in the production of epichlorohydrin
—— Organic chemicals: heavy ends from the distillation of ethylene dichloride in ethylene dichloride production
—— Organic chemicals: heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene
—— Organic chemicals: heavy ends from the heavy ends column from the product of 1,1,1-trichloroethane
—— Organic chemicals: heavy ends or distillation residues from the production of carbon tetrachloride
—— Organic chemicals: organic condensate from the solvent recovery column in the production of toluene diisocvanate via phosgenation of toluenediamine
—— Organic chemicals: process residues from aniline extraction from the production of aniline
—— Organic chemicals: product washwaters from the production of dinitrotoluene via nitration of toluene
—— Organic chemicals: reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene
—— Organic chemicals: separated gagueous stream from the reactor product washing step in the production of chlorobenzenes
—— Organic chemicals: spent adorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene
—— Organic chemicals: spent catalyst from the hydrochlorinator reactor in the production 1,1,1-trichloroethane
—— Organic chemicals: spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides
—— Organic chemicals: still bottoms from the distillation of benzyl chloride
—— Organic chemicals: still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene
—— Organic chemicals: stripping still tails from the production of methy ethyl pyridines
—— Organic chemicals: vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene
—— Organic chemicals: waste from the product stream stripper in the production of 1,1,1-trichloroethane
—— Organic chemicals: wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene

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—	Organorhodium Complex (PMN-82-147)
—	2H-1,3,2-Oxazaphosphorine, 2 [bis (2-chloroethyl) amino] benzene-
—	Pesticides: 2,6-Dichlorophenol waste from the production of 2,4-D
—	Pesticides: baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts
—	Pesticides: by-product salts generated in the production of MSMA and cacodylic acid
—	Pesticides: filter cake from the filtration of diethylphosphorodithoic acid in the production of phorate
—	Pesticides: filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane
—	Pesticides: Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts
—	Pesticides: heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T
—	Pesticides: process wastewater (including supermates, filtrates, and washwaters), from the production of ethylenebisdithiocarbamic acid and its salt
—	Pesticides: reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts
—	Pesticides: spent absorbent and wastewater separator solids from the production of methyl bromide
—	Pesticides: still bottoms from toluene reclamation distillation in the production of disulfoton
—	Pesticides: Untreated process wastewater from the production of toxaphene
—	Pesticides: untreated wastewater from the production of 2,4-D
—	Pesticides: vacuum stripper discharge from the chlordane chlorinator in the production of chlordane
—	Pesticides: wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane
—	Pesticides: wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide
—	Pesticides: wastewater from the washing and stripping of phorate production
—	Pesticides: wastewater treatment sludge from the production of chlordane
—	Pesticides: wastewater treatment sludge from the production of phorate
—	Pesticides: wastewater treatment sludge from the production of toxaphene
—	Pesticides: wastewater treatment sludges from the production of disulfoton
—	Pesticides: wastewater treatment sludges generated in the production of creosote
—	Petroleum refining: API separator sludge from the petroleum refining industry
—	Petroleum refining: dissolved air flotation (DAF) float from the petroleum refining industry
—	Petroleum refining: heat exchanger bundle cleaning sludge from the petroleum refining industry
—	Petroleum refining: slop oil emulsion solids from the petroleum refining industry
—	Petroleum refining: tank bottoms (leaded) from the petroleum refining industry
—	Phenol,2,4-dinitro-6-methyl- salts
—	Phthalate esters
—	Polychlorinated biphenyls (PCBs)
—	Polychlorinated terphenyls
—	Polynuclear aromatic hydrocarbons
—	Primary aluminum: spent potliners from primary aluminum reduction
—	Primary copper: acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production
—	Primary lead: surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities
—	Primary zinc: sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production
—	Pyridine, 2-[(2-dimethylamino)-2-thenylamino]-
—	Pyrophosphoric acid, tetraethyl ester
—	Quaternary ammonium compounds
—	Radionuclides
—	Secondary lead: emission control dust/sludge from secondary lead smelting
—	Secondary lead: waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting
—	Selenium compounds
—	Silver compounds
—	Strychnine salts
—	Thallium compounds
—	2,4,5-TP
—	Veterinary pharmaceuticals: distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds
—	Veterinary pharmaceuticals: residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds
—	Veterinary pharmaceuticals: wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds
—	Wood preservation: bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosole and/or pentachlorophenol
—	Zinc and compounds
50-00-0	Formaldehyde
50-00-0	Methylene oxide
50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione,6-amino-8-[[(aminocarbonyl)oxy]methl]-1,1a,2,8,-8a,8b-hexahydro-8a-methoxy-5-methyl,[1aS-(1aalpha,8beta,8aalpha,8balpha)]-
50-07-7	Mitomycin C
50-14-6	Ergocalciferol
50-18-0	Cyclophosphamide
50-29-3	Dichloro diphenyl trichloroethane
50-31-7	2.3.6-TBA and related polychlorbenzoic acids, dimethylamine salts
50-32-8	Benzo[a]pyrene
50-55-5	11,17-Dimethoxy-18-[(3,4,5- trimethoxybenzoyl)oxy]-methyl ester, (3beta,16beta,17alpha,18beta, 20alpha)-yohimban-16-carboxylic acid
50-55-5	Reserpine
51-21-8	Fluorouracil
51-28-5	2,4-Dinitrophenol
51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino) ethyl]-
51-43-4	Epinephrine
51-75-2	Mechlorethamine
51-75-2	Nitrogen mustard
51-79-6	Ethyl carbamate
51-79-6	Urethane
51-83-2	Carbachol chloride
52-68-6	Trichlorfon
52-85-7	Famphur

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52-85-7	Phosphorothioic acid, O,O-dimethyl-O-[p-((dimethylamino)-sulfonyl)phenyl]ester
53-70-3	1,2:5,6-Dibenzanthracene
53-70-3	Dibenz[a,h]anthracene
53-70-3	Dibenzo[a,h]anthracene
53-96-3	2-Acetylaminofluorene
53-96-3	N-2-Fluorenylacetamide
54-11-5	Nicotine
54-11-5	Pyridine, (s)-3-(1-methyl-2-pyrrolidinyl)
54-62-6	Aminopterin
55-18-5	N-Nitrosodiethylamine
55-21-0	Benzamide
55-38-9	Fenthion
55-63-0	Nitroglycerin
55-91-4	Isofluorphate
56-04-2	Methylthiouracil
56-23-5	Carbon tetrachloride
56-25-7	Cantharidin
56-33-1	4,4'-Stilbenediol, alpha, alpha'-diethyl-
56-35-9	Tributyltin
56-38-2	Parathion
56-49-5	3-Methylcholanthrene
56-53-1	Diethylstilbestrol
56-55-3	1,2-Benzanthracene
56-55-3	Benz[a]anthracene
56-55-3	Benzo[a] anthracene
56-72-4	Coumephos
57-12-5	Cyanide
57-14-7	Dimethylhydrazine
57-24-9	Strychnidin-10-one-and salt
57-24-9	Strychnine
57-47-6	Physostigmine
57-57-8	beta-Propiolactone
57-64-7	Physostigmine, salicylate (1:1)
57-74-9	Chlordane
57-74-9	Chlordane (Technical Mixture and Metabolites)
57-74-9	Chlordane, alpha & gamma isomers
57-97-6	7,12-Dimethylbenz[a]anthracene
58-36-6	10, 10'-Oxybisphenoxarsine
58-89-9	gamma-BHC
58-89-9	Hexachlorocyclohexane (gamma isomer)
58-89-9	Lindane
58-90-2	2,3,4,6-Tetrachlorophenol
59-50-7	4-Chloro-m-cresol
59-50-7	p-Chloro-m-cresol
59-88-1	Phenylhydrazine hydrochloride
59-89-2	N-Nitrosomorpholine
60-00-4	Ethylenediamine-tetraacetic acid (EDTA)
60-09-3	4-Aminoazobenzene
60-09-3	C.I. Solvent Yellow 1
60-11-7	Dimethylaminoazobenzene
60-29-7	Ethyl ether
60-34-4	Methyl hydrazine
60-35-5	Acetamide
60-41-3	Strychnine, sulfate
60-51-5	Dimethoate
60-57-1	Dieldrin
61-82-5	Amitrole
62-38-4	Phenylmercuric acetate
62-44-2	N-4-Ethoxyphenyl acetamide
62-44-2	Phenacetin
62-50-0	Ethyl methanesulfonate
62-53-3	Aniline
62-53-3	Benzenamine
62-55-5	Ethanethioamide
62-55-5	Thioacetamide
62-56-6	Carbamide, thio-
62-56-6	Thiourea
62-73-7	Dichlorvos
62-74-8	Fluoroacetic acid, sodium salt
62-74-8	Sodium fluoroacetate
62-74-8	Sodium monofluoroacetate
62-75-9	Dimethylnitrosamine
62-75-9	Nitrosodimethylamine
63-25-2	Carbaryl
64-00-6	Phenol, 3-(1-methylethyl)-, methylcarbamate
64-18-6	Formic acid
64-18-6	Methanoic acid
64-19-7	Acetic acid
64-67-5	Diethyl sulfate
64-86-8	Colchicine
65-30-5	Nicotine sulfate
65-85-0	Benzoic acid
66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl) amino]-
66-75-1	Uracil mustard
66-81-9	Cycloheximide
67-56-1	Methanol
67-63-0	Isopropyl alcohol (mfg-strong acid process)
67-64-1	Acetone
67-64-1	2-Propanone
67-66-3	Chloroform
67-66-3	Methane, trichloro-
67-72-1	Hexachloroethane
68-76-8	Triaziquone
70-25-7	N-Methyl-N'-nitro-N-nitrosoguanidine
70-30-4	Hexachlorophene
70-30-4	2,2'-Methylenebis (3,4,6-trichlorophenol)
70-69-9	p-Aminopropiophenone
71-36-3	n-Butyl alcohol
71-43-2	Benzene
71-55-6	1,1,1-Trichloroethane
71-63-6	Digitoxin
72-20-8	Endrin
72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4- methoxy-
72-43-5	Methoxychlor
72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
72-54-8	Dichlorodiphenyldichloroethane
72-55-9	DDE
72-57-1	Trypan blue
74-83-9	Methyl bromide
74-87-3	Methyl chloride
74-88-4	Methyl iodide
74-89-5	Monomethylamine
74-90-8	Hydrocyanic acid
74-90-8	Hydrogen cyanide
74-93-1	Methanethiol
74-93-1	Methyl mercaptan
74-93-1	Thiomethanol
74-95-3	Methylene bromide
75-00-3	Chloroethane
75-01-4	Vinyl chloride
75-04-7	Monoethylamine
75-05-8	Acetonitrile
75-05-8	Ethanenitrile
75-07-0	Acetaldehyde
75-07-0	Ethanal
75-09-2	Dichloromethane
75-09-2	Methylene chloride
75-15-0	Carbon bisulfide
75-15-0	Carbon disulfide
75-20-7	Calcium carbide
75-21-8	Ethylene oxide
75-21-8	Oxirane
75-25-2	Bromoform
75-25-2	Tribromomethane
75-27-4	Dichlorobromomethane
75-34-3	1,1-Dichloroethane
75-34-3	Ethylidene dichloride
75-35-4	1,1-Dichloroethylene
75-35-4	Vinylidene chloride

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75-36-5	Acetyl chloride
75-36-5	Ethanoyl chloride
75-44-5	Carbonic dichloride
75-44-5	Carbonyl chloride
75-44-5	Phosgene
75-50-3	Trimethylamine
75-55-8	2-Methylaziridine
75-55-8	Propyleneimine
75-55-8	1,2-Propylenimine
75-56-9	Propylene oxide
75-60-5	Cacodylic acid
75-64-9	tert-Butylamine
75-65-0	tert-Butyl alcohol
75-69-4	Trichloromonofluoromethane
75-70-7	Trichloromethanethiol
75-71-8	Dichlorodifluoromethane
75-74-1	Tetramethyllead
75-77-4	Trimethylchlorosilane
75-78-5	Dimethyldichlorosilane
75-79-6	Methyltrichlorosilane
75-86-5	Acetone cyanohydrin
75-86-5	2-Methyllactonitrile
75-87-6	Trichloroacetaldehyde
75-99-0	2,2-Dichloropropionic acid
76-01-7	Pentachloroethane
76-02-8	Trichloroacetyl chloride
76-13-1	Freon 113
76-44-8	Heptachlor
76-44-8	Heptachlor (and epoxide)
76-44-8	4,7-Methano-1 H-indene,1,4,5,6,7,8,8-heptechloro-3a,4,7,7a-tetrahydro-
76-87-9	Triphenyltin hydroxide
77-47-4	Hexachlorocyclopentadiene
77-78-1	Dimethyl sulfate
77-81-6	Tabun
78-00-2	Tetraethyllead
78-34-2	Dioxathion
78-53-5	Amiton
78-59-1	Isophorone
78-71-7	Oxetane, 3,3-bis(chloromethyl)-
78-79-5	Isoprene
78-81-9	iso-Butylamine
78-82-0	Isobutyronitrile
78-83-1	Isobutyl alcohol
78-84-2	Isobutyraldehyde
78-87-5	Propylene dichloride
78-88-6	2,3-Dichloropropene
78-92-2	sec-Butyl alcohol
78-93-3	2-Butanone
78-93-3	Methyl ethyl ketone
78-93-4	Methyl vinyl ketone
78-97-7	Lactonitrile
78-99-9	1,1-Dichloropropane
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethene
79-01-6	Trichloroethylene
79-06-1	Acrylamide
79-09-4	Propionic acid
79-10-7	Acrylic acid
79-11-8	Chloroacetic acid
79-19-6	Thiosemicarbazide
79-21-0	Peracetic acid
79-22-1	Methyl chlorocarbonate
79-31-2	iso-Butyric acid
79-34-5	1,1,2,2-Tetrachloroethane
79-44-7	Dimethylcarbamyl chloride
79-46-9	2-Nitropropane
80-05-7	4,4'-Isopropylidenediphenol
80-15-9	Cumene hydroperoxide
80-15-9	alpha, alpha-Dimethylbenzylhydroperoxide
80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-
80-62-6	Methyl acrylate
80-63-7	Methyl 2-chloroacrylate
81-07-2	1,2-Benzisothiazolin-3-one, 1,1-dioxide
81-07-2	Saccharin and salts
81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations greater than 0.3%
81-81-2	Warfarin
81-88-9	C.I. Food Red 15
82-28-0	1-Amino-2-methylanthraquinone
82-66-6	Diphacinone
82-68-8	Pentachloronitrobenzene
82-68-8	Quintozene
83-26-1	Pindone
83-32-9	Acenaphthene
84-66-2	Diethyl phthalate
84-74-2	n-Butyl phthalate
84-74-2	di-n-butyl phthalate
85-00-7	Diquat
85-01-8	Phenanthrene
85-44-9	1,2-Benzenedicarboxylic acid anhydride
85-44-9	Phthalic anhydride
85-68-7	Butyl benzyl phthalate
86-30-6	N-Nitrosodiphenylamine
86-50-0	Azinphos-methyl
86-73-7	Fluorene
86-88-4	Antu
86-88-4	alpha-Naphthylthiourea
87-62-7	2,6-Xylidine
87-65-0	2,6-Dichlorophenol
87-68-3	Hexachloro-1,3-butadiene
87-68-3	Hexachlorobutadiene
87-86-5	Pentachlorophenol
88-05-1	Aniline, 2,4,6-trimethyl-
88-06-2	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol
88-72-2	o-Nitrotoluene
88-75-5	2-Nitrophenol
88-75-5	o-Nitrophenol
88-85-7	Dinoseb
88-85-7	Phenol, 2,4-dinitro-6-(1-methylpropyl)
88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro
88-89-1	Picric acid
90-04-0	o-Anisidine
90-43-7	2-Phenylphenol
90-94-8	Michler's ketone
91-08-7	Toluene-2,6-diisocyanate
91-20-3	Naphthalene
91-22-5	Quinoline
91-29-3	Naphthylamine
91-58-7	2-Chloronaphthalene
91-59-8	2-Naphthylamine
91-80-5	Methapyrilene
91-94-1	Dichlorobenzidine
92-52-4	Biphenyl
92-67-1	4-Aminobiphenyl
92-87-5	Benzidine
92-93-3	4-Nitrobiphenyl
93-72-1	Silvex
93-76-5	(2,4,5-Trichlorophenoxy)acetic acid
93-79-8	(2,4,5-Trichlorophenoxy)acetic acid esters
94-11-1	2,4-D Esters
94-11-1	2,4-D, isopropyl ester
94-36-0	Benzoyl peroxide
94-58-6	Benzene, 1,2-methylenedioxy-4-propenyl-
94-58-6	1,3 Benzodioxole, 5-propyl-
94-58-6	Dihydrosafrole
94-59-7	Benzene, 1,2-methylenedioxy-4-allyl-
94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
94-59-7	Safrole
94-75-7	(2,4-Dichlorophenoxy)acetic acid

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94-79-1	2,4-D Esters
94-80-4	
94-80-4	2,4-D, mixed butyl esters
95-47-6	o-Xylene
95-48-7	o-Cresol
95-50-1	1,2-Dichlorobenzene
95-50-1	o-Dichlorobenzene
95-53-4	2-Amino-1-methylbenzene
95-53-4	Benzenamine, 2-methyl-
95-53-4	o-Toluidine
95-57-8	o-Chlorophenol
95-63-6	1,2,4-Trimethylbenzene
95-80-7	Benzenediamine, ar-methyl-
95-80-7	2,4-Diaminotoluene
95-80-7	Toluenediamine
95-94-3	1,2,4,5-Tetrachlorobenzene
95-95-4	2,4,5-Trichlorophenol
96-09-3	Styrene oxide
96-12-8	1,2-Dibromo-3-chloropropane
96-18-4	1,2,3-Trichloropropane
96-33-3	Methyl acrylate
96-45-7	2-Imidazolidinethione
97-18-7	Bithionol
97-56-3	C.I. Solvent Yellow 3
97-63-2	Ethyl Methacrylate
97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
98-01-1	2-Furancarboxaldehyde
98-01-1	Furfural
98-05-5	Benzenearsonic acid
98-07-7	Benzotrichloride
98-09-9	Benzenesulfonyl chloride
98-13-5	Trichlorophenylsilane
98-16-8	Benzenamine, 3-(trifluoromethyl)-
98-82-8	Cumene
98-86-2	Acetophenone
98-87-3	Benzal chloride
98-88-4	Benzoyl chloride
98-95-3	Nitrobenzene
99-08-01	m-Nitrotoluene
99-35-4	sym-Trinitrobenzene
99-55-8	5-Nitro-o-toluidine
99-59-2	5-Nitro-o-anisidine
99-65-0	m-Dinitrobenzene
99-98-9	Dimethyl-p-phenylenediamine
99-99-0	p-Nitrotoluene
100-01-6	Benzenamine, 4-nitro-
100-01-6	p-Nitroaniline
100-02-7	p-Nitrophenol
100-14-1	Benzene, 1-(chloromethyl)-4-nitro-
100-21-0	Terephthalic acid
100-25-4	p-Dinitrobenzene
100-41-4	Ethylbenzene
100-42-5	Styrene
100-44-7	Benzyl chloride
100-47-0	Benzonitrile
100-75-4	N-Nitrosopiperidine
101-14-4	4,4'-Methylenebis(2-chloroaniline)
101-55-3	4-Bromophenyl phenyl ester
101-61-1	4,4'-Methylenebis(N,N-dimethyl)benzenamine
101-6X-8	Methylenebis(phenylisocyanate)
101-77-9	4,4'-Methylenedianiline
101-XX-4	4,4'-Diaminodiphenyl ether
102-3X-3	Isocyanic acid, 3,4-dichlorophenyl ester
103-23-1	Bis(2-ethylhexyl) adipate
103-85-5	Phenylthiourea
104-94-9	p-Anisidine
105-46-4	sec-Butyl acetate
105-67-9	2,4-Dimethylphenol
106-42-3	p-Xylene
106-44-5	p-Cresol
106-46-7	1,4-Dichlorobenzene
106-46-7	p-Dichlorobenzene
106-47-8	p-Chloroaniline
106-49-0	4-Amino-1-methylbenzene
106-49-0	Benzenamine, 4-methyl-
106-49-0	p-Toluidine
106-50-3	p-Phenylenediamine
106-51-4	p-Benzoquinone
106-51-4	2,5-Cyclohexadiene-1,4-dione
106-51-4	Quinone
106-88-7	1,2-Butylene oxide
106-89-8	Epichlorohydrin
106-93-4	Ethylene dibromide
106-96-7	Propargyl bromide
106-99-0	1,3-Butadiene
107-02-8	Acrolein
107-05-1	Allyl chloride
107-06-2	1,2-Dichloroethane
107-06-2	Ethylene dichloride
107-10-8	1-Propanamine
107-10-8	n-Propylamine
107-12-0	Ethyl cyanide
107-12-0	Propanenitrile
107-13-1	Acrylonitrile
107-13-1	2-Propenenitrile
107-15-3	Ethylenediamine
107-16-4	Formaldehyde cyanohydrin
107-18-6	Allyl alcohol
107-18-6	2-Propen-1-ol
107-19-7	Propargyl alcohol
107-20-0	Chloroacetaldehyde
107-21-1	Ethylene glycol
107-30-2	Chloromethyl methyl ether
107-44-8	Sarin
107-49-3	Diphosphoric acid, tetraethyl ester
107-49-3	Pyrrole, tetrahydro-N-nitroso-
107-49-3	Tetraethylpyrophosphate
107-92-6	Butyric acid
108-05-4	Vinyl acetate
108-05-4	Vinyl acetate monomer
108-10-1	Methyl isobutyl ketone
108-23-6	Isopropyl chloroformate
108-24-7	Acetic anhydride
108-31-6	Maleic anhydride
108-38-3	m-Xylene
108-39-4	m-Cresol
108-46-3	1,3-Benzenediol
108-46-3	Resorcinol
108-60-1	Bis(2-chloroisoprophyl)ether
108-60-1	Bis(2-chloro-1-methylethyl)ether
108-60-1	Dichloroisopropyl ether
108-60-1	Propane, 2,2'-oxybis(2-chloro-
108-62-3	Metaldehyde
108-88-3	Toluene
108-90-7	Chlorobenzene
108-91-8	Cyclohexylamine
108-94-1	Cyclohexanone
108-95-2	Phenol
108-98-5	Benzenethiol
108-98-5	Thiophenol
109-06-8	2-Picoline
109-61-5	Propyl chloroformate
109-73-9	Butylamine
109-77-3	Melononitrile
109-77-3	Propanedinitrile
109-86-4	2-Methoxyethanol
109-89-7	Diethylamine
109-99-9	Tetrahydrofuran
110-00-9	Furan
110-00-9	Furfuran
110-16-7	Maleic acid
110-17-8	Fumaric acid

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110-19-0	iso-Butyl acetate
110-57-6	Trans-1,4-dichlorobutene
110-75-8	2-Chloroethyl vinyl ether
110-80-5	2-Ethoxyethanol
110-82-7	Benzene, hexahydro
110-82-7	Cyclohexane
110-86-1	Pyridine
110-89-4	Piperidine
111-42-2	Diethanolamine
111-44-4	Dichloroethyl ether
111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
111-69-3	Adiponitrile
111-91-1	Bis(2-chloroethoxy) methane
111-91-1	Dichloromethoxy ethane
111-91-1	Ethane, 1,1'-[methylenebis(oxy)] (2-chloro-
112-56-1	Lethane 384
114-26-1	Propoxur
115-02-6	Azaserine
115-07-1	Propylene (Propene)
115-21-9	Trichloroethylsilane
115-26-4	Dimefox
115-29-7	Endosulfan
115-32-2	Dicofol
115-32-2	Kelthane
115-90-2	Fensulfothion
116-06-3	Aldicarb
116-29-0	Chloranil
117-52-2	Coumafuryl
117-79-3	2-Aminoanthraquinone
117-80-6	Dichlone
117-81-7	Bis(2-ethylhexyl)phthalate
117-84-0	1,2,-Benzenedicarboxylic acid, di-n-octyl ester
117-84-0	Di-n-octyl phthalate
118-74-1	Hexachlorobenzene
119-38-0	Isopropylmethylpyrazolyl dimethylcarbamate
119-90-4	3,3'-Dimethoxybenzidine
119-93-7	3,3'-Dimethylbenzidine
120-12-7	Anthracene
120-58-1	Isosafrole
120-71-8	p-Cresidine
120-80-9	Catechol
120-82-1	1,2,4-Trichlorobenzene
120-83-2	2,4-Dichlorophenol
121-14-2	Benzene, 1-methyl-2,4-dinitro-
121-14-2	2,4-Dinitrotoluene
121-21-1	Pyrethrins
121-29-9	
121-44-8	Triethylamine
121-69-7	N,N-Dimethylaniline
121-75-5	Malathion
122-09-8	Benzeneethanamine,alpha,alpha-dimethyl
122-09-8	alpha, alpha-Dimethylphenethylamine
122-09-08	Ethanamine, 1,1-dimethyl-2-phenyl-
122-10-1	Bomyl
122-14-5	Fenitrothion
122-39-4	Diphenylamine
122-66-7	Diphenylhydrazine
122-66-7	1,2-Diphenylhydrazine
123-31-9	Hydroquinone
123-33-1	1,2-Dihydro-3,6-pyradizinedione
123-33-1	Maleic hydrazide
123-38-6	Propionaldehyde
123-62-6	Propionic anhydride
123-63-7	Paraldehyde
123-63-7	1,3,5-Trioxane,2,4,6-Trimethyl-
123-72-8	Butyraldehyde
123-86-4	Butyl acetate
123-91-1	1,4-Dioxane
123-92-2	iso-Amyl acetate
124-04-9	Adipic acid
124-40-3	Dimethylamine
124-41-4	Sodium methylate
124-48-1	Chlorodibromomethane
124-65-2	Sodium cacodylate
124-87-8	Picrotoxin
126-72-7	1,Propanol,2,3-dibromo-, phosphate (3:1)
126-72-7	Tris(2,3-dibromopropyl) phosphate
126-98-7	Methacrylonitrile
126-98-7	2-Propenitrile, 2-methyl-
126-99-8	2-Chloro,1,3-butadiene
126-99-8	Chloroprene
127-18-4	Perchloroethylene
127-18-4	Tetrachloroethylene
127-82-2	Zinc phenolsulfonate
128-66.5	C.I. Vat Yellow 4
129-00-0	Pyrene
129-06-6	Warfarin sodium
130-15-4	1,4-Naphthalenedione
130-15-4	1,4-Naphthoquinone
131-11-3	Dimethyl phthalate
131-74-8	Ammonium picrate
131-89-5	2-Cyclohexyl-4,6-dinitrophenol
132-64-9	Dibenzofuran
133-06-2	Captan
133-90-4	Chloramben
134-29-2	o-Anisidine hydrochloride
134-32-7	1-Naphthlamine
135-20-6	Cupferron
137-26-8	Thiram
139-13-9	Nitrilotriacetic acid
139-65-1	4,4'-Thiodianiline
140-29-4	Benzyl cyanide
140-76-1	Pyridine, 2-methyl-5-vinyl-
140-88-5	Ethyl acrylate
140-88-5	2-Propenoic acid, ethyl ester
141-32-2	Butyl acrylate
141-66-2	Dicrotophos
141-78-6	Ethyl acetate
142-28-9	1,3-Dichloropropane
142-71-2	Cupric acetate
142-84-7	Dipropylamine
143-33-9	Sodium cyanide
143-50-0	Kepone
144-49-0	Fluoroacetic acid
140-56-7	Fenaminosulf
145-73-3	Endothall
148-82-3	Alanine, 3-[p-bis(-chloroethyl) amino]phenyl]-,L-
148-82-3	Melphalan
149-74-6	Dichloromethylphenylsilane
151-38-2	Methoxyethylmercuric acetate
151-50-8	Potassium cyanide
151-56-4	Ethylenimine
152-16-9	Octamethyl pyrophosphoramide
156-10-5	p-Nitrosodiphenylamine
156-60-5	1,2-Dichloroethylene (E)
156-62-7	Calcium cyanamide
189-55-9	Benzo[rst]pentaphene
189-55-9	1,2:7,8-Dibenzopyrene
189-55-9	Dibenz[a,i]pyrene
191-24-2	Benzo[ghi]perylene
193-39-5	Indeno(1,2,3-cd)pyrene
193-39-5	1,10-(1,2-Phenylene)pyrene
205-99-2	Benzo(b)fluoranthene
206-44-0	Benzo[j,k]fluorene
206-44-0	Fluorathene
207-08-9	Benzo(k) fluoranthene
208-96-8	Acenaphthylene
218-01-9	1,2-Benzphenanthrene
218-01-9	Chrysene
225-51-4	3,4-Benzacridine
225-51-4	Benz[c]acridine
2310-17-0	Phosalone

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297-78-9	Isobenzan
297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
297-97-2	Thionazin
298-00-0	Methyl parathion
298-02-2	Phorate
298-04-4	Disulfoton
300-62-9	Amphetamine
300-76-5	Naled
301-04-2	Lead acetate
301-04-2	Lead acetic acid
302-01-2	Diamine
302-01-2	Hydrazine
303-34-4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2 (1-methoxethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-(1alpha(Z),72s*,3R*),7aalpha]]-
303-34-4	Lasiocarpine
305-03-3	Chlorambucil
309-00-2	Aldrin
311-45-5	Diethyl-p-nitrophenyl phosphate
315-18-4	Mexacarbate
316-42-7	Emetine, dihydrochloride
319-84-6	alpha-BHC
319-85-7	beta-BHC
319-86-8	delta-BHC
327-98-0	Trichloronate
329-71-5	2,5-Dinitrophenol
330-54-1	Diuron
333-41-5	Diazinon
334-88-3	Diazomethane
353-42-4	Boron trifluoride compound with methyl ether (1:1)
353-50-4	Carbonic difluoride
353-50-4	Carbon oxyfluoride
353-50-4	Carbonyl fluoride
357-57-3	Brucine
359-06-8	Fluoroacetyl chloride
371-62-0	Ethylene fluorohydrin
379-79-3	Ergotamine tartrate
460-19-5	Cyanogen
460-19-5	Ethanedinitrile
463-58-1	Carbonyl sulfide
465-73-6	Isodrin
470-90-6	Chlorfenvinfos
492-80-8	Auramine
492-80-8	Benzenamine, 4,4'- carbonimidoylbis(N,N- dimethyl-
492-80-8	C.I.Solvent Yellow 34
494-03-1	Chlornaphazine
496-72-0	Benzenediamine, ar-methyl-
496-72-0	Toluenediamine
502-39-6	Methylmercuric dicyanamide
504-24-5	4-Aminopyridine
504-24-5	Avitrol
504-24-5	4-Pyridinamine
504-60-9	1-Methylbutadiene
504-60-9	1,3-Pentadiene
505-60-2	Mustard gas
506-61-6	Potassium silver cyanide
506-64-9	Silver cyanide
506-68-3	Bromine cyanide
506-68-3	Cyanogen bromide
506-77-4	Chlorine cyanide
506-77-4	Cyanogen chloride
506-78-5	Cyanogen iodide
506-87-6	Ammonium carbonate
506-96-7	Acetyl bromide
507-60-8	Red squill
509-14-8	Tetranitromethane
510-15-6	Chlorobenzilate
514-73-8	Dithiazanine iodide
528-29-0	o-Dinitrobenzene
532-27-4	2-Chloroacetophenone
533-23-3	2,4-D Ethyl ester
534-07-6	Bis(chloromethyl) ketone
534-52-1	4,6-Dinitro-o-cresol
535-89-7	Crimidine
538-07-8	Ethylbis(2-chloroethyl)amine
540-59-0	1,2-Dichloroethylene
540-73-8	1,2-Dimethylhydrazine
540-88-5	tert-Butyl acetate
541-09-3	Uranyl acetate
541-25-3	Lewisite
541-41-3	Ethyl chloroformate
541-53-7	Dithiobiuret
541-53-7	Thioimidodicarbonic diamide
541-73-1	m-Dichlorobenzene
541-73-1	1,3-Dichlorobenzene
542-62-1	Barium cyanide
542-75-6	Dichloropropene
542-75-6	1,3-Dichloropropene
542-75-6	1,3-Dichloropropylene
542-76-7	3-Chloropropionitrile
542-76-7	Propanenitrile, 3-chloro-
542-88-1	Bis(chloromethyl) ether
542-88-1	Chloromethyl ether
542-88-1	Dichloromethyl ether
542-88-1	Methane, oxybis (chloro)-
542-90-5	Ethylthiocyanate
543-90-8	Cadmium acetate
544-18-3	Cobaltous formate
544-92-3	Copper cyanide
554-84-7	m-Nitrophenol
555-77-1	Tris(2-chloroethyl)amine
556-52-5	2,3-Epoxy-1-propanol
556-61-6	Methyl isothiocyanate
556-64-9	Methyl thiocyanate
557-19-7	Nickel cyanide
557-21-1	Zinc cyanide
557-34-6	Zinc acetate
557-41-5	Zinc formate
558-25-8	Methanesulfonyl fluoride
563-12-2	Ethion
563-41-7	Semicarbazide hydrochloride
563-68-8	Thallium (I) acetate
563-68-8	Thallium (I) acetic acid, salt
569-64-2	C.I. Basic Green 4
573-56-8	2,6-Dinitrophenol
578-94-9	Phenarsazine chloride
584-84-9	Toluene-2,4-diisocyanate
591-08-2	1-Acetyl-2-thiourea
591-08-2	N-Aminothioxomethyl acetamide
592-01-8	Calcium cyanide
592-04-1	Mercuric cyanide
592-85-8	Mercuric thiocyanate
592-87-0	Lead thiocyanate
594-42-3	Perchloromethylmercaptan
594-42-3	Trichloromethanesulfenyl chloride
597-64-8	Tetraethyltin
598-31-2	Bromoacetone
606-20-2	Benzene, 1-methyl-2,6-dintro-
606-20-2	2,6-Dinitrotoluene
606-73-1	Hexachlorocyclohexane (all isomers)
608-73-1	BHC
608-93-5	Pentachlorobenzene
609-19-8	3,4,5-Trichlorophenol
610-39-9	3,4-Dinitrotoluene
614-78-8	Thiourea, (2-methylphenyl)-
615-05-4	2,4-Diaminoanisole
615-53-2	Carbamic acid, methylnitroso-, ethyl ester
615-53-2	N-Nitroso-N-methylurethane
616-23-9	n-,2,3 Dichloropropanol
621-64-7	Di-n-propylnitrosamine

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621-64-7	N-Nitrosodi-n-propylamine
624-83-9	Isocyanic acid, methylester
624-83-9	Methane, isocyanato-
624-83-9	Methyl isocyanate
625-16-1	tert-Amyl acetate
626-38-0	sec-Amyl acetate
627-11-2	Chloroethyl chloroformate
628-63-7	Amyl acetate
628-86-4	Fulminic acid, mercury(II) salt
628-86-4	Mercury fulminate
630-10-4	Selenourea
630-20-6	1,1,1,2- Tetrachloroethane
630-60-4	Ouabain
631-61-8	Ammonium acetate
636-21-5	Benzenamine, 2-methyl- hydrochloride
636-21-5	o-Toluidine hydrochloride
639-58-7	Triphenyltin chloride
640-19-7	Fluoroacetamide
644-64-4	Dimetilan
675-14-9	Cyanuric fluoride
676-97-1	Methyl phosphonic dichloride
680-31-9	Hexamethylphosphoramide
684-93-5	Carbamide, N-methyl-N-nitroso-
684-93-5	N-Nitroso-N-methylurea
684-93-5	Urea, N-methyl-N-nitroso-
692-42-2	Diethylarsine
696-28-6	Arsonous dichloride, phenyl-
696-28-6	Dichlorophenylarsine
696-28-6	Phenyl dichloroarsine
732-11-6	Phosmet
757-58-4	Hexaethyl tetraphosphate
757-58-4	Tetraphosphoric acid, hexaethyl ester
759-73-9	Carbamide, N-ethyl-N-nitroso-
759-73-9	N-Nitroso-N-ethylurea
759-73-9	Urea, N-ethyl-N-nitroso-
760-93-0	Methacrylic anhydride
764-41-0	1,4-Dichloro-2-butene
765-34-4	Glycidylaldehyde
765-34-4	Oxiranecarboxyal dehyde
786-19-6	Carbophenothion
814-49-3	Diethyl chlorophosphate
814-68-6	Acrylyl chloride
815-82-7	Cupric tartrate
823-40-5	Benzenediamine, ar-methyl-
823-40-5	Toluenediamine
824-11-3	Trimethylolpropane phosphite
842-07-9	C.I. Solvent Yellow 14
900-95-8	Stannane, acetoxytriphenyl-
919-86-8	Methyl demeton
920-46-7	Methacryloyl chloride
924-16-3	N-Nitrosodi-n-butylamine
930-55-2	N-Nitrosopyrrolidine
930-55-2	Pyrrolidine, 1-nitroso-
933-75-5	2,3,6-Trichlorophenol
933-78-8	2,3,5-Trichlorophenol
944-22-9	Fonofos
947-02-4	Phosfolan
950-10-7	Mephosfolan
950-37-8	Methidathion
959-98-8	alpha-Endosulfan
961-11-5	Tetrachlorvinphos
989-38-8	C.I. Basic Red 1
991-42-4	Norbormide
998-30-1	Triethoxysilane
999-81-5	Chlormequat chloride
1024-57-3	Heptachlor epoxide
1031-07-8	Endosulfan sulfate
1031-47-6	Triamiphos
1066-30-4	Chromic acetate
1066-33-7	Ammonium bicarbonate
1066-45-1	Trimethyltin chloride
1072-35-1	Lead stearate
1111-78-0	Ammonium carbamate
1113-38-8	Ammonium oxalate
1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
1116-54-7	N-Nitrosodiethanolamine
1120-71-4	1,2-Oxathiolane, 2,2-dioxide
1120-71-4	1,3-Propane sultone
1122-60-7	Nitrocyclohexane
1124-33-0	Pyridine, 4-nitro-, 1-oxide
1129-41-5	Metolcarb
1163-19-5	Decabromodiphenyl oxide
1185-57-5	Ferric ammoniom citrate
1194-65-6	Dichlobenil
1300-71-6	Xylenol
1303-28-2	Arsenic pentoxide
1303-32-8	Arsenic disulfide
1303-33-9	Arsenic trisulfide
1303-36-2	Arsenic (III) oxide
1306-19-0	Cadmium oxide
1309-64-4	Antimony trioxide
1310-58-3	Potassium hydroxide
1310-73-2	Sodium hydroxide
1313-27-5	Molybdenum trioxide
1313-82-8	Sodium sulfide
1314-20-1	Thorium dioxide
1314-32-5	Thallic oxide
1314-32-5	Thallium oxide
1314-56-3	Phosphorus pentoxide
1314-62-1	Vanadium oxide
1314-62-1	Vanadium pentoxide
1314-64-3	Uranyl sulfate
1314-80-3	Phosphorus pentasulfide
1314-80-3	Phosphorus sulfide
1314-80-3	Sulfur phosphide
1314-84-7	Zinc phosphide
1314-84-7	Zinc phosphide, when present at concentration greater than 10 percent
1314-87-0	Lead sulfide
1314-96-1	Strontium sulfide
1319-72-8	2,4,5-T amines
1319-77-3	Cresol(s)
1319-77-3	Cresol (mixed isomers)
1319-77-3	Phenol, methyl-
1320-18-9	2,4-D Esters
1321-12-6	Nitrotoluene
1327-53-3	Arsenic trioxide
1330-20-7	Xylene
1330-20-7	Xylene (mixed isomers)
1330-20-7	Xylenes
1332-07-6	Zinc borate
1332-21-4	Asbestos
1333-82-0	Chromic acid
1333-83-1	Sodium bifluoride
1335-32-6	Lead, bis(acetato-O)tetrahydroxytn-
1335-32-6	Lead subacetate
1335-87-1	Hexachloronaphthalene
1336-21-6	Ammonium hydroxide
1336-36-3	Polychlorinated biphenyls (PCBs)
1338-23-4	2-Butanone peroxide
1338-23-4	Methyl ethyl ketone peroxide
1338-24-5	Naphthenic acid
1341-49-7	Ammonium bifluoride
1344-28-1	Aluminum oxide
1397-94-0	Antimycin A
1420-07-1	Dinoterb
1464-53-5	2,2'-Bloxirane
1464-53-5	1,2:3,4-Diepoxybutane
1464-53-5	Diepoxybutane
1558-25-4	Trichloro(chloromethyl)silane
1563-66-2	Carbofuran
1582-09-8	Trifluralin

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1596-84-5	Alar
1596-84-5	Daminozide
1600-27-7	Mercuric acetate
1615-80-1	N,N'-Diethylhydrazine
1622-32-8	Ethanesulfonyl chloride, 2-chloro-
1634-04-4	Methyl tert-butyl ether
1642-54-2	Diethylcarbamazine citrate
1689-84-5	Bromoxynil
1713-15-1	2,4-D mixed isobutyl esters
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
1752-30-3	Acetone thiosemicarbazide
1762-95-4	Ammonium thiocyanate
1836-75-5	Nitrofen
1836-75-5	TOK
1863-63-4	Ammonium benzoate
1888-71-7	Hexachloropropene
1897-45-6	Chlorothalonil
1910-42-5	Paraquat
1918-00-9	Dicamba
1928-38-7	2,4-D Esters
1928-38-7	2,4-D Methyl ester
1928-43-4	2,4-D 2-ethylhexyl ester
1928-45-6	2,4-D, Propylene glycol butyl ether esters
1928-47-8	2,4,5-T esters
1928-61-6	2,4-D Esters
1929-73-3	
1929-73-3	2,4-d butoxyethanol ester
1937-37-7	C.I. Direct Black 38
1982-47-4	Chloroxuron
2001-95-8	Valinomycin
2008-39-1	2,4-D Dimethylamine salt
2008-46-0	2,4,5-T amines
2032-65-7	Mercaptodimethur
2032-65-7	Methiocarb
2074-50-2	Paraquat methosulfate
2097-19-0	Phenylsilatrane
2104-64-5	EPN
2164-17-2	Fluometuron
2223-93-0	Cadmium stearate
2231-57-4	Thiocarbazide
2234-13-1	Octachloronaphthalene
2238-07-5	Diglycidyl ether
2275-18-5	Prothoate
2303-16-4	Di-allate
2303-16-4	S-(2,3-Dichloroallyl) diisopropylthiocarbamate
2312-35-8	Propargite
2385-85-5	Mirex
2497-07-6	Oxydisulfoton
2524-03-0	Dimethyl phosphorochloridothioate
2540-82-1	Formothion
2545-59-7	2,4,5-T esters
2570-26-5	Pentadecylamine
2587-90-8	Phosphorothioic acid, 0,0-dimethyl-5-(2-(methylthio) ethyl)es
2602-46-2	C.I. Direct Blue 6
2631-37-0	Promecarb
2636-26-2	Cyanophos
2642-71-9	Azinphos-ethyl
2665-30-7	Phosphonothioic acid, methyl-, 0-(4-nitrophenyl) 0-phenyl es
2702-72-9	2,4-D Sodium salt
2703-13-1	Phosphonothioic acid, methyl-, 0-ethyl 0-(4-(methylthio)phen
2757-18-8	Thallous malonate
2763-96-4	5-(Aminomethyl)-3-isoxazolol
2763-96-4	3(2H)-isoxazolone, 5-(aminomethyl)-
2763-96-4	Muscimol
2778-04-3	Endothion
2832-40-8	C.I. Disperse Yellow 3
2921-88-2	Chlorpyrifos
2939-80-2	Captafol
2944-67-4	Ferric ammonium oxalate
2971-38-2	2,4-D Esters
3012-65-5	Ammonium citrate, dibasic
3037-72-7	Silane, (4-aminobutyl)diethoxymethyl-
3118-97-6	C.I. Solvent Orange 7
3164-29-2	Ammonium tartrate
3165-93-3	Benzenamine, 4-chloro- 2-methyl-, hydrochloride
3165-93-3	4-Chloro-o-toluidine hydrochloride
3251-23-8	Cupric nitrate
3254-63-5	Phosphoric acid, dimethyl 4-(methylthio) phenyl ester
3288-58-2	0,0-Diethyl S-methyl dithiophosphate
3486-35-9	Zinc carbonate
3569-57-1	Sulfoxide, 3-chloropropyl octyl
3615-21-2	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)-
3689-24-5	Sulfotep
3689-24-5	Tetraethyldithiopyrophosphate
3689-24-5	Thiodiphosphoric acid, tetraethyl ester
3691-35-8	Chlorophacinone
3734-97-2	Amiton oxalate
3735-23-7	Methyl phenkapton
3761-53-3	C.I. Food Red 5
3813-14-7	2,4,5-T amines
3861-41-4	Bromoxynil butyrate
3878-19-1	Fuberidazole
4044-65-9	Bitoscanate
4098-71-9	Isophorone diisocyanate
4104-14-7	Phosacetim
4170-30-3	2-Butenel
4170-30-3	Crotonaldehyde
4301-50-2	Fluenetil
4418-66-0	Phenol, 2,2'-thiobis[4-chloro-6-methyl-
4549-40-0	N-Nitrosomethylvinylamine
4680-78-8	C.I. Acid Green 3
4835-11-4	Hexamethylenediamine, N,N'-dibutyl-
5344-82-1	1-(o-Chlorophenyl)thiourea
5836-29-3	Coumatetralyl
5893-66-3	Cupric oxalate
6164-98-3	Chlordimeform
6369-96-6	2,4,5-T amines
6369-97-7	
6484-52-2	Ammonium nitrate
6484-52-2	Ammonium nitrate (solution)
6533-73-9	Carbonic acid, dithallium(I) salt
6533-73-9	Thallium(I) carbonate
6533-73-9	Thallous carbonate
6923-22-4	Monocrotophos
7005-72-3	4-Chlorophenyl phenyl ether
7421-93-4	Endrin aldehyde
7428-48-0	Lead stearate
7429-90-5	Aluminum (fume or dust)
7439-92-1	Lead
7439-96-5	Manganese
7439-97-6	Mercury
7439-97-6	Mercury compounds
7440-02-0	Nickel
7440-22-4	Silver
7440-23-5	Sodium
7440-28-0	Thallium
7440-36-0	Antimony
7440-38-2	Arsenic
7440-38-2	Inorganic arsenic
7440-39-3	Barium
7440-41-7	Beryllium
7440-41-7	Beryllium compounds
7440-41-7	Beryllium dust
7440-43-9	Cadmium
7440-43-9	Cadmium products
7440-47-3	Chromium
7440-48-4	Cobalt
7440-50-8	Copper
7440-62-2	Vanadium (fume or dust)
7440-66-6	Zinc
7446-08-4	Selenium dioxide

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7446-08-4	Selenium oxide
7446-09-5	Sulfur dioxide
7446-11-9	Sulfur trioxide
7446-14-2	Lead sulfate
7446-18-6	Sulfuric acid, dithallium(1+) salt
7446-18-6	Sulfuric acid, thallium(I) salt
7446-18-6	Thallium sulfate
7446-18-6	Thallous sulfate
7446-27-7	Lead phosphate
7446-27-7	Phosphoric acid, lead salt
7446-34-6	Sulfur selenide
7447-39-4	Cupric chloride
7487-94-7	Mercuric chloride
7488-56-4	Selenium disulfide
7488-56-4	Selenium sulfide
7550-45-0	Titanium tetrachloride
7558-79-4	Sodium phosphate, dibasic
7580-67-8	Lithium hydride
7601-54-9	Sodium phosphate, tribasic
7631-89-2	Sodium arsenate
7631-90-5	Sodium bisulfite
7632-00-0	Sodium nitrite
7637-07-2	Boron trifluoride
7646-85-7	Zinc chloride
7647-01-0	Hydrochloric acid
7647-01-0	Hydrogen chloride
7647-18-9	Antimony pentachloride
7664-38-2	Phosphoric acid
7664-39-3	Hydrofluoric acid
7664-39-3	Hydrogen fluoride
7664-41-7	Ammonia
7664-93-9	Sulfuric acid
7681-49-4	Sodium fluoride
7681-52-9	Sodium hypochlorite
7697-37-2	Nitric acid
7699-45-8	Zinc bromide
7705-08-0	Ferric chloride
7718-54-9	Nickel chloride
7719-12-2	Phosphorus trichloride
7720-78-7	Ferrous sulfate
7722-64-7	Potassium permanganate
7722-84-1	Hydrogen peroxide (Conc. 52%)
7723-14-0	Phosphorus
7726-95-6	Bromine
7727-54-0	Ammonium persulfate
7733-02-0	Zinc sulfate
7758-94-3	Ferrous chloride
7758-95-4	Lead chloride
7758-98-7	Cupric sulfate
7761-88-8	Silver nitrate
7773-06-0	Ammonium sulfamate
7775-09-9	Sodium chlorate
7775-11-3	Sodium chromate
7778-39-4	Arsenic acid
7778-44-1	Calcium arsenate
7778-50-9	Potassium bichromate
7778-54-3	Calcium hypochlorite
7779-86-4	Zinc hydrosulfite
7779-88-6	Zinc nitrate
7782-41-4	Fluorine
7782-49-2	Selenium
7782-50-5	Chlorine
7783-00-8	Selenious acid
7783-06-4	Hydrogen sulfide
7783-07-5	Hydrogen selenide
7783-18-8	Ammonium thiosulfate
7783-20-2	Ammonium sulfate (solution)
7783-35-9	Mercuric sulfate
7783-46-2	Lead fluoride
7783-47-3	Stannous fluoride
7783-49-5	Zinc fluoride
7783-50-8	Ferric fluoride
7783-56-4	Antimony trifluoride
7783-60-0	Sulfur tetrafluoride
7783-70-2	Antimony pentafluoride
7783-80-4	Tellurium hexafluoride
7784-34-1	Arsenous trichloride
7784-41-0	Potassium arsenate
7784-42-1	Arsine
7784-46-5	Sodium arsenite
7786-34-7	Mevinphos
7786-81-4	Nickel sulfate
7787-47-5	Beryllium chloride
7787-49-7	Beryllium fluoride
7788-98-9	Ammonium chromate
7789-00-6	Potassium chromate
7789-06-2	Strontium chromate
7789-09-5	Ammonium bichromate
7789-42-6	Cadmium bromide
7789-43-7	Cobaltous bromide
7789-61-9	Antimony tribromide
7790-94-5	Chlorosulfonic acid
7791-12-0	Thallium chloride
7791-12-0	Thallous chloride
7791-23-3	Selenium oxychloride
7803-49-8	Hydroxylamine
7803-51-2	Hydrogen phosphide
7803-51-2	Phosphine
7803-55-6	Ammonium vanadate
7803-55-6	Vanadic acid, ammonium salt
7803-65-8	Ammonium hypophosphite
8001-35-2	Camphechlor
8001-35-2	Camphene, octachloro-
8001-35-2	Toxaphene
8001-50-1	Strobane
8001-58-9	Creosote
8003-19-8	Dichloropropene-Dichloropropene (mixture)
8003-34-7	Pyrethrins
8065-48-3	Demeton
9004-66-4	Ferric dextran
9004-66-4	Iron dextran
10025-73-7	Chromic chloride
10025-87-3	Phosphorus oxychloride
10025-91-9	Antimony trichloride
10026-11-6	Zirconium tetrachloride
10026-13-8	Phosphorus pentachloride
10028-15-6	Ozone
10028-22-5	Ferric sulfate
10031-59-1	Sulfuric acid, dithallium(1+) salt
10031-59-1	Thallium sulfate
10034-93-2	Hydrazine sulfate
10043-01-3	Aluminum sulfate
10045-89-3	Ferrous ammonium sulfate
10045-94-0	Mercuric nitrate
10049-04-4	Chlorine dioxide
10049-05-5	Chromous chloride
10099-74-8	Lead nitrate
10101-53-8	Chromic sulfate
10101-63-0	Lead iodide
10102-18-8	Sodium selenite
10102-20-2	Sodium tellurite
10102-43-9	Nitric oxide
10102-43-9	Nitrogen oxide
10102-44-0	Nitrogen dioxide
10102-45-1	Nitric acid, thallium(1+) salt
10102-45-1	Thallium(I) nitrate
10102-48-4	Lead arsenate
10103-61-4	Copper arsenate
10108-64-2	Cadmium chloride
10124-50-2	Potassium arsenite
10140-87-1	Ethanol, 1,2-dichloro-, acetate
10192-30-0	Ammonium bisulfite

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10196-04-0	Ammonium sulfite
10210-68-1	Cobalt carbonyl
10265-92-6	Methamidophos
10294-34-5	Boron trichloride
10311-84-9	Dialifor
10380-29-7	Cupric sulfate, ammoniated
10415-75-5	Mercurous nitrate
10421-48-4	Ferric nitrate
10476-95-6	Methacrolein diacetate
10544-72-6	Nitrogen oxide NO2
10588-01-9	Sodium bichromate
11096-82-5	Aroclor 1260
11096-82-5	Polychlorinated biphenyls (PCBs)
11097-69-1	Aroclor 1254
11097-69-1	Polychlorinated biphenyls (PCBs)
11104-28-2	Aroclor 1221
11104-28-2	Polychlorinated biphenyls (PCBs)
11141-16-5	Aroclor 1232
11141-16-5	Polychlorinated biphenyls (PCBs)
12002-03-8	Cupric acetoarsenite
12002-03-8	Paris green
12036-02-1	Osmium oxide
12039-52-0	Selenious acid, dithallium(1+) salt
12039-52-0	Thallium(I) selenide
12039-52-0	Thallium selenite
12054-48-7	Nickel hydroxide
12108-13-3	Manganese, tricarbonyl methylcyclopentadienyl
12122-67-7	Zineb
12125-01-8	Ammonium fluoride
12125-02-9	Ammonium chloride
12135-76-1	Ammonium sulfide
12427-38-2	Maneb
12672-29-6	Aroclor 1248
12672-29-6	Polychlorinated biphenyls (PCBs)
12674-11-2	Aroclor 1016
12674-11-2	Polychlorinated biphenyls (PCBs)
12771-08-3	Sulfur monochloride
13071-79-9	Terbufos
13121-70-5	Cyhexatin
13171-21-6	Phosphamidon
13194-48-4	Ethoprophos
13410-01-0	Sodium selenate
13450-90-3	Gallium trichloride
13463-39-3	Nickel carbonyl
13463-39-3	Nickel tetracarbonyl
13463-40-6	Iron, pentacarbonyl-
13494-80-9	Tellurium
13560-99-1	2,4,5-T salts
13597-99-4	Beryllium nitrate
13746-89-9	Zirconium nitrate
13765-19-0	Calcium chromate
13765-19-0	Chromic acid, calcium salt
13814-96-5	Lead fluoborate
13826-83-0	Ammonium fluoborate
13952-84-6	sec-Butylamine
14017-41-5	Cobaltous sulfamate
14167-18-1	Salcomine
14216-75-2	Nickel nitrate
14307-35-8	Lithium chromate
14639-97-5	Zinc ammonium chloride
14639-98-6	
14644-61-2	Zirconium sulfate
15271-41-7	Bicyclo[2.2.1]heptane-2-carbonitrile, 5-chloro-6-((((methyla
15699-18-0	Nickel ammonium sulfate
15950-66-0	2,3,4-Trichlorophenol
15972-60-8	Alachlor
16071-86-6	C.I. Direct Brown 95
16543-55-8	N-Nitrosonornicotine
16721-80-5	Sodium hydrosulfide
16752-77-5	Methomyl
16871-71-9	Zinc silicofluoride
16919-19-0	Ammonium silicofluoride
16923-95-8	Zirconium potassium fluoride
17702-41-9	Decaborane(14)
17702-57-7	Formparanate
17804-35-2	Benomyl
18883-66-4	Streptozotocin
19287-45-7	Diborane
19525-15-6	Uranium peroxide
19624-22-7	Pentaborane
20816-12-0	Osmium oxide (T-4)-
20816-12-0	Osmium tetroxide
20830-75-5	Digoxin
20830-81-3	Daunomycin
20859-73-8	Aluminum phosphide
21548-32-3	Fosthietan
21609-90-5	Leptophos
21725-46-2	Cyanazine
21908-53-2	Mercuric oxide
21923-23-9	Chlorthiophos
22224-92-6	Fenamiphos
22781-23-3	Bendiocarb
23103-98-2	Pirimicarb
23135-22-0	Oxamyl
23422-53-9	Formetanate hydrochloride
23505-41-1	Pirimifos-ethyl
23950-58-5	3,5-Dichloro-N (1,1-dimethyl-2-propynyl) benzamide
23950-58-5	Pronamide
24017-47-8	Triazofos
24934-91-6	Chlormaphos
25154-54-5	Dinitrobenzene (mixed isomers)
25154-55-6	Nitrophenol (mixed isomers)
25155-30-0	Sodium dodecylbenzenesulfonate
25167-82-2	Trichlorophenol
25168-15-4	2,4,5-T esters
25168-26-7	2,4-D Esters
25168-26-7	2,4-D isooctyl ester
25321-14-6	Dinitrotoluene
25321-22-6	Dichlorobenzene
25321-22-6	Dichlorobenzene (mixed isomers)
25323-30-2	Dichloroethylenes (mixture)
25376-45-8	Benzenediamine, ar-methyl-
25376-45-8	Diaminotoluene (mixed isomers)
25376-45-8	Toluenediamine
25550-58-7	Dinitrophenol
26264-06-2	Calcium dodecylbenzenesul fonate
26419-73-8	Carbamic acid, methyl-, O-(((2,4-dimethyl-1, 3-dithiolan-2-y
26628-22-8	Sodium azide
26638-19-7	Dichloropropane
26952-23-8	Dichloropropene(s)
27137-85-5	Trichloro(dichlorophenyl)silane
27176-87-0	Dodecylbenzenesulfonic acid
27323-41-7	Triethanolamine dodecylbenzene sulfonate
27774-13-6	Vanadyl sulfate
28300-74-5	Antimony potassium tartrate
28347-13-9	Xylylene dichloride
28772-56-7	Bromadiolone
30525-89-4	Paraformaldehyde
30674-80-7	Methacryloyloxyethyl isocyanate
32534-95-5	2,4,5-TP esters
32976-88-8	2,4-Dithiobiuret
33089-61-1	Amitraz
33213-65-9	beta-Endosulfan
36478-76-9	Uranyl nitrate
39156-41-7	2,4-Diaminoanisole sulfate
39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[methylamino) carbonyl] oxime
39196-18-4	3,3-Dimethyl-1-(methylthio-2-butanone, O-[(methylamino) carbonyl] oxime
39196-18-4	Thiofanox

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39300-45-3	Dinocap
42504-46-1	Isopropanolamine dodecylbenzene sulfonate
42874-03-3	Oxyfluorfen
50782-69-9	Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl) amino
52628-25-8	Zinc ammonium chloride
52652-59-2	Lead stearate
52740-16-6	Calcium arsenite
53467-11-1	2,4-D Esters
53469-21-9	Aroclor 1242
53469-21-9	Polychlorinated biphenyls (PCBs)
53558-25-1	Pyriminil
55488-87-4	Ferric ammonium oxalate
56073-10-0	Brodifacoum
56189-09-4	Lead stearate
5742-19-18	2,4-D Diethanolamine salt
58270-08-9	Zinc, dichloro(4,4-dimethyl-5 ((((methylaminocarbonyl)oxy)im
61792-07-2	2,4,5-T esters
62207-76-5	Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-

APPENDIX B
FINANCIAL FORMS

B.1 Letter from chief financial officer:

To support a financial test of self-insurance or a guarantee, the chief financial officer of the major facility or guarantor shall prepare and sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [name and address of the owner or operator, or guarantor]. This letter is in support of the use of ["the financial test of self-insurance" and/or "guarantee"] to demonstrate financial responsibility for taking corrective action caused by discharges in the amount of at least [dollar amount] per occurrence and [dollar amount] annual aggregate.

A ["financial test" and/or "guarantee"] is also used by this ["owner or operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under the following EPA or State rules or regulations (i.e. RCRA, ECRA, UST, etc.):

[applicable rules or regulations and amounts]

This ["owner or operator" or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his or her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of N.J.A.C. 7:1E-4.5(g)1 based on tangible net worth are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria based on bond rating of N.J.A.C. 7:1E-4.5(g)2 are being used to demonstrate compliance with the financial test requirements.]

ALTERNATIVE I

1. Amount of annual DCR aggregate coverage being assured by a financial test and/or guarantee $ _____
2. Amount of annual aggregate coverage for all other federal or State regulatory costs (i.e. RCRA, ECRA, UST, etc.) covered by a financial test, and/or guarantee $ _____
3. Sum of lines 1 and 2 $ _____
4. Total tangible assets $ _____
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] $ _____
6. Tangible net worth [subtract line 5 from line 4] $ _____

	YES	NO
7. Is line 6 at least $10 million?	___	___
8. Is line 6 at least 10 times line 3?	___	___
	YES	NO
9. Have financial statements for the latest fiscal year been filed with the Securities Exchange Commission?	___	___
10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	___	___
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration?	___	___
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met]	___	___

ALTERNATIVE II

1. Amount of annual DCR aggregate coverage being assured by a financial test and/or guarantee $ _____
2. Amount of annual aggregate coverage for all other federal or State regulatory cost (i.e. RCRA, ECRA, UST, etc.) covered by a financial test, and/or guarantee $ _____
3. Sum of lines 1 and 2 $ _____
4. Total tangible assets $ _____
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] $ _____
6. Tangible net worth [subtract line 5 from line 4] $ _____
7. Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.] $ _____

	YES	NO
8. Is line 6 at least $10 million?	___	___
9. Is line 6 at least 6 times line 3?	___	___
	YES	NO
10. Are at least 90 percent of total assets located in the U.S.? [If "No", complete line 11.]	___	___
11. Is line 7 at least 6 times line 3?	___	___

[Fill in either lines 12-15 or lines 16-18:]

12. Current assets $ _____
13. Current liabilities $ _____
14. Net working capital [subtract line 13 from line 12] $ _____

	YES	NO
15. Is line 14 at least 6 times line 3?	___	___

16. Current bond rating of most recent bond issue _____
17. Name of rating service _____
18. Date of maturity of bond _____

19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Electrification Administration?	___	___

[If "No", please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix B of N.J.A.C. 7:1E, as such rules were constituted on the date shown immediately below.

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[Signature]
[Name]
[Title]
[Date]

B.2 Guarantee:

The guarantee must be worded as follows, except that instructions in brackets are to replaced with the relevant information and the brackets deleted:

GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the State of New Jersey, herein referred to as guarantor, to the Department and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

(1) Guarantor meets or exceeds the financial test criteria of N.J.A.C. 7:1E-4.5(g) and agrees to comply with the requirements for guarantors as specified in N.J.A.C. 7:1E-4.5(h).

(2) This guarantee satisfies the requirements for assuring funding in the amount of [dollar amount] per occurrence and [dollar amount] annual aggregate for taking corrective action caused by discharges arising from operating the above identified major facility.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or substantial business relationship with owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to the Department and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Department has determined or suspects that a discharge has occurred at a facility covered by this guarantee, the guarantor, upon instructions from the Department, shall fund a standby trust fund in an amount sufficient to cover cleanup and removal costs, but not to exceed the coverage limits specified in N.J.A.C. 7:1E-4.5(b).

In the event that the Department determines that [owner or operator] has failed to perform corrective action for discharges arising out of the operation of the above-identified facility, the guarantor, upon written instructions from the Department, shall fund a standby trust in an amount sufficient to cover cleanup and removal costs, but not to exceed the coverage limits specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of N.J.A.C. 7:1E-4.5(g), guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator] and the Department. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator] or 120 days from the date of receipt of the notice by the Department, whichever is later, as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alternation of any obligation of [owner or operator] pursuant to N.J.A.C. 7:1E.

(7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of N.J.A.C. 7:1E-4.5 for the above-identified facility, except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator] and the Department, such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [owner or operator] arising from, and in the course of, employment by [owner or operator];

(c) Bodily injury or property damage not related to a discharge arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [owner or operator] that is not the direct result of a discharge from the facility;

(e) Bodily damage or property damage for which [owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of N.J.A.C. 7:1E-4.5.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix B of N.J.A.C. 7:1E as such rules were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]

Signature of witness or notary: _____

B.3 Insurance or risk retention group:

Each insurance policy must be amended by an endorsement worded as specified in paragraph (1) or evidenced by a certificate of insurance worded as specified in paragraph (2), except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

(1) ENDORSEMENT

NAME: [name of each covered location]

ADDRESS: [address of each covered location]

_____

_____

POLICY NUMBER: _____

PERIOD OF COVERAGE: [current policy period]

NAME OF [INSURER OR RISK RETENTION GROUP]:

_____

_____

ADDRESS OF [INSURER OR RISK RETENTION GROUP]:

_____

_____

NAME OF INSURED: _____

ADDRESS OF INSURED: _____

_____

_____

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following facility: [name and address of the facility] for taking corrective action caused by discharges.

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The limits of liability are [insert the dollar amount of the "per occurrence" and "annual aggregate" limits of the Insurer's or Group's liability], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms.

c. Whenever requested by the Department, ["Insurer" or "Group"] agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured or 60 days after a copy of such written notice is received by the Department, whichever is later.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in Appendix B of N.J.A.C. 7:1E and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance" or "eligible to provide insurance as an excess or surplus lines insurer in New Jersey".]

[Signature of authorized representative of Insurer or Risk Retention Group]
[Name of person signing]
[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]
[Address of Representative]

(2) CERTIFICATE OF INSURANCE

NAME: [name of each covered location]

ADDRESS: [address of each covered location]

POLICY NUMBER: _____

ENDORSEMENT (if applicable): _____

PERIOD OF COVERAGE: [current policy period]

NAME OF [INSURER OR RISK RETENTION GROUP]: _____

ADDRESS OF [INSURER OR RISK RETENTION GROUP]: _____

NAME OF INSURED: _____

ADDRESS OF INSURED: _____

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following facility: [List the name and address of the facility] for taking corrective action caused by discharges arising from operating the facility identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms.

c. Whenever requested by the Department, the [Insurer" or "Group"] agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured or 60 days after a copy of such written notice is received by the Department, whichever is later.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or other termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in Appendix B of N.J.A.C. 7:1E and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance" or "eligible to provide insurance as an excess or surplus lines insurer in the State"].

[Signature of authorized representative of Insurer]
[Type name]
[Title], Authorized Representative of [name Insurer or Risk Retention Group]
[Address of Representative]

B.4 Surety Bond:

The surety bond must be worded as follows, except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

DATE BOND EXECUTED: _____

PERIOD OF COVERAGE: _____

PRINCIPAL: [legal name and business address of [owner or operator]

TYPE OF ORGANIZATION: [insert "individual," "joint venture," "partnership," or "corporation"]

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STATE OF INCORPORATION (If Applicable):

SURETY(IES): [name(s) and business address(es)]

SCOPE OF COVERAGE: [List the name and address of the facility. List the coverage guaranteed by the bond: taking corrective action caused by discharges.]

PENAL SUMS OF BOND: Per occurence $_____
Annual aggregate $_____

SURETY'S BOND NUMBER: _____

Know all Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Department, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under N.J.S.A. 58:10-23.11 to provide financial assurance for taking corrective action caused by discharges arising from operating the facility identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully take corrective action caused by discharges arising from operating the facility identified above, or if the Principal shall provide alternate financial assurance within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(a) Any obligation of [owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [owner or operator] arising from, and in the course of, employment by [owner or operator];

(c) Bodily injury or property damage not related to a discharge arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [owner or operator] that is not the direct result of a discharge from the facility;

(e) Bodily injury or property damage for which [owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of N.J.A.C. 7:1E-4.5.

Upon notification by the Department that the Principal has failed to take corrective action in accordance with the Department's instructions, as guaranteed by this bond, the Surety(ies) shall either perform corrective action in accordance with the Department's instructions, or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Department.

Upon notification by the Department that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Department has determined or suspects that a discharge has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Department.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Department, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal or the date of receipt of the notice of cancellation by the Department, whichever is later, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Appendix B of N.J.A.C. 7:1E as such rules were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY(IES)

[Name And address]
State of Incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $_____

B.5 Letter of Credit:

The letter of credit must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]
[Name and address of the Department]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No._____ in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars ($[dollar amount]), available upon presentation of:

(1) your sight draft, bearing reference to this letter of credit, No._____, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to rules issued under authority of the Spill Compensation and Control Act, and that this letter of credit is not being drawn on to cover any of the following:

(a) Any obligation of [owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [owner or operator] arising from, and in the course of, employment by [owner or operator];

(c) Bodily injury or property damage not related to a discharge arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

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(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [owner or operator] that is not the direct result of a discharge from the facility;

(e) Bodily injury or property damage for which [owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of N.J.A.C. 7:1E-4.5."

This letter of credit may be drawn on to cover taking corrective action caused by discharges arising from operating the facility identified below in the amount of [in words] $ [dollar amount] per occurrence and [in words] $ [dollar amount] annual aggregate.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] and the Department by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator] or for 120 days after the date of receipt by the Department, as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Appendix B of N.J.A.C. 7:1E, as such rules were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to ["the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

APPENDIX C

DATA DICTIONARY ENTRY FORM 1

LAYER NAME:

COVERAGE NAME:

DATA DESCRIPTION:

AGENCY RESPONSIBLE:

CONTACTS:

NAMES:

AGENCY:

STREET ADDRESS:

CITY:

STATE: ZIP CODE:

TELEPHONE:

MAP INFORMATION:

MANUSCRIPT:

SCALE:

MATERIAL:

PROJECTION:

COORDINATE SYSTEM:

DATA SOURCE:

MAP DATE:

SOURCE DATE:

MAPPING METHODOLOGY AND MAPPING SOURCES:

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MAPPING CRITERIA:

DEGREE OF ACCURACY:

AREA OF COVERAGE:

COMPUTERIZATION:

DATE OF AUTOMATION:

RESIDENT HARDWARE/ SOFTWARE:

AUTOMATION METHODS:

PRODUCTION STAFF:

TELEPHONE:

STATUS:

UPDATE SCHEDULE:

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UPDATE RESPONSIBILITY:

DATA FORMAT:

MEDIA:

ATTRIBUTES:

KEY FIELD: (UNIQUE ID):

ADDITIONAL ATTRIBUTES: ___Y/N

SOURCE OF ATTRIBUTES:

RELATED DATA: FILES:

QUALITY ASSURANCE:

CARTOGRAPHIC QUALITY:

ATTRIBUTE QUALITY:

CONFIDENTIALITY:

DATA USE LIMITATIONS:

COMMENTS:

DATA DICTIONARY
ITEM DESCRIPTION FORM

LAYER NAME:

ITEM NAME:

ITEM DESCRIPTION:

ITEM NAME:

ITEM DESCRIPTION:

ITEM NAME:

ITEM DESCRIPTION:

ITEM NAME:

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ITEM DESCRIPTION:

ITEM NAME:

ITEM DESCRIPTION:

DATA DICTIONARY
ITEM CODE DESCRIPTION FORM

LAYER NAME:

ITEM NAME:

ITEM CODE NAME:

ITEM DESCRIPTION:

ITEM NAME:

ITEM CODE NAME:

ITEM DESCRIPTION:

ITEM NAME:

ITEM CODE NAME:

ITEM DESCRIPTION:

DATA DICTIONARY SURVEY INFORMATION

Layer Name:	Gives the data layer name of the data set
Coverage Name:	Gives the data set is known on its host system (e.g. soils data)
Data Description /Definition:	Gives a complete description of the contents of the data set (e.g. existing land use/ land cover in 88 Anderson Level II categories for Camden County).
Agency Responsible:	Entity responsible for the creation update of the data.
CONTACTS:	
Names:	Name of Contact Person(s)
Agency:	Contact person's agency or company—including division
Street Address:	
City:	Contact's city
Zip Code:	Contact's zip & (4 code)
Phone:	Contact's telephone number
MAP INFORMATION	
Manuscript:	Base map that geographic information was automated from (e.g. USGS quads, county map, project maps)
Scale:	Scale of mapped info (e.g. 1:24,000)
Material:	Material manuscript is made of (e.g. mylar, paper)
Projection:	Projection which map is drawn in (e.g. polyconic, lambert, conformal, mercator)
Coordinate System:	Geographic coordinate Geographic coordinate system used (e.g. UTM, state plane, latitude and longitude, degrees, minutes, seconds or decimal degrees)
Map Date:	Date of the map base
Source Date:	The date of the information in the file (survey date, photo date, etc.)
Mapping Method:	How the data was delineated on the map
Mapping Criteria:	Rules followed in delineation process including: resolution, minimum mapping unit, drafting guidelines etc.)
Degree of Accuracy:	What is the level of accuracy and how was it determined.
Area of Coverge:	The areal extent of the data (e.g. Camden County, State of New Jersey)
COMPUTERIZATION	
Date of Automation:	Date the data was automated, this may be a range (e.g. Sept. 1987, Fall 1987, March-June, 1987)
Hardware/Software:	What brand of computer is it resident on and what software accesses it (e.g. Prime-ARC/INFO)
Automation methods:	General technique used to capture data (e.g. digitized, optically scanned, key punched)
Production staff:	Agency and indiviudal who automated the data, in-house staff or contractor (e.g. in-house, DEP's GSAU staff ESRI John Doe Project Manager)
Telephone:	Phone # of production staff.
Status:	Summarize the percent complete and an expected completion date.

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Update schedule:	Frequency of updating the information.
Update responsibility:	Party responsible for updating the information.
Data Format:	A general description of the way the data is stored. Examples are GBF/DIME, TIGER, DLG, IGES, LANDSAT, ERDAS, SIF, ARC/INFO, INTERGRAPH, ASCII, EBCDIC, DBASE III PLUS, etc.)
Media:	The media available for distribution of the data (e.g. magnetic tape, diskette, data cartridges, paper output, etc. Specify size/density if appropriate).
ATTRIBUTES	
What is the key field:	What is the unique identifier for each feature (e.g. FIPS code, well permit number, etc.)
Additional feature attributes:	Are there additional features (Yes or No).
Source of Attributes:	Where did the attribute information come from (e.g. US Census Bureau Survey Info, etc.)
Related data files:	What "expansion" files exist that allow you to derive new data sets from this one (e.g. engineering properties table allows you to interpret construction limitations from your primary soils data set).
QUALITY ASSURANCE	
Cartographic Quality:	Has the quality of the line work been checked, if so, what (e.g. lines were plotted on mylar and verified within a line width of original map).
Attribute Quality:	Have the attributes been error checked, (e.g. data was checked for data entry errors only).
Confidentiality:	Is this data available? How would one get permission to access (e.g. endangered species data is available only in a generalized form through a written request to DEP's Div. of Parks & Forestry ONLM).
Data uses and limitations:	Intended use of the data and outline of the limitations of the data (e.g. soils data was collected at a scale appropriate for regional analysis. Not appropriate for small site specific projects).
Comments:	Include any pertinent information about the data, not found elsewhere in this document.

(a)

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Notice of Reopening of Public Comment Period Determining if a Solid Waste is Hazardous Toxicity Characteristic

Proposed Amendments: N.J.A.C. 7:26-8.2, 8.8 and 8.12

Take notice that the Department of Environmental Protection is reopening until June 5, 1991 the comment period for the proposed rule amendments published at 23 N.J.R. 151(a) on January 22, 1991 (DEP Docket Number: 050-90-12). The comment period originally ended March 23, 1991. Notice of the proposal and the reopened comment period will appear in the Newark Star Ledger and the Trenton Times newspapers. The proposed amendments will address the replacement of the current "Extraction Procedure" with the "Toxicity Characteristic Leaching Procedure" (TCLP) for determining if a solid waste exhibits the hazardous waste characteristic of toxicity. These amendments reflect changes in the Federal hazardous waste regulations.

Submit comments, identified by the Docket Number, by June 5, 1991 to:

Samuel A. Wolfe, Esq.
Administrative Practice Officer
Office of Legal Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(b)

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Notice of Extension of Public Comment Period Hazardous Waste from Specific Sources Listing of Methyl Bromide Production Wastes

Proposed Amendment to N.J.A.C. 7:26-8.14

DEP Docket Number: 51-90-12.
Proposal Number: PRN 1991-50.

Take notice that the Department of Environmental Protection is reopening and extending until June 5, 1991 the comment period of the proposed amendment to N.J.A.C. 7:26-8.14 published at 23 N.J.R. 154(a) on January 22, 1991 (DEP Docket Number 051-90-12). The comment period originally closed on March 23, 1991. Notice of the proposal and the reopened and extended comment period will appear in the Newark Star-Ledger and the Trenton Times. The proposed amendment adds two wastes from the production of methyl bromide to the list of hazardous wastes set forth at N.J.A.C. 7:26-8.14.

Submit comments, identified by the DEP Docket Number, by June 5, 1991 to:

Samuel A. Wolfe
Administrative Practice Officer
Office of Legal Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(c)

COMMISSION ON RADIATION PROTECTION

Particle Accelerators for Industrial and Research Use

Proposed New Rules: N.J.A.C. 7:28-20
Proposed Amendment: N.J.A.C. 7:28-1.4

Authorized By: Commission on Radiation Protection, Max Weiss, Chairman.
Authority: N.J.S.A. 26:2D-1 et seq., specifically N.J.S.A. 26:2D-7, 26:2D-9(f), 26:2D-9(h), and 26:2D-10.
DEP Docket Number: 018-91-04.
Proposal Number: PRN 1991-228.

Submit written comments by June 21, 1991 to:

Samuel A. Wolfe, Esq.
Administrative Practice Officer
Department of Environmental Protection
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

In 1958, the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq. (hereinafter the "Act") was enacted. This Act provides authority to set standards for the possession, handling, transportation and use of sources of ionizing radiation within the State of New Jersey. The Act created the New Jersey Commission on Radiation Protection (CORP) and vested in that body the authority to promulgate rules and regulations as may be necessary to prohibit and prevent unnecessary radiation.

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On November 6, 1989, the CORP published a proposal for a new subchapter on Particle Accelerators for Industrial and Research Use in the New Jersey Register at 21 N.J.R. 3364(a). A public hearing was held on this proposal on December 14, 1989. Thirty-nine individuals attended this hearing, of whom four presented oral testimony and submitted written comments. The written comment period for the original proposal ended January 8, 1990 and resulted in the Department's receipt of a total of 155 comments. The Agency's Notice of Adoption, which included the responses to the comments, was prepared by CORP and the Division of Environmental Quality in the Department of Environmental Protection. It was the opinion of the Department's legal staff, however, that the changes to the original proposal that were occasioned by the responses to the comments received were so substantial as to call into question the validity of the notice afforded by the original proposal.

Of the 155 public comments received during the original public comment period, 73 were directed to N.J.A.C. 7:28-20.13, Electron microscopes. The design of the two classes of accelerators—electron microscopes and high energy particle accelerators—are inherently different, both with regard to operation and to radiation safety. The commenters requested relaxation of the rule for electron microscopes operating at all energies.

Of the remaining 62 comments, most were concerned that trained individuals under the direction of the Particle Accelerator Safety Officer (PASO) would be qualified to perform calibrations, safety checks and surveys, prepare normal operating and emergency procedures, revise circuit diagrams and assist with training individuals to operate particle accelerators. The rule was changed in several sections to allow these activities to be performed under the direction of the PASO who is ultimately responsible for the particle accelerator radiation safety program. The remaining comments suggested wording changes to define the intent of the rule more clearly. The current proposal reflects these comments.

Pursuant to the Act, CORP proposes to amend N.J.A.C. 7:28-1.4 to add the definition of "registrant" and to revise and consolidate the definition of "protective barrier," deleting the separate definitions for "primary protective barrier" and "secondary protective barrier."

Pursuant to the Act, CORP is proposing a new subchapter, N.J.A.C. 7:28-20, Particle Accelerators for Industrial and Research Use, which will establish standards for the use of particle accelerators. The proposed new subchapter will require safety and operating procedures for particle accelerators which are now commonly in use but which previously have been subject to regulation only by the general provisions of Chapter 28. This subchapter will address the safety and operating procedures specific to particle accelerators.

N.J.A.C. 7:28-20.1 provides that a person shall not operate or permit the operation of a particle accelerator unless the equipment and installation meet the requirements of this subchapter and other applicable requirements of this chapter.

N.J.A.C. 7:28-20.2 provides definitions applicable to this proposed new subchapter.

N.J.A.C. 7:28-20.3 requires that all particle accelerators in use in this State continue to be registered in accordance with N.J.A.C. 7:28-3.

N.J.A.C. 7:28-20.4 establishes general requirements a particle accelerator facility must meet, including the appointment of a particle accelerator safety officer (PASO) and a radiation protection committee.

N.J.A.C. 7:28-20.5 establishes that a particle accelerator may not be used in the healing arts without prior Departmental approval. If approved, it must also meet requirements of N.J.A.C. 7:28-14.

N.J.A.C. 7:28-20.6 establishes a training program for the safe use of the particle accelerator and requires that each operator complete the training program and an examination.

N.J.A.C. 7:28-20.7 establishes shielding design requirements for particle accelerators.

N.J.A.C. 7:28-20.8 requires control and interlock systems for particle accelerators, including interlocks at all entrances to a target room or high radiation area which terminate the production of radiation upon entry.

N.J.A.C. 7:28-20.9 establishes requirements for warning devices for a particle accelerator.

N.J.A.C. 7:28-20.10 establishes operating procedures for particle accelerators.

N.J.A.C. 7:28-20.11 establishes radiation monitoring requirements for particle accelerators. Specific requirements for radiation area monitors and personnel monitoring devices are also established.

N.J.A.C. 7:28-20.12 establishes requirements for ventilation systems for particle accelerators.

N.J.A.C. 7:28-20.13 establishes requirements for electron microscopes.

The standards for particle accelerator facilities established by this subchapter are equivalent to the generally accepted standards of good practice for the industry.

Social Impact

The use of radiation is an indispensable part of daily living, and in some instances the presence of radiation in the environment is desirable and necessary. However, the goal of this radiation protection program is the elimination of unnecessary radiation and the reduction of necessary radiation dose levels to a point that is as low as reasonably achievable. Particle accelerators produce many products that are valuable to the general public. They are also of value in research areas. By requiring training programs for the safe use of particle accelerators, as well as radiation protection and safety device requirements, CORP is seeking to ensure that both those working with particle accelerators and the general public will be protected from unnecessary radiation.

The proposed new rules will not change the current procedures for the use of the majority of particle accelerators. They will establish procedures and requirements that are the same as the generally accepted standards of the industry. The proposed new rules will establish safety and operating procedures for particle accelerators which are now commonly in use. Enforcement of these rules will minimize any adverse impact that could result from unrestricted use of radiation producing machines. The adoption of these rules will close gaps in current rules which do not specifically address particle accelerators.

Economic Impact

The proposed new rules will require minimal new expenditures on the part of the regulated community. For those particle accelerators currently in use and installed prior to the effective date of these rules, there are no new requirements that would significantly increase costs for personnel or equipment. The rules were written with the knowledge of the equipment currently in use. For equipment not yet installed, the proposed rules do not require any equipment currently not available from all the leading manufacturers of particle accelerators. The cost of preparing and maintaining the records required by the rules is minimal compared to the benefits of ensuring the quality of the training and operation.

A significant economic impact will fall upon those particle accelerator facilities with seriously deficient equipment or standards of practice. In such instances, CORP has determined that the additional cost incurred will be more than offset by the resulting improvement in safety for both workers and the general public.

Environmental Impact

The proposed new rules establish standards which will better protect the workers, the public and the environment from unnecessary exposure to radiation resulting from the use of particle accelerators. The proposed rules set standards which will prevent or reduce the release of unnecessary radiation to the environment, and, therefore, a positive environmental impact will result.

Regulatory Flexibility Analysis

N.J.A.C. 7:28-20 reflects the radiation protection standards of the National Council on Radiation and Measurements (NCRP), the International Commission on Radiological Protection (ICRP), the American National Standards Institute (ANSI), and the Suggested State Regulations for the Control of Radiation (SSR). These standards are currently followed by most owners of particle accelerators. Radiation producing machine safety performance standards and facility radiation protection operating procedures are also addressed.

The proposed new rules will apply to all particle accelerators used in New Jersey. Pursuant to the definition of "small business" in the New Jersey Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.), five of 90 businesses currently registered and operating particle accelerators in this State are small businesses and will be affected by the proposed new rules.

It is not anticipated that small businesses will need additional professional services or incur capital costs in order to comply with the new rules. The small businesses will incur minimal costs associated with the additional time required for the development and administration of the training program required by N.J.A.C. 7:28-20.6. In developing these rules, CORP balanced the need to protect the public from unnecessary radiation against the expected economic impact of the proposed rules, and has determined that to minimize the impact of the rules on small businesses would endanger the environment, public health and safety. Therefore, no exemption from the rules is provided.

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

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7:28-1.4 Definitions

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. Additional words and terms, applicable to a specific subchapter only, will be found in that subchapter.

(a) General Terms:

. . .

"Registrant" means a person who is required to register a source of radiation with the Department pursuant to this chapter.

(b) Ionizing radiation terms:

. . .

["Primary protective barrier" means a barrier intended to attenuate the useful beam to the required degree.]

"Protective barrier" means a barrier of radiation-absorbing material used to reduce radiation exposure. The types of protective barriers are as follows:

1. "Primary protective barrier" means the material, excluding filters, intercepting the useful beam for protection purposes to reduce the radiation exposure so that it does not exceed two milliroentgens per hour;

2. "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to reduce radiation exposure so that it does not exceed two milliroentgens per hour.

. . .

["Secondary protective barrier" means a barrier intended to attenuate ionizing radiation (other than the useful beam) to the required degree.]

. . .

(c) (No change.)

SUBCHAPTER 20. PARTICLE ACCELERATORS FOR INDUSTRIAL AND RESEARCH USE

7:28-20.1 Scope

(a) This subchapter establishes requirements and procedures for the registration and use of all particle accelerators, with the exception of those regulated by N.J.A.C. 7:28-14 and 15.

(b) A person shall not operate or permit the operation of a particle accelerator unless the equipment and installation meet the applicable requirements of this subchapter.

(c) In addition to the requirements of this subchapter, all registrants of particle accelerators are subject to all other applicable requirements of N.J.A.C. 7:28-1 through 11 and 13.

7:28-20.2 Definitions

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

"Direct supervision" means guidance and instruction by the qualified machine operator who is physically present, is watching the operation of the particle accelerator, and is available for immediate assistance.

"Electron microscope" means a machine that accelerates electrons for the purpose of producing highly magnified images of materials and material surfaces.

"kVp" means kilovolt peak.

"Particle accelerator" means any machine that accelerates charged particles (electrons, protons, deuterons, or other charged particles, etc.) in a vacuum and discharges the resulting particulate or other radiation but which does not meet the specifications of machines currently regulated under N.J.A.C. 7:28-14 through 16; particle accelerators include, but are not limited to, machines used for research, irradiation, or other purposes; such machines include, but are not limited to, potential-drop accelerators, electron linear accelerators, cyclotrons, betatrons, microtrons, ion implant accelerators, and electron microscopes; particle accelerators do not include high voltage generators, televisions, video display terminals, cathode ray tubes or other similar devices whose primary purpose is not the production of a useful charged particle beam.

"Particle accelerator facility" means the location at which one or more particle accelerators are installed and are operated under the same administrative control.

"Particle accelerator safety officer" or "PASO" means the person who is appointed and authorized by the registrant to act on the registrant's behalf to implement and maintain the particle accelerator radiation protection program for the registrant's facility.

"Performance test" means a procedure which is performed to assure that an instrument continues to perform its intended function.

"Qualified machine operator" means a person who meets the requirements of N.J.A.C. 7:28-20.6(a).

"Radiation protection committee" means a group consisting of at least three individuals appointed by the registrant who identify radiation safety problems, initiate, recommend, or provide corrective action plans, and verify the implementation of corrective actions. One member of this committee shall be the particle accelerator safety officer and one member shall be a representative of management. The remaining members shall be appointed at the discretion of the registrant.

"Scattered radiation" means radiation that, during passage through matter, has changed in direction or in energy.

"Stray radiation" means the sum of leakage and scattered radiation.

7:28-20.3 Registration requirements

A person shall not possess, control, use or cause a particle accelerator or an electron microscope to be used unless it has been registered with the Department pursuant to N.J.A.C. 7:28-3, unless the particle accelerator or electron microscope is incapable of operating at more than five kVp and does not produce radiation greater than 0.5 millirem per hour at any readily accessible point five centimeters from its surface.

7:28-20.4 General requirements for a particle accelerator facility

(a) Particle accelerators not capable of operating at more than 30 kVp shall be exempt from the requirements of (b) through (f) below and N.J.A.C. 7:28-20.5 through 20.12 provided that the initial or repeat radiation protection survey does not yield radiation levels greater than 0.5 millirem per hour using maximum operating conditions of operation as measured five centimeters from any accessible surface.

(b) A registrant shall not permit a particle accelerator to be operated unless the person operating the particle accelerator has met the requirements of N.J.A.C. 7:28-20.6(a).

(c) A registrant shall not use a particle accelerator or cause it to be used unless the equipment, facilities, operating procedures and emergency procedures are adequate to minimize danger to property and to public health and safety.

(d) The registrant of a particle accelerator facility shall appoint a Particle Accelerator Safety Officer (PASO) who is authorized to act on behalf of the registrant to implement and maintain a radiation safety program for the particle accelerator facility. The PASO may be either a full-time employee of the registrant or a consultant hired by the registrant. The registrant shall hold the final responsibility for the safe operation of the facility in accordance with all pertinent provisions of this chapter.

(e) A particle accelerator safety officer shall meet at least one of the following five criteria:

1. Certification in health physics by the American Board of Health Physics or certification in therapy physics and/or radiological physics by the American Board of Radiology;

2. A bachelor's degree from an accredited college in biology, chemistry, radiation sciences, physics, engineering or mathematics and six years of professional technical experience in the field of radiological health or in a radiation protection activity. At least one year of the required health physics experience shall have been with a particle accelerator of a type similar to that with which the PASO will be working;

3. A master's degree in radiological health, radiation sciences, physics, chemistry, environmental sciences, engineering or a related field and at least five years of professional technical experience in the field of radiological health or in a radiation protection activity. At least one year of the required health physics experience shall have been with a particle accelerator of a type similar to that with which the PASO will be working;

4. A doctorate degree in radiological health, radiation sciences, physics, chemistry, environmental sciences, engineering or a related field plus four years of professional technical experience in the field of radiological health or in a radiation protection activity. At least one year of the required health physics experience shall have been with a particle accelerator of a type similar to that with which the PASO will be working; or

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5. Ten years of professional technical experience in the field of radiological health or in a radiation protection activity. At least five years of the required health physics experience shall have been with a particle accelerator of a type similar to that with which the PASO will be working.

(f) A particle accelerator safety officer in a facility where the particle accelerators are only electron microscopes shall have received a bachelor's degree from an accredited college in biology, chemistry, radiation sciences or mathematics and shall have passed at least one course in radiation safety offered by an accredited college.

(g) The registrant of a particle accelerator shall appoint a radiation protection committee whose approval shall be required for implementation of procedures for the use of each particle accelerator. The PASO shall be a member of this committee.

7:28-20.5 Use of particle accelerators on humans

(a) A registrant shall not use a particle accelerator or cause it to be used for the intentional irradiation of humans without first sending to the Department a written request stating the registrant's reasons for this use of the particle accelerator and the manner in which it will be used, and obtaining written approval from the Department.

(b) A registrant shall not use a particle accelerator or cause it to be used for the intentional irradiation of humans unless the equipment meets the requirements of this subchapter and N.J.A.C. 7:28-14.

7:28-20.6 Training program on the safe use of each particle accelerator

(a) The registrant shall establish and maintain a training program on the safe use of each particle accelerator. The registrant shall not permit any person to operate the particle accelerator until that person has successfully completed the training program consisting of the 10 items set out below. The registrant shall ensure that the training program is conducted under the direction of the PASO or an individual with equivalent qualifications in conjunction with the qualified machine operator and that the program shall include all of the following:

1. Instruction in the types, characteristics, location, and levels of radiation produced by the particle accelerator;

2. Instruction in the units of radiation exposure, dose, dose equivalent, and quantity of radioactivity associated with the particle accelerator;

3. Instruction in the biological effects of ionizing radiation;

4. Instruction in the methods used to prevent radiation exposure at the particle accelerator facility, including, but not limited to, time, distance, shielding, interlock system, safety procedures and radiation monitoring equipment;

5. Instruction in the use and care of personnel monitoring equipment employed at the particle accelerator facility;

6. Instruction on the location and use of all operating controls for the particle accelerator;

7. Instruction on the requirements of this subchapter and N.J.A.C. 7:28-1 through 11 and 13;

8. Instruction in the facility's written operating and emergency procedures;

9. An examination testing the operator's knowledge of the requirements of (a)1 through 8 above. The examination shall be of sufficient depth to demonstrate that the operator has received instruction in each of the items listed above and has an understanding of the items at a level which permits the operator to use the particle accelerator in a manner consistent with the overriding goal of minimizing danger to public health and safety; and

10. At least 100 documented hours of on-the-job training under the direct supervision of a qualified machine operator and certified in writing by the PASO. The registrant shall maintain this documentation and certification for five years at the particle accelerator facility. These records shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request. If, in the opinion of the PASO, the requirement of 100 hours of on-the-job training is too stringent for a particular particle accelerator, then the PASO shall submit a report documenting the number of hours of on-the-job training needed to become a qualified operator to the Department for approval.

(b) The registrant shall require each operator to become requalified not less than once every three years by completing a refresher training course covering the requirements of (a)1 through 9 above. The registrant shall maintain a record of each individual's completion of the refresher training course for five years at the particle accelerator facility. These records shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(c) A registrant may permit a person to function as an operator's assistant under the direct supervision of a qualified machine operator until that person has completed a training course covering the requirements of (a)1 through 10 above.

(d) The registrant shall maintain records of the operator's training program, including a copy of the examination, for at least five years at the particle accelerator facility. These records shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(e) Prior to operation of any particle accelerator after the effective date of this rule, the registrant shall document in writing the name of each individual who operated a particle accelerator prior to the effective date of this rule and whom the PASO and the Radiation Protection Committee have certified as the first qualified machine operator for each particle accelerator. The registrant shall maintain this documentation for five years at the particle accelerator facility and shall produce it for review by the Department during an inspection. After the effective date of this rule, an individual is required to complete all items in (a) above, in order to become a qualified machine operator.

(f) When a new particle accelerator facility commences operation or places into operation a newly invented particle accelerator, the PASO and the Radiation Protection Committee shall document in writing the name and qualifications of the individual whom they have certified as the first qualified machine operator. Any subsequent machine operator shall be subject to the provisions of (a) above.

7:28-20.7 Shielding design and radiation area survey requirements for a particle accelerator

(a) A person shall consult with an individual with qualifications equivalent to those specified in N.J.A.C. 7:28-20.4(e) with respect to the health physics considerations in the design of a particle accelerator installation. The original record of this consultation, including the shielding design, shall be maintained at the particle accelerator facility for the life of the unit and shall be produced for review by the Department during an inspection and a copy submitted to the Department along with the registration form. This section shall apply to those particle accelerators planned for installation after the effective date of this subchapter.

(b) A registrant shall not install a particle accelerator unless such unit is designed and constructed with primary and/or secondary protective barriers as are necessary to comply with the permissible dose rates, radiation levels and concentrations specified in N.J.A.C. 7:28-6.

(c) A registrant shall ensure that a radiation survey of controlled areas and of adjacent areas is performed by the PASO or by a qualified individual under the supervision of the PASO to ensure that radiation exposure of individuals conforms to the requirements of N.J.A.C. 7:28-6, and an inspection is performed of the health physics aspects of the facility when the particle accelerator is first capable of producing radiation, but before the particle accelerator is used for any purpose other than installation or assembly of the particle accelerator, or the conducting of radiation surveys and health physics inspections.

(d) The registrant shall ensure that a written report of the radiation survey and health physics inspection is prepared by the PASO or by a qualified individual under the supervision of the PASO for review by the registrant. The registrant shall maintain these reports for the duration of the life of the machine at the particle accelerator facility.

(e) Prior to operation of the particle accelerator, the registrant shall implement or cause to be implemented the recommendations listed in the radiation survey and health physics report, including any special limitations which are necessary to comply with the requirements of this chapter. The registrant shall ensure that a follow-up radiation area survey of controlled areas and of adjacent areas is performed by the PASO or by a qualified individual under the supervision of the PASO and a follow-up health physics inspection is conducted to ensure that the recommendations as implemented meet the requirements of this

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chapter. The registrant shall ensure that a written report of the follow-up radiation survey and the follow-up health physics inspection is prepared by the PASO or under the supervision of the PASO for review by the registrant.

(f) The registrant shall submit a copy of the radiation survey and health physics inspection report required by (d) and (e) above to the Department within 30 days of the date of the survey and health physics inspection report, and shall maintain the original radiation survey and health physics inspection report for the duration of the life of the machine at the particle accelerator facility. The radiation survey and health physics inspection reports shall be produced for review by the Department upon request.

(g) The requirements of (c) above shall be followed when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas which could affect radiation exposure of any individual and at intervals not to exceed one year.

(h) The registrant shall maintain at least two radiation survey instruments suitable for measuring all levels and energies of radiation capable of being produced by the particle accelerator. At last one of these radiation survey instruments shall be calibrated, operable, and easily accessible at the facility for use at all times.

(i) A registrant shall not use or cause a radiation survey instrument to be used unless:

1. A performance test is conducted on the survey instrument prior to each day's use;

2. The survey instrument is calibrated at intervals not exceeding one year using a nationally recognized calibration criteria;

3. The survey instrument is recalibrated each time it is serviced or repaired. If the service involved only a battery replacement, the survey instrument does not have to be recalibrated; and

4. The calibration of the survey instrument has been performed by or under the supervision of the PASO. The calibration procedure shall be performed by a qualified individual using nationally recognized calibration procedures which conform to those of the National Institute of Standards and Technology. These procedures shall identify the calibration source used. Results of each calibration of the survey instrument shall be maintained at the particle accelerator facility for five years. The record of these results shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

7:28-20.8 Particle accelerator controls and interlock systems

(a) A registrant shall not operate or cause a particle accelerator to be operated unless each personnel entrance into a particle accelerator's high radiation area or exclusion area has been provided with the safety features listed below:

1. Clearly identified and easily discernible instrumentation, readouts and controls pertinent to the production of radiation;

2. A clearly identifiable switch on the accelerator control console which requires a positive, intentional action on the part of the operator for routine use in turning the particle accelerator beam on and off;

3. A personnel safety interlock system designed with a personnel safety interlock circuit. The personnel safety interlock system shall include a visual search procedure to clear personnel from the target room and high radiation areas prior to the production of radiation;

4. Personnel safety interlocks on all entrances into a target room and other high radiation areas that automatically terminate the production of radiation upon entry;

5. Circuitry such that when a safety interlock has been tripped, it shall only be possible to resume operation of the particle accelerator by manually resetting the controls, first at the position where the interlock has been tripped, and thereafter at the main control console;

6. Circuitry such that each personnel safety interlock is on a separate circuit which shall allow its individual operation independent of all other interlocks;

7. Safety interlocks designed with fail-safe characteristics so that any defect or component failure in the interlock system prevents the production of radiation; and

8. A clearly identifiable emergency radiation cut-off switch shall be located in all high radiation areas and at the control console. Each cut-off switch shall include a manual reset switch so that the particle accelerator cannot be restarted from the accelerator control console without resetting the cut-off switch.

(b) A registrant shall not cause or allow a person to bypass intentionally an interlock which permits the production of radiation, unless such bypass fulfills all of the following conditions:

1. It is authorized for and limited to a specified time period by the radiation protection committee or PASO in writing prior to the by-pass;

2. It is recorded in a permanent log;

3. It is accompanied by the posting of a prominent notice at the particle accelerator control console and at each personnel entrance being bypassed; and

4. It is terminated as soon as the need for the by-pass no longer exists as determined by the PASO.

7:28-20.9 Warning devices

(a) A particle accelerator shall not be operated unless the registrant has equipped all locations designated as high radiation areas and all entrances to such locations with clearly observable warning lights that operate when, and only when, radiation is being produced, and which shall be labeled to indicate that, when lit, radiation is being produced. The warning lights shall be included in the electrical circuitry of the particle accelerator such that when a warning light is not lit radiation cannot be produced in any area where personnel may be present.

(b) A particle accelerator shall not be operated unless the registrant has provided in each high radiation area audible and visual warning devices which shall be interlocked and activated for at least 30 seconds prior to production of radiation by the particle accelerator. Such warning devices shall be clearly discernible and labeled as to their function. The audible warning device alarm may be terminated once the high radiation area has been secured. Particle accelerator facilities designed and approved for human exposure are excluded from this requirement.

(c) A particle accelerator shall not be operated unless the registrant has identified barriers, temporary or otherwise, and pathways leading to high radiation areas in accordance with the labeling, posting and control requirements of N.J.A.C. 7:28-10.

7:28-20.10 Operating procedures

(a) A registrant shall not operate or permit the operation of a particle accelerator unless all of the following requirements have been met:

1. The particle accelerator is equipped with a means (such as, but not limited to, a locked console or a locked room) to prevent its unauthorized use;

2. The safety interlock system is not used to turn off the particle accelerator beam except in an emergency;

3. The operation of all safety and warning devices, including interlocks, is tested by the qualified machine operator and the test results recorded at intervals not to exceed 30 days and such testing is verified in writing by the PASO at intervals not to exceed 90 days; each safety and warning device shall be listed separately in a log in which the test results are recorded, and the log shall be maintained for five years at the particle accelerator facility and shall be produced for review by the Department during an inspection;

4. Electrical circuit diagrams accurately reflecting the current status of the particle accelerator and the associated interlock systems are available to the operator and for inspection by the Department. The electrical circuit diagrams shall be reviewed and/or revised at intervals not to exceed one year by the qualified machine operator and the PASO shall verify in writing at intervals not to exceed one year that the review and/or revision was performed; the registrant shall maintain a record of such review for five years at the particle accelerator facility, and the record shall be produced for review by the Department during an inspection;

5. A copy of the current operating and emergency procedures is prepared under the direction of the PASO and maintained at the particle accelerator control panel. These operating and emergency procedures shall be reviewed and/or revised under the direction of the PASO at intervals not to exceed one year. The registrant shall maintain a record of such review with the current operating and emergency procedures at the accelerator facility for the life of the particle accelerator. This record shall be produced for review by the Department during an inspection; and

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6. The written operating and emergency procedures address the methods used to prevent radiation exposure at the particle accelerator facility. The procedures shall include, but not be limited to, the following topics:

i. The location and operation of the interlock systems;

ii. The safety procedures that apply to each particle accelerator;

iii. The types and use of personnel monitoring equipment;

iv. The procedures and personnel requirements for changing the target;

v. The handling and disposal procedures for disposing of a target;

vi. The procedures for surveys and wipe tests; and

vii. The emergency procedures regarding personnel and machine operations applicable to each particle accelerator.

7:28-20.11 Radiation area and personnel monitoring requirements

(a) The registrant shall identify in writing all types of radiation that will be produced, both primary and secondary, by the particle accelerator and the monitoring equipment selected to measure all the corresponding types and energies of radiation levels. The registrant shall maintain these records at the particle accelerator facility for five years. These records shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(b) The registrant shall continuously monitor the radiation levels in all high radiation areas. The area monitoring devices shall have fail-safe characteristics and shall be capable of providing a remote and local readout with visual and/or audible alarms at the accelerator control panel, any entrance to high radiation areas, as well as at other appropriate locations determined by the PASO so that a person entering the high radiation area or present therein becomes aware of the existence of the hazard.

(c) The registrant shall have all area monitors calibrated at intervals not to exceed 12 months and after each servicing and repair according to written procedures established by the PASO. The calibration procedures and records shall be maintained for five years at the particle accelerator facility. These procedures and records shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(d) Surveys shall be performed by the PASO or other qualified individual under the supervision of the PASO at least once in each quarter of the calendar year to determine that the amount of airborne particulate radioactivity present in controlled areas is in compliance with N.J.A.C. 7:28-6. Where survey results indicate noncompliance with N.J.A.C. 7:28-6, use of the particle accelerator shall be immediately discontinued and remedial measures to bring the particle accelerator into compliance with N.J.A.C. 7:28-6 shall be taken. Use of the particle accelerator is prohibited until such time as new surveys show that compliance with N.J.A.C. 7:28-6 has been achieved. The results of the surveys shall be maintained for five years at the particle accelerator facility. Survey results shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(e) Wipe tests shall be performed by the PASO or other qualified individual under the supervision of the PASO upon initial use of the particle accelerator and, thereafter, at least every six months to determine the degree of removable contamination in the target area and other pertinent areas to ensure compliance with N.J.A.C. 7:28-9. Where wipe test results indicate noncompliance with N.J.A.C. 7:28-9, use of the particle accelerator shall be immediately discontinued and remedial measures to bring the particle accelerator into compliance with N.J.A.C. 7:28-9 shall be taken. Use of the particle accelerator is prohibited until such time as new wipe tests show that compliance with N.J.A.C. 7:28-9 has been achieved. The results of the wipe tests shall be maintained for five years at the particle accelerator facility. Wipe test results shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(f) Surveys shall be made by the PASO or other qualified individual under the supervision of the PASO upon initial use of the particle accelerator and, thereafter, not less than once annually, to determine the levels of radiation resulting from activation of the target and other pertinent areas to determine compliance with N.J.A.C. 7:28-6 and 9. Where test results indicate noncompliance with N.J.A.C. 7:28-6 and 9, use of the particle accelerator shall be immediately discontinued and remedial measures to bring the particle accelerator into compliance with N.J.A.C. 7:28-6 and 9 shall be taken. Use of the particle accelerator is prohibited until such time as test results show that compliance with N.J.A.C. 7:28-6 and 9 has been achieved. The results of the surveys shall be maintained for five years at the particle accelerator facility. Surveys shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(g) The PASO shall develop procedures for performing surveys and wipe tests required by (d), (e) and (f) above. These procedures shall be in writing and shall be kept at the particle accelerator facility. These procedures shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request. The survey and wipe test procedures shall contain, but shall not be limited to, the instrumentation to be used in conducting surveys and wipe tests, the method of performing the survey and wipe test (for example, points on the equipment from where wipe samples will be taken and method of obtaining the wipe sample), and method of calculation of survey and wipe test results.

(h) The registrant shall supply all individuals with and shall require these individuals to use and wear appropriate personnel monitoring equipment as listed below when entering the area which has been defined as a high radiation area while the particle accelerator is in operation:

1. Direct reading dosimeters capable of measuring doses from zero to one roentgen measured in milliroentgen increments and provided with an audible indicator discernible above the ambient noise level; the direct reading dosimeter shall be read daily and doses shall be recorded in a log book; and

2. Portable radiation survey instruments capable of measuring the maximum radiation levels anticipated to be present at the facility and provided with an audible indicator discernible above the ambient noise level.

(i) The registrant shall ensure that the PASO assigns appropriate personnel monitoring equipment to each individual who works with the particle accelerator and that the use of such personnel monitoring equipment meets the requirements of N.J.A.C. 7:28-7.

(j) The registrant shall immediately confirm the radiation level measured by a personnel monitoring device if a direct reading dosimeter indicates exposure greater than 200 milliroentgens.

(k) The registrant shall maintain the personnel monitoring reports and the daily log records of the direct reading dosimeter values at the particle accelerator facility to insure compliance with N.J.A.C. 7:28-8. These records and logs shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

7:28-20.12 Ventilation systems

The registrant of a particle accelerator shall ensure that the maximum permissible average concentration of radioactive materials in air and water shall be as specified in N.J.A.C. 7:28-6 and the concentration of radioactive materials in effluents from the controlled areas shall meet the requirements of N.J.A.C. 7:28-11.

7:28-20.13 Electron microscopes

(a) Electron microscopes shall be exempt from the requirements of N.J.A.C. 7:28-20.4 through 7:28-20.12 except for the following requirements:

1. The registrant shall not use or cause an electron microscope to be used unless a radiation protection survey has been performed by a qualified individual as defined in (d) below to ensure compliance with N.J.A.C. 7:28-5 and 7 before the electron microscope is put into operation; the registrant shall submit a copy of the survey report to the Department within 30 days of the date of the survey and shall maintain the original survey report at the electron microscope facility; the survey report shall be produced for review by the Department during an inspection;

2. The electron microscope shall be be resurveyed after every repair, modification, or relocation that would affect radiation exposure; the registrant shall submit a copy of the survey report to the Department within 30 days of the date of the resurvey and shall maintain the resurvey report at the electron microscope facility; the resurvey shall be produced for review by the Department during an inspection;

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3. The registrant shall ensure that the electron microscope operating parameter indicators and controls pertinent to the production of radiation are clearly identified and easily discernible; the electron microscope shall be provided with a clearly visible label bearing the conventional radiation symbol and the words CAUTION: THIS EQUIPMENT PRODUCES X-RAYS WHEN ENERGIZED or other words having equivalent meaning affixed on the column;

4. The registrant shall provide each electron microscope operator with appropriate personnel monitoring equipment as required by N.J.A.C. 7:28-7 and require that the device be worn by each individual during operation of the electron microscope.

i. The registrant shall ensure that the personnel monitoring reports received from the personnel monitoring device processor contain the information required in N.J.A.C. 7:28-8; and

ii. The personnel monitoring reports received from the personnel monitoring device processor shall be maintained for inspection by the employee and the Department pursuant to the requirements of N.J.A.C. 7:28-8.

(b) Electron microscopes incapable of operating at 30 kVp or above shall be exempt from the requirements of (a)4 above provided the initial or repeat radiation protection survey does not yield radiation levels using maximum conditions of operation as measured at five centimeters from any accessible surface greater than 0.5 millirem per hour.

(c) The registrant shall provide a means to secure the electron microscope to prevent unauthorized use when not in operation. Such means may include, but are not limited to, a locked console or locked room.

(d) The PASO in a facility where electron microscopes are the only particle accelerators shall have received a bachelor's degree from an accredited college in biology, chemistry, radiation sciences or mathematics and shall have passed at least one course in radiation safety offered by an accredited college.

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RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program

Adopted Amendments: N.J.A.C. 2:32-2.3, 2.11, 2.22 and 2.27.

Proposed: February 4, 1991 at 23 N.J.R. 252(a).
Adopted: April 8, 1991 by the Sire Stakes Board of Trustees, Bruce A. Stearns, Executive Director, and Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Filed: April 10, 1991 as R.1991 d.241, **without change.**
Authority: N.J.S.A. 5:5-91.
Effective Date: May 6, 1991.
Expiration Date: June 1, 1992.

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

Full text of the adoption follows.

2:32-2.3 Registration of stallions
(a)-(b) (No change.)
(c) The registration must be returned by December 1. The Certificate of Good Health must be completed by a licensed New Jersey veterinarian on the farm where the stallion is standing, between January 1 and January 21 of the year the stallion is registered and standing. The Certificate of Good Health, when signed by the veterinarian, is to be sent along with a copy of the EIA-AGID test chart to the Standardbred Owners and Breeders Association, Inc., P.O. Box 839, Freehold, New Jersey 07728.
(d)-(h) (No change.)

2:32-2.11 Payment dates
(a) (No change.)
(b) In the Fair Division, the first sustaining payment on a two- or three-year-old must be made on or before January 15 of a year and the second sustaining payment on a two- or three-year-old must be made on or before March 15 of a year in order to remain eligible in that year. In the event that the 15th day of the aforementioned months falls on a Saturday, Sunday, or holiday, the payment must be postmarked on or before the next business day following the 15th of that month.

2:32-2.22 Qualifying standards
(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying standards and be eligible at time of entry.
1. Horses making a break in a qualifying race or in the next purse race following a qualifying race must requalify with the exception of those horses who were not required to qualify. All other qualifying standards in effect at the track where the race is being conducted must be adhered to.
2. (No change.)
3. If a horse initially meets the qualifying standards but then fails to meet qualifying standards in a subsequent event, it must then requalify to meet the standards of the raceway at which the race is to be contested and the New Jersey Sire Stakes.
4. Official workouts, at the discretion of the judges, may be accepted as a substitute for a qualifying race for time standards only and will not be accepted for a horse on the stewards list for breaks. Time trials will not be accepted as a substitute for a qualifying mile.
(b) (No change.)

2:32-2.27 Final races
(a) There will be a two and three-year-old "Final" race in each Pari-mutuel Division at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. There will be a Fair "Final" race in each Division for two- and three-year-olds. Consolation races in the Pari-mutuel program may be scheduled at the option of the tracks and shall be conducted under track rules. Horses eligible to race in the final events must race in the finals and not in the consolation events.
(b)-(j) (No change.)

BANKING

(b)

DIVISION OF REGULATORY AFFAIRS

Communication Terminal Branch Offices; Automated Teller Machines

Adopted Amendments: N.J.A.C. 3:1-2.25 and 2.26
Adopted New Rules: N.J.A.C. 3:1-17
Adopted Repeal: N.J.A.C. 3:6-13

Proposed: March 4, 1991 at 23 N.J.R. 642(a).
Adopted: April 9, 1991, by Jeff Connor, Commissioner, Department of Banking.
Filed: April 12, 1991, as R.1991 d.244, **without change.**
Authority: N.J.S.A. 17:1-8 and 8.1; 17:9A-1, 20D, 316 and 333; 17:12B-8, 37.1 and 226.
Effective Date: May 6, 1991.
Expiration Date: January 4, 1996, N.J.A.C. 3:1.

Summary of Public Comments and Agency Responses:
The Department of Banking received comments from the following persons:
1. Jack Wallace, President and CEO, New Jersey National Bank.
2. Barry Zadworny, Senior Vice President, Roma Savings Bank, S.L.A.
3. Gustav J. Schlaier, Director, Legal Department, N.J. Council of Savings Institutions.
4. Regina Calcaterra, Associate Advocate, The Eastern Paralyzed Veterans Association.
5. James R. Silkensen, Executive Vice President, New Jersey Savings League.
6. Elaine Meshowski, Marketing Manager, First Atlantic Federal Credit Union.
7. Carl R. Osteriof, Assistant Vice President, UJB Financial.
A summary of comments and responses follows:
COMMENT: By allowing New Jersey banks to accept checks and other items at ATMs for deposit to accounts at out-of-State institutions, the rule will open the door to a reciprocal arrangement that will allow New Jersey ATM cardholders to make deposits using ATMs in other states. This will be a convenience to New Jersey ATM cardholders and will enhance New Jersey's image as a leader in consumer responsiveness.
RESPONSE: The Department appreciates receiving confirmation that this rule will have a beneficial impact.
COMMENT: Mr. Zadworny comments that the proposed rules place State chartered associations at a competitive disadvantage with Federal associations, since the Office of Thrift Supervision ("OTS") does not require any application before establishing a remote service unit. Further, the $500.00 application fee is nothing more than an effort to generate revenue. Accordingly, the Department should remove all ATM filing and application requirements.
RESPONSE: These rules as proposed make it easier for associations to establish ATMs by removing all application requirements for ATMs within 200 feet and by providing that associations no longer need to file branch applications. In addition, these rules substantially reduce the cost of establishing an off-site ATM from $1,500, the cost of establishing a branch office, to $500.00. Accordingly, the Department rejects the comment that this proposal was an effort to generate revenue.
Further, although OTS does not require an application, the Department deems it appropriate to do so since banking activities such as deposit taking and check cashing are conducted at these sites. Although OTS fees may be less in this instance, this disparity is more than overcome by the

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much higher examination charges and assessments imposed by that agency.

COMMENT: If the proposed rules are adopted, the out-of-State customer is not the only one who will benefit from this added banking convenience. New Jersey consumers will reap the reciprocal benefits from other out-of-State banking institutions who have ATMs. Customers of New Jersey banks will appreciate this convenience, and it will enable New Jersey institutions to offer a comprehensive ATM service.

RESPONSE: The Department appreciates receiving confirmation that these rules will have a beneficial impact.

COMMENT: The proposed rules should require that all new facilities be accessible to people with disabilities. This would be consistent with recently proposed Federal rules which prohibit ATMs in new banks which are not readily accessible to and usable by persons with disabilities. These proposed Federal rules further explain that certain features are necessary to make ATM's accessible to people with varying types of disabilities.

RESPONSE: The Department will monitor these proposed changes in the Federal rules, and will consider whether further protections for the disabled are needed.

COMMENT: The proposed rules place State chartered associations at a competitive disadvantage with Federal associations, since the Office of Thrift Supervision ("OTS") does not require any application before establishing a remote service unit.

RESPONSE: These rules as proposed make it easier for associations to establish ATMs by removing all application requirements for ATMs within 200 feet and by providing that associations no longer need to file branch applications. Although the Office of Thrift Supervision ("OTS") does not require an application, the Department deems it appropriate to do so since banking activities such as deposit taking and check cashing are conducted at these sites. Although OTS fees may be less in this instance, this disparity is more than overcome by the much higher examination charges and assessments imposed by that agency.

In addition, the Department is seeking to adopt uniform rules for banks, savings banks and savings and loan associations. In this instance, this may be accomplished only by requiring applications from all depositories. The Department views this parity among its institutions to be more important than having the same requirements as OTS.

Full text of the adoption of the amendments and new rules follows.

3:1-2.25 Fees; banks and savings banks

(a) A bank or savings bank shall pay to the Commissioner for use of the State the following fees:

1.-3. (No change.)

4. For filing an application for approval of the establishment of an automated teller machine $500.00

5.-22. (No change.)

(b) (No change.)

3:1-2.26 Fees; State Associations

(a) Every State association shall pay to the Commissioner the following fees:

1.-5. (No change.)

6. Application to establish a branch office, not pursuant to a merger or bulk purchase $1,500

7. Application to establish an automated teller machine $500.00

Recodify 7.-20. as 8.-21. (No change in text.)

(b) (No change.)

SUBCHAPTER 17. AUTOMATED TELLER MACHINES (ATM)

3:1-17.1 Definitions

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

"Automated teller machine" means an automated facility or terminal owned or rented by a bank, savings bank or savings and loan association at which a customer may do one or more of the following:

1. Make deposits;
2. Obtain disbursements from a deposit or loan account; or
3. Transfer money from a deposit or loan account.

Included within this definition is a communication terminal branch office as defined in N.J.S.A. 17:9A-1(17), and a remote service unit as defined in N.J.S.A. 17:12B-8(e).

"Bank," "savings bank," "savings and loan association" and "credit union" means State chartered institutions having their principal offices in New Jersey, unless otherwise indicated.

"Foreign financial institution" means a State or Federally chartered bank, savings bank, savings and loan association or credit union with principal offices outside of New Jersey.

"Sharing access" means the ability of financial institutions, other than the institution owning or renting the automated teller machine, to allow their customers to use the machine to consummate transactions, make deposits, initiate inquiries or otherwise conduct business with such financial institutions.

3:1-17-2 On site location

A bank, savings bank or savings and loan association may establish, maintain or operate an automated teller machine or machines on the premises, or within 200 feet of the premises, of its principal office or any of its branch or auxiliary offices, without filing an application with the Department. The 200 feet shall be measured from the portion of the property line of the office or branch closest to the automated teller machine.

3:1-17.3 Off site location

(a) Before establishing an automated teller machine more than 200 feet from its premises, a bank, savings bank or savings and loan association must file an application with the Commissioner containing the following:

1. The proposed location of the automated teller machine or machines;
2. A listing of all other New Jersey institutions which will share access to the machine or machines, or all state, regional and national networks with which the machine or machines will be associated;
3. The anticipated charges to be made for access to the unit;
4. The number of machines to be established at the location; and
5. Such other information as required by the Commissioner.

(b) The following items must accompany each application:

1. The filing fee of $500.00; and
2. A certified copy of a resolution of the board of the applying institution authorizing the application.

3:1-17.4 Shared ownership

If any bank, savings bank or savings and loan association shares in the ownership, costs of installation or maintenance of an automated teller machine, either directly or indirectly (on other than a transactional fee basis), then this shall be indicated in the application. In addition, the application shall include a certified board resolution from each financial institution sharing in the ownership, costs of installation or maintenance. The application fee shall only be paid by the applying institution, but the machine shall be a branch of every institution sharing the ownership or costs of installation or maintenance.

3:1-17.5 Interstate access

(a) No foreign financial institution shall establish, operate, maintain or share ownership of an automated teller machine anywhere within the State of New Jersey, except that a foreign financial institution may share access to such a machine.

(b) No automated teller machine in this State shall bear any identification of a foreign financial institution, except that a generic name or display identifying or associated with a regional or national network of automated teller machines is not prohibited.

(c) A customer having an account in a foreign financial institution may make deposits to that account from an automated teller machine located in New Jersey.

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PERSONNEL

(a)

THE COMMISSIONER

Notice of Administrative Change
Leaves, Hours of Work and Employee Development
PAR Use and Review; State Service
N.J.A.C. 4A:6-5.3

Take notice that the Department of Personnel has discovered that the cross-reference in N.J.A.C. 4A:6-5.3(g) to N.J.A.C. 4:1-9.5 needs to be revised to reflect the current subject matter rule, N.J.A.C. 4A:4-2.15. This notice of administrative change is published pursuant to N.J.A.C. 1:30-2.7(c).

Full text of the changed rule follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

4A:6-5.3 PAR use and review; State service
(a)-(f) (No change.)
(g) Performance rating may be used as a factor in promotion (see N.J.A.C. [4:1-9.5] **4A:4-2.15**) and layoff (N.J.A.C. 4A:8-2.2(c)4).

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Administrative Correction
Hotels and Multiple Dwellings
Certificate of Inspection
N.J.A.C. 5:10-1.12

Take notice that the Department of Community Affairs has discovered an error in the current text of N.J.A.C. 5:10-1.12(d). Paragraphs (d)1 through 3 should be codified as (e)1 through 3. Paragraph (e) was proposed and adopted (see 22 N.J.R. 275(b) and 1354(a)), but was omitted from the Code in the production of the 5-21-90 Code update. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface **thus**):

5:10-1.12 Certificate of inspection
(a)-(c) (No change.)
(d) Every application for a certificate of inspection shall be signed by at least one individual owner or, in the case of a partnership, corporation or other entity, by a duly authorized representative of the owner, in which case the signer's relationship to the owner shall be stated. The name of the person signing shall be printed or typed beneath the signature in a legible manner.
(e) The following relate to Uniform Fire Code inspections:
1.-3. (No change.)

EDUCATION

(c)

STATE BOARD OF EDUCATION

Notice of Administrative Correction and Change
Provisions for the Education of Homeless Children and Youth
Tuition for Private Schools for the Handicapped
Budget Appeal Rules
N.J.A.C. 6:3-7, 6:20-4 and 6:24-7

Take notice that the Department of Education has discovered an error in the current text of N.J.A.C. 6:3-7.4(d), and requested an administrative change to N.J.A.C. 6:3-7.7(b); has discovered errors in the text of N.J.A.C. 6:20-4.3(a)10 and 11, and 4.4(a)41; and has requested administrative corrections to N.J.A.C. 6:24-7.1, 7.2(a)2 and 5 and 7.7(a)1 to conform terms used therein to the rest of the subchapter.

In N.J.A.C. 6:3-7.4(d), the first use of "superintendent(s)" is incorrect; in context, the proper word form is "superintendents." The Division of Compensatory/Bilingual Education referred to in N.J.A.C. 6:3-7.7(b) is no longer in operation, and will be replaced by the Department of Education as the locus for the Office of Education for Homeless Children and Youth.

In N.J.A.C. 6:3-4.3(a)10 and 4.4(a)41, proposed and adopted amendments to the text (see 22 N.J.R. 2633(a) and 3736(a)) were omitted from the 12-17-90 Code update. The word "purchases" in N.J.A.C. 6:20-4.3(a)11 is corrected to the singular form.

In order to provide consistency with the word usage throughout the subchapter, the phrase "or bodies" is being added after each use of the term "governing body" in N.J.A.C. 6:24-7.1, 7.2(a)2 and 5 and 7.7(a)1. Also in N.J.A.C. 6:24-7.2(a)5, in keeping with these changes, "or they" is added after "it."

This notice of administrative correction and change is published pursuant to N.J.A.C. 1:30-2.7.

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

6:3-7.4 Responsibilities of the district of residence
(a)-(c) (No change.)
(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)] **superintendents** will work collectively to 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) (No change.)

6:3-7.7 Disputes and appeals
(a) (No change.)
(b) If the parent(s) or guardian(s) or any of the above parties object to the decision of the county superintendent, mediation shall be available through the [Division of Compensatory/Bilingual] **Department of** Education's Office of Education for Homeless Children and Youth. Mediation shall be provided as follows:
1.-5. (No change.)
(c)-(d) (No change.)

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.-9. (No change.)
10. A financial report prescribed by the [Department of Education] **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. Good internal control practices shall be maintained which include the separation of duties such as the recording and authorizing of checks and purchase[s] approvals.
12.-21. (No change.)
(b) (No change.)

6:20-4.4 Non-allowable costs
(a) A cost which is not allowable in the calculation of the certified cost per pupil includes the following:
1.-40. (No change.)
41. Any costs associated with a school-owned [or] **vehicle,** leased vehicle **or vehicle contained in a related party transaction involving the purchase of transportation services** where a mileage log was not maintained;
42.-54. (No change.)

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6:24-7.1 Authority

Unless otherwise expressly noted, all provisions of this subchapter governing a petition by a district board of education appealing a board of schools estimate's or a governing body's **or bodies'** decision to reduce a school budget have been prescribed by the Commissioner and approved by the State Board of Education pursuant to N.J.S.A. 18A:6-9, 18A:22-14, 18A:22-17, 18A:22-37, *Bd. of Ed., E. Brunswick Tp. v. Tp. Council, E. Brunswick,* 48 N.J. 94 (1966) and *Board of Education of Deptford Township v. Mayor and Council of Deptford Township,* 116 N.J. 305 (1989).

6:24-7.2 Process for certifying the amount of tax levy

(a) In type I or type II districts having a board of school estimate, the following process for certifying the amount of tax levy necessary for school purposes shall be implemented.

1. (No change.)

2. If the amount so appropriated shall be less than the amount proposed to the board of school estimate by the district board of education, the board of school estimate shall present to the district board of education, the municipal governing body **or bodies** and the county superintendent a revised line item budget which shall identify the specific line item reductions and the supporting reasons for each such reduction.

3.-4. (No change.)

5. Should a municipal governing body **or bodies** certify an amount less than that appropriated by the board of school estimate pursuant to N.J.S.A. 18A:22-17, it **or they** shall provide the district board of education and the county superintendent those line items wherein reductions were effectuated and the supporting reasons for such reductions. The governing body **or bodies** shall further certify that the amount appropriated for school purposes is sufficient to ensure the provision of a thorough and efficient system of education.

(b) (No change.)

6:24-7.7 Documentation of answer

(a) In conjunction with its answer, the governing body or bodies shall forward to the Commissioner a copy of the information which was given to the district board of education and the county superintendent at the time the reduction was made including the following documents:

1. A copy of the current expense line item budget detailing specific reductions that were effectuated by the governing body **or bodies** along with the statement of supporting reasons for each of the line item reductions;

2.-3. (No change.)

HUMAN SERVICES

(a)

DIVISION OF ECONOMIC ASSISTANCE

Notice of Administrative Change
Service Programs for Aged, Blind or Disabled Persons
N.J.A.C. 10:83-1

Take notice that, effective February 21, 1989, N.J.A.C. 10:100-3 was recodified as N.J.A.C. 10:83-1 (see 21 N.J.R. 511(a)). The Division of Economic Assistance, Department of Human Services, has discovered that certain cross-references in the rules to other provisions of the subchapter are still in pre-recodification form. The purpose of this notice of administrative change is to revise those cross-references to reflect the rules' current codification. Also, at N.J.A.C. 10:83-1.3, the unnecessary subcodification "(a)" is deleted. This notice of administrative change is published pursuant to N.J.A.C. 1:30-2.7(c).

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

10:83-1.1 Introduction

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

(c) Payment for burial and funeral expenses may also be provided for certain other aged, blind and disabled individuals. These individuals include those adults who are determined by the county welfare agency to be eligible for "Medicaid Only" and former recipients of Old Age Assistance (OAA), Disability Assistance (DA) and Assistance to the Blind (AB), (See N.J.A.C. [10:100-3.4] **10:83-1.4** for classes of recipients eligible for burial and funeral payment.)

1. This Special Payments Handbook—Aged, Blind and Disabled N.J.A.C. [10:100-3] **10:83-1**) sets forth the rules, regulations and procedures relative to the provisions of emergency assistance and burial and funeral expenses to or on behalf of eligible aged, blind and disabled individuals.

2.-3. (No change.)

10:83-1.3 Payment of burial and funeral expenses

[(a)] Burial and funeral expenses may be provided for SSI recipients and certain other aged, blind and disabled individuals as identified in N.J.A.C. [10:100-3.4] **10:83-1.4**. Funds for such payments are 75 percent State and 25 percent county; there is no Federal reimbursement.

10:83-1.5 Funeral contract

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

(c) In the complete absence and only in the complete absence of any next of kin and when no person or agency is available to arrange funeral services and burial, the CWA may make the arrangements. While the availability of funds is not a factor in determining whether or not the CWA shall make final arrangements, in no instance will the CWA contract to pay (from whatever funds) any more than it would pay from public funds. The CWA will select funeral directors for such contracting in consultation with the county association of funeral directors.

1. Limits of CWA contracting authority: The CWA shall not authorize any cremation, nor shall it authorize any post-mortem examination or any other procedure not a part of regular funeral and burial. (See also N.J.A.C. [10:100-3.6(d)] **10:83-1.6(d)** on public burying grounds). The CWA shall not contract with a cemetery, since such action is the responsibility of the funeral director.

2. (No change.)

10:83-1.6 Condition of payment

(a) (No change.)

(b) When either of the contracting parties contemplates that a county welfare agency will be requested to pay any part of the cost of a funeral and/or burial, either or both parties shall notify and consult with the chargeable CWA (see N.J.A.C. [10:100-3.7(c)] **10:83-1.7(c)**) before interment or cremation takes place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make payment commitment. The funeral director shall also be advised as to whether the agency holds a judgement lien. The requirement for prior notice may be waived by the CWA upon a showing of good cause (as determined by the CWA) which is not prejudicial to the validity of the claim.

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

10:83-1.7 Authorization of payments

(a) (No change.)

(b) Payment: The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent and as further reduced by the sum of all contributions from next of kin and other interested parties.

1. For those decedents who were found eligible for burial and/or funeral payment consideration solely by reason of assigned assets (N.J.A.C. [10:100-3.4(a)3] **10:83-1.4(a)3**), the sum of the cemetery and funeral payments to be authorized shall not exceed the liquidated value of such assets and in no case more than the maximum of payments indicated in (a) above.

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

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(a)

DIVISION OF ECONOMIC ASSISTANCE

Notice of Administrative Change
General Assistance Manual
Application Process; Municipal Worksite Agreements
N.J.A.C. 10:85-3.2 and 10.2

Take notice that the Division of Economic Assistance, Department of Human Services, has discovered that references in N.J.A.C. 10:85-3.2(g)2i and 10.2(b)2 to forms utilized by the Division of Employment Security, Department of Labor, need to be revised to reflect the form currently in use by the latter Division. At N.J.A.C. 10:85-3.2(g)2i, the reference to Form NJES-511F is replaced by Form NJES-1A, which supersedes the former form (see 22 N.J.R. 2326(b)). At N.J.A.C. 10:85-10.2(b)2, the reference to the obsolete form NJES-511B, which was replaced by the now-superseded Form NJES-511F, is deleted. This notice of administrative change is published pursuant to N.J.A.C. 1:30-2.7(c).

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

10:85-3.2 Application process

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

(g) Work requirement: Eligibility for public assistance in New Jersey is directly related to an individual's willingness to work when he or she is able to do so. It is, therefore, a part of the application process to explain the work requirement to the applicant and to record in the case file the reasons for any exemption from this requirement.

1. (No change.)

2. Elements of the work requirement: Unless specifically exempt, all recipients of General Assistance benefits must comply with all parts of this section:

i. Maintain current registration with the New Jersey Division of Employment Services. No person who is subject to this requirement is eligible for any General Assistance payment until after he or she has completed Form NJES-[511F]**1A** and submitted it to the MWD. The MWD will, within one working day thereafter, submit the form to the appropriate Special Programs Office of the New Jersey Division of Employment Services. Once registered, a GA recipient remains registered as long as he or she remains on assistance.

ii.-vi. (No change.)

3.-9. (No change.)

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

10:85-10.2 Municipal worksite agreements

(a) (No change.)

(b) The MWD will supply to the appropriate ES/GAEP office a MWSA for each worksite established. Employment Service staff will notify the MWD of receipt of the MWSA by use of Form NJES-1A. No recipient of GA shall report to a worksite until the ES/GAEP staff has received the signed MWSA.

1. If more than one GA recipient is assigned to the same worksite, only one MWSA will be supplied to the ES/GAEP office.

2. For each GA recipient subsequently assigned to a previously agreed upon interim worksite, Form[s NJES-511B and] NJES-1A must be supplied to the ES/GAEP office before the recipient reports to the interim worksite. The NJES-1A must indicate that this recipient is reporting to a previously established worksite.

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

(b)

DIVISION OF ECONOMIC ASSISTANCE

Food Stamp Program
Miscellaneous Program Requirements
Adopted Amendments: N.J.A.C. 10:87-2.3, 2.6, 2.23, 2.30, 2.31, 3.6, 4.8, 5.5, 5.6, 5.9, 5.10, 7.14, 9.5, 9.7, 10.3, 10.9, 10.10, 10.21, 10.24, 11.23, and Appendix A.

Proposed: January 22, 1991 at 23 N.J.R. 179(a).

Adopted: April 12, 1991, by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: April 15, 1991 as R.1991 d.247, **without change.**

Authority: N.J.S.A. 30:4B-2; 7 CFR Parts 273 and 274; P.L. 100-383, P.L. 99-198, P.L. 100-435, *West v. U.S. Department of Agriculture,* Docket No. 88-1475 (3rd Cir., June 30, 1989); *Murray v. Lyng,* 854 F.2d 303 (8th Cir. 1988), and *Foster v. Celani,* 849 F.2d 91 (2nd Cir. 1988).

Effective Date: May 6, 1991.

Expiration Date: January 27, 1994.

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

Full text of the adoption follows.

10:87-2.3 Nonhousehold members, boarders and excluded household members

(a) Nonhousehold members: The individuals in (a)1 and 2 below residing with a household shall not be considered household members in determining a household's eligibility or allotment.

1. (No change.)

2. The following nonhousehold members are ineligible to participate in the program as separate households.

i. (No change.)

(b) (No change.)

(c) Excluded household members: The following individuals residing with a household shall be excluded from the household when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of an excluded household member shall be considered available to the remaining household members in accordance with N.J.A.C. 10:87-7.14. Excluded household members may not participate in the program as separate households.

1.-2. (No change.)

3. Ineligible alien or citizenship status: Individuals who do not attest to or meet the citizenship or eligible alien status requirements of N.J.A.C. 10:87-3.6, 3.7, and 3.8 or the eligible sponsored alien requirements of N.J.A.C. 10:87-7.18; or

4. Individuals disqualified for noncompliance with the work registration, employment and training program, or voluntary quit provisions at N.J.A.C. 10:87-10.

10:87-2.6 Head of household

(a) (No change.)

(b) For purposes of failure to comply with work registration, work and training requirements, and voluntary quit provisions, the head of household shall be considered to be the principal wage earner.

1. Principal wage earner: The principal wage earner shall be the household member (including excluded members, see N.J.A.C. 10:87-2.3(c)) who has the greatest source of earned income in the two months prior to the month of the work registration, work or training requirement or voluntary quit violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours.

i.-iii. (No change.)

iv. If the head of household fails to comply with a work registration requirement, the household cannot reassign the head of

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household designation to a different household member until any imposed period has expired.

10:87-2.23 Sources of verification

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

(d) Responsibility for obtaining verification:

1.-2. (No change.)

3. The CWA shall provide each household, at initial certification and recertification, with a Notice of Required Verification (Form FSP-33) if the household is required to provide information necessary to complete the certification process. That notice informs the household that the CWA will assist the household in obtaining the needed verification if the household encounters difficulty, and that failure to secure the required information may affect the household's eligibility for food stamp benefits.

10:87-2.30 Normal processing standard

(a) (No change.)

(b) Opportunity to participate: An opportunity to participate consists of providing households with an ATP and having an issuance facility open and available for the household to obtain its allotment. If the ATP is mailed, two days shall be allowed for delivery before determining if the household has been provided an opportunity to participate. A household has not been provided an opportunity to participate within 30 days of application if the ATP is mailed on the 29th or 30th day. Neither has an opportunity to participate been provided if the ATP is mailed on the 28th day but no issuance facility is open on the 30th day where the household can obtain coupons. The CWA must mail the ATP at least two days in advance of the 30th day and assure that the ATP can be transacted after it is received but before the 30th day expires. The CWA shall ensure that each certified household is provided an ID card concurrent with the initial issuance of food stamp benefits to the household.

1. Any ATP issued after the 15th day of the month shall not expire until the end of the following month.

2. (No change.)

3. Households which apply for initial benefits after the 15th day of the month and which have completed the application and provided all required verification within 30 days of the date of application and have been determined eligible to receive benefits for the initial month of application and the next subsequent month, shall receive their prorated allotment for the initial month and their first full month's allotment at the same time. Households which apply for initial benefits after the 15th day of the month under the expedited service provisions at N.J.A.C. 10:87-2.32 and 2.33 and which have completed the application and provided all required verification within the five-day processing standard and have been determined eligible to receive benefits for the initial month of application and the subsequent month shall receive their prorated allotment for the initial month and their first full month's allotment at the same time.

(c) (No change.)

10:87-2.31 Delays in processing

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

(e) Delays caused by the household: If, by the 30th day, the CWA cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application.

1. (No change.)

2. Households found eligible in second 30-day period: If the household was at fault for the delay in the first 30-day period but is found to be eligible during the second 30-day period, the CWA shall provide benefits only from the month following the month of application. The household is not entitled to benefits for the month of application when the delay is the fault of the household.

(f) (No change.)

(g) Delays beyond 60 days: The following procedures apply as appropriate when a delay occurs in the second 30-day period.

1. Complete case record: If the CWA is at fault for not completing the application process by the end of the second 30-day period, and the case record is otherwise complete, the CWA shall continue to process the original application until an eligibility determination is reached.

i. (No change.)

ii. Household fault in initial delay: If the initial delay was the household's fault, the household shall receive benefits retroactive to the month following the month of application. The CWA shall use the original application to determine the household's eligibility in months following the 60 day period.

2.-3. (No change.)

4. The CWA shall not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification. The CWA shall not consider individuals identified at N.J.A.C. 10:87-2.3(a) and (c) as individuals outside of the household.

10:87-3.6 U.S. citizen defined

For the purposes of N.J.A.C. 10:87-3.5, the United States shall be defined as the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Swain's Island, American Samoa, and the Northern Mariana Islands. Citizenship shall be verified only if questionable in accordance with N.J.A.C. 10:87-2.21(b).

10:87-4.8 Identification of resource exclusions

(a) Only the following shall be classified as resource exclusions by the CWA:

1.-16. (No change.)

17. Resources excluded by Federal law: Resources which are excluded for food stamp purposes by express provision of Federal statute. The following is a listing of resources excluded by Federal statute:

i.-xii. (No change.)

xiii. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383).

18.-19. (No change.)

10:87-5.5 Unearned income

(a) For the purposes of determining net food stamp income, unearned income shall include, but not be limited to:

1. (No change.)

2. Annuities, pension, Social Security, and other benefits: Annuities, pensions, retirement benefits, veteran's benefits, old-age, survivors, or disability benefits, workman's compensation, unemployment compensation, Social Security benefits, strike benefits, and foster care payments for children or adults provided that the foster child or adult is included in the household;

3.-10. (No change.)

10:87-5.6 Income of excluded individuals

(a) Income of individual excluded for intentional program violation or refusal to comply with a work registration requirement: The earned or unearned income of an individual disqualified from the household for intentional program violation as set forth in N.J.A.C. 10:87-11 or who refuses to comply with a work registration requirement shall continue to be attributed in its entirety to the remaining household members (see N.J.A.C. 10:87-7.14(b)).

(b) (No change.)

10:87-5.9 Identification of income exclusions

(a) Only the following shall be excluded from household income; no other income shall be excluded.

1.-2. (No change.)

3. Utility allowance payments, rebates, and reimbursements which may be made by a public housing authority directly to the individual, the utility or the landlord are excluded from countable income.

4.-14. (No change.)

15. Income excluded by Federal law: Any income that is specifically excluded by any other Federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program shall be excluded. The following qualify under this provision:

i.-xiii. (No change.)

xiv. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383).

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10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1.-4. (No change.)

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in (a)1, 2, 3, and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction exceed the amount in N.J.A.C. 10:87-12.1(b) unless the household contains a member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. These households shall receive an excess shelter deduction for the monthly costs that exceed 50 percent of the household's monthly income after all other applicable deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

i.-iii. (No change.)

iv. Utility allowances: Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the appropriate utility allowance (see N.J.A.C. 10:87-12.1(d) or (e)) in accordance with the following provisions:

(1)-(7) (No change.)

(8) A household which has excluded energy assistance (for example, the AFDC or GA energy disregard, Lifeline or TLAP benefits, or utility allowances rebates, or reimbursements provided by a public housing authority) is entitled to the appropriate utility allowance only if during one month of the certification period the household will incur utility expenses in excess of the excluded energy assistance.

10:87-7.14 Treatment of income and resources of certain nonhousehold members

(a) During the period of time that a household member cannot participate because he or she is an ineligible alien, disqualified due to intentional program violation, failed/refused to obtain and provide a social security number, refused to comply with a work registration requirement, or is ineligible for failing to sign the declaration attesting to his or her citizenship or alien status, the eligibility and benefit level of the remaining household member(s) shall be determined in accordance with this section.

(b) Excluded for intentional program violation disqualification or refusal to comply with a work registration requirement: The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of disqualification for intentional program violation or refusal to comply with a work registration requirement shall be determined as follows:

1.-3. (No change.)

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

10:87-9.5 Changes

(a) (No change.)

(b) Household responsibilities:

1. (No change.)

2. Method of reporting: The change may be reported in person, by telephone or by mail. The CWA shall document the date a change is reported, which shall be the date the CWA receives a report form or is advised of the change over the telephone or by a personal visit. PA households which report a change in circumstances shall be considered to have reported the change for food stamp purposes. CWAs shall provide households with either a toll-free telephone number, a number at which collect telephone calls will be accepted, or a number within each household's local calling area which recipients may utilize to either obtain information or report changes. Those telephone numbers shall be identified on the Change Report Forms and Notices of Adverse Action which the CWAs issue.

3. (No change.)

(c) CWA responsibilities: The CWA shall not impose any food stamp reporting requirement on household except as noted above. Neither shall the CWA treat the submission of the report of change as a waiver of the household's right to a notice of an adverse action.

1. (No change.)

2. Action on reported change: The CWA shall advise the household of its responsibilities to report changes within the required time period. The CWA is required to take prompt action in all changes reported by the household to determine if the change affects the household's eligibility or allotment. Even if there is no change in allotment, the CWA shall document the change in the case record, provide another change report form to the household, and notify the household of the receipt of the change report and effect of the change, if any, on its benefits. Restoration of lost benefits shall be provided to any household if the CWA fails to take action on a change which increases benefits within the time limits specified below.

i. (No change.)

ii. Changes which increase benefits and require issuance of a supplementary ATP: For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of $50.00 or more in the household's gross monthly income, the CWA shall make the changes effective no later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the CWA to adjust the following month's allotment, the CWA shall issue a supplementary ATP by the 10th day of the following month.

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

(3) Verification: Verification required by N.J.A.C. 10:87-2.20 through 2.23, must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original benefit level. In cases where the CWA has determined that a household has refused to cooperate, as defined in N.J.A.C. 10:87-2.14 through 2.17, the CWA shall terminate the household's eligibility. The CWA shall issue a supplementary ATP by the 10th day of the following month. If the CWA increases a household's benefits to reflect a reported change but subsequent verification indicates that the household was entitled to fewer benefits, the CWA shall establish a claim.

iii. (No change.)

3. (No change.)

(d)-(k) (No change.)

10:87-9.7 Replacement of benefits

(a) (No change.)

(b) Rules on replacement restrictions are as follows:

1. Replacement issuances shall be provided only if a household timely reports a loss orally or in writing, and provides a statement of nonreceipt if the original ATP or allotment has not been returned to the CWA at the time of request for replacement. The report shall be considered timely if it is made to the CWA within 10 days of the date an ATP is stolen from the household, or an ATP, coupons, or food purchased with food stamps is destroyed in a household misfortune. For a claim of nondelivery by the mail, the report must be made within the period of intended use. (If the issuance was made after the 15th of the month, the period of intended use is the last day of the next month.)

2. The number of replacement issuances which a household may receive shall be limited as follows:

i. CWAs shall limit replacement issuances to a total of two countable replacements in six months for ATPs or coupons not received in, or stolen from, the mail, ATPs stolen after receipt, and partial coupon allotments. Separate limits shall not apply for each of the above types of loss. Losses of combined issuances, as defined at N.J.A.C. 10:87-2.30(b)3, shall be treated as one incident of loss.

ii.-iv. (No change.)

3. (No change.)

(c)-(i) (No change.)

10:87-10.3 Employment and training program performance standards

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

(d) Counting placements in an E&T program: DEA shall count a person as placed in an E&T program, for purposes of performance standards, in accordance with the following:

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1.-3. (No change.)

4. If participation in one type of E&T component is not continuous, the participant may be counted as having been placed more than once in the same component.

(e) Counting the "base of eligibles": The base of persons eligible to participate in an E&T program (the denominator) consists of all non-exempt work registrants in the month of October plus newly work-registered food stamp recipients who have not been exempted by the State Plan from participation in an E&T program. These groups are considered E&T mandatory participants. In addition, volunteers who are placed in an E&T component shall be counted in the base of eligibles. The State (DEA) need not count any individual in the base of eligibles (mandatory work registrants and volunteers) more than once in a fiscal year.

(f)-(i) (No change.)

10:87-10.9 Work registrant requirements

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

(c) Employment and training programs are as follows:

1.-4. (No change.)

5. Participants in an employment and training program, including volunteers, shall receive a participant allowance provided through the CWA for costs of transportation, or other costs that are reasonably necessary and directly related to participation in the employment and training programs at the flat rate of $25.00 per month for all participants. Dependent care expenses shall not be reimbursed through the $25.00 allowance, but shall be reimbursed in accordance with (c)6 below.

6. CWAs shall reimburse ETP participants up to $160.00 per month per dependent for dependent care expenses incurred while fulfilling a food stamp ETP obligation. The $160.00 reimbursement is in addition to the transportation allowance described in (c)5 above. A recipient shall be deferred from ETP participation if the household's average dependent care expenses would exceed the $160.00 reimbursement if the recipient is assigned to an ETP activity. Deferment shall continue until either a suitable ETP component is available, or the household's dependent care circumstances change so that monthly dependent care expenses no longer exceed the $160.00 reimbursement amount. Households receiving AFDC benefits are not entitled to the $160.00 dependent care reimbursement.

7. (No change in text.)

10:87-10.10 Voluntary quit

(a) (No change.)

(b) Determining whether a voluntary quit occurred: When a household files an application for participation, or when a participating household reports the loss of a source of income, the CWA shall determine if any currently unemployed (that is, employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full-time work or who is exempt under N.J.A.C. 10:87-10.7(b)5 has voluntarily quit his or her job (that is, employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause. For applicant households, the CWA shall determine if a voluntary quit occurred within the last 60 days. If the CWA learns that a household has lost a source of income after the date of application but before the household is certified, the CWA shall determine whether a voluntary quit occurred. For participating households, the CWA shall determine whether any household member voluntarily quit his or her job while participating in the program. Benefits shall not be delayed beyond the application processing standards described at N.J.A.C. 10:87-2.30 and 2.32 pending the outcome of the determination.

1. (No change.)

(c) CWA Action: The CWA shall take the appropriate action, as outlined in (c)1 through 5 below, upon a determination that the head of household voluntarily quit employment.

1. Denial of application: Upon a determination that the head of household voluntarily quit employment, the CWA shall determine if the voluntary quit was with good cause as defined in N.J.A.C. 10:87-10.11. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of 90 days beginning with the date of quit. The household shall be advised of the reason for the denial, the proposed period of disqualification, and of its rights to reapply at the end of the 90-day period, the circumstances under which a voluntary quit disqualification may be ended, and of its right to request a fair hearing.

2. Disqualification of participating households: If the CWA determines that the head of a participating household voluntarily quit his or her job while participating in the program, or discovers a quit which occurred within 60 days prior to application or between application and certification, the CWA shall provide the household with a notice of adverse action within 10 days of the date the determination of voluntary quit was made. The notice shall specify the period of the disqualification, the particular act of noncompliance committed, the circumstances under which a voluntary quit disqualification may be ended or avoided, the household's right to a fair hearing and that the household may reapply at the end of the disqualification period. The household shall be disqualified for three months beginning with the first day of the month after normal adverse action procedures have been taken. If the household leaves the program before the sanction can be levied, the sanction shall not be imposed until the household returns to the program. If an individual who voluntarily quit joins a new household and is not the household head, the sanction shall be terminated.

i. (No change.)

3.-5. (No change.)

(d) (No change.)

10:87-10.21 Penalty for noncompliance with employment and training requirements

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

(c) Change in household composition: Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow the member who caused the disqualification. If a head of household who committed the violation joins another food stamp household as head of the household, that household shall be ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where he or she is not head of household, the individual shall be considered an ineligible household member in accordance with N.J.A.C. 10:87-7.14. A household determined to be ineligible due to failure to comply with work registration requirements may reestablish eligibility if a new and eligible person qualifies to be the household's head.

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

10:87-10.24 Ending disqualification

(a) (No change.)

(b) Eligibility may be reestablished during a disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification becomes exempt from the work requirement, is no longer a member of the household, or the member complies as follows:

1.-3. (No change.)

4. Refusal to accept suitable employment: Acceptance of a bona fide offer of suitable employment to which referred by the FSETP office or its designee, if still available to the participant, or securing other employment which yields earnings per week equivalent to the refused job, or securing employment of at least 30 hours per week or securing employment of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

5. (No change.)

10:87-11.23 Claims against households

All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive. During the certification of each food stamp household, the CWA shall identify whether the household was

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previously overissued food stamp benefits. If an outstanding claim balance is identified, the CWA shall take appropriate action to recover the overissued benefits, pursuant to N.J.A.C. 10:87-11.26 and 11.29.

APPENDIX A—FISCAL MANAGEMENT

SECTION A

Technical requirements and specifications

The Division of Economic Assistance is responsible for designing, implementing and monitoring fiscal management procedures which ensure the security and control of Authorizations to Participate (ATPs) and Food Coupons.

The Bureau of Business Services/Food Stamp Program Fiscal Office (BBS/FSPFO) operating requirements in Appendix A are unique to the State of New Jersey Food Stamp Program fiscal administration. CWAs are encouraged to submit suggestions to improve this Appendix to:

Supervisor
Food Stamp Program Fiscal Office
Bureau of Business Services
Division of Economic Assistance—CN 716
Trenton, N.J. 08625

1.-2. (No change.)

3. Processing of returned books: Upon receipt of an improperly manufactured (see 1(F) above) or mutilated (see 1(L) above) coupon book(s) from a participant, the CWA Fiscal or Food Stamp Supervisor, with the authorization of the CWA Director, shall:

(A) (No change.)

(B) Books with alleged missing coupons should be examined as follows:

(1) (No change.)

(2) Examine the staples ($65.00 book only) and their position on the book to determine if there are loose or bent staples, indications that the book has been taken apart and restapled, examine the glued end of the book to determine if any evidence of tampering exists, or other indications exist that might reveal that the book contained the correct number of coupons at the time of issuance.

(3) Examine the staples (applicable only to $65.00 books) and their position on the book. Do not bend or remove the staples while examining the books. The condition and presence or absence of the staples are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.

(4) The condition and presence of glue or staples ($65.00 book only) are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.

(C)-(E) (No change.)

4.-9. (No change.)

LABOR

(a)

DIVISION OF VOCATIONAL REHABILITATION SERVICES

Notice of Administrative Correction
Procedures and Standards
Chapter Expiration Date
N.J.A.C. 12:45

Take notice that the Office of Administrative Law has discovered an error in the notice of adoption of proposed new rules N.J.A.C. 12:45-1, Procedures and Standards, published in the April 15, 1991 New Jersey Register at 23 N.J.R. 1133(b). The N.J.A.C. 12:45 chapter expiration date of April 15, 1996 set forth in the notice is incorrect; the correct chapter expiration date is May 2, 1993. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7

(b)

DIVISION OF VOCATIONAL REHABILITATION SERVICES

Notice of Administrative Correction
Vehicle Modification Requirements
N.J.A.C. 12:45-3

Take notice that the Office of Administrative Law has discovered an error in the notice of adoption published in the April 15, 1991 New Jersey Register at 23 N.J.R. 1133(a) affecting the Division of Vocational Rehabilitation Services' rules at N.J.A.C. 12:45 through 12:49.

In the notice of proposed repeals and new rules upon which the above-referenced adoption action was based, published in the April 2, 1990 New Jersey Register at 22 N.J.R. 1045(c), the Department erroneously stated its intention to repeal N.J.A.C. 12:45-3, Vehicle Modification Requirements. This error in the notice of proposal was corrected, and the Department's intention **not** to repeal N.J.A.C. 12:45-3 was explained, through a notice of administrative correction published in the April 16, 1990 New Jersey Register at 22 N.J.R. 1230(a). Unfortunately, as the notice of adoption was prepared based upon the published notice of proposal, the actual status of N.J.A.C. 12:45-3 as set forth in the April 16, 1990 notice of administrative correction was overlooked.

This notice of administrative correction, published pursuant to N.J.A.C. 1:30-2.7, corrects the published notice of adoption to the extent that N.J.A.C. 12:45-3, Vehicle Modification Requirements, is **not** repealed, and continues in effect as currently appearing in the New Jersey Administrative Code.

(c)

DIVISION OF WAGE AND HOUR COMPLIANCE

Notice of Administrative Correction
Wage and Hour
On-call Time
N.J.A.C. 12:56-5.6

Take notice that the Office of Administrative Law has discovered, and the Department of Labor has confirmed, the existence of an error in the text of N.J.A.C. 12:56-5.6(a). In the first clause of the subsection's second sentence, the word "not" erroneously appears. As originally adopted in 1980 (see R.1980 d.430), this sentence did not include the word "not." Although not appearing as a proposed or adopted change, the word "not" was inadvertently inserted in the sentence during the most recent rulemaking amending the rule (see PRN 1990-413; 22 N.J.R. 2235(a) and 3379(b)). Because the addition of the word was not intended by the promulgating agency, and because its presence appears illogical within the subsection's regulatory scheme, the word "not" can be deleted through a notice of administrative correction, pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (deletion indicated in brackets [thus]):

12:56-5.6 On-call time

(a) When employees are not required to remain on the employer's premises and are free to engage in their own pursuits, subject only to the understanding that they leave word at their home or with the employer where they can be reached, the hours shall not be considered hours worked. When an employee does [not] go out on an on call assignment, only the time actually spent in making the call shall be counted as hours worked.

(b) (No change.)

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LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES
Automatic Vehicle Identification System
Adopted Amendment: N.J.A.C. 13:20-10.1

Proposed: January 7, 1991 at 23 N.J.R. 21(a).
Adopted: April 12, 1991 by Stratton C. Lee, Jr., Acting Director, Division of Motor Vehicles.
Filed: April 15, 1991 as R.1991 d.249, **without change.**
Authority: N.J.S.A. 39:2-3, 39:3-43 and 39:3-74.
Effective Date: May 6, 1991.
Expiration Date: December 31, 1995.

Summary of Public Comments and Agency Responses:
Opportunity to be heard with regard to the proposal was invited via notice published in the previously cited edition of the New Jersey Register. A media advisory was also prepared by the Division of Motor Vehicles with regard to the proposal. The period for public comment was extended by the February 1, 1991 media advisory until March 1, 1991. **No comments were received** from the public with regard to the proposal.

Full text of the adoption follows.

SUBCHAPTER 10. AUTOMATIC VEHICLE IDENTIFICATION SYSTEMS

13:20-10.1 Definitions
The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.
"Automatic vehicle identification system" means a toll collection or traffic management system comprised of an interrogation/receiver unit and a remote transponder affixed to a vehicle, motor vehicle or motor-drawn vehicle.
. . .

(b)

DIVISION OF MOTOR VEHICLES
Private Inspection Center Licensing
Adopted New Rule: N.J.A.C. 13:20-31.1

Proposed: February 19, 1991 at 23 N.J.R. 387(a).
Adopted: April 18, 1991, by Stratton C. Lee, Jr., Acting Director, Division of Motor Vehicles.
Filed: April 19, 1991 as R.1991 d.253, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Authority: N.J.S.A. 39:8-10, 39:8-11, 39:8-23 and 39:8-40.
Effective Date: May 6, 1991.
Expiration Date: December 13, 1995.

Summary of Public Comments and Agency Responses:
The New Jersey Division of Motor Vehicles received one comment with regard to the proposal. The comment was submitted by the New Jersey Automobile Dealers Association on behalf of its 760 franchised new car dealers. The comment is available for inspection at the Office of the Director, Division of Motor Vehicles, 25 South Montgomery Street, 7th Floor, Trenton, New Jersey 08666. The comment was carefully reviewed and considered by the Division.
The comment touched upon several points which are summarized below, together with the Division's responses.
COMMENT: The commenter is concerned with the Division's proposed new rule regarding private inspection center (PIC) licensing. Although the commenter appreciates the difficulties encountered by the Division in attempting to monitor the 4,000 presently licensed PIC locations, the commenter believes consideration should be given to capping the total number of licensed PICs while still allowing the Division to issue additional PIC licenses when openings arise through attrition of those presently licensed.
RESPONSE: The Division does not perceive that a specific numerical cap on the number of licensed PICs in this State to prevent any attrition whatsoever in the total number of PICs below the numerical cap, which is basically what the commenter is suggesting be incorporated into the rule, is appropriate. The Division does not anticipate that the adopted new rule will result in a substantial decrease in the number of licensed PICs. However, to the extent that attrition occurs due to the new rule, it must be noted that the 1990 Federal Clean Air Act Amendments mandate that states operate a centralized air emission testing program unless it can be demonstrated to the Administrator that a decentralized program is equally effective. It is also anticipated that the guidance to be issued by EPA pursuant to these amendments will make the current testing equipment and procedures used by PICs obsolete. Given these requirements and the fact that the last two audits of the PIC system performed by EPA reported significant problems and found the PIC system to be ineffective, and given the large number of PICs which must be monitored by the Division to assure that each PIC is properly conducting initial inspections and reinspections of motor vehicles, a numerical cap that would prevent any reduction whatsoever in the number of PICs is unwarranted.
COMMENT: On the subject of PIC licensing, the commenter indicated that the Governor has suggested that the present State/Private inspection system be replaced with a new inspection system utilizing a private contractor to run the entire inspection operation, thus eliminating PICs. The commenter believes that private inspection centers (PICs) have played a significant role in assisting in the motor vehicle inspection process in New Jersey. PICs annually inspect some one million vehicles, almost 20 percent of the total number of vehicles subject to inspection. Even if the State elects to contract with a private concern to run its inspection program, there logically should remain a role in the process for PICs.
RESPONSE: This comment primarily pertains to the changes to the present State/Private inspection system which have been recommended by the Governor's Management Review Commission in its December 21, 1990 report entitled "Operational Review of Motor Vehicle Inspection Program." Rather than totally eliminating PICs as the commenter indicates, the Commission recommended in its report that certified private reinspection centers be retained as part of the reconstituted vehicle inspection program in this State for automobiles failing the first air emission test at a State franchised private contractor operated inspection facility. However, as noted above, the future role of PICs in the inspection process will be governed by the requirements of the 1990 Federal Clean Air Act Amendments and the ultimate plan adopted by the State and approved by EPA to implement those amendments.

Summary of Agency-Initiated Changes:
The Division is making two technical changes on adoption, consisting of the insertion of a specific date ("after May 16, 1991") in N.J.A.C. 13:20-31.1(a) and (a)1, replacing language in those provisions in the proposal which had referred to "more than 10 days after the effective date of this rule". The changes are appropriate in that they serve to clarify the applicable date in each of the respective provisions.

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 31. PRIVATE INSPECTION CENTER LICENSING

13:20-31.1 Restriction of initial licensing
(a) Notwithstanding any other provision of this chapter to the contrary, no initial private inspection center license authorizing such licensee to initially inspect and reinspect motor vehicles in this State pursuant to N.J.S.A. 39:8-1 et seq. shall be issued by the Division of Motor Vehicles to any person or business applying for same more than 10 days after *[the effective date of this rule]* ***May 16, 1991***, with the following exception:
1. An initial private inspection center license may be issued by the Division of Motor Vehicles to a person or business applying for same *[more than 10 days]* after *[the effective date of this rule]* ***May 16, 1991*** if the applicant is seeking such licensure for a business which it has purchased which was licensed as a private inspection center on the date of such purchase, provided:

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i. The applicant meets all applicable legal requirements for such licensure;

ii. The application for such licensure is submitted to the Division of Motor Vehicles not more than 30 days after the date of purchase;

iii. The existing private inspection center license is not to be relocated by the seller to another location pursuant to (b) below; and

iv. The purchase included the real estate or leasehold interest of the existing licensee or the applicant has entered into a lease with the owner of the real estate on which the seller conducted business.

(b) Nothing in this section is intended to restrict or in any way affect the application for renewal of a private inspection center license by a person or business, or the issuance of such renewal licenses by the Division of Motor Vehicles, or the relocation of a licensed private inspection center, or the restoration by the Division of Motor Vehicles of a private inspection center license which had been suspended or revoked.

(a)

DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

Duties of a Registered Dental Assistant
Laboratory Fabrication of Athletic Mouthguards
Adopted Amendment: N.J.A.C. 13:30-2.6

Proposed: February 4, 1991 at 23 N.J.R. 287(b).
Adopted: March 7, 1991, by the New Jersey Board of Dentistry, William Cinotti, D.D.S., President.
Filed: April 15, 1991 as R.1991 d.248, **without change.**

Authority: N.J.S.A. 45:6-3.

Effective Date: May 6, 1991.
Expiration Date: March 12, 1995.

The New Jersey Board of Dentistry afforded all interested parties an opportunity to comment on the proposed amendment to N.J.A.C. 13:30-2.6, relating to the addition of the laboratory fabrication of athletic mouthguards to the duties which may be performed by a registered dental assistant under the direct supervision of a licensed dentist. The official comment period ended on March 6, 1991. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on February 4, 1991, at 23 N.J.R. 287(b). Announcements also were forwarded to the Board's distribution list of interested parties.

A full record of this opportunity to be heard can be inspected by contacting the Board of Dentistry, 1207 Raymond Boulevard, Newark, New Jersey 07102.

Summary of Public Comments and Agency Responses:
The Board of Dentistry received one comment to the proposal which was from the New Jersey Dental Hygienists' Association and supported the amendment.

Full text of the adoption follows.

13:30-2.6 Duties of a registered dental assistant

(a) A registered dental assistant may perform the following duties under the direct supervision of a licensed dentist:

1.-13. (No change.)

14. Remove arch wires and ligature wires;

15. Take impressions for and perform laboratory fabrication of athletic mouthguards not to include insertion of the appliance; and

16. Perform all those duties delegable to the dental assistant as defined in (b) below.

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

(b)

STATE BOARD OF OPTOMETRISTS

Requirements for Application for Licensure
Adopted Repeal and New Rule: N.J.A.C. 13:38-3.11

Proposed: January 22, 1991 at 23 N.J.R. 166(a).
Adopted: March 20, 1991 by the State Board of Optometrists, Leonard Strulowitz, O.D., President.
Filed: April 5, 1991 as R.1991 d.228, **without change.**

Authority: N.J.S.A. 45:12-4.

Effective Date: May 6, 1991.
Expiration Date: August 27, 1995.

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

Full text of the adoption follows.

13:38-3.11 Requirements for application for licensure

(a) Applications for licensure will be accepted under the following conditions:

1. The applicant shall satisfy the character and education requirements set forth in N.J.S.A. 45:12-1 et seq.;

2. The applicant shall have passed the basic science and clinical science written examination conducted by the National Board of Examiners in Optometry, and the New Jersey State Board of Optometrists shall have received verification of the scores from the National Board of Examiners in Optometry; and

3. The applicant shall have passed an optometric clinical skills assessment test administered either by the New Jersey State Board of Optometrists on or before July 18, 1990 or by the North East Region Clinical Optometric Assessment Testing Service (NERCOATS) on or after July 11, 1990, and the State Board of Optometrists shall have received verification of test scores from NERCOATS.

(c)

STATE BOARD OF PHYSICAL THERAPY

Fees
Adopted Amendment: N.J.A.C. 13:39A-1.4

Proposed: February 19, 1991 at 23 N.J.R. 388(a).
Adopted: April 1, 1991 by the State Board of Physical Therapy, Stanley Mendelson, Chairman.
Filed: April 8, 1991 as R.1991 d.240, **without change.**

Authority: N.J.S.A. 45:9-37.18; N.J.S.A. 45:1-3.2.

Effective Date: May 6, 1991.
Expiration Date: July 7, 1994.

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

Full text of the adoption follows.

13:39A-1.4 Fees and charges

(a) The following fees shall be charged by the New Jersey State Board of Physical Therapy:

1. Examination fee for Physical Therapist (includes temporary license) $185.00

2. Examination fee for Physical Therapist Assistant (includes temporary license) $160.00

3. Initial licensure fee for Physical Therapist and Physical Therapist Assistant $150.00

4. Fee for issuance of a temporary license pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment $90.00

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5. Biennial renewal licensure fee for Physical Therapist and Physical Therapist Assistant $90.00
6. Restoration charge for lapsed license $90.00
7. Provision of duplicate license or wall certificate $10.00
8. Provision of certification of eligibility for examination (for persons not yet seeking the issuance of a temporary license) or certification of licensure status $25.00
9. Recordation of name change and issuance of replacement license and wall certificate $25.00

(a)

ADVISORY BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Duration of Temporary License for Individuals Participating in a Clinical Internship

Adopted Amendment: N.J.A.C. 13:44C-5.3

Proposed: January 22, 1991 at 23 N.J.R. 167(a).
Adopted: March 22, 1991 by Patricia A. Royer, Director, Division of Consumer Affairs.
Filed: April 3, 1991 as R.1991 d.227, **without change.**

Authority: N.J.S.A. 45:3B-24.

Effective Date: May 6, 1991.
Expiration Date: July 18, 1993.

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

Full text of the adoption follows.

13:44C-5.3 Limits on temporary licensure
(a) (No change.)
(b) A temporary license for individuals participating in a clinical internship is valid for 18 months or until such time as the holder completes his or her clinical internship, whichever comes first. The temporary license cannot be renewed.

TRANSPORTATION

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Bureau of Traffic Engineering and Safety Programs Rules

Readoption: N.J.A.C. 16:27

Proposed: February 19, 1991 at 23 N.J.R. 395(a).
Adopted: March 22, 1991 by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.
Filed: April 8, 1991 as R.1991 d.234, **without change.**

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

Effective Date: April 8, 1991.
Expiration Date: April 8, 1996.

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

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:27.

(c)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Routes N.J. 161 in Passaic County and N.J. 35 Ramps (Higgins Avenue) in Monmouth County

Adopted Amendments: N.J.A.C. 16:28-1.7 and 1.49

Proposed: March 4, 1991 at 23 N.J.R. 683(a).
Adopted: April 8, 1991 by Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Filed: April 8, 1991 as R.1991 d.235, **without change.**

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

Effective Date: May 6, 1991.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28-1.7 Route 161
(a) The rate of speed designated for the certain parts of State highway Route 161 described in this subsection shall be established and adopted as the maximum legal rate of speed:
1. For both directions of traffic:
i. In Passaic County:
(1) City of Clifton:
(A) Zone 1: 25 miles per hour from Allwood Road to Richland Court (approximate mileposts 0.00 to 0.20); thence
(B) Zone 2: 35 miles per hour from Richland Court to Van Houten Avenue (approximate mileposts 0.20 to 1.10).

16:28-1.49 Route 35 including Higgins Avenue, Route U.S. 9 and 35[1] and Route 35 and 71
(a) (No change.)
(b) The rate of speed designated for the certain parts of State highway Route 35 Ramps (Higgins 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 Monmouth County:
(1) Brielle Borough:
(A) Zone 1: 35 miles per hour from the Route N.J. 35 southbound connection at milepost 15.62 to the intersection of Route N.J. 71, milepost 0.00.
(B) Zone 2: 30 miles per hour from Route N.J. 71 milepost 0.00 to the southerly terminus at Ashley Avenue.
(c)-(d) (No change.)

[1]See also N.J.A.C. 16:28-1.41.

(d)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Route N.J. 71-35 Ramps

Adopted Amendment: N.J.A.C. 16:28-1.39

Proposed: March 4, 1991 at 23 N.J.R. 683(b).
Adopted: April 8, 1991 by Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Filed: April 8, 1991 as R.1991 d.236, **without change.**

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

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Effective Date: May 6, 1991.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28-1.39 Route N.J. 71-35 Ramps
(a) The rate of speed designated for the certain parts of State highway Route 71-35 Ramps 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) (No change.)
(2) (Evergreen Avenue) 25 miles per hour from Ashley Avenue to northerly terminus of New Jersey Department of Transportation jurisdiction south of River View Drive.

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS
Speed Limits
Route N.J. 71 in Monmouth County
Adopted Amendment: N.J.A.C. 16:28-1.83

Proposed: March 4, 1991 at 23 N.J.R. 684(a).
Adopted: April 8, 1991 by Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Filed: April 8, 1991 as R.1991 d.237, **without change.**
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.
Effective Date: May 6, 1991.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28-1.83 Route 71[1]
(a) The rate of speed designated for the certain parts of State Highway Route 71 described in this subsection shall be established and adopted as the maximum legal rate of speed:
1. For both directions of traffic:
i. In Monmouth County:
(1) 30 miles per hour from Higgins Avenue at milepost 0.00, Brielle Borough, to Blakely Avenue, Manasquan Borough; thence
(2)-(15). (No change in text.)

[1]See also N.J.A.C. 16:28-1.49.

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS
Mid-Block Crosswalk
Route N.J. 28 in Somerset County
Adopted Amendment: N.J.A.C. 16:30-10.1

Proposed: March 4, 1991 at 23 N.J.R. 684(b).
Adopted: April 8, 1991 by Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Filed: April 8, 1991 as R.1991 d.238, **without change.**
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-34.
Effective Date: May 6, 1991.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:30-10.1 Route 28
(a) Under the provisions of N.J.S.A. 39:4-34, the certain part of Route 28 described in this subsection shall be designated as a Mid-Block Crosswalk.
1. On Main Street in Somerville Borough, Somerset County:
i. From a point 252 feet east of the easterly curb line of Union Street to a point six feet easterly therefrom.

(c)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS
Mid-Block Crosswalk
Route N.J. 161 in Passaic County
Adopted New Rule: N.J.A.C. 16:30-10.14

Proposed: March 4, 1991 at 23 N.J.R. 685(a).
Adopted: April 8, 1991 by Edward Baker, Acting Director, Division of Traffic Engineering and Local Aid.
Filed: April 8, 1991 as R.1991 d.239, **without change.**
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-34.
Effective Date: May 6, 1991.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:30-10.14 Route 161
(a) The certain parts of State highway Route 161 described in this subsection shall be designated as a mid-block crosswalk:
1. In Passaic County:
i. City of Clifton (Clifton Avenue):
(1) From a point 368 feet north of the northerly curb line of Allwood Road to a point 10 feet northerly therefrom.

(d)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
Notice of Administrative Correction
Turn Prohibitions
Route N.J. 35 in Monmouth County
N.J.A.C. 16:31-1.4

Take notice that, effective December 3, 1990, the Department of Transportation adopted amendment N.J.A.C. 16:31-1.4, effecting "no left turn" along Route N.J. 35 in Shrewsbury Borough, Monmouth County. Said notice appeared in the New Jersey Register at 22 N.J.R. 3638(a). Upon review, the Department was noted that an error existed in the text of N.J.A.C. 16:31-1.4(a)1i(4)(c), which reads "westbound into the Market Place Shopping Center." Since travelling southbound on Route 35 would require one to turn eastbound into the Market Place Shopping Center, the Department has requested, and the Office of Administrative Law has agreed to permit, this factual error to be corrected through this notice of administrative correction, pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

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16:31-1.4 Route 35

(a) Turning movements of traffic on the certain parts of State highway Route 35 described in this subsection are regulated as follows:

1. No left turn:

i. In Monmouth County:

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

(4) Shewsbury Borough:

(A)-(B) (No change.)

(C) Southbound on Route 35 to [westbound] **eastbound** into the Market Place Shopping Center.

(5)-(6) (No change.)

ii.-iii. (No change.)

2. (No change.)

(a)

DIVISION OF TRANSPORTATION ASSISTANCE OFFICE OF AVIATION

Licensing of Aeronautical Facilities

Readoption with Amendments: N.J.A.C. 16:54

Proposed: February 4, 1991 at 23 N.J.R. 289(a).

Adopted: March 15, 1991, by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.

Filed: March 28, 1991 as R.1991 d.222, **without change.**

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

Effective Date: March 28, 1991, Readoption;
May 6, 1991, Amendment.

Expiration Date: March 28, 1996.

Summary of Public Comments and Agency Responses:

The Department received a comment from Jon Berry, Coordinator, Citizens for the Land, Environment and Neighborhoods (CLEAN), P.O. Box 85, Ringwood, N.J. 07456.

COMMENT: N.J.A.C. 16:54 needs, in our opinion, to be amended in such a way as to require coordination among such State agencies as DOT and DEP and appropriate bureaus and offices (such as BOM) and with such Federal agencies as the FAA, to assure that particular issues of public health and safety, and environmental protection are always addressed, even for small private airstrips, and that interested citizens and community groups have a genuine opportunity to be involved in the permit considerations.

RESPONSE: The Department is in the process of revising N.J.A.C. 16:54 and will consider the comments for a possible future rulemaking. The Department routinely contacts the FAA regarding applications, and other agencies as needed. In practice, all applicants are required by the Department to publish a notice of the application in at least two newspapers serving the municipality, county or other political subdivision, thus allowing the public the opportunity to know of the proposed action before it takes place. Additonally, the municipal officials receive information from DOT regarding applications in their area prior to DOT's granting of a license or permission to construct, demolish or alter an aeronautical facility.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:54.

Full text of the adopted amendment follows.

16:54-1.9 Liability and penalty

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

(c) Prior to the suspension or revocation of a license, the licensee shall have the right to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Age Computation; Enrollment; Retirement

Adopted New Rule: N.J.A.C. 17:3-1.13

Proposed: January 22, 1991 at 23 N.J.R. 188(a).

Adopted: March 28, 1991 by the Board of Trustees, Teachers' Pension and Annuity Fund, Michael Weik, Secretary.

Filed: April 2, 1991 as R.1991 d.226, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: May 6, 1991.

Expiration Date: August 15, 1993.

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

Summary of Agency-Initiated Changes:

The proposed text is changed in order to conform to the text of comparable rules that have been adopted covering the same subject for the other State-administered retirement systems. The change is an attempt to clarify the text. The proposed text of "six months or more past his or her current age" is being replaced by the new text of "six months or more past his or her most recent birthdate." There are no substantive changes to the adopted text, and this change is being adopted to make the rule more understandable and to have continuity with the similar rules governing the other State-administered retirement systems.

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

17:3-1.13 Nearest attained age; enrollment; retirement

(a) An individual, who is six months or more *[than his or her current age]* ***past his or her most recent birthdate*** 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 will have their retirement benefits, as well as their survivors' benefits, calculated upon the basis of the factors applicable to their age on their next birthday.

(c)

OFFICE OF THE TREASURER

Nonpublic Records

Adopted New Rules: N.J.A.C. 17:34

Proposed: February 4, 1991 at 23 N.J.R. 291(a).

Adopted: March 19, 1991 by Nathan Scovronick, Executive Director, Department of the Treasury.

Filed: March 27, 1991 as R.1991 d.219, **with technical changes** not requiring public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 47:1A-2; N.J.S.A. 52:18A-30; Governor's Executive Order Number 9 (1963).

Effective Date: May 6, 1991.

Expiration Date: May 6, 1996.

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

To properly codify the adopted new rules, technical corrections were made upon adoption.

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

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CHAPTER 34
NONPUBLIC RECORDS
REGISTERED BONDHOLDER LISTING

SUBCHAPTER 1. GENERAL PROVISIONS

17:*[1]**34***-1.1 Purpose and scope

(a) The purpose of this chapter is to deem the Registered Bondholder Listing as a nonpublic record. This chapter also establishes that these records henceforth shall not be accessible to the general public and shall be treated as confidential documents.

(b) The individuals affected by this chapter include the general public and/or agencies who deal with the Department regarding registered bonds.

17:*[1]**34***-1.2 Definitions

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

"Authorized agent" means the contracted vendor acting as paying agent, registrar and transfer agent for the bonds.

"Department" means the New Jersey Department of the Treasury.

"Public records" means all records as defined in N.J.S.A. 47:1A-2.

"Registered Bondholder Listing" means data relating to bondholders of the State's general obligation bonds including, but not limited to, the following: name and address of the bond owner, tax identification number, social security number, certificate number, face value of bond, interest rate, maturity date, issue date, and account number of the holders of State of New Jersey general obligation bonds.

"Related records" means all reports, correspondence and other documents originating from the Registered Bondholder Listing.

SUBCHAPTER 2. REGISTERED BONDHOLDER LISTING AS NONPUBLIC RECORDS; CONFIDENTIALITY

17:*[1]**34***-2.1 Registered Bondholder Listing; nonpublic record

The Registered Bondholder Listing and related records under the jurisdiction of the Department shall not be deemed to be public records pursuant to N.J.S.A. 47:1A-1 et seq. Accordingly, the Registered Bondholder Listing shall not be available for inspection, examination or duplication by members of the public. The Registered Bondholder Listing and related records shall be entitled to confidential treatment.

17:*[1]**34***-2.2 Confidentiality

(a) Unless specifically provided by Federal law, State law, court order, or applicable court rule, no person shall have access to the Registered Bondholder Listing which has been determined to be entitled to confidential treatment other than the designated Department officials and personnel, or authorized agents of the Department.

(b) Any Department officer or employee or officer or employee of an authorized agent who has custody or possession of the Registered Bondholder Listing shall take appropriate measures to properly safeguard the information and to protect against its improper disclosure.

(c) No Department officer or employee or officer or employee of an authorized agent may disclose, or use for his or her private gain or advantage, the Registered Bondholder Listing which came into his or her possession or to which he or she gained access, by virtue of his or her position of employment.

(d) If the Department finds that any person has violated any requirement or provision of this chapter, the Department may:

1. Initiate civil action in Superior court for a restraining order and injunction preventing that person from further disclosure of confidential information; and

2. Pursue any other legal remedy available to it by law.

(e) Additionally, violation of this chapter by any Department officer or employee shall constitute grounds for dismissal, suspension, fine or other personnel action against the appropriate individual.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Transfer Inheritance and Estate Tax Assessment and Valuation; Returns

Adopted Amendments: N.J.A.C. 18:26-11.20, 11.21, 11.22, 11.23 and 11.27

Proposed: January 7, 1991 at 23 N.J.R. 27(a).

Adopted: April 10, 1991 by Benjamin J. Redmond, Acting Director, Division of Taxation.

Filed: April 10, 1991 as R.1991 d.242, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: May 6, 1991.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

The Division received letters of comment from two individuals, James R. Silkenen, Executive Vice-President, New Jersey Savings League, and John W. Carroll, President, New Jersey State Safe Deposit Association.

COMMENT: The two commenters argued that the proposed amendment to N.J.A.C. 18:26-11.23 should be revised to retain the original requirement that inventories be conducted in the presence of "a proper representative of the decedent's estate."

RESPONSE: The Division agreed that, since safe deposit boxes are in the joint control of the financial institution and the estate, this requirement should be retained and proposed N.J.A.C. 18:26-11.23 has accordingly been revised upon adoption to require the presence of an estate representative during safe deposit box inventories.

COMMENT: One commenter noted that the phrase "proper representative of the decedent's estate" is never defined in the rules.

RESPONSE: The Division responded that the proper estate representative would be determined by the estate administration rules of Title 3B of the New Jersey Annotated Statutes. The Division stated that it would consider an amendment to the definitions section of the rules, N.J.A.C. 18:26-1.1, clarifying this point when it adopts the second set of rule amendments proposed in PRN 1991-43. (See 23 N.J.R. 188(b)).

COMMENT: The same commenter also recommended the inclusion of a requirement that the Division grant a release or issue a notification that an inventory will take place within 15 days.

RESPONSE: The Division responded that it expects a release or notification to be issued promptly and that a 15 day deadline in the rule would be unnecessary.

Full text of the adoption follows (additions shown in boldface with asterisks ***thus***).

18:26-11.20 Release of safe deposit box contents

No safe deposit company, trust company, bank or other institution may deliver or transfer any securities, deposits or other assets contained in a safe deposit box within its control or possession which belongs to or stands in the name of a resident decedent, principal of a one person corporation or in the joint names of a resident decedent and one or more other persons, unless a release is obtained from the Transfer Inheritance Tax Bureau.

18:26-11.21 Conditions for opening safe deposit box

A safe deposit box rented in the name of the decedent, individually, as principal of one person corporation or as a joint renter is automatically sealed by the death of the decedent by law; however, the box may be opened in the presence of an officer or authorized employee of the bank and a proper representative of the estate for the purpose of ascertaining whether the contents include the decedent's last will and testament, a deed for a cemetery lot, or the insurance policies made payable to designated beneficiaries. If the contents include any of the above items, such items only may be delivered to the proper party in interest or representative of the decedent's estate by the bank official present at the time of entry, but there shall be completed at that time a memorandum by the bank reciting the date of entry, a

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list of the items removed and the address of the representative of the estate. The box is then resealed until the release is received from the Division of Taxation.

18:26-11.22 Release of empty safe deposit box

(a) No inspection is required where, after entry to the safe deposit box for the purpose of locating and obtaining any of the items mentioned in N.J.A.C. 18:26-11.21, the box is found to be empty, in which event the written consent of the Director of the Division of Taxation is not required in order to effect the release and surrender of the box, provided a notice, in duplicate, containing the following information is filed with the Inheritance Tax Branch within 10 days of the opening of the box:

1.-8. (No change.)

18:26-11.23 Inventory of safe deposit box

(a) The inventory of the contents of a safe deposit box may be made by a representative of the Transfer Inheritance Tax Branch ***in the presence of a proper representative of the decedent's estate***. Following the completion of the inventory, if an inventory is taken, a release of the box is delivered to the bank.

(b) (No change.)

18:26-11.27 Box rented in name of fiduciary

(a) Single: No inspection or release is necessary where a safe deposit box is rented in the name of one fiduciary as executor, administrator or trustee and the contents of this box are to be placed under the control of a legally appointed substitute for the deceased fiduciary; or

(b) Joint: Where a safe deposit box is rented in the names of two or more fiduciaries as executors, administrators or trustees and the contents are placed under the control of the surviving fiduciary or fiduciaries, no inspection or release is necessary.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Regulations Governing Laboratory Certification and Standards of Performance

Adopted Amendments: N.J.A.C. 7:18-1.1, 1.4, 1.6, 1.7, 2.1, 2.2, 2.3, 2.4, 2.6, 2.7, 2.10, 2.11, 2.12, 2.13, 2.14, 5.2, 5.3, 5.4, 5.5, 5.7 and 5.8

Adopted New Rules: N.J.A.C. 7:18-1.9 and 2.15

Proposed: January 7, 1991 at 23 N.J.R. 29(b).

Adopted: April 13, 1991 by Scott A. Weiner, Commissioner, Department of Environmental Protection.

Filed: April 15, 1991 as R.1991 d.246, **with substantive and technical changes** not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1D-1 et seq., N.J.S.A. 58:10A-1 et seq., N.J.S.A. 58:12A-1 et seq., N.J.S.A. 26:2D-1 et seq., specifically 26:2D-70 et seq.

DEP Docket Number: 048-90-12.

Effective Date: May 6, 1991.

Expiration Date: August 6, 1991.

Summary of Hearing Officer's Recommendations and Agency Responses:

The amendments were proposed January 7, 1991. The public comment period closed February 6, 1991. A public hearing was held on January 28, 1991 at the New Jersey Records Storage Center and Library for the Blind, Trenton, New Jersey. The following persons submitted written comments or made oral comments at the public hearing:

Don Ulbrich, Enviro-Serve, Inc.

Jack J. Laurie, Tri-State Radon/Consolidated Radon Labs

Joseph Przywara, Ocean County Health Department

Eric Rau, Assistant Director of the Division of Environmental Quality in the Department, served as hearing officer at the public hearing. After reviewing the testimony presented at the public, hearing, Assistant Director Rau recommended that the Department adopt the proposed amendments and new rules, with the following changes:

1. Change N.J.A.C. 7:18-5.2(a) to read, "Laboratory facilities shall meet the following minimum requirements ***, other than those specific instances where certain equipment is not necessary to perform the analyses for which certification is being granted***."

2. Change N.J.A.C. 7:18-5.2(a)4i, iii, iv, v and vi to read:

i. A sink with hot and cold running water ***(not necessary for radon/radon progeny analysis of air samples)***;

iii. A source of distilled or deionized water * **(not necessary for radon/radon progeny analysis of air samples)***;

iv. A supply of natural gas or liquefied petroleum, or a propane cylinder with proper attachments in the case of laboratories performing limited amounts of analytical work ***(not necessary for radon/radon progeny analyses of air and water samples)***;

v. A vacuum line, pump, aspirator ***(not necessary for radon/radon progeny analyses of air and water samples)***; and

vi. An exhaust hood ***(not necessary for radon/radon progeny analyses of air and water samples)***.

3. Delete N.J.A.C. 7:18-5.8(d)1 which read: "For laboratory analysis of radon/radon progeny in air, the results of such analyses shall be sent, on the laboratory's letterhead, directly to the owner of the building, or his or her agent, requesting the analysis and to the Department".

The Department accepts these recommendations, and has modified the rules accordingly upon adoption.

Assistant Director Rau's recommendations are set forth in detail in the hearing officer's report. A copy of the record of public hearing, which includes the hearing officer's report, is available upon payment of the Department's normal charges for copying. Persons requesting copies should contact:

Samuel A. Wolfe, Esq.
Department of Environmental Protection
Office of Legal Affairs
401 East State Street
CN 402
Trenton, New Jersey 08625

Summary of Public Comments and Agency Responses:

COMMENT: Several questions were presented concerning the quality of laboratories selected to be included in the Authorized Proficiency Program. Authorized Proficiency Program means the United States Environmental Protection Agency Radon/Radon Progeny Measurement Proficiency Program (RMP) at the Eastern Environmental Radiation Facility, Montgomery, Alabama 36109, or other program equally stringent and authorized by the Department of Environmental Protection in accordance with the latest edition of the New Jersey Department of Environmental Protection document "New Jersey Radon Measurement Proficiency Program".

1. How reliable are the radon chambers selected to be part of Authorized Proficiency Program?

2. Will the DEP submit test devices for exposure and evaluation to determine the effectiveness of the radon chambers in the Authorized Proficiency Program?

3. Will the DEP conduct on-site audits of the radon chambers in the Authorized Proficiency Program?

RESPONSE:

1. The Department is making every effort to assure the reliability of the radon chambers participating in the Authorized Proficiency Program. The requirements for participating in the program are detailed in the New Jersey Radon Measurement Proficiency Program (March 1990), available from the Department's Office of Quality Assurance. Overall, the Department will be conducting both periodically scheduled and unannounced on-site audits of the radon chamber facilities participating in the program. The Department will examine the operations of the facilities and will review the following types of quality control information: internal quality assurance/quality control procedures and checks, calibration and maintenance records of monitoring devices, standard operating procedures, uniformity checks of each chamber, chain of custody records and procedures, and health and safety plans. Each chamber must participate in a quarterly test program administered by the Department. Each chamber must also provide the Department with a copy of semi-annual comparison test results received through participation in the Intercomparison Exercise offered by the United States Department of Energy's Environmental Measurements Laboratory.

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2. The Department will submit test devices to the radon chambers participating in the Authorized Proficiency Program. Canisters will be submitted quarterly to the radon chambers for exposure, and the Department will evaluate the accuracy and precision of the reported and actual level of exposure.

3. The Department will conduct on-site audits of the radon chambers participating in the Authorized Proficiency Program. In order to qualify as an approved radon chamber an on-site audit is necessary. To continue as an approved radon chamber an annual on-site audit will be conducted. The Department will also perform unannounced on-site audits. Unannounced audits will be performed, as necessary, to assure the overall quality of the radon laboratory certification program.

COMMENT: One laboratory commented that it may not be possible for a laboratory to participate in the USEPA's RMP within the 12 month period preceding the application for certification, because of the sporadic nature of the RMP.

RESPONSE: The Department recognizes the difficulty noted by the commenter, and accordingly does not require participation in the USEPA RMP. The rule allows the use of either the USEPA RMP or other equally stringent Department-authorized proficiency program to fulfill the requirements in the chapter for obtaining or maintaining certification. For laboratories applying for radon/radon progeny certification, N.J.A.C. 7:18-2.3(a)1iii requires the laboratory to participate in an Authorized Proficiency Program. Authorized Proficiency Program means the United States Environmental Protection Agency Radon/Radon Measurement Proficiency Program (RMP) at the Eastern Environmental Radiation Facility, Montgomery, Alabama 36109, or other program equally stringent and authorized by the Department in accordance with the latest edition of the New Jersey Department of Environmental Protection document "New Jersey Radon Measurement Proficiency Program." Laboratories are required to pass two Department-authorized proficiency tests, at least one of which shall be either the most recent round of the RMP or a proficiency test administered within the immediate past 12 months from a Department-authorized proficiency program. In addition, for laboratories to avoid the cancellation, suspension or revocation of their certification for radon/radon progeny analysis of air samples, N.J.A.C. 7:18-2.12(b)6ii requires laboratories to participate in and pass every required proficiency test made available during the fiscal year through an Authorized Proficiency Program for each stationary detection device, not to exceed four tests per year and not less than one test per year.

COMMENT: One laboratory commented that the requirement in N.J.A.C. 7:18-2.3(a)1iii for two proficiency tests per year is too expensive. The commenter suggested that instead of requiring participation in two proficiency testing rounds, it would be preferable to purchase spiked samples from a chamber.

RESPONSE: N.J.A.C. 7:18-2.3(a)1iii requires that for certification of a radon/radon progeny in air analytical laboratory, the laboratory must pass two tests from a Department-authorized Proficiency Program, at least one of which shall be either the most recent round of the USEPA RMP or a proficiency test administered within the immediate past 12 months from a Department-authorized Proficiency Program. The laboratory must pass tests for each measurement device/technique, where certification is desired, prior to applying for certification. The Department has expanded its Authorized Proficiency Program to include alternatives to the USEPA RMP. The USEPA RMP is an established program and is accepted by the Department as an accurate indicator of the ability of a radon/radon progeny laboratory to produce reliable analytical results. To maintain consistency in the Authorized Proficiency Program, similar testing procedures to those used in the USEPA RMP are applied to other participating firms. It is the Department's decision that it is not effective to have different testing procedures allowed for the different firms participating in the program. The Department will not have part of the Authorized Proficiency Program using USEPA RMP testing protocols and another part using non-USEPA RMP testing protocols such as spiked samples.

N.J.A.C. 7:18-2.12(b)6iii requires that to maintain certification for the analyses of radon/radon progeny in air, a laboratory must participate in and pass every required proficiency test made available during the fiscal year through a Department Authorized Proficiency Program for each stationary detection device, not to exceed four tests per year and not less than one per year. The reason for not using spiked sample testing is to maintain consistency in the Authorized Proficiency Program, as explained above.

COMMENT: Several comments were presented concerning the criteria for performance in an Authorized Proficiency Program.

1. In the summary section of the proposal it was stated that: "One of the requirements for applying for radon/radon progeny analyses certification in the original proposed amendments was two consecutive passing results from a proficiency test sample obtained from the RMP. However, EPA did not permit laboratories to enter round 6 if they had passed any previous round". One comment stated that this was not exactly correct and, that at least in the case of one laboratory, participation was granted even though it had passed a previous round.

2. It was also suggested that to assess the quality of a laboratory the use of blind samples is superior to known proficiency tests.

RESPONSE: 1. Staff at the United States Environmental Protection Agency have stated that if a laboratory passed round 5 of the RMP it was not eligible to participate in round 6. The one exception was that if a laboratory passed round 5 but added a method before round 6, it was eligible to participate in round 6.

2. The Department agrees that the distribution of blind samples to certified laboratories would be beneficial to the program. At this time the Department does not have the facilities or staff available to prepare these samples. If the Department were to initiate a blind sample program it would need to contract with outside firms for sample preparation. These contracts would increase the total cost needed to maintain the program, and would result in further increases to the fees charged for participating in the program. The Department does not feel that a further increase in cost, other than those already planned for FY92, is justified. The Department will continue to review the use of blind samples in its laboratory certification program to assess whether they should be incorporated into the program in the future. Although blind sample distribution would increase the effectiveness of the program, the radon/radon laboratory certification program, as adopted, is sufficient. The program gives the Department the information necessary to determine if a laboratory knows proper analytical methodology, practices the accurate use of these methods, has the proper instrumentation to perform analyses, has properly calibrated instrumentation, has the facilities necessary to support analyses, and has the experienced staff necessary to perform analyses. This spectrum of information gives the Department the ability to assess if a laboratory is capable of performing radon/radon progeny analyses, and assures that high quality data is produced.

COMMENT: One laboratory commented that in certifying laboratories located outside of New Jersey through a reciprocal arrangement with the state in which the laboratory is located, lax enforcement by the other state regulatory agency could adversely affect New Jersey residents. Specifically, the commenter noted that some other states do not require an on-site audit of a laboratory seeking certification. The commenter recommended that New Jersey should require on-site audits even for reciprocally certified laboratories.

RESPONSE: All out-of-State laboratories which are not certified by the state in which they are located or by the USEPA, or which are certified under conditions less stringent than those imposed by N.J.A.C. 7:18, must apply for certification in accordance with the procedures set forth in N.J.A.C. 7:18-2.3. These procedures include an on-site audit. Accordingly, an out-of-State laboratory from a state without an on-site audit requirement must follow the procedures of N.J.A.C. 7:18-2.3, including the requirements for an on-site audit. The one exception to this rule is Interim Certification as given in N.J.A.C. 7:18-2.3(f). To give the Department the opportunity to complete on-site audits, and to give qualified laboratories the opportunity to continue to provide analytical services, Interim Certification has been included in the revisions. Interim Certification can be issued for up to six months after the date of adoption of these regulations. It gives the Department the authority to certify a laboratory based on the successful performance of proficiency tests and the completion of all other application requirements.

COMMENT: A comment was made questioning N.J.A.C. 7:18-2.3(c)3iv, which states that: "If the Department determines that proficiency tests are not available, then the evaluation of the laboratory will be based solely on the on-site laboratory inspection". The comment indicates that while a thorough on-site inspection is the most critical element for determining whether a laboratory is doing the things it says it does, it cannot be a substitute for an actual proficiency test. It further states that if a proficiency test is not available from an Authorized Proficiency Program then the Department should provide spiked samples, and no laboratory should be certified without some measure of proficiency test.

RESPONSE: The Department will make every effort to assure the availability of proficiency test samples for the radon/radon progeny

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laboratory certification program. The Authorized Proficiency Program was developed specifically for this purpose. The Department has determined that it is not in the best interest of the State to close down the radon analytical industry if proficiency samples are not available.

COMMENT: Comments were received concerning the requirements in N.J.A.C. 7:18-2.7 for required laboratory personnel policies.

1. The requirement for at least five years of laboratory experience to qualify as a radon laboratory supervisor is excessive. It was recommended that one year of general laboratory experience and one year of specific experience would be sufficient.

2. The requirement that a laboratory supervisor have a bachelor's degree in a science or engineering field is excessive. It was recommended that the qualifications of the laboratory supervisor be determined by the radon/radon progeny firm in accordance with good business practices.

RESPONSE: 1. The Department has determined that to properly supervise a radon analytical laboratory five years of experience is necessary. The supervision of a laboratory facility is highly technical and demanding, and requires a significant amount of experience. Laboratory experience is an important factor to consider when determining the ability of staff to provide accurate analytical results. The Department will continue to assess this requirement and, if necessary, propose future amendments.

2. The Department has maintained a Laboratory Certification Program since 1981. It has determined through the continuous evaluation of the program that a bachelor's degree in a technical field is necessary. It is important for the supervisor of an analytical laboratory to have a basic understanding of the science practiced in the field he or she has chosen to work in. Because of this the Department has required a radon/radon progeny laboratory supervisor to have a bachelor's degree in chemistry, radiochemistry, radioisotope technology, biology, physics, engineering or any of the physical or biological sciences. It is important for the radon/radon progeny laboratory industry, and for the scientific community as a whole, to have a qualified force of career individuals working in the business.

COMMENT: A comment was received stating that the laboratory facility requirements given in N.J.A.C. 7:18-5.2(a)4 are not necessary for radon charcoal canister analyses.

RESPONSE: The Department has considered the fact that the requirements as given in the chapter may not be necessary in all cases. The Department has revised N.J.A.C. 7:18-5.2(a) to state that laboratory facilities shall meet the following minimum requirements, other than in those specific instances where certain equipment is not necessary to perform the analyses for which certification is being granted. To reflect that, the Department has revised N.J.A.C. 7:18-5.2(a)4i, iii, iv, v, vi to eliminate the need for certain equipment for certain analyses as follows:

i. A sink with hot and cold running water (not necessary for radon/radon progeny analyses of air samples);

iii. A source of distilled or deionized water (not necessary for radon/radon progeny analyses of air samples);

iv. A supply of natural gas or liquefied petroleum, or a propane cylinder with proper attachments in the case of laboratories performing limited amounts of analytical work (not necessary for radon/radon progeny analyses of air and water samples);

v. A vacuum line, pump, aspirator (not necessary for radon/radon progeny analyses of air and water samples); and

vi. An exhaust hood (not necessary for radon/radon progeny analyses of air and water samples).

COMMENT: A comment was received questioning the need for a separate chain-of-custody form. It was stated that chain-of-custody information could be handled through logging the required data on a sample collection label or form.

RESPONSE: The Department requires that sample collection, analytical results, and chain-of-custody information be documented and retained for five years (N.J.A.C. 7:18-5.8). For enforcement and quality assurance/quality control purposes this information is necessary. If the laboratory can efficiently include all this information on one form the Department approves of that procedure, but in every case a laboratory must document all the information as required in the chapter.

COMMENT: A comment was received concerning the requirement that a laboratory forward radon analytical results to the owner of the building, the radon measurement business, and the Department. It stated that it should be the responsibility of the radon measurement business to report results to the test purchaser.

RESPONSE: It is the intention of the Department to implement a process whereby full disclosure of all radon information is made available to all involved parties. N.J.A.C. 7:18-5.8(d)1 was proposed for this purpose, and would require laboratories to report results to the owner of the building and the Department. The Department recently adopted N.J.A.C. 7:28-27, which also includes amendments for this purpose. N.J.A.C. 7:28-27.28(a)7 requires a certified radon measurement business to submit to the Department the analytical results of all radon/radon progeny measurements including the name of the certified laboratory performing the analyses. In addition, N.J.A.C. 7:28-27.28(b) and (c) require a certified radon measurement business to report all analytical test results to the owner of the building and the Department, and to clearly identify the certified radon laboratory performing the analyses. It is the decision of the Department that the adoption of N.J.A.C. 7:18-5.8(d)1 would result in duplicative regulations. Therefore, N.J.A.C. 7:18-5.8(d)1 will be deleted from the adopted chapter.

COMMENT: A comment was made concerning the provision in the chapter giving the Department the authority to temporarily suspend a laboratory's certification for failing to participate in and pass every required proficiency test made available during the fiscal year (N.J.A.C. 7:18-2.12(b)6ii). The concern is that without due process the closing down of a laboratory could cause an unjust situation. The possibility exists that a firm participating in the Authorized Proficiency Program could make a mistake.

RESPONSE: The Department is taking every measure to assure the quality of the radon chambers provided in the Authorized Proficiency Program. Also, laboratories are responsible for coordinating their proficiency testing program with the private firms participating in the Authorized Proficiency Program. If there is a problem with analytical results, it should be solved between the private Authorized Proficiency Program and the certified laboratory before the results are forwarded to the Department. For this reason the cycle for submitting proficiency test results should be well planned by the certified laboratory as the Department will not extend the schedules for its receipt of results. In the case of the RMP, the Department has full confidence in the quality of the data provided by the USEPA and sees no reason why there would be any mistakes in its analytical results.

COMMENT: A comment was received concerning the requirements in N.J.A.C. 7:18-2.3(a)1iv. The comment states that it is not the job of a laboratory to take over the policing of individuals testing for radon. That job of policing belongs to the Department. It is the job of the laboratory to assure that the radon canisters are measured on equipment that is maintained, calibrated, and in proper working order. Companies or individuals not testing correctly should be evaluated by the Department.

RESPONSE: The intent of N.J.A.C. 7:18-2.3(a)1iv is to give the Department the authority to forward a proficiency test sample to a certified laboratory when necessary to assure the continuing quality of analytical data. The primary use of the proficiency test sample is to evaluate the quality of analytical data of the laboratory analyzing the sample. Its use is not intended for the evaluation of other laboratories. It will also give the Department the ability to determine the overall quality of analytical data provided by laboratories analyzing for radon/radon progeny.

COMMENT: One laboratory commented that the annual fee of $1,500 imposed under N.J.A.C. 7:18-2.6 was excessive.

RESPONSE: The Department has established a fee which it expects to generate sufficient revenue to cover its costs in administering the certification program in a manner which will protect the public health, safety and welfare from the risk of uncertified laboratories providing unreliable test results. The Department has determined that to administer the radon/radon progeny certification program it needs to dedicate two-thirds of the time of one staff member at a cost of $53,700. This cost includes salary, fringe benefits and indirect costs. The Department has also determined that the operating costs associated with the program will be $21,600, which includes funds needed for transportation, printing and office supplies, data processing equipment and supplies, training, telephone and mail. The Department expects to collect between $60,000 and $80,000 in fees. The cost to maintain the program will fluctuate according to the number of laboratories participating. It is expected that at least 40 laboratories will apply for certification in at least one stationary detection device. It is also expected that within these 40 laboratories there will be approximately 100 additional stationary detection devices requiring certification.

COMMENT: The Ocean County Health Department suggested that local health agencies which work in conjunction with the Department through interagency agreements should be exempt from the fees imposed

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under N.J.A.C. 7:18-2.6, because the local agency essentially acts as an agent of the Department.

RESPONSE: The Department does not have interagency agreements with local health laboratories to perform radon/radon progeny analyses. The Department currently analyzes samples to confirm the analytical results of samples taken by non-Department radon testers and mitigators, and analyzed by non-Department laboratories. Confirmatory monitoring and analyses are performed if the analytical results are above acceptable levels. The Department does not endorse contractual agreements with private firms, or initiate interagency agreements with local health agencies, to perform these analyses. Therefore, all non-Department laboratories are responsible for paying the fee if radon/radon progeny certification is desired.

Also, the Department cannot determine on a case by case basis if a laboratory should be responsible for paying a certification fee. The fees are based on the entire radon/radon progeny laboratory community sharing in the cost to maintain the certification program. It would not be in the best interest of all members of the radon/radon progeny analytical community to have only a portion of the community responsible for providing the funds to maintain the program. If the Department were to exempt some members of the community from paying the fees it would be selecting which laboratories were responsible for paying a fee. It is not the Department's intention to have only a select group of laboratories providing the funds necessary to support the program. Furthermore, any laboratory providing radon/radon progeny analytical data could make the case that it is doing so in cooperation with a Department program. Also, once a laboratory is certified it is authorized to provide analytical results with whomever it can negotiate a contract. The Department cannot be responsible for monitoring the flow of analyses through certified laboratories to determine if the analyses were performed in direct response to a Department program or otherwise.

COMMENT: One laboratory objected to the requirement that all test results must be signed by the laboratory manager. The commenter stated that the requirement is nothing more than a "rubber stamp" function, that it would offer no additional accuracy to the report, and would cause needless delays in reporting.

RESPONSE: N.J.A.C. 7:18-5.8(d) is more flexible than the commenter states, because it allows the manager to designate another person to sign reports (though that person must be approved by the Department's Office of Quality Assurance). The signature of the manager, or the manager's approved designee, is important in ensuring the laboratory's accountability for its test results. There is no reason any delays in reporting should result from the signature requirement.

COMMENT: One laboratory commented that the two areas most difficult to deal with are the specific degree requirements and the duration of laboratory experience. These two areas are driving people out of work, forcing people out of the business, and reducing competition in the radon industry. This will not help the general public.

RESPONSE: It is not the intention of the Department to put people or businesses out of work. It is the intention and responsibility of the Department to protect the public health, safety and welfare of the citizens of New Jersey. Towards fulfilling this responsibility the Department has determined that it is important for the citizens of New Jersey, the radon/radon progeny laboratory industry, and the scientific community as a whole to have a qualified force of career individuals working in the business.

The degree requirements in the chapter result in assuring that laboratory supervisors working in the industry have experience in the use of scientific instrumentation and the interpretation of analytical data. The laboratory classes required in these curriculums gives this experience. Also, the Department has been certifying environmental laboratories for over ten years. During this time it has found through continuous evaluation of the program that a bachelor's degree in a technical field is important to the efficiency of a laboratory. It is critical for the supervisor of an analytical laboratory to have a basic understanding of the science practiced in the field he or she has chosen to work in. Because of this the Department has required a radon/radon progeny laboratory supervisor to have a bachelor's degree in chemistry, radiochemistry, radioisotope technology, biology, physics, engineering or any of the physical or biological sciences.

The Department has also determined that to properly supervise a radon/radon progeny analytical laboratory five years of experience is necessary. The supervision of a laboratory is highly technical and demanding, and requires a significant amount of experience. Laboratory experience is an important factor to consider when determining the ability of staff to provide accurate analytical results. The Department will continue to assess these requirements and, if necessary, propose future amendments.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:18-1.1 Scope and authority

This chapter, adopted pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Radon Act, N.J.S.A. 26:2D-70 et seq., constitutes the Department's regulations governing certification of laboratories performing analyses required to be performed by regulations or orders issued pursuant to those acts. This chapter establishes the procedures for obtaining and maintaining certifications, and the criteria and procedures laboratories shall follow in analyzing samples.

7:18-1.4 Certification Program Requirements

(a) Any laboratory wishing to analyze samples for compliance with regulations adopted or orders issued pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10-1 et seq. or the Radon Act, N.J.S.A. 26:2D-70 et seq., shall follow the procedure set forth herein in order to obtain and maintain certification.

(b) Certified laboratories and laboratories seeking certification shall analyze all samples in accordance with the procedures and methods required by this chapter.

(c) A laboratory must be certified to analyze for radon or radon progeny pursuant to this subchapter before performing those activities.

1. A person shall be guilty of a crime of the third degree if they analyze for radon/radon progeny in air without being, at the time they perform the analyses, certified for those activities.

7:18-1.6 Program information

Unless otherwise specified, any questions concerning the requirements of this chapter should be directed to the Office of Quality Assurance, New Jersey Department of Environmental Protection, CN 027, Trenton, New Jersey 08625, (609) 292-3950.

7:18-1.7 Definitions

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

. . .

"Authorized measurement protocols" means for radon measurements in air "Interim Indoor Radon and Radon Decay Product Measurement Protocols," EPA 520/1-86-04 or its latest revisions incorporated herein by reference; and, "Interim Protocols for Screening and Follow-up Radon and Radon Decay Product Measurements," EPA 520/1-86-014, incorporated herein by reference.

"Authorized proficiency program" means the United States Environmental Protection Agency Radon/Radon Progeny Measurement Proficiency Program at the Eastern Environmental Radiation Facility, Montgomery, Alabama 36109, or other program equally stringent and authorized by the Department in accordance with the latest edition of New Jersey Department of Environmental Protection document "New Jersey Radon Measurement Proficiency Program".

. . .

"Certified radon measurement business" means a commercial business enterprise certified pursuant to N.J.A.C. 7:28-27 to sell devices and/or test for radon/radon progeny.

"Certified radon laboratory" means a radiological laboratory which analyzes samples for the presence of radon and/or radon progeny in a facility separate from the location in which the sample was taken and which uses stationary measurement detection equipment and which is certified pursuant to this chapter.

"Certified radon measurement specialist" means a person certified pursuant to N.J.A.C. 7:28-27 to perform and/or evaluate radon and/

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or radon progeny measurements for a certified radon measurement business.

"Certified radon measurement technician" means a person certified pursuant to N.J.A.C. 7:28-27 to perform radon and radon progeny measurement activities.

. . .

"Proficiency test" means a test, sample or program that is required by the Department and which a laboratory must pass in order to demonstrate its ability to analyze for a particular parameter.

. . .

"Radon" means the radioactive noble gas radon-222.

"Radon Act" means N.J.S.A. 26:2D-70 et seq.

"Radon progeny" means the short-lived radionuclides formed as a result of the decay of radon-222. The short-lived radon progeny consist of polonium-218, lead-214, bismuth-214 and polonium-214.

. . .

"Working level (WL)" means that concentration of short-lived radon decay products that will result in 130,000 million electron volts of potential alpha particle energy per liter of air. Working level is a measure of radon decay product concentration in air.

7:18-1.9 Signatories

(a) All applicants shall, upon submission of initial or renewal applications, sign the following certification on the application forms:

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

i. The certification set forth in (a)1 above shall be signed by the highest ranking individual at the facility with overall responsibility for that facility or the highest ranking individual with overall responsibility for more than one facility in New Jersey provided that appropriate procedures to ensure compliance are in place and subject to Department review and approval.

2. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including the possibility of fine and/or imprisonment".

i. The certification required by (a)2 above shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either the principal executive officer or ranking elected official.

(b) In cases where the highest ranking corporate, partnership, or governmental officer or official at the facility as required in (a)1i above is the same person as the official required to certify in (a)2i, only the certification in (a)1i need be made. In all other cases, the certifications of (a)1 and 2 shall be completed.

SUBCHAPTER 2. PROGRAM PROCEDURES AND REQUIREMENTS

7:18-2.1 Requirement of certification

(a) All analyses performed for the purpose of determining compliance with microbiological, chemical, and radiological requirements of the State Primary and Secondary Drinking Water Regulations, N.J.A.C. 7:10-5.1 and 7:10-7.1, microbiological, chemical and bioassay requirements of the New Jersey Pollutant Discharge Elimination System Regulations, N.J.A.C. 7:14A-1, and radiological requirements of the Radon Act, N.J.S.A. 26:2D-70 et seq., or when required by order issued by the Department pursuant to the authority of the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Radon Act, N.J.S.A. 26:2D-70 et seq., or any other regulations adopted pursuant to those acts, shall be performed in laboratories certified for this purpose pursuant to this subchapter. Analyses performed in laboratories not so certified shall not be accepted by the Department as being in compliance with the requirements, regulations or orders of the Water Pollution Control Act or the Safe Drinking Water Act. Results of air and water analyses for radon/radon progeny performed in laboratories not so certified shall not be accepted for use by the Department, industry, or private citizens for compliance with the Department's rules.

(b) (No change.)

(c) Only laboratories certified pursuant to these regulations or maintained by the USEPA may be called State Certified Water or Radon Laboratories and no laboratory may adopt any name or make any oral or written statement intended to mislead the public with respect to its certification status.

7:18-2.2 Categories for certification

(a) A laboratory must apply for certification in any one or more of the following categories and shall be certified in those parameters within the category for which it demonstrates acceptable performance on proficiency tests, when available, and meets all other requirements of this chapter. The laboratory certificate shall specify the categories and the parameters within each category for which the laboratory is certified and shall be conspicuously displayed in the laboratory in a location visible to the public. The certification categories are as follows:

1.-.4. (No change.)

5. Radiological Testing, which comprises those tests or analyses for radioactivity required to determine compliance with the Safe Drinking Water Act, the State Primary Drinking Water Regulations, and the Radon Act. Tests for the Radiological category are as follows:

i. For drinking water, analyses shall be conducted in accordance with the methods and procedures specified in 40 CFR Part 141.

ii. For wastewater, analyses shall be conducted in accordance with the methods and procedures specified in 40 CFR Part 136.

iii. For radon and radon progeny in air, analyses shall be conducted in accordance with the methods and procedures specified in the Authorized Measurement Protocols most recent versions. Information on obtaining the protocol is available from the Office of Quality Assurance, New Jersey Department of Environmental Protection, CN 027, Trenton, N.J. 08625, (609) 292-3950.

iv. Radon/radon progeny sampling shall be conducted by a certified radon measurement business, certified pursuant to N.J.A.C. 7:28-27. The laboratory shall not analyze radon/radon progeny samples that are taken using measurement devices/techniques which are not specified in the authorized measurement protocols of N.J.A.C. 7:28-27.

v. For radon and radon progeny in water, sampling shall be conducted in accordance with the methods and procedures specified in the most recent update of the USEPA publication, "Radon in Water Sampling Program" EPA/EERF-Manual 78-1, incorporated herein by reference, and 40 CFR 141.

6. (No change.)

7:18-2.3 Application procedures for laboratories located in New Jersey including special provisions for the phase-in of the New Jersey Radon Laboratories Certification Program

(a) The owner of a laboratory in New Jersey who wishes it to be certified in any or all of the categories and parameters thereof, described in N.J.A.C. 7:18-2.2, or, if already certified, who wishes to add a category or a parameter within a category, shall apply for certification to the New Jersey Department of Environmental Protection, Division of Fiscal and Support Services, Bureau of Revenue, CN 402, Trenton, New Jersey 08625; (609) 777-1013 (hereinafter "Bureau"), on forms available therefrom. The applicant shall provide all information requested and shall submit the appropriate fee.

1. Laboratories seeking certification in the Radiological category shall:

i. For analysis of radiological parameters in water, have participated in the USEPA's radiological proficiency testing program during the immediately preceding 12 months; and shall submit copies of the USEPA's performance evaluation reports demonstrating that for each parameter in which the laboratory is seeking certification

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at least two blind proficiency evaluations and two cross checks have been within the control limits established for that parameter.

ii. For analysis of radon in water, have participated in the most recent USEPA Radon Intercomparison Study, if available, and shall submit copies of the USEPA's performance evaluation reports demonstrating that at least two blind proficiency evaluations and two cross checks have been within the control limits established.

iii. For analysis of radon/radon progeny in air, be a participant in an authorized proficiency program. The laboratory shall have passed two Department-authorized proficiency tests, at least one of which shall be either the most recent round of the USEPA Radon Measurement Program or a proficiency test administered within the immediate past 12 months from a Department-authorized proficiency program. The laboratory shall pass tests for each measurement device/technique, where certification is desired, prior to applying for certification.

iv. In addition, as part of the application procedure the Department's Office of Quality Assurance, or its designee, can send to the laboratory a set of proficiency test samples for each stationary detection method for which certification is requested in accordance with N.J.A.C. 7:18-2.10(b). The laboratory shall be responsible for acceptably analyzing the proficiency test samples as a condition for receiving certification.

2. Laboratories which intend to seek certification in the Radiological category, but which have not participated in the USEPA's radiological proficiency testing program may obtain information concerning that program from the Department's Office of Quality Assurance.

(b) (No change.)

(c) If the applicant submits a complete application, the appropriate fee, proficiency data if required, and the information submitted meets the minimum requirements of this chapter for the category or categories for which certification is requested, the application shall be accepted. Acceptance of the application does not authorize the laboratory to perform [water] analyses regulated by this chapter. The applicant shall be notified of the acceptance and shall participate in the following laboratory evaluation:

1. (No change.)

2. Limited Chemistry, Atomic Absorption and Gas Chromatography:

i. (No change.)

ii. The laboratory shall analyze the proficiency samples and return the proficiency data, within 45 days of its receipt of samples, to the Office of Quality Assurance, New Jersey Department of Environmental Protection, 401 East State Street, CN 027, Trenton, New Jersey 08625.

iii.-x. (No change.)

3. Radiological Testing:

i. The Department shall contact the laboratory within three weeks after the application is accepted and the required radiological/radon proficiency testing is completed to arrange a mutually acceptable date for an on-site laboratory inspection, and the inspection will be conducted by representatives of the Department; and

ii. (No change.)

iii. If the Department is unable to schedule an on-site inspection within 90 days after receiving an acceptable application from a laboratory, it may grant the laboratory an interim approval to analyze radiological samples until the laboratory is inspected provided the laboratory continues to participate in the USEPA's proficiency testing program, or in the case of radon/radon progeny in air an authorized proficiency program, and acceptably analyzes the program's samples. Other than the conditions given in (f) below, the Department will not grant interim approval for radon/radon progeny analysis.

iv. If the Department determines that proficiency tests are not available, then the evaluation of the laboratory will be based solely on the on-site laboratory inspection.

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

(f) The following special provisions are applicable to the phase-in of the New Jersey Radon laboratory certification program.

1. The owner of a laboratory who has been issued an interim approval in parameters within categories for the New Jersey Radon laboratory certification program shall follow the procedures and meet all the requirements of all previous subsections of this section except that:

i. A laboratory that has been granted an interim approval is authorized to perform radon/radon progeny analyses on air and water samples for use by the Department, industry, or private clients for compliance with the Department's rules while the laboratory is being evaluated for certification;

ii. The interim approval shall be valid until the laboratory is certified or until *[six months after the effective date of these amendments]* ***November 6, 1991***, whichever is earlier;

iii. For a laboratory to receive interim status approval it must successfully perform on proficiency tests from an authorized proficiency program and follow all other application procedures as given in this chapter. Interim approval will be granted if the Department has approved a laboratory's application package and all other application procedures have been followed, but has not yet conducted an on-site audit;

iv. Laboratories notified that their interim approval has been revoked shall immediately cease performing analyses and shall comply with (e) above before reapplying for certification.

v. (No change.)

7:18-2.4 Procedure for laboratories not located in New Jersey

(a) The owner of a laboratory located in a State other than New Jersey which has been certified, under conditions no less stringent than those required by this chapter, by the agency having primary enforcement responsibility under the provisions of the Federal Safe Drinking Water Act or the agency delegated administrative responsibility for the Federal Clean Water Act *[NJPDES]* ***NPDES*** program in the State where it is located, who wishes to perform analyses in any or all of the categories described in N.J.A.C. 7:18-2.2 for public water systems or NJPDES permitted facilities located in New Jersey or as required by the Water Pollution Control Act or the Safe Drinking Water Act or the Radon Act, shall:

1. Annually complete the application form provided by the New Jersey Department of Environmental Protection, Division of Financial Management, Planning and General Services, Bureau of Revenue, CN 402, Trenton, New Jersey 08625, (609) 777-1013;

2. (No change.)

3. Return the form with the proper fee and any necessary documentation to the Bureau.

(b) (No change.)

(c) The receipt of the number authorizes the laboratory to perform analyses for public water systems or NJPDES permitted facilities or as required pursuant to the Water Pollution Control Act, the Safe Drinking Water, or the Radon Act in New Jersey for the balance of the fiscal year which expires on June 30.

(d) (No change.)

(e) The owner of a laboratory in a State other than New Jersey which is not certified by that State or the USEPA, or is certified under conditions less stringent than those required by this chapter, who wishes to perform analyses in any or all of the categories described in N.J.A.C. 7:18-2.2 for public water systems, NJPDES permitted facilities located in New Jersey, or for radon/radon progeny analyses, or as required by the Safe Drinking Water Act, the Water Pollution Control Act, or the Radon Act, shall apply for certification in accordance with the procedures set forth in N.J.A.C. 7:18-2.3. In addition, subsequent to conducting the on-site laboratory inspection, the laboratory shall submit to the Department as an additional fee the sum the Department determines to be sufficient to cover the travel, and room and board expenses of the certification inspectors to conduct the on-site inspection.

7:18-2.6 Fees

(a) Owners of laboratories applying for certification or renewal of certification, for each fiscal year commencing on July 1, shall submit the appropriate fee obtained from the annual fee schedule below along with the required application materials. Fees are nonrefundable. Laboratories owned or operated by the State of New Jersey or an Agency of the Federal Government are exempt from this fee requirement, but, except for the Environmental Protection Agency,

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shall make appropriate application for certification in accordance with the other provisions of these regulations.

Laboratory Certification Annual Fee Schedule

	Fees
Microbiological Testing	$400.00
Any one of the following chemistry categories: Limited chemistry, atomic absorption, Gas Chromatography	$400.00
Any two of the above-mentioned chemistry categories	$500.00
All three of the above-mentioned chemistry categories	$600.00
Radiological Testing	
Any one or two radiological parameters	$200.00
Any additional radiological parameter	$50.00 per each additional parameter
Any one radon or radon progeny stationary detection method	$1,500.00
Any additional radon or radon progeny stationary detection method	$150.00 each
Bioassay Testing	$400.00

(b) (No change.)

(c) The section is applicable to laboratories with interim approval.

(d) Radon/radon progeny laboratory certification fees, for Fiscal Year 91 only, will be prorated from *[the effective date of the revisions to this chapter]* ***May 6, 1991*** to the end of the fiscal year.

7:18-2.7 Required laboratory personnel policies

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

(d) The laboratory supervisor shall possess the qualifications for the category which he or she supervises, and meet the following requirements:

1.-5. (No change.)

6. If the laboratory performs tests or analyses in the category of Radiological Testing for compliance with the Safe Drinking Water Act and the State Primary Drinking Water Regulations, the supervisor shall:

i.-iii. (No change.)

7. (No change.)

8. If the laboratory performs tests or analyses in the category of Radiological Testing for compliance with the Radon Act, the supervisor shall:

i. Hold a bachelor's degree from an accredited institution in chemistry, radiochemistry, radioisotope technology, biology, physics, engineering, or any of the physical or biological sciences;

ii. Have subsequent to graduation at least five years of laboratory training or experience in any of the sciences listed in (d)8i above, one year of which shall be in radiation and/or radioactivity measurements, and have successfully completed a governmental or privately sponsored course on radiation with emphasis on radon. In-house training is acceptable provided that a course outline is submitted with the application and approved by the Department; and

iii. Demonstrate competency in the operation of radon/radon progeny measurement equipment and procedures during an inspection by representatives of the Department.

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

7:18-2.10 Proficiency testing

(a) Except when determined by the Department that an appropriate proficiency test is not readily available, all certified laboratories or laboratories seeking certification shall participate in a proficiency testing program covering all tests, analyses and analytical methods as made available within the category and categories in which the laboratory is certified or seeks certification; and shall comply with the requirements of N.J.A.C. 7:18-2.3 and 2.4.

1. (No change.)

(b) Appropriate samples or tests shall be distributed or made available by the Department's Office of Quality Assurance or its designee to such laboratories at such times and frequencies as designated by the Department's Office of Quality Assurance.

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

(g) Certified laboratories that desire to extend the range of tests or analyses offered shall submit a written request, comply with the requirements of N.J.A.C. 7:18-2.3, 2.4 or 2.10, and shall demonstrate satisfactory results in the required number of proficiency tests or samples as required by N.J.A.C. 7:18-2.3, 2.4 or 2.10 prior to the inclusion of this test or analysis in the list of tests or analyses for which proficiency has been established.

7:18-2.11 Laboratory inspections

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

(g) Whenever deviations from the requirements of this chapter are found, the laboratory shall not be afforded more than 30 days from the date the inspection report is mailed to the laboratory in which to correct such deficiencies. If deficiencies affecting the accuracy of results are found, the certification shall be immediately suspended or revoked, in accordance with the provisions of N.J.A.C. 7:18-2.12.

7:18-2.12 Cancellation, suspension, and revocation of certification

(a) (No change.)

(b) The Department may temporarily suspend a laboratory's certification in any or all categories or in any parameter when the laboratory fails to fully meet the standards of this chapter and the failure does not merit immediate decertification action. The Department shall notify the laboratory by letter of its suspension and the reason therefore. Suspensions may be invoked for, but are not limited to, the following reasons:

1.-5. (No change.)

6. For the Radiological category, the following shall be grounds for suspension:

i. For radiological analyses of parameters required to be monitored by the Safe Drinking Water Act and the State Primary Drinking Water Regulations, failing to acceptably analyze two of USEPA's blind performance evaluation samples or two cross check samples during the fiscal year shall be grounds for suspension for the parameter(s) failed. For radon analysis required to be monitored by the Safe Drinking Water Act, failing to participate in and pass every proficiency test, not to exceed four tests per year, shall be grounds for suspension.

ii. For radon/radon progeny analyses of air samples, failing to participate in and pass every required proficiency test made available during the fiscal year through an authorized proficiency program for each stationary detection device, not to exceed four tests per year and not less than one per year, shall be grounds for suspension in that method or device.

iii. A laboratory suspended in radon/radon progeny analyses has 120 days to pass a proficiency test from an authorized proficiency program. If a laboratory does not pass a proficiency test within 120 days, it will be decertified and required to reapply for certification in each stationary detection device for which it was decertified.

7. (No change.)

(c) A laboratory may be decertified by order of the Department for due cause, including, but not limited to:

1.-9. (No change.)

10. For the Radiological Category, the following shall be grounds for decertification:

i. For radiological analyses of parameters required to be monitored by the Safe Drinking Water Act and the State Primary Drinking Water Regulations, failing to acceptably analyze two blind performance evaluation samples or two cross check samples for any one parameter during any consecutive 12 month period or for radon analysis of parameters required to be monitored by the Safe Drinking Water Act, failing to participate in and pass the next available authorized proficiency test after being suspended in any parameter shall be grounds for decertification in that parameter; or

ii. For radon/radon progeny analyses of parameters required to be monitored by the Radon Act, failing to participate in and pass

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an authorized proficiency test from an authorized proficiency program within 120 days of failing a required authorized proficiency test shall be grounds for decertification in a stationary detection method;

(1) If a laboratory is decertified it must reapply for certification in each stationary detection method for which it was decertified.

11.-12. (No change.)

(d) (No change.)

7:18-2.13 Effect and duration of suspension and decertification orders

(a) The results of any tests or analyses performed after issuance of a suspension or decertification order for any category or parameter suspended or decertified shall not be submitted to or accepted by the Department for compliance with the requirements of the New Jersey Safe Drinking Water Act, the New Jersey Water Pollution Control Act, the Radon Act and regulations adopted pursuant to those acts.

(b) Radon/radon progeny analysis may not be performed by any laboratory for determining radon or radon progeny levels or for compliance with the requirements of the Radon Act or Safe Drinking Water Act or regulations adopted pursuant thereto after the issuance of a suspension or decertification order.

Recodify existing (b)-(d) as (c)-(e) (No change in text.)

(f) Use of any remedy provided by the Water Pollution Control Act, the Safe Drinking Water Act, the Radon Act or this chapter shall not preclude the use of any other remedy available to the Department.

7:18-2.14 Information to State

In the event there are any changes in the name, location, ownership, manager, post office address or telephone number of a laboratory to which the provisions of this chapter apply, written notice thereof shall be sent to the Bureau of Revenue New Jersey Department of Environmental Protection, CN402, Trenton, New Jersey 08625. In the case of change in supervisor(s), the qualifications of the new supervisor showing compliance with the requirements of N.J.A.C. 7:18-2.7(d) shall be furnished.

7:28-2.15 Criminal penalties

(a) In addition to any other penalties available to the Department pursuant to the Water Pollution Control Act, the Safe Drinking Water Act, the Radon Act and this chapter, any person who violates the Radon Act or any rule or regulation adopted pursuant to the Radon Act is guilty of a crime of the third degree.

(b) Use of any remedy under this section shall not preclude the use of any other remedy available to the Department.

SUBCHAPTER 5. CRITERIA AND PROCEDURES FOR RADIOLOGICAL TESTING AND ANALYSIS

7:18-5.2 Laboratory facilities

(a) Laboratory facilities shall meet the following minimum requirements***, other than those specific instances where certain equipment is not necessary to perform the analyses for which certification is being granted***:

1. The counting instruments required for measurement of those activities or specific radionuclides described in 40 CFR 141 methods, or the Safe Drinking Water Act, shall be located in a room other than the one in which samples and standards are prepared or in which other types of chemical analyses are being performed. The temperature of the room shall not exceed 27 degrees centigrade. Temperature variation under normal operating conditions shall not exceed three degrees centigrade.

2.-3. (No change.)

4. Laboratory space and facilities shall be adequate to properly carry out the services performed in, or offered by, the laboratory. There should be at least 100 to 150 square feet of floor space per analyst. This space should contain no less than 15 linear ft. of bench space an the following equipment:

i. A sink with hot and cold running water ***(not necessary for radon/radon progeny analyses of air samples)***;

ii. (No change.)

iii. A source of distilled or deionized water ***(not necessary for radon/radon progeny analyses of air samples)***;

iv. A supply of natural gas or liquefied petroleum, or a propane cylinder with proper attachments in the case of laboratories performing limited amounts of analytical work ***(not necessary for radon/radon progeny analyses of air and water samples)***;

v. A vacuum line, pump, or aspirator ***(not necessary for radon/radon progeny analyses of air and water samples)***;

vi. An exhaust hood ***(not necessary for radon/radon progeny analyses of air and water samples)***.

7:18-5.3 Specifications for laboratory equipment and instruments

(a) Laboratories performing radiological tests and analyses shall have on the premises and under the control of the laboratory manager the equipment and instruments listed in this section necessary for the preparation and analysis of the specific standards and samples for which the laboratory is seeking certification or is certified. Such instruments, when required, shall meet the following specifications:

1. The following are specifications for general instrumentation and equipment:

i.-ix. (No change.)

x. A general purpose table-top centrifuge which shall have a maximum speed of at least 3,000 rpm and a loading option of 4x50 mL;

xi. The fluorometer shall be capable of detecting 0.0005 ug of uranium*;* and

xii. For radon/radon progeny analyses, where required by the authorized measurement protocols, a microscope or automated counting system capable of detecting and counting alpha tracks shall be used. For analyses made with a radon progeny integrating sampling unit (RPISU), a thermoluminescent dosimeter (TLD) reader is required. The method used for detecting and counting radon/radon progeny shall give accurate quantitative results (that is, precision, accuracy, and reproducibility), and the laboratory shall demonstrate this capability.

(b) The types of radiation counting systems needed to comply with measurements described in 40 CFR 141 methods, or the Safe Drinking Water Act are set forth below. Laboratories shall have on the premises and under the control of the laboratory manager those instruments needed to analyze for those activities or specific radionuclides for which the laboratory is seeking certification or for which the laboratory is certified. Such instruments shall meet the specifications listed below:

1.-5. (No change.)

6. For radon/radon progeny analyses of air samples, the instruments shall be capable of meeting a one picocurie per liter (pCi/L) minimum detectable activity with a 95 percent confidence, and for water samples, the instrument shall be capable of meeting 100 pCi/L minimum detectable activity with a 95 percent confidence.

7:18-5.4 Preservation of samples, methodology, and major instrumentation

(a) Table IV below gives the minimum requirements for sample handling including preservation, methodology, and major instrumentation.

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Table IV

Minimum Requirements for Sample Handling, Preservation, Methodology[1] and Major Instrumentation

Parameter	Preservative[2]	Container[3]	Instrumentation[4]
Gross alpha	Conc. HCl or HNO_3 to pH<2[5]	P or G	A or B
Gross beta	Conc. HCl or HNO_3 to pH<2[5]	P or G	A
Strontium-89	Conc. HCl or HNO_3 to pH<2	P or G	A
Strontium-90	Conc. HCl or HNO_3 to pH<2	P or G	A
Radium-226	Conc. HCl or HNO_3 to pH<2	P or G	A, B or D
Radium-228	Conc. HCl or HNO_3 to pH<2	P or G	A
Cesium-134	Conc. HCL to pH2	P or G	A or C
Iodine-131	None	P or G	A
Tritium	None	G	E
Uranium	Conc. HCl or HNO_3 to pH<2	P or G	F
Photo emitters[7]	Conc. HCl or HNO_3 to pH<2	P or G	C
Radon/radon progeny in air	None '6'		'6'
Radon in water	None	G	E, '6'

[1]With the exception of measurement of radon/radon progeny in air, all other methods are from 40 CFR part 141.

[2]It is recommended that the preservative be added to the sample at the time of collection unless suspended solids activity is to be measured. However, if the sample must be shipped to a laboratory or storage area, acidification of the sample (in its original container) may be delayed for a period not to exceed 5 days. A minimum of 16 hours must elapse between acidification and analysis.

[3]P = Plastic, hard or soft; G = Glass, hard or soft.

[4]A = Low background proportional system; B = Alpha scintillation system; C = Gamma spectrometer (NaI(Tl) or Ge(Li); D = Scintillation cell (radon) system; E = Liquid scintillation system; F = Fluorometer.

[5]If HCl is used to acidify samples which are to be analyzed for gross alpha or gross beta activities, the acid salts must be converted to nitrate salts before transfer of the samples to planchets.

[6]Methods and instrumentation requirements as specified in N.J.A.C. 7:18-2.2(a)5i, ii, iii, iv, v and N.J.A.C. 7:18-5.5(a)1 and 2.

[7]Chromium-51, Cobalt-60, Ruthenium-106, Zinc-65.

7:18-5.5 Methodology

(a) Laboratories performing radiological analyses shall use the following analytical procedures:

1. For drinking water analyses, the laboratory shall use the analytical procedures specified in 40 CFR 141.

2. For analyses of radon/radon progeny performed in the laboratory, the laboratory shall follow the protocols specified in N.J.A.C. 7:18-2.2(a)5i, iii, iv and v for all measurement devices/techniques.

(b) All procedures other than those set forth in (a) above are considered alternative analytical methods as described in 40 CFR 141.27. Laboratories shall make special application to the Department's Office of Quality Assurance for the use of alternative analytical methods and such application shall include a showing of acceptable comparability data.

7:18-5.7 Quality control

(a) Laboratories shall develop and implement quality control procedures meeting the following minimum requirements:

1.-3. (No change.)

4. All radon/radon progeny measurement devices/techniques shall be calibrated at least once per year. Permanent records shall be maintained of preventive maintenance, periodic inspection, testing, and calibration for the proper operation of radiation instruments and analytical balances; validation of methods; chain of custody records and procedures; evaluation of reagents and volumetric equipment; surveillance of results; and remedial actions taken in response to detected defects. For radon/radon progeny analysis, all information specified by the authorized measurement protocols and methods described in N.J.A.C. 7:18-2.2(a)5i, ii and iii; and N.J.A.C. 7:18-5.5(a)1 and 2 shall be recorded and maintained. All records shall be kept on file by the laboratory for a period of at least five years.

5.-8. (No change.)

7:18-5.8 Records and data reporting

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

(c) A record shall be maintained for at least five years of the daily receipt of samples. Each such record shall be numbered or otherwise appropriately identified and shall contain the following information:

1.-3. (No change.)

4. The data, time and specific location of sample collection. For radon/radon progeny samples taken by a certified radon measurement specialist or certified radon measurement technician, the record shall also include a chain-of-custody form that will state which sampling device/technique was used and whether the authorized protocols were followed.

5.-8. (No change.)

(d) The original or a true duplicate of the results of the tests or analyses shall be sent promptly to the person who requested such tests or analyses. The results shall be reported on the laboratory's forms and signed by the laboratory manager or his or her designee whose designation has been submitted to, and approved by, the Department's Office of Quality Assurance.

[1. For laboratory analysis of radon/radon progeny in air, the results of such analyses shall be sent, on the laboratory's letterhead, directly to the owner of the building, or his or her agent, requesting the analysis and to the Department.]

(e) Whenever a certified laboratory refers samples to another certified laboratory for analysis, the person who ultimately receives the results shall receive the laboratory report or a true duplicate of that report on the report form of the laboratory that performs the tests or analyses. In the case of tests or analyses performed under the Safe Drinking Water Act Regulations for Public Noncommunity Water Systems, where use of a specific laboratory report form is required, the laboratory performing the tests or analyses shall report the results on such required form.

*[(b)]**(f)* Laboratories shall follow the chain-of-custody procedures set forth in N.J.A.C. 7:18-4.4(f)6, 4.8(b), 4.8(c), 5.8(c)4 and 5.8(g)1.

(g) Records of radiological analyses shall be kept by the laboratory for not less than five years. This includes, but is not limited to, all raw data, calculations, quality control data, and reports. In addition, actual laboratory reports shall be kept for not less than five years. However, all data, with the exception of compliance check samples as detailed in 40 CFR 141.33(b), may be transferred to tabular summaries provided that the following information is included:

1. The date, specific place, and time of sampling. For radon/radon progeny samples taken by a certified radon measurement specialist or certified radon measurement technician, the record shall also

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include a chain-of-custody form that will state which sampling device/technique was used and whether the authorized protocols were followed.

2.-7. (No change.)

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Notice of Rule Invalidation
Fishery Management in New Jersey
Atlantic Menhaden Fishing in the Delaware Bay
N.J.A.C. 7:25-22

Take notice that the Superior Court of New Jersey, Appellate Division, in *Ampro Fisheries Inc. v. Judith Yaskin, Commissioner of Environmental Protection; et al.*, Dkt. No. A-4562-89T5 (App. Div. April 3, 1991), has held invalid N.J.A.C. 7:25-22.1 through 22.4 insofar as they affect menhaden fishing in the Delaware Bay.

Please contact the Department of Environmental Protection regarding any further action on this case.

This notice is provided by the Office of Administrative Law pursuant to N.J.A.C. 1:30-1.13.

(b)

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Hazardous Waste from Non-Specific Sources
Description of F019 Listing
Adopted Amendment: N.J.A.C. 7:26-8.13

Proposed: January 22, 1991 at 23 N.J.R. 153(a).
Adopted: April 5, 1991, by Scott A. Weiner, Commissioner, Department of Environmental Protection.
Filed: April 10, 1991 as R.1991 d.243, **without change.**
Authority: N.J.S.A. 13:1E-1 et seq., particularly 13:1E-6.
DEP Docket Number: 049-90-12.
Effective Date: May 6, 1991.
Expiration Date: October 25, 1995.

Summary of Public Comments and Agency Responses:

The amendments were proposed January 22, 1991. The comment period closed March 23, 1991. **No comments were received.** The amendments are being adopted without change.

Full text of the adoption follows.

7:26-8.13 Hazardous waste from non-specific sources

(a)

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Generic			
. . .			
	F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.	(T)
. . .			

(b) (No change.)

(c)

DIVISION OF WASTE MANAGEMENT

Notice of Administrative Correction
Hazardous Waste Facility Permit Requirements
Standards Applicable to All Permits
N.J.A.C. 7:26-12.4

Take notice that the Department of Environmental Protection has discovered an error in the current text of N.J.A.C. 7:26-12.4(a)17. As originally adopted (see R.1981 d.370), this paragraph also contained subparagraphs (a)17ii and iii. However, because these subparagraphs were not identified as "(No change.)" in the first proposed amendment to this section (see 15 N.J.R. 1800(a) and 16 N.J.R. 47(b)), they were mistakenly removed from the Code during the production of the 1-3-84 Code update. These missing subparagraphs are returned to the rule as published in the Code through this notice of administrative correction, published pursuant to N.J.A.C. 1:30-2.7.

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

7:26-12.4 Standards applicable to all permits

(a) The conditions in this section shall apply to all permits issued pursuant to this chapter. All conditions applicable to all permits shall be incorporated into the permit either expressly or by reference. If incorporated by reference, a specific citation to this subchapter shall be given in the permit.

1.-16. (No change.)

17. The following reports required by N.J.A.C. 7:26-9 and 10 shall be submitted in addition to those required by (a)12 above:

i. (No change.)

ii. An unmanifested waste report shall be submitted to the Department within 15 days of receipt of unmanifested waste;

iii. An annual report shall be submitted covering facility activities during the previous calendar year.

(b)-(h) (No change.)

(d)

DIVISION OF ENVIRONMENTAL QUALITY

Notice of Administrative Correction
Ambient Air Quality Standards; Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles; Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles
Definitions
N.J.A.C. 7:27-13.1, 14.1 and 15.1

Take notice that the Department of Environmental Protection has discovered errors, including typographical and grammatical errors and stylistic inconsistencies, in the rules at N.J.A.C. 7:27-13.1, 14.1 and 15.1. Corrections of these are being made as follows:

1. At N.J.A.C. 7:27-13.1, in the introductory sentence and in the definitions of "carbon monoxide," "lead," "nitrogen dioxide," "ozone," "sulfur dioxide," and "suspended particulate matter," the initial letter of the word "subchapter" is changed from upper case to lower case, to maintain a consistent style of capitalization throughout the chapter.

2. At N.J.A.C. 7:27-13.1, the definition of "arithmetic mean" is relocated to place it in alphabetical order.

3. At N.J.A.C. 7:27-13.1, in the definition of "ambient air quality standard," a comma is added for clarity in setting forth items in a series.

4. At N.J.A.C. 7:27-13.1, in the definition of "ozone," revision is made to change the "3" in "0_3" to a subscript to reflect correct chemical notation.

5. At N.J.A.C. 7:27-13.1, the second definition of the term "suspended particulate matter" is deleted to eliminate an inadvertently published duplicate definition and to leave in place the definition currently in effect.

6. At N.J.A.C. 7:27-14.1, in the introductory sentence and in the definition of "diesel-powered motor vehicle," the initial letter of the word "subchapter" is changed from upper case to lower case, to maintain a consistent style of capitalization throughout the chapter.

7. At N.J.A.C. 7:27-14.1 in the definition of "person," a comma is added for clarity and stylistic consistency, to complete the setting off of the phrase "as well as individuals."

8. At N.J.A.C. 7:27-14.1 in the definition of "smoke," to correct a typographical error, the term "exlusive" is replaced with "exclusive."

9. At N.J.A.C. 7:27-15.1, in the introductory sentence and in the definition of "approved exhaust gas analytical system," the initial letter of the word "subchapter" is changed from upper case to lower case, to maintain a consistent style of capitalization throughout the chapter.

10. At N.J.A.C. 7:27-15.1 in the definition of "approved exhaust gas analytical system," to correct a typographical error, the word "ban" is replaced with "band."

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This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

7:27-13.1 Definitions

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

["Arithmetic mean" means the sum of n numbers divided by n.]

. . .

"Ambient air quality standard" means a limit on the concentration of a contaminant in the general outdoor atmosphere, which cannot be exceeded without causing or tending to cause injury to human health, welfare, animal or plant life***,*** or property, or unreasonably interfering with the enjoyment of life and property, excluding all aspects of employer-employee relationship as to health and safety hazards.

"Arithmetic mean" means the sum of n numbers divided by n.

"Carbon monxide (CO)" means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom and which, for purposes of this *[Subchapter]* ***subchapter***, shall be collected and analyzed using methods approved by the Department.

. . .

"Lead" means the element lead, whether in its elemental state or as part of a chemical compound, and which, for purposes of this *[Subchapter]* ***subchapter***, shall be collected and analyzed using methods approved by the Department.

"Nitrogen dioxide (NO_2)" means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and two oxygen atoms and which, for purposes of this *[Subchapter]* ***subchapter***, shall be collected and analyzed using methods approved by the Department.

"Ozone (*[03]* ***0_3*** *)" means a gas at standard conditions, having a molecular composition of three oxygen atoms and which, for purposes of this *[Subchapter]* ***subchapter***, shall be collected and analyzed using methods approved by the Department.

. . .

"Sulfur dioxide (SO_2)" means a colorless gas at standard conditions, having a molecular composition of one sulfur atom and two oxygen atoms and which, for purposes of this *[Subchapter]* ***subchapter***, shall be collected and analyzed using methods by the Department.

"Suspended particulate matter" means any solid or liquid matter dispersed in the outdoor atmosphere which, for purposes of this *[Subchapter]* ***subchapter***, shall mean the material collected and analyzed using methods approved by the Department.

["Suspended particulate matter" means any solid or liquid matter dispersed in the outdoor atmosphere which, for purposes of this Subchapter, shall mean the material collected and analyzed by the procedures adopted and published by the Department.]

. . .

7:27-14.1 Definitions

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

. . .

"Diesel-powered motor vehicle" means a vehicle which is self-propelled by a compression ignition type of internal combustion engine and which is designed primarily for transporting persons or property on a public street or highway; for purposes of this *[Subchapter]* ***subchapter***, passenger automobiles and motorcycles are excluded.

. . .

"Person" means corporations, companies, associations, societies, firms, partnerships and joint stock companies***,*** as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Smoke" means small gasborne and airborne particles, *[exlusive]* ***exclusive*** of water vapor, arising from a process of combustion in sufficient number to be observable.

7:27-15.1 Definitions

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

"Approved exhaust gas analytical system" means a device for sensing the amount of air contaminants in the exhaust emissions of a motor vehicle. For purposes of this *[Subchapter]* ***subchapter***, this shall mean analyzing devices of the nondispersive infrared type sensitized to measure carbon monoxide at the 4.74 micron *[ban]* ***band*** expressed as percent carbon monoxide in air and to measure hydrocarbons as hexane at the 3.41 micron band expressed as parts per million of hydrocarbons (hexane) in air. The device shall be approved by the Department as one which is in accordance with specifications contained in "Specifications For Exhaust Gas Analytical System For Use By New Jersey Division of Motor Vehicles Private Inspection Center (PIC)" or "Specifications For Exhaust Gas Analytical System For Use By New Jersey Division of Motor Vehicles Operated Official Inspection Stations" and shall be used in accordance with the manufacturer's recommended procedures for calibration and maintenance.

HEALTH

(a)

PUBLIC HEALTH COUNCIL
State Sanitary Code
Public Recreational Bathing
Readoption with Amendments: N.J.A.C. 8:26

Proposed: February 19, 1991 at 23 N.J.R. 376(a).

Adopted: April 8, 1991 by the Public Health Council, Louise Chut, Ph.D., M.P.H., Chairperson.

Filed: April 12, 1991 as R.1991 d.245 **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: April 12, 1991, Readoption;
May 6, 1991, Amendments.

Expiration Date: April 12, 1996.

Summary of Public Comments and Agency Responses:

The proposed readoption with amendments was published in the New Jersey Register on February 19, 1991, at 23 N.J.R. 376(a). A notice of the public hearing was published in three major newspapers in the State of New Jersey, and the hearing was held on March 11, 1991 at the Department of Health Auditorium, in the Health and Agriculture Building in Trenton, with 14 individuals attending. Two of the four commenters conveyed their support for the proposal. Jim Blumenstock, the hearing officer for the Department in this matter, recommended responses to the other comments, which have been incorporated in the Summary of Comments and Agency Responses which follows. The record of the hearing may be reviewed by the public at the office of the Department's Administrative Practice Officer, Health/Agriculture Building, Trenton, N.J.

The oral commenters were: S.T. Sanchey, Pines Lake Association; David Hughes, Hartz Mountain Industries; and Tony O'Reilly, Spring Run, Martinsville, N.J.

In addition to the comments presented at the hearing, the Department received written comments from nine individuals and organizations, as follows: Patricia Hart, East Windsor Health Department; Paul Roman, New Jersey Emergency Medical Technician Registry; Kate Kweicinski, Medford Leas, Medford, N.J.; Joseph Pryzwara, for the Ocean County Health Department and for the New Jersey Health Officers Association; Richard Matzer, New Jersey Environmental Health Association; Ben Hannigan, Leisure Village West Association; and Clifford Lundin, Lake Hopatcong Regional Planning Board.

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In an additional attempt to elicit comments from the public prior to the closing of the public comment period on March 21, 1991, the Department also mailed copies of the proposed readoption with amendments to the 115 local health agencies and approximately 50 other interested parties, including individuals and organizations representing segments of the regulated community, and safety experts.

The Department of Health (hereafter, the Department) and the Public Health Council (hereafter, the Council) considered all of the comments offered and have modified the rules in several areas to accommodate some of the concerns raised during the public comment period.

The oral and written comments and the Department's responses follow:

COMMENT: Four comments were received in full support of the proposed readoption with amendments and commended the Public Health Council and the Department of Health for their actions in this matter.

RESPONSE: The Council and the Department appreciate the support of the four commenters in this matter.

COMMENT: One comment was received challenging the Department's statutory authority to regulate small private lake association beaches as public recreational bathing places. The commenter referred to N.J.S.A. 26:4A-1 ("Public Swimming Pools and Places") and the related case law as the basis for this challenge.

RESPONSE: The subject rules were promulgated under the statutory authority of N.J.S.A. 26:1A-7 not N.J.S.A. 4A-1; therefore, the arguments and evidence presented by the commenter are not applicable. N.J.S.A. 26:1A-7 grants the Public Health Council the authority and the power to establish reasonable regulations as may be necessary to preserve and improve the public health in this State. The regulations, called the State Sanitary Code, may cover any subject affecting public health, or the preservation and improvement of public health and the prevention of disease in the State.

It is the opinion of the Department and the Council that comprehensive rules governing the construction, operation, and maintenance of public recreational bathing places are necessary to protect the health, safety, and well-being of the citizens of this State and that the Council possesses the statutory authority to do so. Furthermore, N.J.A.C. 8:26-1.3 establishes terms and definitions which consider virtually all lake associations as public recreational bathing places.

COMMENT: Two comments were received stating that the subject rules had numerous sections with ambiguous statements. Specifically, the use of terms like "reasonable proximity," which allows the health authority to make decisions and allows for interpretations, was viewed by the commenters as placing local health authorities at a liability when approving or allowing any condition of operation other than that which is explicitly stated in the rules. The commenters specifically mention the following sections as being of concern in this matter: N.J.A.C. 8:26-5.2(b), 5.5(b), 5.7(a)1, 5.8(b), 5.8(c), 5.8(c)4, and 7.17(a).

RESPONSE: The above referenced amendments were proposed for the purpose of allowing more flexibility and discretion on the part of local health agencies in evaluating facilities' compliance with the specific health and safety standards. The Department feels that this is a reasonable and necessary approach, given the comprehensive nature of the rules, and, more importantly, the widely diverse universe of the regulated community, many facilities of which are faced with somewhat unique physical and/or operational circumstances. It would be extremely difficult, if not impossible, to develop rules that are rigid and as explicit in nature as suggested without being impracticable, unreasonable, or inappropriate in some cases. Therefore, the Department believes that in these circumstances the health authorities should have the flexibility, latitude, and responsibility to use sound professional judgment in evaluating compliance of facilities taking into consideration the nature and condition of the specific operation.

COMMENT: One comment was received that suggested that the State consider sediment sampling at the water/beach interface because of potential exposure of young children while bathing at water's edge to pathogenic microorganisms that may have settled and accumulated in the sediments.

RESPONSE: After consultation with the Department of Environmental Protection, the Department believes that insufficient data exist at this time to require the sampling of sediment at the water/beach interface with the results to be used as a determinant or indicator of water quality. However, both departments will continue to study this issue and as more information is obtained in this matter, if necessary, the appropriate public health protective measures will be put in place.

COMMENT: A comment was received requesting that clarifying language be provided explicitly stating that continuing care retirement communities are considered common interest communities for purposes of eligibility for the exemptions specified in N.J.A.C. 8:26-5.1(a) and (b).

RESPONSE: The Department has researched this issue and consulted with the Department of Community Affairs. As a result, it has been determined that continuing care retirement communities, as defined and regulated under N.J.S.A. 52:27D-330 et seq. (The Continuing Care Retirement Community Regulation and Financial Disclosure Act), are organizationally and functionally very similar to those entities previously defined as common interest communities. As such, the Department agrees to amend the definition of common interest communities to also include, unequivocally, continuing care retirement communities.

COMMENT: Two comments were received indicating that the minimum health and safety requirements fail to provide a necessary standard of care with respect to the required level of training and certification of first aid personnel; specifically, reference was made to infant/child CPR training.

RESPONSE: The Department, after consultation with the American Red Cross and YMCA, has determined that standard first aid and adult CPR adequately serve as minimum requirements for training of first aid personnel at public recreational bathing places. In response to these comments, however, the Department will further research and monitor this issue and, as necessary and appropriate, propose revisions at a later date.

Where the commenter cited specific sections of the proposed rules and made specific recommendations, the Department has addressed these comments individually under the appropriate rule citation as follows:

COMMENT: N.J.A.C. 8:26-1.3. One commenter requested clarification on the use of the word private with regard to the term "private lake/river/bay association." Specifically, the commenter wants the assurance that the word private refers to the nature of the association, not the nature of the natural body of water.

RESPONSE: To clarify this point, the word "private" does apply to the nature and limits of operation of the association, not the lake, river, or bay where the public bathing place is located. Therefore, it is quite conceivable that a private lake/river/bay association could operate a bathing place on a public body of water and would be eligible for the exception provided for in the proposed revisions located at N.J.A.C. 8:26-5.1(a) and (b).

COMMENT: N.J.A.C. 8:26-5.1. Two commenters voiced their opposition to the proposed amendment to exempt from mandatory compliance to the lifeguard requirement private lake/river/bay associations and common interest communities that restrict the use of their recreational bathing places to the owners of the dwelling units thereof and their invited guests. Similarly, three comments were received voicing opposition to the proposed amendment also exempting these facilities from the lifesaving personnel requirement. The commenters stated that they believe that the proposed rule revisions will compromise the health, safety, and well-being of the bathing public and that the need for such protective measures should outweigh the economic benefits realized by such a relaxation of the requirements. One of the commenters also stated that the lack of on-site personnel will probably contribute to inadequate monitoring of water quality.

RESPONSE: Since these rules were first promulgated in 1986, the Council and the Department have received a great deal of input from the regulated community concerning the rules' degree of reasonableness and necessity. Compelling arguments of economic and operational hardship in compliance have also been presented. In an attempt to determine if these claims were valid, the Department studied this issue. The study included obtaining and analyzing national statistics on drownings and serious injuries associated with public recreational bathing places, surveying surrounding states for the purpose of obtaining information regarding their experiences in this matter and their approaches to regulating the aforementioned segment of the regulated community, establishing and maintaining formal communications with local health officials to gain insight with regard to their professional and personal assessments and perceptions of this issue, and attempting to measure any deterioration in the level of health and safety of the public utilizing recreational bathing facilities which were granted relief from the lifeguard and lifesaving personnel requirements through the passage of P.L. 1989, c.61, P.L. 1989, c.140, and P.L. 1989, c.138 for the 1989 and 1990 bathing seasons.

The culmination of these efforts was the subject proposed readoption with specific amendments of N.J.A.C. 8:26 which the Council and the Department believe provide the necessary relief to segments of the regulated community, under certain specific conditions, without compromising the health, safety, and well-being of the bathing public. No compelling evidence exists to mandate that these facilities provide lifeguards and first

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aid personnel, as long as the facilities are in compliance with the alternative conditions for operation provided for in N.J.A.C. 8:26-5.1(b). The Department also believes that a significant level of voluntary compliance will also be achieved. The Department will closely monitor the impact of these rule revisions and respond in a responsible manner to ensure that the proper regulatory controls are in place to protect the public's health and safety. The Department also does not believe that inadequate monitoring of water quality will occur since these facilities will still be responsible for providing a designated adult supervisor and a certified pool operator (when applicable) who can perform all of the required monitoring.

It must be emphasized that these rules, as part of the State Sanitary Code (Chapter IX of the State Sanitary Code), are intended to establish reasonable and uniform Statewide standards for public recreational bathing places. While it is very important to maintain Statewide uniformity and consistency, N.J.S.A. 26:1A-9 does not limit the right of any local board of health to adopt ordinances that, in its opinion, may be necessary for the particular locality under its jurisdiction. Such ordinances or rules shall not be in conflict of the laws of the State or the provisions of the State Sanitary Code, except, however, such ordinances may be more restrictive than the provisions of the State Sanitary Code. Therefore, if in the professional opinion of the local health authority that a recreational bathing place related sanitary or safety concern exists in its municipality that is not properly or adequately addressed by these rules, then the municipality has the authority to address these concerns through the passage and upholding of municipal ordinances.

COMMENT: N.J.A.C. 8:26-5.1. Four commenters requested clarification on the scope of the term "invited guest;" specifically, under what conditions, if any, would tenants be considered invited guests, thus rendering a private lake/river/bay association or common interest community eligible for the exemption under this subchaper if such a facility is not exclusively owner occupied. Two of the four commenters voiced support for inclusion of tenants, under certain conditions, in the definition and scope of the term "invited guest."

RESPONSE: The Department agrees that clarifying language is needed to address this issue. It was the Department's intent to place certain restrictions and control and limit eligibility for exemption on entities that open their recreational bathing places to individuals other than the owners of the dwelling units and their invited guests, not to universally exclude from eligibility those facilities that allow for non-owner occupancy. In the context of these rules, it is the Department's view that tenants do not have inherent rights to the privileges normally bestowed to invited guests. However, tenants could, in fact, be awarded or granted such status through specific affirmative action taken by the lake/river/bay association or common interest community by specifying that renter occupants are considered and treated as "invited guests" by adding the necessary language in the bathing place rules, association rules and bylaws, and lease agreements indicating the intention in this regard.

It must be emphasized that if such a facility does not want to consider and treat tenants or occupants as invited guests they would have to restrict the tenants from using the swimming facilities in order to be eligible for the exemption. On the other hand, if a facility wishes to grant all occupants the right to use the bathing place without initiating the aforementioned affirmative handling of tenant status, then the facility would have to comply with all of the provisions of the public recreational bathing rules (N.J.A.C. 8:26).

The Department has modified this section on adoption, in order to clarify this matter.

COMMENT: N.J.A.C. 8:26-5.1(b). One comment was received requesting clarification on the permissibility of a private lake association or common interest community choosing the times it wishes to voluntarily operate in compliance with N.J.A.C. 8:26-5.2(b) and (d) and the need for the requisite sign specified under N.J.A.C. 8:26-5.1(b) to be posted at all times or only at the times when no lifeguard is present.

RESPONSE: N.J.A.C. 8:26-5.1(a) and (b) allow for exceptions to be granted to private lake/river/bay associations and common interest communities that restrict the use of its recreational bathing places to the owners of the dwelling units and their invited guests. Under this condition, said facilities shall be exempt from the mandatory compliance of providing lifeguards and lifesaving personnel as long as a sign is prominently displayed at every entrance of the recreational bathing place stating: "No lifeguard on duty. Persons under the age of 16 must be accompanied by an adult, and no swimming alone."

This exception process establishes an alternative to the mandatory lifeguard requirement but does not preempt or prevent a facility from voluntarily complying with this standard. As such, if an eligible facility wishes to provide lifeguards at various, but not all, times the bathing place is in operation, this is an acceptable practice. With regard to the posting of the precautionary signage, it is the Department's opinion that signs should accurately reflect the standard of care being provided. Therefore, under these circumstances, when lifeguards are on duty at exemption eligible facilities, the signs should be removed, covered, or otherwise be sequestered from view from the public utilizing the bathing facility.

COMMENT: N.J.A.C. 8:26-5.2(a). Two comments were received regarding the need to require the posting of the name, telephone number, and address of the designated adult supervisor to provide individuals with a ready reference in case of a pool malfunction, accident, etc.

RESPONSE: N.J.A.C. 8:26-2.8 stipulates that a recreational bathing place shall not be opened for public use until the health authority has given formal approval by the issuance of an appropriate approval, license, or permit. This approval, license, or permit must be displayed in a conspicuous place where it can be readily observed by all patrons. Therefore, it is the Department's position that requiring signs to be posted at these facilities is not necessary and that the name, address, and telephone number of the designated adult supervisor should be included in the approval, license, or permit process and can be specified on the approval, license, or permit issued to the operator by the health authority.

COMMENT: N.J.A.C. 8:26-5.2(b). One commenter stated that if the CPR/first aid personnel are not stationed immediately at the pool, their location and method to contact them should be posted in the event of an emergency.

RESPONSE: The Department agrees with this recommendation, since, in some cases, while the CPR/first aid personnel must be in reasonable proximity to the pool, they may not always be in the immediate area of the swimming place. In a case of an emergency, patrons may not know how to contact these persons in order to obtain the necessary assistance. The Department has addressed this concern on adoption of these rules.

COMMENT: N.J.A.C. 8:26-5.3(a)3. A comment was received requesting that the requirement for the 24 unit first aid kit be expanded to include additional first aid supplies such as examination gloves and a mouth-to-mask barrier type resuscitation device with one way valve.

RESPONSE: The 24 unit first aid kit is intended to provide the minimum supplies necessary for emergency purposes for incidents that would normally occur at public bathing places. The Department has determined that the specified first aid list has been proven to be adequate and additional quantities or types of supplies are not necessary. If a public bathing place has unique or varying circumstances that warrant supplying additional first aid supplies, these supplies should be provided on a voluntary basis, in consultation with a physician.

COMMENT: N.J.A.C. 8:26-5.3(a)4. One commenter stated that the following standard pieces of equipment must be available: a full spine board of at least 16 inches in width and six feet in length with runners and a minimum of three straps with mechanical buckles, or an approved belt and buckle harness system, an integral or attachable cervical spine immobilization device, and a set of stiff-type emerging medical cervical collars of five varying sizes which should be stored in a water repellant carrying case.

RESPONSE: N.J.A.C. 8:26-5.3(a)4 and 5.10(a)5 require that a full spine board be provided complete with straps and/or ties that meets the design requirements of the Department's Emergency Medical Services, at N.J.A.C. 8:40-5.16. Spine board specifications are currently provided which are consistent with the recommendation of the commenter. It is the Department's intent to establish minimum requirements specifying what safety appliances are necessary and appropriate for the nature of the operation and the standard of care being provided routinely at the public bathing facilities. It is the Department's position that requiring the provision of a set of cervical collars in most cases is unnecessary and also inappropriate. Most lifesaving personnel stationed on the premises are not properly trained in the proper use of cervical collars and improper use may, in fact, result in additional injury. After a rescue is rendered, local emergency medical services normally respond which are properly equipped and trained to immobilize an individual suffering, or suspected of suffering, head and neck trauma.

COMMENT: N.J.A.C. 8:26-5.3(a)6. One comment was received suggesting that a specification should be made that a telephone used for emergency communications, if a pay telephone, be of the type that does not require a coin deposit in order to access service.

RESPONSE: The Department will allow the use of a commercial pay telephone in lieu of a private direct line telephone for emergency purposes as specified in this section, since, under some circumstances, this is the most reasonable and feasible approach to complying with this requirement. The Department recognizes that the presence of a coin deposit only

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telephone may significantly contribute to the failure of providing a timely response to an emergency under certain circumstances and, therefore, agrees with the commenter that these types of commercial telephones should not be allowed as the sole method of emergency communication. The Department has amended the rule on adoption to reflect this requirement.

COMMENT: N.J.A.C. 8:26-7.18(a)1. A comment was received stating that one of the techniques of sampling natural bathing waters, specifically, the requirement that "water samples shall be taken in an area with a stabilized water depth between the sampler's lower thighs and chest with an optimum depth being at the sampler's waist," may be difficult to achieve and will introduce error in precision. It was suggested that a more scientific approach be employed which would incorporate consistency into sampling such as require that sample collection be at a uniform depth of approximately one meter or to require a range in water column height within a minimum and maximum water depth value.

RESPONSE: The Department believes that the specified technique does establish a desired range within the water column by referencing the sampler's body zone of between the lower thighs and chest with an optimum depth at the sampler's waist as suitable and easily achievable benchmarks. This method of describing of the zone of sampling was formulated to make the sampling procedure easier and less cumbersome for the sampler and allows for the dynamics of the natural body of water (that is, wave action). Furthermore, the Department believes that variations in samplers' heights will have no significant influence or impact on the uniformity, validity, or integrity of the water sampling activity and the parameters established would under most circumstances result in a sample being taken when the sampler is at the desired water height of approximately one meter.

COMMENT: N.J.A.C. 8:26-7.18(a)2. One comment was received stating that the rules should specify that the water samples be collected during periods of peak bather load and in the immediate bathing area.

RESPONSE: The Department believes that these concerns are adequately addressed in N.J.A.C. 8:26-7.4(a) and (b) and 7.17(a); therefore, implementation of this recommendation under this section of the rules would be redundant and, therefore, not necessary.

COMMENT: N.J.A.C. 8:26-8.11. One commenter suggested that, for the purpose of clarity in the rules, the actual statute should be cited which grants the local health department the authority to assess penalties, as provided for in the law.

RESPONSE: The Department agrees that it would be beneficial to reference the statutory citations, specifically, New Jersey Statutes Annotated (N.J.S.A.) 26:1A-9 and N.J.S.A. 26:1A-10, which give the authority for enforcement and establishes the penalties for violations of these rules. The Department has, therefore, modified N.JA.C. 8:26-1.2(a) and 8:26-8.11 accordingly.

Summary of Changes Made between Proposal and Adoption:

The Department has made several changes between the proposal and adoption in response to the public comments which are summarized as follows:

N.J.A.C. 8:26-1.2 was amended to reference the statutory citation giving the health authorities, police departments and other agencies the authorization to enforce these rules, and to delete outdated references to the several operative dates of the chapter as it was originally proposed in 1986.

At N.J.A.C. 8:26-1.3, the definition of a common interest community was expanded to include continuing care retirement communities.

N.J.A.C. 8:26-5.1(a) was amended for the purpose of clarifying the term "invited guest."

N.J.A.C. 8:26-5.2(a) was amended to include a provision regarding signage to indicate the location and method of access of CPR/first aid personnel when said person(s) are not at the immediate swimming area. This requirement has also been incorporated in N.J.A.C. 8:26-5.5(b), 8:26-5.7(a)1, and 8:26-5.8(b)4.

N.J.A.C. 8:26-5.3 was amended to permit the use of pay telephones as a means of emergency communication provided that they are of the type that does not require a coin deposit to access service.

N.J.A.C. 8:26-8.11 was amended to specifically reference the statutory citations that give health agencies the authority to issue penalties to any person who fails or refuses to comply with the provision of these rules.

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

8:26-1.2 Scope

[(a)] These rules shall govern all recreational bathing places in the State of New Jersy with the exception of a private bathing place as defined in 8:26-1.3. The provisions of the State Sanitary Code have the force and effect of law. ***Under the authority of N.J.S.A. 26:1A-9,*** *[The]* ***the*** provisions are enforceable by the State Department of Health, local departments of health, loal police authorities, local sheriff's departments, and other enforcement agencies.

*[(b) The operative dates for this chapter are August 4, 1986, for subchapters 7 and 8 only as they apply to tidal waters and November 4, 1986 for the remainder of the chapter.

NOTE: The difference in operative dates is necessary, to be consistent with what is presently being accomplished under the cooperative Coastal Monitoring Program, and thus presents no additional hardship while providing a rule to adequately protect the public's health.]*

8:26-1.3 Definitions

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

. . .

"Common interest community" means:

1. Property subject to the Condominium Act, P.L. 1969, c.257 (N.J.S.A. 46:8B-1 et seq.) *[or]**,* the Horizontal Property Act, P.L. 1963, c.168 (N.J.S.A. 46:8A-1 et seq.)*[;]* ***and The Continuing Care Retirement Community Regulation and Financial Disclosure Act (N.J.S.A. 52:27D-330 et seq.);****

2. A housing corporation or association, commonly known as a cooperative, which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association; or

3. Real estate with respect to which a person, by virtue of the ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in the instrument, however denominated, which creates the common interest community. Ownership of a unit does not include holding a lease-hold interest of less than 20 years in a unit, including renewal options.

. . .

"Private lake/river/bay or private community lake/river/bay association" means an organization of property owners within a fixed or defined geographical area with deeded or other rights to utilize, with similarly situated owners, various lakefront, riverfront, or bayfront properties, which said properties are not open to the general public, other than bona fide guests of a member of the private lake/river/bay or private community lake/river/bay association.

. . .

8:26-3.1 General layout and designs

(a) (No change.)

(b) The layout of the pool facility shall be such that bathers leaving the dressing rooms will have access to toilets and then shower facilities. Exits and entrances to the pool enclosure should be located at the shallow end of the pool. Exits and entrances to the pool which are located at the deep end shall be separated from the pool by a minimum of six feet of decking or by a physical barrier.

8:26-3.8 Markings

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

(e) The depth marking numbers shall be at least four inches (10 centimeters) minimum height, of a contrasting color to the background and of a permanent nature. Depth marking numbers shall be indicated in feet or ft. and inches or in.

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

8:26-3.12 Enclosure

(a) Pools shall meet the fencing and enclosure requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

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8:26-3.13 Electrical, illumination and ventilation requirements

(a) (No change.)

(b) Illumination shall be such that a black disk six inches (15.2 centimeters) in diameter, superimposed upon a white field placed at the bottom of the deepest end of the pool shall be clearly visible from the pool sidewalk, at all distances up to 10 yards, measured in a horizontal distance from the project of the disk onto the pool surface when the pool is in use.

8:26-3.14 (No change)

8:26-3.15 Recirculation system

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

(f) Filters shall be designed so that after cleaning per manufacturer's instructions, the system can provided the water clarify noted in N.J.A.C. 8:26-7.10.

1.-2. (No change.)

3. Rate of flow meters shall be installed and located so that the rate of circulation will be registered in gallons per minute.

i. Flow meters shall have a range between 10 percent below and 10 percent above the established filtration rate.

ii. (No change.)

4.-5. (No change.)

(g) (No change.)

8:26-3.20 Disinfection

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

(d) Chemical feeders installation and use shall conform to the following:

1. When using chemical feeders, they shall be installed downstream from the filter and heater.

2.-3. (No change.)

(e)-(i) (No change.)

8:26-5.1 Exceptions

(a) This subchapter in its entirety applies to all public recreational bathing places, with the exception of private lake/river/bay or private community lake/river/bay associations and common interest communities that restrict the use of its recreational bathing places to the owners of the dwelling units thereof and their invited guests. Under this condition, said facilities shall be exempt from mandatory compliance with N.J.A.C. 8:26-5.2(b), (d), (f), (g) and (i); 5.5(b); 5.6(a); 5.7(a)1; 5.8(c)2, 4, 6 and 7; and 5.8(d). This exception does not apply to facilities utilizing ocean waters. ***For the purpose of the subchapter, invited guests may also include occupants or tenants of the dwelling units thereof which by affirmative designation by the lake/river/bay association or common interest community through language incorporation into the bathing place rules, association rules and bylaws, and lease agreements are granted such status and corresponding responsibilities normally associated with that of an invited guest.***

(b) Private lake/river/bay or private community lake/river/bay associations and common interest communities that restrict the use of its recreational bathing places to the owners of the dwelling units and their invited guests which do not voluntarily comply with the specific sections referenced above shall post a sign which shall be prominently displayed at every entrance of the recreational bathing place stating:

—"No lifeguard on duty."

—"Persons under the age of 16 must be accompanied by an adult."

—"No swimming alone."

8:26-5.2 Swimming pool supervision

(a) (No change.)

(b) At least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR) by an organization listed in the Appendix shall be on the premises, available, and readily accessible when the pool is in use. If the trained and qualified personnel are not stationed at the pool side, then the facility ***shall conspicuously post a sign indicating the location and method of access of the person(s) certified in standard first aid and CPR, and*** shall effectively demonstrate to the health authority that said personnel are available, in reasonable proximity to the pool, and can be easily contacted to enable them to render the necessary and appropriate assistance in a timely manner.

(c) The maintenance and mechanical operation of a swimming pool shall be under the supervision of a certified pool operator (CPO). The CPO shall be available to respond to mechanical and maintenance problems if they occur or to detect the potential for such a problem before it occurs; however, it is not necessary for the CPO to be at pool side or on the premises at all times when the pool is in operation. The property owner, a resident, a facililty employee, or an employee of a contracted pool service firm are examples of individuals that can be used to fulfill this requirement, once the individual has successfully completed the CPO course and assumes responsibility for providing this function. The certification of a pool operator shall be from an organization recognized by the New Jersey State Department of Health (see Appendix).

(d)-(i) (No change.)

8:26-5.3 Emergency equipment for swimming pools

(a) Swimming pools shall be provided with the following equipment, which shall be properly stored and readily accessible:

1.-4. (No change.)

5. Every swimming pool capable of accomodating 500 patrons or more shall have readily accessible a room or area designated and equipped for emergency care.

6. A telephone, citizen band radio signaling devices, or other approved means of communication shall be provided as close as possible to the pool for emergency use. ***Commercial pay telephones are permitted for this purpose provided that coin deposit is not needed to access emergency assistance.*** Emergency numbers of the nearest rescue squad, physician, ambulance, police department, hospital, clinic, or other appropriate entity shall be posted in a weather resistant display, adjacent to the telephone.

8:26-5.4 Bather rules for swimming pools, wading pools, hot tubs and spas

(a) Bather rules covering admission, bathing and conduct of patrons shall be conspicuously posted and shall include the following:

1.-6. (No change.)

7. Outdoor bathing shall be prohibited during an electrical storm.

8. (No change.)

(b) (No change.)

(c) Head first entries during competitive swim meets and practices shall be prohibited in less than five feet of water, unless the following standards are met:

1. Water depth of the pool at the bulkhead (at pool side) where starting blocks are located shall be at least four feet;

2. Only the "flat dive" also known as a "formed start" shall be used;

3. Signs shall be conspicuously placed to remind swimmers of the danger of using any other type of dive when diving into waters less than five feet deep;

4. Swimmers shall be under the direct supervision of the team swim coach; and

5. When the diving blocks cannot be removed, a safety policy shall be established to assure that the diving blocks are not inadvertently used by an untrained swimmer or by the general public.

8:26-5.5 Wading pool supervision

(a) (No change.)

(b) A wading pool shall have a person currently certified in standard first aid and child and infant cardiopulmonary resuscitation (CPR) on the premises, available, and readily accessible when the wading pool is in use. If the trained and qualified personnel are not stationed at the wading pool, then the facility *[must]* ***shall conspicuously post a sign indicating the location and method of access of the person(s) certified in standard first aid and CPR and shall*** effectively demonstrate to the health authority that said personnel are available, in reasonable proximity to the wading pool, and can be easily contacted to enable them to render the necessary and appropriate assistance in a timely manner.

8:26-5.6 Water slides

(a) Supervision of the waterfront areas of water slides shall be protected by a lifeguard as specified in N.J.A.C. 8:26-5.2 and as follows:

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

8:26-5.7 Hot tubs and spas

(a) Supervision of a hot tub or spa, when open for use, shall be provided by a designated adult supervisor, who is knowledgeable of these rules and shall be responsible for all phases of the operation, as follows:

1. At least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR) shall be on the premises, available, and readily accessible when the hot tub or spa is in use. If the trained and qualified personnel are not stationed at the hot tub or spa, then the facility ***shall conspicuously post a sign indicating the location and method of access of the person(s) certified in standard first aid and CPR and*** shall effectively demonstrate to the health authority that said personnel are available, in reasonable proximity to the hot tub or spa, and can be easily contacted to enable them to render the necessary and appropriate assistance in a timely manner. These certifications shall be from an organization recognized by the New Jersey State Department of Health (see Appendix).

2. The maintenance and mechanical operation of a hot tub or spa shall be under the supervision of a certified pool operator (CPO). The CPO shall be available to respond to mechanical and maintenance problems if they occur or to detect the potential for such a problem before it occurs, however, it is not necessary for the CPO to be at hot tub or spa or on the premises at all times when the hot tub or spa is in operation. The property owner, a resident, a facility employee, or an employee of a contracted pool service firm are examples of individuals that can be used to fulfill this requirement, once the individual has successfully completed the CPO course and assumes responsibility for providing this function. The certification of a pool operator shall be from an organization acceptable to the New Jersey State Department of Health (see Appendix.)

(b)-(e) (No change.)

8:26-5.8 Bathing beaches

(a) (No change.)

(b) Each bathing beach shall be designated by means of water buoys, flags, or any other method approved by the health authority. A neutral zone of 200 feet between the bathing area and watercraft activities, such as motorboats and sailboats, shall be maintained. Bathing beaches that cannot maintain a 200 feet neutral zone shall establish and enforce a policy subject to the approval of the health authority in which boat traffic is restricted within a specific area by channeling boat traffic and regulating boat speed to ensure bather safety. Each bathing beach shall establish its own policy to allow for a buffer zone based upon the size constraints of its bathing beach, for human-powered, slow-moving water craft, such as rowboats and pedal-boats.

(c) A bathing beach open for use shall establish and post hours of operation and shall be under the management of a designated adult supervisor who is familiar with these regulations and who shall be responsible for all phases of operation, during set hours which shall include a reasonable time period, such as 9:00 A.M. to 5:00 P.M., or similar time period, reflecting hours of maximum use.

1. A lifeguard training program certified by the United States Lifesaving Association, Office of Certification, Mid-Atlantic Region, P.O. Box 1, Avon, New Jersey 07717, shall be established by the owner or operator for ocean and tidal waters. Tidal water beaches that are not influenced by strong currents and tides may provide lifeguard provision as specified in N.J.A.C. 8:26-5.2(d), subject to the approval of the health authority.

2.-3. (No change.)

4. At least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR) shall be on the premises, available, and readily accessible when the bathing beach is in use. If the trained and qualified personnel are not stationed at the bathing beach, then the facility ***shall conspicuously post a sign indicating the location and method of access of the person(s) certified in standard first aid and CPR and*** shall effectively demonstrate to the health authority that said personnel are available, in reasonable proximity to the bathing beach, and can be easily contacted to enable them to render the necessary and appropriate assistance in a timely manner. These certifications shall be from an organization recognized by the New Jersey State Department of Health (see Appendix).

5.-8. (No change.)

(d) (No change.)

8:26-5.9 Bather rules for bathing beaches

Bather rules and policies shall be provided as specified in the regulations governing swimming pools at N.J.A.C. 8:26-5.4(a)3, 4, 6, 7 and 8.

8:26-5.10 Lifesaving equipment for bathing beaches

(a) Lifesaving equipment shall be provided in case of an emergency. The equipment shall include, but not be limited to:

1.-3. (No change.)

4. A paddle rescue board that is capable of supporting two adults;

5.-8. (No change.)

8:26-5.11 Diving stands and boards for bathing beaches

(a) Diving stands and boards shall conform to the bather rules as specified in N.J.A.C. 8:26-5.4 governing swimming pools.

(b) Fixed platforms may be permitted if constructed with a visible one foot (30.5 centimeters) air space below the platform. There shall be as little underwater construction as is consistent with strength and all braces and struts shall be designed to prevent entanglement or trapping of bathers.

1. Fixed platforms permitted for bay or tidal waters provided that there is a visible one foot (30.5 centimeters) air space below the platform at the flood high tide mark.

2. (No change.)

8:26-5.12 (No change in text.)

8:26-6.4 Water closet and lavatories

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

(c) Fixtures shall conform to the following requirements:

1. Toilet tissue holders, supplied with tissues, shall be provided at each toilet.

2.-4. (No change.)

5. Safety glass or unbreakable mirrors shall be provided.

8:26-7.9 Chemical water quality standards for swimming pools and wading pools

(a) Free chlorine, combined chlorine, bromine and pH values shall be continuously maintained within the following ranges:

	Minimum	Ideal	Maximum	
			Indoor Pools	Outdoor Pools
Free chlorine residual part per million (ppm)	1.0	1.0-1.5	3.0	4.0
Combined chlorine (ppm)	None	None	0.2†	0.2†
Bromine (ppm)	2.0	2.0-4.0	4.0	4.0
pH	7.2	7.4-7.6	7.8	7.8

†Remedial action shall be taken if combined chlorine exceeds 0.2 as it will result in reduced chlorine efficacy.

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

8:26-7.17 Collection of samples at bathing beaches

(a) Bathing beach water, with the exception of ocean waters, sample(s) shall be obtained one week prior to the opening of the beach and at intervals of no longer than one week during the bathing season. Sample(s) shall be obtained whenever possible during peak bathing loads at a depth representative of the water being used for bathing. Subject to the approval of the health authority, sampling frequency may be changed to biweekly (every other week), based on three months of consecutive satisfactory samples.

1.-3. (No change.)

8:26-7.18 Techniques of sampling

(a) Technique of sampling shall be as specified in N.J.A.C. 8:26-7.4(d) and also include the following, in the case of natural bathing waters:

1. Water samples shall be taken in an area with a stabilized water depth between the sampler's lower thighs and chest with an optimum depth being at the sampler's waist.

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2. At the desired depth facing away from the shoreline and in an area of the bathing zone not in close proximity to bathers, sample container shall be placed, with lid or stopper still attached, approximately eight to 12 inches below the water surface. With arms extended in front, the container shall be held near its base and downward at a 45 degree angle, the cap removed and the container filled in one slow sweeping motion (downward or horizontally, not upward) with the mouth of the container ahead of the sampler's hand and the container recapped while it is still submerged. The cap shall remain submerged during the sample collection and care shall be taken not to touch the inner surfaces of the cap. The only exception to this procedure would be in the event that samples need to be taken during cold water conditions that require the use of reach assist poles to obtain the samples. In this situation, the cap may be removed prior to submersion as long as the container is pointed downward upon entry into the water. If a head space in the container is needed, the sampler, once on the beach, can carefully pour out a small amount of the sample and recap.

(b) No sampling shall be performed when such oceanographic or meteorological conditions exist that present an imminent health and safety hazard.

8:26-8.9 Record keeping

(a) Accurate and complete records on the following items shall be kept on the premises and be available upon request of the authorized agent or the health authority. Such records shall be kept for a minimum period of one year.

1.-7. (No change.)

8:26-8.10 Deaths and/or serious injuries

All deaths, head, neck, and spinal cord injuries, and any injury which renders a person unconscious shall be reported to the health authority within 24 hours of occurrence. The local health authority shall report such injuries to the State Health Department in January of each year.

8:26-8.11 Penalties

Any person who shall violate any provision of this chapter or who shall refuse to comply with a lawful order or directive of the health authority, shall be liable for penalties as provided by ***N.J.S.A. 26:1A-10 and all other applicable*** law*[s]*, or an injunctive action as provided by law, or both.

APPENDIX

The following organizations are currently recognized by the New Jersey State Department of Health to certify the personnel and/or program required in N.J.A.C. 8:26-5.

First Aid Certification
American Red Cross

CPR Certification
American Red Cross
American Heart Association

Lifesaving/Lifeguarding Certification
Swimming Pools and Lake Bathing

American Red Cross	—Advanced lifesaving certificates Lifeguarding certificate
Boy Scouts of America	—BSA lifeguard certificate
YMCA	—Advanced lifesaving certificate Lifeguarding certificate
National Pool and Waterpark Lifeguard Training	—Pool guard certificate Deep water guard certificate

Ocean and Tidal Waters
United States Lifesaving Association
Office of Certification
Mid-Atlantic Region
P.O. Box 1
Avon, N.J. 07717

Certified Pool Operators Certification
YMCA
National Swimming Pool Foundation
10803 Gulfdale
Suite 300
San Antonio, Texas 78216

24 UNIT FIRST AID KIT CONTENTS

2 Units—1 inch Adhesive Compress
2 Units—2 inch Bandage Compress
2 Units—3 inch Bandage Compress
2 Units—4 inch Bandage Compress
1 Unit—3 inches by 3 inches Plain Gauze Pads
2 Units—Gauze Roller Bandage
1 Unit—Eye Dressing Packet
4 Units—Plain Absorbent Gauze—½ square yard
3 Units—Plain Absorbent Gauze
4 Units—Triangular Bandages
1 Unit—Adhesive Tape—Scissors—Tweezers

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Notice of Rule Invalidation
Health Care Facilities Planning
Adult Closed Acute Psychiatric Beds
Liaison Services; Discharge and Transfer Planning
N.J.A.C. 8:43E-3.10(a)4 and 3.15(a)2

Take notice that the Superior Court of New Jersey, Appellate Division, in *In the Matter of the Appeal of the Adoption of N.J.A.C. 8:43E-3.1, et seq., by the New Jersey Department of Health,* Dkt. No. A-2330-89T3 (App. Div. April 2, 1991), has held unauthorized and invalid N.J.A.C. 8:43E-3.10(a)4 and 3.15(a)2, to the extent that they, "authorized community agency liaison participation in the work of the [short term care facility] treatment team, other than discharge planning."

Please contact the Department of Health regarding any further action on this case.

This notice is provided by the Office of Administrative Law pursuant to N.J.A.C. 1:30-1.13.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

All Utilities

Adopted New Rules: N.J.A.C. 14:3
Recodification of: N.J.A.C. 14:9-4 to 14:3-10.20 and 10.21

Proposed: April 2, 1990 at 22 N.J.R. 1112(a).

Adopted: March 27, 1991 by the Board of Public Utilities, George H. Barbour and Jeremiah F. O'Connor, Commissioners.

Filed: March 28, 1991 as R.1991 d.221, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13, 48:2-16, 48:2-17, 48:2-20, 48:2-24, 48:2-25, 48:2-27, 48:3-3, 48:3-7.8, 48:3-12, 48:13A-1 and 48:19-17.

BPU Docket Number: AX90020105.

Effective Date: May 6, 1991.

Expiration Date: May 6, 1996.

Summary of Public Comments and Board Responses:

The New Jersey Board of Public Utilities is readopting as new rules the rules at N.J.A.C. 14:3, All Utilities, which expired on May 6, 1990 pursuant to Executive Order No. 66(1978). Also, as part of this rulemaking, N.J.A.C. 14:9-4 is recodified as N.J.A.C. 14:3-10.20 and 10.21. The

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recodification was part of a rulemaking proposed at 22 N.J.R. 907(a). The recodification could not be effected until N.J.A.C. 14:3 had been readopted as it is in this rulemaking.

A public hearing on the proposed readoption was held on May 24, 1990 to provide interested parties the opportunity to present testimony. The summary includes the issues raised and heard by the Board at the public hearing. The Board did not utilize a hearing officer at this hearing.

List of Commenters:

Jane F. Kelly, Esq.
Executive Director
New Jersey Utilities Association

George D. Walling
Assistant Vice-President
New Jersey Natural Gas Company

Donald L. Carey
Supervisor, Regulatory Activity
Jersey Central Power and Light Company

William Zdep
Director, Customer Relations
Jersey Central Power & Light Company

Richard M. Stokes
Manager, Government Affairs
Atlantic City Electric Company

Richard Fryling, Jr., Esq.
General Solicitor
Public Service Electric and Gas Company

James F. Dieterle
Manager
Customer Service Planning
Public Service Electric and Gas Company

Martin C. Rothfelder, Esq.
Kraft & McManimon

On behalf of the Gloucester County Improvement Authority, the Mercer County Improvement Authority and the Union County Utilities Authority:

Douglas Bacher
Executive Director
Gloucester County Municipal Utilities Authority

Richard O'Neill
Vice-President
Administration and Customer Service
Elizabethtown Gas Company

David A. Kindlick
Assistant Vice-President
Revenue Requirements
South Jersey Gas Company

Janet Nickels
Assistant Vice-President
Commercial Operations
South Jersey Gas Company

COMMENT: South Jersey Gas Company (South Jersey) suggests that N.J.A.C. 14:3-2.8 be amended to include the "one number to call" system for prompt notice and information regarding construction near utility facilities.

RESPONSE: This section requires a utility to ". . . endeavor, to the extent feasible and practicable, to obtain prompt notice and information concerning commencement and progress of construction work in close proximity to its facilities, through its qualified employees, or through contractors, government agencies, or others who may be permitted to peform construction work within the confines of its territory." As the "one number to call" system is one method that a utility may utilize, albeit an important one, the Board is of the opinion that specific reference to said program is not necessary.

COMMENT: Public Service Electric and Gas Company (Public Service) recommends that N.J.A.C. 14:3-3.2 be amended to provide that customers who use service but fail to apply for this service will be responsible for payment from the date they initially benefit from the service. Public Service states that customers annually use millions of dollars of utility service without applying for service. The losses from these unknown accounts are ultimately passed on to all ratepayers.

RESPONSE: The Board notes that in those cases where a utility has been able to show that a person has received the benefit of the company's service prior to the time of formally applying for said service, the Board has allowed for the recovery of charges. Based upon the foregoing and the fact that utilities have the ability to control the problem of unknown accounts, the Board does not believe that an amendment to 14:3-3.2 is required at this time.

COMMENT: South Jersey asks the Board to delete the word "extensive" from N.J.A.C. 14:3-3.3(d)5i. That section currently provides that utilities shall furnish conservation program information to the public through, inter alia, "extensive" advertising by public media, including newspapers, periodicals, television and radio. South Jersey maintains that the word "extensive" is subjective terminology and that specific rules for conservation program development and promotion are presently provided in N.J.A.C. 14A:20.

RESPONSE: While the word "extensive" may be somewhat subjective, the Board is of the opinion that its use is appropriate in light of the great importance that is attached to educating the public as to ways in which energy may be conserved and the quality of the environment preserved.

COMMENT: Public Service suggests that N.J.A.C. 14:3-3.6 be amended to provide that the failure of a customer to apply for service or to provide information required to apply for service is a basis for discontinuance. Public Service comments that customers annually use millions of dollars of utility service without applying for same with the losses from these unknown accounts being ultimately passed on to all ratepayers.

RESPONSE: The Board sees no reason to adopt such an amendment. First of all, the utility could discontinue service to a person who has not formally applied for service. In addition, as indicated hereinabove, if the utility can show that a person has received the benefit of service, the Board will allow the company to seek payment therefor. Accordingly, if the person who had received service does not pay, the utility may discontinue for nonpayment.

COMMENT: Public Service Electric and Gas (Public Service) suggests that N.J.A.C. 14:3-3.6(e) and N.J.A.C. 14:3-7.12A(a) be amended to require utilities to provide available outreach and bill payment assistance to recipients of State social services identified by the State. That is, Public Service asks the Board and the State to identify those customers who receive social service assistance. Public Service states that this information could help prevent service discontinuance for low-income customers who cannot afford to pay their bills. Access to this information could help Public Service distinguish between customers who are unwilling to pay their bills and customers who are unable to pay their bills. Furthermore, Public Service contends that if it knew the identity of social service recipients, it could provide such customers with information on bill payment assistance long before their accounts become delinquent and eligible for collection.

RESPONSE: The Board agrees that having the ability to identify those utility customers who receive social service assistance would be beneficial in implementing the Winter Termination Program and in eliminating unnecessary service discontinuances. Despite numerous attempts over an extended period of time however, the Board, to date, has been unable to procure this information from those federal and state agencies that maintain it. The Board cannot make available information to which it does not have access. In addition, the Board is of the further opinion that it is beyond its authority to require the State of New Jersey, or any branch thereof, to make any information available to public utilities.

COMMENT: South Jersey and Atlantic City Electric Company (Atlantic Electric) suggest that N.J.A.C. 14:3-3.8 be amended to apply to tenants as well as to homeowners, in those cases where the customer of record is the landlord and may be unable to provide access without the cooperation of the tenant. The commenters note that there are times when the customer of record does not have legal access or control of the premises.

RESPONSE: There can be no doubt that this rule pertains to a tenant in those situations where said tenant is the customer of record of the utility. However, where the tenant is, in fact, not the customer of record, the Board believes that it is appropriate for the utility to make access arrangements through the landlord.

COMMENT: Jersey Central Power & Light Company (Jersey Central) suggests that N.J.A.C. 14:3-4.5 be amended to allow the Board to deny mass customer meter test requests, if the Board believes that said requests are without just basis or cause. N.J.A.C. 14:3-4.5 provides that a utility shall perform a meter test without charge for any customer requesting such a test once in a twelve month period. Jersey Central argues that this provision, could be used as a harassment tool against a utility, for

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instance, an organized group can have thousands of members request meter tests in order to disrupt the utility's operations.

RESPONSE: To date, no utility has presented such a problem to the Board. In the event of such an occurrence, the Board is of the opinion that it would be more appropriate for the affected utility to apply to the Board for a waiver of this rule.

COMMENT: Atlantic Electric maintains that N.J.A.C. 14:3-4.7(a) should be amended to allow a utility to collect unbilled revenues for slow meters and suggests the following language: "(a) Whenever a meter is found to be registering fast **or slow** by two percent or more, an adjustment of charges shall be made in accordance with the following: . . ." Atlantic Electric argues that it is discriminatory to prohibit a utility from collecting unbilled revenues for slow meters and that other customers indirectly pay for these unbilled revenues.

RESPONSE: The Board proposed an amended to 14:3-4.7 in the New Jersey Register of February 20, 1990, at 22 N.J.R. 618(a). On February 13, 1991, the Board adopted and revised this rule, in part, by adding subsection (c) which provides that "No adjustment shall be made for a meter that is found to be registering less than 100 percent except in the case of meter tampering, non-registering meters or in circumstances in which the customer should reasonably have known that his bill did not reflect his usage." The Board sees no reason to reconsider its position at this time (see notice of adoption published elsewhere in this issue of the New Jersey Register).

COMMENT: Public Service and South Jersey suggest that N.J.A.C. 14:3-4.7(a)2 be amended to apply to gas meters in addition to electric meters.

RESPONSE: The Board agrees with the comment and notes that it is consistent with present Board policy. It was therefore an oversight in the proposal of the readoption and it was intended that gas meters should be covered by the rule.

COMMENT: South Jersey suggests that N.J.A.C. 14:3-4.8 be amended to include a reference to the Board approved meter sampling programs wherein companies with approved programs must submit, on an annual basis, a report of test results from the program on meters with capacity of less than 500 cubic feet per hour.

RESPONSE: The Board believes that the current procedures are sufficiently clear and that no further amendments are necessary at this time.

COMMENT: South Jersey and Atlantic Electric suggest that N.J.A.C. 14:3-6.3 be amended to require utilities to file annual reports summarizing finances and operations for the preceding calendar year on or before the last day of the fourth month following the close of the calendar year in order to be consistent with current Board practice.

RESPONSE: In light of the fact that different reporting dates are applicable to different industries, because of Federal reporting requirements the Board will amend this rule to reflect that annual reports will be due on or before March 31 or the due date set out on the reporting form.

COMMENT: South Jersey suggests that N.J.A.C. 14:3-6.4 be amended to provide for a six year retention period for records and reports of all accidents in order to be consistent with other specified record retention periods.

RESPONSE: The Board has adopted, by reference in various chapters, the regulations of the National Association of Regulatory Utility Commissioners with regard to requirements related to the preservation of records and sees no reason to modify this section.

COMMENT: Public Service suggests that N.J.A.C. 14:3-7.1(c) and 14:3-7.2 be amended to provide that the basis for determining the amount of security deposits for existing and new customers be the sum of the two highest bills in the previous 12-month period. Public Service notes that presently, security deposits are calculated on the basis of one month's estimated average bill increased by a second month's estimated average bill. Public Service argues that because of the seasonal characteristics of some customer usage, especially for commercial and industrial accounts, the amount of a security deposit can be inadequate to prevent losses from uncollectible bills.

New Jersey Natural Gas Company (New Jersey Natural) asks the Board to amend N.J.A.C. 14:3-7.2 to provide that the amount of security deposits for non-residential customers be based upon peak period monthly usage. New Jersey Natural notes that non-residential accounts often have cyclical usage. It is the expressed opinion of New Jersey Natural that the current practice of using average monthly usage as the basis for determining a deposit often proves to be insufficient to offset outstanding debt when service is discontinued during peak usage periods. New Jersey Natural argues that ratepayers will be protected from losses if security deposit levels for non-residential accounts are based on peak period usage.

Atlantic Electric asks the Board to amend N.J.A.C. 14:3-7.2 to provide that the amount of a security deposit be based upon "twice the highest bill rendered during the last twelve month period." Atlantic Electric argues that this change would simplify the explanation to the customer as to how deposits are calculated and would provide sufficient protection against revenue loss by the utility. South Jersey asks the Board to amend N.J.A.C. 14:3-7.2 to provide that the amount of a security deposit for commercial customers be based upon the average of the two highest months actual or estimated consumption: actual for existing customers and estimated for new customers. Alternatively, South Jersey suggests that if the twelve month average calculation is maintained, then the Board should establish a deposit that is three times the amount of the monthly average consumption.

Elizabethtown Gas Company (Elizabethtown) asks the Board to amend N.J.A.C. 14:3-7.2 to provide that the amount of a security deposit for commercial customers be based upon the average of the two highest months actual or estimated consumption.

RESPONSE: The Board is of the opinion that its current policy will provide sufficient protection to a utility if the utility exercises due diligence by acting promptly in the event of a default, particularly in the case of a commercial customer. The Board is of the further opinion that the adoption of amendments as proposed hereinabove would result in an undue burden on new customers, especially developing businesses.

COMMENT: New Jersey Natural suggests that N.J.A.C. 14:3-7.3 be amended to provide that an adequate security deposit may be required from a non-residential account where future financial instability has been determined. New Jersey Natural states that N.J.A.C. 14:3-7.3 does not provide enough protection against loss from non-residential accounts. New Jersey Natural states that it often becomes aware that a large account has financial difficulties, yet, because of that account's past payment record, New Jersey Natural can not request a security deposit.

Jersey Central asks the Board to amend N.J.A.C. 14:3-7.3 to provide that a utility may require a customer to furnish a deposit or increase an existing deposit if the utility determines that the customer's credit worthiness has become impaired. Jersey Central argues that this amendment would protect rate payers from losses associated with major bankruptcies.

RESPONSE: While recognizing that the comments have some validity, the Board is of the opinion that the determination of the financial visability of a customer should not be left to a utility. A customer who has consistently made timely payments in the past should not be penalized for a default that may not happen in the future. The Board believes that a utility will be adequately protected by its ability to request a deposit if the customer, in fact, fails to continue a schedule of prompt payments.

COMMENT: Atlantic Electric suggests that N.J.A.C. 14:3-8.2 be amended to recognize the impact resulting from the Tax Reform Act of 1986. Specifically, it is recommended that the rule be amended to recognize the tax consequences of these deposits.

RESPONSE: Pursuant to the provisions of the Tax Reform Act of 1986, deposits for the extension of facilities have been considered to be ordinary income to utilities and, therefor, taxable as ordinary income. Since the enactment of this legislation, the Board has consistently permitted utilities to recover such tax consequence as a component cost in determining the appropriate deposit and is therefore changing the language upon adoption to so reflect this policy.

COMMENT: Atlantic Electric suggests that N.J.A.C. 14:3-9.6 be amended to provide for the filing of contracts upon their execution. Presently N.J.A.C. 14:3-9.6 provides that when a utility contracts for the sale of its services at rates different from those provided in its existing tariffs, the utility shall file the contract with the Board not less than 30 days prior to the effective date of the contract. Atlantic Electric argues that this thirty day notice provision prevents it from meeting its customers needs in a timely manner.

RESPONSE: The Board is of the opinion that the review of a contract that is not consistent with a utility's tariff is in the public interest and that 30 days is the shortest period of time in which a meaningful review can be undertaken by the Board.

COMMENT: New Jersey Natural and South Jersey suggest that N.J.A.C. 14:3-7.12(c)1 be amended to include the Board's toll free telephone number.

RESPONSE: The Board agrees with this comment and will amend the rule to include the Board's toll free telephone number, 1-800-624-0241.

COMMENT: New Jersey Natural and South Jersey suggest that N.J.A.C. 14:3-7.12(e) be omitted in its entirety. This section provides that

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when a utility issues a notice of discontinuance to electric and gas customers, it shall print a statement of the customer's rights on the back of the notice under the headline "STATEMENT OF CUSTOMER'S RIGHTS." This section also provides that the headline "shall be printed in type no less than one-half inch in height (36 point) and that "the individual statements shall be printed in type no less than ⅙ inch in height (12 point)." New Jersey Natural argues that this section would require large stationery and forms and notes that this section has never been enforced or complied with as a result. Furthermore, New Jersey Natural notes that final notices are forwarded to the Board for review.

RESPONSE: The Board is of the opinion that this section should be continued at this time. If a utility has a problem in complying with the requirements of this section, it may apply to the Board for a waiver therefrom.

COMMENT: New Jersey Natural and South Jersey recommend that N.J.A.C. 14:3-7.12A(a) be amended to specify that the Winter Termination Program was established to assist customers who use gas for heating purposes. The commenters state that non-heating customers of gas utilities have sought refuge from payment of bills and loss of service under N.J.A.C. 14:3-7.12A(a), although this was never the intent of the Winter Termination Program.

RESPONSE: It has been the position of the Board that the protection of the Winter Termination Program should be extended to all residential electric and gas customers who satisfy the eligibility criteria of the Program. The Board believes this policy is necessary for the proper administration of the Program and is not aware of any difficulties arising therefrom.

COMMENT: South Jersey asks the Board to modify N.J.A.C. 14:3-7.12A(a)7 to provide that customers who are unable to pay their bills because of circumstances beyond their control should be required to provide some evidence or documentation of their circumstances, such as a doctor's notice, application for unemployment compensation, a death notice or obituary. South Jersey maintains that this requirement will limit abuse of the Winter Termination Program.

RESPONSE: The Board notes that it is the utility which will have the initial contact with a customer who claims an inability to pay because of circumstances beyond his control. At that time, the utility has the ability to request that the customer support his claim. It has been the Board's experience that, since the inception of the Program, very few disputes regarding this rule has been submitted to the Board.

COMMENT: Atlantic Electric suggests that N.J.A.C. 14:3-7.12A(i)1ii be amended to provide that a customer's failure to provide sufficient evidence to rebut a utility's charge of tampering will result in a finding that tampering did occur for the purpose of obtaining the utility service without payment and that the customer is responsible. Atlantic Electric believes that such amendment would accurately reflect the Board's original intention.

RESPONSE: The last sentence of this section reads, "Failure to do so will result in a finding that tampering did not occur for the purpose of obtaining the utility service without payment and that the customer is responsible therefor." The inclusion of the word "not" was never intended and should, therefor, be deleted. A reading of the entire section readily shows that the presence of this word is inconsistent with the meaning and intent of the section.

COMMENT: New Jersey Natural, Jersey Central and South Jersey ask the Board to amend N.J.A.C. 14:3-7.12A(b). The commenters note that customers seeking to have their service reinstated at the beginning of the heating season are sometimes able to pay a sum greater than 25 percent of their outstanding balance. They further note that customers have offered amounts greater than 25 percent to have service restored but, upon becoming aware of this provision, have withheld the difference between 25 percent of their outstanding balance and their original offer. The commenters suggest that the Board should allow the utility to consider a customer's ability to pay when determining an appropriate downpayment.

RESPONSE: The Board is of the opinion that acceptance of the proposed amendment will create a problem as to who will decide how much a customer can pay for the restoration of service and how that decision will be made. While some customers may unreasonably benefit from the protection offered by this rule, the Board believes that the public interest in having residential utility services in place during the heating season far outweighs any abuses that may occur.

COMMENT: South Jersey suggests that N.J.A.C. 14:3-7.12A(c) be amended to provide that customers who seek the protection of the Winter Termination Program shall be offered the opportunity to enroll in a budget plan. At present, this section states that "all residential electric or gas customers who are eligible for and who seek the protection of the Winter Termination Program shall enroll in a budget payment on an annual basis." South Jersey states that in practice, a utility has not been able, and the Board is reluctant, to disqualify a protected customer for refusal to participate in the budget payment plan.

RESPONSE: The Board continues to be of the opinion that enrollment in a budget payment plan is important for customers who seek the protection of the Winter Termination Program. Therefor, utilities should make an effort to place all eligible customers seeking the protection of the Program on a budget payment plan. Any inability to place a customer on such a plan should be referred to the Board.

COMMENT: Jersey Central suggests that N.J.A.C. 14:3-7.12A(d) be amended. This section provides that customers eligible for protection under the Winter Termination Program shall make good faith payments during the heating season, "if they have the ability to do so." Jersey Central maintains that customers are often able to make some form of payment but, because of other priorities and this rule, they choose not to do so.

South Jersey suggests that N.J.A.C. 14:3-7.12A(d)1 be amended to disqualify customers who do not make good faith payments of any kind during the protection period of the Winter Termination Program.

RESPONSE: The Board is of the opinion that the language contained in this rule is necessary to protect those customers who do not have the ability to make good faith payments during the heating season. In addition, the rule provides for Board review of any situation wherein a utility alleges that a customer has the ability to make a good faith payment but refuses to do so.

COMMENT: Jersey Central and South Jersey suggest that N.J.A.C. 14:3-7.12A(f) be amended to provide that during the heating season, the affected electric or gas utilities shall not discontinue the utility service of eligible residential customers for nonpayment of a security deposit or an addition to an existing security deposit. Jersey Central maintains that the intent of this section is to insure that a customer's utility service is not discontinued provided they are eligible for protection under the Winter Termination Program. Jersey Central contends that utilities should be allowed to request new deposits or additions to deposits throughout the year, but should be prohibited from service terminations for outstanding deposits during the Winter Termination Program.

RESPONSE: The Board sees no reason why issues regarding deposits cannot and should not wait until the conclusion of the heating season.

COMMENT: South Jersey asks the Board to amend N.J.A.C. 14:3-7.12A(h)11 to provide that customers who seek the protection of the Winter Termination Program shall be offered the opportunity to have a low income sealup. South Jersey states that, presently, this section requires customers to participate in the low income sealup program to be eligible for the Winter Termination Program. South Jersey notes that in practice, very few participants in the Winter Termination Program have sealups performed, yet they are not disqualified from participation in the program.

RESPONSE: Conservation of energy is an important tool in helping to reduce the usage of low income customers, many of whom reside in homes that are not energy efficient. Therefore, a utility should advice an eligible customer of the low income sealup program when said customer has been identified by the utility. If such customer refuses to participate, the rule provides for the utility to refer the name of the customer to the Board. As there has been no meaningful referral of refusals to participate, the Board assumes that no real problem in this area exists.

COMMENT: New Jersey Natural suggests that N.J.A.C. 14:3-7.12A(i)2 be eliminated because a customer who has obtained unauthorized service and who has said service restored by paying only 25 percent of the bill will be rewarded at the expense of utility ratepayers. New Jersey Natural argues that such customers should be required to pay the entire amount due, or at the minimum, 25 percent of the previous balance plus the full amount of the unauthorized use.

South Jersey strongly opposes extending protected status to any customer who causes the unauthorized restoration of gas service. South Jersey contends that unauthorized restoration creates a safety hazard and maintains that individuals should make full payment for the unauthorized use as a precondition for the continuation of service during the heating season.

RESPONSE: Since the inception of the Winter Termination Program rules, the Board has not treated the unauthorized restoration of service in the same manner that it treats tampering. The primary reason for this distinction is that with unauthorized restoration, the energy consumed will continue to be registered while with tampering there is an attempt to eliminate, in whole or in part, the registration of usage to avoid

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payment. While in no way condoning the unauthorized restoration of service, the Board is of the opinion that a remedy short of termination during the heating season is appropriate.

COMMENT: The New Jersey Utilities Association (NJUA), South Jersey, Public Service and New Jersey Natural suggest that N.J.A.C. 14:3-7.13 be amended to limit the availability of deferred payment agreements to two agreements per customer in a one year period. Presently, N.J.A.C. 14:3-7.13 allows the Board to order a utility to accept more than one deferred payment agreement in a year. The commenters maintain that customers often default on their first deferred payment agreement and, through Board intervention, obtain three or more deferred payment agreements. When customers violate the terms of these deferred payment agreements, they avoid disconnection by paying 25 percent of the total outstanding bill. If customers renege on deferred payment agreements, their 25 percent down payments build up larger and larger unpaid balances. Often, customers promise to pay to have their service restored, with no intention on their part to keep the arrangements agreed to.

RESPONSE: The Board is of the opinion that many of the problems associated with deferred payment agreements can be resolved if utilities utilized a more uniform procedure and made a more concerted effort to consider the customer's ability to pay when negotiating the initial deferred agreement. On many occasions, the Board has found the initial agreement to be well beyond the means of the customer thereby requiring a subsequent payment arrangement. The Board further notes that situations where a customer is afforded more than two deferred payment agreements constitute a very small percentage of the total collection problem.

COMMENT: NJUA, New Jersey Natural, Jersey Central and South Jersey suggest that the limiting of a delinquent customer's initial down payment to no more than 25 percent of the total outstanding bill at the time the agreement is made, as set out in N.J.A.C. 14:3-7.13, apply only to the first deferred payment agreement made by a customer. The commenters suggest that the Board should consider a customer's ability to pay when negotiating a deferred payment agreement. They further argue that while customers in default sometimes offer down payments exceeding 25 percent of their total outstanding bill, they oftentimes withdraw the offer and pay only the 25 percent minimum required by the rule, after they become aware of this provision. As a result, the commenters argue that customers who promptly pay their bills bear the expense for the delinquency and debts of others.

RESPONSE: While restricting a down payment to not more than 25 percent of the outstanding bill may benefit some customers in a manner inconsistent with the intent of the rule, the Board is of the opinion that the public policy benefits of the section outweigh any adverse economic impact.

COMMENT: Atlantic Electric suggests that N.J.A.C. 14:3-7.13(d) be amended to provide that the Board shall indicate to the customer and the utility the terms and conditions of deferred payment agreements and the subsequent collection payment should default occur.

RESPONSE: The Board is of the opinion that deferred payment agreements work best when they are negotiated between a utility and its customer with the Board acting in an intermediary capacity. The flexibility contained in the section allows for a case by case analysis of a customer's ability to pay against the utility's interest in collecting its outstanding charges. In the event of a default on a deferred agreement, the utility has the ability to discontinue service for nonpayment. The public interest, however, requires that the Board maintain that amount of flexibility needed to review the sometimes changing facts of a case at any time.

COMMENT: South Jersey comments that N.J.A.C. 14:3-7.16(h) be amended to allow a utility to pursue resolution of diversion of service cases and suggests that this section ". . . be reviewed jointly by the Board staff and utility personnel for changes to properly place responsibility and provide a mechanism for diversion complaint resolution."

RESPONSE: The Board will instruct its staff to meet with appropriate utility personnel in order to review this section and submit recommendations for amendments to the Board.

COMMENT: With regard to N.J.A.C. 14:3-4, Jersey Central relied on comments previously submitted in response to a request for comments published in the February 20, 1990 New Jersey Register at 22 N.J.R. 618(a). In addition, South Jersey indicated its reliance on similarly submitted comments regarding N.J.A.C. 14:3-3.2, published at 22 N.J.R. 615(a); 14:3-3.6, published at 22 N.J.R. 616(a); 14:3-4.5, published at 22 N.J.R. 617(a); 14:3-4.7, published at 22 N.J.R. 618(a); 14:3-4.10, published at 22 N.J.R. 617(a); and 14:3-7.5, published at 22 N.J.R. 619(a).

RESPONSE: The Board responses to these comments appear in this issue of the New Jersey Register at the cites of the specific amendment adoption notices.

COMMENT: The Gloucester County Improvement Authority, the Union County Utilities Authority and the Mercer County Improvement Authority have submitted comments wherein they state that there are inherent differences between government owned and investor owned solid waste disposal utilities. It is the position of these commenters that as a consequence of these differences, the Board's rules create an unnecessarily cumbersome and burdensome regulatory process for governmental owned disposal facilities. In order to improve that process without compromising the goals of regulation, the commenters suggest that the Board adopt rules that: permit a government owned utility to seek preapproval of the ratemaking treatment of utility plant at the time financing approval is sought; implement the provisions of the McEnroe Act, N.J.S.A. 13E:1-136 et seq.; permit government owned disposal utilities to elect the debt service coverage rate making methodology; grant a rebuttable presumption of the reasonableness of an approved budget of a government owned disposal utility; address the ratemaking treatment of host community benefit agreements; govern the financial aspects of closure and post closure plans; address the cash working capital requirements of government owned disposal utilities; govern the ratemaking treatment of minor capital and expense items; provide that contracts that are competitively bid are deemed prima facie reasonable; specify that information that must be contained in public notices; and permit government owned utilities to use adjustment clauses in their tariffs.

RESPONSE: Governor Florio has recently indicated his intent to transfer the Board's regulatory authority over solid waste matters to the Department of Environmental Protection (DEP). As the regulation of the solid waste industry in general, and of government owned disposal utilities in particular, is subject to major revisions and may well be redefined as a result of the proposed reorganization, and as said reorganization is presently under consideration, the Board is of the opinion that any action on the suggested rulemaking be held in abeyance until such time that the future responsibility for solid waste regulation has been more clearly defined.

Full text of the adopted new rules proposed for readoption can be found in the New Jersey Administrative Code at N.J.A.C. 14:3.

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

14:3-1.1 Words defined

The following words and terms when used in *[Chapters 3 through 10 of this Title]* ***N.J.A.C. 14:3 through 14:10*** shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the Board of Public *[Utility Commissioners]* ***Utilities*** of New Jersey.

. . .

14:3-3.6 Basis of discontinuance of service

(a) The utility shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue serivce for the following reasons:

1.-2. (No change.)

3. For any of the following acts or omissions on the part of the customer:

i.-iii. (No change.)

iv. Customer moving from the premises, unless the customer *[request]* ***requests*** that service be continued;

v.-xi. (No change.)

4. (No change.)

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

(d) Discontinuance of residential service for nonpayment is prohibited if a medical emergency exists within the premises which would be aggravated by discontinuance of service and the customer gives reasonable proof of inability to pay. Discontinuance shall be prohibited for a period of up to two months when a customer submits a physician's statement in writing to the utility as to the existence of the emergency, its nature and probable duration, and that the termination of service will aggravate the medical emergency. Recertification by the physician as to continuance of the medical emergency shall be submitted to the utility after 30 days. However, at the

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end of such period of emergency, the customer shall still remain liable for payment of service(s) rendered, subject to the provisions of N.J.A.C. 14:3-7.13. During the period of medical emergency the customer shall pay telephone tolls which are in excess of the average bills of the six months preceding the first 30-day period.

1. The *[board]* ***Board*** may extend the 60-day period for good cause.

2. (No change.)

14:3-3.7 Basis of restoration

Service shall be restored upon proper application when the conditions under which such service was discontinued are corrected, and upon the payment of all proper charges due from the customer provided in the tariff of the utility, or if the *[board]* ***Board*** so directs when a complaint involving such matter is pending before it.

14:3-4.7 Adjustment of charges

(a) Whenever a meter is found to be registering fast by more than two per cent, or in the case of water meters, more than one and one half percent, an adjustment of charges shall be made in accordance with the following:

1. (No change.)

2. In all other cases the adjustment shall be such percentage as the meter is found to be in error at the time of test on one-half of the total amount of the billing affected by the fast meter adjusted to 100 percent since the previous test, but not to exceed a period of six years for electric ***and gas*** meters subject to testing by an approved scientific sampling technique.

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

14:3-6.3 Periodic reports

Every utility shall file with the Board on or before March 31 of each year ***, or on or before the due date noted on the report form,*** a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the Board. In special instances utilities may be required to submit reports quarterly and monthly as directed by the Board. Other periodic reports shall be filed on or before the due date noted on the report form.

14:3-6.5 Public records

(a) All records, except those records set forth in *[subsection]* (d) *[of this Section]* ***below***, which specifically are required by statute to be made, maintained or kept by and for the Board of Public *[Utility Commissioners]* ***Utilities*** shall be public records within the meaning of *[Chapters 73,]* P.L. 1963 ***, c.73***.

(b)-(e) (No change.)

14:3-7.9 Form of bill for metered service

(a) (No change.)

(b) Rules concerning estimated bills for residential customers are as follows:

1.-2. (No change.)

3. When a utility company estimates an account for four consecutive billing periods (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the company must initiate a program to mail (an important notice) a notice marked "Important Notice" to the customer on the fifth and seventh months explaining that a meter reading must be obtained and said notice must explain the penalty for failure to complete an actual meter reading. After all reasonable means to obtain a meter reading have been exhausted, the company may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board of Public *[Utility Commissioners have]* ***Utilities has*** been so notified and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for non-payment.

4. Utility companies must sumbit ***to*** the Board of Public Utilities a statement detailing their estimating procedures.

5.-7. (No change.)

14:3-7.12 Notice of discontinuance

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

(c) On all notices of discontinuance to residential customers, there shall be included:

1. A statement that the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities and the address and telephone number of the Board. The telephone *[number]* ***numbers*** of the Board to be indicated on such statement *[is]* ***are*** (201) 648-2350 ***and 1-800-624-0241 (toll free)***.

2.-3. (No change.)

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

14:3-7.12A Winter termination of residential electric and gas service (Winter Termination Program)

(a)-(h) (No change.)

(i) An electric or gas utility may terminate service to a customer who is eligible for the Winter Termination Program if said customer connects, disconnects, or otherwise tampers with the meters, pipes, wires or conduits of the utility for the purpose of obtaining electric or gas service without payment therefor.

1. No discontinuance shall occur until the customer has been afforded all reasonable due process considerations, including an opportunity to be heard. Toward this end, the electric and gas utilities shall comply with the following requirements prior to discontinuing service to any customer who has allegedly tampered with the meter or other company facilities resulting in the receipt of unmetered service:

i. (No change.)

ii. The Board shall have seven days after receipt of said information to complete an impartial and informal investigation of the matter. In the event that a utility comes forward with sufficient credible evidence that shows that the meters, pipes, wires, conduits or attachments through which a customer is thus being furnished with electric or gas service have been tampered with, the Board shall immediately notify the customer and the burden shall shift to the customer to come forward with sufficient evidence to rebut the charges of the utility. Failure to do so will result in a finding that tampering did *[not]* occur for the purpose of obtaining the utility service without payment and that the customer is responsible therefor;

iii.-iv. (No change.)

2. (No change.)

14:3-8.2 Residential land developer; extension other than telephone

(a) Except as otherwise provided, where applications for extensions into newly developed tracts of land are made by individuals, partnerships or corporations interested in the development or sale of land, but not as ultimate residents, the utility may require a deposit from the applicant covering the estimated cost of the extension as defined in *[(b) above]* ***N.J.A.C. 14:3-8.1(b)***, necessary to serve the tract. ***The estimated cost of the extension shall include the tax consequences incurred by the utility as a result of receiving deposits under the Tax Reform Act of 1986.*** The deposit shall be subject to adjustment when the actual cost of construction is determined. The actual cost of construction shall be determined and presented to the developer within 30 days after actual costs are known, but not more than 90 days after the date construction is completed.

(b) (No change.)

(c) Except as otherwise provided, the deposit shall be returned in ***an*** amount equal to five times the estimated annual revenue from each such completion and occupancy. The deposit for a water or sewer main extension shall be returned in an amount equal to two and one-half times the estimated annual revenue from each such completion and occupancy and from fire protection charges on said extension. If during the *[ten]* ***10***-year period from the date of the original deposit, the actual revenue during any year of said *[ten]* ***10***-year period from premises abutting upon said extension and from amounts received from the municipality for fire protection service in the case of water main extensions shall exceed the annual revenue which was the basis for the previous deposit return, there shall be returned to the depositor an amount equal to five times such excess, two and one-half times such excess in the case of a water or sewer main extension. In no event shall more than the deposit be returned to the depositor nor shall any part of the deposit remaining

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after *[ten]* ***10*** years from the date of the original deposit be returned.

EXAMPLE
(No change.)

14:3-10.6 Issuance of certificate
(a)-(b) (No change.)
(c) The *[board]* ***Board*** may deny, after hearing, any request for authority to issue or transfer a certificate of public convenience and necessity which by such issuance or transfer could result in duplicate authority being granted to engage in the business of solid waste collection and/or disposal.

SUBCHAPTER 4. *[SOLID WASTE INDUSTRIES]*
(RESERVED)

[14:9-4.1] ***14:3-10.20*** Certificates for solid waste disposal
(a) No person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a solid waste collector or solid waste disposal operator authorizing operation for the collection or disposal of solid waste, if such person, or any such controlling person, controlled person, or person under common control, holds another certificate to operate as a solid waste collector or solid waste disposal operator.
(b) For the purpose of this regulation, where reference is made to control (in referring to a relationship between any persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.
(c) The Board may, for good cause shown consistent with the public interest, find that multiple certificates shall be issued, notwithstanding the provisions set forth in subsections (a) and (b) of this Section.
(d) This rule does not prohibit a person, or any person controlling, controlled by or under common control with such person from holding one certificate as a solid waste collector and one certificate as a solid waste disposal operator.

[14:9-4.2] ***14:3-10.21*** Property, equipment and facilities
(a) All public utilities engaged in the business of solid waste collection or solid waste disposal shall own and have title to all property, equipment and facilities used and useful in providing safe, adequate and proper service.
(b) The solid waste utility may use property, equipment and facilities to which it does not have title provided it enters into an agreement (lease) and said agreement is filed with the Board. Such filing shall contain a statement therein whereby the lessor of the property, equipment and facilities to be used for utility purposes agrees that his interest in such property, equipment and facilities becomes subject to the jurisdiction and regulation of the Board for term of said agreement.
(c) The Board may for good cause shown determine the extent of the property, equipment and facilities which may be used by the solid waste utility not having title thereto.

(a)

BOARD OF PUBLIC UTILITIES

Applications; Proof of Identity; Proof of Prior Address

Adopted Amendment: N.J.A.C. 14:3-3.2

Proposed: February 20, 1990 at 22 N.J.R. 615(a).
Adopted: February 13, 1991 by the Board of Public Utilities, Scott A. Weiner, President.
Filed: February 20, 1991 as R.1991 d.144, **without change.**
Authority: N.J.S.A. 48:2-13.
BPU Docket Number: AX88081017U.
Effective Date: May 6, 1991.
Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:
An amendment to N.J.A.C. 14:3-3.2 was initially proposed at 21 N.J.R. 2004(a). As a result of comments received, substantive changes were made resulting in a reproposal of the amendment at 22 N.J.R. 615(a). In addition, the Board held a public hearing in this matter on March 8, 1990, and also received written comments. The Board did not utilize a hearing officer at the hearing.

List of Commenters:
The following is a list of commenters who either submitted written comments or testified at the public hearing held by the Board on this and other proposals on March 8, 1990.

Jane F. Kelly, Esq.
Executive Director
New Jersey Utilities Association

Patricia Ann Meyer, Esq.
New Jersey Bell Telephone Company

Tom McGann
New Jersey Bell Telephone Company

Richard Fryling, Jr., Esq.
Public Service Electric and Gas Company

James F. Dieterle
Mgr., Customer Services Planning
Public Service Electric and Gas Company

Charles Biscieglia
Senior V.P., Operations
South Jersey Gas Company

Janet T. Nickels
Ass't V.P., Operations
South Jersey Gas Company

Ms. Gene Terkelsen, Chairperson
South Jersey Gas Company
Consumer Advisory Council

John L. Carley, Esq.
Orange and Rockland Utilities, Inc.
Rockland Electric Company

George Finkelstein, Esq.
AT&T

Robert A. Gerber, Esq.
Hackensack Water Company

Deborah Levi
Consumer Advisory Panel

Roger P. Frye, Esq.
New Jersey-American Water Company

Richard M. Stokes, Esq.
Atlantic City Electric Company

Merry Simmons
Admin. of Customer Inquiry and Billing
Atlantic City Electric Company

Richard E. Moeller
Senior Legislative Representative
Atlantic City Electric Company

Dennis G. Sullivan, Esq.
Middlesex Water Company

Michael P. Walsh, P.E.
National Association of Water Companies—New Jersey Chapter

Scott L. Guibord, Esq.
Jersey Central Power & Light Company

Donald L. Carey
Supervisor, Regulatory Activity
Jersey Central Power & Light Company

Bill Zdeb
Jersey Central Power & Light Company

George D. Walling
Ass't. V.P., Customer Relations
New Jersey Natural Gas Company.

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Edward F. Cash
Vice President
Elizabethtown Gas Co.

COMMENT: Public Service Electric and Gas Company (PSE&G), South Jersey Gas Company (SJG), and New Jersey Natural Gas Company (NJNG) suggest that the amendment should also require existing customers who are applying for service at a new address within the servicing utility's service territory to furnish proof of identity and proof of prior address.

RESPONSE: The amendment permits a utility to require proof of identity and proof of prior address with any application for service. Accordingly, this amendment pertains to not only applications for service made by prospective customers but also to those applications made by existing customers who move to a new address within the same utility service territory.

COMMENT: PSE&G, SJG and NJNG request that social security numbers be included as a required independent means of proof of customer identification.

RESPONSE: The Board did not intend social security numbers to be used as a means of identification. Therefore, while the amendment does not preclude a utility from requesting a customer's social security number, failure or refusal to provide same shall not be grounds for the denial of service to such customer.

COMMENT: PSE&G, SJG, NJNG, New Jersey Bell Telephone Company (NJB), Jersey Central Power & Light Company (JCP&L) and the New Jersey Utilities Association (NJUA) suggest that two proofs of identity be required rather than one, at least when no photographic identification is available.

RESPONSE: Inasmuch as the amendment will permit a utility to require proof of prior address, the Board believes that one proof of identity is sufficient.

COMMENT: JCP&L suggests that any employment identification include a photograph.

RESPONSE: The Board finds that such a requirement would be unduly burdensome in that all employees are not provided with photographic identification. While a utility is not proscribed from inquiring as to whether a customer has a photographic identification, the failure to provide same shall not be a grounds for the denial of service to such customer.

Full text of the adoption follows.

14:3-3.2 Applications

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

(c) A utility may require proof of identity with an application for service. An applicant for service may provide any one of the following items to establish identity:

1. A valid driver's license;
2. Employment identification;
3. An unexpired foreign passport;
4. A U.S. passport;
5. An alien registration card with photograph;
6. A county identification card;
7. A county welfare identification card;
8. A student identification card; or
9. A military identification card.

(d) A utility may require proof of prior address with an application for service. An applicant for service may provide any one of the following items to establish prior address:

1. A notarized lease, deed, or letter from the present landlord;
2. A current auto insurance policy;
3. A bank statement;
4. A credit card statement;
5. Mailing envelopes addressed to the applicant at the previous address, post-marked no later than two months piror to the date of application; or
6. A letter of credit worthiness from a utility.

(a)

BOARD OF PUBLIC UTILITIES

Basis of Discontinuance of Service
Adopted Amendment: N.J.A.C. 14:3-3.6

Proposed: February 20, 1990 at 22 N.J.R. 616(a).
Adopted: February 13, 1991 by the Board of Public Utilities, Scott A. Weiner, President.
Filed: February 20, 1991 as R.1991 d.145, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Authority: N.J.S.A. 48:2-13.
BPU Docket Number: AX88081013U
Effective Date: May 6, 1991.
Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:

An amendment to N.J.A.C. 14:3-3.6 was initially proposed at 21 N.J.R. 1650(a). As a result of comments received, substantive changes were made resulting in a reproposal of the amendment at 22 N.J.R. 616(a). In addition, the Board held a public hearing in this matter on March 8, 1990, and received written comments. The Board did not utilize a hearing officer at this hearing. A complete list of individuals and their affiliations, who presented written and hearing comments on the proposed amendments to N.J.A.C. 14:3 adopted herein and elsewhere in this issue of the New Jersey Register is included in the notice of adoption for the N.J.A.C. 14:3-3.2 amendment.

COMMENT: New Jersey Natural Gas Company (NJNG) states that while it does not discontinue gas service for nonpayment of repair charges, merchandise charges and non-tariff contracted charges, it does include delinquent repair charges in the outstanding accounts receivable appearing on past due notices. NJNG further states that repair charges are separately itemized on monthly gas bills as a convenience to its customers. NJNG asserts that if it could no longer include repair charges on past due notices, it would have to develop, at a cost in excess of $60,000, a separate billing system, the annual costs of which would have to be borne by ratepayers.

RESPONSE: The amendment does not preclude a utility from including repair charges in the outstanding accounts receivables appearing on past due notices as long as the utility does not discontinue or threaten to discontinue service for nonpayment of such repair charges.

COMMENT: New Jersey Bell Telephone Company (NJB) asserts that clarification of the language which limits discontinuance for certain charges is required in order to evaluate the impact on the complex structure of telecommunication services and billings which have arisen since divestiture. NJB adds that this impact could extend not only to NJB, but also to other carriers for whom NJB provides billing services. In its comments made at the March 8, 1990 hearing, NJB referred to the term "non-tariff contracted service charge" and requested clarification thereof.

RESPONSE: The Board notes that the complete term as set out in the amendment is "non-tariff contracted service charges between the customer and the utility." The billing of charges for interexchange carriers, alternate operator service or AOS providers and 900/700 service providers as well as long distance carriers is contracted for between NJB and other utilities, carriers or service providers. The amendment seeks only to prohibit the discontinuance of an individual customer's service resulting from the nonpayment of a charge for an ancillary contracted service which is not specifically related to or germane to the customer's conventional use of the utility's services. For example, non-tariff contracted service charges between a customer and NJB would refer to such items as Yellow Page advertising and customer premises wiring.

COMMENT: The National Association of Water Companies (NAWC) submits that discontinuance should continue for nonpayment of charges for non-tariff contracted services and repairs related to such items as frozen meters, service lines or other utility plant. NAWC states that should nonpayment of repair charges not be subject to discontinuance, the resulting higher collection costs and uncollected charges would have to be recouped from the "paying customer class." NAWC does not oppose the elimination of discontinuation of service as a remedy for the nonpayment of charges for merchandise or for non-tariff contracted services which are not utility service related.

RESPONSE: The Board notes that repair charges refer to appliances in general and not to meters, service lines of other utility plant in service.

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COMMENT: Public Service Electric and Gas Company (PSE&G) states that, prior to a discontinuance, sufficient notice is provided in order that a customer may avert or minimize any adverse impact which may result from said discontinuance. Any customer who can pay may telephone PSE&G 24 hours a day, seven days a week following service disconnection. PSE&G urges the Board, in concert with the State's energy utilities, to renew efforts to obtain social service recipient identification data from the New Jersey Department of Human Services for coding on residential customer accounts. PSE&G submits that a distinction should be drawn between those customers who are unwilling to pay their utility bills and those customers who are unable to do so. Despite its extensive outreach activities, PSE&G acknowledges that most customers who are eligible for the "Hot Dollars Program" and the Board's "Winter Termination Program" do not come forth and identify themselves. Inability to identify social service recipients increases the difficulty to effectively outreach and inform those individuals of available government assistance for utility bill payments. PSE&G states that with customer coding, such information could be provided along with a referral to an appropriate social service agency prior to the time an account would be subjected to discontinuance activities. While opposing its adoption, PSE&G argues that if this amendment is implemented, it should apply only to those customers who are known by the utility to be social service recipients and require the coding of accounts by the utility where such knowledge has been obtained from the State.

RESPONSE: The Board notes that its past efforts to obtain social service recipient information from the Department of Human Services were unsuccessful because of privacy considerations which constrained that agency. While this effort should be continued, the Board believes that this rule should not be contigent upon receipt of this type of information. Many people who are eligible for social service benefits simply do not apply for them. In addition, the Board has knowledge of past incidents where intervention by social service organizations was, by itself, insufficient to divert a serious danger to human health or safety. Indeed, even those customers that are not eligible for social service benefits are not immune from unanticipated financial difficulties which could render them unable to pay their utility bills. The Board is of the opinion that the decision to discontinue service should be made on a case by case basis with recognition of any extenuating circumstances which are beyond the control of the customer. The prohibition of service discontinuations on Fridays, weekends, holidays or the day before a holiday will add a layer of protection that may substantially reduce the potential for health and safety threats.

COMMENT: NJNG, NJB, NAWC, PSE&G, Jersey Central Power & Light Company (JCP&L), South Jersey Gas Company (SJG), Orange and Rockland Utilities, Inc. (O & R), the New Jersey Utilities Association (NJUA) and AT&T argue that existing company policies and practices as well as current Board rules and procedures adequately protect the rights of customers. JCP&L, PSE&G and NJNG state that they accept arrangements for service restorations on a 24 hour seven-days a week basis. JCP&L also states that it has "trouble line" personnel available 16 hours a day, including weekends and holidays, with service personnel on call between 12:00 midnight and 8:00 A.M. SJG cites those of its policies which it feels minimize the potential for harm that may be caused by a discontinuance: a conservative company termination policy during periods of extremely cold weather; the special coding of elderly customers and those who are on life sustaining equipment; third party notification of a pending service termination; and the Winter Termination Program. The utilities further note that customers are initially given at least 10 days in which to pay a bill, with an additional seven days notice of intention to discontinue service. In addition, the utilities state that the discontinuance notice form contains a statement of customer rights which addresses payment arrangements and provides residential customers with the Board "Hotline" telephone numbers that may be reached after normal working hours.

RESPONSE: The intent of this amendment is to provide customers with an opportunity to arrange for the restoration of service during the utility's normal business hours. The Board is of the opinion that this process must include the opportunity for the customer to seek monetary assistance by contacting social service agencies, which are only open during normal business hours. The Board notes that not all utilities have 24 hour customer services and some that do may not be staffed with personnel who have the authority to negotiate a deferred payment agreement.

COMMENT: PSE&G, SJG and the Consumer Advisory Panel (CAP) suggest that if the amendment is adopted, it should not pertain to those accounts where the customer has, in fact, requested that service be discontinued.

RESPONSE: It is not the intent of the amendment to preclude a utility from discontinuing service when such discontinuance is requested by the customer. Therefore, for purposes of clarification, the Board will amend the last sentence of N.J.A.C. 14:3-3.6(c) by including the word "involuntary" before the word "termination."

COMMENT: PSE&G states that if adopted, the amendment should specifically exclude the following: accounts involved with theft of service; accounts where service has been illegally restored following a prior discontinuance for nonpayment; accounts which have been, in the past, discontinued for nonpayment; accounts where service had been restored based upon a payment agreement which was not honored; and accounts where service is being used but the customer of record is not known.

RESPONSE: In situations where theft of service has been discovered, it has been the Board's experience that the customary practice of utilities has been to correct the situation and bill for the unmetered use rather than to seek termination of the service. Accordingly, if the outstanding issue in a particular case is collection for unmetered service, the amendment should apply. Of course, the utility may discontinue service in the event that the theft of service has resulted in a threat to safety. The amendment, however, should not apply to those situations where an account has had service illegally restored following a prior valid discontinuance. This is consistent with past Board policy. The Board is of the further opinion that the amendment should apply to those accounts where services may have been discontinued some time in the past, or where service had been reconnected pursuant to a payment agreement that could not be met. This is because those customers who are experiencing financial difficulties are precisely those who are meant to be protected by this rule. Finally, the Board also believes that there is no basis to exclude accounts where service is being provided but where there is no named customer of record. It is incumbent upon the utility to ascertain to whom service is being supplied.

COMMENT: NJNG states that the amendment does not define "holiday" as a day on which the utility's offices are closed. This, NJNG believes, will lead to individual interpretations of what constitutes a holiday and, therefore, expand the adverse impact of the rule.

RESPONSE: As it has in the past, the Board uses the word "holiday" to refer to recognized state and federal holidays. The Board is unaware of any confusion or problems that have been caused by this interpretation.

COMMENT: NJNG, PSE&G, O&R, Atlantic City Electric Company (ACE), NJB, AT&T, JCP&L and SJG argue that the amendment is unnecessary and that it unjustifiably increases the financial exposure of a utility with regard to delinquencies and uncollectable accounts. NJNG states that 94 percent of its customer base is residential, which leaves an insufficient volume of field collection activity which may be culled from the remaining 6 percent. In order to compensate for this reduction in effective field collection activity, NJNG asserts that two additional accounts collectors would be required at an additional annual operating expense of $95,542. SJG states that the amendment would effectively reduce its collection/shut-off week from 4½ days to 4 days, a reduction of 11 percent. JCP&L states that its meter reader collection concept, which allows for the collection of delinquent bills or the discontinuance of service during the normal monthly scheduled meter reading period, would have to be modified at a cost of $27,500 annually.

RESPONSE: The Board notes that the rule precludes the discontinuance of residential service at particular times. It does not preclude the discontinuance of other collection activities. The Board is of the opinion that the costs to utilities in modifying current collection/discontinuance methods are far outweighed by benefits to the public.

Full text of the adoption follows (additions to the proposal are indicated in boldface with asterisks ***thus***).

14:3-3.6 Basis of discontinuance of service

(a) The utility shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

1.-2. (No change.)

3. For any of the following acts or omissions on the part of the customer:

i. Nonpayment of a valid bill due for service furnished at a present or previous location. However, nonpayment for business service shall not be a reason for discontinuance of residence service, except in cases of diversion of service pursuant to N.J.A.C. 14:3-7.16, and

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service shall not be discontinued for nonpayment of repair charges, merchandise charges and non-tariff contracted service charges between the customer and the utility, nor shall notice threatening such discontinuance be given.

ii.-ix. (No change.)

4. (No change.)

(b) (No change.)

(c) Public utilities shall not discontinue residential service except between the hours of 8:00 A.M. and 4:00 P.M. Monday through Thursday, unless there is a safety related emergency. There shall be no ***involuntary*** termination of service on Fridays, Saturdays, and Sundays or on the day before a holiday or on a holiday, absent such emergency.

(d) (No change.)

(a)

BOARD OF PUBLIC UTILITIES

Tests by Utility on Request and Meter Replacement

Adopted Amendment: N.J.A.C. 14:3-4.5

Proposed: February 20, 1990 at 22 N.J.R. 617(a).

Adopted: February 13, 1991 by the Board of Public Utilities, Scott A. Weiner, President

Filed: February 20, 1991 as R.1991 d.146, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) **and with the proposed amendment to N.J.A.C. 14:3-4.10 not adopted.**

Authority: N.J.S.A. 48:2-13.

BPU Docket Number: AX88030431.

Effective Date: May 6, 1991.

Expiration Date: May 6, 1996.

Summary of Public Comments and Board Responses:

Amendments to N.J.A.C. 14:3-4.5 and 4.10 were initially proposed at 21 N.J.R. 1650(b). As a result of comments received, substantive changes were made resulting in the reproposal of the amendments at 22 N.J.R. 617(a). In addition, the Board held a public hearing in this matter on March 8, 1990 and received written comments. Based upon the comments received and summarized below, the Board has adopted the proposed amendment to N.J.A.C. 14:3-4.5 with substantive changes not requiring additional public notice and comment, and has not adopted the proposed amendment to N.J.A.C. 14:3-4.10. The Board did not utilize a hearing officer at this hearing.

A complete list of individuals, and their affiliations, who presented written and hearing comments on the proposed amendments to N.J.A.C. 14:3 adopted herein and elsewhere in this issue of the New Jersey Register is included in the notice of adoption for the N.J.A.C. 14:3-3.2 amendment.

N.J.A.C. 14:3-4.5

COMMENT: Atlantic City Electric Company (ACE), New Jersey Natural Gas Company (NJNG), Public Service Electric and Gas Company (PSE&G), Jersey Central Powe & Light Company (JCP&L), South Jersey Gas Company (SJG) and the New Jersey Utilities Association (NJUA) request clarification of proposed N.J.A.C. 14:3-4.5(c). These commenters submit that numerous factors and conditions which are unrelated to meter accuracy may give rise to a billing dispute. Such factors include estimated readings, weather conditions, incorrect meter readings, appliance usage, addition of appliances and changes in customer lifestyle. The commenters suggest that it is inadvisable to inform customers of their right to a meter test unless the accuracy of the meter has been called into question as to do otherwise would result in unnecessary increases in the number of meter tests performed and increases in the costs related thereto. In addition, the commenters state that in light of the outstanding record of accuracy for meters the aforementioned factors which may give rise to a billing dispute are fully explored prior to the decision to pull a meter for testing.

RESPONSE: The Board finds the position of the commenters to be valid in that the intent of the proposed amendment is to apprise customers of their rights respecting Board witnessed and/or conducted meter tests only when the accuracy of the meter has been brought into question. The Board believes that this intent can be realized by modifying the beginning of N.J.A.C. 14:3-4.5(c) to read, "when a billing dispute is known to exist, **and a decision has been made to test the meter,** the electric, gas and water utility shall . . ."

COMMENT: The New Jersey-American Water Company questions whether a utility should give customers notice of the meter testing options through methods such as bill inserts or specific written notice.

RESPONSE: The Board's intent is that specific notification of the testing options be given to an individual customer as opposed to a general notification to all customers. After all explanations of the possible causes of a disputed bill have been exhausted and a decision has been made to test the meter, either upon the suggestion of the utility or the request of the customer, the utility should advise the customer of the testing options.

COMMENT: PSE&G, SJG, Elizabethtown Water Company (EWC) and the National Association for Water Companies (NAWC) assert that the proposed amendment will greatly increase the number of meter tests performed and the total costs related thereto.

RESPONSE: By limiting the notice to situations where it has been decided to test the meter, the proposed amendment should not result in any increase in the number of inspections performed. Any additional costs incurred will result if more customers choose to have an inspection performed or witnessed by the Board. The Board believes that any such increase in costs will not be substantial when weighed against the benefit of providing the customer with an impartial meter test.

N.J.A.C. 14:3-4.10

COMMENT: NAWC and NJUA state that this proposed amendment is not feasible with regard to water meters in that the internal parts of such meters will dry out if not submerged in water.

RESPONSE: The Board has determined that if a water meter has been retained for 30 days out of water, its internal parts are likely to dry out thereby affecting the accuracy of the meter. This would directly frustrate both the purpose and intent of this proposal.

COMMENT: NJUA states that the proposed amendment would cause storage problems for electric companies as tested meters would have to be retained at the utility's testing facilities. JCP&L further states that as it usually tests meters on site, meters are generally able to be left in place.

RESPONSE: Because the utility would be the custodian of the meter, there is no way to insure that a second testing of a meter would be any more reliable than the first. The Board is of the opinion that the provisions of N.J.A.C. 14:3-4.5(c), which requires a utility to notify a customer of the meter testing options prior to the removal of the meter, adequately protects the public interest. Accordingly, the Board has determined that the proposed amendment to N.J.A.C. 14:3-4.10 should not be and is hereby not adopted.

Full text of the adoption follows (additions indicated in bold face and asterisks ***thus***: deletions indicated in brackets with asterisks *[thus]*).

14:3-4.5 Tests by utility on request

(a) Each utility shall, without charge, make a test of the accuracy of a meter upon request of a customer, provided such customer does not make a request for test more frequently than once in 12 months.

(b) A report giving results of such tests shall be made to the customer, and a complete record of such tests shall be kept on file at the office of the utility in accordance with N.J.A.C. 14:3-4.9, Meter records.

(c) When a billing dispute is known to exist, the electric, gas or water utility shall, prior to removing the meter, advise the customer that the customer may have the meter tested by the utility or may have the Board either conduct a test of the meter or witness a testing of the meter by the utility, and that in any event the customer may have the test witnessed by a third party.

(d) A meter test arising from a billing dispute may be appropriate in instances which include, but are not limited to, unexplained increased consumption, crossed meters, consumption while account is vacant or any other instance where the meter's accuracy might be an issue in a bill dispute.

14:3-4.10 Meter replacement

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

*[(c) When a billing dispute is known to exist and the meter has been tested by an electric, gas or water utility, such utility shall retain the meter for 30 days before it is reset, unless otherwise authorized

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or directed by the Board, to permit a retest of the meter by the Board or a retest of the meter by the utility witnessed by a Board representative and in either event the customer may have the test witnessed by a third party.

(d) A meter test arising from a billing dispute may be appropriate in instances which include, but are not limited to, unexplained increased consumption, crossed meters, consumption while account is vacant or any other instance where the meter's accuracy might be an issue in a bill dispute.]*

(a)

BOARD OF PUBLIC UTILITIES

Adjustment of Charges and Determination of Water Meter Accuracy

Adopted Amendments: N.J.A.C. 14:3-4.7 and 14:9-3.3

Proposed: February 20, 1990 at 22 N.J.R. 618(a).

Adopted: February 13, 1991, by the Board of Public Utilities, Scott A. Weiner, President.

Filed: February 20, 1991 as R.1991 d.147, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13.

BPU Docket Number: AX88081015U

Effective Date: May 6, 1991.

Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:

Amendments to N.J.A.C. 14:3-4.7 and 14:9-3.3 were initially proposed at 21 N.J.R. 1651(a). As a result of comments received, substantive changes were made resulting in a reproposal of the amendments at 22 N.J.R. 618(a). In addition, the Board held a public hearing in this matter on March 8, 1990, and also received written comments. The Board did not utilize a hearing officer at this hearing. A complete list of individuals, and their affiliations, who presented written and hearing comments on the proposed amendments to N.J.A.C. 14:3 adopted herein and elsewhere in this issue of the New Jersey Register is included in the notice of adoption for the N.J.A.C. 14:3-3.2 amendment.

N.J.A.C. 14:3-4.7

COMMENT: New Jersey Natural Gas Company (NJNG), Public Service Electric and Gas Company (PSE&G), Jersey Central Power & Light Company (JCP&L), the National Association of Water Companies (NAWC) and South Jersey Gas Company (SJG) state that the amended rule should specifically exclude and distinguish non-registering and damaged meters, as well as conditions caused by theft, from slow meters.

RESPONSE: The Board agrees that non-registering meters should be made an exception to this amended rule as should those situations in which a customer should reasonably be aware that his meter is registering a fraction of the actual usage. An exception for non-registering meters was the original intent of the Board. Accordingly, in order to clarify its intent, the Board will include language to except non-registering meters and circumstances in which the customer should reasonably have known that his bill did not reflect his actual usage.

COMMENT: JCP&L comments that the amended rule should specifically exclude accounts billed at the wrong rate, meter constant errors, improperly installed meters and incorrect meter readings.

RESPONSE: The Board believes that the additional language referred to in the foregoing response will adequately address the situations cited by JCP&L, with the exception of accounts billed at the wrong rates and incorrect meter readings, both of which are beyond the scope of this proposal.

COMMENT: JCP&L comments that the limitation of billing adjustments to cases of fast meters constitutes an undue and unreasonable preferences in violation of N.J.S.A. 48:3-1 and 48:3-4.

RESPONSE: N.J.S.A. 48:3-1 prohibits public utilities from charging unjustly discriminatory or unduly preferential rates; N.J.S.A. 48:3-2 prohibits unjust or unreasonable practices or regulations; and N.J.S.A. 48:3-4 prohibits any undue or unreasonable preference. Based upon a review of these statutes, the Board is of the opinion that there is ample justification by which to draw a distinction between fast and slow registering meters and that such a distinction is not, in and of itself, unduly preferential or discriminatory as all customers within a service class would be treated similarly. The Board notes that utilities are required to maintain their facilities in such a manner as to provide safe, adequate and proper service. The Board believes that permitting utilities to adjust charges for slow meters would result in a disincentive to proper meter maintenance.

COMMENT: PSE&G, NJNG and SJG comment that industrial and commercial accounts should be made specific exceptions to the rule.

RESPONSE: The Board does not believe that industrial or commercial accounts should be expected from the rule. The Board is of the opinion, however, that utilities may be able to argue, on a case by case basis, that as a result of a greater level of sophistication, for example, a particular industrial or commercial customer should be held to a higher standard than a residential customer with regard to reasonably knowing that a bill did not reflect actual usage.

COMMENT: NAWC, SJG, Elizabethtown Water Company, Middlesex Water Company, New Jersey-American Water Company, and Hackensack Water Company comment that utilities should be allowed the option of adjusting customer charges for slow meters.

RESPONSE: The Board believes that allowing such an option could easily lead to utility procedures which, when implemented, result in unduly preferential, arbitrary or unjustly discriminatory practices.

N.J.A.C. 14:9-3.3

COMMENT: Comments to this proposal were made by Elizabethtown Water Company, Middlesex Water Company, New Jersey-American Water Company, Hackensack Water Company and the National Association of Water Companies. Said comments may be summarized as follows:

1. The proposed change from one flow rate test (full flow capacity) to two flow rate tests (intermediate and full flow capacities) will increase meter shop labor costs;

2. The current two percent margin for error regarding meter accuracy allows a 0.5 percent, margin over the 1-1/2 percent level utilized by the American Water Works Association (AWWA);

3. Meter accuracy should be the average of the results of the intermediate and full flow rate tests; and

4. Meters, when tested, may register fast at one flow capacity and slow at another flow capacity. As a result, it would be possible that a utility would have to make an adjustment to its charges if one flow capacity test found an error greater than 1-1/2 percent even though the other test, at a flow capacity at which the customer was actually served, showed the meter to be accurate.

RESPONSE: Customers should pay for their utility services at those rates which have been appropriately set by the Board. Accordingly, the Board believes that it is in the public interest to insure that the meters that are utilized to measure customer consumption are reasonably accurate. Therefore, it has long been ratemaking policy that costs incurred by utilities related to the operation and maintenance of meters, including the testing thereof, are recovered through rates.

Since Board staff undertook an analysis of the meter testing facilities, policies and practices of water utilities approximately five years ago, it has been a usual occurrence for fast meters to be identified on quarterly report forms submitted to staff. The Board would note, as an example, that one particular utility had been retiring meters without final testing. Subsequent to staff enforcement of Board regulations, it was determined that 10 percent of the meters tested were, in fact, fast resulting in an average refund of approximately $50.00 per customer.

Under the present rule, a utility is required to test a meter only at full flow capacity which, for a 5/8 inch meter, is 15 gallons per minute (gpm) for a quantity of 100 gallons which equates to a testing period of about seven minutes. The Board now believes that this is not representative of a customer's actual usage.

A typical accuracy curve for a 5/8 inch meter indicates that the highest percent of accuracy occurs between two and three gpm. The Board notes that its staff and the AWWA are of the opinion that a capacity flow of between two and three gpm is also most reflective of a residential customer's usage. The Board would further note that the AWWA intermediate test flow capacity rate for a 5/8 inch meter is two gpm for a quantity of 10 gallons which equates to a testing period of approximately five minutes. The Board is also of the opinion that it is highly unlikely that a meter that is deemed to be accurate after a test at an intermediate capacity flow will be found to be fast at a full capacity flow.

The Board believes the proposed accuracy standard of plus or minus 1.5 percent to be reasonable and observes that the AWWA standards are identical for Displacement meters (5/8 inch through six inches), Multi

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Jet meters (5/8 inch through two inches) and Class II Turbine meters (two inches through 12 inches), groups which comprise approximately 99.8 percent of all meters presently in service. Because of the small numbers involved, the Board does not deem it necessary to treat either Class I Turbine meters (1-1/2 inch through 12 inches) and Propeller meters (two miles through 36 inches) (AWWA accuracy standards plus or minus two percent) or Compound meters (two inches through 10 inches) (AWWA accuracy standard of plus or minus three percent) differently from what is contemplated in the proposal. In that regard, the Board notes that Compound meters are generally used by utilities in the service of commercial and industrial customers with large fluctuations in water usage. Since consumption charges normally do not differ between classes of customers, the Board is of the opinion that said meters should be held to the same degree of accuracy as a Displacement meter.

Full text of the adoption follows (additions to the proposal are indicated in boldface with asterisks ***thus***).

14:3-4.7 Adjustment of charges

(a) Whenever a meter is found to be registering fast by more than two per cent, or in the case of water meters, more than one and one half per cent, an adjustment of charges shall be made in accordance with the following:

1. If the date when the meter had first become inaccurate can be definitely ascertained, then the adjustment shall be such percentage as the meter is found to be in error at the time of test adjusted to 100 percent on the amount of the bills covering the entire period that the meter had registered inaccurately.

2. In all other cases the adjustment shall be such percentage as the meter is found to be in error at the time of test on one-half of the total amount of the billing affected by the fast meter adjusted to 100 percent since the previous test, but not to exceed a period of six years for electric meters subject to testing by an approved scientific sampling technique.

(b) (No change.)

(c) No adjustment shall be made for a meter that is found to be registering less than 100 percent except in the case of meter tampering***, non-registering meters or in circumstances in which the customer should reasonably have known that his bill did not reflect his usage***.

14:9-3.3 Determination of Water Meter Accuracy

(a) A water meter shall be considered correct if, when flowing water at both intermediate and full flow capacities, as set forth in the American Water Works Association M-6 Manual, it shows an error which is not greater than one and one half percent.

(b) An error at any flow capacity in excess of one and one half percent shall be subject to an adjustment of charges as defined in N.J.A.C. 14:3-4.7.

(a)

BOARD OF PUBLIC UTILITIES

Return of Deposits

Adopted Amendment: N.J.A.C. 14:3-7.5

Proposed: February 20, 1990 at 22 N.J.R. 619(a).

Adopted: February 13, 1991 by the Board of Public Utilities, Scott A. Weiner, President.

Filed: February 20, 1991 as R.1991 d.148, **without change**.

Authority: N.J.S.A. 48:2-13.

Effective Date: May 6, 1991.

Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:

An amendment to N.J.A.C. 14:3-7.5 was initially proposed at 21 N.J.R. 1652(a). As a result of comments received, substantive changes were made resulting in a reproposal of the amendment at 22 N.J.R. 619(a). In addition, the Board held a public hearing in this matter on March 8, 1990, and received written comments. The Board did not utilize a hearing officer at this hearing.

A complete list of individuals, and their affiliations, who presented written and hearing comments on the proposed amendments to N.J.A.C. 14:3 adopted herein and elsewhere in this issue of the New Jersey Register is included in the notice of adoption for the N.J.A.C. 14:3-3.2 amendment.

COMMENT: Middlesex Water Company and the National Association of Water Companies (NAWC) state that the proposed amendment will create higher costs for smaller unautomated utilities.

RESPONSE: While a slight administrative burden may be imposed on utilities, the Board is of the opinion that such burden is outweighed by the right of customers to make the ultimate decision as to how their funds are to be applied. The Board notes that the proposed amendment offers customers the option of having deposits refunded by individual checks or as credits to bills. This option, which was not a part of the original proposal, should provide some assistance in lowering utility costs.

COMMENT: NAWC suggests that customers should designate their choice of either a credit on account or a refund check at the time that the deposit is paid.

RESPONSE: Requesting customers to indicate a choice as to the method of return of a deposit at the time the deposit is paid is not proscribed by the proposed amendment. The Board, however, is of the opinion that customers should have the right to make the decision at the time of the refund of the deposit, if they so desire.

COMMENT: AT&T suggests that, in the absence of a specific designation by a customer, the choice of how the deposit is to be refunded should be made by the utility.

RESPONSE: The purpose of the proposed amendment is to provide customers with a choice as to how their deposits will be refunded. If a utility can show that the option was made available to a customer and that the customer did not indicate a preference, the utility will be free to either credit that customer's account or issue a refund check to said customer.

COMMENT: New Jersey Natural Gas Company (NJNG) and South Jersey Gas Company (SJG) express concern that the proposed amendment will negate the provisions of their respective tariffs which require NJNG and SJG to apply deposit funds to the unpaid portion of a customer's bill and issue a refund check for any remaining amount. NJNG further comments that it expended in excess of $26,000 in order to comply with its tariff and that adoption of the proposed amendment would require an additional expenditure of $6,000 to cover programming costs.

RESPONSE: To the extent that customers designate their choice for refund at the time they make a deposit payment, NJNG and SJG should have sufficient time in which to make necessary administrative adjustments. In addition, as the current tariffs of NJNG and SJG provide for the return of remaining portions of deposit payments by check, a customer request for a refund check under the proposed amendment will impose no additional costs. The Board further notes that the proposed amendment will not preclude a utility from applying a deposit payment to offset an outstanding bill.

Full text of the adoption follows:

14:3-7.5 Return of deposits

(a) (No change.)

(b) Each utility shall review a residential customer's account at least once every year and a nonresidential customer's account at least once every two years and if such review indicates that the customer has established credit satisfactory to the utility, then the outstanding deposit shall be refunded to the customer. Each utility shall afford its customers the option of having the deposit refund applied to the customer's account in the form of a credit or of having the deposit refunded by separate check in a period not to exceed one billing cycle.

(c) (No change.)

(b)

BOARD OF PUBLIC UTILITIES

Disputes as to Bills

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

Proposed: February 20, 1990 at 22 N.J.R. 619(b).

Adopted: February 13, 1991 by the Board of Public Utilities, Scott A. Weiner, President.

Filed: February 20, 1991 as R.1991 d.149, **without change.**

Authority: N.J.S.A. 48:2-13.

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BPU Docket Number: AX88081014U
Effective Date: May 6, 1991.
Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:

An amendment to N.J.A.C. 14:3-7.13 was initially proposed at 21 N.J.R. 1652(b). As a result of comments received, substantive changes were made resulting in a reproposal of the amendment at 22 N.J.R. 619(b). In addition, the Board held a public hearing in this matter on March 8, 1990, and received written comments. The Board did not utilize a hearing officer at this hearing. A complete list of individuals and their affiliations, who presented written and hearing comments on the proposed amendments to N.J.A.C. 14.3 adopted herein and elsewhere in this issue of the New Jersey Register is included in the notice of adoption for the N.J.A.C. 14:3-3.2 amendment.

COMMENT: New Jersey Bell Telephone Company (NJB) supports the reproposed amendment insofar as it permits the assessment of late payment charges after 25 days. This policy, NJB believes, ". . . reflects the practicalities of utility billing cycles and customer expectations of when bills become 'due' . . . ." With regard to the proposal to add tariffs applicable to residential customers to those tariffs for which late payment charges cannot be approved, NJB comments that said proposal prospectively complicates the tariff filing and approval process and is not necessary to accomplish Board objectives. In addition, the National Association of Water Companies (NAWC) comments that late payment charges should be approved for all classes of customers in order to avoid discrimination and unfairness. NAWC further states that the prohibition of late payment charges to residential customers serves as a disincentive for the prompt payment of bills resulting in increased costs to all customers.

RESPONSE: The Board is of the opinion that, by setting some basic standards, the amended rule will simplify rather than complicate the tariff filing and approval process. The Board also believes that the prohibition of late payment charges to residential customers is consistent with prior Board policy and does not create an undue preference or amount to unreasonable discrimination against other customer classes.

Full text of the adoption follows:

14:3-7.13 Disputes as to bills

(a)-(e) (no change.)

(f) A utility shall not assess a late payment charge on an unpaid bill unless such charge is provided for in the utility's applicable rate schedule approved by the Board.

1. A late payment charge shall not be approved if it is applicable to bills less than 25 days after rendering.

2. A late payment charge shall not be approved for a rate schedule applicable to a state, county or municipal government entity or any residential customer.

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

District Building Code

Adopted Repeal: N.J.A.C. 19:6-1 and N.J.A.C. 19:6-3
Adopted New Rules: N.J.A.C. 19:6-1

Proposed: July 16, 1990 at 22 N.J.R. 2126(a).

Adopted: April 3, 1991 by the Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.

Filed: April 8, 1991 as R.1991 d.233, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i), and the Interagency Agreement between the Department of Community Affairs (DCA) and the Hackensack Meadowlands Development Commission (HMDC), dated February 27, 1991.

Effective Date: May 6, 1991.
Expiration Date: May 6, 1996.

The following is a detailed explanation of the sequence of events which preceded the amendments adopted by the HMDC:

On June 13, 1990, the Hackensack Meadowlands Development Commission (HMDC) authorized its staff to publish notice in the New Jersey Register and hold a public hearing regarding a proposal to amend the District's Building Code. Notice was published in the New Jersey Register on July 16, 1990 and a public hearing was held on August 2, 1990 at the Offices of the Commission.

Prior and subsequent to the public hearing, HMDC received comments from the Department of Community Affairs (DCA) regarding the HMDC's authority to propose rules which DCA felt might be contrary to the provisions specified by the Uniform Construction Code (UCC). The HMDC was proceeding under its authority as specified at N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i). The purpose of the proposal was to update rules contained in the District's Building Code, N.J.A.C. 19:6-1, 19:6-2 and 19:6-3. The proposal was to revise N.J.A.C. 19:6-1, General Provisions, and repeal N.J.A.C. 19:6-3, Uniform Construction Code; Uniform Procedure for Administration and Enforcement, with no changes to N.J.A.C. 19:6-2, Foundations.

The current procedures and rules had been put into effect in 1977 as a result of an agreement between 14 municipalities and the HMDC. It was the goal and intent of the HMDC to include as part of the rules day-to-day operating procedures established during the 14-year period that the rules had been in effect. In addition, the HMDC wanted to incorporate the UCC, as amended by the proposal, into the HMDC rules at N.J.A.C. 19:4.

DCA's comments resulted in several meetings between HMDC and DCA. HMDC recognized that after the establishment of the UCC in 1983, the authority to set policy and practices regarding construction lies with DCA. On the other hand, DCA recognizes that there is a need within the District to give HMDC a level of authority with respect to construction code enforcement and procedures.

As a result of these meetings and discussions, an Interagency Agreement was developed and was signed into effect by the HMDC and DCA on February 27, 1991. It delegates to the HMDC certain powers. The Agreement gives HMDC the authority to act as DCA's agent within the District, to establish rules regarding the interaction between the HMDC and its 14 constituent municipalities and to establish the procedures that are to be followed by all parties in the enforcement of the UCC within the District's boundaries.

The proposed rules were also reviewed by DCA and their comments have all been incorporated into the adopted rules. At the request of DCA, meetings were held, prior to signing the Interagency Agreement, with representatives of the 14 constituent municipal enforcing agencies. Representatives from DCA attended all meetings.

The discussions at these meetings centered around specific language being proposed by the HMDC and its effect on the authority of the construction officials, practices and procedures. The construction officials met independently and prepared comments regarding the rules which had been reviewed by the HMDC and DCA. The code officials presented their comments to the HMDC and their concerns and comments have been addressed in the rules that have been adopted.

Summary of Hearing Officer's Recommendations and Agency Response:

A public hearing was held on August 2, 1991 at the Commission's offices in Lyndhurst, New Jersey, chaired by HMDC Chief Engineer and Ileana Kafrouni, P.E. Two individuals attended the hearing: the attorney for the Hackensack Meadowlands Municipal Committee, (HMMC) who had no comments, and Fred Dressel, Mayor of Moonachie and Executive Director of the HMMC, who made several comments. Mr. Dressel stated that the HMMC had not taken a position on the proposal, but would evaluate it during the normal course of their review, after the record was closed. The hearing officer recommended that the Commission continue to gather information prior to adopting the repeals and new rules, which the Commission did. A copy of the public hearing record may be received or obtained from the HMDC, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

Summary of Public Comments and Agency Responses:

COMMENT: Fred Dressel asked two questions: One, who would determine that a construction official was not meeting his or her responsibilities and two, how would a controversy between the HMDC and a municipality be resolved? Mr. Dressel also submitted a petition

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from construction code and/or subcode officials from eight constituent municipalities within the Hackensack Meadowlands District. The petition stated that the rules should be rejected and should not be adopted. The petition also stated that the HMDC should have only zoning powers; that the petitioners recognize the plan review powers of the HMDC as set forth in N.J.S.A. 13:17-6; that the HMDC should not have any subcode or construction inspection authority; and that any disputes between the HMDC and a municipality regarding the enforcement of a subcode or construction practices be governed by the UCC appeals process.

RESPONSE: In reply to Mayor Fred Dressel's questions asked during the public hearing, HMDC offers the following. First, with respect to the responsibilities of a construction official, the responsibilities of all licensed officials are part of the State's Uniform Construction Code Act and the rules and model codes adopted pursuant to thereto. DCA is charged by statute with responsibility for overseeing local enforcement of the Act. Therefore, the final decision in this matter lies with DCA.

Second, with respect to a controversy between HMDC and a municipal enforcing agency, the first step would be an effort between the Office of the Chief Engineer (OCE) of the HMDC and the municipal enforcing agency to resolve any differences with respect to code enforcement. Specific courses of action would depend on the specific matter to be resolved. However, based on the rules and their purpose and intent, the next step would be for DCA to resolve the difference/controversy. The last step, if not resolved by DCA, would be for either party, HMDC or a municipality, to pursue legal remedies to the problem.

In response to the proposal published in the New Jersey Register, HMDC received the following comments.

COMMENT: Memo dated June 7, 1990 from Charles M. Decker, Assistant Director/New Jersey Department of Community Affairs (DCA), regarding jurisdictional conflicts between HMDC's proposed rules and DCA's authority.

RESPONSE: Mr. Decker's concerns have been addressed through the Interagency Agreement.

COMMENT: Letter dated July 17, 1990 from Andrew Cattano, Director of Technical Services/New Jersey Builders Association, requesting that applicable sections of the New Jersey Administrative Code be forwarded to his attention.

RESPONSE: Mr. Andrew Cattano's 7/17/90 request for information was complied with.

COMMENT: Letter dated July 20, 1990 from William M. Connolly, Director of the Division of Housing and Development/DCA, regarding the statutory authority of the HMDC to propose this type of a regulatory amendment.

RESPONSE: Mr. William M. Connolly's concerns have been addressed through the Interagency Agreement.

COMMENT: Letter dated August 14, 1990 from Andrew Cattano, Director of Technical Services/New Jersey Builders Association, regarding several issues. He mentioned a discrepancy in the HMDC rules regarding the monetary amounts that the HMDC could impose as fines. One section of the rules refers to fines between $100.00 and $200.00 and in the economic impact statement published as part of the proposal, it states that fines imposed could be up to $5,000 per day. He questioned whether it was the intent of the HMDC to increase penalty fees as part of the proposed rules. He also commented on the time frame allowed for Plan Review and asked if that section of the current rules would be repealed. He added that it would be important to maintain the current 20 day time frame.

RESPONSE: In reply to Mr. Andrew Cattano's comments of August 14, 1990, HMDC offers the following: The copy of the rules sent to Mr. Cattano which referred to fines between $100.00 and $200.00 was outdated. The HMDC revised its fines in 1988. Therefore, it is not the intent of the HMDC to increase penalty fees as part of the proposed rules. The amount of $5,000 per day refers to a sum total of individual fines. The section of the proposed rules which deals with fines, N.J.A.C. 19:6-1.6, has been revised between proposal and adoption. Fines imposed by the HMDC will now be in accordance with the UCC. The 20 day time frame for Plan Review is still in effect because it is specified by the Uniform Construction Code at N.J.A.C. 5:23-2.16(a).

COMMENT: Letter dated August 8, 1990 from Steven Whitney, Assistant Director for Planning/New Jersey Department of Environmental Protection with respect to New Jersey's Coastal Management Program, specifically the effects of the proposed changes on the State's Coastal Management Program. He stated that they saw the proposed amendment as an administrative change which would bear no real impact to the Program. They did not foresee any difficulty in accommodating the proposed change into the Program. He also stated that the National Oceanic and Atmospheric Administration (NOAA) will consider the changes to constitute a Routine Program Implementation change.

RESPONSE: The HMDC appreciates the comments submitted.

The record in this matter was closed on January 30, 1991. As per N.J.S.A. 13:17-8(b), the matter was then forwarded to the Hackensack Meadowlands Municipal Committee (HMMC). The HMMC has 45 days to indicate their position, usually in the form of a resolution. On February 5, 1991, the Office of the Chief Engineer received a letter from Kenneth A. Porro, Esq., on behalf of the municipal construction officials and the HMMC. Mr. Porro recommended two modifications. The first was regarding the Interagency Agreement. Although the rules are being adopted partially pursuant to this Agreement, the Agreement itself is not part of these rules. Therefore, the Agency's reply to this comment will be sent directly to the HMMC.

Mr. Porro's second comment relates to N.J.A.C. 19:6-1.4(g). He recommended that this subsection be changed as follows: "This designation is temporary in nature and the OCE will only act in this capacity until the Municipal Construction Official is notified of the same. The Municipal Official shall resume compliance authority subject to paragraph (e) above."

The adopted rule, N.J.A.C. 19:6-1.4(f), contains provisions which would allow a municipal construction official to respond to and resolve a violation which had been discovered by the OCE. N.J.A.C. 19:6-1.4(g) was put into the rules in order to allow the OCE to act in instances where work in progress is contrary to plans approved by the OCE and there is not adequate time to follow the procedures outlined in N.J.A.C. 19:6-1.4(f) because a delay would exacerbate the extent and nature of the violation.

The revision requested by the HMMC was not made because of the following reasons. Once action is started by one "agency," whether it is the municipal construction official or the OCE, acting as agent for DCA, that "agency" should be responsible for the enforcement of the UCC and this chapter until the violation is resolved. It must also be noted that the OCE would primarily act in this capacity if work in progress is not in accordance with plans approved by the OCE and time is of the essence.

Summary of Changes made between Proposal and Adoption:

Throughout the rules, two phases were added. Whenever "this chapter" is mentioned, for the most part "and/or the Uniform Construction Code (UCC)" has been added. Similarly, whenever the Office of the Chief Engineer is taking an action, the phrase "as agent for the Department of Community Affairs (DCA)" has been added. These changes are made to reflect the Interagency Agreement between the Hackensack Meadowlands Development Commission (HMDC) and DCA.

The remainder of the changes were made for the following reasons:

—to address comments/concerns of the DCA;

—to address comments made by the municipal enforcing agencies;

—for purposes of clarity; and

—grammatical changes.

N.J.A.C. 19:6-1.1 This section was deleted because the Building Code for the HMDC is the UCC.

N.J.A.C. 19:6-1.2 This section was revised in order to clearly identify the authority under which the HMDC adopted these rules.

N.J.A.C. 19:6-1.3 This section was revised to reflect the Interagency Agreement between HMDC and DCA and to clarify HMDC's involvement in enforcement of the UCC within the Hackensack Meadowlands District (HMD).

N.J.A.C. 19:6-1.4(a) This section was revised to clearly state that the HMDC shall act as DCA's agent within the HMD, pursuant to the Interagency Agreement, in the manner and to the extent outlined by this chapter.

N.J.A.C. 19:6-1.4(b) This section was revised to reflect the Interagency Agreement and to clarify HMDC's responsibilities.

N.J.A.C. 19:6-1.4(c) This section was revised to reflect the responsibility of a municipal official, pursuant to the UCC, to enforce applicable codes.

N.J.A.C. 19:6-1.4(d) This section was revised to correct an UCC citation and to clarify that an OCE staff member will not be acting as a building subcode official.

N.J.A.C. 19:6-1.4(e) This section was changed to reflect the Interagency Agreement and to clarify that the OCE will act in order to insure compliance with the UCC and this chapter, as agent for DCA.

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N.J.A.C. 19:6-1.4(g) This section was revised to address comments made by the construction officials of the District. The purpose of this section is to have the ability to prevent the continuation of a violation when time is of the essence.

N.J.A.C. 19:6-1.6 This section was partially revised, since specific penalties are included in the UCC and there was no need to use HMDC's fining powers.

N.J.A.C. 19:6-1.7(a) This section was revised to include the applicable UCC citation.

N.J.A.C. 19:6-1.7(c) This section was revised to clarify exactly what items are to be submitted to the HMDC for purposes of plan review. It must be noted that no change is being made to current practices. The general public currently submits this documentation and fees.

N.J.A.C. 19:6-1.7(d) This section was revised because municipal construction officals are bound by rules other than HMDC rules which they must adhere to before a construction permit is issued.

N.J.A.C. 19:6-1.7(f)1 This section was revised because the responsibility for all required inspections exists pursuant to the UCC.

N.J.A.C. 19:6-1.7(f)4 This section was revised in order to clarify its intent and purpose. It was the intent of the HMDC that this provision be utilized on a temporary basis and without compensation.

N.J.A.C. 19:6-1.7(h) This subsection was deleted from N.J.A.C. 19:6-1.7 and combined with subsection N.J.A.C. 19:6-1.8(a). In addition, certificates of approvals were deleted at the request of the construction officials, because it is a type of certification where the HMDC would have no involvement.

N.J.A.C. 19:6-1.9 This section was revised to clarify to the public that there are different appeal procedures available to them.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletion from proposal shown in brackets with asterisks *[thus]*).

CHAPTER 6
BUILDING CODE

SUBCHAPTER 1. GENERAL PROVISIONS

19:6-1.1 *[Title]* ***(Reserved)***

[The rules contained in this chapter shall be known and may be cited as the Building Code for the Hackensack Meadowlands District (hereinafter referred to as HMD).]

19:6-1.2 *[District Building Code]* ***Authority***

[The construction code hereby adopted for the HMD shall be the New Jersey Uniform Construction Code, N.J.A.C. 5:23, as amended by this chapter.] ***These rules are hereby adopted for the Hackensack Meadowlands District (HMD) pursuant to the Interagency Agreement between the Hackensack Meadowlands Development Commission (HMDC) and the Department of Community Affairs (DCA), and pursuant to N.J.S.A. 13:17-1 et seq.***

19:6-1.3 HMDC responsibility

[The HMDC shall have the ultimate responsibility for the enforcement of the District's building code, pursuant to N.J.S.A. 13:17-1 et seq., specifically N.J.S.A. 13:17-11. The HMDC may delegate specific portions of the District's building code to officials qualified in accordance with N.J.A.C. 5:23-1 et seq. to perform these tasks.] ***The HMDC, acting as agent for the Department of Community Affairs, shall have the responsibility, pursuant to N.J.S.A. 13:17-1 et seq., for the approval of all plans, for insuring compliance with the Uniform Construction Code (UCC) and for enforcement as outlined in this chapter.***

19:6-1.4 Enforcement

(a) *[There shall be an HMD Construction Code enforcing agency consisting of the following: The Office of the Chief Engineer (hereinafter referred to as OCE) of the HMD, each municipal code official, and each municipal subcode official of those municipalities within the HMD.]* ***As per the Interagency Agreement between the Department of Community Affairs (DCA) and the Hackensack Meadowlands Development Commission (HMDC) dated February 27, 1991, the HMDC shall act as DCA's agent within the HMD.***

(b) The ***Office of the Chief Engineer*** *(*OCE*)* shall have *[sole]* ***the*** responsibility for reviewing and approving plans for all work within the HMD, ***pursuant to N.J.S.A. 13:17-1 et seq.,*** subject to the requirements of this chapter, *[and the OCE shall act as the HMD building subcode official]* ***in addition to the responsibilities cited in N.J.A.C. 19:6-1.3***. The OCE shall reserve the right to perform any or all inspections conducted in accordance with N.J.A.C. 5:23-2.18.

(c) Each municipal construction official *[shall be delegated]* ***has*** the responsibility of enforcing the requirements ***of the UCC and*** of this chapter in that portion of the HMD within the boundaries of his or her municipality, except for the specific circumstances noted in these rules.

(d) At least one OCE inspector/plan examiner in each subcode shall hold a class I license*[, and be licensed as a subcode official]* in accordance with N.J.A.C. *[5:23-5]* ***5:23***. *[The OCE staff member serving as HMD building subcode official]* ***At least one member of the OCE staff*** shall also be licensed as a construction official, in accordance with N.J.A.C. 5:23-5.6.

(e) In the event that a municipal code enforcement official fails to implement any provision of this chapter ***or the UCC*** in that portion of the HMD within his or her jurisdiction, *[or if a municipality fails to appoint a person qualified in accordance with N.J.A.C. 5:23-5, to fill a position created by (a) above,]* ***and no immediate action is deemed necessary by the HMDC, then*** the OCE***, with prior written approval by the DCA,*** shall act in the capacity of that official, ***as agent for the DCA,*** in order to insure compliance with this chapter ***and the UCC***.

(f) Except for (g) below, when the OCE shall determine that a violation of this chapter ***or the UCC*** exists, the OCE shall notify the Municipal Construction Official in writing of such violation and request the municipal construction official and the appropriate subcode official to take action necessary to bring about compliance with this chapter ***or the UCC*** and to notify the OCE of his or her actions.

(g) When the OCE determines that work in progress is being done contrary to approved plans and there is not adequate time to follow the procedure outlined in (f) above, and/or the OCE believes that any delay may exacerbate the extent and nature of the violation, then the OCE may act immediately to prevent continuation of such violations*[.]* ***, as a subcode official acting as the agent of the DCA. This designation is temporary in nature and the OCE will act in this capacity until the violation is resolved. The municipality, upon written notification by the OCE, of the emergency situation and of its resolution, shall resume compliance authority.*** *[The OCE staff member having plan review responsibility is hereby authorized to utilize any provision of this chapter necessary to bring about compliance.]*

19:6-1.5 Fees

(a) Fees for plan review shall be in accordance with N.J.A.C. 19:3-1.3.

(b) In the event the OCE enters into an agreement with any or all municipalities within the District to perform required inspections, the OCE shall collect 100 percent of the HMDC's permit fee. Twenty percent of that fee, exclusive of plan review fees, will be returned to the municipality to cover administrative costs.

19:6-1.6 Violations and penalties

[For any violation of this chapter, including those specifically adopted in N.J.A.C. 19:6-1.2, notice of violation and penalty procedure shall be in accordance with N.J.A.C. 19:4-6.24.] ***For any violation of this chapter or the UCC, notice of violation and penalty procedure shall be in accordance with N.J.A.C. 19:4-6.24 and the UCC N.J.A.C. 5:23-2.31. All penalties shall be in accordance with the Uniform Construction Code.***

19:6-1.7 Hackensack Meadowlands District uniform procedure

(a) All applications shall be initiated at the office of the municipal construction official ***and be in accordance with N.J.A.C. 5:23-2.15***.

(b) The municipal construction official shall advise applicants that all applications requiring plan review are to be approved by HMDC prior to the issuing of a construction permit.

(c) *[Each submittal shall be in accordance with N.J.A.C. 5:23-2.15, except that three sets of plans shall be submitted, and accompanied by the plan review fees required by N.J.A.C. 19:3-1.3.]*

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Submittals to the HMDC for purposes of plan review shall consist of three sets of plans, copies of the standard UCC application forms filed with the municipality and plan review fees required by N.J.A.C. 19:3-1.3.

(d) Following approval of construction plans, the OCE shall return two copies of the approved plans and a Certificate of Compliance to the municipal construction official. *[The]* ***Providing all prior approvals and the UCC rules have been satisfied, the*** municipal construction official shall then issue a construction permit, a copy of which shall be sent to the OCE.

(e) Whenever the municipal construction official shall fail to issue a construction permit after the applicant has satisfied all provisions of this chapter ***and the UCC***, the OCE shall issue such permit ***upon DCA's written authorization.*** *[; the]* ***The*** OCE will then assume all responsibility for the compliance of such project with this chapter. *[The OCE will receive all fees for such permits, pursuant to N.J.A.C. 19:3-1.3.]*

(f) The inspection procedure shall be as follows:

1. *[The primary responsibility for all required inspections is delegated to the municipal code officials.]* ***The municipal code officials shall have the primary responsibility for all required inspections.***

2. As per N.J.A.C. 19:6-1.4(b), the OCE reserves the right to perform all inspections pursuant to N.J.A.C. 5:23-2.18.

3. The OCE and Municipal Construction Official shall be notified by the owner or his ***or her*** agent at the various stages of construction when inspections are required.

4. If the municipal code official is ***temporarily*** unable to perform an inspection upon notification, he or she can request that the OCE perform the inspection ***without compensation***.

5. When the municipal code official relinquishes his or her responsibility for the *[performing of an]* ***performance of subcode(s)*** inspection ***concerning specific projects, and the OCE agrees to perform the inspection, acting as DCA's agent,*** *[, and the inspection is performed by the OCE,]* the HMDC shall receive fees for such ***subcode*** inspection in accordance with the municipality's fee schedule.

(g) Municipal construction officials ***and the OCE*** shall supply applicants with a list of all required inspections and apprise the applicant of his responsibility to notify the municipal construction official and the OCE when work is ready for inspection.

[(h) No construction permit nor certificate of occupancy shall be issued by the municipal construction official without the written approval from the OCE stating that all provisions of N.J.A.C. 19:4, 19:5 and this chapter have been fulfilled.]

19:6-1.8 Certificates of Occupancy

(a) No certificate of occupancy, temporary certificate of occupancy*[,]* ***or*** certificate of continued occupancy, *[nor certificate of approval,]* shall be issued by the municipal construction official without certification by the OCE *[that such occupancy or approval is in compliance with HMDC rules]* ***that a final inspection has been performed by the OCE and that such occupancy meets all provisions of N.J.A.C. 19:4, 19:5 and this chapter, and the plans approved by the OCE***.

(b) Whenever the municipal construction official fails to issue a Certificate of Occupancy for a structure or tenant space which is in compliance with all provisions of this chapter, the OCE***, upon DCA's written authorization,*** will issue such Certificate of Occupancy and receive all fees associated with such certificates.

19:6-1.9 Appeals

*[Whenever the OCE shall act in the capacity of enforcing official under these regulations, any appeal of decision of the OCE shall be made directly to the Hackensack Meadowlands Development Commission. All appeals shall proceed in accordance with N.J.A.C. 19:4-6.25.

All appeals shall proceed in accordance with N.J.A.C. 19:4-6.25.]*

(a) Whenever the OCE shall act as agent of the DCA in the capacity of a UCC enforcing official under these regulations, any appeal of a decision of the OCE shall be made directly to the Department of Community Affairs.

(b) Any appeal of a plan review determination shall be made directly to the Hackensack Meadowlands Development Commission in accordance with N.J.A.C. 19:4-6.25.

(c) Any appeals of a municipal decision within the HMD may be made in accordance with N.J.A.C. 5:23-2.35.

19:6-1.10 *[Separability]* ***Severability***

If any section or subsection of *[these regulations]* ***this chapter*** is invalidated by judicial decision, such decision shall not affect the remaining sections or subsections of these regulations.

19:6-1.11 HMDC Statutory Authority

Except as provided herein, nothing contained in this *[sub]*chapter shall be construed to affect the statutory authority of the Commission pursuant to N.J.S.A. 13:17-1 et seq.

(a)

NEW JERSEY TURNPIKE AUTHORITY

Application Procedure and Procedure to Resolve Protested Applications for, and Awards of, Licenses to Cross

Adopted New Rules: N.J.A.C. 19:9-2.9 and 2.10

Proposed: November 5, 1990 at 22 N.J.R. 3324(a).

Adopted: March 26, 1991 by the New Jersey Turnpike Authority, Donald L. Watson, Executive Director.

Filed: April 1, 1991 as R.1991 d.224, **without change.**

Authority: N.J.S.A. 27:23-1 et seq., specifically 27:23-29 and 52:4B-4(f).

Effective Date: May 6, 1991.

Expiration Date: October 17, 1993.

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

Full text of the adoption follows.

19:9-2.9 Licenses to cross

(a) A license to cross is a formal agreement with the New Jersey Turnpike Authority granting permission to cross and/or access any Turnpike property of any nature or description. This normally pertains to public and private utilities which must cross the New Jersey Turnpike roadway in order to provide service to the public. In addition, licenses to cross are utilized by adjacent property owners to the New Jersey Turnpike roadway that must utilize the New Jersey Turnpike property for drainage and access purposes.

(b) In order to apply for a license to cross, a letter containing the location of the Turnpike property affected, the purpose of the crossing and the engineering plans shall be submitted to:

Herbert I. Olarsch, Director of Law
New Jersey Turnpike Authority
P.O. Box 1121
New Brunswick, New Jersey 08903

(c) A license to cross shall be evaluated based on the following:

1. Adherence to the New Jersey Turnpike Authority Standard Specifications;

2. The impact on the traveling public and Turnpike property;

3. The duration of the request;

4. The criteria contained in N.J.S.A. 27:23-1 et seq., in particular, the provisions of N.J.S.A. 27:23-9, which must be taken into consideration concerning utilization of Turnpike property for certain purposes;

5. The general concern exhibited by the applicant for the public health, safety and welfare;

6. The financial health and stability of the applicant; and

7. The effect of the proposed crossing on the financial, economic or engineering aspects of the activities of the New Jersey Turnpike Authority, the public or neighboring property owners.

(d) Competing applications will be assessed based upon (a) through (c) above. The award will be based on the application which

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most closely serves the needs of the New Jersey Turnpike Authority and the public.

(e) An application can be rejected based on a violation of, or non-compliance with, any of the requirements of this rule. Competing applications will be addressed based on the requirements of this rule. Appeals of rejected applications will be addressed using the procedure outlined in N.J.A.C. 19:9-2.10.

19:9-2.10 Procedure to resolve protested applications for, and awards of, licenses to cross

(a) Any actual or prospective applicant for a license to cross on any Turnpike Authority property or facility, who is aggrieved in connection with the application for and/or award of such a license, may protest to the Turnpike Authority. The protest shall be submitted in writing to the Director of Law within 10 days after such aggrieved party knows or should have known of the facts giving rise to the grievance. Failure to file a timely protest shall bar any further action. The written protest shall set forth in detail the facts upon which the protestant bases its protest and shall define, as clearly as the available information permits, those issues or facts in contest.

(b) Upon the filing of a timely protest, the Authority's Executive Director shall have the authority to conduct a hearing, to settle and resolve a protest of an aggrieved applicant, or prospective applicant, concerning the application for, or award of, a license to cross. This authority shall be exercised in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) If the protest is not resolved by mutual agreement, the Executive Director shall promptly issue his or her decision in writing. The Executive Director's decision shall state the determination made and the reasons for the action taken. The Executive Director's decision shall be mailed or furnished promptly to the protestant and any other interested party. The Members of the Authority shall review the decision of the Executive Director and shall adopt, review or modify the decision of the Executive Director no later than 45 days of such decision of the Executive Director.

(d) A decision rendered pursuant to (c) above shall be final and conclusive, unless any person adversely affected by the decision commences an action in court.

(e) In the event of a timely protest under (a) above, the Authority shall not proceed further with the application for, or with the award of, a license to cross in issue until the decision is rendered pursuant to (c) above.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls

Definitions, Cashiers' Cage, Accounting Controls Within the Cashiers' Cage, Procedure for Acceptance, Accounting for and Redemption of Patron's Cash Deposits, Procedures for Accepting, Verifying and Accounting for Wire Transfers, Procedure for Exchange of Checks Submitted by Gaming Patrons, Procedure for Redemption, Consolidation or Substitution of Checks Submitted by Gaming Patrons, Procedures for Granting Credit and Recording Checks Exchanged, Redeemed or Consolidated, Procedure for Collecting and Recording Checks Returned to the Casino After Deposit, Slot Booths and Slot Count; Procedure for Counting and Recording Contents of Drop Buckets

Procedure for the Exchange of Slot Counter Checks by Slot Patrons (New Rule)

Adopted Amendments: N.J.A.C. 19:45-1.1, 1.14, 1.15, 1.24, 1.24A, 1.25, 1.26, 1.27, 1.29, 1.34 and 1.43

Adopted New Rule: N.J.A.C. 19:45-1.25A

Proposed: October 15, 1990 at 22 N.J.R. 3205(a).

Adopted: April 3, 1991 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: April 8, 1991 as R.1991 d.229, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63(c) and 70(g).

Effective Date: May 6, 1991.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

The Division of Gaming Enforcement ("Division") filed a comment dated November 14, 1990, outlining its position on the proposed new rule and the various other proposed amendments to the existing rule. The Division requested the opportunity to present oral argument at a public hearing in order to express its objections to the proposed new rule. On February 6, 1991 at 2:00 P.M., a public hearing was held before the full Commission at its Atlantic City office, the Arcade Building, Tennessee Avenue and the Boardwalk. The Division orally reiterated its position objecting to the offering of slot credit directly at a slot machine (see first Division "comment" below). Four industry representatives also testified at the public hearing, in response to the Division's comments and in general support of the proposed new rule and amendments. The names and affiliations of the four representatives follows: Michael J. Walsh, vice president of finance, Caesar's, Atlantic City; Joseph D'Amato, vice president and treasurer, Bally's Park Place; Joseph Domenico, vice president of finance, Harrah's Atlantic City and Thomas Burke, vice president of finance, Trump Taj Mahal. The Commission's determinations regarding the issues discussed at the public hearing are noted below. Interested persons may obtain a transcript of the public hearing by directing such request, in writing, to the Casino Control Commission, Arcade Building, Tennessee Avenue and Boardwalk, Atlantic City, New Jersey 08401.

COMMENT: Thomas McCormick, Assistant Counsel of Harrah's Marina Hotel, supports the proposed new rule and amendments.

RESPONSE: Accepted.

The following responses result from comments raised in the above-noted November 14, 1990 letter received from the Division.

COMMENT: The Division objects to the procedures contained within the new rule which would permit a patron to sign for, and receive funds, in exchange for a Slot Counter Check, directly at a slot machine.

RESPONSE: The Division has not substantiated any of its concerns as set forth above in the comment regarding the proposed procedures outlined in N.J.A.C. 19:45-1.25A(c). The casino floor as it currently exists is a secure environment. Monies are routinely transported across the casino floor by casino employees and patrons with little or no cause for concern. The internal control procedures for the issuance of slot credit directly at a slot machine provide an adequate level of control due to the requirement that two individuals from different departments must transport the funds to the patrons in a sealed container. The Commission believes that the procedures set forth in N.J.A.C. 19:45-1.25A(c) do not compromise the integrity of gaming operations nor do they put the assets of the casino at risk, and absent any evidence to the contrary, reject the concerns of the Division.

Certain substantive and technical changes were effected in response to the Division's comments in order to clarify the adopted rules. These changes are as follows:

COMMENT: The Division suggested that references to "tokens" be further clarified to refer to "slot" tokens.

RESPONSE: The Commission agrees with this technical clarification and the adopted text now specifically refers to "slot" tokens.

COMMENT: The Division requested that the proposed definition of "slot accounting area" be clarified.

RESPONSE: Upon review, the Division has determined that the definition as proposed serves no regulatory purpose, since the areas and structures where slot counter checks may be prepared are otherwise indicated in N.J.A.C. 19:45-1.25A(a) and (c). Therefore, the definition is being deleted upon adoption.

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COMMENT: The Division commented that the acknowledgement copy of the Slot Counter Check should note the location of its preparation, rather than merely designating that such copy is for slots.

RESPONSE: The Commission agrees with this technical change and has added text at N.J.A.C. 19:45-1.25A(b)3v to specify this notation.

COMMENT: The Division commented that changepersons should not be involved in transactions with the master coin bank, at N.J.A.C. 19:45-1.15(b)5, since the master coin bank may be located within the cage and thus outside of the slot zone.

RESPONSE: The Commission agrees with the rationale as set forth in the comment and has deleted all references to "changeperson" at N.J.A.C. 19:45-1.15(b)5.

COMMENT: The Division commented that consistent with the security requisites for the cage, N.J.A.C. 19:45-1.14(b) should require that the master coin bank as well, be designed to provide maximum security.

RESPONSE: The Commission agrees and has added text requiring that the master coin bank be designed to provide maximum security, in order to be consistent with the security requisites for the cage as currently set forth at N.J.A.C. 19:45-1.14(c).

The comments which have been rejected are as follows:

COMMENT: (1) The Division recommends that a brief explanation for the voiding of a Slot Counter Check be provided.

RESPONSE: With the exception of N.J.A.C. 19:45-1.9A(c), concerning voided travel expense reimbursement vouchers, none of the Commission's other regulations addressing voided documents: namely, N.J.A.C. 19:45-1.22(g), 1.23(f), 1.24(e), 1.25(j)1, 1.40(b), 1.40A(d), 1.41(b) and 1.46(g) and (k) require an explanation for why the document was voided. Since the Commission has no standards identifying what constitutes acceptable reasons for voiding documents, and is not convinced from the Division's comments of the regulatory need for explaining the void, this comment is rejected. The Commission will review N.J.A.C. 19:45-1.9A(c) to determine whether it should be amended to eliminate the requirement that an explanation for voiding a travel expense reimbursement voucher be recorded.

COMMENT: (2) N.J.A.C. 19:45-1.25A(b)(3)(vi) requires verification by a cage supervisor or slot supervisor of certain information recorded on a Slot Counter Check prior to the patron signing the Slot Counter Check. The Division recommends that the cage supervisor or slot supervisor "authorize the acceptance of the check."

RESPONSE: At this point in the Slot Counter Check preparation process, it would be inappropriate for a cage supervisor or slot supervisor to authorize acceptance of the Slot Counter Check, since it has not been signed by the patron.

COMMENT: (3) The Division recommends that a subsection be added which states that a patron exchanging over $500.00 in slot tokens or coins be requested to apply the slot tokens or coins to the redemption of any outstanding Slot Counter Checks.

RESPONSE: Further evaluation to determine whether such a requirement would be operationally feasible is necessary. Accordingly, this issue has been referred to the regulatory review committee for further consideration.

Summary of Agency-Initiated Changes:

Some minor changes were made to the proposed language for purposes of consistency, clarity and comprehension. The proposed requirement at N.J.A.C. 19:45-1.25A(a)1 that Slot Counter Checks be issued in a separate series was eliminated since it served no statutory or regulatory purpose. Additions to N.J.A.C. 19:45-1.25A(a) merely clarify the locations where Slot Counter Checks may be prepared pursuant to that subsection. Proposed N.J.A.C. 19:45-1.25A(b)1ii is modified to require that the slot supervisor record the amount requested, in order to conform that provision to subparagraph 1.25A(b)1i. Likewise, changes to N.J.A.C. 19:45-1.25A(b)6 recognize that in some instances the patron's identity may be verified by a slot supervisor, rendering the signature verification requirement in paragraph 1.25A(b)6 inapplicable. N.J.A.C. 19:45-1.25(k)6ii is modified to conform to adopted amendments to N.J.A.C. 19:45-1.25(j), which provide that a computer-generated counter check has an "accounting" copy rather than an "acknowledgement" copy. Also, at N.J.A.C. 19:45-1.25(k)6ii, the phrase ". . . if manually prepared . . ." which refers to the accounting copy, has been deleted upon adoption to revise an outdated technical reference to "manual" following the introduction and addition of computer-generated accounting copies, as well as manual copies. Finally, at N.J.A.C. 19:45-1.1, the definition of slot cashier is deleted and reference is made to N.J.A.C. 19:45-1.35 for such definition, in order to conform with the current structure of N.J.A.C. 19:45.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*.

19:45-1.1 Definitions

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

. . .

"Master coin bank cashier" is defined in N.J.A.C. 19:45-1.15.

. . .

["Slot accounting area" means any area or structure on the casino floor in which a slot cashier or changeperson performs his or her functions.]

. . .

"Slot cashier" *[means any person employed in the operation of the slot accounting area as a cashier and possesses an imprest inventory of currency, coin and tokens and operates from such physical structures, including, but not limited to, slot booths, runways, carousels, coin redemption windows, jackpot and hopper fill windows.]* ***is defined in N.J.A.C. 19:45-1.35.***

. . .

"Slot Counter Check" is defined in N.J.A.C. 19:45-1.25A.

. . .

19:45-1.14 Cashiers' cage

(a) (No change.)

(b) Each establishment shall have within the cage or in such other area as approved by the Commission a physical structure known as a master coin bank to house master coin bank cashiers***. The master coin bank shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein*** and *[to]* serve as the central location in the casino for the following:

1. The custody of currency, coin ***slot*** tokens, forms, documents and records normally *[associated with the operation of the slot accounting area]* ***generated or utilized by master coin bank cashiers, slot cashiers or changepeople***;

2. The exchange of currency, coin, coupons and ***slot*** tokens for supporting documentation;

3. The responsibility for the overall reconciliation of *[the slot accounting area]* ***all documentation generated by master coin bank cashiers, slot cashiers and changepeople***;

4. The receipt of coin and ***slot*** tokens from the hard count room in conformity with this chapter; and

5. Such other functions normally associated with the operation of the master coin bank.

Recodify existing (b) and (c) as (c) and (d) (No change in text.)

(e) Each casino licensee shall place on file with the Commission and Division the names of all persons authorized to enter the cage and the master coin bank if it is not located within the cage, those who possess the combination or keys to the locks securing the entrance to the cage and master coin bank, and those who possess the ability to operate alarm systems.

19:45-1.15 Accounting controls within the cashiers' cage

(a) (No change.)

(b) The cashiers' cage shall be physically segregated by personnel and function as follows:

1. General cashiers shall operate with individual imprest inventories of cash and such cashiers' functions shall be, but not limited to, the following:

i.-x. (No change.)

xi. Receive from check, chip bank and reserve cash cashiers' documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashiers' cage;

xii. Receive Voucher forms in accordance with N.J.A.C. 19:45-1.9A for the processing of travel expense reimbursements; and

xiii. Exchange Slot Counter Checks in accordance with N.J.A.C. 19:45-1.25A.

2. Check cashiers shall not have access to cash, gaming chips and plaques and such cashiers' functions shall be, but not limited to, the following:

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i. Receive the original and redemption copies of Counter Checks and Slot Counter Checks;

ii. Receive from general cashiers checks accepted for total or partial Counter Check and Slot Counter Check redemptions;

iii. Receive checks from general cashiers for Counter Check and Slot Counter Check consolidations;

iv. Receive personal checks from general cashiers for Counter Check and Slot Counter Check substitutions;

v. (No change.)

vi. Receive Wire Transfer Acknowledgement Forms in accordance with N.J.A.C. 19:45-1.24A for the purpose of redeeming Counter Checks and Slot Counter Checks or accepting payment on returned Counter Checks and Slot Counter Checks; and

vii. (No change.)

3. (No change.)

4. Reserve cash ("main bank") cashiers' functions shall be, but are not limited to, the following:

i. Receive cash, cash equivalents, issuance copies of Slot Counter Checks, personal checks received for non-gaming purposes, gaming chips and plaques from general cashiers in exchange for cash;

ii.-vi. (No change.)

5. Master coin bank cashiers' functions shall be, but not limited to, the following:

i. Receive currency, coin ***slot*** tokens, gaming chips, coupons from slot cashiers *[and changepeople]* in exchange for proper documentation;

ii. Receive coin and ***slot*** tokens from the hard count room;

iii. Provide slot cashiers *[and changepeople]* with currency, coin and ***slot*** tokens in exchange for proper documentation; and

iv. Prepare the daily bank deposit of excess cash and coin.

(c) Signatures attesting to the accuracy of the information contained on the Cashiers' Count Sheet shall be, at a minimum, of the following cashiers after preparation of Cashiers' Count Sheet:

1.-2. (No change.)

3. The chip bank cashiers assigned to the incoming and outgoing shifts;

4. The reserve cash cashiers assigned to the incoming and outgoing shifts;

5. The master coin bank cashiers assigned to the incoming and outgoing shifts; and

6. The slot cashiers assigned to the incoming and outgoing shifts.

(d) (No change.)

19:45-1.24 Procedure for acceptance, accounting for and redemption of patron's cash deposits

(a)-(i) (No change.)

(j) A patron shall be allowed to use the deposit by supplying information required by the casino to verify his ***or her*** identification.

1. The pit clerk, general cashier or slot cashier shall ascertain, from the cashiers' cage, the amount of the patron deposit available and request the amount the patron wishes to use against this balance. The pit clerk*[, general cashier or slot cashier]* shall prepare a Counter Check in compliance with N.J.A.C. 19:45-1.25 or a ***general cashier or slot cashier shall prepare a*** Slot Counter Check in compliance with N.J.A.C. 19:45-1.25A with the exception that the words "Customer Deposit Withdrawal" shall be recorded on the Counter Check or Slot Counter Check in place of the name of the patron's bank.

(k) Distribution of the Counter Checks shall comply with N.J.A.C. 19:45-1.25 and distribution of Slot Counter Checks shall comply with N.J.A.C. 19:45-1.25A.

(l) The patron's deposit balance shall be immediately reduced by amounts equal to the Counter Checks issued in the pit or Slot Counter Checks issued in the slot area or at the casino cage.

(m)-(q) (No change.)

19:45-1.24A Procedures for accepting, verifying and accounting for wire transfers

(a) A casino licensee may, in accordance with the rules of the Commission, accept a wire transfer of funds to enable the following:

1. Establishment of a cash deposit pursuant to N.J.S.A. 5:12-101b and N.J.A.C. 19:45-1.24;

2. Redemption of an outstanding Counter Check or Slot Counter Check pursuant to N.J.S.A. 5:12-101c and N.J.A.C. 19:45-1.26 and 1.27; or

3. Payment of a returned Counter Check or Slot Counter Check pursuant to N.J.S.A. 5:12-101e and N.J.A.C. 19:45-1.29.

(b)-(e) (No change.)

(f) Upon determining the purpose for the wire transfer, a cage supervisor shall prepare a Wire Transfer Acknowledgement Form, a two-part form containing, at a minimum, the following information:

1.-4. (No change.)

5. The purpose for the wire transfer (cash deposit; redemption; payment of returned Counter Check or Slot Counter Check);

6. (No change.)

7. The signature of either:

i. The check bank cashier, if the funds are to be used for Counter Check or Slot Counter Check redemption or the payment of a returned Counter Check or Slot Counter Check; or

ii. (No change.)

(g) Upon completion of the information required by (f)1 through 6 above, the cage supervisor who prepared the form shall obtain the signature required by (f)7 above on both copies of the Wire Transfer Acknowledgement Form, transmit the duplicate copy and any supporting documentation to the accounting department, and forward the original Wire Transfer Acknowledgement Form to:

1. The check bank cashier, if the funds are to be used for Counter Check or Slot Counter Check redemption or the payment of a returned Counter Check or Slot Counter Check, who shall:

i. (No change.)

ii. If appropriate, return the redeemed Counter Check or Slot Counter Check to the patron;

iii. (No change.)

iv. Forward to the accounting department the redemption copy of any Counter Check redeemed, in accordance with the requirements of N.J.A.C. 19:45-1.25 or Slot Counter Check redeemed, in accordance with the requirements of N.J.A.C. 19:45-1.25A; or

2. (No change.)

(h) (No change.)

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

(a)-(i) (No change.)

(j) The following procedures and requirements over Counter Checks shall be observed:

1.-2. (No change.)

3. For establishments in which Counter Checks are computer prepared, each series of Counter Checks shall be a four-part form, at a minimum, which consists of an original, a redemption copy, an issuance copy and accounting copy and shall be inserted in a printer that will: simultaneously print an original and duplicates and store, in machine-readable form, all information printed on the original and duplicates; and discharge the original and duplicates. The stored data shall not be susceptible to change or removal by any personnel after preparation of a Counter Check.

(k) For each Counter Check exchanged at a gaming table, the casino clerk shall:

1.-5. (No change.)

6. Receive the signed Counter Check directly from the patron; the issuance copy, which is the equivalent of a Check Credit Slip, of the Counter Check shall be immediately and directly given to the dealer or boxman. In no instance shall the chips or plaques be given to the patron prior to the receipt of the issuance copy of the Counter Check by the dealer or boxman.

i. (No change.)

ii. The accounting copy of the Counter Check*[, if manually prepared,]* shall be maintained and controlled at all times by the casino clerk; and

iii. (No change.)

(l)-(n) (No change.)

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(o) If the total amount of chips or plaques possessed by a patron exceeds $500.00, the casino licensee shall request the patron to apply all chips or plaques in his possession to the redemption of Counter Checks or Slot Counter Checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino area.

(p) (No change.)

19:45-1.25A Procedure for exchange of slot counter checks by slot patrons

(a) A casino licensee may offer credit to slot patrons pursuant to N.J.A.C. 19:45-1.27. ***Slot Counter Checks may be prepared by slot cashiers at slot booths and coin redemption locations and by general cashiers at the cashiers' cage.*** For casino licensees which issue credit to slot players, the following procedures and requirements over Slot Counter Checks shall be observed:

1. Slot Counter Checks shall be serially prenumbered forms. Each series of Slot Counter Checks shall be used in sequential order*[,]* ***; however, nothing in this subsection shall preclude a casino licensee from issuing Slot Counter Checks from the same numbering sequence used for the issuance of Counter Checks pursuant to N.J.A.C. 19:45-1.25.*** *[and the series numbers of all Slot Counter Checks received by a casino licensee shall be distinguishable from Counter Checks issued pursuant to N.J.A.C. 19:45-1.25 and shall be accounted for by employees with no incompatible functions.]* ***The series numbers of all Slot Counter Checks shall be accounted for by employees with no incompatible functions.***

i. The original and all copies of voided Slot Counter Checks shall be marked "VOID" and shall require the signature of the preparer.

2. For establishments in which Slot Counter Checks are manually prepared:

i. Each series of Slot Counter Checks shall be a five-part form, at a minimum, which consists of an original, a redemption copy, an accounting copy, an issuance copy and acknowledgement copy and shall be attached in a book that will permit an individual slip in the series and its copies to be written upon simultaneously, while still contained in the book, and that will allow the removal of the original and all duplicate copies.

ii. Access to the Slot Counter Checks shall be maintained and controlled at all times by the general cashier or slot cashier responsible for control of and accounting for the unused supply of Slot Counter Checks, and the preparation of Slot Counter Checks for a patron's signature.

3. For establishment in which Slot Counter Checks are computer prepared, each series of Slot Counter Checks shall be a four-part form, at a minimum, which consists of an original, a redemption copy, an issuance copy and accounting copy and shall be inserted in a printer that will: simultaneously print an original and duplicates; store, in machine readable form, all information printed on the original and duplicates; and discharge the original and duplicates. The stored data shall not be susceptible to change or removal by any personnel after preparation of a Slot Counter Check.

(b) For each Slot Counter Check exchanged, ***in accordance with (a) above***, the general cashier or slot cashier shall:

1. Verify the patron's identity by either:

i. Obtaining, at a minimum, the amount of the requested Slot Counter Check and the patron's signature on a form, which signature shall be compared to the original signature, or a computer generated facsimile thereof, contained within the patron's credit file. The general cashier or slot cashier shall sign the form indicating that the signature of the patron on the form appears to agree with the signature on his or her credit file. Such form shall be attached to the accounting copy of the Slot Counter Check exchanged by the patron and deposited into a locked accounting box for forwarding to the accounting department in conformity with *[(g)]* ***(h)*** below.

(1) After the patron's identity has been verified by the general cashier or slot cashier as required above, the requirements for subsequent verification of the patron's identity may be satisfied by that general cashier or slot cashier signing a form attesting to the patron's identity before each subsequent Slot Counter Check is exchanged. The form shall include the patron's name and the serial number of the initial Slot Counter Check exchanged by the patron. Such form shall be attached to the accounting copy of the Slot Counter Check and deposited into a locked accounting box for forwarding to the accounting department in conformity with *[(g)]* ***(h)*** below; or

ii. Obtaining the attestation of a slot supervisor as to the identity of the patron. The slot supervisor shall sign a form attesting to the patron's identity and shall record his or her license number thereon ***and the amount requested by the patron***. Such form shall be attached to the accounting copy of the Slot Counter Check exchanged by the patron and deposited into a locked accounting box for forwarding to the accounting department in conformity with *[(g)]* ***(h)*** below;

2. Determine the patron's remaining credit limit either from a check bank cashier or from a computer terminal located in an area as approved by the Commission;

3. Prepare the Slot Counter Check for the patron's signature by recording, at a minimum, on the face of the original and all duplicates of the Slot Counter Check, with the exception of the acknowledgement copy which shall only have recorded on it *[a designation for slots]* ***the location of preparation***, or in stored data, the following information:

i. The name of the patron exchanging the Slot Counter Check;

ii. The name of the patron's bank (required on the original copy only);

iii. The current date and time;

iv. The amount of the Slot Counter Check expressed in numerals;

v. *[A designation indicating it is for slots]* ***The location of preparation of the Slot Counter Check***;

vi. The signature of the cage supervisor or slot supervisor verifying that the Slot Counter Check was prepared for the correct amount and for the correct individual per the information recorded on the form referenced in (b)1 above; and

vii. The signature of the preparer or, if computer prepared, the identification code of the preparer;

4. Place an impression on the back of the original Slot Counter Check a restrictive endorsement "for deposit only" to the casino licensee's bank account;

5. Present the original and all duplicate copies of Slot Counter Check to the patron for signature;

6. Receive the signed original and all duplicate copies of the Slot Counter Check directly from the patron. The general cashier or slot cashier shall***, if verification occurs in accordance with (b)1i above,*** compare the patron's signature on the signed Slot Counter Check to the form referenced in (b)1 above and sign the form referenced in (b)1 above if the signatures appear to agree. In no instance shall currency, coin or ***slot*** tokens be given to the patron prior to the receipt of the signed copy of the Slot Counter Check by the general cashier or slot cashier. Distribution of the Slot Counter Check copies shall be as follows:

i. The issuance copy of the Slot Counter Check which shall serve as documentation of the exchange of currency, coin or tokens for the Slot Counter Check and shall be maintained by the general cashier or slot cashier in his or her imprest fund immediately after the issuance of currency, coin or tokens to the patron.

ii. The original, redemption, and acknowledgement copies of the Slot Counter Check, if not issued by the general cashier, shall be expeditiously transported to the cashiers' cage by a security department member or via a pneumatic tube system where the original and redemption copies shall be maintained and controlled by the check bank cashier. If the Slot Counter Check was issued by a general cashier, the general cashier shall expeditiously transport the original, redemption and acknowledgement copies of the Slot Counter Check to the check bank cashier where the original and redemption copies shall be maintained. The acknowledgement copy shall be returned to the general cashier or slot cashier in accordance with either (d) or (e) below; and

iii. The accounting copy of the Slot Counter Check shall be attached to the form referenced in (b)1 above by the general cashier or slot cashier and deposited into a locked accounting box for forwarding to the accounting department in conformity with *[(g)]* ***(h)*** below.

(c) Nothing in this section shall preclude a casino licensee from issuing a Slot Counter Check to a patron directly at a slot machine,

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provided the casino licensee follows the procedures and requirements established below:

1. A slot supervisor shall obtain, at a minimum, the amount of the requested Slot Counter Check and the patron's signature, on a two-part form ("Request"), and transport both copies of the Request directly to the general cashier or slot cashier. The general cashier or slot cashier shall compare the patron's signature pursuant to (b)1i above.

2. Once the patron's signature has been verified in accordance with (b)1 above, the general cashier or slot cashier shall prepare the Slot Counter Check in accordance with (b)2, (b)3i through v and (b)4 above.

3. The general cashier or slot cashier shall obtain the signature of the slot supervisor responsible for obtaining the information on the Request referenced in (c)1 above on the Slot Counter Check. The general cashier or slot cashier shall sign the Slot Counter Check as the preparer of the Slot Counter Check, and present the original and all duplicate copies of the Slot Counter Check and the original and duplicate copy of the Request, and the currency, coin, and/or ***slot*** tokens in the amount of the Slot Counter Check to an accounting department representative with no incompatible functions.

4. The accounting department representative, with no incompatible functions, shall verify the currency, coin and/or tokens against the amount recorded on the Slot Counter Check and the Request. If in agreement, the accounting department representative shall sign the original and duplicate copy of the Request and return the duplicate copy of the Request to the general cashier or slot cashier.

5. The general cashier or slot cashier shall retain the duplicate copy of the Request as evidence of the funds and Slot Counter Check being received by the accounting department representative.

6. Once the currency, coin and/or tokens has been verified in accordance with (c)4 above, the funds shall be secured in a sealed envelope or container along with the original and all copies of the Slot Counter Check and the original Request for transportation to the patron by the accounting department representative in the presence of the slot supervisor referenced in (c)1 above.

7. The accounting department representative shall present the original and all duplicate copies of the Slot Counter Check to the patron for signature.

8. Upon receiving the signed original and all duplicate copies of the Slot Counter Check directly from the patron, the accounting department representative shall verify the patron's signature on the Slot Counter Check against the patron's signature on the original Request. If in agreement, the funds shall be immediately given to the patron. In no instance shall the funds be given to the patron prior to the receipt of the signed Slot Counter Check from the patron.

9. Once the patron has received the funds, the slot supervisor referenced in (c)1 above shall sign the back of the accounting copy of the Slot Counter Check as a witness to the transfer of funds to the patron in exchange for the signed Slot Counter Check from the patron. The slot supervisor shall immediately deposit the accounting copy of the Slot Counter Check with the original Request in a locked accounting box for forwarding to the accounting department in conformity with *[(g)]* ***(h)*** below.

10. The accounting department representative shall immediately return the original, redemption, acknowledgement (manual mode only) and issuance copies of the Slot Counter Check to the general cashier or slot cashier who issued the funds. The general cashier or slot cashier shall attach the duplicate of the Request to the issuance copy of the Slot Counter Check and shall maintain them in his or her imprest fund for forwarding to the main bank or master coin bank at the end of their shift.

i. The original, redemption and acknowledgement (manual mode only) copies of the Slot Counter Check, if not issued by the general cashier, shall be expeditiously transported to the cashiers' cage by a security department member or via a pneumatic tube system where the original and redemption copies shall be maintained and controlled by the check bank cashier. If the Slot Counter Check was issued by a general cashier, the general cashier shall expeditiously transport the original, redemption and acknowledgement copies of the Slot Counter Check to the check bank cashier where the original and redemption copies shall be maintained and controlled by the check bank cashier. The acknowledgement copy shall be returned to the general cashier or slot cashier in accordance with either (d) or (e) below.

(d) For establishments in which the chip bank cashier receives the original, redemption and acknowledgement copies of the Slot Counter Check, the chip bank cashier shall sign and time stamp the acknowledgement copy of the Slot Counter Check and expeditiously return it to the general cashier or slot cashier via a security department member or pneumatic tube system and shall transfer the original and redemption copies of the Slot Counter Check to the check bank cashier in return for properly signed documentation.

(e) For establishments in which the check bank cashier receives the original, redemption and acknowledgement copies of the Slot Counter check directly from the general cashier or slot cashier, whether directly through the use of the pneumatic tube system or transported by a security department member, the check bank cashier shall:

1. Sign and time stamp the acknowledgement copy and shall transmit it to the general cashier directly or to the slot cashier via a security department member or pneumatic tube system, and shall maintain the original and redemption copies of the Slot Counter Check.

(f) If there is no acknowledgement copy, the check bank cashier shall be responsible for consummating the transaction in the computer upon receipt of the original and redemption copies of the Slot Counter Check.

*[(f)]****(g)*** Once the acknowledgement copy of the Slot Counter Check has been returned to the general cashier or slot cashier, it shall be attached to the issuance copy of the Slot Counter Check and forwarded to the main bank or master coin bank at the end of the cashier's shift.

*[(g)]****(h)*** At the end of the gaming activity each day, at a minimum, the following procedures and requirements shall be observed:

1. The original and all copies of voided Slot Counter Checks and the accounting copy of the Slot Counter Check shall be picked up by a representative of the accounting department with no incompatible functions and returned to the accounting department for agreement, on a daily basis, with the issuance and acknowledgement copies of the Slot Counter Check received from the general cashiers or slot cashiers.

2. The redemption copy of a Slot Counter Check maintained and controlled in conformity with (b)6ii and (c)10i above shall be forwarded to the accounting department subsequent to the redemption, consolidation or deposit of the original Slot Counter Check for agreement with the accounting and issuance copies of the Slot Counter Check or stored data.

19:45-1.26 Procedure for redemption, consolidation or substitution of checks submitted by gaming patrons

(a) The drawer of a Counter Check or Slot Counter Check may redeem it by exchanging cash, cash equivalents, gaming chips, plaques, or any combination of another check, cash, cash equivalents, gaming chips or plaques. If a drawer has more than one Counter Check or Slot Counter Check outstanding, such checks shall be redeemed in reverse chronological order (the most recently dated check shall always be redeemed first). If more than one check bears the same date, the drawer may choose the order in which he wishes to redeem the identically dated checks.

(b) The drawer of a check may consolidate some or all Counter Checks or Slot Counter Checks by exchanging another check in an amount equal to the total of checks previously exchanged.

(c) The drawer of a Counter Check or Slot Counter Check may substitute a personal check for the Counter Check or Slot Counter Check.

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

(f) Under acceptance of cash or cash equivalents, gaming chips and plaques, or another check in redemption consolidation or substitution of a check(s), the general cashier shall immediately return to the gaming patron the check(s) being redeemed, consolidated or substituted. If such redemption, consolidation or substitution is

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accomplished by the acceptance of another check, the general cashier accepting such check shall date and time stamp the check, place his initials on the check, and record on the check the serial number of the Counter Check(s) or Slot Counter Check(s) being redeemed, consolidated or replaced.

19:45-1.27 Procedures for granting credit, and recording checks exchanged, redeemed or consolidated

(a) A credit file for each patron shall be prepared by a general cage cashier or credit department representative with no incompatible functions either manually or by computer prior to the casino licensee's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form upon which shall be recorded, at a minimum, the following information provided by the patron:

1.-5. (No change.)

6. Banking information including:

i. The name and location of the patron's bank; and

ii. The account number of the patron's personal checking account upon which the patron is individually authorized to draw and upon which all Counter Checks, Slot Counter Checks and all checks used for substitution, redemption or consolidation will be drawn. Checking accounts of sole proprietorships shall be considered as personal checking accounts. Partnership or corporate checking accounts shall not be considered personal checking accounts.

7.-11. (No change.)

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

(g) Prior to approving a credit limit increase, a representative of the casino licensee's credit department shall:

1.-3. (No change.)

4. Consider the patron's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the patron's initial receipt of credit. The patron's player rating shall be readily available to representatives of the casino licensee's credit department prior to their approving a patron's request for a credit limit increase.

5. For table game play, the information for the patron's player rating shall be recorded on a player rating form by casino department supervisors or put directly into the licensee's computer system pursuant to an approved submission and shall include, but not be limited to, the following:

i.-vii. (No change.)

6. For slot play, the information for the patron's player rating shall be recorded on a player rating form by slot department supervisors, or put directly into the licensee's computer system pursuant to an approved submission, or generated by insertion of a card, by a patron, into a card reader attached to a slot machine. Such ratings shall include, but not be limited to, the following:

i. The patron's name;

ii. A designation indicating it is for slots;

iii. The rating as determined by a supervisor or an approved computer system;

iv. The signature and license number of the slot supervisor responsible for providing the patron's player rating information; if manually prepared; and

v. The date of play.

7. Include the information and documentation required by (g)1 through 3 above and the patron's player rating indicated at the time the credit increase is approved in the patron's credit file.

(h)-(j) (No change.)

(k) All transactions affecting a patron's outstanding indebtedness to the casino licensee shall be recorded in chronological order in the patron's credit file and credit transactions shall be segregated from the safekeeping deposit transactions. The following information shall be included:

1. The date, amount and check number of each Counter Check or Slot Counter Check initially accepted from the patron;

2.-8. (No change.)

(l) A log of all Counter Checks and Slot Counter Checks exchanged and of all checks received for redemption, consolidation or substitution shall be prepared, manually or by computer, on a daily basis, by check cashiers and such log shall include, at a minimum, the following:

1. (No change.)

2. For checks initially accepted and for checks received for consolidation, redemption or substitution:

i.-iii. (No change.)

iv. The Counter Check or Slot Counter Check serial number(s) for Counter Checks and Slot Counter Check(s) received; and

v. (No change.)

3. For checks deposited, redeemed by patrons for cash or cash equivalents, gaming chips and plaques, or any combination thereof, consolidated or replaced:

i.-iii. (No change.)

iv. The Counter Check and Slot Counter Check serial number(s) for Counter Check(s) and Slot Counter Check(s) deposited, redeemed, consolidated or replaced; and

v. (No change.)

4. (No change.)

(m) A list of all Counter Checks and Slot Counter Checks on hand, and of all checks received for redemption, consolidation or substitution shall be prepared, manually or by computer, on a monthly basis, at a minimum, and shall include the following:

1.-3. (No change.)

4. The Counter Check and Slot Counter Check serial number(s) for Counter Checks and Slot Counter Checks received.

(n) At the end of gaming activity each day, at a minimum, the following procedures shall be performed:

1. The daily total of the amounts of checks initially recorded as described in (l)2 above shall be agreed to the daily total of Counter Checks and Slot Counter Checks issued;

2.-3. (No change.)

(o)-(p) (No change.)

19:45-1.29 Procedure for collecting and recording checks returned to the casino after deposit

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

(c) Continuous records of all returned checks shall be maintained by accounting department employees with no incompatible functions. Such records shall include, at a minimum, the following:

1.-4. (No change.)

5. The Counter Check or Slot Counter Check serial number for Counter Checks or Slot Counter Checks; and

6. (No change.)

(d)-(k) (No change.)

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.-6. (No change.)

7. The exchange by patrons of signed Slot Counter Checks for currency, coin or slot tokens in conformity with N.J.A.C. 19:45-1.25A;

8. The issuance of Hopper Fills in conformity with N.J.A.C. 19:45-1.41;

9. The issuance of Payouts in conformity with N.J.A.C. 19:45-1.40; and

*[9.]**10.* (No change.)

*[10.]**11.* The exchange with the cashiers' cage of any coin, currency, slot tokens, chips, plaques, issuance copies of Slot Counter Checks and documentation and the related preparation of a Slot Booth Exchange Slip, which shall be a two-part, serially prenumbered form signed by the cage cashier, slot cashier, and the security department member responsible for transporting the funds. Except for the exchanging of change with changepersons the slot booth shall not be allowed to obtain coin, from other than patrons, through exchange or otherwise, from any source other than the cashiers' cage. Exchanges with the cashiers' cage must be accompanied by the Slot Booth Exchange Slip or by a Fill Slip authorizing the distribution of coins or slot tokens to the slot booths.

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

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19:45-1.43 Slot count; procedure for counting and recording contents of drop buckets

(a)-(i) (No change.)

(j) Procedures and requirements at the conclusion of the count shall be the following:

1. The wrapped coin and currency removed from the drop bucket shall be counted in the count room in the presence of a count team member and a Commission inspector, by a cage cashier or master coin bank cashier prior to his having access to the information recorded on the Slot Win Sheet. The cage cashier or master coin bank cashier shall attest by signature on the Slot Win Sheet to the accuracy of the amount of coin and currency received from the slot machines; after which the Commission inspector shall sign the Slot Win Sheet evidencing his presence during the count and the fact that both the cashier and count team have agreed on the total amount of coin and currency counted. The coin and currency thereafter shall remain in the custody of the cage cashiers or master coin bank cashiers.

2.-5. (No change.)

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Gaming Equipment
Definitions
Drop Boxes and Slot Cash Storage Boxes
Procedure for Opening, Counting and Recording Contents of Drop Boxes and Slot Cash Storage Boxes
Slot Machines and Bill Changers; Coin and Slot Token Containers; Slot Cash Storage Box Compartments; Keys
Slot Machines and Bill Changers; Identification; Signs; Meters
Slot Machines and Bill Changers; Location; Movements
Progressive Slot Machines
Jackpot Payouts of Cash
Jackpot Payout of Merchandise or Other Things of Value
Procedure for Filling Payout Reserve Containers of Slot Machines
Slot Count; Procedure for Counting and Recording Contents of Drop Buckets
Slot Machines and Bill Changers; Identification; Signs; Meters; Other Devices

Adopted Amendments: N.J.A.C. 19:45-1.1, 1.16, 1.33, 1.36, 1.37, 1.38, 1.39, 1.40, 1.40A, 1.41 and 1.43; 19:46-1.26

Proposed: November 5, 1990 at 22 N.J.R. 3325(a).
Adopted: April 3, 1991 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: April 8, 1991 as R.1991 d.230, **without change.**

Authority: N.J.S.A. 5:12-63c.

Effective Date: May 6, 1991.
Expiration Date: March 24, 1993, N.J.A.C. 19:45
April 28, 1993, N.J.A.C. 19:46

Summary of Public Comments and Agency Responses:

COMMENT: Thomas McCormick, Assistant Counsel of Marina Associates, supports the proposed amendments.

RESPONSE: Accepted.

COMMENT: Roberto Rivera-Soto, Vice President Corporate Counsel of Sands Hotel and Casino, supports the proposed amendments.

RESPONSE: Accepted.

COMMENT: Thomas C. Bonner, Vice President General Counsel of Atlantic City Showboat, supports the proposed amendments.

RESPONSE: Accepted.

COMMENT: The Division of Gaming Enforcement supports the proposed amendments.

RESPONSE: Accepted.

Full text of the adoption follows.

19:45-1.1 Definitions

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

"Asset number" means a unique number permanently assigned to a slot machine and a slot cash storage box for purposes of tracking that machine and storage box while owned by a casino licensee.

. . .

"Location number" means the number assigned to an area of the casino floor which identifies the site where the slot machine is positioned.

. . .

"Manufacturer's serial number" means a unique number permanently assigned to a slot machine manufacturer for identification and control purposes.

. . .

19:45-1.16 Drop boxes and slot cash storage boxes

(a) (No change.)

(b) Each bill changer in a casino shall have contained in it a metal container known as a "slot cash storage box" in which shall be deposited all cash inserted into the bill changer. Each slot cash storage box shall have:

1.-3. (No change.)

4. An asset number at least two inches in height, permanently imprinted, affixed or impressed on the outside of the slot cash storage box which corresponds to the asset number of the slot machine to which the bill changer has been attached, except that emergency slot cash storage boxes may be maintained without such number, provided the word "emergency" is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the asset number of the slot machine to which the bill changer is attached, and provided further, that the casino obtains the express written approval of a Commission inspector before placing an emergency slot cash storage box into use.

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

19:45-1.33 Procedure for opening, counting and recording contents of drop boxes and slot cash storage boxes

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

(h) Procedures and requirement for conducting the count shall be the following:

1. As each drop box or slot cash storage box is placed on the count table, one count team member shall verbalize, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon for drop boxes, or the asset number marked thereon for slot cash storage boxes;

2.-11. (No change.)

(i)-(j) (No change.)

19:45-1.36 Slot machines and bill changer; coin and slot token containers; slot cash storage box compartments; keys

(a) Each slot machine located in a casino shall have the following coin or slot token containers:

1. (No change.)

2. A container, known as a drop bucket, to collect coins or slot tokens that are retained by the slot machine and not used to make change or automatic jackpot payouts. Each drop bucket shall be identified by a number, corresponding to the asset number of the slot machine, which shall be at least two inches in height, and permanently imprinted, affixed or impressed on the outside of the bucket; and

3. (No change.)

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

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(g) Unless a computer which automatically records the information specified in (g)1, 2, and 3 below is connected to the slot machines in the casino, the following entry authorization logs shall be maintained by the casino licensee:

1. Whenever it is required that a slot machine or any device connected thereto which may affect the operation of the slot machine be opened, with the exception of a bill changer, certain information shall be recorded on a form to be entitled "Machine Entry Authorization Log." The information shall include, at a minimum, the date, time, purpose of opening the machine or device, and signature of authorized employee opening the machine or device. The Machine Entry Authorization Log shall be maintained in the slot machine and shall have recorded thereon a sequential number and a manufacturer's serial number or asset number.

2. (No change.)

3. Whenever it is required that a bill changer, other than the slot cash storage box compartment, be opened, the entry shall be made on a form to be entitled "Bill Changer Log". The entry shall include, at a minimum, the date, time, purpose of opening the bill changer, and the signature of authorized employee opening the bill changer. The Bill Changer Log shall be maintained in the bill changer and shall have recorded thereon a sequential number and bill changer serial number or asset number.

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

19:45-1.37 Slot machines and bill changers; identification; signs; meters

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1. A manufacturer's serial number affixed to the outside of the slot machine cabinet in a location as approved by the Commission.

2. An asset number, at least two inches in height, permanently imprinted, affixed or impressed on the outside of the machine;

3.-4. (No change.)

5. A mechanical, electrical, or electronic device that automatically precludes a player from operating the slot machine after a jackpot requiring a manual payout and requires an attendant to reactivate the machine;

6. A light on a pedestal above the slot machine that automatically illuminates when the door to the slot machine or any device connected thereto which may affect the operation of the slot machine is opened; and

7. A location number, at least two inches in height, affixed to the outside of the machine and visible to the casino licensee's closed circuit camera coverage system.

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

19:45-1.38 Slot machines and bill changers; location; movements

(a) Each casino licensee shall file with the Commission a floor plan of the casino which identifies each slot machine and bill changer on the casino floor by a location number in accordance with N.J.A.C. 19:45-1.37(a)7. Any alterations to such floor plan shall not become effective until approved in writing by a Commission inspector. A revised floor plan containing such alterations shall be filed with the Commission within 24 hours of the alteration.

(b) (No change.)

(c) Once a slot machine or bill changer has been placed in the casino, all movements of that machine and/or bill changer from or to its location shall be recorded by a slot department member in a machine movement log which shall include the following:

1. The manufacturer's serial number and the asset number of the moved slot machine and/or bill changer;

2.-6. (No change.)

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

19:45-1.39 Progressive slot machines

(a)-(i) (No change.)

(j) The amount indicated on the "progressive meter(s)" and "in meter" on each slot machine shall be recorded on a Progessive Slot Summary, at a minimum, once each day and such summary shall be signed by the preparer. Supporting documents shall be maintained to explain any reduction in the registered amount from the previous entry and shall indicate the date, asset number of the slot machine, and the amount of the reduction.

(k) (No change.)

19:45-1.40 Jackpot payouts of cash

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

(e) On originals, duplicates, and triplicates, or in stored data, the preparer shall record, at a minimum, the following information:

1. The asset number of the slot machine on which the jackpot was registered;

2.-6. (No change.)

(f)-(j) (No change.)

19:45-1.40A Jackpot payouts of merchandise or other things of value

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

(g) On the original and all copies of the Slip, or in stored data, the preparer shall record, at a minimum, the following information.

1. The asset number of the slot machine on which the jackpot was registered;

2.-7. (No change.)

(h)-(o) (No change.)

19:45-1.41 Procedure for filling payout reserve containers of slot machines

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

(e) On originals, duplicates, and triplicates or in stored data, the preparer shall record, at a minimum, the following information:

1. The asset number of the slot machine to which the coins are to be distributed;

2.-6. (No change.)

(f)-(k) (No change.)

19:45-1.43 Slot count; procedure for counting and recording contents of drop buckets

(a)-(h) (No change.)

(i) Procedures and requirements for conducting the count shall be the following:

1.-4. (No change.)

5. As the contents of each drop bucket are counted by the count machine or weighed by the scale, or if currency, by two count team members, one member shall record on the Slot Win Sheet, or supporting document, the asset number of the slot machine to which the drop bucket content corresponds, if not preprinted thereon and the number of the coin or the weight of the coin and/or the value of the coin and/or currency counted. If the coin value is not converted until after the count is completed the conversion shall be prepared and the dollar value of the drop shall be entered by denomination on the Slot Win Report.

6.-7. (No change.)

(j) (No change.)

19:46-1.26 Slot machines and bill changers; identification; signs; meters; other devices

(a) Unless otherwise authorized by the Commission, each slot machine in a casino shall have the following identifying features:

1. A manufacturer's serial number permanently imprinted, impressed, affixed or engraved on the front panel of the frame housing, the reel mechanism or, in the case of a completely electronic machine, on the logic board or boards;

2. An asset number, at least two inches in height, permanently imprinted, impressed, engraved or affixed on the outside cabinet of the machine by the casino licensee;

3.-4. (No change.)

5. A display on the front of the slot machine that clearly represents its rules of play, character combinations requiring payouts and the amount of the related payouts. In addition, a caino licensee shall display on the slot machine either:

i. (No change.)

ii. The name or a brief description of the merchandise or thing of value offered; provided, however, a sign containing the information specified in (a)5i above shall be displayed in a location approved by the Commission near the slot machine;

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6. A light on a pedestal above the slot machine that automatically illuminates when the door to the machine or any device connected thereto which may affect the operation of the slot machine is opened;

7. A location number, at least two inches in height affixed to the outside of the machine and visible to the casino licensee's closed circuit camera coverage system; and

8. A manufacturer's serial number affixed to the outside of the slot machine cabinet in a location as approved by the Commission.

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

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Procedure for Exchange of Checks Submitted by Gaming Patrons
Adopted Amendment: N.J.A.C. 19:45-1.25

Proposed: December 17, 1990 at 22 N.J.R. 3711(a).
Adopted: April 3, 1991 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: April 8, 1991 as R.1991 d.231, **without change.**
Authority: N.J.S.A. 5:12-63c, 5:12-70g and 5:12-101b.
Effective Date: May 6, 1991.
Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: Roberto Rivera-Soto, Vice President and Corporate Counsel of the Sands Hotel and Casino, supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: Thomas McCormick, Assistant Counsel of Marina Associates, supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: Bernard E. DeLury, Staff Attorney for Bally's Park Place, Inc. and Bally's Grand Hotel and Casino, supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: Thomas C. Bonner, Vice President and General Counsel of Atlantic City Showboat, supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: Bessie A. Sacco, Assistant Corporate Counsel of TropWorld Casino and Entertainment Resort, supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: The Division of Gaming Enforcement supports the proposed amendment to N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

Full text of the adoption follows.

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 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 cash 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. Each casino licensee shall maintain documentation supporting that examination or verification.

1. (No change.)

i.-iv. (No change.)

(f)-(p) (No change.)

(b)

CASINO CONTROL COMMISSION

Gaming Equipment
Nature and Exchange of Gaming Chips, Slot Tokens and Plaques
Adopted Amendment: N.J.A.C. 19:46-1.5

Proposed: November 5, 1990 at 22 N.J.R. 3327(a).
Adopted: April 3, 1991 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: April 8, 1991 as R.1991 d.232, **without change.**
Authority: N.J.S.A. 5:12-63c.
Effective Date: May 6, 1991.
Expiration Date: April 28, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: Roberto Rivera-Soto, Vice President and Corporate Counsel of the Sands Hotel and Casino, supports the proposed amendment to N.J.A.C. 19:46-1.5.

RESPONSE: Accepted.

COMMENT: Thomas McCormick, Assistant Counsel of Marina Associates, supports the proposed amendment to N.J.A.C. 19:46-1.5.

RESPONSE: Accepted.

COMMENT: The Division of Gaming Enforcement supports the proposed amendment to N.J.A.C. 19:46-1.5.

RESPONSE: Accepted.

Full text of the adoption follows.

19:46-1.5 Nature and exchange of gaming chips, slot tokens and plaques

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

(c) Slot tokens shall only be issued to a patron from a slot booth, cashiers' cage, bill changer or by a slot change person. Slot tokens shall only be issued upon the request of a patron; provided, however, complimentary slot tokens may be issued by a casino licensee in accordance with a complimentary distribution program authorized pursuant to N.J.A.C. 19:45-1.46. Slot tokens shall only be redeemed at a coin redemption booth, a slot booth or the cashiers' cage.

(d)-(k) (No change.)

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EMERGENCY ADOPTION

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax
Homestead Property Tax Rebate
Extension of Filing Date

Adopted Emergency New Rule and Concurrent Proposed New Rule: N.J.A.C. 18:12-7.15

Emergency New Rule Adopted and Concurrent Proposed New Rule Authorized: April 12, 1991 by Benjamin J. Redmond, Acting Director, Division of Taxation.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): April 16, 1991.

Emergency New Rule Filed: April 16, 1991, as R.1991 d.251.

Authority: N.J.S.A. 54:4-8.62b and 54:50-1.

Concurrent Proposal Number: PRN 1991-262.

Emergency New Rule Effective Date: April 16, 1991.

Emergency New Rule Expiration Date: June 15, 1991.

Submit comments by June 5, 1991 to:
Nicholas Catalano
Chief Tax Counselor
Division of Taxation
CN 269
Trenton, NJ 08646

The agency emergency adoption and concurrent proposal follows.

On April 12 1991, Benjamin J. Redmond, Acting Director of the Division of Taxation in the Department of the Treasury, pursuant to the authority of N.J.S.A. 54:4-8.62b and 54:50-1, and the applicable provisions of the Administrative Procedure Act, and upon certification by the Governor of the State of New Jersey that an imminent peril exists (see N.J.A.C. 52:14B-4(c)), adopted an emergency new rule, N.J.A.C. 18:12-7.15, concerning an extension of time to file an application for the homestead property tax rebate. This emergency new rule is effective for 60 days upon filed with the Office of Administrative Law (OAL). The new rule will continue in effect if the concurrent proposed new rule is adopted and filed with OAL on or before the expiration date of the emergency rule.

Summary

To respond to the imminent peril, this rule has been proposed on an emergency basis to ensure that persons who would otherwise not be required to file an income tax return be given additional time to file an application for the homestead property tax rebate. Without this adoption, an undetermined number of persons would forfeit their right to a homestead property tax rebate. Because of the repeal of the old homestead rebate (N.J.S.A. 54:4-3.80) and the implementation of the homestead property tax rebate (N.J.S.A. 54:4-8.57 et seq.), there is confusion as to the manner and time in which the application for the homestead property tax rebate must be filed. This additional time is given to people who did not file their applications prior to April 15, 1991 and have New Jersey gross income of less than $3,000.

Social Impact

There is no way to determine the number of claimants that this emergency and concurrently proposed new rule will affect; however, the rule is necessary to ensure that the homeowners and tenants who would otherwise not be required to file an income tax return and who failed to file timely applications for the homestead property tax rebate and have New Jersey gross income of less than $3,000, are given adequate time to do so.

Economic Impact

Since the funding for the payment of the homestead property tax rebates has already been appropriated, no economic impact to the State will result from this rule. A positive economic impact will insure to those eligible for the extension who avail themselves of the extension to file rebate applications.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rule does not impose reporting, recordkeeping or other compliance requirements on small businesses within the meaning of the Regulatory Flexibililty Act, N.J.S.A. 52:14B-16 et seq. The rule extends the time for homeowners to file applications for the homestead property tax rebate.

Full text of the emergency adopted and concurrently proposed new rule follows.

18:12-7.15 Extension of filing date for the homestead property tax rebate

(a) The time for homeowners and tenants to file their applications for the homestead property tax rebate pursuant to N.J.S.A. 54:4-8.57 et seq. (P.L. 1990, c.61), including applications by shareholders in cooperative associations, condominiums, and certain mutual housing corporations, is extended to August 15, 1991, provided such claimants have New Jersey gross income of less than $3,000.

(b) New Jersey gross income means all gross income required to be reported pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., other than income excludible from the gross income tax return, but before reduction thereof by any applicable exemptions, deductions, and credits received during the taxable year by the claimant.

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PUBLIC NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Code Change Proposal Hearing Uniform Construction Code

Take notice that the Construction Code Element of the Department of Community Affairs has scheduled its annual code change proposal hearing, pursuant to N.J.S.A. 52:27D-123c, for June 14, 1991 beginning at 9:30 A.M., in the first floor conference room of Building 3 of 3131 Princeton Pike, Lawrenceville, New Jersey. Those wishing to present code change proposals for the national model codes adopted by reference as subcodes of the New Jersey Uniform Construction Code, or those in need of further information, may telephone the Element at (609) 530-8789.

Proposals may be mailed or faxed to:

"Code Changes"
Department of Community Affairs
Bureau of Technical Services
CN 816
Trenton, NJ 08625-0816
Fax: (609) 530-8858

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Notice of Availability of Loans Water Supply Rehabilitation and Interconnection Loan Programs

Take notice that the Department of Environmental Protection, pursuant to N.J.S.A. 52:14-34.4 et seq., announces the availability of the following State loan funds.

Name of program: Water Supply Rehabilitation and Interconnection Loan Programs. Authority: Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended, and the Water Supply Bond Loan Programs Rules, N.J.A.C. 7:1A.

Purpose: The purpose of the Water Supply Rehabilitation and Interconnection Loan Programs is to provide financial assistance in the form of loans to State or local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly owned water supply facilities, and for the interconnection of unconnected or inadequately connected water supply systems.

Amount of money in the program: The Department has requested that the Legislature appropriate $25 million from the Water Supply Fund to fund water supply rehabilitation and interconnection loan projects. Loan funds will be first used for the current 1990 loan projects and the Department estimates a balance of approximately $5 to $8 million to be used towards the 1991 loan applicants. Any loans issued by the Department under these programs are subject to this appropriation and the availability of funds.

Individuals or organizations who may apply for funding under this program: Any political subdivision of the State or agency thereof may apply for a loan under these programs.

Qualifications needed by an applicant to be considered for the program: Loans awarded under the Water Supply Rehabilitation and Interconnection Loan Programs are governed by the Water Supply Bond Loan Programs Rules at N.J.A.C. 7:1A. These rules define eligible projects and prescribe procedures, minimum standards of conduct for borrowers, and standards for obtaining loans from these programs.

Procedure for potential applicants: Applications for water supply rehabilitation and interconnection loans may be requested from:

Philip Royer
Division of Water Resources
Water Supply Element
401 East State Street
CN-029
Trenton, New Jersey 08625
(609) 633-7486

Pursuant to N.J.A.C. 7:1A-2.3(a), applicants must schedule an informal pre-application conference with the Division of Water Resources prior to submitting a formal application for a water supply rehabilitation and/or interconnection loan.

Deadline by which applications must be submitted: Applications for funding during calendar year 1991 must be submitted by June 28, 1991.

Date by which applicant shall be notified of preliminary approval or disapproval: Within one month of submission, the Division of Water Resources will send applicants for water supply rehabilitation and interconnection loans a status letter regarding their application.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on March 27, 1991, 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 Northeast Water Quality Management (WQM) Plan was adopted by the Department. This amendment adopts a Wastewater Management Plan (WMP) for Secaucus Town dated June 1990, revised September 1990. That document proposes the initial expansion of the Koelle Boulevard sewage treatment plant (STP) to treat a design flow 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 amendment was noticed in the New Jersey Register on December 17, 1990 (see 22 N.J.R. 3882(a)). Comments on this amendment were received during the public comment period and are summarized below with the Department's responses.

COMMENT: Although not specified in the WMP, the wastewater flow projections include at least two projects which are either not in compliance with the zoning or have already been denied permits by the Environmental Protection Agency (EPA). The first example is the Allied Junction project which proposes to construct an office/hotel/transportation center almost 10 times the density permitted in the zoning. The second example is the Villages at Mill Creek project, a residential development of 3,000 units which has been denied construction permits by the EPA due to wetlands encroachments.

RESPONSE: The above two projects have been included in the Koelle Boulevard STP wastewater flow projections for the following reasons:

1. The Allied Junction project is proposed for the Hackensack Meadowlands Development Commission's (HMDC) "TC-3 Specially Planned Area" which was zoned for a maximum building area of 500,000 square feet. On January 23, 1991, the HMDC granted Allied Junction a variance for an increase in building area to 4.7 million square feet. A projected wastewater flow of 500,000 gallons per day is included in the WMP for this project based upon the project size of 4.7 million square feet.

2. The Villages at Mill Creek project received revised general plan approval from the HMDC on June 20, 1989 for the construction of 3,301 condominium units. Although the EPA and the United States Fish and Wildlife Service objected to the issuance of an Army Corps of Engineers (ACOE) 404 fill permit, a final ACOE decision on issuing the permit is still pending.

COMMENT: The WMP contains a map which shows that extensive areas of wetlands lie within the planning area. Will approval of the WMP by the Department be the first step in the Department's sanctioning of development of the wetlands?

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Also, the EPA and the ACOE are jointly working on a Special Area Management Plan for the Hackensack Meadowlands Development Commission District which will determine, among other issues, what development can occur in the wetlands. The Secaucus Town WMP proposes extensive development of the wetlands. Is it advisable for the Department to approve of the WMP as it is when the EPA and the ACOE are currently undertaking extensive studies to decide if development of the wetlands should be allowed?

RESPONSE: As stated on the wetlands mapping in the WMP, depiction of wetlands in the WMP is for general information purposes only. It is not the purpose of the WMP to either prohibit or allow development of wetlands, as development in wetlands is subject to special regulation under Federal and State statutes and rules such as the Freshwater Wetlands Act.

COMMENT: How does the public provide input to the WMP?

RESPONSE: The public may comment on the WMP during the 30 day public comment period which is required in accordance with the Statewide Water Quality Management Planning (SWQMP) rules, specifically N.J.A.C. 7:15-3.4. The public comment period for the Secaucus Town WMP extended from December 17, 1990 to January 16, 1991. The SWQMP rules do not require that a public hearing on the WMP be held at the local level.

(a)

DIVISION OF WATER RESOURCES

Amendment to the Sussex County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Sussex County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt a Wastewater Management Plan (WMP) for Fredon Township. That document proposes an on-site groundwater disposal system to serve the proposed Bear Brook Golf Village in Fredon Township and delineates a sewer service area for that facility. The projected wastewater flow from this residential/commercial development is 35,100 gallons per day (gpd). The WMP also delineates the non-surface discharge service areas for facilities with design capacities of less than 20,000 gpd with wastewater flows not to exceed 340 gallons per acre per day. The rest of the Township is delineated as a non-surface discharge service area for facilities with design capacities of less than 2,000 gpd.

This notice is being given to inform the public that a plan amendment has been developed for the Sussex County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Sussex County Water Resource Management Program, 55-57 High Street, Newton, New Jersey 07860; and the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Quality Planning, CN-029, Third Floor, 401 East State Street, Trenton, N.J. 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 either the Bureau of Water Quality Planning at (609) 633-7026 or the Sussex County Water Resource Management Program at (201) 579-0500.

The Sussex County Board of Chosen Freeholders will hold a **public meeting** on the proposed Sussex County WQM Plan amendment at which time all interested persons may appear and shall be given a opportunity to be heard. The public meeting will be held on Thursday, June 13, 1991 at 6:45 P.M. in the Freeholder meeting room, County Administration Building, Plotts Road, Newton, New Jersey. Interested persons may submit written comments on the amendment to Ms. Lyn Halliday at the Sussex County Water Resource Management Program address cited above with a copy sent to Mr. Ed Frankel, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 15 days following the public meeting. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Sussex County Board of Chosen Freeholders with respect to the amendment request. In addition, if the amendment is adopted by Sussex County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice will also be considered by the NJDEP during its review. Sussex County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

DIVISION OF WATER RESOURCES

Amendment to the Upper Delaware Water Quality Management Plan

Public Notice

Take notice that on April 9, 1991, 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 Upper Delaware Water Quality Management Plan was adopted by the Department. This amendment adopts a Wastewater Management Plan (WMP) for the Borough of Alpha, Warren County. The WMP supersedes the information contained in the Town of Phillipsburg, Borough of Alpha, Pohatcong Township, Lopatcong Township WMP dated May 1988. The Alpha WMP identifies an expanded Town of Phillipsburg Sewage Treatment Plant sewer service area within its municipal borders.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Take notice that on April 4, 1991, 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 Lower Delaware Water Quality Management Plan was adopted by the Department. This amendment adopts the Woodstown Sewerage Authority (WSA) Wastewater Management Plan (WMP). This WMP proposes to upgrade and expand the existing WSA Sewage Treatment Plant (STP). In addition, the WMP proposes to expand the sewer service area of the WSA STP to include the entire Borough of Woodstown, the seven buildings presently served by the Salem County Vo-Tech School Treatment Plant in Mannington Township, the Salem County Roads Department and garage and office in Pilesgrove Township, and the proposed Salem County Correctional Facilities in Mannington Township. The existing Salem County Vo-Tech School Treatment Plant will be abandoned and replaced by a pump station and force main. The WMP identifies all areas of Pilesgrove Township which presently receive sewer service from the Woodstown STP. No additional sewer service to Pilesgrove or Mannington Townships, except as listed above, is proposed.

(d)

DIVISION OF WATER RESOURCES

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that on March 20, 1991, 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 Mercer County Water Quality Management Plan was adopted by the Department. This amendment updates the Hopewell Township Wastewater Management Plan (WMP). The WMP identifies additional sewer service areas in the Washington Crossing-Titusville neighborhood to be treated by the Ewing-Lawrence Sewerage Authority (ELSA). In the southeast quadrant of the Township, a sewer service area expansion from 1,100 acres to 2,400 acres is proposed. This ELSA sewer service expansion includes a 270 acre transfer from the Stony Brook Regional Sewerage Authority (SBRSA) service area to the ELSA service area. The SBRSA-Hopewell Borough Sewage Treatment Plant service area is expanded to include a residential development adjacent to the Princeton Farms Residential Development. The SBRSA-Pennington Borough Sewage Treatment Plant service area is expanded to include a proposed Life Care Facility.

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HEALTH

(a)

DIVISION OF EPIDEMIOLOGY AND DISEASE CONTROL

Availability of Grants
Immunization Services

Take notice that, in compliance with N.J.S.A. 52:14-34.4 et seq., the Department of Health hereby publishes notice of the availability of the following grant:

Name of grant program: Immunization Services to preschool-aged children and to cities throughout the State under the declared state of emergency. Grant Program No. 91-84-IMM Revised.

Purpose: Two year demonstration project to provide immunization services to preschool-aged children in Jersey City who are recipients of AFDC benefits and other social service programs. Clinic services would be provided through the establishment of four sites staffed by nurses, clerks and social outreach personnel who will identify, immunize and track children aged zero to five to ensure that they receive the recommended childhood immunizations at the proper time. To provide immunization relief to cities throughout the State under the declared state of emergency.

Amount of money in the grant program: The availability of funds for this program is contingent on appropriation of funds to the Department. Contact the person identified in this notice to determine whether the funds have been awarded and to receive further information.

Groups or entities which may apply for funding: Local government agencies, State agencies, non-profit corporations, licensed ambulatory care facilities and hospitals.

Qualifications needed by an applicant to be considered for a grant: Experience with community health and dealing with the health needs of inner-city children in Jersey City. Ability to offer immunization clinic services at sites in non-medical settings in targeted areas of need. A licensed health care facility with professional staff which can provide these services in accord with State and Federal guidelines. Ability to work with State Health and Human Services agencies.

Procedures for eligible entities to apply for grant funds: Prepare and submit a Health Service Grant Application.

For information contact:

Director
Communicable Disease and Injury Control Service
New Jersey State Department of Health
CN 369
Trenton, New Jersey 08625-0369
609-588-7539

Deadline by which applications must be submitted: October 31, 1991.

Date by which applicant shall be notified whether they will receive funds: December 1, 1991.

HUMAN SERVICES

(b)

NEW JERSEY DEVELOPMENTAL DISABILITIES COUNCIL

Notice of Availability of Grants
Family Support Systems Grants

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the Department of Human Services, Developmental Disabilities Council hereby announces the availability of the following grant program.

Name of program: Family Support Systems Grants.

Purpose of program: The Family Supports Systems & Integration Project has the express purpose of encouraging the design, trial, and evaluation of innovative systems of family supports. The applicant will develop a program of supportive services or activities, identify the recipient population, identify the rationale for the services and identify the evaluation methodology to determine the impact on quality of life for the family and the person with a developmental disability. The support systems issuing from these projects must be consumer-driven, improve the quality of life of the family and disabled member, improve and maximize integration into the community and facilitate the integrity of the family unit with the disabled member present. This project will also have the purpose of developing a program basis and supporting evidence to generate recommendations by the N.J. Developmental Disabilities Council for legislation and/or regulation adoption in the area of community and family support techniques.

The programs will be required to draw heavily upon existing, generic supports available in the selected geographic service area and incorporate plans to expand access to these by participating individuals and families. To the maximum extent feasible, these should be integrated into the generic system within a community, so as to determine the efficacy of generating such specialized supports as may be required from within a community system rather than from without.

Amount of grant(s): An amount not over $125,000 will be awarded to each of three applicants. The contracts are expected to require one year to complete.

Eligible applicants: Any individual, partnership, entity or organization (profit or non-profit) which can demonstrate the ability to design and implement a project of the scope required within the timeframe required.

Requirements of applicants: Completion of a fully responsive Proposal Package is required of all applicants. Applicants must be prepared to implement this project no later than October 1, 1991.

Procedure to apply: Request for Proposal Packages (RFP's) must be completed by any applicant by the deadline noted below. The RFP package should be requested by any eligible organization or individual as soon as possible by writing to:

Ethan B. Ellis, Executive Director
N.J. Developmental Disabilities Council
CN-700
Trenton, NJ 08625

Reference Proposal No. 90:A.12:05

Address to which application must be submitted: Complete proposal packages must be submitted to: Ethan B. Ellis, Executive Director, Developmental Disabilities Council at the above address.

Proposal deadline: A completed proposal package must be received no later than 4:00 P.M. on July 8, 1991 to be eligible for consideration.

Final notification: Applicants who submit a proposal will be notified of approval or disapproval no later than 60 days following the closing date for receipt of proposals.

LAW AND PUBLIC SAFETY

(c)

DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS

Notice of Action on Petition for Rulemaking

Petitioners: Council of New Jersey Chiropractors.
Authority: N.J.S.A. 52:14B-4(f).

Take notice that on January 18, 1991, petitioners filed a petition with the Board of Chiropractic Examiners requesting a new rule concerning the performance of independent chiropractic examinations for third parties.

The Board of Chiropractic Examiners at its meeting of February 21, 1991, voted to refer the petition to its Rules and Regulations Committee consisting of four Board members to study the petition. The Board is not prepared to initiate rulemaking on this issue at this time. Further study and discussions by the Board remain necessary prior to such formal regulatory action. The Committee will report its findings and recommendations to the full Board at its meeting of March 21, 1991. After consideration of the Committee's report, the Board shall address this issue pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The Board's notice of receipt of this petition appeared in the March 4, 1991, New Jersey Register at 23 N.J.R. 780(b). Pursuant to that notice,

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the Board solicits comments or other pertinent information on the petitioner's proposed amendments and the general issue prompting the petition for rulemaking. **Interested persons** may submit written comments on the petition for rulemaking until June 5, 1991. Address comments to:

Jay Church
Executive Director
New Jersey State Board of Chiropractic Examiners
P.O. Box 45004
Newark, New Jersey 07101

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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the March 4, 1991 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.1991 d.1 means the first rule adopted in 1991.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT FEBRUARY 19, 1991

NEXT UPDATE: SUPPLEMENT MARCH 18, 1991

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

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N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
22 N.J.R. 1291 and 1408	May 7, 1990	22 N.J.R. 3421 and 3606	November 19, 1990
22 N.J.R. 1409 and 1648	May 21, 1990	22 N.J.R. 3607 and 3666	December 3, 1990
22 N.J.R. 1649 and 1806	June 4, 1990	22 N.J.R. 3667 and 3896	December 17, 1990
22 N.J.R. 1807 and 1964	June 18, 1990	23 N.J.R. 1 and 144	January 7, 1991
22 N.J.R. 1965 and 2062	July 2, 1990	23 N.J.R. 145 and 248	January 22, 1991
22 N.J.R. 2063 and 2202	July 16, 1990	23 N.J.R. 249 and 332	February 4, 1991
22 N.J.R. 2203 and 2386	August 6, 1990	23 N.J.R. 333 and 636	February 19, 1991
22 N.J.R. 2387 and 2622	August 20, 1990	23 N.J.R. 637 and 798	March 4, 1991
22 N.J.R. 2623 and 2860	September 4, 1990	23 N.J.R. 799 and 924	March 18, 1991
22 N.J.R. 2861 and 3072	September 17, 1990	23 N.J.R. 925 and 1048	April 1, 1991
22 N.J.R. 3073 and 3182	October 1, 1990	23 N.J.R. 1049 and 1226	April 15, 1991
22 N.J.R. 3183 and 3274	October 15, 1990	23 N.J.R. 1227 and 1482	May 6, 1991
22 N.J.R. 3275 and 3420	November 5, 1990		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-3.3, 14.4, 14.14	Return of cases; failure to appear; sanctions	23 N.J.R. 639(a)		
1:1-5.4	Representation by non-lawyers	23 N.J.R. 1053(a)		
1:1-9.5	OAL Notice of Filing: preproposal regarding notification of parties to contested case	22 N.J.R. 2066(b)		
1:1-9.6	Adjournments: administrative correction	_____	_____	23 N.J.R. 687(a)
1:1-15.4	Privileges: administrative correction	_____	_____	23 N.J.R. 847(a)
1:10-8.1	Transmission of Economic Assistance cases	23 N.J.R. 3(a)		
1:13-1.1, 4.1	Division of Motor Vehicle cases	23 N.J.R. 928(a)		
1:13-14.4	Motor Vehicle cases: failure to appear	23 N.J.R. 639(a)		
1:13A-14.1	Lemon Law hearings: failure to appear	23 N.J.R. 639(a)		
1:14	Board of Public Utility hearings	23 N.J.R. 640(a)		
1:30-3.3A	Public hearings: administrative correction	_____	_____	23 N.J.R. 847(b)
	Most recent update to Title 1: TRANSMITTAL 1991-2 (supplement February 19, 1991)			
AGRICULTURE—TITLE 2				
2:6-1	Distribution and use of veterinary biologics	22 N.J.R. 2068(a)		
2:32-2.3, 2.11, 2.22, 2.27	Sire Stakes Program	23 N.J.R. 252(a)	R.1991 d.241	23 N.J.R. 1408(a)
2:50-1.1, 2.1	Dairy farmers and milk dealers notice to discontinue sale or purchase of milk	23 N.J.R. 929(a)		
	Most recent update to Title 2: TRANSMITTAL 1991-2 (supplement February 19, 1991)			
BANKING—TITLE 3				
3:1-2.17	Closing of branch offices	23 N.J.R. 801(a)		
3:1-2.25, 2.26	Conversions of savings and loan associations and savings banks	23 N.J.R. 929(b)		
3:1-2.25, 2.26, 17	Automated teller machines	23 N.J.R. 642(a)	R.1991 d.244	23 N.J.R. 1408(b)
3:1-4.2, 4.7, 4.9, 4.10	Protection of governmental unit deposits	22 N.J.R. 1809(a)	R.1991 d.186	23 N.J.R. 997(a)
3:1-6.1, 6.2, 6.6	Assessments on trust assets	23 N.J.R. 1073(b)		
3:1-6.1, 6.2, 6.6, 7.4, 7.6	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:3-2	Nonpublic records	23 N.J.R. 253(a)		
3:6	General rules for banks	23 N.J.R. 147(a)	R.1991 d.171	23 N.J.R. 998(a)
3:6-8	Conversions of savings and loan associations and savings banks	23 N.J.R. 929(b)		
3:6-13	Repeal (see 3:1-2.25, 2.26, 17)	23 N.J.R. 642(a)	R.1991 d.244	23 N.J.R. 1408(b)
3:6-14.2	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:13-3.2	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:17-1.1, 1.4	Consumer loan advertisements	22 N.J.R. 2626(a)		
3:17-1.1, 1.4	Consumer loan licensees: check solicitations	23 N.J.R. 931(a)		
3:17-3.4	Location of consumer loan records	23 N.J.R. 803(a)		
3:18-2.1	Location of secondary mortgage loan records	23 N.J.R. 803(a)		
3:18-10.1	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:18-10.5	Surety bonding of secondary mortgage loan licensees	23 N.J.R. 802(a)		
3:19-1	Home repair financing	23 N.J.R. 256(a)	R.1991 d.194	23 N.J.R. 1127(a)
3:23-2.1	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:23-2.1	License fees for motor vehicle installment sellers and home repair contractors	23 N.J.R. 1073(b)		
3:24-2.7	Posting of general ledger by check cashers	23 N.J.R. 932(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
3:29-1.1–1.4, 1.6, 1.7, 1.8	Savings and loan associations: audit requirements	22 N.J.R. 1968(a)		
3:32-1.11, 2	Conversions of savings and loan associations and savings banks	23 N.J.R. 929(b)		
3:38-1.1	License fees, assessments, examination charges	23 N.J.R. 254(a)	R.1991 d.195	23 N.J.R. 1125(a)
3:38-1.2, 1.4, 1.9	Mortgage banker and broker net worth standards	23 N.J.R. 643(a)		
3:38-1.5	Surety bonding of mortgage loan licensees	23 N.J.R. 802(a)		
3:38-2.1	Location of mortgage loan records	23 N.J.R. 803(a)		

Most recent update to Title 3: TRANSMITTAL 1991-2 (supplement February 19, 1991)

CIVIL SERVICE—TITLE 4

Most recent update to Title 4: TRANSMITTAL 1990-3 (supplement July 16, 1990)

PERSONNEL—TITLE 4A

4A:6-5.3	PAR use and review: administrative change	_____	_____	23 N.J.R. 1410(a)

Most recent update to Title 4A: TRANSMITTAL 1990-5 (supplement November 19, 1990)

COMMUNITY AFFAIRS—TITLE 5

5:2-3	Grant and loan approval	Exempt	R.1991 d.164	23 N.J.R. 1026(a)
5:4-1	Contract approval (repealed)	Exempt	R.1991 d.164	23 N.J.R. 1026(a)
5:10-1.6, 1.10, 1.11	Hotels and multiple dwellings: classification of dormitories	22 N.J.R. 1870(a)		
5:10-1.12	Hotels and multiple dwellings: administrative correction regarding Uniform Fire Code inspections	_____	_____	23 N.J.R. 1410(b)
5:14-1.1–1.6, 2.1, 2.2, 2.3, 3.1–3.12, 3A, 4.10, App. A–D	Neighborhood Preservation Balanced Housing Program	23 N.J.R. 1075(a)		
5:19-3.1	Continuing care retirement communities: financial feasibility study for proposed facility	23 N.J.R. 3(b)	R.1991 d.175	23 N.J.R. 1028(a)
5:23-1.1, 1.4, 2.14, 2.23, 2.25, 3.4, 3.11, 3.14, 4.3, 4.5, 4.12, 4.13, 4.18, 4.20, 4.24, 5.1, 5.3, 5.5, 5.7, 5.19, 5.20, 5.23, 12	Elevator Safety Subcode	23 N.J.R. 805(a)		
5:23-2.23	Uniform Construction Code: certificate of occupancy requirements	23 N.J.R. 257(a)	R.1991 d.180	23 N.J.R. 1028(b)
5:23-3.11A, 4.2	Uniform Construction Code: plan review of proposed school facilities	23 N.J.R. 1084(a)		
5:23-3.15, 3.18	Uniform Construction Code: plumbing and energy subcodes	23 N.J.R. 804(a)		
5:23-4.19–4.22, 4A.12, 5.21, 5.22, 8.6, 8.10, 8.18, 8.19	Uniform Construction Code fees	23 N.J.R. 257(b)	R.1991 d.181	23 N.J.R. 1029(a)
5:23-5.3, 5.15, 5.20, 5.23	Uniform Construction Code: fire inspector RCS license	23 N.J.R. 1085(a)		
5:23-7.18	Barrier-Free Subcode: platform lifts	23 N.J.R. 260(a)	R.1991 d.210	23 N.J.R. 1128(a)
5:23-11	Uniform Construction Code: preproposal on indoor air quality subcode	22 N.J.R. 3209(a)		
5:24-1.5	Full plan of property conversion documents	22 N.J.R. 3669(a)	R.1991 d.108	23 N.J.R. 687(b)
5:24-2.3, 2.5	Dwelling unit conversions: senior citizens and disabled protected tenancy	23 N.J.R. 645(a)		
5:25	New home warranties and builders' registration	22 N.J.R. 1701(a)	R.1991 d.140	23 N.J.R. 847(c)
5:26	Planned real estate development full disclosure	22 N.J.R. 1702(a)	R.1991 d.123	23 N.J.R. 687(c)
5:27-1.3	Rooming and boarding houses: proof of fire code compliance	23 N.J.R. 932(b)		
5:29	Landlord-tenant relations	22 N.J.R. 2070(b)	R.1991 d.141	23 N.J.R. 848(a)
5:34-7.1–7.4, 7.7	Cooperative pricing and joint purchasing systems by local governmental units	23 N.J.R. 933(a)		
5:38	Intergovernmental review of Federal programs and direct development activities	Exempt	R.1991 d.211	23 N.J.R. 1128(a)
5:70-6.3	Congregate Housing Services Program: service subsidies	23 N.J.R. 934(a)		
5:80-2.2	Housing and Mortgage Finance Agency: consultation with housing sponsors	22 N.J.R. 3669(b)		
5:80-9	Housing and Mortgage Finance Agency: housing project rents	22 N.J.R. 2389(b)		
5:80-9.9	Housing and Mortgage Finance Agency: JUMPP project net increases	23 N.J.R. 646(a)		
5:80-29	Housing and Mortgage Finance Agency: investment of surplus funds	22 N.J.R. 3670(a)		
5:91	Council on Affordable Housing: procedural rules	22 N.J.R. 3610(b)	R.1991 d.119	23 N.J.R. 688(a)

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:91-4.1, 4.5	Council on Affordable Housing: petition for substantive certification; municipal/developer incentives	23 N.J.R. 1088(a)		
5:92	Council on Affordable Housing: substantive rules	22 N.J.R. 3671(a)	R.1991 d.120	23 N.J.R. 688(b)
5:92	Council on Affordable Housing: preproposal regarding mandatory developers' fees	23 N.J.R. 646(b)		

Most recent update to Title 5: TRANSMITTAL 1991-2 (supplement February 19, 1991)

MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1990-2 (supplement June 18, 1990)

EDUCATION—TITLE 6

6:3-7.4, 7.7	Homeless children and youth: administrative corrections	_____	_____	23 N.J.R. 1410(c)
6:11-4.5	County substitute certificate: administrative correction	_____	_____	23 N.J.R. 713(a)
6:11-11.9	Speech language specialist endorsement	23 N.J.R. 336(a)		
6:12	Governor's Teaching Scholars Program	22 N.J.R. 3672(a)	R.1991 d.182	23 N.J.R. 999(a)
6:20-4.3, 4.4	Private schools for handicapped: administrative corrections	_____	_____	23 N.J.R. 1410(c)
6:24-7.1, 7.2, 7.7	Budget appeals: administrative corrections	_____	_____	23 N.J.R. 1410(c)
6:28-1.1, 1.3, 3.2, 3.5, 3.7, 4.2, 4.4, 6.5, 7.1, 7.2, 10.1, 10.2, 11.4	Special education	23 N.J.R. 1053(d)		
6:29-7.3, 7.4	School employee physical examinations	23 N.J.R. 336(b)		

Most recent update to Title 6: TRANSMITTAL 1991-2 (supplement February 19, 1991)

ENVIRONMENTAL PROTECTION—TITLE 7

7:0	Clean Water Enforcement Act: notice of intention to propose rules regarding civil administrative penalties	23 N.J.R. 935(b)		
7:1I-3.3	Sanitary Landfill Facility Contingency Fund: suspension of claims	22 N.J.R. 3675(a)		
7:2	State Park Service rules	22 N.J.R. 2652(a)		
7:5C-1.4, 3.1, 5.1	Endangered Plant Species Program	23 N.J.R. 812(a)		
7:6-1.31, 1.37, 1.42, 6.2, 6.3, 6.4	Boating rules	23 N.J.R. 392(a)	R.1991 d.225	23 N.J.R. 1192(a)
7:7A	Freshwater Wetlands Protection Act rules: water quality certification	23 N.J.R. 338(a)		
7:8-1.1, 1.2, 1.5, 2.2, 2.3, 3.1, 3.4, 3.5, 3.6	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:10-1.3, 5.1	Safe Drinking Water rules: applicability of national regulations	_____	_____	23 N.J.R. 1150(b)
7:11-2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir Complex: schedule of rates	22 N.J.R. 3676(a)		
7:11-4.3, 4.4, 4.9	Manasquan Reservoir Water Supply System: schedule of rates	22 N.J.R. 3678(a)		
7:13-7.1	Redelineation of Coles Brook in Hackensack and River Edge	23 N.J.R. 647(a)		
7:13-7.1	Redelineation of South Branch Raritan River in Hunterdon County	23 N.J.R. 647(b)		
7:13-7.1	Redelineation of Passaic River in Florham Park	23 N.J.R. 648(a)		
7:13-7.1	Redelineation of Lawrence and Heathcote Brooks in South Brunswick	23 N.J.R. 649(a)		
7:14-8	Water Pollution Control Act: civil administrative penalties and reporting requirements; methodology	23 N.J.R. 1089(a)		
7:14-8.1, 8.2, 8.5	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:14A-1.8	NJPDES fee schedule	22 N.J.R. 3679(a)	R.1991 d.214	23 N.J.R. 1151(a)
7:14A-1.9, 2.5, 3.10, 8.13	Water Pollution Control Act: civil administrative penalties and reporting requirements; methodology	23 N.J.R. 1089(a)		
7:14A-15	Industrial wastewater pretreatment: preproposed rules	23 N.J.R. 149(a)		
7:18	Certification of laboratories analyzing drinking water and wastewater	23 N.J.R. 1109(a)		
7:18-1.1, 1.3, 1.4, 1.6, 1.7, 1.9, 2.1–2.4, 2.6, 2.7, 2.10–2.15, 5.2–5.5, 5.7, 5.8	Radon laboratory certification program	23 N.J.R. 29(b)	R.1991 d.246	23 N.J.R. 1423(a)
7:18-6.6	Water Pollution Control Act: civil administrative penalties and reporting requirements; methodology	23 N.J.R. 1089(a)		
7:22A-1.1, 1.2, 1.3, 1.4, 1.7, 3.1, 4, App.	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:24	Dam Restoration Grant Program	23 N.J.R. 650(a)		
7:24	Dam Restoration Grant Program: administrative correction to proposal	23 N.J.R. 935(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:25	Division of Fish, Game, and Wildlife	23 N.J.R. 37(a)	R.1991 d.132	23 N.J.R. 848(b)
7:25-4.13, 4.17	Endangered and nongame wildlife species	22 N.J.R. 1308(a)		
7:25-12	Surf clam management	23 N.J.R. 223(a)	R.1991 d.173	23 N.J.R. 1001(a)
7:25-18.1	Winter flounder and red drum: size and possession limits	23 N.J.R. 43(a)		
7:25-18.1	Taking of Atlantic sturgeon: preproposed amendment	23 N.J.R. 1111(a)		
7:25-18.5	Bait net and gill net regulation	22 N.J.R. 3685(a)		
7:25-18.5–18.11	Gill netting in Delaware Bay	22 N.J.R. 1311(a)		
7:25-22.1–22.4	Menhaden fishing in Delaware Bay: notice of rule invalidation	_____	_____	23 N.J.R. 1432(a)
7:25-22.3	Fishing for Atlantic menhaden	22 N.J.R. 3611(a)		
7:25A-1.4, 1.5, 1.6, 1.9	Oyster management	23 N.J.R. 1112(a)		
7:26-4.3, 4.4, 4.6, 15.6	Fee schedule for solid waste facilities	22 N.J.R. 3079(a)		
7:26-4A.3	Fee schedule for hazardous waste generators, facilities, and transporters: correction to proposal	23 N.J.R. 1113(a)		
7:26-4A.3, 4A.5	Fee schedule for hazardous waste generators, facilities, and transporters	23 N.J.R. 814(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Camden, Gloucester, Essex and Sussex counties	22 N.J.R. 284(a)	R.1991 d.113	23 N.J.R. 719(a)
7:26-7.2, 7.4, 8.1, 8.5, 8.7, 8.13, 8.20	Hazardous waste management: waste code hierarchy; waste determination; waste oils listing; container labeling	22 N.J.R. 288(a)	R.1991 d.110	23 N.J.R. 715(a)
7:26-8.1	Mixtures of solid and listed hazardous wastes	23 N.J.R. 1113(b)		
7:26-8.2, 8.8, 8.12	Hazardous waste management: Toxicity Characteristic	23 N.J.R. 151(a)		
7:26-8.13	Hazardous waste from non-specific sources: F019 exclusion	23 N.J.R. 153(a)	R.1991 d.243	23 N.J.R. 1432(b)
7:26-8.14	Hazardous waste management: methyl bromide production wastes	23 N.J.R. 154(a)		
7:26-8.15, 8.16	Hazardous waste criteria, identification, and listing	23 N.J.R. 1114(a)		
7:26-8.15, 8.16	Hazardous waste management: ferric dextran and strontium sulfide	23 N.J.R. 44(a)	R.1991 d.209	23 N.J.R. 1166(a)
7:26-8.17, App. I	Delisting of hazardous waste at Beecham Laboratories	22 N.J.R. 3430(b)	R.1991 d.172	23 N.J.R. 1004(a)
7:26-8.19	Listing of hazardous wastes	22 N.J.R. 3299(a)	R.1991 d.156	23 N.J.R. 852(a)
7:26-8.19	Listing of hazardous waste: extension of comment period	23 N.J.R. 45(a)		
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management	22 N.J.R. 3186(a)		
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management: extension of comment period	22 N.J.R. 3431(a)		
7:26-12.4	Hazardous waste facility permits: administrative correction	_____	_____	23 N.J.R. 1432(c)
7:26A	Solid waste recycling	22 N.J.R. 3088(a)		
7:27-2	Control and prohibition of open burning: administrative corrections	_____	_____	23 N.J.R. 1166(b)
7:27-8	Air pollution control permit and certificate process	22 N.J.R. 292(a)	R.1991 d.109	23 N.J.R. 723(a)
7:27-8.2	Air pollution control permit and certificate process: correction to proposed amendment	22 N.J.R. 593(a)		
7:27-9	Sulfur in fuels: administrative corrections	_____	_____	23 N.J.R. 1166(b)
7:27-13.1, 14.1, 15.1	Air pollution control: administrative corrections	_____	_____	23 N.J.R. 1432(d)
7:27-25.1, 25.2, 25.5, 25.7, 25.8	Air pollution by vehicular fuels	23 N.J.R. 45(b)		
7:27-25.1, 25.2, 25.5, 25.7, 25.8	Vehicular fuel air pollution: extension of time to inspect copies of proposed amendments and new rules	23 N.J.R. 261(a)		
7:28-3.5, 3.13, 4.19	Fee schedules for possession and use of radioactive materials	22 N.J.R. 3300(a)		
7:28-16.2	Dental radiographic installations: qualified individual	22 N.J.R. 3303(a)		
7:31-2.16	Toxic Catastrophe Prevention Act Program: annual registration fees	23 N.J.R. 818(a)		
7:36-8	Green Acres Program: public hearing requirement on proposed transfers or use of Department-held land and water	22 N.J.R. 593(b)	R.1991 d.151	23 N.J.R. 852(b)
7:36-8	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	22 N.J.R. 1352(a)		
7:50-2.11, 4.66, 6.13	Pinelands Comprehensive Management Plan: preproposed amendments	22 N.J.R. 3432(a)		

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8:9	Handling of human remains	22 N.J.R. 3458(a)	R.1991 d.130	23 N.J.R. 888(a)
8:20-1.2	Birth Defects Registry: reporting requirements	23 N.J.R. 820(a)		

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8:21A	Good drug manufacturing practices	22 N.J.R. 3189(a)		
8:24	Retail food establishments	23 N.J.R. 168(b)		
8:25	Youth Camp Safety Act standards	23 N.J.R. 651(a)		
8:26	Public recreational bathing	23 N.J.R. 376(a)	R.1991 d.245	23 N.J.R. 1433(a)
8:31A-1, 2, 5, 7, 9, 10	Standard Hospital Accounting and Rate Evaluation (SHARE) Manual	22 N.J.R. 3460(a)	R.1991 d.212	23 N.J.R. 1169(a)
8:31B	Hospital reimbursement	22 N.J.R. 3724(a)	R.1991 d.158	23 N.J.R. 898(a)
8:31B-3	Hospital rate setting	23 N.J.R. 227(a)	R.1991 d.157	23 N.J.R. 889(a)
8:31B-3.73	Hospital reimbursement: reconciliation	22 N.J.R. 3724(a)	R.1991 d.213	23 N.J.R. 1176(a)
8:33H-3.3	Long-term care beds for AIDS and HIV-infected patients	23 N.J.R. 124(a)	R.1991 d.159	23 N.J.R. 905(a)
8:33L-2.4	Home health services for AIDS and HIV-infected patients	23 N.J.R. 124(a)	R.1991 d.159	23 N.J.R. 905(a)
8:33P-2.1, 2.4	Designation of additional Level II trauma centers	23 N.J.R. 822(a)		
8:39-19.5, 20.1, 29.1, 29.3, 30.1	Long-term care facilities: Mantoux tuberculin testing of staff; pharmacy organization	22 N.J.R. 3612(a)	R.1991 d.160	23 N.J.R. 905(b)
8:43E-3.10, 3.15	Adult closed acute psychiatric beds: notice of rule invalidation regarding liaison services and discharge and transfer planning	_____	_____	23 N.J.R. 1439(a)
8:43G-5.6	Hospital licensure: reportable events	22 N.J.R. 3469(a)		
8:43G-6	Hospital licensure: anesthesia	22 N.J.R. 3470(a)		
8:59-1.3, 12	Worker and Community Right to Know: certification of consultants and consulting agencies	22 N.J.R. 1892(a)		
8:65	Controlled dangerous substances	22 N.J.R. 3190(a)		
8:65	Controlled dangerous substances: reopening of comment period	23 N.J.R. 823(a)		
8:66	Alcohol countermeasures: waiver of expiration provision of Executive Order No. 66(1978)	23 N.J.R. 177(a)		
8:71	Interchangeable drug products (see 22 N.J.R. 1597(b), 2163(a))	22 N.J.R. 596(a)	R.1990 d.570	22 N.J.R. 3581(c)
8:71	Interchangeable drug products (see 22 N.J.R. 2162(b), 3149(a), 3581(b))	22 N.J.R. 1214(b)	R.1991 d.161	23 N.J.R. 906(a)
8:71	Interchangeable drug products	22 N.J.R. 1511(a)		
8:71	Interchangeable drug products (see 22 N.J.R. 3582(a); 23 N.J.R. 206(a))	22 N.J.R. 2501(a)	R.1991 d.162	23 N.J.R. 907(a)
8:71	Interchangeable drug products	22 N.J.R. 3191(a)	R.1991 d.30	23 N.J.R. 206(b)
8:71	Interchangeable drug products	23 N.J.R. 178(a)		

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9:1-1.2, 3.1	Characteristics of a university	22 N.J.R. 1655(b)		
9:2-13.9	Auxiliary organizations: personnel	22 N.J.R. 1656(a)		
9:2-14.2	Immunization requirements for students: exemptions	22 N.J.R. 1215(a)	Expired	
9:3-4	Minority and women-owned businesses: participation in State construction contracts	22 N.J.R. 1656(b)		
9:4-3.12	Noncredit courses at county community colleges	23 N.J.R. 1056(a)		
9:4-4	County community colleges: alumni trustee representatives	22 N.J.R. 1657(a)		
9:5	Tuition policies for public institutions	22 N.J.R. 3437(a)	R.1991 d.177	23 N.J.R. 1005(a)
9:7-3.2	Tuition Aid Grant Program: determining award levels	23 N.J.R. 1057(a)		
9:7-4.4	Garden State Scholarships: award amounts	23 N.J.R. 4(a)	R.1991 d.178	23 N.J.R. 1005(b)
9:11-3	C. Clyde Ferguson Law Scholarship	22 N.J.R. 3439(a)		

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10:38	Interim Assistance Procedures Manual	23 N.J.R. 261(b)		
10:43-7.1	Determination of need for a guardian	22 N.J.R. 2671(a)	R.1991 d.5	23 N.J.R. 62(a)
10:49-6.6	Recoveries involving county welfare agencies/boards of social services	22 N.J.R. 2672(a)	R.1991 d.135	23 N.J.R. 856(a)
10:50	Transportation Services Manual	23 N.J.R. 5(a)	R.1991 d.167	23 N.J.R. 1006(a)
10:51-1.1, 1.14, 3.3, 3.12	Bundled drug services	23 N.J.R. 281(a)		
10:52-1.1, 1.22	Bundled drug services	23 N.J.R. 281(a)		
10:53-1.1, 1.17	Bundled drug services	23 N.J.R. 281(a)		
10:54	Physician's Services Manual	22 N.J.R. 3711(a)	R.1991 d.136	23 N.J.R. 858(a)
10:54-1.1, 1.16	Bundled drug services	23 N.J.R. 281(a)		
10:56-1.1, 1.4	Bundled drug services	23 N.J.R. 281(a)		
10:57	Podiatry Services Manual	22 N.J.R. 3439(b)	R.1991 d.129	23 N.J.R. 858(b)
10:57-1.1, 1.18	Bundled drug services	23 N.J.R. 281(a)		
10:58	Nurse-Midwifery Services Manual	22 N.J.R. 3613(a)	R.1991 d.153	23 N.J.R. 858(c)
10:59	Medical Supplier Manual	22 N.J.R. 3712(a)	R.1991 d.137	23 N.J.R. 858(d)
10:61	Independent Laboratory Services Manual	22 N.J.R. 3713(a)	R.1991 d.138	23 N.J.R. 858(e)
10:64	Hearing Aid Services Manual	22 N.J.R. 3614(a)	R.1991 d.154	23 N.J.R. 859(a)

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10:66-1.2, 1.10	Bundled drug services	23 N.J.R. 281(a)		
10:67	Psychologist's Services Manual	22 N.J.R. 3615(a)	R.1991 d.142	23 N.J.R. 859(b)
10:69A-6.11	PAAD program: release of eligibility files to Division of Motor Vehicles	23 N.J.R. 7(a)		
10:70	Medically Needy Manual	23 N.J.R. 964(a)		
10:71-5.4, 5.5, 5.6, 5.7	Medicaid Only: new eligibility computation amounts	23 N.J.R. 233(a)	R.1991 d.169	23 N.J.R. 1007(a)
10:72-1.1, 3.4, 4.1, 4.3, 4.5	Medicaid eligibility: pregnant women and children	Emergency (expires 5-27-91)	R.1991 d.223	23 N.J.R. 1200(a)
10:81-15	Child Care Plus Demonstration	23 N.J.R. 8(a)		
10:82-1.1A	AFDC Standard of Need	23 N.J.R. 285(a)		
10:82-1.1A	AFDC Standard of Need: public hearings and extension of comment period	23 N.J.R. 967(a)		
10:82-5.10	AFDC Emergency Assistance	23 N.J.R. 967(b)		
10:83-1	Special Payments Handbook: administrative changes	_____	_____	23 N.J.R. 1411(a)
10:83-1.11	Supplemental security income payment levels	23 N.J.R. 234(a)	R.1991 d.168	23 N.J.R. 1008(a)
10:85-3.2, 10.2	General Assistance: administrative changes	_____	_____	23 N.J.R. 1412(a)
10:85-4.1	General Assistance Program: Standard of Need	23 N.J.R. 286(a)		
10:85-4.1	General Assistance Standard of Need: public hearings and extension of comment period	23 N.J.R. 967(a)		
10:85-4.6	General Assistance: emergency assistance	22 N.J.R. 2078(a)	R.1991 d.174	23 N.J.R. 1177(a)
10:85-4.6	Emergency assistance: public hearing and extension of comment period	22 N.J.R. 2674(a)		
10:87-2.3, 2.6, 2.23, 2.30, 2.31, 3.6, 4.8, 5.5, 5.6, 5.9, 5.10, 7.14, 9.5, 9.7, 10.3, 10.9, 10.10, 10.21, 10.24, 11.23, App. A	Food Stamp Program: miscellaneous requirements	23 N.J.R. 179(a)	R.1991 d.247	23 N.J.R. 1412(b)
10:109-1	Economic Assistance staff development program: Ruling Number 11	22 N.J.R. 2222(a)	R.1991 d.111	23 N.J.R. 688(c)
10:123-3	Social Services Program: personal needs allowance for residents of health care facilities and boarding houses	23 N.J.R. 382(a)	R.1991 d.215	23 N.J.R. 1191(a)
10:123A	Personal Attendant Services Program	22 N.J.R. 1527(a)		
10:123A	Personal Attendant Services Program: extension of comment period	22 N.J.R. 2082(a)		

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10A:2-3	Expenditure of inmate welfare funds	23 N.J.R. 155(a)	R.1991 d.188	23 N.J.R. 1008(b)
10A:3-1.1–1.4, 2	Inmate "keep separate status"	23 N.J.R. 383(a)		
10A:4	Inmate discipline	23 N.J.R. 658(a)		
10A:16-7.4	Distribution of money and personal belongings of deceased inmates	23 N.J.R. 156(a)	R.1991 d.187	23 N.J.R. 1009(a)
10A:18-1.4, 6.7	Attorney-client visits	23 N.J.R. 14(a)	R.1991 d.155	23 N.J.R. 859(c)
10A:31-3.5, 22.2	Adult county facilities	22 N.J.R. 3714(c)	R.1991 d.143	23 N.J.R. 860(a)
10A:31-13.9, 13.10, 13.18	Adult county facilities: pregnant inmates; dental care	23 N.J.R. 15(a)	R.1991 d.190	23 N.J.R. 1128(b)
10A:32-4.2	Transfer of juvenile under State sentence	22 N.J.R. 3714(b)	R.1991 d.118	23 N.J.R. 690(a)
10A:34-3	Processing and housing juveniles in municipal detention facilities	23 N.J.R. 935(c)		
10A:35	Alternatives to Juvenile Incarceration Grant Program	23 N.J.R. 156(b)	R.1991 d.192	23 N.J.R. 1129(a)

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11:0	Automobile insurance: preproposal regarding model anti-fraud plan	22 N.J.R. 1983(a)		
11:1	Administration: miscellaneous rules	22 N.J.R. 3686(a)	R.1991 d.101	23 N.J.R. 690(b)
11:1-6	New Jersey Property-Liability Insurance Guaranty Association: assessment premium surcharge	23 N.J.R. 823(b)		
11:1-32	Department fees	23 N.J.R. 825(a)		
11:2-17.7	Automobile coverage: payment of PIP claims	22 N.J.R. 1677(a)		
11:2-29	Orderly withdrawal of insurance business	23 N.J.R. 15(b)		
11:2-31	Premiums for perpetual homeowners insurance	22 N.J.R. 601(a)	R.1991 d.139	23 N.J.R. 860(b)
11:2-35	Relief from insurer obligations under FAIR Act	23 N.J.R. 660(a)		
11:3-10.5	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)		
11:3-24.4	Automobile insurance coverage: policy constants	22 N.J.R. 3441(a)	R.1991 d.216	23 N.J.R. 1132(a)
11:3-25.4	Automobile insurance coverage: residual market equalization charges	22 N.J.R. 3442(a)	R.1991 d.217	23 N.J.R. 1132(b)
11:3-29.6	Personal Auto Injury Fee Schedules: Physicians' Services and Dental Services	_____	_____	23 N.J.R. 861(a)
11:3-33	Appeals from denial of automobile insurance	22 N.J.R. 2457(a)		
11:3-33	Appeals from denial of automobile insurance: comment period correction	22 N.J.R. 2647(a)		

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11:3-36	Automobile physical damage coverage inspection procedures: delay of operative date	_____	_____	23 N.J.R. 1132(c)
11:3-39	Automobile physical damage coverage: rate reductions for anti-theft devices and safety features	23 N.J.R. 384(a)		
11:4-16.6, 16.8, 23.6, 23.8, App.	Medicare supplement coverage	22 N.J.R. 771(a)	R.1991 d.121	23 N.J.R. 690(c)
11:4-35	Annual Medicare supplement coverage survey	22 N.J.R. 1226(a)	R.1991 d.122	23 N.J.R. 698(a)
11:5-1.36	Real Estate Guaranty Fund: special assessment	22 N.J.R. 3688(a)	R.1991 d.114	23 N.J.R. 701(a)
11:10-1.4	Dental plan organization: certificate of authority renewal fee	23 N.J.R. 825(a)		
11:13-7	Commercial lines policy forms	23 N.J.R. 159(a)		
11:16	Fraud prevention: claim form statement of liability; reporting of automobile theft or salvage	22 N.J.R. 3688(b)	R.1991 d.102	23 N.J.R. 702(a)
11:16-3	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)		
11:17-3.4	Producer licensing: continuing education	23 N.J.R. 287(a)	R.1991 d.218	23 N.J.R. 1133(a)
11:17A-1.2, 1.7	Appeals from denial of automobile insurance	22 N.J.R. 2457(a)		
11:17A-1.2, 1.7	Appeals from denial of automobile insurance: comment period correction	22 N.J.R. 2647(a)		
11:18-1.4, 1.5, 1.7, App. A, B, C	Medical Malpractice Reinsurance Recovery Fund surcharge	23 N.J.R. 938(a)		

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12:45	Vocational Rehabilitation Services: correction to chapter expiration date	_____	_____	23 N.J.R. 1416(a)
12:45-1	Vocational Rehabilitation Services: procedures and standards	22 N.J.R. 1045(c)	R.1991 d.189	23 N.J.R. 1133(b)
12:45-1	Vocational Rehabilitation Services: correction to proposal	22 N.J.R. 1230(a)		
12:45-3	Vehicle modification requirements for mobility impaired: administrative correction	_____	_____	23 N.J.R. 1416(b)
12:46–12:49	Repeal (see 12:45-1)	22 N.J.R. 1045(c)	R.1991 d.189	23 N.J.R. 1133(b)
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12:235	Workers' Compensation	23 N.J.R. 834(a)		

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12A:31-2	Development Authority: loan guarantee program	23 N.J.R. 830(a)		
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12A:80-2	Urban Development Corporation: public and nonpublic information	23 N.J.R. 20(a)		

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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)	R.1991 d.103	23 N.J.R. 702(b)
13:18-6	Verification of automobile liability insurance coverage	23 N.J.R. 973(a)		
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13:20-10.1	Automatic vehicle identification systems: traffic management	23 N.J.R. 21(a)	R.1991 d.249	23 N.J.R. 1417(a)
13:20-31.1	Motor vehicle inspection: private center licensing	23 N.J.R. 387(a)	R.1991 d.253	23 N.J.R. 1417(b)
13:23-1.1, 2.1–2.10, 2.12–2.28, 2.30–2.38, 3.1–3.10, 3.12, 4.1–4.4	Licensure of driving schools	23 N.J.R. 662(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)	R.1991 d.205	23 N.J.R. 1197(a)
13:27-5.8	Architectural Registration Examination fees	23 N.J.R. 671(a)		
13:27-5.8, 8.15	Licensure of architects and certification of landscape architects: fee schedules	23 N.J.R. 1059(a)		
13:27-6.2–6.5	Certified landscape architects: site planning services	23 N.J.R. 21(b)		
13:29-1.7	Accountant licensure: conditional credit and reexamination	23 N.J.R. 1060(a)		

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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)		
13:31-1.4	Exempt electrical work and use of qualified journeyman electrician	23 N.J.R. 979(a)		
13:31-1.11	Board of Examiners of Electrical Contractors: fee schedule	23 N.J.R. 22(a)	R.1991 d.163	23 N.J.R. 879(a)
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13:32-1.2, 1.7, 1.8, 1.10, 1.11, 1.12	Licensed master plumbers: standards and practices	22 N.J.R. 784(a)	R.1991 d.170	23 N.J.R. 1009(b)
13:32-1.3	Master plumbers licensing examination	23 N.J.R. 288(a)		
13:32-1.8	Licensed master plumber: scope of practice	23 N.J.R. 1062(a)		
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13:35-6.4, 6.16, 6.17	Corporate medical practices and Medical Board licensees: public hearing	23 N.J.R. 1063(a)		
13:35-6.13	Board of Medical Examiners: change of address for receipt of comments regarding FLEX fees	22 N.J.R. 2135(a)		
13:35-6.13	Board of Medical Examiners: biennial registration fees	23 N.J.R. 833(a)		
13:36-1.6	Board of Mortuary Science: fee schedule	23 N.J.R. 1063(b)		
13:37-12.1	Certification of homemaker-home health aide: application fee	23 N.J.R. 24(a)	R.1991 d.193	23 N.J.R. 1199(b)
13:37-12.1	Board of Nursing fees	23 N.J.R. 672(a)		
13:38-3.6, 5.1	Board of Optometrists: fee schedule	23 N.J.R. 1064(a)		
13:38-3.11	Practice of optometry: application for licensure	23 N.J.R. 166(a)	R.1991 d.228	23 N.J.R. 1418(b)
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13:39A	Board of Physical Therapy rules	23 N.J.R. 1065(a)		
13:39A-1.4	Board of Physical Therapy: fees and charges	23 N.J.R. 388(a)	R.1991 d.240	23 N.J.R. 1418(c)
13:39A-5.1	Licensure as physical therapist: foreign trained applicants	22 N.J.R. 2259(a)	R.1991 d.185	23 N.J.R. 1011(a)
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13:41-4.2–4.5	Certified landscape architects; site planning services	23 N.J.R. 21(b)		
13:42-1.2	Board of Psychological Examiners: fee schedule	23 N.J.R. 980(a)		
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