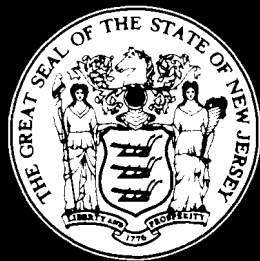


NEW JERSEY



REGISTER

IN THIS ISSUE "INDEX OF PROPOSED RULES"

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(Includes rules filed through March 7, 1983)

The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 348 of the March 7 issue for the Registers that should be retained as an update to the Administrative Code.

TABLE OF RULES IN THIS ISSUE

RULE PROPOSALS	
ADMINISTRATIVE LAW	
Special Education Program hearing rules	451(a)
AGRICULTURE	
Voluntary Gypsy Motr. Suppression Program	370(a)
Repeal Agricultural Preserve Demonstration Program .	371(a)
BANKING	
Readopt rules on action upon detection of crime	372(a)
CIVIL SERVICE	
Flexitime and operation hours (State)	373(a)
Alternative workweek programs (State)	374(a)
COMMUNITY AFFAIRS	
Row houses and multiple dwelling jurisdiction	375(a)
Limited tenure residents and boarding houses	375(b)
EDUCATION	
School districts: General provisions	376(a)
Standards for school buses	383(a)
ENVIRONMENTAL PROTECTION	
Wetlands in Middlesex County	386(a)
Field trials and horseback riding permits	387(a)
Crab dredging off Atlantic coast	388(a)
Crab pots	388(b)
Hazardous waste: Gas cylinder exemption	390(a)
Radiation protection .	391(a)
HEALTH	
Drug treatment facilities: Licensure	397(a)
Generic drug list additions	420(a)
HUMAN SERVICES	
Proposal withdrawal: Personal care services	420(b)
Readopt billing procedures in long term care	421(a)
Medicaid Only: Exclusion of burial spaces and funds .	422(a)
INSURANCE	
Dental plan organizations	423(a)
TRANSPORTATION	
Parking on Route 70 in Lakhurst	426(a)
U turns on US 206 in Bordentown	426(b)
TREASURY-TAXATION	
Corporation Business Tax: Entire net income	427(a)
OTHER AGENCIES	
HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION	
Subdivision and zoning fees	428(a)
ECONOMIC DEVELOPMENT AUTHORITY	
Additional administrative fees	429(a)
CASINO CONTROL COMMISSION	
Readopt gaming equipment rules; rules of the games .	429(b)
Readopt equal employment opportunity rules	433(a)
RULE ADOPTIONS	
ADMINISTRATIVE LAW	
Conference hearings and Civil Service cases	435(a)

(Continued on Back Cover)

RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Gypsy Moth Voluntary Suppression Program

Proposed New Rule: N.J.A.C. 2:23

Authorized By: State Board of Agriculture and Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 4:7-36 – 4:7-40.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John D. Kegg, Chief
Bureau of Entomology
Division of Plant Industry
Department of Agriculture
CN 330
Trenton, NJ 08625

The Department of Agriculture thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-124.

The agency proposal follows:

Summary

The gypsy moth is the most destructive forest insect pest to infest New Jersey's forests. Repeated defoliations by the gypsy moth represents a serious threat to New Jersey woodland and shade tree resources.

The Department of Agriculture has developed an Integrated Pest Management Program which utilizes both chemical and biological

agents to reduce gypsy moth feeding and subsequent tree loss. However, when gypsy moth cycles are at a peak, biological methods have difficulty in preventing severe defoliation. In these special cases, the Department of Agriculture recommends selective aerial spray treatments of residential and recreational areas.

The proposed rules are applicable to those municipal and county entities that wish to enter into the Department of Agriculture's Voluntary Gypsy Moth Suppression Program. These rules define both the Department's and the municipality's or county's duties and responsibilities.

Social Impact

The rules will affect property owners and inhabitants in affected communities and municipal and county entities planning to conduct gypsy moth aerial suppression programs. The rules would require that municipalities and counties planning to conduct aerial suppression work, announce that a gypsy moth resolution will be discussed at a specific time and place so the public has an opportunity for input into options available to the governing body. In past years, local governing bodies have adopted the gypsy moth resolution without proper advertisement, and many residents were unaware that a spray program was to take place in their community. Furthermore, some municipalities and counties have expanded gypsy moth aerial spray programs to sections of the municipalities or counties which have little or no infestation. Under these rules, the Department of Agriculture recommends only those areas in need of protection and not an overall aerial spraying.

Economic Impact

The requirement that local and county entities that participate in this voluntary program follow the Department of Agriculture's procedures serves to reduce unnecessary aerial spray treatments. It requires municipalities and counties to properly notify all residents in the affected area, by legal advertisement and first class mailing, as well as, a published advertisement of plans to adopt a gypsy moth resolution. These mailings and searching tax rolls will have an economic impact, however, this is minor compared to the overall economic damage that can be expected from repeated gypsy moth infestations. It is difficult for woodland homeowners to control high infestations of the gypsy moth. Since the pest infests trees as high as 100 feet or more, it is costly to physically remove egg masses, trap larvae, or spray with small application equipment. Ground spraying is also very expensive and can range from \$20.00 to \$120.00 per lot. If trees are killed by repeated infestations, the

NEW JERSEY REGISTER

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hazard of dead trees and their removal presents a great economic burden upon the homeowner. On the other hand, the average cost of spraying a full acre of residential area, which may have as many as four homes upon it, would run from \$9.00 to \$20.00 per acre, depending on the insecticide used, which is much less than the cost of ground spraying. Also, the municipality or county would benefit from State supervision by insuring that the pesticide is applied under the best weather conditions and at the recommended dosage rate.

Full text of the proposed new rule follows.

**CHAPTER 23
GYPSY MOTH**

SUBCHAPTER 1. VOLUNTARY SUPPRESSION PROGRAM

2:23-1.1 Applicability

(a) The conditions in this subchapter are applicable to voluntary participants in the gypsy moth suppression program.

2:23-1.2 Spray priorities

(a) If it becomes necessary to protect trees in residential and recreational areas, the following set of priorities have been established by the Department of Agriculture:

1. Forested communities with at least 10 homes per 50 acres, defoliated once, and expecting heavy defoliation the following spring.
2. Municipal and county recreational areas defoliated once, and expecting heavy defoliation the following spring.
3. Forested communities with five homes per 50 acres defoliated once, and expecting heavy defoliation the following spring.
4. Forested communities with at least 10 homes per 50 acres, or recreational areas not defoliated yet but expecting heavy defoliation next spring.
5. Watershed areas defoliated once and expecting heavy defoliation the following spring.
6. Uninhabited, high-value timber forests defoliated once and expecting heavy defoliation next spring.

2:23-1.3 Local government participation

(a) Spraying will only be done on a voluntary basis with local governments that agree are willing to fully accept the following conditions for participation in the aerial spray program:

1. Request in writing an egg mass survey to determine the status of the gypsy moth infestations in residential and recreational forests.
2. Arrange for financing the total cost of any treatments recommended and make contractual agreement with the spray vendor, either provided by the State or obtained by local bidding.
3. Assist in the administration and coordination of the spray programs, providing a town coordinator and all necessary labor to mark spray block boundaries.
4. Adopt a resolution declaring the gypsy moth a "Public Nuisance". The public must be notified in advance, pursuant to the Open Public Meetings Act For Proposed Municipal Action (N.J.S.A. 10:4-9), of the date, time and place that the gypsy moth resolution will be discussed. A copy of this notice must be sent to the Department of Agriculture.
5. Notify the occupants by a properly served notification of the intent of the spray program. Spraying will only be done between the hours of 5:30 A.M. to 12:00 Noon, and 5:00 P.M. to 8:00 P.M.
6. A "contact" person(s) shall be selected by the municipality so that residents may call to obtain the latest information on the aerial spray application, especially if spraying is postponed. The telephone number of the "contact" person shall be made known to the town residents.
7. In addition to the resolution, a responsible municipal official shall certify to the Department of Agriculture that these notices have been served as outlined in the guidelines. No work will begin until this certification is filed with the Department of Agriculture.

8. To give, on behalf of the Department of Agriculture, the notices required by N.J.S.A. 4:7-39.

2:23-1.4 The Department of Agriculture participation

(a) If any of the conditions contained in N.J.A.C. 2:23-1.3 are not adhered to by the local government, the Department of Agriculture will not participate in the program.

(b) If the conditions in N.J.A.C. 2:23-1.3 are met, the Department agrees to:

1. Conduct surveys to determine the size and location of areas requiring treatment. Biological evaluation of all proposed treatment areas will be performed before chemical application is initiated.
2. Develop spray contracts and contact reputable chemical application for competitive bidding.
3. Recommend the choice of insecticides, method of application and proper application timing, depending on entomological and climatic conditions.
4. Request financial assistance for local governments to reduce treatment costs.
5. Assist in the administration and coordination of the program.
6. Assist in the application of the recommended pesticide at the proper dosage rate with the appropriate application equipment, if personnel available.

2:23-1.5 Notification requirements

(a) Pursuant to N.J.S.A. 4:7-39, proper notification of all occupants who reside on the lands selected for treatment is required by doing the following:

1. Two separate insertions in a newspaper qualified to accept legal notices published in the county of the proposed treatment or other action and circulating in the affected areas. The two insertions shall appear at least seven days apart, the first of which shall be not earlier than 21 days prior to the proposed date of treatment or other action, and the second of which shall, be not later than seven days prior to the proposed date thereof; and
2. Mailing a notice by regular first class mail to the occupant of each affected parcel of property not later than 10 days prior to the proposed date of treatment or other action.

2:23-1.6 Beekeepers

(a) The Department of Agriculture shall supply a diagram and directions for use to those beekeepers who wish to use pollen traps.

(b) It is the responsibility of the local government to notify each beekeeper at least 20 days before proposed application time as to:

1. The availability of the pollen trap information;
2. The areas selected for treatment; and
3. The date and time of application.

(a)

DIVISION OF RURAL RESOURCES

**Agricultural Preserve
Demonstration Program**

Proposed Repeal: N.J.A.C. 2:85-1

Authorized By: Arthur R. Brown, Jr., Secretary,
Department of Agriculture.
Authority: N.J.S.A. 4:1B-14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983.

These submissions, and any inquiries about submissions and responses, should be addressed to:

Richard D. Chumney, Director
Division of Rural Resources
Department of Agriculture
CN 330
Trenton, NJ 08625

The Department of Agriculture thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-125.

The agency proposal follows:

Summary

The Agricultural Preserve Demonstration Program which was implemented by the Division of Rural Resources from July 22, 1976 to July 22, 1978 effectively ended with the publication of the, "The Agricultural Preserve Demonstration, a Report to the People of New Jersey", in February, 1979. These rules are no longer necessary since they have been superseded by the Farmland Preservation Bond Act, the Right to Farm Act and the Agriculture Retention and Development Act.

Social Impact

Since this program has been effectively terminated, there will be no social impact of repealing these rules.

Economic Impact

The need to maintain and develop a viable agricultural industry in the Garden State remains an important State policy. The repeal of N.J.A.C. 2:85-1 will have no economic impact on meeting this objective, as N.J.A.C. 2:85-1 has been superseded and expanded upon by the three Acts above mentioned.

Full text of the rule proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 2:85-1.

BANKING

(a)

DIVISION OF SAVINGS AND LOAN

Action Upon Detection or Discovery of Crime

Proposed Readoption with Amendments: N.J.A.C. 3:26-3.1

Authorized By: Michael M. Horn, Commissioner,
Department of Banking.
Authority: N.J.S.A. 17:1-8.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William B. Lewis,
Deputy Commissioner
Department of Banking
Division of Banking
CN 040
Trenton, NJ 08625

The Department of Banking thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-128.

The agency proposal follows:

Summary

The rule was originally adopted on May 19, 1978 to require savings and loan associations and building and loan associations to report crimes committed externally or internally by officers, directors, employees, attorneys, agents or affiliates on forms provided for in the regulation itself. The rule evolved as a result of Federal regulations requiring this same type of reporting to the Federal Home Loan Bank Board (FHLBB). The rule was originally adopted so that the department would be aware of the same crime information provided the Federal regulators.

A review of the rule was made by this division under the criteria prescribed by Executive Order No. 66 and it was determined that the rule continues to be necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which it was promulgated. However, the rule is amended to remove specific reference to Federal forms. The reason for the change is that Federal rules, and consequently the forms, may be revised, which would require continuous amendments to this rule. The effect of the amendment is to delete references to specific FHLBB forms and instead make general reference to Federal forms pertaining to the subject matter of this rule that may be used by the FHLBB.

The rule has been effective in providing supervisory and field examiners with information concerning the methods used in perpetrating internal crimes. Since financial institutions are subject to crimes of this type a continuation of the reporting requirements is necessary in order to insure proper regulatory supervision.

Social Impact

The existing rule has had no effect on the general public nor is any social impact anticipated in the future by the amended rule being readopted.

Economic Impact

The readoption of the rule will not have any economic impact since the information is supplied by the institutions supervised and the filing of reports is necessary only in the event of criminal activity. The rule has not had any past economic impact nor is any anticipated in the future.

Full text of the proposed readoption with amendments follows.

3:26-3.1 Action upon detection or discovery of crime

(a) Every State association, including any service corporation which is owned, wholly or jointly, by a State association, shall immediately notify the Commissioner by telephone of the detection or discovery of any embezzlement, defalcation, misapplication, or misuse of funds by any director, officer, employee, attorney or agent of the State association or service corporation. As soon thereafter as is practical, the association's or service corporation's management or auditor shall submit to the Commissioner a written report of the crime or crimes discovered or detected, including the names of the individuals involved, the extent of any loss, and the method used to effectuate the embezzlement, defalcation, misapplication or misuse. Compliance with the requirement in this subsection for a written report shall be evidenced:

1. By [insured associations, by] the filing of a copy of [FHLBB Form 366; and] **any forms required under rules adopted by the FHLBB concerning internal crimes; or**

2. By [non-insured associations, by] filing Department of Banking Form No. S.L. 4.

(b) Every State association shall notify the Commissioner in the manner described in (a) above, of every crime or

criminal activity not related to the association or service corporation wherein any director, officer, employee, attorney or agent of the association was charged, indicted or convicted.

(c) Every State association shall notify the Commissioner in the manner described in (a) above, of this section of every crime either attempted or perpetrated against the association or service corporation by individuals other than an officer, director, employee, attorney or agent of the association irrespective of the amount of loss. In the case of a robbery, burglary or non-employee larceny, compliance with this subsection shall be evidenced by the filing with the Commissioner of a copy of **any form required under rules adopted by the FHLBB concerning external crimes or** [FHLBB Form P-2 as required by 12 C.F.R. Section 563a.5(c)]. In all other cases, and in all cases involving non-insured associations, compliance with this subsection shall be evidenced by filing with the Commissioner Department of Banking Form No. S.L.5.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Flexitime Programs Hours of Operations

Proposed New Rules: N.J.A.C. 4:1-18.9 and 18.10

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner.
Authority: N.J.S.A. 11:5-1, 11:14-1

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone,
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, NJ 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-114.

The agency proposal follows:

Summary

N.J.A.C. 4:1-18.9 provides that an appointing authority may implement, modify or terminate a flexitime program. The rule sets forth concepts and policies which should be considered in the development of a flexitime program. In addition, areas of appointing authority discretion are defined and provision is made for a temporary suspension of the program in the face of an emergency involving a service disruption. Finally, the procedure for obtaining the approval of the President of the Civil Service Commission is established.

N.J.A.C. 4:1-18.10 provides that appointing authorities may adjust hours of daily or shift operations to accommodate operational needs or the needs of their employees. The procedure for obtaining

the approval of the President of the Civil Service Commission is established.

Social Impact

Implementation of a flexitime program may significantly enhance employee morale since employees are given greater latitude in balancing demands on their time emanating from work and personal life responsibilities. It also may enable appointing authorities to adjust the workforce to service members of the public who may have difficulty in being served during traditional work hours.

No social impact is anticipated by the adoption of N.J.A.C. 4:1-18.10 since this rule essentially codifies existing policy and practice.

Economic Impact

Improved morale resulting from participation in a flexitime program may lead to greater productivity. Additionally, latitude in scheduling hours of work may result in a decrease in tardiness and absenteeism. Further, appointing authorities may be able to reduce overtime costs generated by the need to provide services to members of the public who cannot be reached during traditional work hours.

No economic impact is anticipated by the adoption of N.J.A.C. 4:1-18.10 since this rule essentially codifies existing policy and practice.

Full text of the proposed new rules follows.

4:1-18.9 Flexitime programs (State service)

(a) This section shall apply only to State service.

(b) Appointing authorities may establish flexitime programs, while maintaining employees' assigned workweeks, to accommodate their operational needs. They are encouraged to consult with employees and their bargaining unit representatives in the development of such programs.

(c) A flexitime program shall provide for:

1. Core time which is the period of time during which all employees must be present;
2. Flexible time which is the period of time before and after the core time in which the employees may choose, subject to appointing authority approval, time of arrival and departure consistent with their daily hours of work requirement; and
3. A meal period which may be flexible in duration and scheduling.

(d) An appointing authority may limit participation in a flexitime program to selected groups of employees, job titles and/or work locations to accommodate operational needs.

(e) Individual flexitime schedules and changes shall be approved by the appointing authority.

(f) Establishment, modification or termination of a State agency's flexitime program shall not become effective without the approval of the President of the Civil Service Commission. Requests for these actions must be submitted at least four weeks in advance of the proposed effective date to the Department of Civil Service and shall include:

1. Justification relating the requested action to operational and employee needs;
2. Statement of impact on services to the public or agency clientele;
3. Details of the core time, flexible time and meal periods;
4. Groups of employees, job titles and/or work locations to be covered by the program;
5. Regulations governing employee participation in the program;
6. Provisions for giving employees at least one week written notice of termination of the program;
7. Monitoring and evaluation procedures; and
8. Name, address and phone number of the program administrator.

(g) An appointing authority may authorize a complete or partial temporary suspension of the flexitime program if required by operational needs. Within 10 calendar days of the suspension of the program, the appointing authority shall submit to the President of the Civil Service Commission a fully detailed justification and specify the duration of the suspension.

(h) A description of an appointing authority's flexitime program should be made available to employees upon request.

(i) Overtime of employees in flexitime programs shall be regulated in the same manner as for all other employees (see N.J.A.C. 4:6).

4:1-18.10 Hours of operation (State service)

(a) This section shall apply only to State service.

(b) Appointing authorities may adjust hours of daily or shift operation, while maintaining employees' assigned workweeks, to accommodate their operational needs or the needs of their employees. Appointing authorities are encouraged to consult with employees and their bargaining unit representatives when considering such actions.

(c) Adjustments in hours of daily or shift operation shall not become effective without the approval of the President of the Civil Service Commission. Requests for these actions should be submitted at least four weeks in advance of the proposed effective date to the Department of Civil Service and shall include:

1. Justification relating the change to operational or employee needs;
2. Statement of impact on services to the public, agency clientele, employees and the community; i.e., traffic flow;
3. Details of the adjustments;
4. Work locations and approximate number of employees affected;
5. Provisions for giving employees at least one week written notice of adjustments; and
6. Name, address and phone number of the program administrator.

(a)

CIVIL SERVICE COMMISSION

**Hours of Work
Alternative Workweek Programs**

Proposed New Rule: N.J.A.C. 4:1-18.11

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner.
Authority: N.J.S.A. 11:14-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone,
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, NJ 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-115.

The agency proposal follows:

Summary

N.J.A.C. 4:1-18.11 provides that an appointing authority may establish an alternative workweek program, such as a four day workweek program, consistent with its operational needs. The rule provides for the development of programs and sets forth hours of work, leave and holiday policies which shall be followed in the administration of an alternative workweek program. Provision is made for the temporary suspension of a program in the face of an emergency involving a service disruption. Finally, the procedure for obtaining the approval of the President of the Civil Service Commission is established.

Social Impact

Implementation of an alternative workweek program may substantially enhance the ability of appointing authorities to adjust the workforce to serve members of the public who have difficulty in being served during traditional work hours.

Economic Impact

Improved employee morale resulting from participation in an alternative workweek program may lead to greater productivity. Studies have indicated that such programs have resulted in reduced rates of absenteeism. Additionally, appointing authorities may be able to reduce overtime costs generated by the need to provide services to members of the public who can't be reached during traditional work hours. Finally, appointing authorities may utilize such programs as part of an effort to reduce energy costs.

Full text of the proposed new rule follows.

4:1-18.11 Alternative workweek programs (State service)

(a) This section shall apply only to State service.

(b) Appointing authorities may establish an alternative workweek program, such as a four day workweek, consistent with their operational needs. They are encouraged to consult with employees and their bargaining unit representatives in the development of such programs.

(c) A program may be developed for year-round use or for a specific portion of a year.

(d) An appointing authority may limit participation in an alternative workweek program to selected groups of employees, job titles and/or work locations to accommodate operational needs.

(e) Individual workweek schedules and changes shall be approved by the appointing authority.

(f) Assigned workweeks shall be retained during employees' participation in an alternative workweek program.

1. A normal workday for four day workweek employees in 35 hour workweek titles shall be eight and three-quarters hours a day, exclusive of a meal period. A normal workday for four day workweek employees in 40 hour or NL4 workweek titles shall be 10 hours a day, exclusive of a meal period.

(g) Appointing authorities shall develop appropriate prorated sick, vacation and administrative leave schedules for employees participating in an alternative workweek program.

1. All sick, vacation and administrative leave taken by employees participating in a four day workweek program shall be charged at the rate of one and one-quarter days for each day absent. Employees taking less than a full day's leave shall have their leave time prorated accordingly.

(h) Since employees in an alternative workweek program have a longer or shorter workday than employees on a five day workweek schedule, a time differential exists on holidays. This differential shall be equalized in a manner determined by the appointing authority. If a holiday occurs on an employee's regular day off, s/he shall be granted an additional day off consistent with operational needs.

(i) Overtime of employees in alternative workweek programs shall be regulated in the same manner as for all other employees (see N.J.A.C. 4:6).

(j) Establishment, modification or termination of a State agency's alternative workweek program shall not become effective without the approval of the President of the Civil Service Commission. Requests for these actions should be submitted at least four weeks in advance of the proposed effective date to the Department of Civil Service and shall include:

1. Justification relating the requested action to operational and employee needs;
2. Statement of impact on services to the public or agency clientele;
3. Details concerning hours of operation and employee scheduling;
4. Groups of employees, job titles and/or work locations to be covered by the program;
5. Regulations governing employee participation in the program;
6. Monitoring and evaluation procedures;
7. Provisions for giving employees one week written notice of termination of the program; and
8. Name, address and phone number of the program administrator.

(k) An appointing authority may authorize a complete or partial temporary suspension of the alternative workweek program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the President of the Civil Service Commission a fully detailed justification and specify the duration of the suspension.

(l) A description of an appointing authority's alternative workweek program should be made available to employees upon request.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Hotels and Multiple Dwellings Exclusion of Certain Row Houses from Jurisdiction

Proposed Amendment: N.J.A.C. 5:10-1.4

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 55:13A-3(k), -6(e), P.L. 1983, c.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Tickin, Esq.
Administrative Practice Officer
Division of Housing
CN 804
Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-116.

The agency proposal follows:

Summary

The proposal, which is intended to implement P.L. 1983, c.2, provides that a building section which otherwise qualifies for exclusion from Hotel and Multiple Dwelling Law jurisdiction pursuant to P.L. 1983, c.2 will qualify for such exclusion only if the building section has at least two exterior walls unattached to any adjoining building and is separated from any adjoining building section by a fire wall having a fire-resistant rating of two hours. This standard is in accordance with section 1407.0 and table 401 of the BOCA Basic Building Code/1981 and therefore satisfies the statutory requirement that it conform to recognized standards.

Social Impact

Those buildings that are built with two-hour fire-resistant walls between one- or two-unit owner or shareholder-occupied building sections will be considered to be in the same category as one or two-family houses and will be excluded from Hotel and Multiple Dwelling Law jurisdiction. Owners of these types of buildings will therefore be exempt from multiple dwelling inspections by the Bureau of Housing Inspection. Those building sections that do not meet these requirements will not be excluded.

Economic Impact

Owners of excluded units and buildings will not have to pay fees for registration and inspection of their buildings and will not be subject to Bureau of Housing Inspection orders to abate code violations or to pay penalties for failure to do so.

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

5:10-1.4 Scope

(a) (No change.)

(b) A building section containing not more than two dwelling units shall not be considered to be a portion of a multiple dwelling if it:

- 1. Is held under a condominium or cooperative form of ownership or by a mutual housing corporation;**
- 2. Has no dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation;**
- 3. Has at least two exterior walls unattached to any adjoining building section; and**
- 4. Is attached to any adjoining building sections exclusively by fire walls having a two-hour fire-resistant rating.**

(b)

DIVISION OF HOUSING

Rooming and Boarding Houses Rights of Limited Tenure Residents

Proposed Amendment: N.J.A.C. 5:27-3.1

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 55:13B-4, -6.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
 Administrative Practice Officer
 Division of Housing
 CN 804
 Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-130.

The agency proposal follows:

Summary

The Rooming and Boarding Houses Act of 1979 includes within the definition of "boarding house" (N.J.S.A. 55:13B-3a) any hotel, motel or established guest house having fewer than 85 percent of the units for "limited tenure" (i.e., residence for not more than 90 days by a person having a permanent residence elsewhere) only. This proposal makes it clear that such "limited tenure" occupants have the rights of hotel guests but not other rights established by the regulations for rooming and boarding house residents.

Social Impact

Transient occupants of hotels, motels and established guest houses, which happen to have more than 15 percent long-term occupancy, will no longer be able to claim the protection intended for those who are truly residents. If the transient occupants do not pay their bills, or if they otherwise violate the hotel rules, they will be subject to removal like any other hotel guest.

Economic Impact

Owners and operators of such hotels will no longer be forced to bear the cost of formally evicting transient occupants who could be removed more expeditiously were the hotel not classified as a rooming or boarding house for purposes of the Rooming and Boarding House Act.

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

5:27-3.1 Enumeration of rights

(a) (No change.)

(b) In the event that a hotel, motel or established guest house is classified as a rooming or boarding house for purposes of the Act by reason of having fewer than 85 percent of the dwelling units offered for limited tenure only, a resident occupying a unit on a limited tenure basis shall have the legal rights of a hotel guest but shall not have any of the additional rights of residents established by this subchapter.

EDUCATION

(a)

STATE BOARD OF EDUCATION

**School Districts
 General Provisions**

**Proposed Readoption with Amendments:
 N.J.A.C. 6:3-1**

Authorized By: New Jersey State Board of Education,
 Gustav H. Ruh, Acting Secretary.

Authority: N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-10, 18A:6-50, 18A:7A-1, 18A:7A-1.1, 18A:10-6, 18A:13-14, 18A:16-1, 18A:17-14.1 to 14.3, 18A:17-15, 18A:17-17, 18A:17-20, 18A:17-32, 18A:17-42 to 17-45, 18A:18A-4, 18A:18A-6, 18A:22-1, 18A:22-2, 18A:22-13, 18A:22-14, 18A:22-19, 18A:22-22, 18A:24-11, 18A:28-9 to 28-13, 18A:29-6 to 29-16, 18A:29-14, 18A:40-12.1, 18A:40-12.2 and 18A:49-1 to 49-8.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
 Executive Assistant for Administrative
 Practice and Procedure
 Department of Education
 225 West State Street
 Trenton, NJ 08625

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-132.

The agency proposal follows:

Summary

Under the provisions of Executive Order No. 66, 1978 (which provides for the expiration of amended or new rules within five years), SUBCHAPTER 1, RULES AND REGULATIONS OF CHAPTER 3, SCHOOL DISTRICTS, will expire July 1, 1983.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-10, 18A:6-50, 18A:7A-1, 18A:7A-1.1, 18A:10-6, 18A:13-14, 18A:16-1, 18A:17-14.1 to 14.3, 18A:17-15, 18A:17-17, 18A:17-20, 18A:17-32, 18A:17-42 to 17-45, 18A:18A-4, 18A:18A-6, 18A:22-1, 18A:22-2, 18A:22-13, 18A:22-14, 18A:22-19, 18A:22-22, 18A:24-11, 18A:28-9 to 28-13, 18A:29-6 to 29-16, 18A:29-14, 18A:40-12.1, 18A:40-12.2 and 18A:49-1 to 49-8, proposes to readopt this subchapter with amendments.

Most of the rules contained in this subchapter were adopted in 1955. Under the recodification of rules in 1969, this subchapter provided for general provisions applicable to school districts, which did not seem suitable in other subtitles of the Education code.

Several rules in this subchapter were established since 1977 (N.J.A.C. 6:3-1.1, 6:3-1.3, 6:3-1.19, 6:3-1.20, 6:3-1.21 and 6:3-1.22) to implement the provisions of legislative and administrative changes.

N.J.A.C. 6:3-1.11 and 6:3-1.12 were amended in 1978 in keeping with changes in the duties of local superintendents of schools and the change in the number of teachers required to establish a superintendency.

Relatively minor changes are being proposed for the following reasons:

1. Two sections are being eliminated (N.J.A.C. 6:3-1.4 and 6:3-1.8) to avoid duplication in the code. The topics covered in these two sections are found at N.J.A.C. 6:20-5.2 and N.J.A.C. 6:44-4.1 through 4.3 respectively.

2. To correct technicalities of wording.

3. To remove sexist language.

4. To provide greater safety in designated areas by expanding the requirements for eye protection devices (N.J.A.C. 6:3-1.14).

A review of the proposed amendment follows:

N.J.A.C. 6:3-1.1 Acting administrators; extension of approval: The Commissioner has had the power to recommend administrators be allowed to continue in an acting capacity beyond one year. There is no change in text, except for a technical correction.

N.J.A.C. 6:3-1.2 Board of school estimate: The mayor of the

municipality comprising the school district presides over meetings of the board of school estimate. Provisions are made for electing an alternate in case of absence of the mayor. Also, the process and content of the call of a meeting are provided here. Also known as Type I districts, these appointed school districts are served by a board of school estimate that develop budgets and eliminate the need for school elections. There is no change in text, except for a technical correction.

N.J.A.C. 6:3-1.3 Chief school administrator: The phrase "chief school administrator" means the superintendent or administrative principal. The title of chief school administrator has clarified the position for the person directly responsible to the board of education. There is no change in text.

N.J.A.C. 6:3-1.4 Law enforcement officers (public school): This section is being deleted to eliminate duplication in the code contained in N.J.A.C. 6:20-5.2.

N.J.A.C. 6:3-1.5 Minimum bond requirements for custodian of school moneys: The surety bond of the person who performs the school treasurer functions is based upon the size of the school budget as outlined in this section. The change of the title from custodian to treasurer was required by N.J.S.A. 18A:13-14. The chart is being corrected and clarified.

N.J.A.C. 6:3-1.6 (Reserved)

N.J.A.C. 6:3-1.7 Purchase of food supplies in school cafeterias and in home economics classes: A board of education may designate certain food supplies to be purchased according to the procedures outlined, as opposed to purchase by the bidding process. Statutes that required advertisement and contracts for supplies for the school year provide the authority for this rule. The change of amount from \$100.00 to \$250.00 is to bring the code into conformity with N.J.A.C. 6:20-2.6(d).

N.J.A.C. 6:3-1.8 Evening schools for foreign-born residents: This section is being deleted to eliminate duplication in the code contained in N.J.A.C. 6:44-4.1 through 4.3.

N.J.A.C. 6:3-1.9 Special meetings of local boards of education: A district board of education may hold special meetings through the process outlined in this section. The code language is revised to remove sexist references, while the additional sentence brings it into conformity with the "sunshine" law.

N.J.A.C. 6:3-1.10 Standards for determining seniority: This section specifies rules in computing seniority pursuant to statute. The code provides references to categories of certification and endorsements. As enrollments in schools continue to decline, this code will become more pertinent to decisions that must be made by boards of education to reduce the size of their organizations. There is no change in text.

N.J.A.C. 6:3-1.11 Superintendency; chief school administrator: This section provides that the chief school administrator must hold the appropriate certificate. It also outlines the procedure to create or abolish the position of superintendent. The code has served a very useful purpose in upgrading the certification requirements for the position. Several technical changes are proposed.

N.J.A.C. 6:3-1.12 Duties of local superintendent of schools; chief school administrator: An outline of the task areas that are the ultimate responsibility of the person serving as chief school administrator is presented here. As task areas for chief school administrators encompassed more diverse responsibilities, code was necessary to outline specific duties to be performed. The code is being revised to remove sexist references and other technical changes.

N.J.A.C. 6:3-1.13 Full-time employment of teachers: The minimum school day of four hours is specified, with the district board of education given the option to prescribe above that number. This section is required to establish a minimum period of hours of employment. The authority for actual hours of employment rests with the district board of education. There is no change in text, except for a technical correction.

N.J.A.C. 6:3-1.14 Use of eye protective devices in public school: This section very clearly defines the types of eye protective

devices and other safeguards, as well as the conditions under which each is required to be used. In 1965 a law was passed that required the commissioner to prescribe guides and standards for eye safety. The expansion of program offerings and the technical content of materials used necessitates the continued use of this rule. Several technical changes are proposed.

N.J.A.C. 6:3-1.15 Duty-free lunch periods for teachers: The minimal amount of time for teachers to have a duty-free period for lunch is prescribed. One change is proposed in sentence structure.

N.J.A.C. 6:3-1.16 Veterans, disabled or wounded: Specifies the required programs and courses for veterans to complete in order to be issued licenses to serve as agents for insurance companies. This section was required to satisfy laws that established specific educational opportunities for veterans. This is the first amendment to code language. The changes made remove references to health and life insurance to bring the code into compliance with the repeal brought about in N.J.S.A. 17:22-6.

N.J.A.C. 6:3-1.17 Emergency provisions for accommodation of school pupils: One year approvals for emergency accommodations of pupils, while efforts are being made for adequate and proper accommodations, can be obtained through the procedures of this section. The regulation outlines the factors a school district must consider when applying for the one year approval. Code language fixes responsibility on the county superintendent to approve the request. Appeals to the rendered decision of the county superintendents are considered by the commissioner and State Board of Education. There is no change in text, except for a technical correction.

N.J.A.C. 6:3-1.18 School business administrator: The conditions that must exist prior to receiving approval to establish the position of school business administrator are listed in this section. Conditions are contained therein so as to provide for districts with over 25 teachers as well as those with under 25 teachers. This regulation was initially introduced in 1962 after a law was passed addressing the procedure to establish this position. Code language provides conditions and duties that are most helpful to all school districts. There is no change in text. Several technical changes are proposed.

N.J.A.C. 6:3-1.19 and 6:3-1.20 Supervision of instruction; observation and evaluation of nontenured teaching staff members; Procedure for appearance of nontenured teaching staff members before local board of education upon receipt of notice of nonreemployment: The steps in the evaluation of nontenured teachers, as well as the purposes and definitions related thereto, are prescribed in these sections. The teacher's right for hearings and written reasons for nonreemployment are also clarified. The code is being amended to remove sexist language, and several technical changes are proposed.

N.J.A.C. 6:3-1.21 and 6:3-1.22 Evaluation of tenured teaching staff members; Evaluation of tenured chief school administrators: These two sections require district boards of education to adopt policies on staff evaluation and provide that properly certified personnel conduct performance reviews and implement performance review and implement performance improvement plans as appropriate. There is no change in text. Several technical changes are proposed.

Social Impact

These rules were enacted to protect the health, safety and welfare of pupils, teachers and administrators; to ensure that a complete educational program is provided for each pupil in the State; to ascertain the effectiveness of teachers and administrators by means of individual evaluation and to reinforce due process conditions. The rules contained in this subchapter have been successful, and since they also deal with the efficient administration of educational policy and practice, they should be readopted.

If these rules are not readopted, we would revert to uncertain and unclear procedures for pupils and school districts, which could result in controversies and disputes.

The sections which protect the health, safety and welfare of pupils include N.J.A.C. 6:3-1.7, 6:3-1.14 and 6:3-1.17. The remaining sections of this subchapter delineate the areas of evaluation, due process for teachers and administrators and specify other conditions to be met in school districts.

The Department of Education, in its effort to initiate concerns and comments, submitted this proposal to the following individuals and associations for review and evaluation:

Senior Staff of the State Department of Education

County Superintendents of Schools

Executive Secretary NJ Education Assn. 180 W. State St. Trenton, NJ 08607

Executive Director NJ Assn. of Sch. Admin. 920 W. State St. Trenton, N. 08618

Executive Secretary NJ Assn. of School Business Officials Carriage House 315 W. State St. Trenton, NJ 08618

As a result of this evaluation and review, these amendments are proposed.

Economic Impact

There will be no significant additional costs to school districts in the State resulting from most of the proposed amendments, since they deal primarily with adjustments to an existing administrative process. However, since the use of eye protective devices has been extended into additional instructional areas, there could be additional costs to district boards of education.

The overall impact of financial expenditures needed to comply with the rule on protective eye devices is not possible to predict. The original rule required all local districts to provide eye protection in eye hazardous learning situations. The majority of districts should have devices currently on hand and available. If approved spectacles or goggles are needed, a current cost is estimated at \$2.25 to \$5.80 per device. The devices, if sanitized, may be shared by users in a class; therefore, an average shop, laboratory or art room would require approximately 25-30 sets.

An addition to the rule in N.J.A.C. 6:3-1.14(c) requires emergency eye wash fountains or similar devices in classrooms, shops or laboratories in which participants are exposed to caustic materials that can cause damage to the eyes. Units for permanent installation are currently available ranging in price from \$125.00 to \$375.00 per unit. Installation costs are not predictable because costs would vary depending on the installer (private contractor, district maintenance staff, etc.) and supplies needed for installation (supply and drain piping, couplings, etc.).

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

SUBCHAPTER 1. [RULES AND REGULATIONS] GENERAL PROVISIONS

6:3-1.1 Acting administrators; extension of approval In accordance with the provisions of N.J.A.C. 6:5-2.1, the Commissioner of Education may recommend to the State Board of Education that permission be granted to extend the acting capacity of an individual beyond a year, upon receipt of written application from the [local] district board of education.

6:3-1.2 Board of school estimate (a) (No change in text.)

(b) It shall be the duty of the mayor to call a meeting of the board of school estimate, for the purpose of considering the request of the district board of education for an appropriation, within five days after there shall have been delivered to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the current expenses of and for repairing and furnishing the public schools of the district for the ensuing school year, and the amount of money estimated to be necessary for the purchase of any land or for the erection of any new building or an addition to a building and the equipment for any buildings.

6:3-1.3 Chief school administrator (No change in text.)

6:3-1.4 [Law enforcement officers (public school)] (Reserved) (Entire section proposed for repeal. See full text in the New Jersey Administrative Code.)

6:3-1.5 Minimum bond requirements for [custodian] treasurer of school moneys (a) The minimum requirements for the surety bond shall be such percentage of the current year's school budget as is required in the schedule set forth in [subsection](b) [of this Section] below.

Table with 2 columns: (b) Total School Budget and Minimum Bond Required. Rows include budget ranges from up to \$100,000.00 to \$10,000,000.01 and upwards, with corresponding bond percentages and minimums.

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

(d) [The Board hereby directs] The Commissioner of Education [to] must notify every school district that each and every [custodian] treasurer of school moneys be bonded in accordance with the aforementioned minimum amounts.

6:3-1.6 (Reserved)

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

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

1. Whenever any district board of education elects to purchase food supplies pursuant to these rules, it shall adopt a policy stating what food supplies will be purchased without advertising for bids, designating a person or persons authorized to purchase food

supplies, describing the procedure by which interested vendors may become eligible to submit quotations, and outlining the method by which the board will solicit and accept quotations.

2. This policy shall be adopted before the opening of schools in September and shall be made known to the public.

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

1. Definition and uniform specifications governing standards of quality shall be given to each eligible vendor from whom quotations are solicited.

2. Each time a purchase of food supplies is to be made, the person designated by the **district** board of education to purchase food supplies shall solicit quotations from interested, eligible vendors in the manner prescribed in the adopted board policy. Quotations for fresh or frozen fruits, vegetables and meats need not be solicited more than once in any two-week period.

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

4. Contingent upon approval of the **district** board of education in its adopted policy, the person or persons designated by the board [of education] to purchase food supplies may purchase food supplies for any school cafeteria or home economics class to the extent of not more than [\$100.00] **\$250.00** in any month without soliciting quotations, provided a statement signed by the purchaser is filed with the invoice indicating the reason why quotations could not be obtained[; such]. **The record shall also be retained for review and/or for audit.**

(c) Subsections (a) and (b) [of this Section] **above** shall not apply to food supplies purchased by advertising for bids.

6:3-1.8. [Evening schools for foreign-born residents] **(Reserved)**

(Entire section proposed for repeal. See full text in the New Jersey Administrative Code.)

6:3-1.9 Special meetings of [local] **district** boards of education

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

6:3-1.10 Standards for determining seniority
(No change in text.)

6:3-1.11 Superintendency; chief school administrator

(a) Any superintendency hereafter approved shall meet the following conditions:

1. The superintendent shall hold an appropriate certificate prescribed by the State Board of Education.

2. The county superintendent shall certify the necessity for the position which shall require the approval of the Commissioner of Education and the State Board. This certification to the Commissioner of Education and the State Board by the county superintendent of schools shall be accompanied by an application for such approval from the employing district board(s) [or boards] of education.

(b) Any application from a **district** board of education for the abolishment of the position of superintendent of schools shall be

recommended by the county superintendent of schools, and approved by the Commissioner of Education and the State Board of Education. Such requests shall be accompanied by a resolution of the **district** board of education citing reasons for the request.

(c) [Beginning July 1, 1982, each] **Each** chief school administrator who is an administrative principal shall be the holder of a school administrator's certificate. [Any person appointed administrative principal subsequent to the adoption of this regulation shall be the holder of a school administrator's certificate.]

6:3-1.12 Duties of [local] **district** superintendent of schools; chief school administrator

(a) In the performance of his[/]or her duties the superintendent shall visit the schools under his[/]or her jurisdiction and shall examine into their condition and progress.

(b) He[/]or she shall be responsible for the supervision of instruction and for advising the principals and teachers in procedures, methods, and materials of instruction and **he[/] or she** shall be responsible for the discipline and conduct of the schools.

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

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

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

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

(g) He[/]or she shall ascertain if teachers are properly certificated and shall report to the **district** board(s) [or boards] of education teachers who are not properly certificated.

(h) He[/]or she shall make reports on the schools under his[/] or her supervision to his[/]or her **district** board(s) [or boards] of education, and, when so required, to the county superintendent, to the Commissioner of Education, and the State Board of Education.

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

6:3-1.13 Full-time employment of teachers

The period of time in each day required for full-time employment shall be the number of hours prescribed by the [local] **district** board of education, but shall not be less than four clock hours.

6:3-1.14 [Use of eye protective devices] **Eye protection** in public schools

(Entire section proposed for repeal to be replaced with the following text. See current full text in the New Jersey Administrative Code.)

(a) Each district board of education shall require such pupil, teacher and visitor in the public schools of the district including evening adult school programs, to wear appropriate eye protective devices while participating in vocational education, industrial arts education, science education and arts education in which caustic or explosive chemicals or materials, hot liquid or solids, molten materials, welding operations of any type, repairing or servicing of vehicles, heat treatment or tempering of metals, the shaping of solid materials and laser device operation and experimentation or any similar process or activity is engaged in, exposure to which might have a tendency to cause damage to the eyes.

(b) The term "appropriate eye protective device" shall include plano or prescription lenses provided the lenses and other

portions of the device meet or exceed the prescribed specifications for the device. Specifications for appropriate eye protection for various activities shall meet or exceed standards described in 1 and 2 below. The standards, with all subsequent amendments and supplements, are hereby adopted as rules.

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

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

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

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

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

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

Potential Eye Hazard	Eye Protective Device(s)
1. Caustic or explosive materials	Goggle, flexible fitting, hooded ventilation; add plastic window face shield for severe exposure;
2. Dust producing operations	Goggle, flexible fitting, hooded ventilation;
3. Electric arc welding	Welding helmet in combination with spectacles with eye cup or semi or flat-fold side shields;
4. Oxy-acteylene welding	Welding goggle, eye cup type with tinted lenses; welding goggle, coverspec type with tinted lenses or tinted plate lense;
5. Hot liquids and gases	Goggle, flexible fitting, hooded ventilation; add plastic window face shield for severe exposure;
6. Hot solids	Clear or tinted goggles or spectacles with side shields;
7. Molten materials	Clear or tinted goggles and plastic or mesh window face shield;
8. Heat treatment or tempering	Clear or tinted goggles or clear or tinted spectacles with side shields;
9. Glare operations	Tinted goggles; tinted spectacles with side shields or welding goggles, eye cup or coverspec type with tinted lenses or plate lense;
10. Shaping solid materials	Clear goggles, flexible or rigid body; clear spectacles with side shields; add plastic window face shield for severe exposure;
11. Laser device operation or experimentation	Appropriate for specific hazard;
12. Repair or servicing of vehicles	Clear goggles, flexible or rigid body; clear spectacles with side shields;
13. Other potentially eye hazardous processes or activities.	Appropriate for specific hazard.

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

1. No teacher, pupil or visitor shall be subjected to any hazardous environmental condition without appropriate eye protection.

2. The detection of eye hazardous conditions shall be continuous.

3. Eye protective devices shall be inspected regularly and adequately maintained.

4. Shared eye protective devices shall be disinfected between uses by a method prescribed by the local school medical inspector.

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

6. Specific policy and procedure shall be established to deal with individuals who refuse to abide by established eye safety practices and procedures.

7. Contact lenses use shall be restricted in learning environments which entail exposure to chemical fumes, vapors or splashes, intense heat, molten metals, or highly particulate atmospheres. Contact lenses, when permitted, shall only be worn in conjunction with appropriate eye protective devices and the lense wearer shall be identified for appropriate emergency care in eye hazardous learning environments.

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

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

6:3-1.15 Duty-free lunch periods for teachers

Any teacher employed in both morning and an afternoon session shall be entitled to a duty-free lunch period during the hours normally used for lunch periods in the school[; such]. The duty-free lunch period shall be not less than 30 minutes except in a school where the lunch period for pupils is less than 30 minutes, in which case the duty-free lunch period shall be not less than the lunch period time allowed pupils.

6:3-1.16 Veterans, disabled or wounded

(a) The educational programs approved by the Department of Education of the State of New Jersey for disabled or wounded veterans who wish to qualify as an agent of accident, health or life insurance companies under N.J.S.A. 17:22-6 shall be as [follows:] specified in N.J.A.C. 11:2-1.

[PART I]

1. Courses required for those who are applying for a license to serve as an agent of accident, health, or life insurance companies:

Course Titles	Credit in Semester Points	Clock Hours
i. general principles of insurance	2	30
ii. health and accident insurance	2	30
iii. insurance laws and responsibilities for agents, brokers and solicitors	1	15
iv. life insurance	3	45
TOTAL	8	120]

[PART II

2. Courses required for those who are applying for a license to serve as an agent of accident, health, and other insurance companies except life:

Course Titles	Credit in Semester Points	Clock Hours
i. general principles of insurance	2	30
ii. health and accident insurance	2	30
iii. insurance laws and responsibilities for agents, brokers, and solicitors	1	15
iv. fire insurance	2	30
v. marine insurance	2	30
vi. casualty insurance	4	60
TOTAL	13	195]

[(b) Disabled veterans who are contemplating filing an application for a broker's license under N.J.S.A. 17:22-6 shall be required to complete PART II (paragraph 2 of this subsection) and the Life Insurance course listed in PART I (paragraph 1 of this subsection).]

[(c)](b) The educational program approved by the Department of Education of the State of New Jersey for disabled or wounded veterans who wish to qualify under N.J.S.A. 45:15-11 shall be [as follows]:

1. [12] Twelve semester credit hours or approximately 200 clock hours in courses which provide instruction concerning the following topics:
 - i. Fundamentals of real estate;
 - ii. Real estate transactions;
 - iii. Laws of agencies;
 - iv. Statute of frauds;
 - v. Processing of mortgage loans (all types);
 - iv. Assessments.

6:3-1.17 Emergency provisions for accommodation of school pupils

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

(c) Any **district** board of education which is dissatisfied with the county superintendent's determination on any application may appeal such determination to the Commissioner of Education and to the State Board of Education successively.

6:3-1.18 School business administrator

Any school district establishing the position of school business administrator shall meet the following conditions:

(a) School districts with more than 25 teachers:

1. In requesting the establishment of the position of school business administrator, the **district** board of education shall present to the county superintendent of schools a chart of organization clearly showing relationships of the school business administrator, a well-defined policy outlining duties and responsibilities to be assigned, and the proposed salary.

2. The following are major areas of the duties and responsibilities which may be considered by the **district** board of education as functions of the school business administrator in cooperation with all members of the staff having related administrative responsibilities:

- i.-iii. (No change in text.)
- iv. School community relations. In cooperation with administrators and the **district** board of education, helps interpret the budget and other applicable major areas mentioned in these rules.
- v.-ix. (No change in text.)

- x. Accounting and reporting. Supervises the accounting system necessary to provide the **district** board of education and administrators with accurate financial reports in all areas except those delegated by statute to the secretary of the board of education.

- xi. Insurance. Has general responsibility for the operation of the insurance program.

3. (No change in text.)

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

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

6. Nothing in these [regulations] rules shall prevent the school business administrator from serving as secretary of the **district** board of education, or from carrying out responsibilities delegated by statute to the secretary of the **district** board of education requesting the establishment of the position of school business administrator pursuant to these rules.

(b) School districts with 25 teachers or less:

1. In requesting the establishment of the position of school business administrator in two or more school districts, each **district** board of education shall present to the county superintendent of schools a chart of organization clearly showing relationships of the school business administrator, a well-defined policy outlining duties and responsibilities to be assigned, salary provisions, and an administrative plan setting forth an equitable apportionment of the time needed to properly discharge said duties and responsibilities and the method or conditions under which such a plan may be revised or terminated.

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

3. (No change in text.)

4. Any person jointly appointed by the **district** boards of education of two or more school districts to the position of school business administrator shall hold an appropriate certificate prescribed by the State Board of Education and [he] shall be considered a member of the professional staffs of the school districts.

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

6. The salary shall be equitably apportioned among two or more school districts in accordance with the administrative plan outlined in [paragraph] (b) 1 [of this subsection] above.

7. Nothing in these [regulations] rules shall prevent the school business administrator from serving as secretary of the **district** boards of education of the two or more school districts requesting the establishment of this position pursuant to these rules or from carrying out responsibilities delegated by statute to secretaries of **district** boards of education.

(c) (No change in text.)

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

(a) (No change in text.)

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

(c) Each [local] **district** board of education shall adopt a policy for the supervision of instruction, setting forth procedures for the observation and evaluation of nontenured teaching staff members,

including those assigned to regular classroom teaching duties and those not assigned to regular classroom teaching duties. Such policy shall be distributed to each teaching staff member at the beginning of his[~~/~~or her employment.

(d) Each policy for the supervision of instruction shall include, in addition to those observations and evaluations hereinbefore described, a written evaluation of the nontenured teaching staff member's total performance as an employee of the [local] **district** board of education.

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

(f) (No change in text.)

6:3-1.20 Procedure for appearance of nontenured teaching staff members before a [local] **district** board of education upon receipt of notice of nonreemployment

(a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for nonreemployment pursuant to N.J.S.A. 18A:27-3.3, he[~~/~~ or she may request in writing an informal appearance before the [local] **district** board of education. Such written request must be submitted to the board within 10 calendar days of receipt of the board's statement of reasons.

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

(d) Each [local] **district** board shall exercise discretion in determining a reasonable length of time of the proceeding, depending upon the specific circumstances in each instance.

(e) Each [local] **district** board shall provide adequate written notice to the employee regarding the date and time of the informal appearance.

(f) The nontenured teaching staff member may be represented by counsel or one individual of his[~~/~~ or her own choosing.

(g) The staff member may present witnesses on his[~~/~~ or her behalf. Such witnesses need not present testimony under oath and shall not be cross-examined by the board. Witnesses shall be called into the meeting to address the board one at a time and shall be excused from the meeting after making their statements.

(h) The proceeding of an informal appearance before the [local] **district** board as described herein may be conducted pursuant to N.J.S.A. 10:4-12(b)(8).

(i) (No change in text.)

6:3-1.21 Evaluation of tenured teaching staff members

(a) Every [local] **district** board of education shall adopt policies and procedures requiring the annual evaluation of all tenured teaching staff members by appropriately certified personnel (see N.J.S.A. 18A:1-1; N.J.A.C. 6:11-3.4).

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

1. Promote professional excellence and improve the skills of teaching staff members;

2. Improve [student] **pupil** learning and growth;

3. Provide a basis for the review of performance of tenured teaching staff members.

(c) The policies and procedures shall be developed under the direction of the district's chief school administrator in consultation with tenured teaching staff members and shall include but not be limited to:

1. (No change in text.)

2. Development of job descriptions and evaluation criteria based

upon [local] **district** goals, program objectives and instructional priorities:

3.-4. (No change in text.)

5. Provision for the use of additional appropriately certified personnel where it is deemed [appropriate] **advisable**;

6.-7. (No change in text.)

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

(f) The annual written performance report shall be prepared by a certified supervisor who has participated in the evaluation of the teaching staff member and shall include but not be limited to:

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

5. Provision for performance data which have not been included in the report prepared by the supervisor to be entered into **the** record by the evaluatee within 10 working days after the signing of the report.

(g) [Local board of education policies for the evaluation of tenured teaching staff members, based upon but not limited to the above provisions, shall be developed during the 1978-79 school year and shall become operational September 1, 1979.] These provisions are the minimum requirements for the evaluation of tenured teaching staff members.

(h) For the purposes of this section:

1.-8. (No change in text.)

9. "Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him[~~/~~ or her to hold a valid and effective standard, provisional or emergency certificate, appropriate to his[~~/~~ or her office, position or employment, issued by the State Board of Examiners and includes a school nurse; excluding the district superintendent of schools or, if there is no superintendent, excluding the principal.

6:3-1.22 Evaluation of tenured chief school administrators

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

(b) (No change in text.)

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

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

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

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

(d) Nothing shall preclude a **district** board of education, at its discretion, from hiring a qualified consultant to assist or advise in the evaluation process; however, the evaluation itself is the responsibility of the [local] **district** board of education.

(e) (No change in text.)

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

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

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

1.-5. (No change in text.)

(h) [Local board of education policies and procedures for the evaluation of tenured chief school administrators, based upon, but not limited to the above provisions, shall be developed during the 1979-80 school year and shall become operational September 1, 1980.] These provisions are the minimum requirements for the evaluation of tenured chief school administrators.

(i) For purposes of this section:

1. "Chief school administrator" [means the superintendent or the administrative principal where there is no superintendent] is defined in N.J.A.C. 6:3-1.3.

2. (No change in text.)

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

(j) Nothing in this section shall preclude a [local] district board of education from applying [this section] these rules to nontenured chief school administrators.

(a)

STATE BOARD OF EDUCATION

Pupil Transportation

School Bus Chassis Specifications; School Bus Body and Equipment Specifications; Type II, Van Type Small Vehicles; School Bus Warning Lamps (Strobe)

Proposed Repeal: N.J.A.C. 6:21-5, -6, -18 and -19

Proposed Readoption as New Rules: N.J.A.C. 6:21-5.1 through 5.12

Authorized By: New Jersey State Board of Education,
Gustav H. Ruh, Acting Secretary.
Authority: N.J.S.A. 18A:4-15 and 18A:39-21.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative
Practice and Procedure
Department of Education
225 West State Street
Trenton, NJ 08625

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-131.

The agency proposal follows:

Summary

The proposal is necessitated by the "sunset" provision of Executive Order No. 66, 1978. The proposed changes will include minimum standards developed by a nationwide conference. Drastic changes were made in the definitions of the various types of school buses and specifications for a special vehicle to transport handicapped pupils. Current definitions classify school buses into

two types, I and II. The classification depends solely on capacity, under 17 passengers and 17 or more passengers. Because of the increased transportation of the handicapped and the need for specialized vehicles, the definitions have been recommended for change from types I and II to types A,B,C and D. The changes will be based on weight as well as passenger capacity.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15 and 18A:39-21, proposes to readopt, with amendments, certain portions of the rules on pupil transportation.

The proposal deletes the existing text of N.J.A.C. 6:21-5, 6:21-6, 6:21-18 and 6:21-19 in its entirety and proposes to incorporate by reference and adopt as a rule the 1980 revised edition of Standards for School Buses and Operations, National Minimum Standards for School Buses of the Ninth National Conference on School Transportation. The 1980 edition of the national standards is written in such a way that it combines requirements which are currently promulgated in N.J.A.C. 6:21 as four separate subchapters. This proposal reduces the rules in this area to one subchapter. The Department also proposes to adopt supplementary standards for the purchase of new school buses.

This proposal represents a more appropriate and updated codification of the rules in a more concise manner.

The recommendations included in the 1980 revised edition resulted from discussions and determinations of the week-long national conference which included state directors of pupil transportation with their delegations from every state in the nation. The delegations included school bus contractors, school district transportation supervisors and State and local staff members. School bus engineers and manufacturers, the National Safety Council and Central Missouri State University were also active and contributing participants.

The National Conference on School Bus Standards will be reconvened in 1985 and every five years thereafter to review the current recommendations and amend them as necessary. Whatever changes that take place will become part of the New Jersey Code by reference.

The national recommendations which are being proposed for adoption by reference are not to be confused with Federal standards which are promulgated by the National Highway Traffic Safety Administration. They are mandates placed on school bus manufacturers and are included at the point of manufacture. There is, therefore, no need to include Federal standards in this proposal. These recommendations, on the other hand, come from national representation of people directly involved with transporting children by school bus. They are not mandates for any state until they are officially adopted by the appropriate agency in a state.

The State Board of Education has the responsibility for administering a program which will ensure that pupils of New Jersey are transported safely and economically. Under the provisions of the New Jersey Statutes, the State Board of Education shall adopt and enforce rules and regulations to cover the design and operation of all school buses used in the transportation of pupils to and from school.

In the case of Rankin v. Board of Education, Egg Harbor Township 135 N.J.L. 299, 51A. 2d 194 (1947) it is stated that "the State Board of Education has power to supervise and control the transportation of pupils including the method of transportation and type of vehicle" (emphasis added).

In order to satisfy this responsibility, the State Board of Education adopted rules and regulations governing school bus construction in 1932, which were amended on an average of every five years since that time. Amendments were made to cover any new developments or new safety features which may have been recommended or mandated by the Federal government or general engineering improvements. In those early years when the automobile was becoming a common mode of travel, improvements in design and engineering were rapid. It therefore became necessary to upgrade the school bus so it would keep pace with improvements made in all other types of vehicles and be able

to take its place in the existing traffic patterns, while at the same time it afforded a high degree of protection to pupil passengers.

Besides the safety features of construction, another reason for developing specifications was to establish a uniformity of recognition for school buses which they would provide a basis on which to formulate a uniform system of laws governing their operation in each of the states. The results were an increase in the safety of the transported pupil while riding and while boarding or alighting from the bus. Based on a study done several years ago, using passenger miles as a base, a pupil passenger is four times safer riding in a school bus than in the family car.

The following individuals and associations were notified of this proposal:

Senior Staff of the State Department
of Education

County Superintendents of Schools

Executive Secretary
NJ Education Assn.
180 W. State Street
Trenton, NJ 08608

Executive Director
NJ Assn. of Sch. Admin.
920 W. State Street
Trenton, NJ 08618

Executive Secretary
NJ Assn. of School
Business Officials
Carriage House
315 W. State Street
Trenton, NJ 08618

Executive Director
NJ School Boards Assn.
315 W. State Street
Trenton, NJ 08618

Executive Secretary
NJ Principals & Supervisors
Assn.
1720 Greenwood Avenue
Trenton, NJ 08609

Responses were received from several county superintendents and one senior staff member.

One suggestion was to include an ambubag (oxygen tank and mask) as equipment in the first aid kit. This issue was reviewed with the Department of Health, Emergency Medical Services, and their advice indicated that expert handling of this equipment would be necessary by a person who had been properly trained. In view of these serious concerns, the inclusion of the ambubag is not being considered.

One other suggestion requested consideration of the degree of incline in the case of a manual ramp being used for wheelchair passengers. This has been added so that the angle of incline will not exceed 19.5 degrees.

Social Impact

The intent of the proposal is to ensure the highest possible quality of safety for pupils who are transported to and from school and school-related activities. Vehicles identified as school buses are recognized by all citizens as a convenient and safe form of transportation for pupils, providing a service especially for those children who would find it difficult to travel great distances to and from school. Buses used to transport handicapped pupils are

furnished with equipment necessary to meet their needs. Such needs may include wheelchair accommodations, special harnesses and seat restraints and perhaps an accompanying aide.

In addition, school buses may be and often are used to provide transportation for groups of senior and/or handicapped citizens. This service has done much to bring the citizens of a school district into a closer relationship with their schools. In all probability, this could result in a more favorable voter reaction to school budgets. Identifying the school bus with a school district is recognized as a public relations tool.

If these rules are not adopted, the vehicle identified as a school bus would be lacking much of the safety equipment that has been developed in recent years. Vehicles in the State would completely lose their identity, allowing children to be transported under unsafe conditions in any kind of a vehicle.

Economic Impact

The 1980 revised edition of Standards for School Buses and Operations was developed through the cooperation and participation at a conference of official representatives of state departments of education, local school district personnel, contract operators, advisors from industry and from other interested professional organizations and groups.

The objectives of the Ninth National Conference included uniform state school bus standards which would result in safe and economical transportation.

The nationwide uniformity of construction will tend to eliminate many of the different requirements of all the various states. Such uniformity will tend to allow the school bus industry to build buses more efficiently and maintain a more economic price structure without compromising the safety of pupil passengers.

School districts will benefit financially because of nationwide uniformity having a positive effect on the taxpayers of a community.

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

CHAPTER 21
PUPIL TRANSPORTATION

SUBCHAPTER 5. [SCHOOL BUS CHASSIS SPECIFICATIONS] **STANDARDS FOR SCHOOL BUSES**

SUBCHAPTER 6. [SCHOOL BUS BODY AND EQUIPMENT SPECIFICATIONS] **(RESERVED)**

SUBCHAPTER 18. [TYPE II – VAN TYPE SMALL VEHICLES] **(RESERVED)**

SUBCHAPTER 19. [SCHOOL BUS WARNING LAMPS (STROBE)] **(RESERVED)**

Delete the existing test of N.J.A.C. 6:21-5, -6, -18 and -19 in its entirety and **replace** with the new text below.

6:21-5.1 School bus standards

(a) The State Board of Education authorizes the use of Standards for School Buses and Operations, National Minimum Standards for School Buses, 1980 Revised Edition, which are issued as recommendations of the Ninth National Conference on School Transportation. These standards are divided into sections covering definitions, chassis standards and body standards. The purpose is to define school buses, minimum chassis and body standards and assign responsibility for providing the defined equipment. Only pages 1 through 34 of the 1980 revised edition of Standards for School Buses and Operations (future editions, subsequent amendments and supplements, covering definitions and school bus chassis and

(body standards), are incorporated by reference and hereby adopted as a rule.

1. This document is available for review at the Office of Pupil Transportation, Division of Finance and Regulatory Services, New Jersey Department of Education, 1676 North Olden Avenue, Trenton, New Jersey 08638, or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.

2. This document may be purchased from the National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611.

6:21-5.2 Parking brakes

(a) The section on parking brakes, found at page 6, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. The parking brake shall hold the vehicle stationary, or to a limit of traction of the braked wheels, on a 20 percent grade under any condition of legal loading and on a surface free from snow, ice and loose material.

2. When applied, the parking brake shall remain in an applied position with the capability set forth in 1 above, despite exhaustion of the source of energy used for the application or leakage of any kind.

3. A parking brake lever shall be mounted to the right of the driver and in a position that is easily accessible.

4. The parking brake shall be equipped with independent on or off warning device.

6:21-5.3 Exhaust system

(a) The section on exhaust systems, found at page 9, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. An exhaust system shall not exit under any operating window of a bus.

6:21-5.4 Instruments and instrument panel

(a) The section on instruments and instrument panel, found at page 11, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. All gauges and instruments must be appropriately labeled.

6:21-5.5 Transmission

(a) The section on transmissions, found at page 14, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. A shifting control pattern shall be affixed to a point convenient to the driver.

2. There shall be a manual lock on the shift control to insure that the transmission cannot accidentally move from neutral to a drive gear without driver effort.

6:21-5.6 Doors

(a) The section on doors, found at page 17, in the document referenced N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Air doors and assemblies, excluding windshield washers, need a second air tank.

2. The emergency door shall be designed to be opened from the inside and outside of the bus and shall be equipped with a fastening device which may be quickly released, but is designed to offer protection against accidental release. Control of the fastening device from the driver's seat shall not be permitted.

3. The fastening device shall be equipped with a suitable electric plunger-type switch connected with a buzzer located in the driver's compartment. The switch shall be enclosed in a metal case, and wires leading from the switch shall be concealed in the bus body. The switch shall be installed so that the plunger contacts the farthest edge of the slide bar in such a manner so that any movement of the slide bar will immediately close the circuit on the switch and activate the buzzer.

4. The emergency door may be equipped with a locking system which incorporates an inter-locking electrical circuit that prevents the bus from being started while the emergency door is locked.

6:21-5.7 Identification

(a) The section on identification, found at page 19, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. "Out of Service" signs, when installed, shall be placed front and rear, shall be of steel, aluminum or other durable material, and shall be 25 inches in length and 12 inches in width. A center type fold sign shall be utilized and the hinge shall have a nonrusting pin.

2. The letters shall be arranged as follows:

OUT OF	fold line

SERVICE	

3. The color of all lettering shall be green on a background of yellow.

4. The size of the letters shall be as set forth in the following table.

	HEIGHT	WIDTH	STROKE	SPACING
For the words	three	two	1/2	1/2
OUT OF	inches	inches	inch	inch
For the words	five	three	one	1/2
SERVICE	inches	inches	inch	inch

5. The owning or operating organization shall be conspicuously identified in letters at least three inches high, located on each longitudinal side of the exterior of the bus. Such identification shall be completely horizontal.

6. No advertisement of any kind shall be exhibited either on the interior or exterior of the school bus.

6:21-5.8 Lamps and signals

(a) The section on lamps and signals, found at page 20, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Types A and B buses shall install incandescent signal lamps.

2. Types C and D buses shall use either the incandescent or strobe lamps.

3. Interior lamps shall be provided which adequately illuminate the aisle and step-well.

4. All lamps and their installation shall be of a type approved by the Director of the Division of Motor Vehicles.

5. If strobe lamps are utilized, the front and rear signal lamps on each school bus shall be equipped with eight electronic strobe lamps, four red and four amber, working in an automatic integrated system. The warning lamps shall be of a type approved by the Director of Motor Vehicles, Department of Law and Public Safety.

6. Eight Par 46 clear sealed beam type strobe lamps shall be utilized. The lamps shall be equipped with four red and four amber, seven inch diameter, 7/8 inches high-dome plastic lenses. The exterior surfaces of the lenses shall be smooth so as to avoid entrapment of dirt and to provide for ease of cleaning.

7. The solid-state strobe power supply shall provide the electrical power to energize the sealed beam flash tubes. The power supply shall energize the lamps at a combined alternating flash rate of 120-128 flashes per minute. The power supply shall be fully enclosed in a metal environmental container with a minimum metal wall thickness of 0.060 inch.

8. The power supply shall be fully enclosed within the bulkhead.

(b) Paragraph 5, found at page 21, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and the following is substituted:

1. All buses shall be equipped with a monitor which monitors the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

6:21-5.9 Mirrors

(a) The section on mirrors, found at page 22, in the document referenced in N.J.A.C. 6:21-5.1 is amended by 1 below and is supplemented by 2 through 5 below to include the following:

1. The second paragraph of the subsection entitled exterior mirrors is deleted.

2. Two exterior convex type mirrors shall be mounted forward, one to the left side and one to the right of the driver. Each mirror shall be a minimum of six by six inches overall, rectangular in shape and shall have a minimum 21 inch to a maximum 30 inch radius of curvature on the convex. Each mirror shall be firmly supported and adjustable to give the driver a clear view of the left rear wheels and the immediate adjacent area, and the right rear wheels and the immediate adjacent area.

3. Mounting brackets shall be affixed to the bus so as to be securely fastened to the structural frame members of the bus body, or shall be affixed to the existing exterior rearview mirror mounting brackets.

4. The convex type mirrors shall not be a part of or attached to the exterior rearview mirrors.

5. The convex type mirror head and the rearview mirror head shall be mounted so as to have a minimum of two inches distance between the two mirrors.

6:21-5.10 Tailpipe

(a) The section on tailpipes, found at page 26, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. The tailpipe shall terminate a minimum of one inch and a maximum of two inches beyond the rear bumper.

6:21-5.11 Windows

(a) The section on windows, found at page 27, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Glass in all side and rear windows shall be of AS-2 or better grade. Equivalent plastic AS-4 or better, can only be used in side windows of the bus.

6:21-5.12 Special education vehicle standards

(a) The section on special education vehicle standards is found at page 29 in the document referenced in N.J.A.C. 6:21-5.1. Type A school buses, found at page 33, is supplemented to include the following:

1. If a ramp device is installed, it shall have a non-skid surface and be securely stored when not in use.

2. The ramp must have at least three feet of length for each foot of incline.

3. Seat belts or other suitable restraints shall be installed for each passenger including those seated in wheelchairs.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

**Wetlands Management
Wetlands Maps in Middlesex County**

Proposed Amendment: N.J.A.C. 7:7A-1.13

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 13:9A-2.
DEP Docket No. 009-83-02.

A public hearing concerning this proposal will be held on April 7, 1983 at 7:30 P.M. at:

Labor & Education Center
Ryders Lane and Clifton Avenue
New Brunswick, NJ

In addition, copies of the wetlands maps affected by this proposal will be available for inspection beginning March 21, 1983 at the Clerk's Office, County Court House, New Brunswick.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before June 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Allan Campbell, Chief
Bureau of Coastal Planning
and Development
Division of Coastal Resources
CN 401
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-135.

The agency proposal follows:

Summary

The Wetlands Act (N.J.S.A. 13:9A-1 et seq.) authorizes the Department of Environmental Protection to regulate most activities on mapped, tidal wetlands throughout the State. The purpose of the proposed revision is to update the upper wetlands boundary of the mapped wetlands of Middlesex County to reflect both natural changes and changes which have resulted from permitted filling and construction. Individual notice to affected property owners has been made and a public hearing scheduled, as required by the Wetlands Act. The list of affected wetlands appears at N.J.A.C. 7:7A-1.13(a)1. In addition, 23 new wetlands maps are now being proposed for adoption. Affected property owners have been notified.

Social Impact

The proposed revisions will result in minor changes to existing wetlands maps, and will place some additional private lands under wetlands protection. Overall the social impact will be beneficial, contributing added flood protection and maintaining water quality.

Economic Impact

The proposed revisions will result in a likely reduction in property values, albeit small, in the new maps to be adopted, but

will result in a net beneficial economic impact due to a reduction in potential flood damage, recovery costs, and the maintenance of high water quality levels.

Full text of the proposal follows (all maps listed will be physically altered; new maps are indicated in boldface **thus**).

7:7A-1.13 Areas affected

(a) The Wetlands Order and accompanying rules and regulations shall be applicable only to those areas shown below (seaward of) the "Upland (inland) wetlands boundary" line on the following wetlands maps:

1. Middlesex County (filed in the Office of the County Recording Officer--New Brunswick):

- i. 581-2100
- ii. 581-2106
- iv. 581-2118
- v. 588-2106
- vi. 588-2112
- vii. 588-2118
- ix. 602-2100
- x. 609-2100
- xi. **567-2082**
- xii. **574-2082**
- xiii. **574-2088**
- xiv. **581-2082**
- xv. **581-2088**
- xvi. **588-2076**
- xvii. **588-2082**
- xviii. **595-2070**
- xix. **595-2076**
- xx. **595-2082**
- xxi. **595-2088**
- xxii. **595-2094**
- xxiii. **602-2058**
- xxiv. **602-2064**
- xxv. **602-2070**
- xxvi. **602-2076**
- xxvii. **602-2082**
- xxviii. **602-2088**
- xxix. **602-2094**
- xxx. **602-2106**
- xxxi. **609-2094**
- xxxii. **609-2106**
- xxxiii. **609-2112**

2.-4. (No change.)

5. (See proposed amendment at 15 N.J.R. 119(a).)

6. (See proposed amendment at 14 N.J.R. 1330(a).)

7. (See proposed amendment at 15 N.J.R. 119(a).)

8.-11. (No change.)

(a)

DIVISION OF FISH, GAME AND WILDLIFE

**Wildlife Management Areas
Field Trial Activities**

**Proposed Amendment: N.J.A.C. 7:25-2.14
(Regulation No. 5)**

Authorized By: Fish and Game Council, Anthony DiGiovanni, Acting Chairman.

Authority: N.J.S.A. 23:7-9, and specifically N.J.S.A. 23:4-26.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Russell A. Cookingham, Director
Division of Fish, Game and Wildlife
CN 400
Trenton, NJ 08625

The Fish and Game Council thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-138.

The agency proposal follows:

Summary

N.J.A.C. 7:25-2.14, also known as Regulation No. 5, provides the rules for conducting field trials or retrieving field trials on lands controlled by the Division and known as Wildlife Management Areas.

The proposed amendment to this rule is one additional paragraph, N.J.A.C. 7:25-2.14(f)6, allowing the riding of horses without a horseback riding permit, as required by N.J.A.C. 7:25-2.8, for authorized field trial participants, provided that a written roster is established and maintained by the officials sponsoring the field trial participants, who are not required to obtain a horseback riding permit, such as judges and dog handlers.

Social Impact

The proposed amendment concerning field trial participants clarifies and further delineates the horseback riding permit requirements for field trial activities. This proposal should result in the smoother operation of these events.

Economic Impact

Some administrative costs may result from the implementation of this proposal.

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

7:25-2.14 Field trial activities

(a) Permits for the use of State fish and wildlife management areas for conducting field trials or retrieving field trials as defined in (c) below may be granted by the Division of Fish, Game and Wildlife in accordance with the provisions of this section. General authority for this section is found in N.J.S.A. 23:4-26.

(b)-(e) (No change.)

(f) General provisions include:

1.-5. (No change.)

6. The riding of horses by field trial judges, entrants, handlers and trainers without riding permits required by Regulation No. 4 (N.J.A.C. 7:25-2.8) is allowed, providing the field trial sponsoring organization or association has first obtained the proper field trial permit, and promulgates and maintains a written roster of the names of persons participating in the field trial in the listed capacities, who will be horseback riding on the dates listed in the field trial permit.

i. The valid roster shall be available for inspection by conservation officers, deputy conservation officers or other law enforcement officers at any time during the dates listed on the field trial permit.

ii. Spectators, gallery and observers of field trials who ride horses, or persons engaged in leasing or renting of riding horses at field trials, must obtain and, while riding, have in their possession a valid horseback riding permit.

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

(a)

DIVISION OF FISH, GAME AND WILDLIFE**Shellfisheries****Crab Dredging in the Atlantic Coast Section****Proposed Amendment: N.J.A.C. 7:25-7.13**

Authorized By: Robert E. Hughey, Commissioner,
 Department of Environmental Protection.
 Authority: N.J.S.A. 23:2B-6, 50:1-5, and specifically
 50:4-2.
 DEP Docket No. 010-83-02.

A **public hearing** concerning this proposal will be held on April 6, 1983 at 6:30 P.M. at:

Stockton State College,
 Room CC 103
 Pomona, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gale Critchlow, Chief
 Bureau of Shellfisheries
 Division of Fish, Game and Wildlife
 CN 400
 Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-136.

The agency proposal follows:

Summary

The proposed amendment defines the legal means of using a crab dredge, thus closing a loophole in the existing rule which has allowed dredgers to effectively double or triple the size of the dredge they used. The amendment further provides for three distinct harvest areas on the Atlantic Coast where the dredging season will open on different dates to allow dredgers to meet their market demands to best advantage.

Social Impact

The definition of gear and oyster beds, and the adjustment of the opening date of the dredge season will have little or no social impact except for the benefits expected by the crab dredgers themselves, who have suggested these changes at Atlantic Coast Shellfish Council meetings.

Economic Impact

The major economic impact of the proposed amendment will be to allow more equitable access to the State's crab resources to a greater number of fishermen. There will be no overall economic impact.

Environmental Impact

Benefit to the crab resource is expected from the limitation on crab dredge size and the protection of oyster and clam grounds by specific prohibition of dredge harvest. The season openings set in this proposal will not cause any damage to the resource or habitat because until the crabs have "bedded down", dredging is clearly a waste of time.

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

7:25-7.13 Crab dredging in the Atlantic

(a) No crabs may be caught or taken in the Atlantic Coast section by dredges [operated by mechanical power or sail power] unless a **valid crab dredge license is aboard the vessel.** [such] **The crab dredges shall** conform to the following specifications:

1.-5. (No change.)

6. Each dredge shall be independently and separately attached to the vessel by a single cable or tow line.

(b) No person shall catch, take or attempt to catch or take crabs from any **of the** leased lands except the lessee or his employee; and no person shall **dredge or attempt to dredge** crabs on any [of the] State oyster beds [and] **or grounds as defined in N.J.A.C. 7:25-19.1** [except at such times and in such areas as the division and Commissioner of Environmental Protection may authorize].

(c) Any clams, **oysters, scallops, mussels or other bivalve mollusks** which may be caught incidentally to the catching of the crabs shall be redeposited immediately upon the land from which such [crabs] **clams, oysters, scallops, mussels or other bivalve mollusks** are caught; nor shall any person while engaged in the catching and taking of crabs or the transportation thereof, have in his boat or possession any clams, **oysters, scallops, mussels or other bivalve mollusks** obtained from any source.

1. The possession of clams, oysters, scallops, mussels or other bivalve mollusks and [crabs] dredges simultaneously in the boat of any person shall constitute prima facie evidence of the violation of this rule.

2. Harvesting of oysters by dredging from leased shellfish grounds by the lessee shall be exempt from this section.

(d) No person shall catch, take or attempt to catch or take crabs from any of the lands of the Atlantic Coast section except from one-half hour after sunrise to one-half hour before sunset between November 1 and March 31 [above the] **north of Route 36** (Highlands Bridge), **November 15 and March 31 south of Route 40 (Black Horse Pike),** and December 1 [to] **and March 31** [below the Highlands Bridge] **between Route 36 and Route 40;** nor at any time on Sunday except in Raritan and Sandy Hook Bays.

(e) (No change.)

(b)

DIVISION OF FISH, GAME AND WILDLIFE**Shellfisheries****Crab Pots****Proposed Amendment: N.J.A.C. 7:25-14**

Authorized By: Robert E. Hughey, Commissioner,
 Department of Environmental Protection.
 Authority: N.J.S.A. 23:5-35.2.
 DEP Docket No. 011-83-02.

A **public hearing** concerning this proposal will be held on April 6, 1983 at 6:30 P.M. at:

Stockton State College
 Room CC 103
 Pomona, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gale Critchlow, Chief
Bureau of Shellfisheries
Division of Fish, Game and Wildlife
CN 400
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-137.

The agency proposal follows:

Summary

The proposal increases the length of a legal trot (layout) line in response to industry requests. The current length of the trot line was perceived as being inadequate for commercial activity. Increasing its length would provide the commercial crabber with a practical and functional apparatus for harvesting crabs and also encourage the use of this equipment because of ancillary benefits such as reduction in loss of equipment and theft of crabs.

Recommended changes would permit the legitimate employee or designee of a commercial crabber authority to tend the pots of his employer. The employee would still be required to hold a license. A change in the fishing hours is recommended to accommodate the setup and retrieval time required by the trot liners.

The proposal also includes changes made to clarify commercial license requirements and harvest limitations including defining the bushel measure, and changes which would permit the discretionary use of equipment types for the noncommercial crabber and provide for a description of the additional gear and harvest limitations. The recommended changes would further clarify the areas where pots and trot lines may be placed so that potential conflicts with the boating community would be minimized.

Social Impact

Because of the anticipated increased productivity, the changes are seen by the crab pot fishermen as a positive benefit to their fishery. Minimal impact is anticipated on the crab fishing public as a result of adoption.

Economic Impact

The major economic impact from adoption of the proposal will be the benefit to the users of the longer trot lines. No increased cost is anticipated in enforcement of the proposal if adopted.

Environmental Impact

No harm to the crab resource or habitat is expected if the proposal is adopted. Seizure of abandoned or illegal gear will prevent the continuous fishing by so called "ghost traps".

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

SUBCHAPTER 14. CRAB POTS

7:25-14.1 Crab pots and trot lines defined

- (a) (No change.)
- (b) For the purposes of this subchapter, a trot line, also known as a trawl or layout line, shall mean a single length of anchored line no longer than [1,000] **3,000** feet to which baits or baited barbless hooks are attached.
- (c) (No change.)

7:25-14.2 Use of crab pots and trot lines

- (a) No person shall **tend or** remove crabs from any pot or trot line [except the license holder] **unless he is the holder of a valid license, or as otherwise herein provided.**
- 1. [Anyone] **A person** tending crab pots or trot lines shall have

in his possession [the] **his** numbered license which corresponds to the vessel number and the number marker on the pots or trot lines **tended; or**

2. His license and a letter of authorization issued and notarized by the Division of Fish, Game and Wildlife indicating the number marker of the pots or trot lines that the person is authorized to tend, other than his own.

(b) No [one] **person** shall cut or break the lines or otherwise tamper with or damage **in any way**, any pot, trot line or buoy which he does not own **or is not authorized to tend.**

(c) All turtles and female crabs having eggs or spawn attached shall be immediately released.

7:25-14.3 Hours for fishing

Crab pots and trot lines may be tended only from [one-half hour after sunrise to one-half hour before sunset] **0400 hours (4:00 A.M.) to 2100 hours (9:00 P.M.), prevailing time.**

7:25-14.4 Commercial licenses

(a) No person shall take or attempt to take crabs by **any** means [of pots or trot lines] for the purpose of sale or barter without having in his possession a valid commercial crabbers' license issued by the Division of Fish, Game and Wildlife **pursuant to N.J.S.A. 23:5-35.2.**

1. The license fee for New Jersey residents shall be \$100.00. All licenses shall expire on December 31 of the year issued.

2. The license number shall be displayed on both sides of the crabber's boat amidship, in numerals not less than 12 inches high and of a color contrasting with their background.

(b) For the purposes of this section **and N.J.S.A. 23:5-35.1**, the possession of more than one bushel of crabs shall be [a] **considered as taking** for the purpose of sale or barter. **A bushel shall be defined as a U.S. standard bushel equivalent to four pecks or 32 quarts.**

7:25-14.5 Noncommercial licenses

(a) No person shall take or attempt to take crabs by means of pots **or trot lines** without having in his possession a valid license issued by the Division of Fish, Game and Wildlife.

1. The division will issue a noncommercial license for no more than two pots [which] **or two trot lines. Trot lines shall not exceed 150 feet in length with a maximum of 25 baits attached. Pots and trot lines** shall be marked with the license number. There is no fee for this noncommercial license. All licenses shall expire on December 31 of the year issued. [The noncommercial license shall limit the harvest and possession of crabs to one bushel daily per license on the water or landing.]

2. Crabs taken under provisions of [this] **a noncommercial license** may not be sold or used for barter. **The maximum harvest and/or possession of crabs for the noncommercial crabber is one bushel per day per person.**

7:25-14.6 Placement and marking of pots and trot lines

- (a)-(b) (No change.)
- (c) No pot or trot line shall be placed in a creek, ditch or tributary less than 25 feet wide **at mean low water** unless approved by the division, or in any marked or charted channel, except noncommercially licensed pots [if] fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.
- (d) No pot **or trot line** shall be placed in areas designated by the Division of Fish, Game and Wildlife, after consultation with the Shellfisheries Council, as off limits for the catching of crabs by means of pots **or trot lines, except noncommercially licensed pots fastened to a pier or other shore connected structure by a line no longer than twice the depth of the water at that point.**
- (e) (No change.)

7:25-14.7 Filing of reports

All persons commercially licensed to take crabs shall keep, on forms furnished by the Division of Fish, Game and Wildlife, accurate records of the number of bushels of hard crabs, peelers and soft crabs caught, the type of gear used and the area fished. These records shall be filed by the 10th day of each month with the Division of Fish, Game and Wildlife. **If no crabs were harvested during the month, a report to that effect shall be provided.**

Edward J. Londres, Assistant Director
Division of Waste Management
32 East Hanover Street
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-134.

7:25-14.8 Penalties

(a) Any person violating any of the provisions of this subchapter relating to crabs [, with the exception of a violation of N.J.A.C. 7:25-14.6] shall be liable to the penalties provided by N.J.S.A. 23:2B-14, **except for (b) and (c) below.**

(b) Any person **not having a valid license in possession of failing to exhibit same for inspection by any authorized law enforcement officer while tending a pot or trot line, or violating any of the provisions of N.J.A.C. 7:25-14.5 or 14.6** shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

(c) (No change.)

(d) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in violation of the provisions of this subchapter may be seized and forfeited.

(e) The assessment of any administrative penalty shall not preclude the Department from prosecuting for a larger amount in the event the administrative penalty is not paid by the time requested.

(f) Nothing in this section shall require the Department to assess an administrative penalty before instituting prosecution.

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 7:26-9.1(c) and N.J.A.C. 7:26-12.1(b) exempt owners and operators of gas cylinder facilities that dispose of gas cylinder residues, from the operational standards and permitting requirements of the New Jersey hazardous waste rules (N.J.A.C. 7:26). This exemption is specifically conditioned on the owner or operator complying with all applicable rules of the Division of Water Resources (N.J.A.C. Title 7, Subtitle D) and of the Bureau of Air Pollution Control Operations (N.J.A.C. 7:27), within the Department of Environmental Protection. A new definition of "Gas cylinder facility" is also proposed.

Waste gases and gas cylinder residues, if not specifically excluded by N.J.A.C. 7:26-8, must be transported according to the manifest requirements in N.J.A.C. 7:26-7. One of these requirements, N.J.A.C. 7:26-7.4(e)4, prohibits a hazardous waste generator from shipping hazardous waste to any site which is not an authorized facility. Another requirement, N.J.A.C. 7:26-7.4(a)3, requires a generator to manifest all hazardous waste leaving its site. Therefore, if the user of the gas cylinder is disposing of the gas cylinder residues, and it does not meet the definition of an empty container (N.J.A.C. 7:26-8.4(b)2) and is hazardous, the gas cylinder residue must be manifested to an authorized facility.

The proposed change to the definition of "Authorized facility" will specify the facilities exempted by the proposed amendments, N.J.A.C. 7:26-9.1(c)11 and 7:26-12.1(b)10, as authorized facilities. This will allow a generator to manifest the gas cylinder residue as a hazardous waste to one of these facilities.

7:25-14.9 Female crabs with eggs attached

(No change.)

7:25-14.10 Size of crabs taken

(No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste Management
Gas Cylinder Exemption

Proposed Amendments: N.J.A.C. 7:26-1.4,
9.1 and 12.1

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1E-6a(2).

DEP Docket No. 008-83-02.

A public hearing concerning this proposal will be held on Wednesday, April 28, 1983 from 9 A.M. until the close of testimony, at:

New Jersey State Library
Archives Room
185 West State Street
Trenton, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 28, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Social Impact

There are 81 facilities within New Jersey which dispose of gas cylinder residues. Eighty of these facilities service their own cylinders upon return from customers. All of these disposal operations may be subject to other rules promulgated by the Department, including the rules of the Division of Water Resources and the Bureau of Air Pollution Control Operations. The proposed amendments will allow these facilities to operate without the added regulatory requirements of the hazardous waste rules.

Economic Impact

There will be no additional revenues or costs to the State resulting from these amendments. The costs associated with regulatory compliance will be reduced.

Environmental Impact

To the extent that facilities disposing of these residues utilize treatment or disposal processes that are regulated by either the Division of Water Resources or the Bureau of Air Pollution Control, their operations will continue to be regulated by the Department.

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

7:26-1.4 Definitions

"Authorized facility" means a hazardous waste [treatment, storage or disposal] facility which [has]:

- 1. Has received a permit to operate from the [USEPA] United States EPA in accordance with the requirements of 40 CFR Parts 122 and 124; or
- 2. [New Jersey DEP (or a facility determined by the New Jersey DEP to be in full compliance with all requirements set forth in N.J.A.C. 7:26-12.3 governing the operations of existing hazardous waste facilities until final disposition of the permit application is made) in accordance with the requirements of 40 CFR Parts 122 and 124, N.J.A.C. 7:26-1; or] Has received a permit to operate from the Department in accordance with the requirements of N.J.A.C. 7:26-1; or
- 3. Is in full compliance, as determined by the Department, with all requirements set forth in N.J.A.C. 7:26-12.3 governing the operation of existing hazardous waste facilities until final disposition of the permit application is made; or
- 4. Has received a permit or other permission to operate from a state authorized in accordance with 40 CFR 123[.]; or
- 5. [Those facilities] Is exempt from the New Jersey hazardous waste facility operating and permitting requirements [, as designated at] by operation of N.J.A.C. 7:26-12.1(b)7 [, are considered "authorized facilities" for the purpose of the regulations found in N.J.A.C. 7:26-7 and 8.]; or
- 6. Is an industrial waste management facility receiving hazardous waste pursuant to N.J.A.C. 7:14A-4.2(a)5; or
- 7. Is exempt from the New Jersey hazardous waste facility operating and permitting requirements by operation of N.J.A.C. 7:26-9.1(c)11 and 7:26-12.1(b)10.

...
 "Gas cylinder facility" means a hazardous waste facility that:
 1. Disposes of only hazardous waste residue from gas cylinders; and
 2. Is a gas supplier and only accepts gas cylinders it owns, back from its own customers; and
 3. Is not a commercial disposal facility.

...
 "Recycling" (See proposed definition at 14 N.J.R. 1435(a).)

7:26-9.1 Scope of applicability
 (a)-(b) (No change.)
 (c) The standards and requirements of this subchapter do not apply to:

- 1.-9. (No change.)
- 10. (See proposed recycling amendment at 14 N.J.R. 1435(a).)
- 11. The owner or operator of a gas cylinder facility that disposes of all hazardous waste within 90 days of its receipt (the standards and requirements of this subchapter do apply to storage at other than a gas cylinder facility), provided the following conditions are satisfied:
 - i. If the hazardous waste residue in the gas cylinder is vented or otherwise released to the atmosphere, the owner or operator shall:
 - (1) Vent the hazardous waste gas residue into a stack or chimney, as defined in N.J.A.C. 7:27-16.1; and
 - (2) Comply with the requirements in N.J.A.C. 7:27-16; and
 - (3) Obtain a permit pursuant to N.J.A.C. 7:27-8 if such permit is required; and
 - ii. The owner or operator shall comply with all other applicable rules in N.J.A.C. 7:27 (Air Pollution Control), including but not limited to the prohibition of air pollution in N.J.A.C. 7:27-5; and
 - iii. The owner or operator shall comply with all applicable requirements in Title 7, Subtitle D, of the New Jersey Administrative Code (Rules of the Division of Water Resources).

7:26-12.1 Scope of applicability
 (a) (No change.)
 (b) The following persons are not required to obtain a permit pursuant to this subchapter to conduct the following activities or construct or operate the following hazardous waste facilities:

- 1.-8. (No change.)
- 9. (See proposed recycling amendment at 14 N.J.R. 1435(a).)
- 10. The owner or operator of a gas cylinder facility that disposes of all hazardous waste within 90 days of its receipt (the standards and requirements of this subchapter do apply to storage at other than a gas cylinder facility), provided the following conditions are satisfied:
 - i. If the hazardous waste residue in the gas cylinder is vented or otherwise released to the atmosphere, the owner or operator shall:
 - (1) Vent the hazardous waste gas residue into a stack or chimney, as defined in N.J.A.C. 7:27-16.1; and
 - (2) Comply with the requirements in N.J.A.C. 7:27-16; and
 - (3) Obtain a permit pursuant to N.J.A.C. 7:27-8 if such permit is required; and
 - ii. The owner or operator shall comply with all other applicable rules in N.J.A.C. 7:27 (Air Pollution Control), including but not limited to the prohibition of air pollution in N.J.A.C. 7:27-5; and
 - iii. The owner or operator shall comply with all applicable requirements in Title 7, Subtitle D, of the New Jersey Administrative Code (Rules of the Division of Water Resources).

(a)

COMMISSION ON RADIATION PROTECTION
Bureau of Radiation Protection
General Provisions; Use of Sources of Ionizing Radiation and Special Exemptions

Proposed Repeal: N.J.A.C. 7:28-1 and -2
Proposed New Rules: N.J.A.C. 7:28-1 and -2

Authorized By: Commission on Radiation Protection,
 Max M. Weiss, Ph.D., Chairman.
 Authority: N.J.S.A. 13:1D-7, and specifically N.J.S.A. 26:2D-7.
 DEP Docket No. 013-83-02.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:
 Frank Cosolito, Chief Bureau of
 Radiation Protection
 Division of Environmental Quality
 Labor and Industry Building, Room 1108
 CN 027
 Trenton, NJ 08625

The Commission on Radiation Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.
 This proposal is known as PRN 1983-139.

The agency proposal follows:

Summary

In 1958, the Radiation Protection Act (P.L. 1958, c.116, N.J.S.A. 26:2D-1) was enacted by the New Jersey Legislature. This Act, as amended in 1971, 1977 and 1981, relates to the possession, handling, transportation and use of sources of

radioactivity within the State of New Jersey. This Act established the State's Radiological Health Program, which was transferred from the State Department of Health to the Bureau of Radiation Protection of the Department of Environmental Protection by P.L. 1970 c. 33. It also created the New Jersey Commission on Radiation Protection and vested in that body the authority to promulgate rules and regulations.

The proposed new rules include the following changes:

Subchapter 1, General Provisions, addresses the scope of the rules and defines the regulated class and, in addition, it includes the definitions of significant terms used in the rules.

N.J.A.C. 7:28-1.1-1.3, the Purpose and Scope, Construction, and Practice where rules do not govern, have been revised to express more clearly the intent of the Radiation Protection Act and to correct previous ambiguities.

N.J.A.C. 7:28-1.4, Definitions, has been restructured into three sections: General Terms, Ionizing Radiation Terms, and Nonionizing Radiation Terms to reflect rules reorganization and forthcoming changes. Certain definitions have been deleted, some revised and others added as follows:

NEW: "Absorbed dose"; "Act"; "ALARA"; "Dose equivalent"; "Exemption"; "Healing art"; "Inspection"; "Ionizing radiation"; "Ionizing radiation-producing machine"; "Medical radiographer"; "Nonionizing radiation"; "Electric field"; "Far field"; "Magnetic field strength"; "Microwave oven"; "Near field"; "Power density"; "Power Density, plane wave equivalent"; "Radiating device"; "Radio frequency"; "Radio frequency device"; "Radio frequency protection guide (RFPG)"; "Specific absorption rate (SAR)".

DELETED: "Contamination hazard"; "Dose"; "Hazard"; "Instructed individual"; "Pharmacist"; "Radiation hazard"; "Radiation incident"; "Radiation producing machine"; "Radiation source"; "Therapeutic-type protective tube housing".

REVISED: "Agreement state"; "Airborne radioactivity area"; "Curie"; "High radiation area"; "Human use"; "Leakage radiation"; "License"; "Monitoring"; "Personnel monitoring equipment"; "Rad"; "Radiation"; "Radiation area"; "Radiographer"; "Radiographer's assistant"; "Rem"; "State license"; "Unnecessary radiation".

N.J.A.C. 7:28-1.5, Emergency precautions, was recodified in Subchapter 2 with revisions.

Subchapter 2, Use of sources of radiation and special exemptions, which became effective July 16, 1961, has been reworded to specify "ionizing" radiation. The main objective in revising Subchapter 2 was to eliminate all non-specific terms or expressions such as "necessary", "adequately", "as may be", and "all reasonable measures". These terms have been replaced to the extent possible with terms that are more specific and objectively quantifiable. The resulting regulatory standards will prove to be easier to comply with by those responsible for the source of radiation and easier to enforce by the Department. The proposed new rule replaces the existing rule N.J.A.C. 7:28-2, but will not affect basic radiation protection concepts.

The following sections have been recodified and revised by explaining, in exact language, the requirements of the respective sections.

N.J.A.C. 7:28-2.1 Authorized use of radiation sources: General language establishing "unauthorized use" as any use that is contrary to the mandates or prohibitions set forth in the Radiation Regulations (N.J.A.C. 7:28).

N.J.A.C. 7:28-2.2 Supervision: Establishes specific categories of radiation sources which must be under the supervision of qualified people. Qualifications are established by specific licensing requirements.

N.J.A.C. 7:28-2.3 Instruction: Requires training for radiation workers.

N.J.A.C. 7:28-2.4 Unattended radiation sources: Unauthorized access prohibited.

N.J.A.C. 7:28-2.5 Protective services systems or mechanisms: Establishes specific standards for the shielding of radiation sources,

and prohibits use of any radiation source where any required protective devices is not functioning.

N.J.A.C. 7:28-2.6 Intentional human radiation: Prohibits unlicensed individuals from using radiation sources on human beings.

N.J.A.C. 7:28-2.7 Exemptions for prevention or control of diseases: Exempts certain radioactive source use for medical application from specific regulatory provisions which are not relevant to such activity.

N.J.A.C. 7:28-2.8 Special exemptions: Exemptions from specific requirements of this subchapter may be obtained upon a showing that the permissible dose rates and radiation levels, as provided in N.J.A.C. 7:28-6, are not exceeded.

N.J.A.C. 7:28-2.9 Prohibited use: Hand-held fluoroscopic screens and shoe-fitting fluoroscopic devices are prohibited.

N.J.A.C. 7:28-2.10 Emergency precautions: Provides criteria by which owners of radioactive material shall seek out and alleviate potential sources of harm arising from the use of such material.

N.J.A.C. 7:28-2.11 Inspections: Sources of radiation and the work relating to their use shall be made available to the Department.

N.J.A.C. 7:28-2.12 Tests: Radioactive materials analyses will be required or performed by the Department where necessary to determine compliance with applicable regulatory requirements.

Social Impact

The main body of the present radiation protection criteria was codified as Chapter 28 of the New Jersey Administrative Code shortly after the enactment of the Radiation Protection Act in 1958. Since that time, newer and more efficient radiation protection policies and procedures have evolved as a result of a better understanding of radiation issues and the availability of more sophisticated technology. The radiation regulations are being modified to reflect these advances.

Since the use of radiation and radioactive materials is an indispensable part of daily living and the presence of radioactivity in the environment is, to an extent, unavoidable and, in some situations, desirable and necessary, the inherent goal of any radiological health program is the elimination of unnecessary radiation or the reduction of radiation dose levels and rates of exposure to a point that is "as low as reasonably achievable" (ALARA). The ALARA concept is necessarily subjective and, therefore, it is the intent of this proposal to achieve ALARA by the use of quantifiable objective standards and criteria that are straightforward and enforceable.

The proposed new rules are intended to serve as a preamble to a much broader revision being undertaken by the Commission. A major aspect of this revision will be the splitting of the regulatory scheme into two main parts addressing ionizing and nonionizing radiation. The use of nonionizing radiation in the form of, among other things, microwave and laser producing equipment, has increased in recent years and so, therefore, have the attendant risks. Subchapter 1 provides the foundation for this split by providing separate definitions for each of these two areas.

Economic Impact

Since the proposed new rules are effectively a reorganization of existing provisions, no additional expense will be incurred by the Department or by the general public in the implementation of these rules.

Full text of the rules proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 7:28-1 and 2.

Full text of the proposed new rules follows.

SUBCHAPTER 1. GENERAL PROVISIONS

7:28-1.1 Purpose and scope

(a) The purpose of the following provisions is to prohibit and prevent the use or presence of unnecessary radiation in such manner

PROPOSALS

as to be, or tend to be, injurious or dangerous to the health of the people or the industrial or agriculture potentials of the State, or to the ecology of the State and its wildlife.

(b) Unless otherwise provided by statute or codes, rules or regulations promulgated by the Commission on Radiation Protection, the following provisions shall constitute the rules of the Bureau of Radiation Protection, Department of Environmental Protection, and shall govern all persons installing, using, handling, transporting or storing sources of radiation.

7:28-1.2 Construction

(a) These rules shall be liberally construed to permit the Department, the Bureau of Radiation Protection and its various agencies to discharge their statutory functions.

(b) The Department with the approval of the Commission may, upon notice to all parties, in the public interest, relax the application of these rules.

7:28-1.3 Practice where rules do not govern

The Commission may rescind, amend or expand these rules from time to time, in accordance with N.J.S.A. 26:2D-7, Chapter 116, Public Laws of 1958, as amended.

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:

"Absorbed dose" means the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit for absorbed dose is the Rad. (See "Rad" under (b) below.)

"Act" means the New Jersey Radiation Protection Act, Chapter 116, Public Laws of New Jersey 1958, as amended, cited as N.J.S.A. 26:2D-1 et seq.

"Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended.

"ALARA" means "as low as is reasonably achievable", taking into account the state of technology and the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the utilization of radiation in the public interest.

"Area" means a bounded space such as a room, floor, building, plant or any designated geographical entity having physical or imaginary boundaries.

"Average dose rate" means an integrated or accumulated dose of radiation divided by the time over which the integration or accumulation took place or by a specified length of time.

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged that no day in any year is omitted from inclusion within a calendar quarter. For purposes of this chapter, no license or registrant shall change the method observed by him of determining calendar quarters except at the beginning of a calendar year.

"Commission" means the New Jersey Commission on Radiation Protection.

"Controlled area" means any area to which the access, occupancy and activity of those within are subject to control and supervision for the purpose of radiation protection.

"Dead-man switch" means a switch which can be kept closed only when the operator applies continuous pressure.

"Department" means the New Jersey State Department of Environmental Protection.

"Dose equivalent" means a numerical quantity that expresses on

ENVIRONMENTAL PROTECTION

a common scale for all ionizing radiation, a measure of the postulated effect on a given organ. It is defined as the absorbed dose in rads times certain modifying factors. The unit of dose is the Rem. (See "Rem" under (b) below.)

"Dose rate" means dose per unit time.

"Emergency exposure" means an exposure to radiation of an emergency worker during rescue or other emergency operations.

"Emergency worker" means a member of the owner's staff or of a public voluntary or governmental agency engaged in safety or other emergency operations.

"Exemption" means the administrative relief from the requirements of a substantive rule.

"Healing art" means the practice of any branch of medicine or surgery, any method of diagnosis of human ailment, disease, pain, injury, deformity, mental or physical condition.

"Inspection" means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the Department.

"Installation" means a radiation source, with its associated equipment, and the area in which it is housed.

"Instructed individual" means an individual who has received appropriate instructions as to the safe means and methods of performing work with or near radiation sources.

"Ionizing radiation" means any form of radiation which has the capability of ionizing the medium through which it is passing.

"Maximum permissible dose" means the maximum dose to which the body or a particular part of the body of a person shall be permitted to be exposed continuously or intermittently in a stated period of time.

"Nonionizing radiation" means any form of radiation which does not have the capability of ionizing the medium through which it is passing.

"Occupational dose" means exposure of an individual to radiation in a controlled area or in the course of employment in which the individual's duties involve exposure to radiation, provided that "occupational dose" shall not be deemed to include any exposure of an individual to radiation for the purpose of medical diagnosis or medical therapy of such individual.

"Owner" means a person who has title to a radiation source or who possesses a radiation source as a lessee, bailee or pursuant to the terms of a license issued by the Department, by a Federal agency, or by any other state.

"Person" includes an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, municipality, any state, or other legal entity; and any legal successor, representative agent, or agency of the foregoing.

"Personnel-monitoring equipment" means devices designed to be worn or carried by an individual for the purpose of measuring the dose received; for example, film badges, pocket chambers, pocket dosimeters, and thermoluminescent dosimeters.

"Qualified individual" means an individual suited by training and experience to perform dependable radiation surveys and to determine the degree of radiation hazard.

"Radiation" includes any or all of the following: electromagnetic radiation including radiofrequency, microwave, infrared, visible, ultraviolet, x-ray, or gamma ray; sonic, infrasonic, or ultrasonic waves; and particle radiation including alphas, betas, high energy electrons, neutrons, protons, and other atomic or nuclear particles.

"Radiation area" means an area which is accessible to a worker and in which there exists ionizing radiation at such levels that a major portion of the body would receive in any one hour a dose equivalent in excess of five millirems or in any workweek a dose equivalent in excess of 100 millirems; or levels of non-ionizing radiation which exceeds the maximum permissible levels of such radiation as specified in the rules and standards established by the Commission.

"Research and development" means theoretical analysis, exploration, or experimentation; or the extension of investigative

findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models, devices, equipment, materials and processes. "Research and development" does not include the internal or external administration of radioactive material, or of radiation, to human beings.

"Shall" indicates a mandatory requirement.

"Shielding" means any material introduced into the path of radiation to reduce the radiation level.

"Source of radiation" means a material, equipment or machine emitting or capable of emitting radiation.

"State" means the State of New Jersey.

"State license" means a license issued by the Department. See also "License" under (b) below.

"Survey" means evaluation for a specific set of conditions or actual or potential radiation or contamination levels by or under the supervision of a qualified individual.

"Unnecessary radiation" means the use of nonionizing or ionizing radiation in such a manner as to be, or tend to be, injurious or dangerous to the health of the people or the industrial or agricultural potentials of the State, as defined in the Radiation Protection Act.

"User" means any individual who personally utilizes or manipulates a source of radiation.

(b) Ionizing radiation terms:

"Airborne-radioactivity area" means an area accessible to workers, in which airborne radioactive materials are present in concentrations such that the values at any time are in excess of the respective values stated in N.J.A.C. 7:28-6.5(a) (Average concentrations) Column B, or prorated values if more than one isotope is present; or values if averaged over the hours of occupancy in any week are in excess of 25 percent of the respective foregoing values.

"Beam-monitoring device" means a device in the useful beam to indicate the relative output of a radiation-producing machine.

"Byproduct material" means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

"Contamination" means radioactive contamination.

"Curie" means that amount of a specific radionuclide which disintegrates at the rate of 37 billion atoms per second.

i. The new International System of Units replaces the "Curie" with the "Becquerel", which means that amount of a specific radionuclide which disintegrates at the rate of one atom per second. One Curie equals 3.7×10^{10} Becquerel.

"Diagnostic-type protective tube housing" means x-ray tube housing so constructed that the leakage radiation at a distance of one meter from the target cannot exceed 100 mR in one hour when the tube is operated at any of its specified ratings.

"High radiation area" means an area which is accessible to workers and in which there exists radiations at such levels that a major portion of the body could receive in any one hour a dose in excess of 100 millirem.

"Human use" means the deliberate internal and external administration of radiation or radioactive material to human beings.

"Ionizing radiation-producing machine" means a machine or device capable of generating radiation, such as x-ray producing machines, particle accelerators, high-voltage rectifiers, high-voltage projection equipment, electron microscopes and other types of high-voltage machines.

"Leakage radiation" means all radiation coming from within an ionizing radiation-producing machine except the useful beam.

"License", except where otherwise specified, means a license issued by the United States Nuclear Regulatory Commission or any state for possession and use of radioactive material. See also "State license" under (a) above.

"Medical radiographer" means any individual who, under the supervision of a licensed practitioner, uses medical radiographic equipment on humans for diagnostic or therapeutic purposes.

"Monitoring" means a periodic or continuous determination of ionizing radiation levels or of radioactive contamination.

"Primary protective barrier" means barrier intended to attenuate the useful beam to the required degree.

"Rad" means the dose corresponding to the absorption of 100 ergs per gram; a measure of the dose of any radiation to body tissues in terms of the energy absorbed per unit mass of the tissue.

i. The new International System of Units replaces the "Rad" with the "Gray", which means the dose corresponding to the absorption of one joule per kilogram. One Rad equals 10^2 Grays.

"Radioactive material" means a natural or artificially produced substance, solid, liquid, or gas which emits ionizing radiation spontaneously.

"Radiographer" means any individual who is in attendance at a site where ionizing radiation sources are being used and who uses or supervises their use in industrial radiographic operations and who is responsible to the owner for assuring compliance with the requirements of this chapter.

"Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses sources of ionizing radiation including ionizing radiation-producing machines, radiographic-exposure devices, sealed sources or related handling tools, or survey instruments in industrial radiography.

"Radiographic-exposure device" means any instrument containing a sealed source fastened or contained therein in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

"Radiography" means the examination of humans or animals, or of the structure of materials by non-destructive methods, utilizing sealed sources or ionizing radiation-producing machines. This term is not intended to apply to techniques such as electron microscopy or x-ray diffraction.

"Rem" means a measure of the dose of any ionizing radiation to body tissue in terms of its estimated biological effect relative to a dose of one rad of x-rays. For the purpose of this chapter, any of the following are considered to be equivalent to a dose of one rem:

- i. A dose of one rad due to x, gamma, or beta radiation;
- ii. A dose of 0.1 rad due to neutrons or high-energy protons;
- iii. A dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye.

(1) The new International System of Units replaces the "Rem" with the "Sievert", which means a measure of the dose of any ionizing radiation to body tissue in terms of its estimated biological effect relative to a dose of one Gray of x-rays. One Rem equals 10^{-2} Sieverts.

(2) If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, as provided in ii above, one rem of neutron radiation may, for purposes of this chapter, be assumed to be equivalent to 14 million neutrons per square centimeter incident upon the body; or, if there exists sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to one rem may be estimated from the following table:

Neutron energy (Mev)	Number of neutrons per square centimeter equivalent to a dose of 1 rem (neutrons/cm ²)	Average flux to deliver 100 millirem in 40 hours (neutrons/cm ² per sec.)
Thermal	970×10^6	670
0.001	720×10^6	500
0.005	820×10^6	570
0.02	400×10^6	280
0.1	120×10^6	80
0.5	43×10^6	30
1.0	26×10^6	18

2.5	29 x 10 ⁶	20
5.0	26 x 10 ⁶	18
7.5	24 x 10 ⁶	17
10	24 x 10 ⁶	17
10 to 30	14 x 10 ⁶	10

“Roentgen” means the quantity of x or gamma radiation such that the associated corpuscular emission per .001293 grams of air produces, in air, ions carrying one electrostatic unit of quantity of electricity of either sign.

“Sealed source” means a radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Secondary protective barrier” means a barrier intended to attenuate ionizing radiation other than the useful beam to the required degree.

“Source material” means uranium or thorium, or any combination thereof, in any physical or chemical form, or ores which contain by weight 1/20 of one percent (0.05 percent) or more of uranium, thorium or any combination thereof. Source material does not include special nuclear material.

“Special nuclear material in quantities not sufficient to form a critical mass” means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium 233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all the kinds of special nuclear material in combination shall not exceed “1”, that is, unity as illustrated in the following example:

$$\frac{[175(\text{grams contained U-235})]}{[350]} + \frac{[50(\text{grams U-233})]}{[200]} + \frac{[50(\text{grams Pu})]}{[200]} = 1$$

“Storage container” means a device in which radioactive materials or sources are transported or stored.

“Total filtration” means the filtration produced by all materials inserted in the useful beam including the materials comprising the tube and its housing, any measured devices in the beam which act as a filter, and any material purposely placed in the beam as filters.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

“Useful beam” means that part of the radiation beam which passes through the window, aperture cone or other collimating device of the tube housing.

(c) Nonionizing radiation terms:

“Electric field strength” means a field vector quantity that represents the force on an infinitesimal unit positive test charge at a point divided by that charge. The electric field strength is expressed in units of volt per meter (V/m).

“Far field” means a region associated with a radiating source or structure in which the field per unit solid angle is constant. In this region, the field has a predominantly plane wave character, that is, locally very uniform distributions of electric field strength and magnetic field strength in planes perpendicular to the direction of propagation. Generally, the far field region begins several wavelengths distant from the source.

“Magnetic field strength” means a field vector that is equal to the product of the magnetic flux density and the reciprocal of the permeability. Magnetic field strength is expressed in units of ampere per meter (A/m).

“Microwave oven” means an oven which is designed to heat, cook or dry food through the applications of radio frequency

electromagnetic energy, and which is designed to operate at a frequency of 915 MHz or 2.45 GHz.

“Near field” means a region near a radiating source or structure in which the electric and magnetic fields do not have a substantially plane wave character, but vary considerably from point to point. The extent of the near field is only vaguely defined and depends on several factors the most important of which is the size of the radiating structure with respect to the wavelength of the emitted electromagnetic energy. In general, this distance extends to at least five wavelengths from the radiating device.

“Power density” means the rate of energy transported into a small sphere divided by the cross-sectional area of that sphere. Power density is expressed in units of watts per meter squared (W/m²), or for convenience milliwatts per centimeter squared (mW/cm²).

“Power density, plane wave equivalent” means a quantity that is associated with any electromagnetic wave that is equal in magnitude to the power density of a plane wave that has the same electric or magnetic field strength.

“Radiating device” means the antenna, leakage port, or any other part of a device that emits radio frequency electromagnetic energy.

“Radio frequency” means the frequency range of 300 kilohertz (kHz) to 100 gigahertz (GHz).

“Radio frequency device” means any stationary device, machine, equipment or installation which is capable of generating a radio frequency electromagnetic field. This does not include devices which are marketed as consumer products, including, but not limited to citizens band radios, remote controlled toys, remote controlled garage door openers, mobile radio transmitter under authorization of the Federal Communications Commission or any other device specifically exempted by the Commission on Radiation Protection as not presenting a potential hazard or harm to a worker or the public.

“Radio frequency protection guide (RFPG)” means the mean squared electric field strength, the mean squared magnetic field strength, and the equivalent plane wave power density which shall not be exceeded. The RFPG is an upper limit of exposure. Exposure to levels slightly in excess of the RFPG are not harmful; however, they are not desirable and in all cases the exposure shall be reduced to values that are as low as reasonably achievable.

“Specific absorption rate (SAR)” means the time derivative of the incremental energy (dW) absorbed by (dissipated in) an incremental mass (dm) contained in a volume element (dV) of a given density (ρ).

$$SAR = \frac{d}{dt} \frac{dW}{dm} = \frac{d}{dt} \rho \frac{dW}{dV}$$

The specific absorption rate is expressed in units of watt per kilogram (W/kg). In view of the proliferation of terms for describing the electromagnetic radiation conditions in biological materials and the discipline oriented interpretation of these terms, it is recommended that the name “specific absorption rate” be used for the quantity defined here, rather than such names as “absorbed power density per unit mass”.

7:28-1.5 Communications

(a) All communication concerning the rules in this chapter, or matters relating to radiation protection, should be addressed to the New Jersey State Department of Environmental Protection, Bureau of Radiation Protection, 380 Scotch Road, Trenton, New Jersey 08628.

(b) All emergency notification of incidents involving sources of radiation in this State shall be immediately reported to either one of the following agencies:

1. Bureau of Radiation Protection
 New Jersey State Department of
 Environmental Protection
 380 Scotch Road
 Trenton, NJ 08628
 Telephone:(609) 292-5586
 Hours: 8:00 A.M. to 4:30 P.M. daily,
 except Saturday, Sunday and Holidays.

2. Communications Officer
 Civil Defense/Civil Defense Bureau
 New Jersey State Police
 W. Trenton, NJ 08628
 Telephone:(609) 882-2000
 Hours: 24 hours, seven days.

SUBCHAPTER 2. USE OF SOURCES OF IONIZING RADIATION AND SPECIAL EXEMPTIONS

7:28-2.1 Authorized use of sources of ionizing radiation

(a) No person shall use, operate, receive, possess, dispose, transfer, install, transport or store sources of ionizing radiation in a manner other than prescribed in these rules or in a manner that does not comply with this chapter.

(b) No person shall cause, suffer, allow or permit any person to use, operate, receive, possess, dispose, transfer, install, transport or store sources of ionizing radiation in a manner other than prescribed in these rules or in a manner that does not comply with this chapter.

7:28-2.2 Supervision

(a) All sources of radiation, except those specifically exempted by other sections of this chapter, shall be under the supervision of an individual(s) who has demonstrated to the Department, or to any agency recognized by the Department, that the individual(s) training and experience satisfies the Department requirements in the following areas of radiation protection:

1. Principles and practices of radiation protection;
2. X-ray and/or radioactivity measurements and monitoring techniques and instruments;
3. Mathematics and calculations basic to the use of radiation;
4. Biological effects of radiation; and
5. Any additional information, qualifications or experience as may be required by the Department.

(b) The qualified individual(s) shall be designated on the appropriate Department license, registration, or certificate.

7:28-2.3 Instruction

(a) All persons working in or frequenting the vicinity of radiation-producing machines or radioactive material shall be instructed in the operation and/or use of the sources of radiation and the function and need of any applicable safeguards for the sources of radiation, in accordance with preestablished procedures that have been documented and are on file for review and inspection.

(b) All visitors to controlled areas shall be instructed or escorted to prevent unnecessary exposure to radiation. See N.J.A.C. 7:28-7.4(a)4 (Use of personnel monitoring equipment for visitors).

7:28-2.4 Unattended radiation sources

No person shall cause, suffer, allow or permit any source of radiation to remain unattended and accessible to unauthorized use.

7:28-2.5 Protective devices systems or mechanisms

(a) No person shall operate a radiation-producing machine or utilize radioactive material whenever shielding for the source of radiation, permits levels of radiation that exceed or have the potential to exceed the radiation limits specified in N.J.A.C. 7:28-6.2 (Radiation levels outside controlled areas).

(b) No person shall operate a radiation-producing machine or utilize radioactive material whenever any device, system or mechanism designed for the protection against radiation required by this chapter has not been installed or is operating improperly.

7:28-2.6 Intentional human irradiation

(a) Only persons licensed or otherwise permitted by law shall arrange for irradiation, application, or administration of radiation to a human being or integral part thereof, for the purpose of medical diagnosis or treatment.

(b) No provision in N.J.A.C. 7:28 regarding the treatment of human beings in the healing arts is intended to conflict with, supplant or supersede any requirement of the Medical Practices Act of New Jersey.

7:28-2.7 Exemptions for prevention or control of diseases

Rules contained in N.J.A.C. 7:28-6 or 7 and 7:28-13.2 (Reportable radiation incidents) shall not apply insofar as they relate to the intentional exposure of human beings to radiation for the purpose of diagnosis, treatment or investigation for the prevention or control of disease.

7:28-2.8 Special exemptions

The Department, upon request by an owner or on its own initiative with the approval of the Commission, may grant a specific exemption from any requirement of these rules should it determine that such exemption will not result in any exposure to radiation in excess of the limits permitted by N.J.A.C. 7:28-6 (Permissible Dose Rates, Radiation Levels and Concentrations).

7:28-2.9 Prohibited use

- (a) Hand-held fluoroscopic screens shall not be used.
- (b) Shoe-fitting fluoroscopic devices shall not be used.

7:28-2.10 Emergency precautions

(a) All owners of radioactive materials shall make a study of potential radiation hazards which may arise from radiation incidents, theft of radioactive materials, fires, floods, windstorms and other disasters within and near the installation with regard to the protection of the following:

1. Tenants and employees;
2. Emergency workers;
3. General public; and
4. Fire fighters and police.

(b) Such studies shall be made for radioactive materials on hand and shall be made in advance of the receipt of additional radioactive materials.

(c) An emergency operational plan, prepared from these studies, shall inform all persons concerned of their duties and responsibilities. This plan shall be made available to the Department on request.

7:28-2.11 Inspections

(a) All persons shall afford the Department an opportunity to inspect any source of radiation and the operation associated with the source of radiation as well as the facilities and premises where the source of radiation is being used or stored.

(b) Upon request of the Department all persons shall make available for inspection by the Department records kept pursuant to the rules in N.J.A.C. 7:28.

7:28-2.12 Tests

Upon request of the Department, all persons shall perform, and/or permit the Department to perform if it so desires, such tests as the Department deems appropriate or necessary for the administration of this chapter.

HEALTH

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Drug Treatment Facilities Standards for Licensure

Proposed Repeal: N.J.A.C. 8:42-2
Proposed New Rule: N.J.A.C. 8:42B

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting
Commissioner, Department of Health (with approval
of Health Care Administration Board).
Authority: N.J.S.A. 26:2H-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Wanda J. Marra, Coordinator
Standards Program
Division of Health Facilities
Evaluation
New Jersey Department of Health
CN 367
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-133.

The agency proposal follows:

Summary

The current Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, N.J.A.C. 8:42-2, expired on November 9, 1982, pursuant to the "sunset" provisions of the Executive Order No. 66 (Governor Byrne, 1978) which mandates the five-year automatic expiration of the regulations. The regulations have, however, been readopted and extended until November 3, 1983. See: 14 N.J.R. 812(a), 14 N.J.R. 1214(a). The extension provided additional time for the thorough evaluation of the standards by concerned persons and facilities and for revision of the standards.

The current standards became effective on March 26, 1976, and have been used to license residential and inpatient drug treatment facilities since that date. These regulations were written in general and nonspecific terms which created difficulties in interpreting and enforcing the regulations. Therefore, N.J.A.C. 8:42-2 is being repealed.

The proposed new rules, N.J.A.C. 8:42B, have been simplified and written in more specific language to make the regulations more lucid, coherent, and realistic. In order to make these regulations more specific and more objective, it was necessary to expand upon the existing standards and include considerably more detail to eliminate subjective statements that can be misinterpreted. This will account for the increased volume of the proposed new rules which spell out administrative and professional practices and procedures that should take place in a drug treatment facility. However, these revisions do not alter the basic philosophy of the current standards. The amendments added to the current standards from time to time have been incorporated into the appropriate sections of the proposed new rules. Editorial changes have been made to make the manual cohesive, explicit, and precise.

The proposed new rules contain the following sections:

Definitions and/or Qualifications, Licensure Procedure, General Requirements, Governing Authority, Administration, Patient Care Policies, Medical Services, Nursing Services, Patient Assessment and Treatment Planning, Drug Counseling Services and Supportive Services, Patient Activities, Laboratory, Radiological, and Diagnostic Services, Pharmaceutical Services, Dietary Services, Patient Rights, Emergency Procedures, Aftercare Services, Patient (Medical) Records, Patient Care Statistics, Infection Prevention and Control, Housekeeping, Sanitation, and Safety, Evaluation, and Construction.

The current N.J.A.C. 8:42-2 contains the equivalent sections of the proposed new rules with the exception of Patient Assessment and Treatment Planning, Laboratory, Radiological, and Diagnostic Services, Patient Activities, Emergency Procedures, and Aftercare Services. In addition, the current section regarding Organization and Delivery of Health Services and Medical Care Services has been expanded into three new sections (Patient Care Policies, Medical Services, and Nursing Services) in the proposed new rules. While specific sections of the proposed new rules are lacking in N.J.A.C. 8:42-2, they appear in the general content and philosophy of the current regulations. The current N.J.A.C. 8:42-2 contains a section regarding Financial Data which has been deleted from the proposed new rules since there is no statutory requirement for it.

A summary of the major changes in the proposed new rules, N.J.A.C. 8:42B, follows:

The section regarding General Requirements has been expanded to further delineate the facility's responsibilities including standards for: disclosure of ownership; retention of records; availability of documents to patients, staff, and the public; plans for handicapped persons gaining access to services; a requirement that at least one staff member on each shift have first aid and cardiopulmonary resuscitation training; reporting to the Department of Health cessation or interruption of services in the facility and occurrence of epidemic disease or alleged or suspected crimes committed by or against patients; conspicuously posting notices so that patients, their families, staff, and the public are aware of specific information regarding the operation of the facility; and policies and procedures regarding the availability of information, and consultation and education about drug addiction and drug abuse for the public, health care facilities, law enforcement and community agencies, and a requirement that the facility have awake and on duty at all times at least two staff members for 50 or fewer patients and at least one additional staff member for each additional 50 or fewer patients.

The sections related to the Governing Authority and Administration have been expanded to include the qualifications and duties of the governing board members and administrator and a number of specific managerial duties, such as recordkeeping. The requirement for a program director has been deleted, thus avoiding a confusing standard and allowing administrators to exercise professional judgements regarding the managerial and organizational structures of their facilities.

The Patient Care Policies section is new and concentrates on the development of policies and procedures for patient care. The proposed General Requirements section contains the philosophy of the drug treatment program, while the proposed Patient Care Policies section deals with the implementation of the philosophy. The Patient Care Policies section contains standards relating to all aspects of patient care and requires that a patient care policy committee be established and delineates the specific policies and procedures that the committee shall develop such as policies and procedures for patient rights, emergency care of patients, patients with a communicable disease, limiting verbal and telephone orders to emergency situations and requiring countersigning of such orders within 24 hours, assisting patients in obtaining health and social services, delineating the housekeeping activities that patients may perform as part of the therapeutic regime, criteria and procedures for admitting, discharging, and readmitting patients, restrictions to the admission and retention of patients, interviewing patients prior

to admission, a requirement for a written agreement or admission form, financial arrangements, as well as care of deceased patients. Reasonable standards regarding urine surveillance have been developed which will minimize cost without jeopardizing patient safety. In drug-free facilities, urine surveillance or an alternate method approved by the Department of Health may be utilized in evaluating patients upon admission and periodically thereafter for drug usage. The standards for urine surveillance were also simplified by deleting references to presumptive and qualitative urinalysis.

The Medical Services section has been revised but is consistent with the intent of N.J.A.C. 8:42-2.10 and 8:42-2.13 and elaborates upon the duties of the medical director. If the facility provides detoxification services, the medical director is required to be on the premises daily. A requirement that physician consultation be provided to patients at least once in every four-week period has been deleted in favor of a flexible schedule established by the physician. Some of the specific requirements for laboratory testing have been deleted, thus allowing some flexibility for the physician as well as practicability regarding cost. The deletion of the specific requirements will not jeopardize patient health or safety.

Details of the requirements related to Nursing Services, including the roles of the director of nursing services, nursing and ancillary nursing personnel, staffing, and a description of nursing responsibilities, have been expanded in the proposed new rules. Standards on Nursing Care Services Related to Pharmaceutical Services have been added to this section to clarify duties and responsibilities of the nursing service in relation to pharmaceutical services. The proposed standards establish a ratio of one registered nurse on the premises seven days a week for at least two hours each day for 50 or fewer patients and for at least an additional two hours for each additional 50 or fewer patients. In a detoxification service a ratio was established of one licensed nurse to every 30 patients on each shift.

The sections dealing with Patient Assessment and Treatment Planning, Drug Counseling Services and Supportive Services, Patient Activities, and Laboratory, Radiological, and Diagnostic Services are new sections of the proposed new rules, derived from N.J.A.C. 8:42-2.12, 2.16, 2.17, and 2.18, and are an extension of the sections regarding General Requirements and Patient Care Policies of the proposed manual. Most of the requirements are not new but are written with greater specificity and elaborate upon the philosophy of the treatment program already contained in earlier sections. The number of hours for counseling has not changed, but a ratio was established so that there is at least one drug counselor for every 12 patients, on the basis of the daily census. A standard was eliminated requiring a minimum of five hours per week of mental health consultation for each 100 patients, which will not jeopardize patient treatment or care.

The Pharmaceutical Services section is more detailed than N.J.A.C. 8:42-2.19 and has been divided into two sections elaborating upon appropriate Federal and State laws for facilities which provide detoxification services.

In the Dietary Services section, certain time requirements were revised, for example, the filing of menus has been reduced from 60 days to 30 days, while menu planning has been changed from seven days to 14 days. This section was expanded to clarify the duties and responsibilities of the dietary staff.

The Patient Rights section has been written with greater specificity and detail than N.J.A.C. 8:42-2.25, although the content in both sections is similar. The requirements allow religious observance, free association, mail communication, control of personal property, freedom from mental and physical abuse and freedom from discrimination or reprisal, thus trying to guarantee patients in drug treatment facilities similar rights as patients have in long-term care, medical day care, and alcoholism treatment facilities.

Reasonable construction standards have been included to ensure the comfort and safety of patients. Upon request of the providers,

modifications were made to allow part of the dining room to be used as a group activity and multipurpose room when not being used as a dining room; the square footage for storage space was decreased from 30 square feet to 15 square feet per patient; and a bedside light for each patient was eliminated since they are rarely used. In sleeping rooms occupied by more than one patient, the minimum square footage was reduced from 50 to 35 square feet of clear floor space per patient. The changes made will not jeopardize patient comfort or safety.

In addition to the above, all references to Central Intake Units and day care facilities were deleted since they no longer exist. The terminology of the current N.J.A.C. 8:42-2, which includes the terms residential facility, drug treatment center, residential drug-free facility, residential chemotherapy facility, drug treatment inpatient facility, and residential methadone facility, has been clarified in the proposed new rules since a review of the standards indicated no differences exist in the facilities. The proposed new rules will be applicable to all types of drug treatment facilities, with the exception of ambulatory care facilities (N.J.A.C. 8:43A-9), and to facilities providing detoxification services, for which there are specific standards within the text. The proposed new rules have been written to reflect the manner in which the drug treatment facilities operate now and to reflect the services they provide, thus making the proposed new rules more practical and useful. The proposed new rules describe activities or tangible objects that are observable, measurable, and capable of uniform definition and interpretation, rather than the former somewhat arbitrary and subjective standards of N.J.A.C. 8:42-2.

Social Impact

The proposed new rules will be applicable to all drug treatment facilities in the State and will consolidate the terminology referring to several types of facilities into two types of services. Providers of care in drug treatment facilities will find the new manual easier to read, understand, and use. Since the manual will be more clear and concise and easier to use, it will facilitate the care being provided to patients and thus help to ensure better quality of care in drug treatment facilities. Questions from providers of care in drug treatment facilities regarding standards and interpretation of standards should be more easily answered due to the increased specificity and decreased subjectivity. The proposed manual will be more flexible and rational than the existing one. The flexibility will give increased leverage to professionals to take initiative regarding patient care thus allowing the facility to operate in a safe and cost-effective manner. To the consumer, the proposed manual offers assurance of a minimum of quality of care.

The enforcement and interpretation of the licensure regulations by employees of the Department of Health will be simplified which will enhance the survey process to determine the facility's compliance with licensure regulations. The survey process will, therefore, be more efficient and cost-effective.

Because of the flexibility of the proposed new rules, staff of drug treatment facilities will be better utilized. The staff time saved because of the flexibility will allow for better utilization of staff and will expedite patient care.

The more specific and explicit requirements for policies and procedures in the proposed new rules will help to ensure patient safety and appropriate patient care as will the more detailed and objective proposed new rules regarding patient assessment and treatment planning, counseling services and supportive services, patient activities, and laboratory, radiological, and diagnostic services. The expanded patient rights section will further ensure that rights of patients are respected and protected and that patients in drug treatment facilities receive the same rights as in other health care facilities.

The proposed construction standards will increase the availability of space for recreational and group activities as well as allowing maximum use of available floor space by decreasing the minimum square feet of clear floor space per patient.

Economic Impact

Because the proposed new rules are easier to read and specify administrative and professional practices and procedures in more objective, clear, and concise language, the drug treatment facilities should be able to operate in a more cost-effective manner. Likewise, for the same reasons, employees of the Department of Health will be able to survey drug treatment facilities, write reports, and prepare material for hearings in a more cost-effective manner.

There should be no increase in cost to the facilities due to the more specific requirements for written policies and procedures since the basic content and philosophy of the regulations has not been altered in the proposed new rules. Where staffing patterns have been established, it is anticipated that there will be no increase in cost since most drug treatment facilities can now meet the proposed new rules. The reduced requirements for urine surveillance, laboratory testing, and physician visits will result in a cost savings to the facilities, the Department of Health, and the consumer.

The proposed construction standards will not cause an increased economic impact for existing facilities, since they will be capable of meeting the standards. The proposed manual will allow increased utilization of existing space without applying rigid standards which would result in unreasonable hardships upon drug treatment facilities, thus effecting the health and safety of patients.

Full text of the rule proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 8:42-2.

Full text of the proposed new rule follows.

CHAPTER 42B
DRUG TREATMENT FACILITIES
STANDARDS FOR LICENSURE

SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

8:42B-1.1 Definitions

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

“Administrator” shall mean a person whose qualifications have been approved by the Division of Narcotic and Drug Abuse Control. The administrator may have the title of program director, or another title, but fulfills the responsibilities of the administrator as specified in this chapter.

“Aftercare plan” shall mean a written plan initiated at the time of the patient’s admission. The plan for each patient shall include an evaluation of the patient’s needs, the development of goals for aftercare, and referrals to community agencies and resources for aftercare services. The aftercare plan of each service is part of the patient treatment plan and may be documented therein rather than as a separate document.

“Ancillary nursing personnel” shall mean unlicensed workers employed to assist licensed nursing personnel. Ancillary nursing personnel are trained on the job in accordance with the facility’s staff orientation and staff education plans.

“Available” shall mean ready for immediate use (pertaining to equipment); capable of being reached (pertaining to personnel), unless otherwise defined in this chapter.

“Business hours” shall mean a time period established by the facility, as defined in the facility’s policies and procedures.

“Bylaws” shall mean a set of rules adopted by the facility for governing its operation. (A charter, articles of incorporation, and/or a statement of policies and objectives is an acceptable equivalent.)

“Chemical dependency” shall mean a dependence upon, or, by reason of repeated use, the imminent danger of dependence upon, any kind of controlled substance, narcotic drug, or other type of drug as defined in any law of the State of New Jersey or of the United States (such dependency may include, but is not limited to

drug addiction as defined in this chapter), including, but not limited to, any drug of either of the following groups:

1. Opium, heroin, morphine, cocaine, or any derivative of such drugs; or
2. Any barbiturate, central nervous system stimulant, tranquilizer or other depressant, hallucinogenic drug or derivative, any other psychotropic drug, or any other drug subject to regulation.

“Cleaning” shall mean the removal by scrubbing and washing, as with hot water, soap or detergent, and vacuuming, of infectious agents and of organic matter from surfaces on which and in which infectious agents may find conditions for surviving or multiplying.

“Clinical note” shall mean a written, signed, and dated notation by each member of the health care team who renders a service to the patient, including a description of signs and symptoms, treatment and/or drugs given, the patient’s reaction, and any changes in physical or emotional condition. Clinical notes are written into the patient’s medical record the day service is rendered.

“Commissioner” shall mean the New Jersey State Commissioner of Health.

“Communicable disease” shall mean an illness due to a specific infectious agent or its toxic products, which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

“Concurrent disinfection” shall mean the application of measures of disinfection as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges, all personal contact with such discharges or articles being minimized prior to such disinfection.

“Conspicuously posted” shall mean placed at a location accessible to and seen by patients, staff, and the public.

“Contamination” shall mean the presence of an infectious or toxic agent in the air, on a body surface, or on/in clothes, bedding, instruments or dressings, or other inanimate articles or substances, including water, milk, and food.

“Controlled dangerous substances” shall mean drugs subject to the Controlled Substances Act of 1970 (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act of 1971.

“Current” shall mean up-to-date, extending to the present time.

“Daily census” shall mean the number of patients residing in the facility on a given day.

“Dentist” shall mean a person who is licensed by the New Jersey State Board of Dentistry.

“Department” shall mean the New Jersey State Department of Health.

“Designated person” shall mean the person designated by the patient to be notified if the patient sustains an injury requiring medical care, if an accident or incident occurs, if there is deterioration in the patient’s physical or mental condition, or if the patient is transferred to another facility, is discharged, or expires.

“Detoxification” shall mean a treatment, prescribed by a physician and conducted under medical supervision, to reduce a patient’s chemical dependency as defined above and including observation, monitoring, assessment, treatment, counseling, and the referral of the patient to treatment programs for continued care.

“Dietitian or dietary consultant” shall mean a person who:

1. Is registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association; or
2. Has a bachelor’s degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and has completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association; or has one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; or
3. Has a master’s degree plus six months of full-time, or full-time

equivalent, experience in nutrition and/or food service management in a health care facility; and

4. Participates annually in continuing dietary education.

"Director of nursing services" shall mean a registered professional nurse licensed in the State of New Jersey who has at least one year of full-time, or full-time equivalent, experience in nursing supervision and/or nursing administration in a health care facility.

"Disinfection" shall mean the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied (see also definitions of concurrent disinfection above and terminal disinfection below.)

"Documented" shall mean a written, signed, and dated notation or statement.

"Documents" shall mean written records, plans, manuals, reports, and policies and procedures.

"Drug addiction" shall mean a chemical dependency which by reason of repeated use has resulted in a tolerance requiring increased quantity or frequency of dosage, or both, as well as evidencing a predictable syndrome whenever the user undergoes abstinence.

"Drug administration" shall mean a procedure in which a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and regulations governing such procedures. The complete procedure of administration includes removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the prescriber's orders, giving the individual dose to the patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration.

"Drug counselor" shall mean a person approved by the Division of Narcotic and Drug Abuse Control who, by virtue of education, training, or experience, is capable of assessing the psychological and sociological background of the patient to determine the treatment plan most appropriate for the patient.

"Drug dispensing" shall mean a procedure entailing the interpretation of the original or direct copy of the prescriber's order for a drug or a biological and, pursuant to that order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological to a patient or a service unit of the facility, in conformance with the rules and regulations of the New Jersey State Board of Pharmacy.

"Drug treatment facility" shall mean a facility or a distinct part of a facility which is licensed by the New Jersey State Department of Health to provide health care for the prevention and treatment of drug addiction and drug abuse under medical supervision for 24 or more consecutive hours to one or more patients who are not related to the governing authority or its members by marriage, blood, or adoption.

The facility shall provide services including at least room and board, medical, nursing, and dietary services, patient diagnosis, assessment and treatment, rehabilitation, counseling and supportive services, patient activities, and pharmaceutical services. The drug treatment facility may be a designated unit of a licensed health care facility providing any or all of the services specified in this chapter.

"Epidemic" shall mean the occurrence or outbreak in a facility of one or more cases of an illness in excess of normal expectancy for that illness, and derived from a common or propagated source.

"Family" shall mean persons having a commitment to one another.

"Food service supervisor" (dietetic service supervisor) shall mean a person who:

1. Is a dietitian; or
2. Is a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association; or
3. Is a graduate of a course, approved by the New Jersey State Department of Education, providing 90 or more hours of classroom instruction in food service supervision; and has one year of full-time, or full-time equivalent, experience as food service supervisor

in a health care facility, with consultation from a dietitian; or

4. Has training and experience in food service supervision and management in a military service equivalent to the programs listed in 2 or 3 above.

"Full-time" shall mean a time period established by the facility as a full working week, as defined in the facility's policies and procedures.

"Governing authority" shall mean the organization, person, or persons designated to assume legal responsibility for the determination and implementation of policy and for the management, operation, and financial viability of the facility.

"Handicapped" shall mean a person as defined in the Rehabilitation Act of 1973, P.L. 93-112, 87 Stat. 355.

"Health care facility" shall mean a facility so defined in Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

"Job description" shall mean written specifications developed for each position in the facility, containing the qualifications, duties and responsibilities, and accountability required of employees in that position.

"Licensed nursing personnel" (licensed nurse) shall mean registered professional nurses and practical (vocational) nurses licensed by the New Jersey State Board of Nursing.

"Licensed practical nurse" shall mean a person who is licensed by the New Jersey State Board of Nursing.

"Medical director" shall mean a physician, as defined below.

"Medical portion of the patient treatment plan" shall mean a written plan initiated at the time of the patient's admission, which includes the patient's medical, drug, and alcoholism history, record of physical examination, diagnosis, assessment of physical capabilities, mental capacity, orders for medication, treatment, diet, and special needs for the patient's health or safety, and the frequency with which the patient shall be seen by the physician.

"Medication" shall mean a drug or medicine as defined by the New Jersey State Board of Pharmacy.

"Monitor" shall mean to observe, watch, or check.

"Multidisciplinary team" shall mean those persons, representing different professions, disciplines, and service areas, who work together to provide care to the patient. The patient shall be included as a member of the team.

"Nosocomial infection" shall mean an infection acquired by a patient while in the facility.

"Nursing area" shall mean a continuous area on one floor, approved by the Department, which includes rooms housing patients.

"Patient" shall mean any person admitted to a drug treatment facility pursuant to N.J.S.A. 26:2G-21 et seq.

"Patient (medical) record" shall mean all records in the facility which pertain to the patient, including radiological films.

"Patient treatment plan" shall mean a written plan, initiated and implemented upon the patient's admission, and coordinated and maintained by the patient's drug counselor, with documentation of joint planning by the multidisciplinary team, and the patient's participation. The plan shall document an assessment of the individual patient, short- and long-term goals and objectives, and care and treatment to be provided. Each service that the patient receives shall develop its own portion of the treatment plan; the individual portions for each service shall become part of the total patient treatment plan and may be incorporated into one document rather than appearing as separate documents. The patient treatment plan shall be kept current and available to all staff providing patient care, and shall be included in the medical record at the time of discharge.

"Per diem rate" shall mean the daily charge to the patient for services rendered by the facility and shall include room, board, supervision, and treatment as required by these standards. All charges in excess of the per diem rate shall be itemized in the written admission agreement.

charges in excess of the per diem rate shall be itemized in the written admission agreement.

"Pharmacist" shall mean a person who is registered by the New

Jersey State Board of Pharmacy.

“Physician” shall mean a person who is licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

“Progress note” shall mean a written, signed, and dated notation by a member of the multidisciplinary team summarizing facts about care and the patient’s response during a given period of time.

“Psychiatrist” shall mean a physician who is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc., or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

“Psychologist” shall mean a person who is licensed by the New Jersey State Board of Psychological Examiners.

“Reasonable hour” shall mean any time between the hours of 8:00 A.M. and 8:00 P.M. daily.

“Registered professional nurse” shall mean a person who is licensed by the New Jersey State Board of Nursing.

“Restraint” shall mean a physical device or chemical (medication) used to limit, restrict, or control patient movements.

“Self-administration” shall mean a procedure in which any medication is taken orally, injected, inserted, or topically or otherwise administered by a patient to him/herself. The complete procedure of self-administration includes removing an individual dose from a previously dispensed, labeled container (including a unit dose container), verifying it with the directions on the label, and taking the medication.

“Shift” shall mean a time period established by the facility as a full working day, as defined in the facility’s policies and procedures.

“Signature” shall mean at least the first initial and full surname and title (for example, R.N., L.P.N., D.D.S., M.D.) of a person, legibly written with his/her own hand.

“Staff education plan” shall mean a written plan developed at least annually and implemented throughout the year which describes a coordinated program for staff education for each service, including inservice programs and education, staff development, on-the-job training and continuing education, and the intervals and times at which these shall be given. Each employee shall receive education to develop skills and increase knowledge so as to improve patient care. Inviting speakers to the facility, or occasional attendance by staff at programs or conventions, does not solely constitute an acceptable staff education plan.

“Staff orientation plan” shall mean a written plan for the orientation of each new employee to the duties and responsibilities of the service to which he/she has been assigned, as well as to the personnel policies of the facility. Orientation shall be provided for each new employee prior to or within one week of employment.

“Stat. (statim)” shall mean immediately.

“Sterilization” shall mean a process of destroying all microorganisms, including those bearing spores, in and around an object.

“Stop order” shall mean a written, signed, and dated statement by the prescriber mandating the cessation of a written order.

“Supervision” shall mean authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his/her sphere of competence, with initial direction and periodic on-site inspection of the actual act of accomplishing the function or activity.

“Direct supervision” shall mean supervision on the premises within view of the supervisor.

“Terminal disinfection” shall mean the application of measures of disinfection after the patient had died or been discharged, or has ceased to be a source of infection, or after the facility’s isolation practices have been discontinued. Terminal disinfection is rarely practiced; terminal cleaning generally suffices (see 8:42B-1), along with airing and sunning of rooms, furniture, and bedding. Terminal disinfection is necessary only for diseases spread by indirect contact.

“Therapeutic diet” shall mean a diet prescribed by a physician, and may include modifications in nutrient content, caloric value, consistency, methods of food preparation, content of specific foods, or a combination of these modifications.

“Unit dose drug distribution system” shall mean a system in which drugs are delivered to the patient areas in single unit packaging. Each patient shall have his/her own medication tray labeled with his/her name and location in the facility. Each medication shall be individually wrapped and labeled with the generic and trade names and strength of the drug, lot number or reference code, expiration date, dose, and manufacturer’s name, and ready for administration to the patient. Cautionary instructions shall appear on the patient’s record of medication, and the system shall include provisions for noting additional information, such as special times or routes of administration. Delivery and exchange of patient medication trays shall occur promptly, and at least one exchange of patient medication trays shall occur daily. The number of doses for each patient shall be sufficient for a maximum of 48 hours.

SUBCHAPTER 2. LICENSURE PROCEDURE

8:42B-2.1 Certificate of Need

(a) According to Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, a health care facility shall not be instituted, constructed, expanded, or licensed to operate except upon application for and receipt of a Certificate of Need issued by the Commissioner.

(b) Application forms for a Certificate of Need and instructions for completion may be obtained from:

Review and Comment Program
 Division of Health Planning
 and Resources Development
 New Jersey State Department of Health
 CN 360
 Trenton, NJ 08625

8:42B-2.2 Application for licensure

(a) Following acquisition of a Certificate of Need, any person, organization, or corporation desiring to operate a facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Licensing, Certification and Standards
 Division of Health Facilities Evaluation
 New Jersey State Department of Health
 CN 367
 Trenton, NJ 08625

(b) The Department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:

Number of Beds	Fee
1-99	\$100.00
100-199	200.00
200-299	300.00
300-399	400.00
400-999	500.00

(c) Any person, organization, or corporation considering application for license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing, Certification and Standards Program and:

Division of Narcotic and Drug
 Abuse Control
 New Jersey State Department of Health
 CN 362
 Trenton, NJ 08625

8:42B-2.3 Newly constructed or expanded facilities

(a) The application for license for a new facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction
and Monitoring Program
Division of Health Planning and
Resources Development
New Jersey State Department of Health
CN 360
Trenton, NJ 08625

(b) A final on-site inspection of the construction of the physical plant shall be made by representatives of the Health Facilities Construction and Monitoring Program and the Health Facilities Inspection Program, to verify that the building has been constructed in accordance with the final architectural plans approved by the Department.

(c) Any health care facility with a construction program, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction and Monitoring Program of the Department for review and approval prior to the initiation of any work.

8:42B-2.4 Surveys and temporary license

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department shall be conducted to determine if the facility meets the standards of this chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to occupancy.

(b) A temporary license may be issued to a facility when the following conditions are met:

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility;

2. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;

3. Written approvals of the water supply and sewage disposal system from local officials are on file with the Department for any water supply or sewage disposal system not connected to an approved municipal system;

4. Survey(s) by representatives of the Department indicate the facility meets these standards; and

5. Professional personnel are employed in accordance with the staffing requirements in these standards.

(c) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department. The facility shall accept only that number of patients for which it is approved and/or licensed.

(d) Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and patient records and conferences with patients.

8:42B-2.5 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the health care facility is operated as required by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules and regulations pursuant thereto.

(b) A license shall be granted for a period of one year or less as determined by the Department.

(c) The license shall be conspicuously posted in the facility.

(d) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless sooner suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the licensure date. The facility will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

(f) The license may not be renewed if local regulations or any other requirements are not met.

8:42B-2.6 Surrender of license

The facility shall directly notify each patient, the patient's physician, and any guarantors of payment concerned at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days.

8:42B-2.7 Waiver

(a) The Commissioner or his/her designee may, in accordance with the general purposes and intent of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the standards in this chapter, waive sections of the regulations if, in his/her opinion, such waiver would not endanger the life, safety, or health of the patient or public.

(b) A facility seeking a waiver of these standards shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department.

(c) A written application for waiver shall include the following:

1. The nature of the waiver requested;

2. The specific standards for which waiver is requested;

3. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;

4. An alternative proposal which would ensure patient safety; and

5. Documentation to support the application for waiver.

(d) The Department reserves the right to request additional information before processing an application for waiver.

8:42B-2.8 Action against a license

(a) Violations of the following standards shall result in action to impose a fine: N.J.A.C. 8:42B-2.1(a), 2.3(c), and 2.4(c).

(b) If the Department determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his/her designee shall notify the facility in writing of such determination.

(c) The Commissioner may order the immediate removal of patients from a facility whenever he/she determines imminent danger to any person's health or safety.

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42B-3.1 Compliance with standards and laws

(a) The facility shall provide preventive, diagnostic, therapeutic, and rehabilitative services in accordance with the standards in this chapter.

(b) Hospitals providing drug treatment services shall comply with the Manual of Standards for Hospital Facilities and with the standards in this chapter.

(c) The facility shall comply with applicable Federal, State, and local regulations and requirements.

(d) The facility shall comply with all applicable provisions of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:42B-3.2 Ownership

(a) The ownership of the facility and the property on which it is located shall be disclosed to the Department. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Department in writing 30 days prior to the change.

(b) The facility shall comply with N.J.A.C. 8:31-26.1.

8:42B-3.3 Submission of documents

(a) The facility shall, upon request, submit in writing any documents which are required by this chapter to be approved by the Department to the Director of the Licensing, Certification and Standards Program of the Department.

1. All documents required by this chapter shall be retained for a period of at least three years after the date of the annual licensure inspection.

2. All documents required by this chapter shall be made available, upon request, to patients, staff, and the public. Copies of these documents shall be provided, upon request, within a reasonable time, at a reasonable charge, and in accordance with the rules and regulations regarding confidentiality. If any of the requested documents contain information involving confidential corporate or business materials, such information may be deleted; however, if information is deleted for such reasons, the requesting party shall be so informed in writing by the administrator of the reasons for deletions.

8:42B-3.4 Personnel

(a) All personnel who require licensure or authorization in order to provide patient care shall be licensed or authorized under the appropriate laws or regulations of the State of New Jersey.

(b) The facility shall have awake and on duty at all times in each building at least two staff members, as defined in the facility's policies and procedures and approved by the Department, for 50 or fewer patients, and at least one additional staff member for each additional 50 or fewer patients, based on the daily census.

8:42B-3.5 Handicapped

The facility shall be accessible to the handicapped or shall have a written plan, approved by the Department, describing how the handicapped shall gain access to services.

8:42B-3.6 Policy and procedure manual

(a) A policy and procedure manual(s), approved by the Department, shall be developed and implemented for the organization and operation of the facility. It shall be reviewed annually, the review shall be documented, and any revisions shall be approved by the Department. The manual(s) shall include at least the following:

1. A written narrative of the program describing the services provided and their interrelationships, staffing patterns, space requirements, and other information relating to the fulfillment of the facility's goals and objectives;

2. The philosophy and objectives of the program incorporating at least the following:

- i. Methods for providing patients with a foundation for recovery and rehabilitation, based on personal responsibility;
- ii. The concept of drug dependency having multiple causes and effects; and
- iii. Provision of services for the management of physical and mental signs and symptoms of withdrawal from drugs.

3. A description of the modalities of treatment provided, including a listing of services and procedures which may and may not be performed in the facility;

4. A description of and policies for the services provided;

5. An organizational chart delineating the lines of authority, responsibility, and accountability, so as to ensure an integrated continuum of services for the patient;

6. A description of the functions and responsibilities of personnel

and of the methods used in planning for the coordination of all aspects of patient care, including aftercare;

7. A description of referral mechanisms and linkages with consultants, other health care facilities, and law enforcement, social, and community agencies, in order to provide continuity of patient care;

8. Policies and procedures to ensure that a patient treatment plan, based upon a patient assessment, is written and initiated for each patient upon admission, developed with the participation of all services that the patient receives, approved by the patient's physician, documented in the patient's medical record, and reviewed and revised in accordance with a schedule documented in the patient's medical record;

9. Policies and procedures if volunteer services are provided, including a description of the volunteer's functions, responsibilities, and relationship to the facility's staff;

10. Policies and procedures regarding patient rights and responsibilities;

11. Policies regarding patients leaving the facility during the day or evening;

12. Policies and procedures to ensure the availability of emergency medical services at all times;

13. Policies and procedures to ensure the immediate transfer of an unconscious patient, or of a person who is unconscious upon arrival at the facility, to a hospital;

14. Policies and procedures to ensure the availability of medical consultation services, including a psychiatrist;

15. Policies and procedures for outreach services;

16. If the facility participates in human subject research, policies and procedures encompassing the purpose and conduct of all research utilizing the facility's staff, patients, or services. The written informed consent of the patient shall be obtained prior to his/her participation in research;

17. Policies and procedures for making information about drug addiction and drug abuse available to the public;

18. Policies and procedures for providing consultation and education about drug addiction and drug abuse to other health care facilities, and law enforcement, social, and community agencies;

19. A description of the system for maintenance of patient records while the facility is in operation, and in the event that it ceases to operate;

20. A description of the process of evaluation of patient care and staff performance;

21. Definitions of business hours, full-time, and shift;

22. A staff orientation plan and a staff education plan, including plans for each service and designation of the person(s) responsible for training;

23. A plan for employees' physical examinations (health evaluations) upon employment and subsequently, including content and frequency, pursuant to N.J.A.C. 8:31-26.3; and

24. Procedures for the maintenance of personnel records for each staff member, including at least his/her name, previous employment, educational background, license number and date of expiration (if applicable), staff orientation and staff education records, including documentation of the successful completion of a first aid course and a cardiopulmonary resuscitation course approved by the Department (if applicable), personnel evaluations, physical examination (health evaluation) records, and job description.

8:42B-3.7 Access to policy and procedure manual

The manual(s) referred to in N.J.A.C. 8:42B-3.6 shall be available in the facility to all staff and to representatives of the Department at all times.

8:42B-3.8 Staffing

(a) The facility shall establish and implement procedures for staff, approved by the Department, including:

1. Written staffing patterns for each service and weekly duty

schedules. Duties shall be assigned in accordance with written job descriptions. Provision shall be made for substitute staff with equivalent qualifications to replace absent staff members;

2. Staff orientation and staff education for each service, as specified in the staff orientation and staff education plans, which shall be approved by the Division of Narcotic and Drug Abuse Control. Each service shall maintain written records of these activities, including the names of persons attending, methods used, and an evaluation of their effectiveness. Staff orientation and staff education shall include, but not be limited to, the following:

- i. The philosophy and objectives of the program, the kinds of care provided, and the ways in which care is given;
- ii. Physical, emotional, and social aspects of drug addiction and drug abuse;
- iii. The detection and management of withdrawal symptoms;
- iv. Communication and counseling skills, including at least individual and group dynamics, supportive counseling, responsiveness to patients' verbal and non-verbal communication, and interviewing techniques;
- v. Procedures for developing and documenting the patient assessment and treatment plan;
- vi. Availability and use of community resources, including transportation;
- vii. Functions and responsibilities of facility personnel;
- viii. Confidentiality of the patient's medical record; and
- ix. Procedures to ensure that at least one staff member on each shift has satisfactorily completed a first aid course and a cardiopulmonary resuscitation course approved by the Department.

8:42B-3.9 Consultant services

(a) The facility shall have a written agreement for consultant services and for services not provided by the facility. The written agreement shall:

1. Be signed and dated by a representative of the facility and by the person or agency providing the service;
2. Include each party's responsibilities, functions, objectives, number of hours and days of the week the provider is in the facility, the financial arrangements and charges, and duration of the written agreement;
3. Specify that the facility retain administrative responsibility for the services rendered; and
4. Require that the services are provided in accordance with these standards.

(b) Each consultant shall provide written documentation of each visit to the facility, to include, but not be limited to, the services rendered, problems noted, and recommendations made.

8:42B-3.10 Patient transportation

The facility shall develop in writing and implement a method of patient transportation for treatment services outside the facility which provides for security and accountability for the patient and his/her personal effects.

8:42B-3.11 Transfer agreement

(a) The facility shall have in effect a transfer agreement with one or more hospitals such that emergency care, inpatient hospital care, and other hospital services are available to the facility's patients. The transfer agreement shall:

1. Ensure the transfer of patients between the hospital and the facility whenever such transfer is ordered by a physician; and
2. Specify the type of patient records to be transferred with the patient, and the method and timetable for their transfer.

8:42B-3.12 Reportable events

(a) The facility shall notify the Department immediately by telephone (609-292-4304), followed within 72 hours by written confirmation, of the following:

1. Expected or actual interruption or cessation of operations and/or services listed in these standards or of other services such as the provision of fuel, water, heat, gas, or electricity;

2. Termination of employment of the administrator, and the name and qualifications of his/her replacement. If a new administrator cannot be designated within 48 hours, the Department shall be so notified in writing and the facility shall make arrangements for administrative supervision on a consultative basis. A new administrator shall be appointed within 30 days;

3. Occurrence of epidemic disease in the facility;

4. All alleged or suspected crimes committed by or against patients, which shall also be reported at the time of occurrence to the local police department in accordance with Federal laws regarding confidentiality (42 CFR Part 2); and

5. All fires, disasters, and all deaths resulting from accidents or incidents in the facility. The written confirmation shall contain information about injuries to patients and/or personnel, disruption of services, and extent of damages.

8:42B-3.13 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility, during business hours, to patients, their families, staff, and the public:

1. All waivers granted by the Department;
2. All documents required by this chapter;
3. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable);
4. A list of the facility's committees, and the membership, minutes, and annual reports of each;
5. The names and addresses of members of the governing authority;
6. Any changes of membership of the governing authority, within 30 days of the change;

7. Policies and procedures regarding patient rights; and

8. Visiting hours and business hours, including the policies of the facility regarding limitations and activities during these times.

(b) Copies of the documents listed in N.J.A.C. 8:42B-3.13(a) shall be provided, upon request, within a reasonable time, and at a reasonable charge payable in advance.

(c) The facility shall conspicuously post a statement of the payment, deposit, and refund policy of the facility and a schedule of all fees and charges, including any charges for services not covered by sources of third-party payment or by the facility's basic per diem rate.

SUBCHAPTER 4. GOVERNING AUTHORITY

8:42B-4.1 Responsibility

(a) The facility shall have a governing authority which shall assume legal responsibility for the determination and implementation of policy and for the management, operation, and financial viability of the facility. The governing authority shall be responsible for, but not limited to, the following:

1. Services provided in the facility and the quality of care rendered to patients;
2. Provision of a safe physical plant equipped and staffed to maintain the facility and services;
3. Adoption and documented annual review of written bylaws or their equivalent;
4. Written confirmation of appointments made by the governing authority;
5. Formulation and documented annual review of all policies and procedures;
6. Establishment and implementation of a system whereby patient and staff grievances and/or recommendations, including those relating to patient rights, can be identified within the facility. This system shall include a feedback mechanism through management to the governing authority, indicating that action was taken;
7. Determination of the frequency of meetings of the governing authority, holding such meetings, and documenting them through minutes, including a record of attendance;
8. Delineation of the powers and duties of the officers and committees of the governing authority;

9. Establishment of the qualifications of members and officers of the governing authority, the procedures for electing members as officers, and the terms of service for members, officers, and committee chairpersons; and

10. Establishment and implementation of a mechanism for approval of the qualifications, status, and privileges of physicians who may be appointed to the medical staff, including requirements for admission to staff and retention of privileges.

SUBCHAPTER 5. ADMINISTRATION

8:42B-5.1 Administrator

(a) The governing authority shall appoint a full-time administrator.

1. The administrator shall be accountable to the governing authority.

2. An alternate shall be designated in writing to act in the absence of the administrator.

3. The administrator or his/her designee shall be on the premises of the facility at all times, 24 hours a day, seven days a week.

(b) In a facility where an administrator has both administrative and other functions, the facility shall maintain written time schedules which specify the hours spent by the individual in each function.

(c) The administrator's hours shall not be included in computation of staffing ratios for nursing or counseling services.

8:42B-5.2 Administrator's responsibilities

(a) The administrator shall be responsible for, but not limited to, the following:

1. Planning for and administration of the management, operational, fiscal, and reporting components of the facility;

2. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;

3. Employing and placing all staff within the facility;

4. Ensuring the provision of staff orientation and staff education;

5. Ensuring that a file is maintained for each staff member, including at least his/her name, previous employment, educational background, license number and date of expiration (if applicable), staff orientation and staff education records, including documentation of the successful completion of a first aid course and a cardiopulmonary resuscitation course approved by the Department (if applicable), personnel evaluations, health evaluation records, and job description;

6. Participating in policy and administrative decision-making;

7. Administering and supervising the nonclinical operations of the program;

8. Acting as a liaison to the governing authority on behalf of the medical director, the staff, and the patients;

9. Ensuring the development and implementation of programs designed to teach patients, their families, and the community about drug addiction and drug abuse as a disease and its symptoms and treatment;

10. Ensuring consultation and educational services, when requested, to other health care facilities, and law enforcement, social, and community agencies;

11. Ensuring that, upon discharge, the patient is informed of treatment resources and/or support groups, and referral and/or contact is made as specified in the patient's aftercare plan;

12. Ensuring that the patient treatment plan, the aftercare plan, and the discharge summary are included in the patient's medical record within 15 days of his/her discharge; and

13. Together with the medical director, developing and implementing policies and procedures for:

i. Maintaining administrative relationships, communication, and integration with support services and community resources; and

ii. Communicating with staff through group meetings, individual conferences, written memoranda, and/or other methods of exchanging information.

SUBCHAPTER 6. PATIENT CARE POLICIES

8:42B-6.1 Patient care policy committee

(a) The facility shall establish a patient care policy committee, consisting of, but not limited to, the administrator, medical director, and a representative of each service offered by the facility.

(b) The committee and the governing authority shall review annually all patient care policies and procedures developed by the committee, as well as all policies developed and implemented by each service, and shall document the review.

8:42B-6.2 Policies and procedures

(a) The facility shall establish and implement written patient care policies and procedures, approved by the Department, governing the services provided.

(b) All patient care policies and procedures shall be available to patients, staff, and the public.

(c) Patient care policies and procedures shall include, but not be limited to, policies and procedures for the following:

1. Patient rights and responsibilities;

2. Care of patients, to ensure that each patient is provided with room, board, and services, in accordance with these standards;

3. A definition of emergency;

4. Emergency care of patients, in accordance with these standards; care of patients during an episode of communicable disease; care of patients with tuberculosis which is not communicable following initiation of chemotherapy, or is nonpulmonary and therefore not transmissible; and care of critically ill or mentally disturbed patients;

5. Verbal and telephone orders, to ensure that they are written into the patient's medical record and signed and dated by the person accepting them, and countersigned and dated by the prescriber within 24 hours;

i. Verbal and telephone orders shall be limited to emergency situations, as defined in the facility's policies and procedures;

6. Stop orders for medical and laboratory services, indicating length of time orders may be in effect;

7. Patient record-keeping;

8. Assisting patients to obtain social services;

9. Assisting patients to obtain health services such as podiatric and dental services, eye examinations, eye glasses, auditory testing, and hearing aids, and ensuring that arrangements are made for transportation;

i. The facility shall make available emergency dental and other health services directly or through written agreement pursuant to N.J.A.C. 8:42B-3.9; and

ii. The services provided shall be documented in the patient's medical record by the practitioner providing them;

10. Provision of clothing suitable for the climate and weather conditions, of proper size, and compatible with that worn by the patient's peers, in the event that clothing is provided by the facility;

11. Delineation of the housekeeping activities that patients may perform as part of their patient treatment plan, as documented in the patient's record;

12. In accordance with the facility's objectives, policies and procedures regarding the maintenance of plants and pets in the facility and on its premises, and including provision for the patients' participation in the care of such plants and pets;

13. In facilities dispensing methadone, evaluation of each patient for drug usage by monthly urinalysis for opiates, methadone, amphetamines, cocaine, and barbiturates, as well as for other drugs as indicated;

14. In drug-free facilities, evaluation of each patient upon admission and periodically thereafter for drug usage either by urine surveillance or an alternate method, approved by the Department, and in accordance with a schedule approved by the Department;

15. Criteria and procedures for admission of patients, including the following:

i. Identification of the service (geographic) area to be served;

ii. Limitations, if any, on admissions based on age, diagnosis in addition to drug addiction or drug abuse, type or degree of disability, medical condition, or other factors; and

iii. Special provisions for emergency admissions;

16. Admission of patients, so that the facility:

i. Ensures that patients requiring detoxification are admitted only to facilities approved by the Department to provide this service;

ii. Ensures that a physician's written order which indicates the care needed is documented in the patient's medical record upon the patient's admission;

iii. Requires that each patient admitted be under the supervision of a physician;

iv. Ensures that each patient admitted is certified by a physician to be free of communicable disease, mobile under his/her own power with or without assistive devices, and able to leave the building by him/herself, except in a facility approved by the Department to provide detoxification; and

v. Ensures that the height, weight, temperature, pulse, respiration rate, and blood pressure of each patient are recorded in the patient's medical record;

17. Restrictions to the admission and retention of patients, to ensure that:

i. Patients under 16 years of age are admitted only to an area within the facility approved for such occupancy by the Department;

ii. If the facility is not of fire-resistive construction, patients who are blind or who require an assistive device (crutches, walker, brace, prosthesis, cane) to walk independently are housed on the first floor;

iii. A patient who manifests such a degree of behavioral disorder that he/she is a danger to him/herself or others, or whose behavior interferes with the health or safety of other patients, is not admitted or retained;

iv. Patients who require wheelchairs are restricted to the first floor of the facility. A facility which has been granted any physical plant waiver by the Department shall not admit a patient requiring a wheelchair;

v. Any applicant who, after applying in writing, is denied admission to the facility for reasons other than lack of space is given the reason for such denial in writing, signed by the administrator, within 15 days;

vi. Unconscious persons are not admitted to the facility, but are transferred immediately to a hospital; and

vii. Patients requiring detoxification are admitted only to facilities approved by the Department to provide this service;

18. In the event that children of patients are admitted, policies and procedures for the notification of the Licensing, Certification and Standards Program of the Department and for compliance with the criteria established by the Division of Narcotic and Drug Abuse Control;

19. A personal interview with the patient, prior to or at the time of the patient's admission, conducted by the administrator or his/her designee. The interview shall include orientation of the patient to the facility's policies, business hours, fee schedule(s), services provided, availability of alternative methods of treatment, and criteria for admission, treatment, and discharge. A summary of the interview shall be documented in the patient's record;

20. A written agreement or admission form, signed prior to or at the time of the patient's admission, which shall include the following:

i. The name of the designated person to be notified in the event that the patient sustains any injury requiring care, any accident or incident occurs, or the patient expires;

ii. Designation of a physician and a dentist for medical and dental care, including emergencies; and

iii. Agreement that, in the event that the patient's physician is not available, the administrator shall be authorized to arrange for care by another physician;

21. Notification of the designated person in the event that the patient sustains any injury requiring care, any accident or incident

occurs, or the patient expires. Such notification shall be given and then documented in the patient's record, at the time of occurrence;

22. Prohibitions on the use of any physical, chemical, or other type of restraint;

23. Discharge/termination and readmission, including, but not limited to:

i. Criteria and procedures for discharge to independent living, community residences, and/or to another health care facility to ensure continuity of care;

ii. Conditions and procedures for discharge of patients prior to completion of the patient treatment plan;

iii. The expected or average length of stay within the facility;

iv. The conditions under which discharged patients may return to the facility to resume care;

v. The circumstances under which a patient admitted from another facility will be returned to that facility; and

vi. Criteria for termination due to failure to comply with the facility's regulations and policies;

24. Written notification by the administrator to a patient of a decision to involuntarily terminate the patient's treatment or involuntarily discharge him/her from the facility. The notice shall include the reason for termination and the patient's right to appeal to the administrator. The notice shall be entered in the patient's record;

i. The patient shall have the right to appeal to the administrator any involuntary termination of treatment or involuntary discharge from the facility. When an appeal is requested, it shall be in writing and a copy shall be maintained in the patient's record along with the disposition/resolution of the appeal;

25. Criteria and procedures for referral of patients to other facilities, prior to, during, or following the provision of services;

26. Financial arrangements, to ensure that the facility:

i. Maintains a written record of all financial arrangements with the patient, with copies furnished to the patient; and

ii. Assesses no additional charges, expenses, or other financial liabilities in excess of the daily, weekly, or monthly per diem rate included in the admission agreement, except:

(1) Upon written approval and authority of the patient, who shall be given a copy of the written approval;

(2) Upon written orders of the patient's physician, stipulating specific services and supplies not included in the admission agreement; or

(3) Upon 15 days' prior written notice to the patient of additional charges, expenses, or other financial liabilities due to the increased cost of maintenance and/or operation of the facility; or

(4) In the event of a health emergency involving the patient and requiring immediate, special services or supplies to be furnished during the period of the emergency;

iii. Describes agreements with third-party payors and/or other payors and referral systems for the patient's financial assistance; and

iv. Describes sliding fee scales and any special payment plans established by the facility;

27. Interpretation services, if the patient and/or his/her family members are non-English speaking, blind, or deaf;

28. Provision of printed or written instructions and information, including multilingual instructions as indicated, available to the patient and his/her family; and

29. Care of deceased patients, to include, but not be limited to, the following:

i. Pronouncement of death. The designated person shall be notified at the time of death. The deceased shall not be discharged from the facility until pronounced dead and the death documented in the patient's medical record;

ii. Removal of the deceased from rooms occupied by other patients; and

iii. Transportation of the deceased in the facility, and removal from the facility, in a dignified manner.

SUBCHAPTER 7. MEDICAL SERVICES

8:42B-7.1 Medical director's appointment

(a) The governing authority shall appoint a physician to serve as medical director who shall be responsible for the direction, provision, and quality of medical care.

1. The medical director or his/her alternate, who shall be a physician, shall be available to patients 24 hours a day, seven days a week. Available, in this instance, shall mean capable of being reached and able to be present at the facility within 30 minutes.

2. If the facility provides detoxification services, the medical director or his/her alternate shall be on the facility's premises daily, seven days a week.

8:42B-7.2 Medical director's responsibilities

(a) The medical director shall be responsible for, but not limited to, the following:

1. Delineating the responsibilities of physicians;
2. Communicating with physicians to ensure that the patient treatment plan is initiated upon the patient's admission and kept current;
3. Establishing written policies for utilization of medical consultant and specialist services. A psychiatrist shall be available to the facility;
4. Monitoring the health status of the facility's personnel;
5. Providing documented investigation of incidents and accidents that occur on the premises;
6. Providing documented information to the administrator, in order to ensure a safe and sanitary environment for patients and personnel;
7. With the administrator, assuming responsibility for the execution of patient care policies;
8. Participating in the development and direction of ongoing staff orientation and staff education programs;
9. Developing and maintaining a system of medical audit and evaluation of patient care;
10. Participating in the development and implementation of educational activities for the medical community; and
11. Participating or ensuring physician representation in the facility's committees, at least on a consultative basis.

(b) In addition to those items listed in N.J.A.C. 8:42B-7.2(a), the medical director in a facility with a medical staff shall be responsible for planning, developing, and implementing written medical policies, including medical staff bylaws, rules and regulations, in cooperation with the medical staff. These shall be submitted to the governing authority for approval, and shall include, but not be limited to, the following:

1. A table of organization for the medical staff;
2. A plan for medical staff meetings and their documentation through minutes, including a record of attendance; and
3. The qualifications, status, and privileges of physicians, psychologists, dentists, optometrists, podiatrists, and others who may be granted staff membership.

8:42B-7.3 Administrator's responsibilities

(a) The administrator or his/her designee shall:

1. Verify that the patient's medical record contains documentation of the name, address, and telephone number of the patient's physician and designated alternate;
2. Ensure that the physician is notified whenever a physician's visit is required or in an emergency; and
3. Ensure that the designated person is notified at the time of the occurrence of an accident or of deterioration in the patient's physical or mental condition and that the notification is documented in the patient's record.

8:42B-7.4 Physician's responsibilities

(a) The patient's physician shall agree:

1. To visit the patient in accordance with a schedule which he/she

documents in the patient's medical record, and to write, sign, and date a progress note at the time of each visit;

2. To write the medical portion of the patient treatment plan at the time of the patient's admission, and to review and revise the patient treatment plan in accordance with a schedule which he/she documents in the patient's medical record; and

3. To be called in any emergency.

8:42B-7.5 Physician's documentation

(a) The physician shall document in the patient's medical record:

1. A medical, drug, and alcoholism history, and a report of a physical examination upon the patient's admission;

2. Certification that the patient does not require an alternative level of care;

3. Orders for laboratory tests to include at least the following:

- i. Complete blood count and differential;
- ii. Serological test for syphilis;
- iii. Routine and microscopic urinalysis;
- iv. Australian antigen (HbAg testing-HAA testing), as appropriate;
- v. Smear and culture for gonorrhea; and
- vi. A Mantoux tuberculin skin test with five tuberculin units of purified protein derivative, followed by:

(1) If the Mantoux tuberculin skin test reaction is less than 10 mm of induration (negative), the test shall be repeated one to three weeks later; or

(2) If the first or second Mantoux tuberculin skin test reaction is 10 or more mm of induration (positive), a chest X-ray shall be performed, followed by chemoprophylaxis or therapy, when prescribed by a physician;

4. All initial and subsequent orders for services to be provided to the patient, including frequency and modality of treatment; and

5. The medical portion of the patient treatment plan.

SUBCHAPTER 8. NURSING SERVICES

8:42B-8.1 Services

(a) The facility shall provide nursing services 24 hours a day, seven days a week.

(b) The facility shall maintain the organization, management, and operation of nursing services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the nursing service to other services.

(c) The facility shall have at least one registered professional nurse available at all times. Available in this instance shall mean capable of being reached and able to be present at the facility within 30 minutes. The facility shall have at least one registered professional nurse on the premises seven days a week for at least two hours each day for 50 or fewer patients and for at least an additional two hours for each additional 50 or fewer patients, based on the daily census.

(d) A facility providing detoxification services shall provide at least one registered professional nurse on each shift 24 hours a day, seven days a week, and shall maintain on each shift a ratio of at least one licensed nurse for 30 or fewer patients, and at least one additional licensed nurse for each additional 30 or fewer patients, based on the daily census. Computation of staffing ratios calculated on the basis of daily census shall not include the hours of the director of nursing services, except in facilities of 30 or fewer patients.

(e) The facility shall ensure that the duties and responsibilities of levels and types of nursing personnel are described in the job descriptions and in the policy and procedure manual of the nursing service, and that personnel are assigned duties based upon their education and training.

(f) The facility shall have available at all times a registered professional nurse designated in writing as the director of nursing services. A registered professional nurse shall be designated in writing to act in the absence of the director of nursing services.

8:42B-8.2 Director of nursing services' responsibilities

(a) The director of nursing services shall be responsible for the direction, provision, and quality of the nursing service. He/she shall be responsible for, but not limited to, the following:

1. Developing and implementing written objectives, standards of practice, policies, a procedure manual, and an organizational plan for the nursing service;
2. Participating in planning and budgeting for the nursing service, including recommending to the administrator the number and levels of nursing personnel to be employed and the equipment and supplies to be purchased;
3. Coordinating and integrating the nursing service with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;
4. Participating or ensuring representation of the nursing service in staff committees, at least on a consultative basis;
5. Maintaining working relationships with administration through conferences, written memoranda, and/or other methods of exchanging information;
6. Developing and maintaining written job descriptions for nursing and ancillary nursing personnel;
7. Selecting for employment, assigning duties to, supervising, and evaluating all nursing and ancillary nursing personnel;
8. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility, and documenting these activities;
9. Providing guidance and consultation regarding nursing services to patients, staff, and the public;
10. Ensuring the provision of nursing services to patients, as specified in the patient treatment plans; and
11. Participating in assessing the needs of patients, and developing, implementing, reviewing, and revising the patient treatment plans and aftercare plans.

8:42B-8.3 Nursing personnel responsibilities

(a) In accordance with written job descriptions, nursing and ancillary nursing personnel shall be responsible for, but not limited to, the following:

1. Providing nursing care in accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., including, but not limited to:
 - i. Care in the management of physical and mental symptoms of withdrawal from drugs;
 - ii. Care toward prevention of infection, accident, and injury; and
 - iii. Care toward reducing feelings of isolation and alienation;
2. Assessing the needs of the patient, and developing, implementing, reviewing, and revising the nursing portions of the patient treatment plan and aftercare plan;
3. Assessing, observing, and monitoring the patient's response to treatment and nursing care;
4. Coordinating and integrating the nursing service with other patient care services to provide a continuum of care for the patient, including aftercare;
5. Interpreting to the community the role of the nurse in the facility's program; and
6. Teaching, supervising, and consulting with the patient, his/her family, and the staff regarding nursing care and the patient's needs. (Only a registered professional nurse shall perform these functions.)

8:42B-8.4 Nursing portion of the medical record

(a) In accordance with written job descriptions and with these standards, nursing personnel shall enter in the patient's medical record:

1. The nursing portions of the patient treatment plan and aftercare plan. These shall be reviewed and revised as necessary by a licensed nurse;
2. Clinical notes;
3. Progress notes; and

4. A record of medication. After each administration of medication, the following shall be documented: name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the licensed nurse administering the drug. Initials may be used after the licensed nurse's full signature appears at least once on each page of the record of medication.

8:42B-8.5 Nursing care services related to pharmaceutical services

(a) Nursing personnel shall be responsible for, but not limited to, ensuring the following:

1. All medications are prescribed in writing and the order signed and dated by the prescriber. Medications shall be administered in accordance with all Federal and State laws and regulations by the following licensed or authorized personnel:
 - i. Registered professional nurses;
 - ii. Licensed practical nurses who have undergone formal training in the administration of medication in programs approved by the New Jersey State Board of Nursing;
 - iii. Nurses with valid "permission to work" letters issued by the New Jersey State Board of Nursing (N.J.A.C. 13:37-3.5; 13:37-4.6; 13:37-10.4; and 13:37-11.5). This excludes foreign exchange visitor nurses;
 - iv. Unlicensed nurses who are graduates of domestically accredited nursing schools, pending the results of the first two consecutive licensing examinations immediately following the completion of their nursing program (N.J.A.C. 13:37-2.7 and 13:37-9.5); and
 - v. Student nurses in a school of nursing approved by the New Jersey State Board of Nursing under the direct supervision and within immediate view of a registered professional nurse;
2. Medications are not prepacked: Medications are administered promptly (immediately) after the dose has been prepared, and by the individual who prepared the dose, except where a unit dose drug distribution system is used, and documented in the patient's medical record by that individual;
3. Medications for individual patients are kept stored in the original prescription containers and there is no transferring between containers;
4. Medications prescribed for one patient are not administered to another patient;
5. Medication errors and adverse drug reactions are orally reported immediately to the director of nursing services, the prescriber, and the administrator, and an entry made in the patient's medical record by the end of the shift;
6. Discontinued, unused, expired (outdated), recalled, visibly deteriorated, or unlabelled drugs and intravenous solutions, and containers with worn, illegible, damaged, incomplete, or missing labels, are returned to the institutional pharmacy or, in the absence of an institutional pharmacy, to a location specified in the policies and procedures manual, for relabeling, disposal, or destruction within 30 days, in accordance with State and Federal laws. Drug product defects shall be reported in accordance with the ASHP-USP-FDA (American Society of Hospital Pharmacists, United States Pharmacopoeia, Food and Drug Administration) Drug Product Defect Reporting System;
7. Medications for external use are kept separate from medications for internal use;
8. All medications are kept in locked storage areas: Medication storage and preparation areas shall be kept locked when not in use. Medications requiring refrigeration shall be kept in a separate, locked box in the refrigerator, in a locked refrigerator, or in a refrigerator in the locked medication room, in or near the nursing area. The refrigerator shall have a thermometer to indicate temperature in conformance with U.S.P. (United States Pharmacopoeia) requirements;
9. Hypodermic needles and syringes are stored, used, and disposed of in accordance with the laws of the State of New Jersey

and amendments thereto. A verifiable record system shall be maintained of the purchase, storage, and disposal of hypodermic needles and syringes;

10. Controlled substances are stored and verified according to the Controlled Dangerous Substances Acts and amendments thereto, in compliance with all Federal and State laws and regulations, including the New Jersey State Board of Pharmacy Rules, concerning procurement, storage, dispensing, administration, and disposition, and in accordance with the following:

i. A verifiable record system shall be maintained for controlled substances;

ii. Controlled substances shall be stored separately from all other substances, and in a cabinet separate from that used for storing the unit dose drug distribution system;

iii. All substances in Schedules III and IV of the Controlled Dangerous Substances Acts and amendments thereto shall be stored under lock and key in each nursing area. All substances in Schedule II shall be stored in a separate, locked box or drawer within the locked medication cabinet, medication room, refrigerator, or mobile medication cart. The keys shall be kept on a person who meets the criteria listed in N.J.A.C. 8:42B-8.5(a)1;

iv. An inventory of all substances in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto, retained in each nursing area, shall be made at the termination of each tour of duty. This record shall be signed by both the outgoing and incoming nurses who shall meet the criteria listed in N.J.A.C. 8:42B-8.5(a)1. The following shall be recorded: Name of the patient receiving the medication, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, method of administration, signature of the licensed nurse administering the drug, amount of medication remaining, amount of medication wasted (when appropriate), and the signature of the nurse witnessing the destruction of medication wasted (when appropriate);

v. In the event that the inventories cannot be verified or drugs are lost, contaminated, wasted, or destroyed, a report of such incident is written and signed by the licensed nurses involved and any witnesses present, and copies are sent for review to the director of nursing services, the director of pharmaceutical services or consultant pharmacist, and the administrator; and

vi. Procedures shall be established and implemented for disposition of partial doses of controlled substances.

SUBCHAPTER 9. PATIENT ASSESSMENT AND TREATMENT PLANNING

8:42B-9.1 Policies and procedures

The facility shall establish and implement written policies and procedures, approved by the Department, which provide for a continuum of patient care. The policies and procedures shall be reviewed at least annually by the governing authority and the review shall be documented.

8:42B-9.2 Staff responsibility

The administrator shall designate a staff member who shall be responsible for ensuring continuity of care to patients.

8:42B-9.3 Patient assessment

(a) The policies and procedures shall ensure that a patient assessment is initiated for each patient upon admission, and documented in the patient's record. The assessment shall include, but not be limited to, the medical, psychological, social, recreational, legal, and vocational needs of the patient, including the following:

1. A medical, drug, and alcoholism history, including current physiological dependence on drugs and duration of the addiction or abuse, and a record of a physical examination;

2. A psychological assessment, including, but not limited to, histories of psychological and/or psychiatric problems or treatment, and a determination of the patient's current emotional status;

i. When indicated, intellectual, projective, and personality testing;

ii. When indicated, evaluations of language, cognition, self-sufficiency, and social, affective, and visual-motor functioning; and

iii. A psychiatric assessment, as determined and ordered by a physician;

3. A social assessment of the patient's family circumstances and relationships, including the constellation of the family group, the current living situation, and social, religious, ethnic, cultural, financial, emotional, and health factors; and

i. Evaluation of the patient and family expectations regarding the patient's treatment, such as the length of time and type of treatment required, and the degree to which they expect to be involved.

8:42B-9.4 Recreational assessment

(a) The recreational assessment shall include at least the following information regarding the patient's current skills, talents, aptitudes, and interests:

1. Physical abilities and limitations;
2. Financial limitations;
3. Amount of leisure time available; and
4. Motivation for engaging in various activities.

8:42B-9.5 Legal assessment

(a) The legal assessment shall include at least the following:

1. Legal history and current legal situation; and
2. Estimation of the effect which the patient's legal situation will have upon his/her progress in treatment. (Note: No part of this standard is intended to contravene any established laws or rules of court or any principle of ethics related to the practice of law. Where a conflict exists between this standard and the laws or rules of court or ethical principles, said laws, rules, or principles shall prevail.)

8:42B-9.6 Vocational and educational assessment

(a) The vocational and educational assessment shall include at least the following:

1. Current work skills and potential for improving those skills or developing new ones;
2. Educational background;
3. Aptitudes, interests, and motivation;
4. Physical abilities and any handicaps or disabilities;
5. Skill and experience in job-seeking;
6. Work habits, including punctuality, attendance, dependability, honesty, and relationship with co-workers and supervisors;
7. Personal grooming and appearance;
8. Expectations regarding the benefits to be derived from working; and
9. Criteria for determining the patient's job readiness.

8:42B-9.7 Treatment plan

(a) A patient treatment plan, based upon the completed patient assessment, shall be prepared for each patient, and coordinated and maintained by the patient's assigned drug counselor, in accordance with the following:

1. The patient treatment plan shall be initiated and implemented upon admission and documented in the patient's record;

2. The patient treatment plan shall be developed by a multidisciplinary team, which shall include at least a physician, the patient's assigned drug counselor, and other staff participating in the care of the patient, as documented in the patient's record;

3. The patient shall participate in the development of his/her treatment plan, unless medically contraindicated by a physician as documented in the patient's medical record, and the method of participation shall be documented in the patient's record;

i. A designated member of the multidisciplinary team shall review the plan with the patient prior to implementation;

4. The patient treatment plan shall include, but not be limited to, the following:

- i. Measurable goals which are necessary for the patient to achieve, maintain, or reestablish emotional and/or physical health;
 - ii. Long-term and short-term objectives and the anticipated time frames for reaching them;
 - iii. Services, activities, and programs to be provided;
 - iv. Designation of staff members assigned to the patient;
 - v. The locations, types, and frequency of treatments;
 - vi. Results of urinalysis, if performed;
 - vii. Criteria for measuring the progress and/or outcome of treatment procedures;
 - viii. Criteria, established as part of the initial patient treatment plan, for termination of treatment and aftercare services;
 - ix. A plan for involvement of family members, when indicated;
 - x. Referrals for services; and
 - xi. Plans for aftercare, including scheduled contacts and plans for follow-up; and
5. The patient treatment plan shall be reviewed and revised by the multidisciplinary team and the patient in accordance with a schedule which is documented in the patient's record.

SUBCHAPTER 10. DRUG COUNSELING SERVICES AND SUPPORTIVE SERVICES

8:42B-10.1 Services

(a) The facility shall provide drug counseling services and supportive services.

(b) The facility shall maintain the organization, management, and operation of drug counseling services and supportive services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the services, and their relationship to other services in the facility.

(c) The facility shall establish, implement, and perform a documented annual review of written policies, procedures, and methods, approved by the Department, for the provision of drug counseling services and supportive services.

(d) Each patient shall be assigned to a drug counselor who shall be responsible for ensuring that counseling services and supportive services are provided according to the patient treatment plan.

8:42B-10.2 Counseling services

(a) The facility shall provide for a range and variety of drug counseling and treatment methods on the premises.

(b) There shall be a ratio of at least one drug counselor for every 12 patients, calculated on the basis of the daily census.

(c) The facility shall provide to each patient at least 10 hours of formalized counseling per week, utilizing individual, family, and group counseling techniques. Formalized counseling may be provided by the director of counseling, drug counselors, nurses, psychologists, and physicians including psychiatrists.

(d) A facility providing detoxification services shall provide counseling as ordered by a physician, who specifies in the patient's medical record when to initiate counseling and the frequency of counseling.

8:42B-10.3 Director of counseling services' appointment and responsibilities

(a) The facility shall appoint a director of counseling services, approved by the Division of Narcotic and Drug Abuse Control, who shall be responsible for the direction, provision, and quality of the counseling services. He/she shall be responsible for, but not limited to, the following:

1. Developing and implementing written objectives, standards of practice, policies, a procedure manual, and an organizational plan for the counseling service;

2. Participating in planning and budgeting for the counseling service, including recommending to the administrator the number and levels of counseling personnel to be employed and the equipment and supplies to be purchased;

3. Coordinating and integrating the counseling service with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;

4. Participating or ensuring representation of the counseling service in the facility's staff committees, at least on a consultative basis;

5. Providing guidance and consultation regarding the counseling service to the patients, staff, and the public;

6. Maintaining working relationships with administration through conferences, written memoranda, and/or other methods of exchanging information;

7. Developing and maintaining written job descriptions for counseling personnel;

8. Selecting for employment, assigning duties to, supervising, and evaluating all counseling service personnel;

9. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility and documenting these activities;

10. Ensuring that counseling personnel assess the counseling needs of each patient, develop, review, revise, and implement the counseling portion of the patient treatment plan, and reassess the patient's response to counseling services; and

11. Ensuring that the counseling portions of the patient treatment plan and aftercare plan are developed and maintained by the patient's assigned drug counselor.

8:42B-10.4 Drug counselor's responsibilities

(a) Each drug counselor shall be responsible for, but not limited to, the following:

1. Assessing the needs of the patient, and developing, implementing, reviewing, and revising the counseling portions of the patient treatment plan and aftercare plan;

2. Coordinating and integrating the counseling service with other patient care services to provide a continuum of care for the patient, including aftercare;

3. Teaching, supervising, and consulting with the patient and staff regarding the counseling needs of the patient;

4. Interpreting to the community the role of the drug counselor;

5. Entering in the patient's record:

- i. The counseling portions of the patient treatment plan and aftercare plan. These shall be reviewed and revised as necessary by the counselor;

- ii. Clinical notes; and

- iii. Progress notes.

8:42B-10.5 Supportive services

(a) The facility shall provide or make available, directly or through written agreement, the following supportive services:

1. Vocational and educational counseling; and

2. Legal services by an attorney, who practices law pursuant to Article 6, Section 2, and Paragraph 3 of the Constitution of the State of New Jersey, and New Jersey Court Rule 1:21-1 et seq., when such services are related to the patient's treatment, as determined by the legal assessment.

(b) The administrator shall assign responsibility for the coordination and delivery of supportive services to one or more persons, in accordance with written job descriptions, the written organizational plan, and the facility's policies and procedures.

(c) All supportive services shall be provided in accordance with the patient treatment plan, based upon the patient assessment;

1. A time frame shall be established for the provision of the specific supportive services in the patient treatment plan; and

2. All supportive services shall be documented in the patient's record by the person(s) providing the service(s).

(d) In the event that the facility is unable to provide or make available supportive services, the facility shall request in writing that such services be provided by the New Jersey State Department of Health, Division of Narcotic and Drug Abuse Control.

SUBCHAPTER 11. PATIENT ACTIVITIES

8:42B-11.1 Services

The facility shall establish, implement, and perform a documented annual review of, written policies, procedures, and methods, approved by the Department, for the provision of patient activities. The facility shall maintain the organization, management, and operation of patient activities in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability of personnel, and the relationship of patient activities to other services.

8:42B-11.2 Administrator's responsibilities

- (a) The administrator or his/her designee shall ensure that:
 1. Diverse physical, social, intellectual, religious, cultural, and recreational activities are available, consisting of individual, group, and independent activities;
 2. Indoor and outdoor recreation is provided. An alternate plan shall be available for each scheduled outdoor activity;
 3. Arrangements are provided for transportation of patients to and from destinations in the community;
 4. Patients have the opportunity to participate in the planning and management of their activities;
 5. A current record is maintained of community services, resources, programs, and materials, accessible to staff, patients, and patients' families;
 6. A designated staff member is responsible for supervision of patient activities and identifying the staff members who participate in the provision of patient activities;
 7. A current, seven-day schedule of patient activities is conspicuously posted, and a record of these schedules is maintained for one year;
 8. Scheduled patient activities are coordinated and integrated with other patient care services in the facility;
 9. Patient activities are provided in accordance with the patient treatment plan, based upon the patient assessment; and
 10. A record is maintained of the type and frequency of activities held, and the names of patients participating in the activities program.

SUBCHAPTER 12. LABORATORY, RADIOLOGICAL, AND DIAGNOSTIC SERVICES

8:42B-12.1 Services

- (a) The facility shall make available laboratory, radiological, and diagnostic services directly or through written agreement (pursuant to N.J.A.C. 8:42B-3.9) with facilities licensed or approved by the Department to provide such services.
- (b) The facility shall establish written policies to ensure that patients receive laboratory, radiological, and diagnostic services as ordered by a physician.
- (c) If a facility provides such services, it shall comply with all Federal and State laws and regulations.
- (d) Results of laboratory, radiological, and diagnostic services shall be reported in writing to the physician ordering the service.
- (e) Signed and dated reports of such services shall be entered in the patient's medical record.
- (f) The facility shall ensure that arrangements are made for transportation of patients and transfer of patient information to and from the provider of the service.

SUBCHAPTER 13. PHARMACEUTICAL SERVICES

8:42B-13.1 Services

- (a) The facility shall provide pharmaceutical services, either directly or through written agreement (pursuant to N.J.A.C. 8:42B-3.9), 24 hours a day, seven days a week.
 1. If a patient requires medication, as documented by a physician in the patient's medical record, the medication shall be kept in a locked storage area.

8:42B-13.2 Facilities providing detoxification services

- (a) Facilities providing detoxification services shall comply with N.J.A.C. 8:42B-13.2(b) through (d), 13.3, and 13.4.
- (b) The facility shall maintain the organization, management, and operation of the pharmaceutical service in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the pharmaceutical service to other services.
- (c) If the facility maintains an institutional pharmacy, the pharmacy shall be licensed by, and in accordance with, the New Jersey State Board of Pharmacy, and shall possess a current Drug Enforcement Administration registration and a Controlled Dangerous Substance registration from the Department.
- (d) If the facility does not maintain an institutional pharmacy to provide direct pharmaceutical services, the facility shall appoint a pharmacist as consultant and shall have written methods and procedures for obtaining prescribed medications and biologicals directly from a pharmacy licensed by the New Jersey State Board of Pharmacy. The phone number of the pharmacy shall be posted in each nursing area.

8:42B-13.3 Pharmacy and therapeutics committee; policies and procedures

- (a) A multidisciplinary pharmacy and therapeutics committee shall be appointed by and accountable to the governing authority. The committee shall consist of at least the medical director, the administrator, a representative of the nursing staff, and the director of pharmaceutical services or consultant pharmacist. The committee shall meet at least annually, and shall document dates of meetings, a record of attendance, and the committee's activities, findings, and recommendations.
- (b) The committee shall be responsible for, but not limited to, development of policies and procedures, approved by the Department, including at least the following:
 1. Policies and procedures regarding emergency and/or first aid kits and emergency carts, including the following:
 - i. Approval of their contents;
 - ii. Approval of their locations;
 - iii. Determination of the frequency for checking contents, including expiration dates;
 - iv. Designation of the personnel to be instructed regarding locations, contents, and use of the emergency and/or first aid kits and ensuring that instruction is documented in their personnel records;
 - v. Assignment of responsibility for checking the contents; and
 - vi. Ensuring that emergency and/or first aid kits are not kept under lock and key;
 2. Methods for obtaining drugs, including in emergencies;
 3. A policy that only a pharmacist, or authorized pharmacy personnel under the direction and supervision of a pharmacist, shall compound, prepare, prepackage, label, or dispense medications, make labeling changes, or transfer medications to different containers;
 4. A policy that the label of each patient's individual medication container is permanently affixed and indicates the patient's full name and location in the facility, physician's name, prescription number, name and strength of drug (if indicated by the prescriber), date of issue, name, address, and telephone number of the pharmacy issuing the drug, cautionary and/or accessory labels, and directions for use;
 5. Policies and procedures in the event that a patient refuses a prescribed medication;
 6. Policies and procedures for drug administration, including, but not limited to, the following:
 - i. Policies for measurement of vital signs prior to administration of drugs, as specified in the facility's policies and procedures;
 - ii. Procedures for a drug distribution and medication administration system, approved by the Department;

iii. Specifications for additional training required for personnel who administer toxic or investigational drugs;

iv. Times of day for administration of medications prescribed for fixed intervals; and

v. Procedures for documentation in the patient's medical record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person administering the drug;

7. If in accordance with facility policy, policies and procedures regarding self-administration of medications, including, but not limited to, the following:

i. Self-administration shall not be permitted, except on written order of the prescriber as documented in the patient's medical record;

ii. Storage of medications in locked storage areas in patients' rooms. Duplicate keys to medication storage areas in patients' rooms are available to the administrator or his/her alternate;

iii. Specifications for labeling of medications;

iv. Methods for documentation in the patient's medical record of self-administration;

v. Training of patients in self-administration; and

vi. Ensuring that patients do not share their medications or take the medications of another patient;

8. Policies and procedures prohibiting the use of previously acquired personal medications of patients;

9. A policy that, if medications are released to patients upon discharge, this shall be done only on the written authorization of the prescriber, and relabeled and repackaged by the pharmacist with directions for use, in accordance with the New Jersey State Board of Pharmacy Rules. Documentation of released medications shall be entered in the patient's medical record;

10. Policies and procedures for documenting and reviewing adverse drug reactions, medication errors, and drug defects, including, but not limited to, the following:

i. Allergies shall be documented in the patient's medical record and on its outside front cover; and

ii. Medication errors and adverse drug reactions shall be orally reported immediately to the director of nursing services, the prescriber, and the administrator, and an entry made in the patient's medical record. The pharmacy and therapeutics committee shall review all incidents relating to drugs;

11. Policies and procedures for ensuring the immediate delivery of initial or stat. doses;

12. Policies and procedures for stop orders, including, but not limited to, the following:

i. The length of time orders may be in effect; and

ii. Drugs not specifically limited as to duration of use or number of doses when ordered shall be controlled by automatic stop orders;

13. If investigational drugs are utilized, policies and procedures concerning their use, in accordance with Federal and State laws and regulations, including, but not limited to, the following:

i. Standards regarding the use, storage, control, and distribution of investigational drugs, and for research in the use of any drugs;

ii. Authorization of personnel to administer investigational drugs; and

iii. Provision for obtaining written informed consents of patients;

14. If drug dispensing devices are used, policies and procedures for their use, in accordance with the New Jersey State Board of Pharmacy Rules;

15. Policies and procedures regarding the provision of current pharmaceutical reference materials and sources of information, approved by the pharmacy and therapeutics committee. Information on drugs, including investigational drugs if used, their indications, contraindications, actions, reactions, interactions, cautions, precautions, toxicity, and dosage, shall be provided in each nursing area. Current antidote information and the telephone number of the regional poison control center shall be available in the pharmacy and/or each nursing area. Current Federal and State

drug law information shall be available. The pharmacy and therapeutics committee shall specify the minimal reference materials to be kept in the nursing area, and methods for communicating product information to the staff;

16. A list of abbreviations and chemical symbols; and

17. Policies and procedures concerning the activities of medical and pharmaceutical sales representatives in the facility. Drug samples shall not be distributed or used in the facility.

8:42B-13.4 Director of pharmaceutical services/consultant pharmacist responsibilities

(a) A pharmacist shall be appointed as director of pharmaceutical services or as consultant pharmacist. He/she shall be responsible for the direction, provision, and quality of the pharmaceutical services provided. He/she shall be responsible for, but not limited to, the following:

1. Together with the pharmacy and therapeutics committee, developing and maintaining written objectives, standards of practice, policies, a procedure manual, and an organizational plan for the pharmaceutical service;

2. Coordinating and integrating the pharmaceutical service with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;

3. Participating or ensuring representation of the pharmaceutical service in staff committees, at least on a consultative basis;

4. Maintaining working relationships with administration through conferences, written memoranda, and/or other methods of exchanging information;

5. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility, and documenting these activities;

6. Providing pharmaceutical services to patients;

7. Providing guidance and consultation regarding pharmaceutical services to patients, staff, and the public;

8. Participating in developing, reviewing, and revising patient treatment plans; and

9. Providing reports to the pharmacy and therapeutics committee on the status of the facility's pharmaceutical services, an analysis of any incident reports relating to drug therapy, and results of the monthly inspection of all areas in the facility where medications are dispensed, administered, or stored.

SUBCHAPTER 14. DIETARY SERVICES

8:42B-14.1 Services

(a) The facility shall meet the daily nutritional needs of patients by providing dietary services directly or through written agreement pursuant to N.J.A.C. 8:42B-3.9. If services are provided through written agreement, the services provided shall adhere to the standards in this chapter.

(b) The facility shall maintain the organization, management, and operation of dietary services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the dietary service to other services.

8:42B-14.2 Dietitian's appointment

The facility shall appoint a dietitian on a full-time, part-time, or consultant basis. If the dietitian is appointed on a consultant basis, his/her hours shall be scheduled for different times on successive visits.

8:42B-14.3 Dietitian's responsibilities

(a) The dietitian shall be responsible for the direction, provision, and quality of the dietary services provided. He/she shall be responsible for, but not limited to, the following:

1. Developing and implementing written objectives, standards of practice, policies, a procedure manual, and an organizational plan for the dietary service;

2. Participating in planning and budgeting for the dietary service, including recommending to the administrator the number and levels of dietary service personnel to be employed and the equipment and supplies to be purchased, and developing methods of food cost control;

3. Coordinating and integrating the dietary service with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;

4. Participating or ensuring representation of the dietary service in the facility's staff committees, at least on a consultative basis;

5. Maintaining working relationships with administration through conferences, written memoranda, and/or other methods of exchanging information;

6. Developing and maintaining written job descriptions for dietary personnel;

7. Participating in selecting for employment, assigning duties to, supervising, and evaluating all dietary personnel;

8. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility, and documenting these activities;

9. Assessing, upon admission, the dietary needs of the patient, preparing the dietary portion of the patient treatment plan, and reassessing the patient's response to dietary services in accordance with a schedule which the dietitian documents in the patient's medical record;

10. Ensuring the provision of dietary services to the patient, as specified in the patient treatment plan;

11. Providing dietary counseling and nutritional guidance to the patient, his/her family, and staff;

12. Participating in developing, implementing, reviewing, and revising the dietary portions of the patient treatment plan and aftercare plan; and

13. Reviewing and approving all menus.

8:42B-14.4 Facility's responsibilities

(a) The facility shall ensure that the dietary service:

1. Provides nutrients and calories for each patient, as ordered by a physician, based upon current recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, adjusted for age, sex, weight, physical activity, and therapeutic needs of the patient;

2. Provides a current diet manual, approved by the patient care policy committee, the dietitian, and the Department, in the dietary department and in each nursing area;

3. Serves diets that are consistent with the diet manual and in accordance with physicians' orders;

4. Complies with the Diet and Menu Planning Food Preparation Manual for Narcotic and Drug Abuse Treatment Centers prepared by the New Jersey State Department of Health;

5. Schedules dietary service personnel for a period of at least 12 hours daily;

6. Schedules meals so that no more than 14 hours elapses between an evening meal and breakfast the next morning, and the first meal is not served before 7:00 A. M.;

7. Has written and dated menus planned at least 14 days in advance for all diets, and does not use the same menu more than once in one week;

8. Posts current menus in the food preparation area, and posts any changes in menus. Menus, with changes, shall be kept on file in the dietary department for at least 30 days;

9. Prepares and serves daily to patients at least three meals or their equivalent. At least two meals shall contain three or more menu items, one of which is or shall include a high quality protein food such as meat, fish, eggs, or cheese. Each meal shall represent no less than 20 percent of the day's total calories, and at least 10 percent of the day's total calories shall be provided by protein;

10. Designates responsibility for observation and documentation of meals refused or missed;

11. Prepares food by cutting, chopping, grinding, or blending to meet the needs of each patient; and

12. Complies with the provisions of N.J.A.C. 8:24.

8:42B-14.5 Food service supervisor's appointment

The facility shall appoint a full-time food service supervisor who, if not a dietitian, functions with scheduled consultation from a dietitian.

8:42B-14.6 Food service supervisor's responsibilities

(a) The food service supervisor, under the direction of a dietitian, shall be responsible for, but not limited to, the following:

1. Implementing written objectives, standards of practice, policies, procedures, and the organizational plan for the dietary service;

2. Coordinating and integrating the dietary service with other patient care services to provide a continuum of care for the patient;

3. Maintaining working relationships with administration through conferences, written memoranda, and/or other methods of exchanging information;

4. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility and the dietary service, and documenting these activities;

5. Maintaining a record of all patients, identified by name, location, diet order, and other information such as allergies and meal patterns when on a calculated diet;

6. Ensuring that therapeutic diets as ordered by a physician are served, and that no patient receives a therapeutic diet, except as ordered by a physician;

7. Establishing and maintaining a method of recording and transmitting diet orders and changes;

8. Maintaining a file of recipes (written instructions), adjusted to yield, which shall be used in preparing foods listed on the posted menus;

9. Recommending the quantity, kinds, and variety of food and supplies to be purchased;

10. Providing a monthly summary of the numbers and kinds of diets served daily to patients; and

11. Maintaining records for at least 30 days of weekly menus of all diets served to patients.

8:42B-14.7 Dietary portion of the medical record

(a) The dietitian shall enter in the patient's medical record:

1. The dietary portions of the patient treatment plan and aftercare plan. These shall be reviewed, and revised as necessary, by the dietitian;

2. Clinical notes; and

3. Progress notes.

SUBCHAPTER 15. PATIENT RIGHTS

8:42B-15.1 Policies and procedures

(a) The facility shall establish written policies regarding the rights and responsibilities of patients and shall be responsible for developing and adhering to procedures implementing such policies. These policies and procedures shall be available to patients, staff, and the public and shall be conspicuously posted in the facility.

(b) The staff of the facility shall be trained to implement these policies and procedures, as specified in the staff orientation and staff education plans.

(c) The facility shall comply with all applicable State and Federal statutes, rules and regulations concerning patient rights, and with the standards in this chapter.

(d) Patient rights, policies and procedures shall ensure that, as a minimum, each patient admitted to the facility:

1. Is informed of these rights, as evidenced by his/her written acknowledgement prior to or at the time of admission and during stay, and is given a statement of rights and the facility's rules and regulations, and an explanation of the patient's responsibility to obey all regulations of the facility and to respect the personal rights and private property of other patients;

2. Is informed of the services available at the facility, of the names, professional status, and relationships of the staff members responsible for his/her care, and of related charges, including any charges for services not covered by sources of third-party payment or not covered by the facility's basic per diem rate, and is given a written statement of the payment, fee, deposit, and refund policy of the facility;

3. Is assured of treatment and medical care in accordance with a written individualized patient treatment plan, is informed of the plan for treatment and of his/her condition, unless medically contraindicated, as documented by a physician in the patient's medical record, is afforded the opportunity to participate in the planning of his/her treatment, and to refuse to participate in experimental research;

4. Has the right to be informed of the alternatives for care and treatment if he/she or his/her designated person so requests;

5. Is allowed to retain the services of his/her personal physician, at his/her own expense or under a third-party payment system;

6. Is informed, in terms that he/she can understand, of the risks associated with the use of any drugs and/or procedures;

7. Is encouraged and assisted, throughout the period of stay, to exercise rights as a patient and as a citizen, and to this end may voice grievances on behalf of him/herself or others, has a right to action for damages or other relief for deprivations or infringements of the right to treatment and care established by any applicable statute, rule, regulation, or contract, and has the right to recommend changes in policies and services to facility personnel and/or to outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination, or reprisal. The administrator shall provide all patients, staff, and the public with the following names, addresses, and telephone numbers where complaints may be lodged:

Division of Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, NJ 08625
Telephone: (800) 792-9770; and

Director of Division of Narcotic and Drug
Abuse Control
New Jersey State Department of Health
CN 362
Trenton, NJ 08625
Telephone: (609) 292-5760

i. The telephone numbers above shall be conspicuously posted in the facility at every public telephone and on all bulletin boards used for posting notices;

8. Is assured confidential treatment of his/her records and disclosures, in accordance with State and Federal statutes, rules and regulations, and shall be afforded the opportunity to approve or refuse the release of such records to any individual not involved in his/her care, except as required by law or third-party payment contract;

9. Has access to and/or may obtain a copy of his/her record, in accordance with the facility's policies and procedures and with applicable Federal and State laws and regulations;

10. Is free from mental and physical abuse and free from chemical and physical restraints. Drugs and other medications shall not be used for punishment, for convenience of facility personnel, or in quantities that interfere with a patient's rehabilitation or living activities;

11. Is treated with consideration, respect, and full recognition of his/her dignity, individuality, and right to privacy, including, but not limited to, privacy concerning his/her treatment and condition and the care of his/her personal needs. Privacy of the patient's body shall be maintained during, but not be limited to, toileting, bathing, and other activities of personal hygiene, except as needed for patient safety or assistance;

12. Is assured security in retaining and using personal clothing and

possessions as space permits, unless to do so would infringe upon the rights of other patients. If the patient has property on deposit with the facility, he/she shall have daily access to such property during specific time periods established by the facility, and at a reasonable hour;

13. May associate and communicate privately with persons of his/her choice, in accordance with the patient treatment plan, may send and receive personal mail unopened, and, upon request, shall be given assistance in the reading and writing of correspondence;

14. May participate in facility activities, and meet with, and participate in activities of social, religious, and community groups at his/her discretion and in accordance with the patient treatment plan. Arrangements shall be made, at the patient's expense, for attendance at religious services of his/her choice when requested;

15. Is allowed to conduct private telephone conversations at a reasonable hour in accordance with the patient treatment plan;

16. Is allowed daily visiting hours at a reasonable hour in accordance with the patient treatment plan. Privacy shall be ensured for visits with family, friends, clergy, social workers, or for professional or business purposes;

17. Is assured that if restrictions are placed on visitations, telephone calls, and/or other communications, as documented in the patient's record, such restrictions shall be evaluated in accordance with the facility's policies and procedures by the director of counseling services who shall document the evaluation in the patient's record;

18. Is transferred or discharged only for medical reasons or for his/her welfare or that of other patients, in accordance with the facility's policies and procedures. Such action shall be documented in the patient's medical record. In the case of an emergency transfer, the administrator shall notify the physician and the patient's designated person immediately, and document the reason for the transfer in the patient's medical record. In the case of a non-emergency transfer or discharge by the facility, the patient, or, if the patient is adjudicated to be mentally incompetent, the designated person shall be given advance notice of such transfer or discharge. The patient shall have the right to appeal to the administrator any involuntary termination of treatment or involuntary transfer or discharge from the facility;

19. Is not admitted to or detained at any facility without his/her informed consent. No physical or psychological means shall be used to retain a patient in the facility against his/her will;

20. Is not required to perform work for the facility unless the work is part of the patient treatment plan and the patient receives remuneration commensurate with the economic value of the work. Such work shall be in accordance with local, State, and Federal laws and regulations, and shall be approved by the Division of Narcotic and Drug Abuse Control;

21. Is assured of exercising civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any patient or facility. Knowledge of available choices shall not be infringed and the facility shall encourage and assist in the exercise of these rights;

22. Is not the object of discrimination with respect to admission, treatment, meals, and participation in recreational activities or other social functions because of age, race, religion, sex, or nationality. The patient's participation may be restricted or prohibited if documented by a physician in the patient's medical record, and consented to by the patient; and

23. Is not deprived of any constitutional, civil, and/or legal right solely by reason of admission to the facility or because he/she has received treatment at the facility.

SUBCHAPTER 16. EMERGENCY PROCEDURES

8:42B-16.1 Emergency plan and procedures

(a) The facility shall have a written emergency plan which shall include procedures to be followed in case of medical emergencies,

equipment breakdown, fire, or other disaster. The plan shall be developed with the assistance of fire and safety personnel from local municipalities and shall be reviewed annually and the review documented.

(b) Procedures for emergencies shall specify persons to be notified, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating patients, frequency of drills, tasks and responsibilities assigned to all personnel, and designation of the staff members who are on the premises for each shift.

(c) The facility shall have a written plan for procuring water during an emergency.

(d) The emergency plan and emergency procedures shall be posted throughout the facility.

8:42B-16.2 Simulated drills; alarm and fire extinguisher tests

(a) Simulated drills shall be conducted on each shift at least four times a year, including at least one annual joint fire drill with the local fire, first aid, and civil defense agencies. The entire building shall be evacuated at least once a year during a drill. A written record shall be maintained of each drill, including the date, hour, description of the drill, participating staff, and signature of the person in charge. The drills shall include at least these types of emergencies:

1. Medical emergency;
2. Equipment failure or power loss; and
3. Fire and other disaster (for example, storm, flood, other natural disaster, nuclear accident).

(b) The facility shall test at least one manual pull alarm each month of the year, and maintain a written log showing test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

(c) Fire extinguishers shall be tested annually, tagged to indicate date of testing, and maintained in accordance with manufacturers' and National Fire Protection Association (N.F.P.A.) requirements.

8:42B-16.3 Emergency medical services

The facility shall provide for the availability at all times of emergency medical services, directly or through written agreement.

8:42B-16.4 Emergency care; policies and procedures

(a) The facility shall establish and implement written policies and procedures, approved by the Department, regarding the provision of emergency care. The governing authority shall perform a documented review of the policies and procedures at least annually. Policies and procedures for emergency care shall include, but not be limited to, the following:

1. A description of the treatment modalities and evaluative mechanisms utilized;
2. Criteria for determining a patient's need for emergency services, based upon an assessment of physical, psychological, and social needs;
3. Assignment of responsibility for assessing a patient's need for emergency care and determining the services to be provided; and
4. Criteria, developed in consultation with and approved by a physician, for determining a patient's need for a medical evaluation by a physician in the event of an emergency.

8:42B-16.5 Emergency services

(a) Emergency services shall be available 24 hours a day and shall include at least the following:

1. Immediate assessment of the patient's need for emergency care;
2. Intervention in physical and mental crises;
3. Immediate provision of care, including first aid and cardiopulmonary resuscitation, in accordance with the facility's policies, procedures, and job descriptions;
4. Management of acute and potentially life-threatening disorders;
5. Supervision of the patient during the emergency by staff designated in the facility's policies and procedures;
6. Arrangements for emergency transportation; and

7. Documentation in the patient's record of emergency services by the person providing them.

SUBCHAPTER 17. AFTERCARE SERVICES

8:42B-17.1 Services

(a) The facility shall provide for the planning of aftercare services.

(b) The facility shall maintain the organization, management, and operation of aftercare services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the aftercare service to other services.

8:42B-17.2 Policies and procedures

(a) The facility shall establish and implement written objectives, policies, and procedures for aftercare services, which shall describe:

1. The functions and authority of the person or persons responsible for planning aftercare services;
2. The time period for completing each patient's aftercare plan;
3. The time period that may elapse before a reevaluation of each patient's aftercare plan is made;
4. A multidisciplinary team approach in planning aftercare services;
5. The methods used to involve the patient and his/her family in planning and implementing aftercare services; and
6. Criteria for readmission to the facility, and identification of the person in the facility to contact for readmission.

8:42B-17.3 Administrator's responsibilities

(a) The administrator shall designate a person or persons responsible for aftercare services. He/she or they shall be responsible for, but not limited to, performing and documenting the following:

1. Interviewing each patient and reviewing the patient's record for possible problems in aftercare services;
2. Evaluating needs and developing goals for aftercare services for each patient;
3. Developing the patient's aftercare plan, with the participation of the staff, the patient, and his/her family;
4. Making referrals to community agencies and resources for aftercare services; and
5. Coordinating services within the facility and with community agencies and resources to ensure a continuum of care for the patient.

8:42B-17.4 Aftercare planning; education and participation

(a) Education and participation applicable to the patient and his/her family in aftercare planning shall include the provision of information regarding at least the following:

1. Understanding drug addiction and drug abuse as a disease, the symptoms, effects, and treatment;
2. Implementation of self-care and treatment measures following discharge;
3. Understanding the use of pharmacological agents in the treatment of drug addiction and drug abuse, and their effects and contraindications; and
4. Understanding of community agencies and resources available for aftercare services, including health care facilities, vocational rehabilitation centers, legal and social agencies, and rehabilitation programs.

SUBCHAPTER 18. PATIENT (MEDICAL) RECORDS

8:42B-18.1 Maintenance of patient (medical) records

(a) The facility shall maintain a patient (medical) record for each patient containing documentation of all services provided.

(b) The facility shall assign responsibility for the patient (medical) records service to a full-time employee.

(c) The facility shall implement and maintain for each patient the New Jersey Problem Oriented Treatment System (POTS) established by the Department, or an equivalent system approved by the Department.

8:42B-18.2 Patient (medical) records

(a) The completed patient (medical) record shall include, but not be limited to, the following:

1. Patient identification data, including name, date of admission, address, date of birth, race and religion (optional), sex, referral source, payment plan, marital status, and the name, address, and telephone number of the designated person to be notified in an emergency;
 2. Name, address, and telephone number of the patient's physician and designated alternate(s);
 3. A copy of the Client Oriented Data Acquisition Process (CODAP) forms;
 4. The patient's signed acknowledgement that he/she has been informed of and given a copy of patient rights and responsibilities;
 5. A summary of the admission interview;
 6. A patient assessment;
 7. A patient treatment plan, including the medical portion of the patient treatment plan;
 8. A record of physician visits;
 9. Clinical notes;
 10. Progress notes;
 11. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person administering the drug;
 12. A record of self-administered medications, if the patient self-administers medications, in accordance with the facility's policies and procedures;
 13. Reports of laboratory, radiological, and diagnostic services;
 14. Reports of accidents and incidents;
 15. A record of any treatment, medication, or service, including a physician's visit, refused by the patient;
 16. Summaries of all referrals and services provided outside the facility, and documentation of follow-up;
 17. A record of the clothing, personal effects, valuables, funds, and other property deposited by the patient with the facility for safekeeping, signed by the patient or his/her designated person and substantiated by receipts given to the patient, or his/her designated person;
 18. Reports of podiatric services, eye examinations, dental services, and auditory testing, if provided;
 19. Summaries of conferences and consultations;
 20. Documentation of any medication released to the patient upon discharge;
 21. Any signed consent forms; and
 22. The aftercare plan (which may be documented in the patient treatment plan) and discharge summary.
- (b) A unit record system shall be maintained in which the patient's completed patient (medical) record is filed as one unit in one location within the facility upon discharge of the patient.
- (c) All initial and subsequent orders for treatment, medication, and diet shall be prescribed in writing and signed and dated by the prescriber, in accordance with the laws of the State of New Jersey.
- (d) All entries contained in the patient's (medical) record shall be typewritten or written in ink, legible, and signed and dated by the person documenting them.
- (e) All patient (medical) records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.
- (f) All patient (medical) records shall be kept confidential in accordance with applicable rules and regulations. The written informed consent of the patient shall be obtained for release of information from the patient's (medical) record.
- (g) The patient's (medical) record shall be completed within 15 days of the patient's discharge.

8:42B-18.3 Access to patient (medical) records

(a) The facility shall develop and implement written policies and procedures, approved by the Department, governing the availability, release, and/or provision of copies of the patient's (medical) record to the patient and/or the patient's designated person. The written policies and procedures shall include, but not be limited to, the following:

1. Protection of the patient's (medical) record against loss, destruction, or unauthorized use;
2. Establishment of a fee schedule for obtaining copies of the patient's (medical) record;
3. Definition of the business hours during which the patient has access to his/her record;
4. Availability of the patient's (medical) record to the patient's designated person if it is medically contraindicated, as documented by a physician in the patient's medical record, for the patient to have access to or obtain copies of the record; and
5. Procedures to ensure that the patient's (medical) record is provided within 30 calendar days of the written request.

8:42B-18.4 Transfer of patient (medical) records

Upon transfer of a patient to another health care facility, a copy, summary, or abstract of the patient's (medical) record, with the patient's written informed consent, shall be provided to the receiving facility within 24 hours of the transfer. If permission is denied, a copy of the written denial shall be kept in the patient's (medical) record at the facility. If the patient refuses to sign the denial of permission, a witnessed, written statement by a staff member indicating such shall be included in the patient's (medical) record.

8:42B-18.5 Storage and retrieval of patient (medical) records

If the facility plans to cease operations, it shall notify the Department in writing, at least 14 days before cessation of operation, of the location where the patient (medical) records shall be stored and of the methods for retrieval of the patient (medical) records.

SUBCHAPTER 19. PATIENT CARE STATISTICS

8:42B-19.1 Records

- (a) All patients admitted to the facility shall be reported to the CODAP Project Management Section of the Division of Narcotic and Drug Abuse Control of the Department on the Client Oriented Data Acquisition Process (CODAP) forms.
- (b) The facility shall maintain an admission/discharge register consisting of a chronological listing of patients admitted and discharged, including the destinations to which the patients are discharged.
- (c) The facility shall provide additional statistical data as required by the Department.

SUBCHAPTER 20. INFECTION PREVENTION AND CONTROL

8:42B-20.1 Infection prevention and control program

The facility shall establish and implement an infection prevention and control program. The administrator shall ensure the development, implementation, and enforcement of the program.

8:42B-20.2 Policies and procedures

- (a) The facility shall establish, implement, and perform a documented annual review of written policies and procedures, approved by the Department, regarding infection prevention and control, including, but not limited to, the following:
1. A definition of nosocomial infections;
 2. In accordance with the New Jersey State Sanitary Code, a system for investigating, reporting, evaluating, and maintaining records for patients and personnel having infections or diseases

which are reportable or which may be related to activities and procedures of the facility;

i. Reportable and other diseases shall be reported in accordance with N.J.A.C. 8:57-1 and amendments thereto;

3. Policies and procedures for exclusion from work, and authorization to return to work, of employees with communicable diseases;

4. Cleaning and disinfection practices and techniques used in the facility, including, but not limited to, the following:

- i. Care of utensils, articles, and surfaces; and
- ii. Selection, storage, use, and disposition of disposable and nondisposable patient care items. Disposable items shall not be reused; and

5. For all employees, orientation at the time of employment and continuing education regarding the infection prevention and control program, including employees' responsibility for the program and for personal hygiene. Orientation and education programs shall be documented as to date, topic, and persons in attendance.

8:42B-20.3 Inspection reports

Written reports of State and local sanitary inspections, including cultures taken on food, equipment, and personnel, shall be submitted to the administrator for evaluation and corrective action.

SUBCHAPTER 21. HOUSEKEEPING, SANITATION, AND SAFETY

8:42B-21.1 Services; policies and procedures

(a) The facility shall establish and implement written policies and procedures, approved by the Department, regarding the provision and maintenance of a sanitary and safe environment, including, but not limited to, the provision of housekeeping, laundry, and pest control services, directly or through written agreement pursuant to N.J.A.C. 8:42B-3.9. The governing authority shall perform a documented review at least annually of the policies and procedures.

(b) The facility shall maintain the organization, management, and operation of these services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the service to other services.

(c) If services are provided through written agreement, the services shall adhere to the standards in this chapter.

8:42B-21.2 Administrator's responsibilities

(a) The administrator or his/her designee shall ensure that:

- 1. A written work plan for housekeeping operations is developed, with categorization as to daily, weekly, monthly, or annual cleaning assignments for each area of the facility;
- 2. All housekeeping personnel are assigned duties, supervised, and evaluated;
- 3. Housekeeping personnel are trained in procedures of cleaning, including the use, cleaning, and care of equipment;
- 4. Procedures are developed for selection and use of housekeeping and cleaning products and equipment; and
- 5. Housekeeping services are evaluated.

8:42B-21.3 Facility's responsibilities

(a) The facility shall comply with the following:

- 1. The facility and its contents shall be free from dust, dirt, and debris;
- 2. Nonskid wax shall be used on all waxed floors;
- 3. All rooms shall be ventilated to help prevent condensation, mold growth, and noxious odors;
- 4. All patient areas shall be free of noxious odors;
- 5. Throw rugs or scatter rugs shall not be used in the facility;
- 6. All furnishings and mechanical equipment shall be in working order. Equipment shall be kept covered to protect from contamination, and accessible for cleaning and inspection. Broken items shall be repaired promptly;

7. All equipment shall have unobstructed space provided for operation;

8. All equipment and materials necessary for cleaning, disinfection, and sterilization shall be provided;

9. Thermometers shall be maintained in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

10. All poisonous and toxic materials shall be identified, labeled, and stored in a locked cabinet or room that is used for no other purpose;

11. Pesticides shall be applied in accordance with the New Jersey Pesticide Control Regulations, N.J.A.C. 7:30-1.

12. Articles in storage shall be elevated from the floor and away from the walls to facilitate cleaning and vermin control and eliminate rodent harborages;

13. Unobstructed aisles shall be provided between articles in storage;

14. A program shall be maintained to keep rodents, insects, vermin, birds, animals, dust, and contamination out of the facility. Pets shall be allowed and maintained in accordance with the facility's policies and procedures and the requirements of health and sanitation;

15. Insect and rodent harborages shall be eliminated from the facility;

16. Toilet tissue, soap, and towels or air dryers shall be provided in each bathroom at all times;

17. Solid or liquid waste, garbage, and trash shall be disposed of or stored in a manner approved by the Department and by the New Jersey State Department of Environmental Protection and so as to prevent fire, contamination, or transmission of disease. Solid waste shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers;

18. Draperies, upholstery, and other fabrics or decorations shall be fire-resistant and flameproof;

19. Wastebaskets and ashtrays shall be made of noncombustible materials;

20. Combustible materials shall not be stored in heater rooms or within 18 feet of any heater located in an open basement. When combustible materials are stored in areas other than basements, the storage areas shall be protected by one-hour fire-resistant construction or sprinklered;

21. Paints, varnishes, lacquers, thinners, and all other flammable materials shall be stored in closed metal cabinets or containers;

22. The temperature of the hot water supply shall be regulated and shall not exceed 110°F. (43°C.), except as specified in the New Jersey State Sanitary Code for dishwashing purposes; and

23. The temperature within the facility shall be kept at a minimum of 72°F. (22°C.) during the day and at a minimum of 68°F. (20°C.) at night. "Day" shall mean the time between sunrise and sunset.

8:42B-21.4 Linen and laundry services; policies and procedures

(a) The facility shall establish and implement written policies and procedures, approved by the Department, for linen and laundry services, including methods of storage and transportation, including, but not limited to, the following:

- 1. Arrangements for the storage and laundering of linen and personal laundry, as defined in the facility's policies. Such policies shall not interfere with the patient's right to personal choice regarding dress;
- 2. Accessibility of a laundry room which patients may use for washing their clothes;
- 3. The frequency of laundering linen and personal laundry;
- 4. The frequency of changing bed linen, towels, and washcloths;
- 5. Provision for a supply of clean linen, including at least sheets, pillow cases, blankets, towels, and washcloths;
 - i. Written policies shall delineate the kinds and quantity of other linen items to be allocated to each patient; and
 - ii. Latex foam pillows shall be prohibited.

8:42B-21.5 Staff responsibilities

(a) The administrator shall designate a staff member who shall ensure that:

1. Soiled linen and laundry are collected so as to avoid microbial dissemination into the environment, and are placed in impervious bags or containers that are closed at the site of collection. Separate containers shall be used for transporting clean linen and laundry, and for soiled linen and laundry;

2. Soiled linen and laundry are stored in a ventilated area separate from any other supplies, and are not stored, sorted, rinsed, or laundered in patient rooms, bathrooms, areas of food preparation and/or storage, or areas in which clean linen, material, and/or equipment are stored;

3. Laundering facilities located in the facility are separate from the clean linen processing area, patient rooms, bathrooms, areas of food preparation and/or storage, and areas in which clean linen, material, and/or equipment are stored. Such facilities shall be under the supervision of an employee; and

4. Clean linen is protected from contamination during processing, transporting, and storage.

SUBCHAPTER 22. EVALUATION

8:42B-22.1 Evaluation plan

The facility shall develop, and annually review, a written plan, approved by the Department, for the audit and evaluation of patient care. The plan shall specify a timetable and the staff responsible for the audit and evaluation process, and shall provide for ongoing monitoring of staff and program activities and for audit of patient records.

8:42B-22.2 Evaluation and audit committee's responsibilities

(a) A multidisciplinary evaluation and audit committee shall be appointed by, and accountable to, the governing authority. The committee shall be responsible for, but not limited to, the following:

1. Annual review of staff qualifications;
2. Annual review of patient statistics;
3. Annual review of staff orientation and staff education plans;
4. Evaluation of the delivery of care and services, emergency services, staffing patterns, maintenance of physical plant and equipment, infection prevention and control, and after care services; and
5. Audit of patient (medical) records on an ongoing basis by:
 - i. Establishment of goals, objectives, and criteria for evaluating each service providing patient care; and
 - ii. Review of patient (medical) records for their conformity to established criteria.

(b) The evaluation and audit committee shall prepare and submit to the governing authority at least an annual written report of its findings, including deficiencies found and recommendations for corrections or improvements.

(c) The administrator shall, with the approval of the governing authority, implement measures to ensure that corrections or improvements are made.

SUBCHAPTER 23. CONSTRUCTION STANDARDS

8:42B-23.1 Hospital detoxification facilities

New construction, alterations, renovations, and additions shall be in compliance with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and standards imposed by the United States Department of Health and Human Services (HHS), the New Jersey State Department of Health, and the New Jersey State Department of Community Affairs, specifically, Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities, DHEW Publication No. (HRA) 79-14500¹. In order to avoid conflict, Sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, Article 7 except Section 712.0, 716.0, and 717.0,

and Article 8 except Sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code shall not govern with respect to health care facilities. (HRA) 79-14500 shall serve as the Uniform Construction Code of the State in all matters regulated by the sections specified in this standard. Copies of these publications may be reviewed at:

Health Facilities Construction
and Monitoring Program
Division of Health Planning and
Resources Development
New Jersey Department of Health
Health-Agriculture Building
John Fitch Plaza
CN 360
Trenton, NJ 08625

¹DHEW Publication No. (HRA) 79-14500 may be obtained from the United States Government Printing Office, Washington, D.C.

8:42B-23.2 Residential drug treatment facilities

(a) General: The regulations of the New Jersey State Uniform Construction Code, Chapter 23, Title 5, of the New Jersey Administrative Code, revised in accordance with the latest amendments, shall apply to all new construction, alterations, renovations, and additions. All construction shall conform with the requirements for Use Group R-1 of the adopted Building Subcode, the BOCA Basic Building Code/1981, except as specifically altered by the following standards:

(b) Restrictions:

1. Mixed use occupancy shall not be permitted in buildings classified as High Hazard (H), Factory (F) or Assembly (A-2) Use Groups.

2. Resident occupancy shall not be permitted above the second floor in buildings of Construction Types 2C, 3B, 3C, 4A, and 4B nor above the third floor in Type 2B and 3A. Resident occupancy in Types 1A and 1B is unlimited in numbers of floors. Resident occupancy in Type 2A is limited to nine floors. Incidental uses may be permitted on all other floors, as specified by this code.

(c) Construction: Modifications to Table 505.0 Height and Area Limitations of Buildings shall not be permitted by the exceptions as provided for in Sections 506.0 and 508.0.

(d) Habitable Rooms: Alternate devices for natural light and ventilation of habitable rooms as provided by Section 706.4 shall not be permitted.

(e) Hallways: Mechanical ventilation systems for hallways as provided in Subsection 712.1.4 shall be required in all hallways.

(f) Exit Access Passageways and Corridors: All requirements for Section 810.0 shall apply, except as therein defined.

1. Enclosures: Section 810.4 shall apply to all corridors regardless of the occupant load they serve.

(g) Exit Signs and Means of Egress Lighting:

1. All facilities shall comply with Section 823.0 regardless of the number of occupant load.

2. All emergency lighting systems shall comply with Section 824.4 for all facilities regardless of the number of sleeping rooms.

(h) Fire Suppression Systems:

1. All buildings exceeding two stories in Types 2B, 2C, 3A, 3B, 3C, 4A, and 4B shall be provided with a fire suppression system as specified by Section 1701.0 through 1710.0, 1713.0, and 1714.0. A fire suppression system is not required in buildings of Types 1A, 1B, and 2A.

2. All buildings of non-fire-resistive construction: All buildings other than Type 1A, 1B, and 2A as described in Table 401 Fire Resistance Ratings of Structural Elements (in hours) of the BOCA Basic Building Code/1981 licensed for 50 or more beds shall have an operational, automatic complete sprinkler system in addition to the automatic alarm system.

(i) Automatic Fire Alarm System:

1. Residential Use: (R-1) Insert the following under Section

1716.3.4: Kitchen, boiler rooms, and electrical rooms shall be provided with heat detectors.

i. All detectors, including detectors for release of self-closing smoke barrier doors, smoke dampers, fire doors, fire windows, and shutters, shall be connected with the fire alarm system. Activation of the fire alarm system shall automatically close all fire and smoke doors.

ii. Air handling system shall be provided with detectors for fan shutdown as required by the Mechanical Code listed in Appendix B of the BOCA Basic Building Code/1981. Such detectors shall also be connected with the fire alarm so that activation of any detector shall shut down the fans.

2. Sprinklered Buildings Exception: Section 1716.4 shall not apply to Drug Treatment Facilities. In sprinklered buildings, smoke detectors shall be provided in all corridors, 30 feet on centers and not more than 15 feet from corridor ends, resident's bedrooms, and activities areas. Kitchens, boiler rooms, and electrical rooms shall be provided with heat detectors.

i. Detectors for self-closing doors, windows, and shutters shall be connected with the fire alarm system as required in N.J.A.C. 8:42B-23.2(i)1i.

ii. Air handling systems shall be provided with detectors as required in N.J.A.C. 8:42B-23.2(i)1ii.

3. Manual Fire Alarm Systems: A manual fire alarm system shall be provided in accordance with the standards and requirements of Section 1717.0.

4. Supervision: Supervision of fire protection systems shall conform with the requirements of Section 1718.0. Delete exception No. 3 under Section 1718.2.

8:42B-23.3 Additional fire protection licensure requirements

(a) Laundry Equipment:

1. Where such equipment is limited to ordinary household types, no special fire protective measures are essential. However, these laundering facilities shall be separated from the clean linen processing area, patient rooms, bathrooms, areas of food preparation and/or food storage, and areas in which clean linen, material, and/or equipment are stored.

2. If commercial type equipment is utilized, it shall be installed in a separate laundry room. The remainder of the facility shall be protected from the laundry room by partitions and openings of at least one-hour fire-resistance rating. Doors to such laundry rooms shall be protected in accord with the regulations affecting doors leading to kitchens.

(b) Residential Smoking Requirements: The facility shall establish and implement written policies regarding smoking, in accordance with N.J.S.A. 26:3D-1 et seq. and 26:3D-7 et seq. and the National Fire Protection Association, (N.F.P.A.), and including the following:

1. Smoking shall be prohibited in any room, ward, or compartments where inflammable liquids, combustible gases, or oxygen are used or stored and in any other hazardous locations. These areas and all patients' bedrooms shall be posted with NO SMOKING signs.

2. Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

3. Metal containers, used as ashtrays, with self-closing cover devices shall be provided in all areas where smoking is permitted.

4. Cigarette vending machines shall not be permitted in the facility.

5. Smoking areas for staff, employees, visitors, and patients shall be designated.

(c) Fire Extinguisher Specifications:

1. There shall be a minimum of two fire extinguishers in the basement, on each floor of the building, and as required in kitchen areas, all of which shall bear the seal of the Underwriters' Laboratories, Inc. (U.L.). The maximum travel distance to an extinguisher shall be 75'-0" and as required by the National Fire Protection Association (N.F.P.A. 101- 1973).

2. All fire extinguishers shall be conspicuously hung and kept easily accessible and shall be recharged and annually inspected in accord with the manufacturer's specifications. Each shall be labeled to show the date of such annual inspection and refilling.

3. The following types of extinguishers shall be provided:

i. In kitchen areas, extinguisher(s) shall be a minimum of 5-lb. of the dry chemical type.

ii. In the basement area, at least one fire extinguisher shall be a 5-lb. dry chemical type if oil is used as a fuel. If coal is used, at least one 2-1/2 gallon air-pressurized water type fire extinguisher shall be provided.

8:42B-23.4 Additional general licensure requirements

(a) Location or Site: Any property proposed for licensure shall be a detached single purpose building with an open separation of at least 15 feet on all sides. No addition or other structure shall be built which would lessen this distance.

(b) Building Occupancy: A Drug Treatment Facility shall not be utilized for any other purpose. This regulation shall not be construed to eliminate housing quarters of the owner or owner's family, the administrator, or other staff members.

(c) Toilets and Baths: On each floor utilized by patients for sleeping purposes, there shall be toilet and bath facilities accessible from a common corridor. On other floors utilized by patients, there shall be at least a toilet and lavatory available and accessible from a common corridor. Toilet and bathing facilities shall be available in the following minimum ratios:

Toilets – one to eight residents

Washbasins – one to 12 residents

Tub or showers – one to 12 residents

(d) Group Activity and Multipurpose Room(s): Such room(s) shall provide 20 square feet per person, to insure adequate seating for two-thirds of the licensed capacity of the facility, and shall have space for socialization and other patient activities, such as letter writing, card playing, etc. In addition, space for such diversional activities as radio, television, reading, etc., shall be available to patients.

(e) Dining Room(s): A dining room(s) of 15 square feet per person equipped to seat all the patients of the facility at one sitting shall be provided. Up to 50 percent of the dining room(s) may be used as a group activity and multipurpose room(s).

(f) Storage Space: Fifteen square feet of total floor area of lighted storage space shall be provided per person in the facility for the storage of patients' clothing, linens, foods, cleaning, and other supplies.

(g) Kitchens: Kitchen exhaust fans and metal ducts shall be kept free of grease and dirt at all times. Metal ducts from such fans shall extend at least two feet beyond the building.

(h) Patient Sleeping Rooms:

1. Sleeping rooms for one patient shall have a minimum of 70 square feet of clear floor area.

2. In sleeping rooms occupied by more than one patient, a minimum of 35 square feet of clear floor space per patient shall be required. There shall be three feet of clear space between beds and at the foot of each bed to insure comfort and safety to patients, and there shall be space for storage of personal possessions and additional space to provide a chair for each bed and also for unobstructed passageways.

(i) If the main entrance door, the back entrance door, and/or doors opening onto roofs and balconies are self-locking, such doors shall have a sounding device, such as a bell, buzzer, or chimes, which is in operating condition. This sounding device shall be affixed to the outside of the door or to the adjacent exterior wall and shall be audible to a nursing station or other area that is staffed 24 hours a day, seven days a week, for use in the event that a person is unable to enter the building.

8:42B-23.5 Documentation of inspections

(a) The facility shall maintain on file written documentation of:

1. Annual inspection of the facility by the local fire authority;

- 2. Semiannual inspection of the fire detection system by the installing company or a company approved by the Department;
- 3. Annual inspection of the elevator(s) by the local authority responsible for such inspection. If no local authority is responsible, the installing company or a company approved by the Department shall perform the inspection;
- 4. Annual inspection of boiler and generator systems by a boilermaker or mechanic not on the staff of the facility; and
- 5. Annual inspection of the electrical circuits and wiring by a licensed electrician with documentation of the following:
 - i. That all electrical circuits, wiring, and fixtures are in satisfactory condition;
 - ii. That no electrical circuits are overloaded; and
 - iii. That all portable electrical appliances, including lamps, are provided with heavy duty cords in satisfactory condition and have Underwriters' Laboratories, Inc. (U.L.) approval.

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Proposed Amendment: N.J.A.C. 8:71

Authorized By: Drug Utilization Review Council, Leroy Schwartz, M.D., Chairman.
Authority: N.J.S.A. 24:6E-6g.

A public hearing concerning this rule will be held on April 12, 1983 at 10:00 A.M. at:

Health-Agriculture Building
1st Floor, Training Room A
John Fitch Plaza
Trenton, NJ 08625

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Thomas T. Culkin, PharmD, MPH
Drug Utilization Review Council
Department of Health
CN 360
Trenton, NJ 08625
(609)984-2157

The Drug Utilization Review Council thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-142.

The agency proposal follows:

Summary

The Federal Drug Administration (FDA) has determined that certain products no longer need to be considered prescription medicines. The FDA's determination is based on a conclusion that the ingredients making up the composition of the medicine are adequately safe to be dispensed without a prescription. Therefore, as a result of this Federal determination, the proposed deletions from the New Jersey generic formulary are necessary to remove these newly determined non-prescription medicines from the list of prescription medicines.

Social Impact

According to the Drug Utilization Review Council, the only discernable social impact of these deletions from the prescription medicine list will be that the public will now be able to buy these medicines over the counter without a prescription.

Economic Impact

Although consumers will no longer receive a generic in place of the brand-name medicine, the brand at non-prescription prices is expected to be less costly than when purchased as a prescription medicine.

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

[Triprolidine HCL with Pseudoephedrine HCL Tablets, 2.5 mg with 60 mg]

[Bolar, Boats Labs, B-W, Chelsea, Cord, Danbury, Halsey, ICN, Lemmon, MD, Newtron, Par, Purepac/ Kalipharma, West-Ward, Zenith]

[Triprolidine HCL with Pseudoephedrine HCL syrup, 1.25 mg/5 ml with 30 mg/5 ml]

[Bay, B-W, Cord, Halsey, ICN, Life, Newtron, NPC, Pharm. Assoc., Super-Pharm, West-Ward]

HUMAN SERVICES

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual and Independent Clinic Services Manual Personal Care Services

Proposed Amendments: N.J.A.C. 10:49-1.4, 10:66-1.6 and 3.3

Authorized By: George J. Albanese, Commissioner.
Authority: N.J.S.A. 30:4D-6b(16) and 4D-7 and 7b.

Notice of Withdrawal

The Division of Medical Assistance and Health Services proposed certain regulations governing personal care services in the July 6, 1982 issue of the New Jersey Register at 14 N.J.R. 695(a). Personal care services were defined as health related tasks performed by qualified individuals who were trained and approved by the Division of Mental Health and Hospitals, the Division of Mental Retardation, and the Division of Youth and Family Services.

Community based services, such as personal care, provide an alternative to institutionalization for persons with developmental, mental and/or physical disabilities.

The Division is now withdrawing this particular proposal in order to redefine the scope of Personal Care Services.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Billing Procedures

Proposed Readoption: N.J.A.C. 10:63-2

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6a(4)(a), 6b(13)(14) and 4D-7
and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-123.

The agency proposal follows:

Summary

The proposal is being submitted for the readoption of Subchapter 2 of the Long Term Care Services Manual (N.J.A.C. 10:63-2) pursuant to Executive Order No. 66 (1978), commonly known as the "sunset" Executive Order. This subchapter is entitled "Billing Procedures", and must be renewed prior to its scheduled expiration date of July 1, 1983 to insure that long term care (LTC) providers will be able to bill the New Jersey Medicaid Program, and receive payment, for services rendered to Medicaid eligible patients. There are no textual changes associated with this proposal.

Long Term Care Services is a term applied collectively to skilled and/or intermediate care nursing services authorized pursuant to Federal and State law. The applicable State statutes have been cited in the caption entitled "authority" above. Section 1902(a)(28) of the Social Security Act requires that any skilled nursing facility (SNF) receiving payments under Title 19 (Medicaid) meet the requirements of 1861(j) of the Act. This provision (1861(j)), which is contained in Title 18 (Medicare), defines a SNF as an institution, or distinct part thereof, which is primarily engaged in providing skilled nursing care and related services for patients who require medical or nursing care.

New Jersey's Medicaid regulations reflect the Federal statutory standard by defining a "Level III, skilled nursing patient" as a person with acute or sub-acute medical and/or mental dysfunction requiring skilled nursing, psycho-social and restorative care during a 24 hour period. The dysfunction may involve one or several physiological systems, may be stabilized or not, with symptoms subsiding or increasing. (N.J.A.C. 10:63-1.2, Definitions.)

Intermediate Care Facility (ICF) Services are those authorized pursuant to 1902(a)(15) of the Social Security Act, and defined as an institution fully meeting licensure requirements under State law to provide, on a regular basis, health-related services to individuals who do not require the degree of care and treatment provided by a SNF, but who, because of their mental or physical condition require care and services above the level of room and board that can be made available only in institutional facilities.

New Jersey has two levels of intermediate care. Level IV-A means a person with physical, mental, social dysfunction, or combination thereof, requires substantial assistance with activities of daily living on a daily basis. Level IV-B means an ambulant or semi-ambulant person with physical and/or mental dysfunction requiring minimal assistance with personal care needs on a daily basis (N.J.A.C. 10:63-1.2, Definitions).

In order to reimburse LTC facilities for services rendered to patients requiring skilled and/or intermediate level nursing care, a uniform billing system had to be established. Therefore, Subchapter 2 of the Long Term Care Services Manual was adopted as R.1978 d.216 to become effective July 1, 1978. The current billing system requires LTC facilities to submit admission forms and supporting documentation to the Bureau of Claims and Accounts, (the Bureau), within the Division of Medical Assistance and Health Services, requesting payment for a Medicaid patient that has been admitted to the facility. This material is reviewed by employees of the Bureau and if it is complete and correct, it is submitted to the computerized billing program located in the New Jersey Department of the Treasury. The Bureau also receives input from the County Welfare Agencies (CWA) listing available income from the patient. This input, from both the LTC facility and the CWA's generates a computer print-out from Treasury which substantiates the LTC reimbursement request. The print-out is reviewed, and if there are no corrections, it is approved and Treasury is authorized to make payment. In essence, the Division authorizes payment, and Treasury issues the check to the LTC facility.

The LTC facility also receives a copy of the computer generated report and reviews the Division reimbursement and reconciles the information with their own billing submissions. If there are any problems, the LTC facility works with the Bureau to reconcile the differences. If these differences cannot be resolved, then the LTC facility has the right to request a hearing, which would be held before an Administrative Law Judge within the Office of Administrative Law.

The Chief, Bureau of Claims and Accounts, has reviewed these rules and believes they have been effective in promoting efficient billing and timely payment. They are definitely necessary to insure a verifiable method of recording payment to LTC facilities, and to enable New Jersey to obtain Federal matching funds. The rules have not been amended since they were enacted, and should be left intact, because they adequately accomplish their purpose, i.e., allowing Title 19 to pay for Federally authorized services in skilled and/or intermediate care facilities.

Social Impact

The rule impacts mainly on long term care providers, which include both public and private facilities. As long as LTC facilities are being reimbursed, they should be willing to provide services to Medicaid patients. It should be noted that there are approximately 250 LTC facilities who are participating Medicaid providers.

Persons who require skilled and/or intermediate nursing care must be declared financially eligible by the appropriate CWA or the Supplemental Security Income Program administered by the Social Security Administration. Federal regulations require Medicaid patients use their available income, less \$25.00 per month, to pay towards the cost of their nursing care (42 CFR 435.725). In addition, long term care (Level III, IV(A) & IV(B)) must be "medically necessary" and therefore requires authorization by the Division's Medical Evaluation Team, consisting of a physician, nurse, and social worker.

The social conditions have not changed. Persons who are aged and/or disabled may develop illnesses and/or conditions which are chronic, rather than acute, and require nursing care and treatment in an institutionalized setting. There are approximately 20,000 Medicaid patients in LTC facilities, and this figure has remained constant for several years.

The economic conditions have not changed either. Monthly

charges by a LTC facility often exceed a patient's monthly income, and unless the patient has accumulated considerable private funds of his/her own, Medicaid is apt to be the only realistic source of payment. Private insurance, including Medicare, is always utilized first, but this type of coverage is usually of limited duration.

Since the social-economic conditions that created the rule have not changed, it is necessary that the rule be continued.

Economic Impact

There is no direct economic impact associated with this proposal, because the regulations deal only with billing, and have no effect on the per diem rate paid to LTC facilities. There is an indirect economic impact on LTC facilities, who must comply with the billing instructions and time frames in order to receive Medicaid reimbursement. These regulations apply only to LTC facilities.

Medicaid patients will still be required to pay toward the cost of long term care from their available income as determined by the appropriate County Welfare Agency. These patients are permitted to retain \$25.00 per month for their personal needs allowance.

New Jersey spends approximately 24 million dollars monthly (Federal-State share) on Medicaid patients in LTC facilities.

Full text of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:63-2.

(a)

DIVISION OF PUBLIC WELFARE

**Medicaid Only Manual
Excludable Resources and Income**

**Proposed Amendments: N.J.A.C. 10:94-4.4
and 5.3**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-87.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-117.

The agency proposal follows:

Summary

Section 185 of Public Law 97-248 amended Section 1613(a)(2) of the Social Security Act to provide for the exclusion from consideration as resources the value of burial spaces and, within prescribed limits, funds set aside for burial expenses for purposes of determining eligibility for the Supplemental Security Income (SSI) program. Since Medicaid eligibility for the aged, blind, and disabled is subject to SSI eligibility criteria, the Department therefore proposes to amend the Medicaid Only Manual to incorporate the revised SSI rules.

This proposal will exclude from resource consideration the value

of burial plots intended for the use of the aged, blind, or disabled individual, his or her spouse, and other members of his or her immediate family in the determination of Medicaid eligibility. In addition, this proposal would exclude funds set aside for the burial of the individual and his or her spouse, subject to a limit of \$1,500 each. The amount must be reduced however by any amounts in an irrevocable trust or other irrevocable arrangement which is available to meet burial expenses and by the face value of any insurance policy on his or her life that has otherwise been excluded in the determination of resource eligibility.

Finally, the rule would exclude from consideration as income for program purposes any interest on or appreciation in value of burial funds qualifying for the resource exclusion.

Social Impact

The rule will allow aged, blind, and disabled Medicaid applicants and recipients to make provisions for burial without risking eligibility for Medicaid benefits.

Economic Impact

It is estimated that relatively few persons have been denied program participation because burial plots and funds have been considered in the determination of program eligibility; it is therefore expected that this rule will have negligible impact on program expenditures or administrative costs. In the long term, this rule should result in a reduction in State and county expenditures for burials for Medicaid recipients dependent on the number of individuals who avail themselves of this exclusion.

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

10:94-4.4 Excludable resources

(a) (No change.)

(b) Identification of excludable resources: The following resources shall be classified as excludable:

1.-3. (No change.)

4. Life insurance: The cash surrender value of all life insurance policies owned and in the control of the individual, if the total face value of such policies does not exceed \$1,500 (see also (b)9 below):

i. (No change.)

5.-8. (No change.)

9. Burial spaces and burial funds: Burial spaces intended for the use of the individual, his or her spouse, or any other member of his or her immediate family and funds which are set aside for the burial expenses of the individual or spouse, subject to the limits specified below.

i. Definitions: The following definitions apply to this section.

(1) Burial space: Burial spaces are conventional gravesites, crypts, mausoleums, urns, or other repositories which are customarily and traditionally used for the remains of deceased persons.

(2) Funds set aside for burial: Funds set aside for burial include revocable burial contracts, burial trusts, and any separately identifiable assets which are clearly designated as set aside for the expenses connected with an individual's burial, cremation or other funeral arrangements.

(3) Funds in an irrevocable arrangement: Funds in an irrevocable trust or other irrevocable arrangement which are available for burial are funds held in an irrevocable burial contract and irrevocable burial trust, or an amount in an irrevocable trust which is specifically identified for burial expenses.

(4) Immediate family: Immediate family includes an individual's minor and adult children, stepchildren and adopted children, brothers, sisters, parents, adoptive parents and spouses of those persons. Dependency and living-in-the-same household are not factors. Immediate family does not include the members of an ineligible spouse's family unless they meet this definition.

ii. **Burial funds:** The exclusion from resources of funds set aside for burial applies only when counting any portion of the funds toward the resource limit would cause ineligibility due to excess resources.

(1) If the individual or couple would otherwise be ineligible and could be eligible with the application of this exclusion and the individual or couple alleges that funds are set aside for the burial of the eligible individual or his or her spouse, an affidavit indicating such must be obtained.

(A) The amount of funds that may be excluded shall be determined and may not exceed the maximum limit of \$1,500 each for the individual and his or her spouse. The maximum limit for each individual is reduced by an amount equal to the amount of funds held in an irrevocable burial trust, an irrevocable burial contract, or other irrevocable arrangement which is available to meet that individual's burial expenses. Each individual's maximum limit is further reduced by the face value of any insurance policy on that individual's life owned by him or her or his or her spouse if the cash surrender value of the policy was excluded in determining the resources of the individual.

(B) In order for burial funds to be excluded, the funds must be separately identifiable (that is, not comingled with other funds or assets which are not set aside for burial). Additionally, the funds must be already designated as set aside for burial. If the funds are not so designated, the funds may be excluded if the individual attests in writing, that he or she intends to use the funds for his or her burial and agrees to submit within 30 days, documentary evidence that the funds have been designated as set aside for burial.

(C) Any increase in the value of excluded burial funds due to interest on such funds which were left to accumulate or appreciation of such funds after establishment of Medicaid eligibility shall be excluded.

10:94-5.3 Income exclusions

(a) Only the following income shall be excluded in the determination of countable income. Income exclusions must be applied to unearned income first, then to earned income as appropriate. Exclusions must be applied in the order of their appearance in this section.

1.-16. (No change.)

17. **Interest on burial funds:** Interest on or appreciation in value of burial funds excluded from consideration as resources at N.J.A.C. 10:94-4.4(b)9 shall be excluded from income.

17.-20. renumbered as 18.-21. (No change in text.)

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Hospital-Medical-Dental Services Dental Plan Organizations

Proposed New Rule: N.J.A.C. 11:10-1

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), and 17:48D-1 et seq., specifically 17:48D-23.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983.

These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
New Jersey Department of Insurance
CN 325
Trenton, NJ 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-129.

The agency proposal follows:

Summary

Pursuant to the "Dental Plan Organization Act", N.J.S.A. 17:48D-1 et seq., the Commissioner of the Department of Insurance is required to regulate persons and corporations who offer plans for the prepayment or postpayment of dental services, and is authorized to promulgate rules and regulations to effectuate the purposes of the Act. This subchapter establishes rules which facilitate the implementation of the Act.

The Dental Plan Organization Act became effective on June 1, 1980. At that time, the Department of Insurance began to review applications, issue certificates of authority and carry out other regulatory functions required by the law. In the course of performing these functions, questions arose concerning the proper interpretation of the Act. In addition, while basic systems for implementing the Act were developed, the need for more specific standards and uniform procedures for assuring compliance became readily apparent.

These proposed rules formalize and expand on the procedures currently utilized by the Department for the regulation of dental plan organizations. The rules also address certain interpretive questions, such as the proper allocation of expenses as set forth in the proposal at N.J.A.C. 11:10-1.9. Specific standards are also prescribed. These standards include those relating to a dental plan organization's contracts with dentists, submissions or filings with the Department, financial reporting, surplus, complaint handling, fidelity bonding and malpractice insurance, and schedule of charges.

Social Impact

By clarifying the requirements of the Act, the proposed rules will facilitate the compliance efforts of all DPOs. For instance, a descriptive definition of the term "capitation" is given. This term is mentioned in the Act as the key determiner of the existence of a "Dental plan" which in turn is essential to the definition of a DPO in the law. However, capitation is not defined in the Act and there are no unambiguous definitions of the term in insurance literature. Since a premium or subscriber charge paid by an enrollee is similar to a capitation in that both are calculated on a "per head" or "per capita" basis and do not vary directly with the volume of services required by an enrollee, the terms have confused regulators and DPOs alike. The definition given in the proposed rule should help to alleviate this confusion.

The specific standards prescribed will ensure that the purposes of the Act are fulfilled and will provide for additional safeguards to the enrollees being served.

Economic Impact

The costs to a DPO above that which is already needed to comply with the Act will be minimal. The surplus requirement of \$25,000 is designed to permit a dental plan organization to gradually accumulate the amount over a number of years. The public stands to benefit from the surplus being held for its protection. This surplus will help to guarantee that the DPO will fulfill its obligations in the event it has financial difficulties.

The minimum amounts set for fidelity bonds and malpractice insurance may increase a DPO's costs. This coverage is, however, required by the Act in amounts to be determined by the Commissioner. The increase in costs for this insurance is small in comparison to the potential loss a DPO can suffer from employee theft and malpractice suits.

The proposed rules will facilitate compliance with the Act and should serve to moderate the compliance costs of all DPOs. The Department had originally incurred costs in implementing the Act and carrying out the regulatory procedure which is already in place. The costs to the Department of implementing the proposed rules in addition to the costs already incurred are negligible.

Full text of the proposed new rule follows:

CHAPTER 10
HOSPITAL-MEDICAL-DENTAL SERVICES

SUBCHAPTER 1. DENTAL PLAN ORGANIZATIONS

11:10-1.1 Purpose

(a) The Dental Plan Organization Act (N.J.S.A. 17:48D-1 et seq.) regulates persons and corporations which offer plans for the prepayment or postpayment of dental services. This Act provides for the licensing and supervision of dental plan organizations to protect enrollees of the plan and to assure that the services contracted for are actually delivered.

(b) Section 23 of the Act authorizes the Commissioner to promulgate rules and regulations to effectuate its purposes. This subchapter establishes rules to implement the Act. These rules are designed to facilitate compliance with the Act by clarifying its requirements. Specific standards are also prescribed to ensure that the purposes of the Act are fulfilled.

11:10-1.2 Scope and application

(a) This subchapter applies to dental plan organizations defined in N.J.S.A. 17:48D-2c. Such organizations may offer group and individual dental plans on a capitation basis.

(b) If the dental plan organization utilizes more than one full-time equivalent dentist to serve dental plan enrollees, it is subject to the Act and this subchapter.

(c) An individual dentist in solo practice who capitates his services is not required to comply with the Act or this subchapter.

(d) Organizations which offer only supplemental dental plans as defined in N.J.A.C. 11:10-1.3 are not subject to the Act and this subchapter.

(e) Organizations covering dental services on a fee-for-service basis only cannot qualify as a dental plan organization. Such organizations may not operate in this State without a certificate of authority as a health insurer or dental service corporation, since fee-for-service coverage is either insurance or service benefits.

11:10-1.3 Definitions

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

"Capitation" refers to the method by which providers (dentists or dental groups) are compensated for the provision of services on a prepaid or postpaid, individual or group basis. "Capitation" exists when a provider is compensated on the basis of the presence of an enrollee to whom services have been promised under a contract and such services are available to an enrollee if needed. Under a capitation arrangement, the provider is "at risk", and generally the risk is the volume of services that must be provided rather than the amount he must pay (or indemnify) for those services. Except as provided in N.J.A.C. 11:10-1.6(i), a fee-for-service arrangement is not and may not be capitation. A plan in which an enrollee uses a dentist(s) who is employed and paid a salary by the DPO qualifies as a capitation plan.

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

"Department" means the Department of Insurance.

"DPO" means dental plan organization.

"One Full-Time Equivalent Dentist" means one dentist working full-time or an aggregation of hours spent by more than one dentist on DPO enrollees so as to equal a 40 hour week. A full-time general practitioner can serve a group of at least 1,500 enrollees and dependents. This number could vary by specialty and service performed; for example, an orthodontist may serve a smaller number of patients than a general practitioner.

"Supplemental Dental Plan" means an arrangement in which a dentist or group of dentists agrees to relieve patients of paying any patient charges or copayments associated with dental insurance or other dental coverage for a predetermined fee. Supplemental dental plan also means an arrangement which pays a percentage of a patient's dental expenses regardless of whether the patient has other coverage.

11:10-1.4 General rules

(a) To obtain an application for a certificate of authority as a dental plan organization, a written request for the appropriate forms must be submitted to the Commissioner. Applicants shall complete and return the forms with the supporting documents requested by the Department.

(b) To renew its certificate of authority, a DPO shall remit the \$100.00 renewal fee to the Commissioner 30 calendar days prior to the renewal date.

(c) The notice of significant modification of information submitted with the application required by N.J.S.A. 17:48D-4 shall include the document being modified and an explanation of the modification. Examples of modifications which are considered significant include, but are not limited to:

1. Changes in the DPO's organizational structure;
2. New officers, partners or members of the DPO's board of directors, board of trustees, executive committee or other governing board or committee;
3. Changes in the group or individual contract form issued by the DPO; and
4. Adjustments to financial statements.

11:10-1.5 Written agreements with dentists

(a) Every DPO shall enter into a written agreement with each dentist who will be providing dental services for plan enrollees, unless the dentist is employed by the DPO.

(b) Agreements with dentists shall include:

1. The amount of compensation;
2. The minimum number of hours per week which the dentist must make available for the treatment of plan enrollees or a statement that an appointment must be granted to an enrollee within 10 working days of the date of request;
3. A statement that treatment for an emergency must be granted within 24 hours of the emergency;
4. The DPO's program for the assurance of quality dental care; and
5. The date and term of the agreement.

11:10-1.6 Evidence of coverage and group contracts

(a) The DPO shall prepare and issue the evidence of coverage form to each enrollee. Covered groups may distribute the forms to its members on behalf of the DPO.

(b) An evidence of coverage form must contain all the information required by N.J.S.A. 17:48D-9. A card containing only basic identifying information is not sufficient to meet these requirements.

(c) No evidence of coverage, or group contract, or amendment thereto, may be issued or delivered until a copy of the form has first been filed with the Commissioner and has not been disapproved by the Commissioner. A form or amendment, which is significantly different from that previously filed with the Commissioner, may not

be issued until it has first been filed with the Commissioner and has not been disapproved by the Commissioner. All forms and amendments shall be filed at least 30 working days prior to the planned date of issuance.

(d) All evidence of coverage forms shall clearly identify the name of the dental plan organization on its cover and in the text.

(e) All exclusions, exceptions, limitations, items not covered and services not provided by the plan should be clearly identified in the evidence of coverage form.

(f) Coordination of benefits and non-duplication of benefits provisions which limit payment to 100 percent of allowable expenses when more than one dental plan covers an enrollee are not permitted in an evidence of coverage or group contract issued by a DPO unless the following conditions are met:

1. Enrollees are covered under a group, not an individual contract;
2. The provisions are not operative with respect to dental plans provided by another DPO;
3. The DPO follows the rules set forth in the "Coordination of Benefit Guidelines" adopted by the National Association of Insurance Commissioners and any subsequent amendments or supplements thereto;
4. The funds recovered as a result of these provisions are credited directly against the charges payable by the group for the plan's services; and
5. If these conditions are met, both the group contract and evidence of coverage must include the coordination of benefits or non-duplication of benefits provisions.

(g) Provisions which exclude coverage for services provided by other dental plans or by dental insurance are not permitted in a contract issued by a DPO.

(h) No DPO may cover dental services on a fee-for-service, expense incurred or indemnity basis except as provided in (i) below. DPOs may offer capitation plans only.

(i) A DPO shall not cover the services performed by dentists who are not employed or under agreement with the DPO unless the services consist of either:

1. Specialized treatment which cannot be adequately performed by plan dentists; or
2. Treatment needed because of an emergency occurring outside the DPO's service area.

(j) An evidence of coverage issued to a non-group enrollee is subject to the plain language requirements of N.J.S.A. 56:12-1 et seq. All evidences of coverage, including those issued to enrollees of a group, should be written in a simple, clear, understandable and easily readable way. In writing an evidence of coverage form to be issued to an enrollee of a group, a DPO may use the guidelines set forth in N.J.S.A. 56:12-10 to assure compliance with this subsection.

11:10-1.7 Financial reporting

(a) Every DPO shall submit to the Commissioner a quarterly report of its activities on the form prescribed by the Commissioner within 45 calendar days after the end of each calendar quarter. The Commissioner in his discretion may waive this submission requirement.

(b) A DPO which also maintains a non-dental plan practice shall segregate its non-dental plan activities from its dental plan activities and report its dental plan activities only in the quarterly and annual report forms prescribed by the Commissioner. Non-dental plan activities include those activities involving supplemental dental plans and private practice dentistry.

(c) A DPO which is engaged in non-dental plan practice shall also report the activities of the entire organization in financial reports prepared by their accountants within 15 working days of completion of the report. The assets of the entire organization of which the DPO is a part are considered to be assets of the DPO.

(d) All financial reports from DPOs which are not incorporated shall include a breakdown of the personal finances of its proprietors and the finances of the dental plan. The personal assets of the proprietors are considered to be assets of the DPO.

11:10-1.8 General surplus

(a) Every DPO shall accumulate and maintain a minimum general surplus of \$25,000. The rate of accumulating the surplus shall be 5 percent of its net contract and certificate income in its first year of operation following the effective date of this subchapter, 3.5 percent in the second year and 2 percent annually thereafter.

(b) This surplus shall consist of unencumbered funds, cash, or marketable investments available for the protection of the DPO's enrollees.

(c) The general surplus shall be maintained over and above its reserves, liabilities and special contingent surplus.

(d) The Commissioner may waive all or a part of the general surplus requirement if the DPO maintains a contract(s) with an insurer, medical or dental service corporation sufficient to assure the performance of its obligations.

11:10-1.9 Expense limitation

(a) The year of operation for determining the applicable expense limitation (see N.J.S.A. 17:48D-14) shall be the year that the DPO enters into its initial dental plan contract.

(b) General expenses, acquisition expenses and miscellaneous taxes, licenses and fees shall be considered administrative expenses to which the 20 percent to 30 percent limitations apply. In determining compliance with the limitations, expenses shall be allocated to the administrative function and to dental care delivery.

(c) Expenses such as rent, utilities, building maintenance, real estate taxes, payroll taxes, depreciation, amortization, employee benefits, interest, and bad debts shall be allocated to those expenses necessary to support the administrative function and those expenses necessary to directly support the delivery of dental care.

(d) Administrative expenses include all expenses necessary to support activities which do not relate to the direct delivery of dental services.

1. The following expenses must be allocated to the administrative function in their entirety: accounting, consulting actuarial and legal fees, clerical and administrator's salaries, compensation paid to employees for their duties as directors and officers of the DPO, office supplies, printing, insurance (other than malpractice), postage and freight, automobile, travel, entertainment, acquisition expenses, and amounts contributed from income to the general and special contingent surplus.

2. All expenses relating to the sale and marketing of the plan shall be considered acquisition expenses.

(e) Expenses of delivering dental care include salaries and capitations paid to dentists, dental hygienists, and laboratory technicians; dental equipment and supplies; laboratory fees and malpractice insurance.

11:10-1.10 Complaints and other communications

(a) Complaint systems required of every DPO (see N.J.S.A. 17:48D-12) shall provide that a written response shall be furnished to the enrollee within 15 working days after its receipt of a written complaint. The DPO's response shall, based on the information available to it at the time of response, be complete and accurate.

(b) Every DPO shall, based on the information available to it, provide the Department of Insurance with a complete and accurate written response to any inquiry from the Department within 15 working days after its receipt of such inquiry.

(c) Every DPO shall furnish an appropriate reply to all other communications which reasonably suggest that a response is expected within 15 working days of receipt.

(d) Every DPO shall retain all written complaints and correspondence relating thereto for at least three years after the date of the last correspondence in file.

11:10-1.11 Fidelity bonds and malpractice insurance

(a) The minimum amount of the fidelity bond on each director, officer, partner or employee of the DPO required by N.J.S.A. 17:48D-8 shall be \$50,000.

1. Every DPO shall increase the bond amount as appropriate whenever its risk of loss for individual employee theft is substantially greater than \$50,000.

2. The fidelity bond shall name the DPO and the State of New Jersey as dual obligees.

(b) All dentists serving enrollees of a DPO shall be insured for malpractice in an amount not less than \$1,000,000.

(c) The fidelity bond and the malpractice policy shall be obtained only from an insurer which is licensed to conduct business in New Jersey.

11:10-1.12 Schedule of charges

(a) Every new or revised schedule of charges must be filed with the Commissioner at least 30 working days prior to its effective date. A DPO shall not use a schedule of charges which has been disapproved by the Commissioner.

(b) All filings of charges must include sufficient information to enable the Commissioner to determine that the charges are not excessive, inadequate or unfairly discriminatory. All details, including the actuarial principles, assumptions and methods of calculation used in developing the rates, must accompany the filing.

(c) Every filing of a schedule of charges shall include projections of the following information, in total and per enrollee:

1. The annual income to be produced from the charges during the period that the charges are to be effective;

2. The amount of this income to be used for all administrative expenses (as defined in N.J.A.C. 11:10-1.9(d)), except contributions to surplus;

3. The amount of this income to be used for the expenses of delivering dental care (as defined in N.J.A.C. 11:10-1.9(e)); and

4. Profits, surplus additions, and other elements of retention, each of which shall be itemized separately.

(d) Every filing of a revised schedule of charges shall include the information required by (a) through (c) above, the percentage increase or decrease requested and the prior experience under the old rates itemized as described in (c) above.

11:10-1.13 Enforcement

Any DPO which violates any provision of this subchapter shall be subject to the penalty for violations of the Dental Plan Organization Act and amendments thereto. DPOs are also subject to suspension or revocation of their certificate of authority for failure to comply with this subchapter pursuant to N.J.S.A. 17:48D-16.

11:10-1.14 Separability

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

arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-118.

The agency proposal follows:

Summary

The proposal will establish "no parking" zones along both sides of Route 70 in the Borough of Lakehurst, Ocean County. Appropriate signs will be erected to advise the motoring public.

Social Impact

The amendment will restrict parking along Route 70 in the Borough of Lakehurst for the efficient flow of traffic along the highway and the enhancement of the safety and well-being of the populace.

Economic Impact

The Department will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements.

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

16:28A-1.37 Route 70

(a) The certain parts of State Highway Route 70 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in the Borough of Lakehurst, Ocean County along both sides:

i.-ii. (No change.)

iii. **For its entire length including all ramps and bridge connections under the jurisdiction of the Commissioner of Transportation.**

3.-7. (No change.)

(b) (No change.)

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 70**

Proposed Amendment: N.J.A.C. 16:28A-1.37

Authorized By: David W. Gwynn, Chief Engineer,
Transportation Operations and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and
39:4-139.

Interested persons may submit in writing, data, views or

(b)

TRANSPORTATION OPERATIONS

Turns

Route US 206

Proposed Amendment: N.J.A.C. 16:31-1.1

Authorized By: David W. Gwynn, Chief Engineer,
Transportation Operations and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-183.6 and
39:4-199.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983.

These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
 Administrative Practice Officer
 Department of Transportation
 1035 Parkway Avenue
 Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-119.

The agency proposal follows:

Summary

The proposal will establish no "U" turns for vehicles over four tons gross weight along Route US 206 in Bordentown Township, Burlington County based upon a request from local officials and engineering studies conducted by the Department of Transportation. Appropriate signs will be erected to advise the motoring public.

Social Impact

The amendment will prohibit vehicles over four tons from making "U" turns in certain designated areas along Route 206 which will enhance the safety, the well-being of the populace and the efficient flow of traffic along the highway.

Economic Impact

The Department will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements.

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

16:31-1.1 Route US 206

(a) Turning movements of traffic on the certain parts of State highway Route US 206 described [herein below] in **this section** are regulated as follows:

1. (No change.)

2. "U" turn movements of vehicles over four tons gross weight at certain locations in Bordentown Township, Burlington County are hereby prohibited as described below:

i. Northbound:

(1) From Dunns Mill Road to milepost 33.8.

ii. Southbound:

(1) From milepost 33.8 to milepost 35.1.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Corporation Business Tax
 Entire Net Income; How Computed**

Proposed Amendment: N.J.A.C. 18:7-5.2

Authorized By: Sidney Glaser, Director, Division of Taxation.

Authority: N.J.S.A. 54:10A-27.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
 Chief Tax Counselor
 Division of Taxation
 West State and Willow Streets
 Trenton, NJ 08646

The Division of Taxation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-120.

The agency proposal follows:

Summary

The Director of the Division of Taxation using his rulemaking power pursuant to N.J.S.A. 54:10A-27, is proposing clarification of the responsibility of a corporate partner with respect to accounting for its distributive share of Accelerated Cost Recovery (ACRS) after the enactment of Chapter 50, Laws of 1982. The corporate partner, as a taxpayer, must include the distributive share of any ACRS received from the partnership.

Social Impact

Taxpayers and taxpayer representatives are given explicit instructions with respect to the treatment to be accorded the distributive share of ACRS deduction derived from a partnership in the preparation of Corporation Business Tax Returns. It is an extension of the certainty principle in the administration of that tax.

Economic Impact

Where the position of the Director with respect to the tax treatment of ACRS is clearly stated, the cost of compliance and tax return preparation is reduced. The State and the taxpayer will avoid costs of disputes and litigation in the computation of the tax. The cost to the State of administration of the tax will be reduced to some extent.

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

18:7-5.2 Entire net income; how computed

"Taxable income before net operating loss deduction and special deductions", hereinafter referred to as Federal taxable income, is the starting point in the computation of entire net income. After determining Federal taxable income, it must be adjusted as follows:

(a) Add to Federal taxable income:

1.-9. (No change.)

10. In any year or short period which ends after 1981, any depreciation or cost recovery (ACRS) which was deducted in arriving at Federal taxable income and which was determined in accordance with Section 168 of the Federal Internal Revenue Code in effect after December 31, 1980[.], **including the taxpayer's distributive share of any such ACRS from a partnership.** See N.J.A.C. 18:7-5.2(b)4 for depreciation allowable in computing entire net income.

11.-12. (No change.)

(b) (No change.)

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

Revised Fee Schedules

Proposed Amendments: N.J.A.C. 19:3-1.1, 1.2 and 1.4.

Authorized By: Hackensack Meadowlands Development
Commission, Anthony Scardino, Jr., Executive
Director.

Authority: N.J.S.A. 13:17-1 et seq.

A **public hearing** concerning this proposal will be held on April
26, 1983 at 9:00 A.M. at:

Hackensack Meadowlands Development
Commission
One DeKorte Park Plaza
Lyndhurst, NJ

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before April 25, 1983.
These submissions, and any inquiries about submissions and
responses, should be addressed to:

George Cascino, Chief Engineer
Hackensack Meadowlands Development
Commission
One DeKorte Park Plaza
Lyndhurst, NJ 07071

The Hackensack Meadowlands Development Commission
thereafter may adopt this proposal without further notice (see:
N.J.A.C. 1:30-3.5). The adoption becomes effective upon
publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-121.

The agency proposal follows:

Summary

The proposed amendments increase the fees which will be
charged by the Hackensack Meadowlands Development
Commission for its review of subdivision, zoning and occupancy
applications. The Commission is proposing the increase in fees
imposed upon applicants proposing development in the
Meadowlands District to correspond more closely with the costs the
Commission incurs to review these applications. The proposed
increased fees are comparable to the fees now imposed by
municipalities upon persons proposing development with their
jurisdiction.

Social Impact

The proposed increased fees will affect any person, developer or
corporation that files a subdivision, zoning or occupancy
application proposing development in the Meadowlands District.

Economic Impact

The proposed increased fees will affect any contemplating
development in the Meadowlands District. The burden of these
increased fees on the developers is outweighed by the benefit
incurred by the Commission in recouping the costs it incurs in
reviewing these applications.

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

19:3-1.1 Subdivision

(a) A fee of [\$50] **\$100.00 per acre, with a minimum fee of
\$100.00** is charged for a minor subdivision.

(b) (No change.)

(c) Fee for preliminary plat review is charged [at rates] **for a
major subdivision** equal to:

1. [\$50] **\$100.00** per acre of subdivided property for the first 10
acres;
2. [\$5.00] **\$25.00** per acre of subdivided property for the next 40
acres;
3. [\$.100] **\$5.00** per acre of subdivided property in excess of 50
acres.

[(d) No fee is charged for final plat approval of major subdivision.]

[(e) A] **4. Plus**, a fee of one-quarter of one percent of the value
of public improvements as determined by a certified estimate
prepared by a New Jersey professional engineer is charged to cover
the cost of inspections.

**(d) A fee of \$100.00 is charged for final plat approval of any
major subdivisions.**

[(f)](e) A fee of \$100.00 is charged for each specific waiver
request.

19:3-1.2 Zoning

(a) Zoning fees are as follows:

1. A fee of [\$50.00] **\$1.00 per
100 square feet of lot area or a minimum fee of \$50.00 is charged
for a zoning certificate for a new building; and one-half of these
fees for additions;**

2. A fee of [\$25.00] **\$50.00** is charged for sign review[;], **tanks,
and parking;**

3. A fee of [\$100.00] **\$500.00** is charged for appeals to the
Commission, **\$400.00 per special exception[s, and \$100.00 for
each specific variance request.], \$600.00 for each use variance
request, and \$500.00 for each other variance.**

(b) Specially planned areas fees are as follows:

1. **Initial General plan: [\$2,500;] \$25,000; each revised general
plan: \$15,000.**

2. **Initial Development plan: [\$2,500;] \$10,000; each revised
development plan: \$5,000.**

3. **Initial Implementation plan: [\$5,000 plus 1/4 of one percent
of value of public improvements as determined by a certified
estimate submitted by a New Jersey professional engineer to cover
the cost of inspections.] \$10,000; each revised or individual
implementation plan: \$5,000.**

4. \$1,000 per variation request.

**5. \$5,000 for any variance application from the requirement
that an applicant owner control 80 percent of the land within
an S.P.A. This applies only in instances when the property
owner controls less than 20 percent of the S.P.A.**

19:3-1.4 Occupancy

(a) [The fee for occupancy certificates is \$50.00.]

[(b)] No fee is charged in cases where a building permit or
Certificate of Compliance fee in excess of the minimum fee
**imposed for a Certificate of Occupancy or a Certificate of
Completion** has been paid.

**(b) The fee for a Certificate of Occupancy or a Certificate of
Completion is \$200.00.**

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Fees and Charges
Additional Administrative Fees**

Proposed Amendment: N.J.A.C. 19:30-2.2

Authorized By: James J. Hughes, Jr., Executive Director,
New Jersey Economic Development Authority.
Authority: N.J.S.A. 34:1B-1 et seq., specifically 34:1B-5
k and l.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gary Nadler, Manager of
Administration
New Jersey Economic Development
Authority
Capital Place One
200 South Warren Street
CN 990
Trenton, NJ 08625

The New Jersey Economic Development Authority thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-122.

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (NJEDA) is proposing to establish the authorization to levy additional administrative fees for the processing involved with certain specific types of transactions associated with its industrial development bond issuance program. These types of transactions involve previously issued bonds, which the borrower requests NJEDA's approval to modify. The current fees identified in N.J.A.C. 19:30-2.1 (Application fees) and 2.2(a) (Administrative fees) would have been collected for processing the original bond issue, and NJEDA now intends to charge additional fees for the additional transactions described below:

1. Straight refunding bond issue: The proceeds of the issue are used to satisfy the outstanding debt of a previous issue.
2. Refunding bond which includes a supplemental issue: The proceeds of the issue are used to satisfy the outstanding debt of a previous issue, plus finance some additional eligible project costs.
3. Change of ownership: The borrower wishes to sell its interest in the project to another entity.
4. Amended/modified bond issue: There is a significant change in the terms of the bond which necessitates amending or modifying the original agreement.

In the past, NJEDA has processed these types of transactions without assessing a fee. However, due in large part to prevailing economic conditions, the frequency of borrower requests for approval of such transactions is increasing. It is NJEDA's intent to recover the expense it incurs in processing these transactions by charging fees for them.

Social Impact

A prospective borrower who might anticipate the eventuality of refinancing, or who is considering selling its interest in the project, for example, will have to consider the additional cost that will be

incurred in the form of the proposed additional administrative fees. However, it is not anticipated that this will cause any reduction in the number of applications for tax-exempt bond financing received by NJEDA, or in the amount of investment in the projects.

Economic Impact

NJEDA will realize additional revenues in support of the operating expenses it incurs in administering the industrial development bond program. The impact on borrowers is the increased cost which will be incurred at such time as a borrower is approved for one of the chargeable transactions.

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

19:30-2.2 Administrative fees

(a) (No change.)

(b) The following additional administrative fees shall be charged:

- 1. For straight refunding bonds, one half of the administrative fee;**
- 2. For refunding bonds with a supplemental issue, one half of the administrative fee for the refunding portion, the administrative fee for the supplemental portion;**
- 3. For processing an approved change of ownership application, \$1,000.00;**
- 4. For amending or modifying an outstanding bond obligation, \$500.00. These fees shall be payable upon closing of the bond agreement, or upon approval of a change of ownership or modification of a bond agreement.**

(b)

CASINO CONTROL COMMISSION

**Gaming Equipment
Rules of the Games**

Proposed Readoption: N.J.A.C. 19:46 and 47

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c), 69, 70(f) and (i) and 100.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Casino Control Commission
Division of Financial Evaluation & Control
3131 Princeton Pike Office Park
Building No. 5
CN 208
Trenton, NJ 08625

The Casino Control Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-126.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66 (1978), the Casino Control Commission proposes to readopt N.J.A.C. 19:46 concerning gaming equipment and N.J.A.C. 19:47 concerning rules of the games. These rules are being jointly proposed for readoption because the commission considers them to be companion chapters.

N.J.A.C. 19:46 was originally filed with the (then) Division of Administrative Procedure and became effective on June 5, 1978. It is scheduled to expire on June 5, 1983. N.J.A.C. 19:47 was originally filed with the (then) Division of Administrative Procedure and became effective on June 2, 1978. This chapter is scheduled to expire on June 2, 1983. These rules were promulgated in order to implement the applicable provisions of the Casino Control Act (N.J.S.A. 5:12-1 et seq.) concerning the commission's obligation: to regulate the use and operation of gaming devices (section 70(f)); to regulate the manufacture of all gaming equipment (section 70(i)); and to define and limit the rules of authorized games (section 70(f)). See also N.J.S.A. 5:12-100.

N.J.A.C. 19:46 addresses the physical characteristics and procedures governing the use of all gaming devices and equipment. The rules provide minimum specifications concerning gaming chips, plaques, tokens, table layouts, slot machines and devices used in the conduct of gaming (e.g. cards, dice, and dealing shoes). These minimum specifications are required to assure the fair operation of authorized games and to assure consistency and control over the gaming equipment and devices used in gaming activities.

The need to promulgate specifications and controls regarding gaming equipment becomes readily apparent when one considers that the randomness and probabilities inherent in each authorized game can be significantly affected by the equipment used. Equipment or devices used in a game that do not meet certain specifications may have a detrimental effect on either the patrons or the casinos, depending upon the nature of the imperfections. Moreover, prior to the promulgation of these rules, the commission became aware of cheating techniques which can be implemented through the use of flawed, imperfect or tampered equipment. Therefore, these rules were promulgated as a preventative measure to protect the public, the industry and the State from falling victim to various methods of cheating that could result in monetary losses to either gambling patrons, the industry or the State.

The rules regarding the manufacture and control of gaming chips, plaques and tokens were designed to prevent counterfeiting and to assure the necessary control over activities conducted with these items. The design, color and size of the plaques and chips permit effective supervision and surveillance to take place over the collection of losing wagers and the payout of winning wagers. Additionally, these requirements facilitate the identification of certain cheating techniques that can occur at the tables. The rules provide procedures for handling gaming chips, plaques and tokens within the gaming environment. The specifications as to design, color and size prevent the intermingling of chips between different casinos in furtherance of certain illegal types of activities.

The specifications and requirements of these rules covering such subjects as gaming table layouts, cards, dice, dealing shoes and slot machines are all necessary to create an effective control system that assures, to the greatest extent possible, the integrity of gaming operations, the fair operation of the games to the patrons and the vitality of the casino industry. Through the specifications set forth in these rules, patrons are notified of key elements of the games, surveillance is enhanced (through the different markings) and protective devices are required to diminish the possibility of certain cheating activities.

In addition to the preventative measures discussed above, the consistency of all gaming devices and equipment is expected to have a favorable effect on patrons, casino personnel and agents and inspectors of the State regulatory authorities. Consistency and standardization of the specifications applicable to this equipment tends to avoid the bewilderment and dismay that might otherwise

be experienced by patrons and casino and State personnel who would have to become familiar with different standards for the same pieces of equipment used in different casinos. Without such uniformity in approach, both detection and enforcement would be more complicated. Additionally, confusion would surely result were one piece of gaming equipment to be found satisfactory for use in one casino and unsatisfactory in another. The standardization and consistency which these rules produce is certainly in accord with the public policy set forth by the Legislature in the Casino Control Act. Thus, N.J.S.A. 5:12-1(b)(14) provides:

Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

In many ways, the rules regarding gaming equipment not only protect the casino operator but also promote and protect the interests of gaming patrons. Such provisions as the payout displays and win meters required on each slot machine provide the gaming patron with the necessary information to understand the game and to verify the actions of the machines. Required devices which insure an "automatic lockout" when a manual jackpot is hit on a slot machine provide protection against the human mishap of wiping off a winning combination before payment has been made. Hence, the rules protect the patron while simultaneously protecting the casino from common cheating techniques and the potential for the introduction of yet further cheating activity.

N.J.A.C. 19:47 was promulgated in accordance with the mandates of sections 70(f) and 100 of the Casino Control Act. These rules are necessary to define and limit the areas of authorized games. These games include craps, blackjack, baccarat, roulette, the big six wheel and slot machines.

One of the commission's obligations under the act is to foster a gracious playing environment. Accordingly, N.J.A.C. 19:46 dictates the floor configuration and spacing of slot machines and table games, and controls noise and light levels so as to avoid the deception or distraction of players. In responding to the statutory mandate, the commission sought to balance the method of play to insure fair games to the public and to assure the economic vitality of casino operations. Due to the continued interest of both casino patrons and casino management, it appears that the commission was successful in meeting this balance.

N.J.A.C. 19:47 provides minimum guidelines which permit the industry maximum flexibility to modify rules in response to patron demand. The present rules of the games have always been responsive to public and industry comments. Perhaps an area where this has been most apparent is with regard to the game of blackjack. On May 5, 1982, the New Jersey Supreme Court held that casinos could not exclude card counters in the absence of a valid commission rule authorizing exclusion. Since no rule had been adopted by the commission, and since the court was not certain whether the commission would have adopted rules regarding this subject if it had been aware that casinos could not exclude such individuals, the court granted the commission 90 days to adopt whatever rules might be necessary. In response to the Supreme Court's ruling, the commission adopted rules which essentially modified the then existing shuffling and dealing procedures in blackjack. The promulgation of these rules made it possible for the industry to accept card counters by lowering the card counter's advantage over the house to .5 percent. The commission's reaction to the card counter problem was beneficial to the industry and the public. Simply, it provided the mechanism to insure maximum participation for all groups of people and it protected the economic viability of the industry from what might have been an economically ruinous situation. Of course, the economic viability of the industry assures the economic strength of the social programs which are financed by the tax imposed on each casino's gross revenues (see N.J.S.A. 5:12-14(a)).

The rules contained in N.J.A.C. 19:47 are representative of the

type of entertainment the playing public desires and of what the industry requires to insure the integrity of casino gambling. The implementation and operation of these rules has offered a fair and consistent game to the patrons and has protected the economic viability of the industry.

Both N.J.A.C. 19:46 and N.J.A.C. 19:47 play an integral part in creating an appropriate control system. Amendments made to the rules of the games may affect the gaming apparatus used in the conduct of gaming. For example, should the commission delete or add specific bets on a craps table, the rules concerning permissible wagers in the game of craps would be amended concurrently with the change in physical characteristics of table layouts in the game of craps.

Since the effective date of N.J.A.C. 19:46 and N.J.A.C. 19:47, professional members of both the commission staff and the Division of Gaming Enforcement have continually reviewed, monitored and assessed the merits and viability of the system in operation. This review has always included comments received from the industry, or other interested persons filed pursuant to section 69(c) of the Act and the applicable provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.). As a result of this review process, changes have been made to these rules when the commission found them to be in the best interests of the public, casino operations and the proper administration of the Act. In effecting change, the commission has always been sensitive to changing social and economic conditions and has exercised its regulatory and review powers in a cautious yet flexible manner. Because these rules are continually reviewed, they are presently proposed for readoption without any substantive or technical amendments.

The standards and procedures created by these rules implement the provisions of sections 70(i) and 100 of the Act. These sections require the commission to promulgate rules concerning gaming and gaming equipment and also require that casino licensees, as a condition of operation, conduct their games in such a manner and with such equipment as the commission requires. Therefore, the failure to readopt these rules would require the State to reexamine the viability of the continued operation of casino gaming within the regulatory vacuum which would thereby be created.

Social Impact

The continuation of N.J.A.C. 19:46 and N.J.A.C. 19:47 will have a positive social affect on the public, the industry and the regulatory agencies which implement them.

An integral and essential element of the regulation and control of casino gaming by the State rests in the maintenance of public confidence and trust in the credibility and integrity of the regulatory process and of casino operations (see N.J.S.A. 5:12-1(b)(6)). Through the readoption of these rules, the public can be assured that the State is fulfilling its regulatory obligations under the Act in such a manner as to promote public confidence.

The design of N.J.A.C. 19:46 and N.J.A.C. 19:47 included efforts to eliminate all known cheating techniques. If in the past a problem was disclosed, these rules facilitated discovery and correction of the problem before it materialized into significance. The success of these chapters is predicated upon consistency and control. Without the consistency and control provided by these rules, previously streamlined through amendments resulting from their continued assessment, the confidence of patrons would diminish as would the present orderly gaming atmosphere. Further, the absence of such rules would dilute the casinos ability to administer, control and operate gaming activities.

These rules have a broad effect in the total complex of the gaming effort. This effect is evidenced not only in the maintenance of public confidence through the implementation of controls from casino to casino, but within the casinos themselves and the regulatory and enforcement agencies that monitor their operations. As mentioned above, these rules provide an orderly atmosphere for administration by casino management and insure viability of operation. Additionally, through their definition and precision the readoption

of these rules will continue to assist the Casino Control Commission, the Division of Gaming Enforcement, the Atlantic City Fire Department, the Department of Community Affairs, the Atlantic City Building Inspector and casino security departments in the successful discharge of their responsibilities as they bear upon casino operations.

Over the past few years, the rules on gaming equipment have had a distinct overall impact on the relationship between the State regulators, the casinos and the gaming equipment manufacturers and distributors. The review and approval process with respect to this equipment has fostered a successful communication network between the involved parties and has brought about a better understanding of the problems and philosophies of each with respect to this equipment. Discussions during this process have made each party more aware of the critical elements associated with the equipment used in the casino. Because the implementation of these rules requires cooperation among the State regulatory agencies, casinos and manufacturers, the different perspectives and concerns of each party have been clearly noted and have provided the thrust for new and improved methods in the design, manufacture and security of gaming equipment.

The gaming equipment rules have also had an effect on the activities occurring on the casino floor. Initially, the interaction of State regulators with casino personnel during the inspection processes occurring on the floor have proven beneficial in enhancing each other's knowledge of this area. Through the review process required by these rules, additional training programs have been instituted for both casino and State personnel making each more aware not only of the specific requirements of the rules, but also of the rationale behind these requirements. In some cases, such exchanges have contributed to the revision of equipment controls and standards and resulted in some innovations being explored and tested.

Although not easily verifiable, it is believed that the State promulgated standards and controls over casino equipment have added to the sense of fairness and security felt by the casino patrons. Through the review standards and review processes which these rules provide, it is anticipated that Atlantic City casinos will continue to maintain a reputation for honesty and integrity. In some cases, disputes between patrons and casinos may also be diminished by virtue of the requirements in these areas. Additionally, a more comfortable and secure psychological environment is created for the patron who can be assured that the integrity of a particular piece of equipment is not left to the whim of a casino employee.

In promulgating the rules of the games, the commission has established the basic relationship between the casinos and the patrons in the operations of the authorized games. By covering both procedural and substantive aspects of the games, these rules establish the basic rights and responsibilities of the casinos and patrons in the play of each game. They are designed to assure fairness to the player while protecting the vitality of the casino industry and encouraging maximum participation by those who visit the casinos.

Although extremely difficult to quantify or qualify, the substantive rules of the games probably have a significant effect on the type and mix of players who gamble in the casinos and on the perception of the casinos toward its patrons. For example, it would be anticipated that rules of the games more favorable than those found in other jurisdictions would attract a broader array of patrons than might otherwise be found. Clearly, the types of rules probably also affect the type of tourist visiting the casinos.

The present rules of the games can be generally described as more favorable to the player than those in other jurisdictions (for example, the Carribean or parts of Nevada). Although generally favorable to the player, they have also provided a successful balance between the casinos and the patrons. By achieving this balance, the rules have contributed to bringing a wide spectrum of people from a variety of socio-economic classes and geographic regions to Atlantic City, thereby fostering the policy of the Act to

revitalize Atlantic City.

As with the rules concerning gaming equipment, the rules of the games are designed to enhance the reputation of casino gambling in Atlantic City. Both the procedural and substantive safeguards in the rules are intended to generate a reputation for honesty and integrity and to provide the patron and the casino with a sense of confidence in the operation of legalized gambling activities in New Jersey.

In some respects, certain specific rules have the effect of discouraging certain types of players. For example, the rule in blackjack prohibiting players from touching the cards discourages that social strata of player intent on card switching and card marking from coming to Atlantic City. Similarly, the rule that prohibits a dealer from looking at his hole card thwarts an attempt by dealer and patron to enter into a socially unacceptable and collusive relationship with respect to the identity of the hole card.

The most recent changes to the rules on blackjack (effective in September of 1982) have also had a significant effect on the relationship between casinos and certain skilled blackjack players, colloquially referred to as "card counters". Prior to that time, these players were excluded by casinos. Following the Supreme Court decision and the rule changes implemented in September 1982, this group of players could no longer be excluded from blackjack play. It appears that the rule changes made in September of 1982 have had a substantial impact on the number of card counters that have since frequented the casinos.

The rules of the games also have an impact upon the training of casino employees. Although not totally uniform in procedure, the training provided has been molded, of necessity, to the rules which have been adopted. Training procedures have become far more uniform and standardized than would be the case if the rules were left to each casino. This effect is also felt by inspection and enforcement personnel whose tasks have been simplified by the degree of uniformity and consistency promoted and achieved by these rules.

Economic Impact

The economic impact of these rules is extraordinarily broad. Since no formalized studies have been conducted nor each potential economic effect itemized, the impact is somewhat speculative. Nonetheless, some effects can be identified if not precisely quantified.

In general, the adoption of these rules has been a major factor in assuring the required economic and financial balance between the casinos and the patrons and in providing tax revenues to the State. In this regard, the rules have provided a reasonable profit to casino operators, a balanced equity for the patron and revenue for the State.

Without the readoption of these rules, it can be reasonably expected that the present balance between these parties would be adversely affected. Without these rules, State control of gaming would no longer be in compliance with the Casino Control Act, the advantage of standardized rules and standardized equipment would be lost and the possibility of unfair odds and devices would be increased.

With respect to the rules concerning gaming equipment, the most significant economic impact (encountered immediately after those rules were first adopted) has been the cost involved in purchasing equipment and in formulating and implementing control and security procedures. This being the case, the economic impact resulting from the continuation of these rules in terms of these aspects would be far less significant. Since equipment meeting the standards and specifications of the existing rules has already been developed, no significant increase in developmental or formulation costs would be anticipated. Similarly, costs involved in formulating new procedures would be minimal at most in relation to those then involved. There are costs involved in the continuation of the present procedures, but these are outweighed by the costs resulting from the negative business practices which would result from an unregulated control and security system.

In the absence of the present standards and specifications governing gaming equipment, the potential for economic loss to the patrons and the casinos would increase due to the proportional increase in the possibility of imperfect and tampered equipment being introduced into the gaming process. Equipment that does not meet the present standards can have a negative effect on the randomness or probabilities inherent in the game being played, thereby affecting the win or loss of the patrons and the casinos. The specifications in these rules seek to prevent this type of economic effect from occurring by assuring that the equipment and devices used in the games are fair and in proper working order.

By assuring control and security over the equipment used in the games, these rules attempt to prevent the negative economic effects associated with certain types of cheating activity. Although precise statistics on this economic impact are not available, even one set of marked cards (for example, in a game of blackjack or baccarat) can have a negative impact of tens of thousands of dollars. By providing for the control and security over this equipment, these rules seek to diminish the chance of this undesirable result occurring.

As with the rules concerning gaming equipment, the economic effect of the rules of the games is significant in that it establishes the economic relationship between the casino and the patron. For example, the rules of the games establish the payout odds of each type of bet in the casino. This in turn establishes the rate of percentage at which a player will lose over a theoretical period of infinity, and at which a casino will win over the same period. This then translates into the overall gross revenue derived by the casino and the overall loss incurred by the aggregate number of players gaming during a particular time segment.

The present rules of the games have demonstrated that, at least for the present time, an equitable economic balance has been achieved between the casinos and the patrons. The failure to readopt these rules may well change this balance depending on the rules that would be adopted by the casinos in their absence. If, for example, the casinos decreased the payout odds, this could either increase or decrease casino revenue. If the money wagered remained the same, a decrease in the payout odds would have the effect of increasing casino revenue over a period equal to a prior period at increased payout odds. However, there is no assurance that the money wagered would remain the same. Reducing the payout odds may result in less casino revenue because of a reduction of patrons, and concomitantly in the amount of money wagered. Likewise, an increase in the payout odds has just as dubious an effect. If everything else remained constant, it would decrease the amount of casino revenue and might jeopardize casino viability. On the other hand, it could induce more patrons to gamble and thereby increase the amount of revenue derived by the casinos.

The absence of some of the procedural rules found in the rules of the games could also have a significant effect should they not be readopted. By being designed to prevent different types of cheating activity, these procedural rules protect both the casinos and the patrons from unfair play. Without such procedural controls, the likelihood of this type of activity occurring may well increase, with a resulting negative economic impact on the patrons or casinos who become the victims of it.

Full text of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 19:46 and 19:47, as amended in the New Jersey Register.

(a)

CASINO CONTROL COMMISSION**Equal Employment Opportunity and Affirmative Action****Proposed Readoption: N.J.A.C. 19:53**

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.
 Authority: N.J.S.A. 5:12-63(c), 5:12-134 and 5:12-135.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Richard Dana Krebs, Esq.
 Casino Control Commission
 3131 Princeton Pike Office Park
 Building No. 5
 CN 208
 Trenton, NJ 08625

The Casino Control Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-127.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66 (1978), the Casino Control Commission proposes to readopt N.J.A.C. 19:53 concerning equal employment opportunity and affirmative action. These rules were originally filed with the (then) Division of Administrative Procedure and became effective on January 23, 1978. The rules implement the provisions of the Casino Control Act (N.J.S.A. 5:12-1 et seq.) concerning equal employment opportunity and affirmative action (N.J.S.A. 5:12-134 and -135) and the commission's obligation to promulgate rules to enforce these provisions of the act. The rules are also responsive to the requirements of Federal statutory (42 U.S.C.A. 2000(e) et seq.) and regulatory (29 CFR 1608 et seq.) law and to the State Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

N.J.S.A. 5:12-134 requires all applicants and licensees to agree to afford equal employment opportunity to all employees and prospective employees in accordance with an affirmative action program approved by the commission. Section 135 of the Act grants the commission the authority to enforce the equal employment opportunity mandate. These provisions affirm the public policy of the State of New Jersey to promote equal employment opportunity by prohibiting discrimination and by implementing affirmative action programs which are designed to achieve a balanced workforce. The rules represent the commission's concern with securing compliance in both the casino hotel and casino construction industries. They address specific guarantees which applicants and licensees must make, including guarantees not to discriminate against any employee, and the requirement to take affirmative action to insure that "protected class" persons are recruited and employed at all levels of the workforce. Other required guarantees concern advertising available positions, tests and other employment criteria, contact with minority referral agencies, and the inclusion of equal employment opportunity language in advertisements. The rules also establish standards for the imposition of sanctions for non-compliance.

Additionally, the rules set forth minimum employment goals which may be used as standards for determining an applicant's or licensee's good faith efforts at compliance. N.J.A.C. 19:53-1.5(e) sets percentage goals for all New Jersey counties, stating that the applicable goals for a licensee shall be those for the county in which it has its principal place of business. Thus, for all casino hotels, the Atlantic County goals of a minimum of 20 percent minority and 43 percent female employment applies. N.J.A.C. 19:53-1.5(a)2 imposes the additional obligation to affirmatively recruit and employ protected class persons at all levels of the workforce. The rules also provide guidelines concerning accommodations to handicapped persons.

The rules set certain standards designed to advance equal employment opportunity in the construction workforce. Contractors, subcontractors, applicants and licensees are required to report on the character of their workforce on a regular and continuing basis. They are required to act in a myriad of ways to achieve the goals of 20 percent minority and 6.9 percent female participation in the construction workforce (see N.J.A.C. 19:53-1.4(c)1 and 1.5(e)).

Additional sections of the rules address certain equal opportunity guarantees which other elements of the gaming industry, such as casino service industries and gaming schools, are required to meet.

Several sections of N.J.A.C. 19:53 were amended in May, 1978. N.J.A.C. 19:53-1.4, concerning mandatory percentage goals for women in the construction industry, was amended in response to standards issued by the United States Department of Labor. N.J.A.C. 19:53-1.5 was amended to clarify that goal compliance language for minority workers and females applies at all levels of the workforce.

The Commission's Division of Affirmative Action and Planning monitors and enforces these rules. The division is continuously engaged in an analysis of the gaming industry's compliance with the rules. Such analysis includes field investigations, the preparation of statistical reports and the receipt from the industry of required monthly and quarterly reports. The division also reviews industry and public comment received through informal and formal means.

It is clear that the rules have had a positive impact on increasing opportunities for minorities and females to obtain employment, upward social and economic mobility and fair treatment in the casino industry in the State of New Jersey. It is also clear that minority and female residents of South Jersey have gained economically and socially as a result of expanded job opportunities in the gaming industry. It is believed that this positive trend will continue without the need for amendments at this time. However, the results also indicate that despite the employment of a substantial number of minority and female workers, the industry has not yet achieved full compliance with the rules and requirements respecting protected class representation at all levels of the workforce. Efforts will be redoubled to reach these goals under the commission's aegis and through persistent application of the rules.

Social Impact

The social impact of the rules on the casino industry stems from the requirement to establish affirmative action programs in compliance with the rules and the Federal and State laws which they implement. Such programs require the designation of an equal employment officer (see N.J.A.C. 19:53-1.13) who serves as a liaison to the commission respecting all matters which are the concern of these rules. These rules also provide guidelines for the industry to seek compliance with Federal statutes and rules and other State laws concerning equal employment opportunities.

By far the greatest social impact of these rules is upon the minority and female workforce which is the focus of their operation. An analysis of the workforce composition of the casino gaming industry and of personnel actions transpiring during 1981 and 1982 indicates the substantial employment opportunities which have become available to minorities and females. Statistical tables

which show these figures may be reviewed at the Office of Administrative Law, 88 East State Street, Trenton, New Jersey and the Casino Control Commission, 3131 Princeton Pike Office Park, Building No. 5, Trenton, New Jersey. At the same time, these statistics reinforce the continued need for the commission's rules on equal employment opportunity and affirmative action. Thus, this analysis indicates that while there is strong representation by minorities and females in the workforce as a whole, their distribution in the upper reaches of the job hierarchy (for example, better paying positions) remains significantly below the compliance levels required by and stipulated in the rules (see, for example, N.J.A.C. 19:53-1.5(a)2). This continued concentration of minorities and females in lower paying jobs in the industry clearly indicates the need to maintain, and to continue enforcement of the existing rules.

To the extent that these rules increase employment opportunities for minority and female residents of Atlantic City and the rest of South Jersey, these rules promote the general social welfare of the region.

These rules serve the general public interest by effectively implementing Federal and State public policy concerning the promotion of equal employment opportunity and affirmative action (see 42 U.S.C.A. 2000(e) et seq.; N.J.S.A. 5:12-134 and 135; N.J.S.A. 10:5-1 et seq.).

The failure to readopt these rules would greatly impede the social betterment and progress which they have provided for the minority and female workforce, the industry and the region. These rules assure and guarantee the continuation of the positive trend toward increasing employment opportunities for minority and female workers. This trend and the fulfillment of the public policy concerning equal employment opportunity in casinos and related industries could not be realistically guaranteed without the operation of specific and enforceable rules, such as the present ones. Further, the failure to readopt these rules would be a violation of the commission's statutory obligation to promote equal employment opportunities and affirmative action within the casino and casino construction industries.

Economic Impact

The rules require the industry to expend a degree of money and labor commensurate with its duty and obligation to comply with them. This may require the hiring of additional staff (see, for example, N.J.A.C. 19:53-1.13) to prepare required reports and to monitor compliance with these rules. The commission believes that the cost of compliance for the industry is insignificant in comparison to the social and economic benefits which these rules promote.

The economic impact of these rules on the commission is the need they create to maintain a staff to enforce and monitor compliance with the rules, including the review of required submissions and reports from the industry, the preparation of statistical analyses and the development and implementation of effective methods to carry out the provisions of the rules.

Consistent with N.J.S.A. 5:12-139 and -143, the casino industry pays the costs associated with the enforcement of these rules, including all costs incurred by the Commission's Division of Affirmative Action and Planning. Therefore, there is no direct economic impact upon the commission or the State's General Fund.

The economic impact upon the minority and female workforce is quite clearly the product of the extent to which these rules provide them with employment opportunities (see Social Impact). To the extent that these persons live in Atlantic City or South Jersey, the economic prosperity of these regions is concomitantly improved.

Full text of the rules proposed for re-adoption appear in the New Jersey Administrative Code at N.J.A.C. 19:53.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Jurisdiction of the Office of Administrative Law

Adopted New Rule: N.J.A.C. 1:2-2

Proposed: January 17, 1983 at 15 N.J.R. 66(a).

Adopted: March 7, 1983 by Howard H. Kestin, Director, Office of Administrative Law.

Filed: March 7, 1983 as R.1983 d.87, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14F-5e, f and g.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): March 21, 1988.

Summary of Public Comments and Agency Responses and Changes Upon Adoption:

Written comments were received from the Department of Civil Service; the Public Advocate, Division of Citizen Complaints and Dispute Settlement; the Personnel Officers of the Departments of Health and Community Affairs; the Communications Workers of America (CWA) AFL-CIO, District I; and a government employee. Oral comments were received from representatives of the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO; the New Jersey Civil Service Association; and the Departments of Corrections, Health and Higher Education. Meetings with representatives of several agencies were held.

All of the comments were supportive of the proposal.

Several of the commentators requested that the rule be clarified as to who may accompany and assist a party at a hearing. In response to these requests, the Office of Administrative Law has clarified the rule upon adoption to state the intent of the proposal that a non-lawyer who accompanies and assists a party shall be a full-time employee of a union or agency and be designated as qualified by the union or agency. This procedure guarantees some control and uniformity in non-lawyer appearances at hearings which is necessary at least in the initial stages of this conference hearing program. A union's legal responsibility to represent all employees in a bargaining unit, whether or not they are members, is a guarantee of fairness in this respect. It should also be emphasized that the rule does not require any party to appear with a non-lawyer but merely provides that option.

The Department of Civil Service suggested that the time frames for rendering initial decisions for conference hearings should be shortened from the statutory 45 day limit, in keeping with the otherwise expedited process. As part of the experiment, the Office

of Administrative Law will endeavor to shorten the time for initial decisions to 21 days.

The Department of Civil Service and representatives of AFSCME and CWA suggested that judges forgo the wearing of robes at conference hearings, in keeping with the informality of the process. The Office of Administrative Law will also experiment in this way in the conference hearings.

The Communications Workers of America (CWA) questioned whether a non-lawyer union representative could appear at the plenary hearing if a conference hearing was converted into a plenary hearing, and whether the Office of Administrative Law could set a limit prior to the hearing by which time a party must request any such conversion? The CWA seems concerned with the logistics of assigning lawyer and non-lawyer representatives to hearings, which might then be converted. The CWA has raised a potential problem with the language of the rules, which the OAL has attempted to remedy through clarifying the intent of the rules. As adopted, the rules clarify that a conference hearing either may be converted fully into a plenary hearing or may be modified to incorporate certain plenary hearing procedures. The latter alternative is preferable, as being less disruptive of the process. As an example, if the judge finds that the special circumstances of a case require more extensive discovery, the judge may order that discovery. Such an order will not remove the case from the category of "conference hearing" and, in the absence of further order, will not apply all of the other formal procedures of a plenary hearing.

The OAL has extended the expiration date for these rules to one year. In order to implement and evaluate an effective six months experiment, the rules may need to be operative for up to a year.

The OAL made two slight changes to the oral decision rule. One change extends to 10 days, from five days, the time for transcription and transmittal of an oral decision. Ten days seems a more realistic time frame with which to experiment.

The other change clarifies that a judge either may immediately render an oral decision to the parties at the end of a hearing, or may render a decision after the hearing is over but which is orally rendered and recorded, rather than formally written and processed. In the latter case, the parties will learn of the initial decision upon receipt of the transcript, just as they would learn of an ordinary initial decision upon receipt of the written decision. However, this latter process should reduce the time for receipt of an initial decision following the hearing from almost 45 days to around 10 days.

Finally, the OAL clarified that the general hearing rules, in N.J.A.C. 1:1, apply to matters not covered by these special rules, including the sanctions provisions in N.J.A.C. 1:1-3.5.

Full text of the changes between proposal and adoption follows (additions to the proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

1:2-2.1 Applicability; scope

These rules for the conduct of conference hearings shall apply on an experimental basis to contested cases from the Civil Service Commission dealing with layoffs, disciplinary actions other than termination from employment, and termination after probationary work period, and, upon request of the employee, to cases dealing with termination from employment. ***Any aspect of notice or hearing not covered by these rules of special applicability shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that these conference hearing rules are inconsistent with the UAPR, these rules shall apply.***

1:2-2.4 ***[Conversion]* *Modification of conference hearing procedures or conversion*** of conference hearing into plenary hearing.

(a) At any time after receiving a notice of conference hearing, a party may move ***to adopt certain plenary hearing procedures or, where this is not sufficient,*** to convert the proceeding into a plenary hearing.

(b) At any time, the judge, on his^{*/}***or*** her own ***motion,*** or on motion of a party, may convert a conference hearing into a plenary proceeding ***or adopt certain plenary hearing procedures*** in the interests of providing a full and fair hearing ***[considering]* *in*** the circumstances of the case.

(c) When considering the ***modification or*** conversion of a conference hearing ***[into a plenary hearing, the OAL may require the parties]* ***, **the moving party may be required*** to indicate or summarize the reasons why ***modification or*** conversion is desired.

1:2-2.9 Oral decision

(a) Where the judge determines that the questions of fact and law in the case are sufficiently simple, the judge may render the initial decision orally either on the record at hearing before the parties or after the hearing is closed ***[without the parties]***.

(b) Within ***[five]* *10*** working days of rendering an oral decision, the decision shall be transcribed, and filed with the agency head and mailed to the parties with an indication of the date of receipt by the agency.

(c) (No change.)

1:2-2:10 Representation and assistance

(a) Any party may be represented by an attorney ***[; or]* ***. **Or a party may be*** accompanied and assisted by an individual ***[with]* *who:***

1. Has special knowledge or training in the subject matter of the hearing and in the contested case hearing process ***[, who neither]**,***

2. Neither charges nor receives any fee, benefit or other compensation from the party specifically for the assistance in this matter^{*/}**.* ***; **and***

3. Is a full-time employee of the government agency for which he or she is appearing or is a full-time staff person of the public employee union which is representing the employee, and is designated as qualified by that agency or union.

1:2-2.11 Expiration date

This subchapter shall expire ***[180 days]* *one year*** from its effective date.

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

Jurisdiction of the Office of Administrative Law

Adopted New Rule: N.J.A.C. 1:2-3

Proposed: January 17, 1983 at 15 N.J.R. 68(a).

Adopted: March 7, 1983 by Howard H. Kestin, Director, Office of Administrative Law.

Filed: March 7, 1983 as R.1983 d.86, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14F-5 e, f and g.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): March 21, 1988.

Summary of Public Comments and Agency Responses and Changes Upon Adoption:

Comments on the proposed rules for hearing Motor Vehicle Points cases "on the papers" were received from the Department of the Public Advocate, Division of Citizen Complaints and Dispute Settlement, the American Automobile Association (AAA) and the Division of Motor Vehicles (DMV).

Both the Public Advocate, in a letter, and the AAA, in a telephone conversation, supported the experiment, as hopefully resulting in quicker proceedings while relieving people of the burden of personally appearing. At the same time, both expressed concern that the Office of Administrative Law implement the proposal carefully, so that those persons who cannot communicate effectively in writing and/or who need appear personally are given the opportunity to do so. Toward this end, the Office of Administrative Law is attempting to prepare the notice for these proceedings carefully. Licensees will be given convenient opportunity for requesting an oral hearing. The entire procedure and particularly this phase, will be closely monitored.

The DMV also supported the proposal, but suggested some clarifications of the Discovery rule to conform more accurately with the material that the DMV uses as the basis for its actions and its case. The DMV does not retain in its files police reports, summonses or records of conviction, and does not use them at the hearing. The DMV's suggestions are contained in the rule as adopted.

The OAL is deleting from the rules cases dealing with driving on the suspended or revoked lists. After the consideration, the OAL feels that these cases often involve credibility and other similar questions which require a face-to-face hearing for an adequate determination.

The OAL is also adding a one year expiration date for the rules. Given the time necessary to implement and then to evaluate the procedures, one year seems to be an appropriate time frame for a six-months experiment.

Finally, the OAL has made some minor language changes in the rules, hopefully to better comport with the plain use of the English language.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

1:2-3.1 Applicability; scope

These rules for the conduct of hearings on the papers shall apply on an experimental basis to contested cases from the Division of Motor Vehicles dealing with disciplinary actions, other than license revocations^{*/}***, due to]* *for*** accumulating excessive points ***[and to driving while suspended or revoked]***.

1:2-3.5 Response to notice of hearing on the papers; conversion to conference or plenary hearing

(a) As part of the response to the OAL, the licensee:

1. (No change from proposal.)

2. Shall submit any ***[affidavits]* *statements***, records or other documents which supplement the initial papers or pleadings in the case, and which the party wants the judge to consider in determining the accuracy of the abstract, the appropriate penalty, or any other relevant issue. Upon request, the OAL shall grant the licensee an additional 20 days to submit supplemental documents for consideration as part of the hearing record. In the interests of justice, the OAL may grant a request for more than 20 additional days.

3. (No change from proposal.)

(b) (No change from proposal.)

1:2-3.6 Discovery

(a) Discovery shall **[consist solely of]** ***be limited to*** the records of the Division with respect to the case. the records shall include **[any police or other report or document which forms a basis for the Division's action,]** a certified copy of the licensee's driving record abstract **[and other relevant record and a copy of any summons or record of conviction relevant to the case]** ***relevant notices and orders of suspension, and certified proof of relevant mailings to the licensee***.

(b) Upon request, the Division shall supply the licensee with a copy of **[its]** ***these*** records in the case.

(c) (No change from proposal.)

1:2-3.7 Conversion to conference hearing or plenary hearing

(a) (No change from proposal.)

(b) Reasons for such conversion include:

1. Discovery disputes or a **[bona fide]** ***genuine*** need for more extensive discovery;

2.-4. (No change from proposal.)

5. Other **[bona fide]** ***genuine*** need for personal appearance or more extensive procedure.

***1:2-3.9 Expiration date**

This subchapter shall expire one year from its effective date.*

(a)

OFFICE OF ADMINISTRATIVE LAW

Hearing Rules of Special Applicability
Special Education Program

Adopted New Rule: N.J.A.C. 1:6A-5.5

**Adopted Amendments: N.J.A.C. 1:6A-2.2
and 4.2**

**Withdrawal of Proposed Amendment:
N.J.A.C. 1:6A-2.1**

Proposed: January 3, 1983 at 15 N.J.R. 2(a).

Adopted: March 7, 1983 by Howard H. Kestin, Director,
Office of Administrative Law.

Filed: March 7, 1983 as R.1983 d.88, **with substantive
and technical changes** not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14F-5e, f, g, h, n, o and p.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
January 1, 1988.

**Summary of Public Comments and Agency Responses
and Changes Upon Adoption:**

Considerable public comment was received, from parents, lay advocates and lawyers concerning this proposal. The OAL also participated in a public forum on these rules, conducted on February 1, 1983 under the auspices of the Northeast Bergen Special PTA.

The Office of Administrative Law (OAL) is adopting three amendments of the special education hearing rules, with modifications as a result of public comments. The amendments deal with the notice required of school boards to parents (N.J.A.C. 1:6A-2.2), the representation of parents (N.J.A.C. 1:6A-4.2), and the reopening of hearings (N.J.A.C. 1:6A-5.5). The OAL is also including with this adoption several minor technical corrections of

the special education hearing rules, particularly the addition of the words "or public agency" after references to school boards. With this addition, provision is made for the situation where the Division of Youth and Family Services or other similar agency is responsible for the child's education, rather than a local school board. The OAL is withdrawing the proposed expansion from 30 to 45 days of the time for school board response to parental requests for action (N.J.A.C. 1:6A-2.1).

As to the proposed amendment to N.J.A.C. 1:1-2.1(a)2, comments in opposition to the proposal were received from parents and from the Division of Advocacy for the Developmentally Disabled, Department of Public Advocate. No comment in support of the proposal was received. Upon reconsideration, the proposal is being withdrawn.

As to the proposed amendment to N.J.A.C. 1:1-2.2(b), comment in support of the proposal was received from parents and the Public Advocate. The Public Advocate also suggested that the rule clearly state that failure to issue a timely notice of action under N.J.A.C. 1:6A-2.1(a)2 could subject a school board to sanctions, as is indicated in the summary for the proposed rule. That is, the school board must remedy its failure through issuing a notice, but also may be subject to appropriate sanction in order to further remedy its failure. Based on this suggestion, the rule has been clarified upon adoption, so that this intent of the rule is clearly stated.

As to the proposed amendments to N.J.A.C. 1:6A-4.2, comments were received from parents, lay advocates and an attorney that the provisions of N.J.A.C. 1:6A-4.2(b) appeared to discriminate unfairly against lay advocates and to have a chilling effect on the use of lay advocates. Based on these comments, the OAL is deleting the last two sentences of the proposed amendment.

It was not the intent of the OAL to discourage or invidiously discriminate against lay advocates, and the OAL apologizes for any unnecessary concerns that may have been generated by the proposal. On the contrary, the OAL has consistently pursued a policy of attempting to facilitate the use of lay advocates in special education hearings. The purpose of the proposed rule was to delineate the role and responsibilities of lay advocates, consistent with this policy and with providing an orderly hearing process. As adopted, the rule embodies the substance of the proposed rule. In particular, a judge may still exclude from a hearing any person who is obstreperous or obstructive. However, it is hoped that modifying the format of the rule will alleviate whatever fears were generated by the proposal.

As to the proposed N.J.A.C. 2:6A-5.5, comments in support of the proposal were received from parents.

Several parents also suggested that all the provisions of N.J.A.C. 1:1-16.4 through 1:1-16.6 in the OAL's Uniform Rules be incorporated into N.J.A.C. 1:6A-5.5. However, the OAL feels that such an incorporation would be inappropriate. Some of the provisions of 16.4 through 16.6 are already encompassed in the special education rules. The remaining provisions deal with the processing of initial decisions by the OAL and the issuance of final decisions by agency heads, which are not applicable to these cases.

One parent also suggested that there should be no time limitation on the reopening of a hearing. The OAL feels that there is a need for some repose and finality in these cases, so that the educational process for a child and a school district is not in imminent danger of disruption throughout the school year. At the same time, there is no time limit for the filing of a new hearing request, which can be done at any time based on the grounds contained in N.J.A.C. 1:6A-5.5 or other grounds permitted under the special education program.

Several parents also asked questions about the applicability of OAL's Uniform Rules of Discovery (N.J.A.C. 1:1-11) and Authentication (N.J.A.C. 1:1-15.9) to special education hearings. These questions are being responded to by proposed amendments appearing in this Register.

Full text of the changes between proposal and adoption follows.

(additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

1:6A-2.1 Commencement of matter by a board of education, ***public agency***, parent or guardian: notice of action

(a) With respect to the referral, evaluation, classification, or educational placement of a pupil, or to the provision of a free and appropriate education to a pupil under N.J.A.C. 6:28-1.1:

1. When a board of education ***or public agency*** proposes to act or to make any change with regard to a pupil, the board ***or agency*** shall send a written notice to the parent(s) or guardian of the pupil no later than **15** days after making such a determination, and in no event less than **15** days prior to the date for implementing the proposed action or change unless the parent(s) or guardian otherwise consents to the proposal.

2. When a board of education ***or public agency*** is requested by a parent or guardian to make any change with regard to a pupil, the board ***or agency*** shall send a written notice to the parent(s) or guardian of the pupil forthwith upon approving or denying the request, and in no event more than **[30] *45* *30*** days from the date of the request.

(b) Each notice shall be clearly and simply written and shall include:

1. A description of the action proposed or denied by the board of education ***or public agency***, an explanation for the proposal or denial, a description of the other options considered and a rationale for the rejection of those options (34 CFR 300.505(a)(2));

2. A description of the procedures and factors used by the board of education ***or public agency*** in determining whether to propose or deny an action, including each test, record or report the board ***or agency*** used as a basis for the proposal or denial (34 CFR 300.505(a)(3) and (4));

3. A request for parental or guardian consent to any action proposed by the board of education ***or public agency***, as described in N.J.A.C. 6:28 (34 CFR 300.500 and 34 CFR 300.504); and

4. A copy and explanation of the procedures, described in this subchapter and in N.J.A.C. 6:28, 20 U.S.C.A. 1415 et seq. and 34 CFR 300 et seq., for appealing the board ***or public agency's*** proposal or denial, including a clear statement of:

i. The right to examine all relevant records with respect to the pupil;

ii. The right to a hearing at the Office of Administrative Law on the proposal or denial;

iii. The right, at the hearing, to be accompanied and advised by counsel or by individuals with special knowledge or training in the problems of handicapped children or both;

(c) (No change.)

(d) The board of education ***or public agency*** shall take appropriate steps to insure that the parent(s) or guardian receives and understands the notice, and shall maintain a record of all steps it has taken in this regard.

1:6A-2.2 Hearing request by parent, guardian ***[or] * *,* board of education *or public agency***

(a) A parent, guardian ***[or] * *,* board of education *or public agency*** may, in writing; request a hearing at any time after the board of education ***or public agency*** has sent a written notice of action or after 30 days have elapsed from the date of a parent's or guardian's request for change with regard to a pupil. A hearing request shall be addressed to the Department of Education with a copy to each other party in the dispute. The Department shall acknowledge receipt of the request and shall forthwith send each party a copy of the acknowledgement.

(b) When a board ***or public agency*** has failed to issue a notice of action pursuant to N.J.A.C. 1:6A-2.1(a)2, and a parent or guardian has requested a hearing, the board ***or public agency*** shall issue a notice of action no later than five

days from receiving notice of the hearing request. ***In addition the board may be subject to appropriate sanctions under N.J.A.C. 1:1-3.5.***

[(b)] (c) (No change from proposal.)

[(c)] (d) Upon receiving the Department of Education's acknowledgement or notice of a hearing request, the parties shall immediately begin to exchange information, in preparation for a settlement conference. The board of education ***or public agency*** shall provide relevant records and information to the parent or guardian. The parent or guardian shall provide relevant information requested by the board ***or agency***. The exchange of information shall be completed pursuant to the time limits in N.J.A.C. 1:6A-3.3 (Time for discovery).

[(d)] (e) (No change from proposal.)

*1:6A-3.1 Emergency relief pending settlement or decision

(a) As part of a hearing request, or at any time after a hearing is requested, the affected parent(s), guardian ***[or] * *,* board *or public agency*** may apply in writing for emergency relief pending a settlement or decision on the matter.

(b)-(e) (No change.)*

*1:6A-3.2 Settlement conference by the Department of Education

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

(e) Where the hearing has been requested by a board of education ***or public agency***, the parent or guardian may request and shall receive an adjournment of the settlement conference for up to 15 days. For good cause, the Department of Education may otherwise adjourn a settlement conference or schedule another settlement conference. Any adjournment of the settlement conference or scheduling of another conference shall extend the deadline for decision on the matter, as established in N.J.A.C. 1:6A-5.1 (Deadline for decision), by an amount of time equal to the adjournment or rescheduling.

(f) (No change.)*

*1:6A-4.1 Procedures for hearing

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

(e) The judge's decision shall be based on the preponderance of the credible evidence, and the proposed action of the board of education ***or public agency*** shall not be accorded any presumption of correctness.*

1:6A-4.2 Representation

(a) (No change from proposal.)

(b) Any person who accompanies and advises a party shall be bound by these rules and shall comport himself or herself in a manner appropriate to the orderly conduct of a hearing. Any person who does not so act shall be subject to sanctions provided in N.J.A.C. 1:1-3.5. ***[For an attorney at law, sanctions for obstructive behavior, under the appropriate provisions of N.J.A.C. 1:1-3.5, may include referral to the appropriate forum for discipline of the legal profession. For a non-lawyer, sanctions for obstructive behavior may include, in addition to the provisions of N.J.A.C. 1:1-3.5, appropriate limitations on the extent of participation including, where warranted, exclusion by the presiding judge from any participation in the case.]***

(c) (No change from proposal.)

*1:6A-4.4 Independent educational evaluation

(a) For good cause and after giving the parties an opportunity to be heard, the judge may order an independent evaluation of the pupil. The evaluation shall be conducted in accordance with N.J.A.C. 6:28-1.1 by an appropriately certified or licensed professional examiner(s) who is not employed by and does not routinely provide evaluations for the board of education ***or public agency*** responsible for the education of the pupil to be evaluated.

The judge shall choose an independent evaluator from a list approved by the Department of Education and order the board of education ***or public agency*** to pay for the independent evaluation at no cost to the parent(s) or guardian (34 CFR 300.503).

(b) (No change.)*

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program New Jersey Sire Stakes Rules

Adopted New Rule: N.J.A.C. 2:32-2

Proposed: January 17, 1983 at 15 N.J.R. 69(a).
Adopted: March 3, 1983 by Arthur R. Brown, Jr., Secretary,
Department of Agriculture.
Filed: March 7, 1983 as R.1983 d.84, **with substantive
and technical changes** not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66
(1978): March 21, 1988.

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

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

2:32-2.17 Qualifying conditions

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying conditions for the 1983 racing season:

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

3. Four-year-old pacers and trotters must show one satisfactory racing line within 30 days of declaration. For the purposes of the New Jersey Sire Stakes Program, a satisfactory line for four-year-old pacers and trotters is any race line, betting or non-betting, with no breaks and satisfactory gate performance. Official workouts are not acceptable as a substitute for a racing line. In 1984, four-year-olds will be required to meet qualifying time standards for that age and gait. ***[All starters in the New Jersey Sire Stakes Fair Division must meet the following condition for the 1983 racing season:]***

(b) All starters in the New Jersey Sire Stakes Fair Division must meet the following condition for the 1983 racing season:

[i.]* *1. All horses, two-, three-, and four-year-olds, must have a racing line (of any sort) at time of declaration.

BANKING

(b)

DIVISION OF ADMINISTRATION

Home Mortgage Disclosure

Adopted Amendments: N.J.A.C. 3:1-9.4 through 9.21

Proposed: January 3, 1983 at 15 N.J.R. 4(a).
Adopted: March 4, 1983 by Michael M. Horn,
Commissioner, Department of Banking.
Filed: March 7, 1983 as R.1983 d.85, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:1-8.1 and 17:16F-11.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
September 1, 1983.

Summary of Public Comments and Agency Responses:

The Department of Banking received four written comments in connection with the proposed amendments. The comments were generally supportive of the proposed changes, but questioned the timing of the Department's decision to revise the regulations. It was explained to the commentators that the Department was forced to make the proposed changes in the way it did due to budgetary cutbacks made earlier in the year. At the suggestion of one commentator the January quarterly compliance date in N.J.A.C. 3:1-9.6(a)2 has been changed from January 15 to January 30.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

3:1-9.[8]6 Filing requirements; processing fee

(a) **[Rules concerning filings are as follows.] Filings:**

[1. In 1979 and 1980, every depository institution shall file with the Department of Banking on January 15, the preceding year's mortgage loan data required by N.J.A.C. 3:1-9.4(a).]

2. In 1979 and 1980, every depository institution shall file with the Department of Banking on March 31 the preceding year's mortgage loan data required by section 7 of this subchapter.]

[3.] **1.** For purposes of this section, the mortgage loan data shall be deemed to be filed if it is either delivered in person or postmarked by the **[above] required** dates. All information so filed shall be submitted on forms or in the format prescribed by the Department.

[4.] **2.** Every depository institution shall file with the Department of Banking the data required by N.J.A.C. [3:1-9.4(a) and (c)] **3:1-9.5** for the calendar year [1980] **1982** and every subsequent year on a quarterly basis on April 30, July 30, October 30, and January ***[15]* *30*** for the preceding calendar quarter's mortgage loan applications [and oral-in-person requests].

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

EDUCATION

(a)

STATE BOARD OF EDUCATION

**Child Nutrition Programs
Policies for Free and Reduced-Price Meals
and/or Free Milk**

**Adopted Amendments: N.J.A.C. 6:79-1.9
and 1.11**

Proposed: November 15, 1982, at 14 N.J.R. 1248(b).
Adopted: February 1, 1983 by State Board of Education,
Gustav H. Ruh, Acting Secretary.
Filed: February 23, 1983 as R.1983 d.71, **without
change.**

Authority: N.J.S.A. 18A:4-15, 18A:33-4 and 18A:58-
7.1.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
February 1, 1988.

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

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

**Water Pollution Control
Construction of Wastewater Treatment
Facilities**

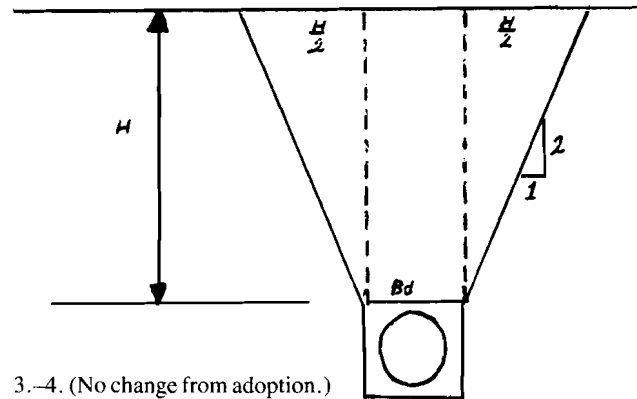
Notice of Correction: N.J.A.C. 7:14-2.12(b)

Take notice that an error appears in the October 18, 1982 issue of the New Jersey Register at 14 N.J.R. 1158 concerning "Select trench backfill payment width". N.J.A.C. 7:14-2.12(b) should have appeared as follows:

(b) Select trench backfill payment width:

1. Select trench backfill will be eligible for grant funding when the excavated material is totally or partially unacceptable for reuse as trench backfill. When the unacceptable material must be replaced with approved select backfill in a trench with a depth of 10 feet or less from the top of the pipe, the eligible payment width shall be **Bd** as shown below. For trenches of a greater depth the maximum eligible payment width shall be **Bd plus H** for the depth of unsuitable material as measured at the time of excavation.

2. When trench width is less than **Bd plus H**, the actual width shall control the payment.



3.-4. (No change from adoption.)

HEALTH

(c)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards for Licensure of Residential Health
Care Facilities
Building Occupancy**

**Adopted Amendment: N.J.A.C. 8:43-2.6
Adopted Repeal: N.J.A.C. 8:43-7.1**

Proposed: January 3, 1983 at 15 N.J.R. 8(a).
Adopted: March 7, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).
Filed: March 7, 1983 as R.1983 d.90, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
December 12, 1983.

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

(d)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards for Licensure of Ambulatory Care
Facilities
Surgical Services**

Adopted Amendment: N.J.A.C. 8:43A-8.1

Proposed: January 3, 1983 at 15 N.J.R. 9(a).
Adopted: March 7, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).

ADOPTIONS

Filed: March 7, 1983 as R.1983 d.92, **without change**.
Authority: N.J.S.A. 26:2H-1 et seq.
Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
August 9, 1983.

Summary of Public Comments and Agency Responses:

COMMENT: The Department received one comment from another State agency indicating support, in concept, of the proposed amendment. The agency concurs with the proposed amendment and commented that although the proposed amendment is "applicable and adequately protective when applied to Ambulatory Care Facilities that are associated with approved Acute Care Hospitals, that it should not apply when concerned with Free Standing Ambulatory Care Facilities". The agency "suggested, therefore, that all Ambulatory Care Facilities be required to be accredited by JCAH or the Committee on Hospitals of the American Osteopathic Association, and by Medicare, and by the Accrediting Association for Ambulatory Health Care, Inc., or that the Department of Health continue to exercise its approval authority over those surgical and anesthesia services to be performed". It was also suggested that "Ambulatory Care Facilities be required to have a written transfer agreement with an approved hospital, and that those receiving surgical privileges be required to have surgical privileges at the approved hospital".

RESPONSE: No changes were made in this amendment as proposed since the Department of Health has licensure standards to regulate the patient care in ambulatory care facilities. This amendment regarding surgical services quality assurance will strengthen and enhance existing standards for ambulatory care facilities whether they are free-standing or are associated with a hospital. Furthermore, ambulatory care facilities providing surgical services are required by existing licensure standards to enter into a transfer agreement with a hospital. Presumably, the administrator of the ambulatory surgical service would seek to have the transfer agreement with a hospital where the physicians have hospital privileges. The Department of Health does not have legal authority to mandate hospitals to grant privileges to physicians. Therefore, there is no guarantee that a particular physician will be granted privileges at the hospital that has a transfer agreement with the ambulatory surgical service.

Since the Department of Health currently has licensure standards for ambulatory care facilities and evaluates the care being provided at ambulatory care facilities through the inspection process, the Department of Health does not believe it to be prudent to mandate accreditation by a private organization. In addition, accreditation by a private organization would most likely result in increased costs to the citizens of New Jersey.

(a)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards for Licensure of Ambulatory Care
Facilities
Drug Abuse Treatment Services**

Adopted Amendment: N.J.A.C. 8:43A-9.9

Proposed: January 3, 1983 at 15 N.J.R. 10(a).

HEALTH

Adopted: March 7, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).
Filed: March 7, 1983 as R.1983 d.91, **without change**.

Authority: N.J.S.A. 26:2H-1 et seq.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
August 9, 1983.

Summary of Public Comments and Agency Responses:

The Department received one comment from a facility indicating support for the adoption of this amendment. Since the comment indicates support of the proposed amendment, the Department made no change in this amendment.

(b)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Non-Residential Medical Day Care Facilities
Additional Construction and Equipment
Requirements**

Adopted Amendment: N.J.A.C. 8:43F-3.26

Proposed: January 3, 1983 at 15 N.J.R. 11(a).
Adopted: March 7, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).
Filed: March 7, 1983 as R.1983 d.89, **without change**.

Authority: N.J.S.A. 26:2H-1 et seq.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
January 2, 1985.

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

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hospital, Special Hospital and Medical Day Care Manuals, and Administration Manual Medical Day Care in Hospital Affiliated Facilities

**Adopted Amendments: N.J.A.C. 10:49-1.24,
10:52-1.1, 10:53-1.1, and 10:65-1.2-1.8,
2.1, 2.4-2.7**

**Adopted New Rules: N.J.A.C. 10:52-1.19
and 10:53-1.15**

Proposed: December 6, 1982 at 14 N.J.R. 1332(a).
Adopted: January 24, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: February 28, 1983 as R.1983 d.75, **with substantive
changes** not requiring public notice and comment (see
N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6a(2), b(12) and (16) and
30:4D-7 and 7b.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
N.J.A.C. 10:49-1, April 30, 1985; N.J.A.C. 10:52-1,
February 16, 1984; N.J.A.C. 10:53-1, June 16, 1984;
N.J.A.C. 10:65-1 and -2, August 17, 1984.

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

Summary of changes between proposal and adoption.

This rule is being adopted with one addition to the text of both the Hospital and Special Hospital Manual, N.J.A.C. 10:52-1.19(b)3 and 10:53-1.15(b)3, respectively. The additional text specifies that all direct and indirect costs associated with hospital affiliated medical day care centers must be reported separately on New Jersey Department of Health cost filings and will not be considered as an allowable cost under the DRG program.

This addition is not significant because the Division is requiring that costs associated with the service be reported separately. The basic reimbursement methodology will not change.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***).

10:52-1.19 Medical Day Care Centers (Hospital Affiliated)
(a) (No change from proposal.)

(b) Hospital affiliated Medical Day Care Centers will be reimbursed at a negotiated per diem rate not to exceed the maximum medical day care rate paid to long-term care facilities based providers.

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

***3. All direct and indirect costs associated with hospital affiliated medical day care centers must be reported separately**

on New Jersey Department of Health cost filings for reimbursement purposes and will not be considered as an allowable cost under the Diagnosis Related Group program (DRG).*

10:53-1.15 Medical Day Care Centers (Hospital Affiliated)
(a) (No change from proposal.)

(b) Hospital affiliated Medical Day Care Centers will be reimbursed at a negotiated per diem rate not to exceed the maximum medical day care rate paid to long-term care facilities based providers.

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

3. All direct and indirect costs associated with hospital affiliated medical day care centers must be reported separately on New Jersey Department of Health cost filings for reimbursement purposes and will not be considered as an allowable cost under the Diagnosis Related Group program (DRG).

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Cost Study, Rate Review Guidelines and Reporting System

Adopted Amendment: N.J.A.C. 10:63-3.2

Proposed: July 19, 1982 at 14 N.J.R. 742(a).
Adopted: February 24, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: February 28, 1983 as R.1983 d.74, **without
change.**

Authority: N.J.S.A. 30:4D-6a(4)(a) and 30:4D-7 and 7b.

Effective Date: March 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
January 1, 1985.

Summary of Public Comments and Agency Responses:

The comments were submitted, one by Christine J. Gormley, CPA, and one by Mr. James E. Cunningham, President, New Jersey Association of Health Care Facilities who presented his concerns verbally at a requested meeting attended by representatives of both the Division and the Department.

Ms. Gormley's objection was that the system was designed to pay the CFA (Capital Facilities Allowance) whenever possible. The Division's response is that the system as approved by the Health Care Financing Administration (HCFA) within the Federal Department of Health and Human Services requires an analysis of the actual cost of ownership to determine actual expenses.

Mr. Cunningham cited the fact that the "CARE" reimbursement system as originally proposed eliminated the need to test for either the nature of the leasing arrangements or the reasonableness of the amount. The CFA component of the per diem rate was to substitute these costs in LTC facilities that were leased and also for actual costs of ownership such as depreciation and interest for those LTC facilities who were not operating under a lease arrangement. The Division's position is that HCFA approved the present system which incorporates a comparison of allowable lease and/or ownership costs to the CFA. Costs of non-arms length leases are

not allowable to the extent they do not represent the actual cost of ownership to the LTC facility. This approach is consistent with Federal principles of reimbursement.

In essence, the Division believes the rule conforms with Federal requirements which allow for an analysis of lease costs of non-arms length leases for those LTC facilities that enter into "related party transactions."

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Cost Study, Rate Review Guidelines and Reporting System for Long Term Care Facilities

Adopted Amendment: N.J.A.C. 10:63-3.10

Proposed: July 19, 1982 at 14 N.J.R. 743(a).
 Adopted: February 24, 1983 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: February 28, 1983 as R. 1983 d.73, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6a(4)(a) and 30:4D-7 and 7b.

Effective Date: March 21, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978): January 1, 1985.

Summary of Public Comments and Agency Responses:

The Division received comments from Ms. Christine J. Gormley, CPA, Mr. James E. Cunningham, President, New Jersey Association of Health Care Facilities, and from Mr. James J. Shrager, Esq., of the law firm of Hannoeh, Weisman, Stern, Besser, Berkowitz, and Kinney.

Mr. Shrager's primary concern was that LTC (long term care) facilities would be held to lower reimbursement if it was determined that low cost financing was available but not utilized. However, the Division did not intend to impose such a requirement. The Division's goal was to analyze those LTC facilities which actually received government financing and have interest rates tested for reasonableness.

Both Ms. Gormley and Mr. Cunningham, who gave verbal comments at a meeting attended by representatives of both the Division and the Department, wanted clarification of the method being used to calculate the rate of return based on the interest rate received by a LTC facility as the result of governmental financing.

Consequently, subsections (k) and (l) were amended to provide the requested clarification. Subsection (o) was added to allow LTC facilities additional consideration on an individual basis for costs that may be incurred in obtaining the financing through a governmental authority.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

10:63-3.10 Buildings
 (a)-(j) (No change from proposal.)

(k) For existing LTCFs, the State will not increase the CFA rate

in future years should the Medicare return on equity rate increase. Should this rate decrease by more than the reasonable cost of refinancing, both the interest rate and the amortization rate will be reduced. [The same adjustments will be made should financing through a state authority be made available at lower interest rates.] **Should financing through a governmental authority be * [available or]* obtained by a *[qualified]* facility, the CFA rate will be adjusted as necessary based upon the lower *[or]* *of* the previously established Medicare return on equity rate or the available financing rate *incremented in accordance with the Medicare return on equity factor*.**

(l) For new LTCF's, or for additions to existing LTCF's, the amortization rate will be established based upon the **lower of the latest Medicare return on equity rate published at the inception of operations[.], or the governmental financing rate *[available to a qualified facility.]* *incremented in accordance with the Medicare return on equity factor.*** The provisions of [subsection] (k) above [of this section] will apply in subsequent years.

(m)-(n) (No change from proposal.)

(o) Expenses incurred by LTCF's in obtaining financing through a governmental authority may be allowable. These expenses should be presented for treatment under the special amortization provision of the rates, and they will be evaluated on an individual basis in accordance with N.J.A.C. 10:63-3.7(a) and (b).

(b)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual Liquidation and Transfer of Resources

Adopted Amendment: N.J.A.C. 10:81-3.38

Proposed: December 20, 1982 at 14 N.J.R. 1437(a).
 Adopted: March 7, 1983 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: March 7, 1983 as R.1983 d.94, **without change**.

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

Effective Date: March 21, 1983.
 Expiration Date pursuant to Executive Order No. 66 (1978): June 8, 1983.

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

(c)

DIVISION OF PUBLIC WELFARE Assistance Standards Handbook Resources

Adopted Amendments: N.J.A.C. 10:82-3.1, 3.2 and 3.4

Proposed: December 20, 1982 at 14 N.J.R. 1438(a).

Adopted: March 7, 1983 by George J. Albanese, Commissioner, Department of Human Services.

Filed: March 7, 1983 as R.1983 d.93, **without change.**

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

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): June 1, 1983.

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

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
 Household Composition, Treatment of
 Striker's Income and Revised Standard
 Utility Allowances**

**Readopted Amendments: N.J.A.C. 10:87-2.2,
 2.3, 2.21, 3.19, 5.10, 6.14, 6.15 and 12.1
 Readopted New Rule: N.J.A.C. 10:87-2.38
 and 12.7 (See: February 22, 1983 at 15
 N.J.R. 247(a).)**

Proposed: January 17, 1983 at 15 N.J.R. 97(a).
 Adopted: February 28, 1983 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: February 28, 1983 as R.1983 d.72 **with substantive
 changes** not requiring additional public notice and
 comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2, the Omnibus Budget
 Reconciliation Act of 1981 (P.L. 97-35), the Food
 Stamp and Commodity Distribution Amendments of
 1981 (P.L. 97-98, Title 13), the Omnibus Budget
 Reconciliation Act of 1982 (P.L. 97-253), 7 CFR
 Parts 272 and 273, and 47 FR 55903.

Effective Date: February 28, 1983.
 Expiration Date pursuant to Executive Order No. 66 (1978):
 March 1, 1984.

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

Summary of changes subsequent to proposal.

The following changes have been incorporated into this readoption as a result of a subsequent emergency adoption (R.1983 d.38) which became effective January 31, 1983, operative February 1, 1983 and published in the February 22, 1983 issue of the New Jersey Register at 15 N.J.R. 247(a). The text of this readoption has been prepared to conform with the second emergency adoption, which was necessitated by Federal regulations at 47 FR 55903 issued December 14, 1982.

10:87-2.2(a)4: Language has been added to provide for and distinguish income limitations for elderly and disabled individuals living with others.

10:87-2.2(c)1: The existing definition of elderly or disabled as defined in this section has been amended to read "elderly or disabled as defined in N.J.A.C. 10:87-2.38" in order to properly reference the new rule which expands the definition of disabled.

10:87-2.2(c)3 and 4: Language has been added to clarify the definition of the word "spouse" and amend the rule regarding separate household status for siblings living together.

10:87-2.3(a): This section has been restructured for clarity and language has been revised to distinguish boarder status regarding participation of nonhousehold members.

10:87-2.3(b): The definition of "boarders" has been amended.

10:87-2.3(c): Language has been added to clarify inclusion of income and resources of disqualified individuals.

10:87-2.21(a)8ii: Language has been added to include specific additional verification requirements for household composition.

10:87-2.38: It is necessary to include this section because of its relation to 2.2, 2.3, 5.10 and 6.15. This new rule specifically defines who may be considered elderly or disabled under the Social Security Act and expands the definition of disabled to include who may be considered a disabled veteran, surviving spouse, or surviving child for Food Stamp purposes.

10:87-5.10(a)3 and 5: The existing definition of elderly or disabled as defined in this section has been amended to read "elderly or disabled as defined in N.J.A.C. 10:87-2.38" in order to properly reference the new rule which expands the definition of disabled.

10:87-5.10(a)5iv(6): Publishing error --- the word "the" was inserted since it was inadvertently omitted in printing.

10:87-6.15: Language has been added pertaining to eligibility standards for households with no elderly or disabled members, and to clarify the determination of gross monthly income. Also, the existing definition of elderly as defined in this section has been amended to read "elderly or disabled as defined in N.J.A.C. 10:87-2.38" in order to properly reference the new rule which expands the definition of disabled.

10:87-12.7: This section has been included because of its relation to N.J.A.C. 10:87-2.2(a)4. Additionally, note that the United States Department of Agriculture, Food and Nutrition Service has advised us of a printing error in the December 14, 1982 issue of the Federal Register which published the Maximum Allowable Income amounts for a household size of eight. As a result, the amounts determined for a household size of nine and 10 are also incorrect. Therefore, these amounts are being corrected to read as follows: from \$2216 to \$2,126, from \$2,428 to 2,338 and \$2,640 to \$2,550.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

10:87-2.2 Household defined

(a) A household may be composed of any **of the following** individuals[,] or groups of individuals[,]; [provided that such individual(s) or groups are not residents of an institution (except as otherwise specified in N.J.A.C. 10:87-2.4) or a licensed commercial boarding home, except that separate household status shall not be extended to a spouse of a member of the household or to children under 18 years of age if under the parental control of a member of the household, to a boarder or to either parents or children who live together, unless at least one parent is 60 years of age or older. The following are considered households for the purposes of the program.]

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

***4. Elderly and disabled individual living with others: An individual who is 60 years of age or older (and the spouse of such individual) living with others who is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or suffers from some other physical or mental nondisease-related, severe, permanent disability (see definition of elderly or disabled in N.J.A.C. 10:87-2.38 and verification requirements in N.J.A.C. 10:87-2.21(a)8ii). However, the gross monthly income of the household with which the individual resides cannot exceed the gross monthly income eligibility standard for the appropriate**

household size in N.J.A.C. 10:87-12.7. This income determination shall be made in accordance with the following procedures:

i. The gross monthly income of the others with whom the elderly, disabled person resides shall be determined as if they were applying for participation in the program. The income of the elderly, disabled person and his or her spouse is not included in the calculation. The elderly, disabled person and his or her spouse are not to be considered household members for this purpose;

ii. The gross monthly income of the others shall then be compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.7 (Appendix A, Table VII) to determine if the income is within the prescribed limit. The elderly, disabled person and his or her spouse would not be considered as household members for this comparison.*

(b) (No change from proposal.)

(c) In no event shall nonhousehold member status or separate household status be granted to:

1. *[Either parents or natural or adoptive children or stepchildren who live together unless at least one parent is 60 years of age or older (or becomes 60 in the month of application) or receives Supplemental Security Income (SSI) benefits under Title XVI or disability or blindness benefits under Titles I, II, X, XIV or XVI of the Social Security Act;]* *Parents living with their natural, adopted, or stepchildren or such children living with such parents, unless at least one parent is elderly or disabled as defined in N.J.A.C. 10:87-2.38;*

2. Children under 18 years of age under the parental control of an adult member of the household*[: or]**;*

3. A spouse of a member of the household. *For the purposes of this program the term "spouse" shall include persons recognized by applicable State law as such and persons representing themselves as husband and wife to the community, relatives, friends, neighbors or trades people; or

4. Siblings (natural, adopted, half or stepbrothers and sisters), unless at least one sibling is elderly or disabled as defined in N.J.A.C. 10:87-2.38.*

10:87-2.3 Nonhousehold members *[and]**,* boarders *and disqualified individuals*

(a) **Nonhousehold members:** The *[following]* 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. *[Non-household members who are otherwise eligible may participate in the program as separate households.]*

[1. Roomers: Individuals whom a household furnishes lodging, but not meals, for compensation.]

2. (No change from proposal deleting text of all reference to boarders.)

*[2. Live-in-attendants: Individuals who reside in a household to provide medical, housekeeping, child care or other similar personal services.

3. Ineligible aliens: Individuals who do not meet the citizenship or eligible alien status criteria in N.J.A.C. 10:87-3.5.

4. Ineligible student of an institution of higher education: Persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria in N.J.A.C. 10:87-3.23(a).

5. Disqualified individuals: Individuals disqualified for fraud (see N.J.A.C. 10:87-11.1) or for failure to comply in providing or applying for a Social Security number (see N.J.A.C. 10:87-3.24(a)3).

6. Other individuals: Other individuals who share living quarters with the household but who do not customarily purchase and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household.]*

[Renummer (a)3 through 7 as (a)2 through 6. (No change in text.)]

*1. The following nonhousehold members who are otherwise eligible may participate in the program as separate households.

i. Roomers: Individuals to whom a household furnishes lodging, but not meals, for compensation.

ii. Live-in-attendants: Individuals who reside in a household to provide medical, housekeeping, child care or other similar personal services.

iii. Other individuals: Other individuals who share living quarters in the household but who do not customarily purchase and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household.

2. The following nonhousehold members are ineligible to participate in the program as separate households.

i. Ineligible aliens: Individuals who do not meet the citizenship or eligible alien status criteria in N.J.A.C. 10:87-3.5 through 3.7 such as, but not limited to, alien visitors, tourists, diplomats, and students, as described in N.J.A.C. 10:87-3.9.

ii. Ineligible student of an institution of higher education: Persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria in N.J.A.C. 10:87-3.23(a).*

(b) Boarders: Boarders are defined as individuals or groups of individuals residing with a household and paying reasonable compensation to the household for lodging and meals.

1. (No change from proposal.)

2. *[Spouse, children, or parents: Boarder status shall not be extended to a spouse of a member of the household or to children under 18 years of age if under parental control of an adult member of the household, or to either parents or natural or adoptive children or stepchildren who live together unless at least one parent is 60 years of age or older (or becomes 60 in the month of application), or receives Supplemental Security Income (SSI) benefits under Title XVI, or disability or blindness benefits under Title I, II, X, XIV or XVI of the Social Security Act.]* *Parents, children, spouse or sibling: In no event shall boarder status be granted to those individuals or groups of individuals described in N.J.A.C. 10:87-2.2(c).*

3.-5. (No change from proposal.)

*[c) **Disqualified individuals:** Individual household members may be disqualified for fraud (see N.J.A.C. 10:87-11.1) or for failure to obtain or refusal to provide a Social Security number (see N.J.A.C. 10:87-3.24(a)3) or for being an ineligible alien (see N.J.A.C. 10:87-3.8 for listing of eligible aliens). During the period of time that such household members are ineligible, the income and resources of such individuals shall be counted in accordance with N.J.A.C. 10:87-7.14 when determining the eligibility and benefit level of any remaining household members.*

10:87-2.21 Mandatory verification

(a) The CWA shall verify the following information prior to certification for households initially applying for food stamp benefits.

1.-7. (No change from proposal.)

8. Verification of questionable information: With the exception of liquid resources and loans, the CWA shall verify all other factors of eligibility prior to certification only if they are questionable and affect the household's eligibility or benefit level. Procedures for verifying loans and liquid resources are described in (a)8 below.

i. (No change from proposal.)

ii. Household composition: The CWA shall verify any factors affecting the composition of a household if questionable*[, such as household size and boarder status. However, due to the difficulty in verifying whether or not a group of individuals customarily

purchases and prepares meals together and, therefore, constitute a household, the CWA shall generally accept the household's statement regarding food preparation and purchase].*

(1) Individuals who wish to be a separate household from those with whom they reside shall be responsible for providing a claim that they are a separate household to the satisfaction of the CWA.

(2) Elderly and disabled individuals as described in N.J.A.C. 10:87-2.2(a)4 who wish to be a separate household, shall be responsible for obtaining the cooperation of the individuals with whom they reside in providing necessary income information to the CWA, and for providing (at the CWA's request) a physician's statement that they cannot purchase and prepare their own meals.

(3) For any surviving spouse or child of a veteran claiming a permanent disability that is questionable (not apparent) to the CWA, under N.J.A.C. 10:87-2.38(a)7 of the definition of "elderly or disabled member", the household shall provide (at the CWA's request) a statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability.*

iii.-v. (No change from proposal.)

9. (No change from proposal.)

***10:87-2.38 Elderly or disabled defined**

(a) Elderly or disabled member is defined as a member of a household who:

1. Is 60 years of age or older (or becomes 60 in the month of application);

2. Receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act (including emergency benefits based on presumptive eligibility);

3. Receives disability or blindness payments under Titles I, II, X, XIV or XVI of the Social Security Act;

4. Is a veteran with a service-connected disability rated or paid as total under Title 38 of the United States Code (USC) or is considered in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

5. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound under Title 38 of the United States Code;

6. Is a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the United States Code;

7. Is a surviving spouse or child of a veteran and entitled to (but not necessarily receiving) compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. Entitled as used in this definition refers to those veterans', surviving spouses and children who are receiving the compensation of benefits or have been approved for such payments, but are not receiving them.*

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

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

3. Excess medical deduction: that portion of medical expenses in excess of \$35.00 per month, excluding the cost of special diets, incurred by any household member who is *[60 years of age or over (or who becomes 60 in the month of application) or who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act or disability or blindness benefits under Titles I, II, X, XIV or XVI of the Social Security Act]* *elderly or disabled as defined in N.J.A.C. 10:87-2.38*. Spouses or other persons (i.e., essential persons) receiving benefits as dependents of the SSI or disability or blindness recipient are not eligible to

receive this deduction but persons receiving "emergency" SSI benefits based on presumptive eligibility are eligible for this deduction.

i. (No change from proposal.)

4. (No change from proposal.)

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after the deductions in (a)1, 2, 3, and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction alone or in combination with the dependent care deduction in (a)4 exceed the amount in N.J.A.C. 10:87-12.1 (Appendix A, Table I) unless the household contains a member who is *[age 60 or over, (or who becomes 60 in the month of application), or who receives SSI (including emergency benefits based on presumptive eligibility) under Title XVI, or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act]* *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 cost that exceeds 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 from proposal.)

iv. Utility standard: Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the [standard] appropriate utility allowance (see N.J.A.C. 10:87-12.1, Table I, Appendix A) [Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewerage, and garbage collection fees shall not be entitled to claim the standard utility allowance. Households must be advised that they are permitted to switch between actual utility costs and the standard utility allowance once in a certification period. Households using the standard allowance shall not be allowed any additional utility costs toward the shelter deduction. Households whose certification periods overlap the seasonal adjustment of the standard shall be advised at the time of certification that the adjustment will occur. Those households not entitled to use the standard utility allowance may claim actual utility expenses in accordance with (a)5i(3) above] in accordance with the following provisions.

(1)-(5) (No change from proposal.)

(6) Households not entitled to use *the* SUA or HUA may claim actual utility expenses in accordance with (a)5i(3) above.

(7) (No change from proposal.)

10:87-6.15 Calculating net and gross income and benefit levels

(a) The procedures below shall be used to calculate net and gross income and benefit levels.

1. Net and gross monthly income: To determine a household's net monthly income, the CWA shall follow steps (a)li through viii below. To determine a household's total gross income the CWA shall *[follow step (a)li only]* * add the gross monthly income earned by all household members and the total monthly unearned income of all household members minus income exclusions (see N.J.A.C. 10:87-5.9). The total gross monthly income shall be used to determine the household's eligibility in accordance with (a)3ii below.*

i.-viii. (No change from proposal.)

2. (No change from proposal.)

3. Eligibility and benefits: Except for *migrant and seasonal farmworker* households considered destitute in N.J.A.C. 10:87-6.16, the *[household's net monthly income as calculated in N.J.A.C. 10:87-6.15(a)li-viii shall be compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 (Appendix A, Table III) to determine eligibility for the month for households containing a member who is 60 years of age or over (or who becomes 60 in the month of

application) or who receives SSI or disability or blindness payments under Titles *I, II, X, XIV or XVI of the Social Security Act. For all other households, the CWA shall compare a household's gross income to the monthly income eligibility standards in N.J.A.C. 10:87-12.4 (Appendix A, table IV) for the appropriate household size to determine eligibility for the month. The amount of the household's benefit is determined in accordance with N.J.A.C. 10:87-12.6 (appendix A, Table VI).]* * following eligibility and benefit determinations shall apply:

i. Household's having an elderly or disabled member: Households which contain an elderly or disabled member (as defined in N.J.A.C. 10:87-2.38 shall have the household's net income as calculated in N.J.A.C. 10:87-6.15(a)1i-vii compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 (Appendix A, Table III) to determine eligibility for the month.

ii. Households subject to gross and net monthly income tests: Households which do not contain an elderly or disabled member shall have their gross monthly income compared to the monthly income eligibility standards in N.J.A.C. 10:87-12.4 (Appendix A, Table IV) for the appropriate household size and shall have their net monthly income as calculated in (a)1i through viii above compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 (Appendix A, Table III) to determine eligibility for the month.

iii. Benefits: After eligibility has been determined in accordance with (a)3i or ii above, the CWA shall use the household's net monthly food stamp income to determine the amount of the household's benefit in accordance with N.J.A.C. 10:87-12.6 (Appendix A, Table VI).

(1) If the allotment for an initial month is less than \$10.00, or is prorated to less than \$10.00 in accordance with N.J.A.C. 10:87-6.2(b) no benefits shall be issued to the household for the initial month.

(2) Except during an initial month, all eligible one and two person households shall receive a minimum monthly allotment of \$10.00 and all eligible households with three or more members entitled to \$1.00, \$3.00 and \$5.00 allotments shall have their allotments rounded to \$2.00, \$4.00 and \$6.00 respectively.*

*10:87-12.7 165 percent of poverty level

(a) the following table is to be used when determining separate household status for elderly and disabled individuals in accordance with N.J.A.C. 10:87-2.2(a)4.

TABLE VII
165% of Poverty Level

Household Size	Maximum Allowable Income
1	\$ 644
2	856
3	1067
4	1279
5	1491
6	1702
7	1914
8	*[\$2216]* *2126*
9	*[\$2428]* *2338*
10	*[\$2640]* *2550*
Each additional member	212*

LABOR

(a)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Repayment of Unemployment Benefits

Adopted Amendment: N.J.A.C. 12:17-10.3

Adopted Repeal: N.J.A.C. 12:17-10.4

Proposed: January 17, 1983 at 15 N.J.R. 74(a).

Adopted: March 4, 1983 by Roger A. Bodman, Commissioner, Department of Labor.

Filed: March 4, 1983 as R.1983 d.83, without change.

Authority: N.J.S.A. 43:21-1 et seq. and P.L. 1981 c.239.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): October 23, 1985.

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

LAW AND PUBLIC SAFETY

(b)

BOARD OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

General Administrative Regulations Minimum Standards and Tolerances

Adopted Amendment: N.J.A.C. 13:33-1.38

Proposed: October 4, 1982 at 14 N.J.R. 1085(a).

Adopted: December 1, 1982 by State Board of Ophthalmic Dispensers and Ophthalmic Technicians, Robert C. Troast, President.

Filed: March 4, 1983 as R.1983 d.81, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:17B-41.13.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): February 14, 1984.

Summary of Public Comments and Agency Responses:

The Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians gave the public the opportunity to comment on the amendment of N.J.A.C. 13:33-1.38 by allowing interested persons to submit their views in writing by November 3, 1982 to the attention of the Board President, Mr. Robert Troast.

Such announcement was made in the October 4, 1982 issue of the New Jersey Register and in a newsletter sent to the members of the Society of Dispensing Opticians. The time for comments was extended by the Board until December 1, 1982 to accommodate the request of one party interested in commenting after the November 3, 1982 date. This comment was received on December 1, 1982 from Mr. Richard F. Smith, Government Affairs Representative for the New Jersey Association of Optometrists and Opticians.

The Board carefully considered Mr. Smith's comments and, after discussion at their December meeting, they rejected his suggestion to delay adoption. The Board found most of the criticism contained in his letter very general and unspecific and therefore difficult to respond to in a point by point manner. For example, Mr. Smith refers to the rule as anti-consumer in "several aspects" but never elaborates on those aspects. Further, the letter claims it is the Association's belief that "Certain requirements under the proposed rule would result ... in higher costs to the consumer without a commensurate improvement in the quality of the eye care delivery system." Here again, however, there is no indication as to which specific requirements of the rule the Association feels would result in the higher costs.

The Board was able to formulate a direct response to the criticism which suggested that in drafting the rule they did not consider the fact of standard temple lengths. The Board rejected this contention on the basis that they were extremely cognizant of that fact as evidenced by the range that is provided for by the rule within which temple lengths can measure and still meet the requirements for a proper fit.

The Board disagreed with Mr. Smith's broad categorization of the rule as "vague and ill-defined" in that, quite to the contrary, the rule establishes very definite guidelines for frame selection and fit where there were none before.

In summary, the Board found the general criticism contained in Mr. Smith's letter irrelevant to the purpose and effect of the overall change.

A full record of this opportunity to be heard can be inspected by contacting the Board office at 1100 Raymond Boulevard, Room 501, Newark, New Jersey 07102.

It should be noted that in adopting the rule, the Board did make some changes from the proposal. However, since they were only of a clerical, punctuational and grammatical nature, and they do not substantially change the rule or effectively destroy the value of notice, they are within the guidelines of N.J.A.C. 1:30-3.5(c) permitting such change.

Full text of the changes in the rule between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

13:33-1.38 Minimum standards and tolerances

(a) (No change from proposal.)

(b) In order to insure the proper fabrication of lenses and eyewear, the following information must be obtained from the refractionist:

1. Complete prescription, including sphere, cylinder, axis, prism ***[.]**/*** base and add;
3. Upon completion of the fabrication of such corrective lenses and prior to dispensing within the State of New Jersey, the lenses or finished eyeglasses shall be verified to insure the accuracy of the prescription, the sphere, cylinder, axis ***,* prism *[.]**/*** base, add, patient pupillary distance, segment height, frame size, eye size, bridge size and temple length. In addition, the eyewear must be adjusted for fit and verified for compliance with the standards set forth in (a) above.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways School Speed Zone on Route 18

Readopted Amendment: N.J.A.C. 16:28-1.23

Proposed: January 3, 1983 at 15 N.J.R. 41(a).
Adopted: February 14, 1983 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid.
Filed: February 23, 1983 as R.1983 d.70, **without change**.

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

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): August 1, 1983.

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

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

General Administration Interest Charges; Delinquent Transmittals

Adopted Amendment: N.J.A.C. 17:1-1.5

Proposed: January 17, 1983 at 15 N.J.R. 80(b).
Adopted: February 28, 1983 by William J. Joseph, Director, Division of Pensions.
Filed: March 1, 1983 as R.1983 d.77, **without change**.

Authority: N.J.S.A. 52:18A-96.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): May 15, 1983.

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

(a)

DIVISION OF PENSIONS

**Public Employees' Retirement System
Insurance Liability for Unenrolled Members****Adopted Repeal: N.J.A.C. 17:2-3.9**

Proposed: January 3, 1983 at 15 N.J.R. 16(a).
Adopted: February 25, 1983 by the Board of Trustees,
Public Employees Retirement System, John P. Olender,
Secretary.

Filed: March 1, 1983 as R.1983 d.76, **without change**.

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

Effective Date: March 21, 1983.

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

(b)

DIVISION OF PENSIONS

**Teachers' Pension and Annuity Fund
Proof of Age; Beneficiaries; Purchases;
Interfund Transfers****Adopted Amendments: N.J.A.C. 17:3-1.11,
3.12, 5.5, 6.2, 7.1 and 7.2**

Proposed: November 1, 1982 at 14 N.J.R. 1202(b).
Adopted: February 24, 1983 by the Board of Trustees,
Teachers' Pension and Annuity Fund, Mary C. Conrey,
Secretary.

Filed: March 1, 1983 as R.1983 d.78, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:66-56.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
May 15, 1983.

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

Full text of the changes between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***;
deletions from proposal shown in brackets with asterisks ***[thus]***).

17:3-3.12 Beneficiary designation; pension contributions

(a) (No change from proposal.)

(b) Multiple members of a retirement system are required to file
new beneficiary forms when the beneficiary nomination on the
multiple enrollment forms do not agree. ***[Members may not use
the designation "children"; unless the insured specifically states
children of a certain marriage, the beneficiaries must be specifically
named.]***

***(c) All beneficiaries must be specifically named. The**

designation "children", unless otherwise qualified by the
member, shall mean all individuals, including natural or
adopted children, entitled to take from the member by the New
Jersey law of intestate succession, N.J.S.A. 3A:2A-1 et seq.,
and excludes all persons who are only stepchildren, foster
children, grandchildren or any more remote descendants.*

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

**Applications
Casino Hotel Alcoholic Beverage Licenses****Adopted Amendment: N.J.A.C. 19:41-9.7**

Proposed: December 6, 1982 at 14 N.J.R. 1364(a).
Adopted: March 1, 1983 by Casino Control Commission,
Walter N. Read, Chairman.
Filed: March 1, 1983 as R.1983 d.80, with **substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5(c)2).

Authority: N.J.S.A. 5:12-63(c), 5:12-70(e), 5:12-141 and
P.L. 1982, c.148.

Effective Date: March 21, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
May 17, 1983.

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

Full text of the change between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***).

19:41-9.7 Casino hotel alcoholic beverage licenses

Under Section 103 of the Act, no business may expose for sale,
solicit or promote the sale of, possess with intent to sell, give,
dispense, or otherwise transfer or dispose of alcoholic beverages in,
on or about any portion of the premises of a casino hotel, unless
said business possesses an appropriate Casino Hotel Alcoholic
Beverage License. Such licenses shall be issued for one year and
are renewable annually. [The fee for issuance of such license shall
be \$5,000 and the fee for annual renewal shall be \$5,000.] **The fee
for the issuance or annual renewal of a Casino Hotel Alcoholic
Beverage License shall be \$5,000 for each location within the
casino hotel approved by the Commission for any or all of the
activities listed in section 103 of the Act. All storage areas within
a facility shall be deemed a single licensable location for the
purposes of this *sub*section. If a Casino Hotel Alcoholic
Beverage License is amended to add additional locations after
the issuance or annual renewal of that license, the fee for each
such additional location approved by the Commission for any
or all of the activities listed in Section 103 of the Act shall be
\$5,000 reduced on a pro rata basis in accordance with the
number of full calendar months which have expired during the
term of the license to which the additional location is added.**

MISCELLANEOUS NOTICES

HUMAN SERVICES

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Notice of Licensing Requirements for Child Care Centers Serving Children Below 2 Years of Age

Authority: N.J.S.A. 18A:70-1 to 9

Take notice that an amendment to the State's child care licensing law, which was signed into law on September 20, 1982 by Governor Thomas H. Kean, becomes effective on March 21, 1983. The amendment to the law requires for the first time the licensing of centers serving infants/toddlers (children under two years of age) and children who are five years of age. Up to now, the law had required the licensing of certain centers serving children two, three and four years of age.

The amendment to the law also removes the provision of the existing law that exempts from licensure centers that do **not** charge a tuition fee, board or other form of compensation. As a result, this amendment will require for the first time the licensing of more than 200 New Jersey-based Head Start centers, although such centers have been voluntarily licensed by the Bureau for several years.

As a result of the amendment to the law, certain privately operated, non-sectarian child care centers serving six or more children below the age of six years must secure a license from the Division of Youth and Family Services, New Jersey Department of Human Services; regardless of whether they charge a fee for services.

To implement the amendment to the law, the Division of Youth and Family Services' Bureau of Licensing developed, in conjunction with an ad hoc citizens advisory committee, proposed regulations specifically geared to the needs of infants/toddlers. The committee included directors of infant/toddler centers; representatives from the New Jersey Association for the Education of Young Children (NJAEYC), the Head Start Directors Association, and the DYFS Day Care Policy Development Board; and staff representatives of the State Departments of Education and Health. The Bureau also utilized infant/toddler licensing regulations from a number of other states in drafting these proposed infant/toddler center regulations.

The Division of Youth and Family Services intends to propose the regulations shortly through publication in the New Jersey Register and ultimately to adopt them once comments to the proposal have been reviewed and considered. Until such time that these regulations can be adopted formally, the Division's Bureau of Licensing intends to apply the provisions of the Manual of Standards for Child Care Centers (N.J.A.C. 10:122) for all child care centers that serve children below the age of six years and that are required to be licensed in order to operate. It should be noted, however, that because of the unique needs of an infant/toddler population, certain requirements will be different from or more stringent than those contained in N.J.A.C. 10:122, including those governing staff/child ratios, life-safety codes, certain sanitary and health provisions, sleeping and rest requirements and others. Until

the new infant/toddler regulations are formally adopted, the Bureau of Licensing will expect centers serving infants/toddlers to apply the standards of the proposed regulations in order to insure the health, protection, safety and well-being of infants/toddlers in child care centers.

Interested persons seeking further information may write to:

Division of Youth and Family
Services
Bureau of Licensing
One South Montgomery Street
CN 717
Trenton, NJ 08625

ENERGY

(b)

THE COMMISSIONER

Notice of Public Hearing on the Application of Public Service Electric and Gas Company ("PSE&G") to implement a "Residential Low Income Seal-Up Program" and a "Residential Customer Conservation Seal-Up Program."

Take notice that the New Jersey Department of Energy ("NJDOE") intends to conduct a **public hearing** on the application of PSE&G to initiate two programs designed to provide and install low cost energy conservation measures in the houses and apartments of PSE&G gas and electric heating customers. The purpose of the hearing is to receive comments on the proposed programs.

The NJDOE will hold the public hearing on **April 5, 1983** at 10:00 A.M. at:

Hearing Room 1
100 Raymond Boulevard
2nd Floor
Newark, NJ 07102

Persons who wish to speak at the hearing should contact the New Jersey Department of Energy at (201) 648-2410 by April 4, 1983 and should bring four copies of their testimony to the hearing.

Interested persons are also invited to submit written statements on the application by April 4, 1983 to:

New Jersey Department of Energy
101 Commerce Street
Newark, NJ 07102

A copy of each proposed application is on file at NJDOE and is available for public inspection during regular business hours.

This Notice is published as a matter of public information.

LATE NOTICE

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Hearing Rules of Special Applicability Special Education Program

Proposed Amendments: N.J.A.C. 1:6A-3.3 and 4.4

Proposed New Rule: N.J.A.C. 1:6A-4.5

Authorized By: Howard H. Kestin, Director, Office of
Administrative Law.

Authority: N.J.S.A. 52:14F-5e, f, g, h, n, o and p.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Burton D. Weltman, Esq.
Assistant Director for Rules
Office of Administrative Law
88 East State Street
Trenton, NJ 08625

The Office of Administrative Law thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-157.

The agency proposal follows:

Summary

The purpose of these proposed rules is to clarify and to simplify further the special education hearing process.

The amendment to N.J.A.C. 1:6A-3.3 (Discovery) clarifies the intent of the original rules to eliminate from these hearings most formal discovery techniques, and to encourage the informal exchange of information. This procedure is particularly appropriate for these cases for at least two reasons.

First, the parties in these cases are generally not strangers to each other, and the issues are generally not novel to them. That is, prior to a hearing request, the parents and the school teachers and officials have usually had significant communication and exchange of views and information on the issues for hearing. Therefore, the purpose of "discovery" should usually be to complete the parties' case preparation, and not to begin preparations.

Second, the federally mandated time frames for completing these hearings are too short to permit most formal discovery.

The amendment to N.J.A.C. 1:6A-4.4 clarifies the intent of the original rules to model the system of choosing an independent evaluator on that previously used by the Department of Education. This was the intent of the rule, and in fact the language of N.J.A.C. 1:6A-4.4 was modeled on that previously contained in the Department's rules. However, in order to relieve any concerns that parents might have on this point, and after further consultation with Department personnel as to their prior procedures, the Office of

Administrative Law has inserted some additional language into the rule.

The addition of N.J.A.C. 1:6A-4.5 (Presumption of authenticity) establishes a less formal and less time-consuming procedure for admitting documentary evidence at hearing. This procedure is particularly appropriate for these cases for at least two reasons.

First, many of the documents or at least the sources of the documents are already known to all parties, based on prior dealings. Second, most of the documents in these cases are school records, medical records and expert reports, from known and reliable sources which are not subject to the same kind of suspicion as might documents from other sources in other cases.

The presumption of authenticity may be overcome by bona fide questions casting doubt on whether a document is in fact genuine and is that which the party claims it to be. If the judge determines that such questions have been raised, they must be answered in order for the document to be admitted at the hearing. A judge may admit a document conditionally, and accept written proofs of its authenticity following the hearing.

Social Impact

The provisions of these proposed rules should help simplify the hearing process, and ease somewhat the burden of preparation for hearings. This relief should be particularly helpful to pro se parents and lay advocates, who may not be familiar with formal legal procedures.

Economic Impact

The proposed rules should help eliminate some costs in the hearing process, by clarifying that certain formal and costly legal procedures are not necessary or appropriate in these hearings.

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

1:6A-3.3 [Time for discovery] **Discovery**

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

(d) Discovery shall to the greatest extent possible consist of the informal exchange of questions and answers and other information. Discovery may not include requests for formal interrogatories, formal admissions or depositions.

1:6A-4.4 Independent educational evaluation

(a) For good cause and after giving the parties an opportunity to be heard, the judge may order an independent evaluation of the pupil. The evaluation shall be conducted in accordance with N.J.A.C. 6:28-1 by an appropriately certified or licensed professional examiner(s) who is not employed by and does not routinely provide evaluations for the board of education or public agency responsible for the education of the pupil to be evaluated. The [judge shall choose an] independent evaluator **shall be chosen** from a list approved by the Department of Education either by agreement of the parties or, where such agreement cannot be reached, by the judge after consultation with the parties. [and] **The judge shall** order the board of education or public agency to pay for the independent evaluation at no cost to the parent(s) or guardian. (34 CFR 300.503)

(b) (No change.)

1:6A-4.5 **Presumption of authenticity**

(a) The authentication requirements and criteria in N.J.A.C. 1:1-15.9 shall not apply in a special education hearing.

(b) Any writing offered into evidence which has been disclosed

to each other party at least five days prior to the hearing shall be presumed to be authentic.

(c) At the hearing, either a party or the judge may raise questions of authenticity.

(d) Where a genuine question of authenticity is raised at hearing, the judge may require some authentication of the questioned document. For these purposes, the judge may accept a submission of proof, in the form of an affidavit, certified document or other similar proof, no later than 10 days from the date of the hearing.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between March 15, 1982 and March 7, 1983, and which have not been adopted and filed by March 7, 1983. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit 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 of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW--TITLE 1			
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
BANKING--TITLE 3			
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
3:6-13	Automated teller machines	2-22-83	15 N.J.R. 190(a)
3:11-2.1	Commercial bank lending: Approved subsidiaries	2-7-83	15 N.J.R. 110(a)
3:11-7.2, 7.8, 7.9	Expanded lending limitations	2-22-83	15 N.J.R. 192(a)
3:17-7.1, 7.3	Small loan lenders and second mortgage purchases	2-7-83	15 N.J.R. 111(a)
CIVIL SERVICE--TITLE 4			
4:1-5.11	Hearings: Decision notification	2-7-83	15 N.J.R. 111(b)
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.13	Request for reemployment (local)	3-7-83	15 N.J.R. 272(b)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.5	Inclement weather emergency policy (State)	3-7-83	15 N.J.R. 273(a)
4:1-20.9	Tuition aid program (State)	3-7-83	15 N.J.R. 274(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-18.1	Repeal (see 4:1-18.5)	3-7-83	15 N.J.R. 273(a)
4:2-20.3	Granting of increments after denial	2-7-83	15 N.J.R. 112(a)
4:2-20.9	Repeal (see 4:1-20.9)	3-7-83	15 N.J.R. 273(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:6	Overtime Committee Rules	10-18-82	14 N.J.R. 1126(a)
COMMUNITY AFFAIRS--TITLE 5			
5:13-1.1, 1.3, 1.5, 1.19-1.27	Limited dividend and nonprofit housing corporations-associations	2-22-83	15 N.J.R. 193(a)
5:23	Readopt Uniform Construction Code	11-15-82	14 N.J.R. 1247(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
EDUCATION--TITLE 6			
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-8.1, 8.2, 8.4, 8.8, 8.9-8.13	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
6:28-11	Programs for preschool handicapped children	12-20-82	14 N.J.R. 1430(a)
6:64-2.1-2.4	County library reorganization	2-22-83	15 N.J.R. 194(a)
6:68-4.1-4.9	Library Construction Incentive Act rules	2-22-83	15 N.J.R. 196(a)
ENVIRONMENTAL PROTECTION-TITLE 7			
7:1-8, 9	Siting of commercial hazardous waste facilities	2-7-83	15 N.J.R. 113(a)
7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:7-2.2, 2.6-2.9, 2.11, 2.15	"Repair" of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7A-1.13	Wetlands maps in Atlantic and Cumberland counties	2-7-83	15 N.J.R. 119(a)
7:11-2	Consolidated Rate Schedule: D&R Canal and Spruce Run-Round Valley	2-7-83	15 N.J.R. 122(a)
7:11-4	Repeal Spruce Run-Round Valley rates	2-7-83	15 N.J.R. 122(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Somerset and Union counties	10-18-82	14 N.J.R. 1131(a)
7:13-1.11	Floodway delineations in Hunterdon County	10-18-82	14 N.J.R. 1131(b)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	10-18-82	14 N.J.R. 1134(a)
7:13-1.11	Floodway delineations in Ocean-Monmouth Counties	11-1-82	14 N.J.R. 1189(a)
7:13-1.11	Floodway delineations in Burlington County	12-20-82	14 N.J.R. 1434(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:19-4	Diversion assessment and payment for public water supply	3-7-83	15 N.J.R. 276(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:20A	New comment period: Water diversion for growing use	11-15-82	15 N.J.R. 73(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25-18A	Fisheries closures and advisories on certain species (with Emergency Adoption)	1-3-83	15 N.J.R. 39(a)
7:25-22.1	Marine finfish: Menhaden season	9-7-82	14 N.J.R. 945(a)
7:25A-1.1, 1.2, 2.1, 2.3-2.5	Oyster vessel licensing and use	2-22-83	15 N.J.R. 199(a)
7:25A-3.1	1983 oyster seed bed season	2-22-83	15 N.J.R. 200(a)
7:26-1.4, 2.9, 2.13	Sanitary landfill closure	8-16-82	14 N.J.R. 883(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-15.8	Recycling grants and loans: Supplementary projects	12-6-82	14 N.J.R. 1346(a)
7:30	State Pesticide Control Code (see 14 N.J.R. 1385(a), 15 N.J.R. 333(b))	8-2-82	14 N.J.R. 787(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
HEALTH-TITLE 8			
8:18-1	Repeal children's boarding home rules	12-20-82	14 N.J.R. 1436(b)
8:21-2.34	Repeal (see 8:21-12)	11-15-82	14 N.J.R. 1265(a)
8:21-12	Nonalcoholic beverages and bottled water	11-15-82	14 N.J.R. 1265(a)
8:24	Retail food establishments; vending machines	6-7-82	14 N.J.R. 509(a)
8:30	Repeal (see 8:39)	3-7-83	15 N.J.R. 279(a)
8:31-26.1	Health care facilities: Ownership by convicted persons	3-7-83	15 N.J.R. 307(a)
8:31A-7	SHARE Manual: Relief from overspending challenge	2-22-83	15 N.J.R. 200(b)
8:31B-3.26, 3.27, 3.72, 3.73	Hospital rate setting: Procedure and methodology	2-22-83	15 N.J.R. 201(a)
8:33-2.2	Batching cycle for long-term care facilities	3-7-83	15 N.J.R. 307(b)
8:37	Repeal (see 8:39)	3-7-83	15 N.J.R. 279(a)
8:39	Licensure of long-term care facilities	3-7-83	15 N.J.R. 279(a)
8:40	Repeal interim rules for abortion facilities	3-7-83	15 N.J.R. 308(a)
8:43-4.13	Residential care facilities: Personal needs allowance	3-7-83	15 N.J.R. 309(a)
8:43-8	Residential health care: Maintenance and monitoring services	3-7-83	15 N.J.R. 309(b)
8:43A-8.1	Ambulatory care facilities: Surgical services	1-3-83	15 N.J.R. 9(a)
8:43B-8.3	Early detection of biochemical disorders in newborn infants	3-7-83	15 N.J.R. 311(a)
8:43F-3.3	Health care facilities: Ownership by convicted persons	3-7-83	15 N.J.R. 307(a)
8:43F-4.3, 4.20	Medical day care: Admission physical; social work services	3-7-83	15 N.J.R. 312(a)
8:65-7.5	Prescriptions for controlled substances: Time limits	2-7-83	15 N.J.R. 125(a)
8:65-10.5	Remove Loperamide from Controlled Substances	2-7-83	15 N.J.R. 126(a)
8:71	Additions to generic drug list (see 14 N.J.R. 836(a), 1160(a))	4-19-82	14 N.J.R. 369(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
8:71	Additions to generic drug list (see 14 N.J.R. 1160(b), 1392(a); 15 N.J.R. 91(a))	7-6-82	14 N.J.R. 690(a)
8:71	Generic drug list additions (see 15 N.J.R. 90(a), 147(e))	8-16-82	14 N.J.R. 888(a)
8:71	Additions to generic drug list (see 15 N.J.R. 148(a))	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes	11-15-82	14 N.J.R. 1278(a)
8:71	Generic drug list changes	2-7-83	15 N.J.R. 126(b)
8:71	Generic drug list additions	2-7-83	15 N.J.R. 127(a)
HIGHER EDUCATION—TITLE 9			
9:1-1.6	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:4-1.2, 2.14	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:4-1.6	County colleges: General education requirements	2-22-83	15 N.J.R. 203(a)
9:4-5	County colleges reduction in force rules	2-7-83	15 N.J.R. 128(a)
9:5-1.5	State funding for senior citizens	1-17-83	15 N.J.R. 73(b)
9:7	Readopt Student Assistance Programs	2-7-83	15 N.J.R. 129(a)
9:7-2.10	Student Assistance Programs: Minimum academic progress	2-22-83	15 N.J.R. 205(a)
9:7-3.1	1983-84 Tuition Aid Grant Award Table	2-22-83	15 N.J.R. 206(a)
9:11-1.5, 1.16	Educational Opportunity Fund financial aid guidelines	2-22-83	15 N.J.R. 206(b)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)
HUMAN SERVICES—TITLE 10			
10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:49-1.4	Personal care services	7-6-82	14 N.J.R. 695(a)
10:51-1.2	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51—App. B, D	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51-3.14, 5.18	Pharmaceutical payment in long-term care	6-7-82	14 N.J.R. 542(a)
10:51-5	Readopt PAAD services manual	2-22-83	15 N.J.R. 209(a)
10:51-6	Expiration: Institutional pharmacy permits	2-22-83	15 N.J.R. 209(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:63-1.16	Agency response to petition: Long-term care of psychiatric patients	4-5-82	14 N.J.R. 321(a)
10:66-1.2, 1.3, 1.6, 1.7	Ambulatory surgical centers	7-6-82	14 N.J.R. 697(a)
10:66-1.6, 3.3	Personal care services	7-6-82	14 N.J.R. 695(a)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
10:69A	Readopt PAAD eligibility manual	2-22-83	15 N.J.R. 211(a)
10:85-3.1	GAM: Household size	2-22-83	15 N.J.R. 212(a)
10:85-3.2(f)	GAM: Residency and municipal responsibility	3-7-83	15 N.J.R. 313(a)
10:85-3.2(g)	GAM: Determination of unemployability	3-7-83	15 N.J.R. 314(a)
10:85-3.3	GAM: Residential health care rates	8-16-82	14 N.J.R. 894(a)
10:87-2.2, 2.3, 2.21, 2.32, 2.34, 2.35, 3.23, 3.24, 4.3, 4.8, 5.5, 5.10, 6.2, 6.3, 6.15-6.18, 7.18, 12.5, 12.6	Food Stamp Program revisions (with Emergency Adoption)	2-22-83	15 N.J.R. 247(a)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:87-4.8, 4.12, 5.5	Food Stamp Program: Resource exclusions	2-22-83	15 N.J.R. 212(b)
10:89-3.1	Home Energy Assistance: Automatic payments	9-7-82	14 N.J.R. 957(a)
10:98	State Plan for Vocational Rehabilitation Services	11-1-82	14 N.J.R. 1193(a)
10:122-1.1-1.3, 2.1, 2.2, 2.4-2.6, 3.1-3.6, 4.4, 4.6, 5.1-5.4, 6.1-6.9, 7.1, 7.2, 7.6, 7.7	Child care centers for children 2 1/2-5	2-22-83	15 N.J.R. 214(a)
10:123-1	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:125	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:126	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
INSURANCE—TITLE 11			
11:3-6.1-6.4	Automobile insurance identification cards	3-7-83	15 N.J.R. 315(a)
11:3-8	Nonrenewal of automobile policies	2-22-83	15 N.J.R. 231(a)
LAW AND PUBLIC SAFETY—TITLE 13			
13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
13:21-8.10	Vision standards for motor vehicle drivers	7-6-82	14 N.J.R. 700(a)
13:29-1.7	Board of Accountancy: Conditional credit	11-15-82	14 N.J.R. 1279(a)
13:32-1.8	Pressure seal on plumbing permit applications	7-19-82	14 N.J.R. 759(a)
13:35-11	In-State clinical training by foreign medical schools	1-17-83	15 N.J.R. 75(a)
13:39-8.14, 9.14	Pharmacist-in-charge; in-store pharmacies	8-16-82	14 N.J.R. 898(b)
13:39-8.14, 9.14	Extension of comment period	8-16-82	14 N.J.R. 1222(b)
13:39-8.14, 9.14	Public hearing	8-16-82	15 N.J.R. 164(c)
13:39-9.16	Board of Pharmacy fees	1-17-83	15 N.J.R. 78(a)
13:40-6.1	Examination fees for engineers and surveyors	1-17-83	15 N.J.R. 78(b)
13:41-3.2	Professional planning examination fees	1-17-83	15 N.J.R. 79(a)
13:43-3.3	Certified Shorthand Reporter disclosure	1-17-83	15 N.J.R. 80(a)
13:44-2.9	Veterinary board: Temporary permits	2-7-83	15 N.J.R. 130(a)
13:45A-19	Deceptive advertising and prizes	11-15-82	14 N.J.R. 1281(b)
13:47A-1.1, 1.8	Securities industry: Nonduplication of fingerprinting	6-7-82	14 N.J.R. 550(a)
13:45B-4	Temporary help service firms	2-22-83	15 N.J.R. 233(a)
13:70-4.1	Thoroughbred racing: License fees	12-20-82	14 N.J.R. 1444(a)
13:71-7.1	Harness racing: License fees	12-20-82	14 N.J.R. 1445(a)
PUBLIC UTILITIES—TITLE 14			
7:26-6	Interdistrict and intradistrict solid waste flow	9-20-82	14 N.J.R. 1027(b)
14:1-3.3	Board proceedings and ex parte communications	10-18-82	14 N.J.R. 1148(a)
14:3-7.11A	Uniform budgeting plan for residential customers	9-20-82	14 N.J.R. 1048(a)
14:17-18	CATV rate regulation	5-3-82	14 N.J.R. 422(b)
14:18-3.9	CATV refunds for service interruptions	9-7-82	14 N.J.R. 972(a)
ENERGY—TITLE 14A			
14A:3-15.8	Recycling grants and loans: Supplementary projects	12-6-82	14 N.J.R. 1346(a)
STATE—TITLE 15			
15:10-1.4	Voter registration: Timely filing	10-18-82	14 N.J.R. 1148(b)
TRANSPORTATION—TITLE 16			
16:28A-1.18	Route 27 parking in South Brunswick	3-7-83	15 N.J.R. 317(a)
16:28A-1.25	Route 35 parking in Dover Township	3-7-83	15 N.J.R. 318(a)
16:28A-1.55	Parking on US 202 in Morris Township	2-7-83	15 N.J.R. 131(a)
16:28A-1.81	Parking along Route 87 in Atlantic City	2-22-83	15 N.J.R. 234(a)
16:30-2.5	Stop intersection on Route 71, Oceanport-Eatontown	3-7-83	15 N.J.R. 318(b)
16:30-9.1	Drawbridge use on Route 35 in Old Bridge – Sayerville	2-7-83	15 N.J.R. 132(a)
16:31-1.3, 1.21	Turns on Routes 15 and 46 in Dover, Morris County	3-7-83	15 N.J.R. 319(a)
16:41-2.1, 2.3–2.14, 2.18, 2.19, 3.3	Access driveways along highways	11-15-82	14 N.J.R. 1284(a)
16:41-7.2	Street intersections	11-15-82	14 N.J.R. 1289(a)
16:53-1–9	Autobus specifications	12-6-82	14 N.J.R. 1347(a)
16:74	Regular route bus service: Destructive competition claims	4-5-82	14 N.J.R. 326(b)
TREASURY-GENERAL—TITLE 17			
17:1-8.12	Social Security transmittals: Late filing penalties	3-7-83	15 N.J.R. 319(b)
17:4-5.5	Police and Firemen's Retirement: Reinstatement	2-7-83	15 N.J.R. 132(b)
17:8-2.6, 3.3	Supplemental Trust: Suspended deductions; withdrawal or retirement	1-17-83	15 N.J.R. 81(a)
17:9-2.10	HMO options for employees who move	1-17-83	15 N.J.R. 81(b)
17:10-1.3, 1.4, 2.1, 3.6, -4, 5.1–5.3, 6.1	Judicial retirement administration	11-15-82	14 N.J.R. 1296(b)
17:10-1.8	Judicial Retirement System: Proof of age	11-15-82	14 N.J.R. 1298(a)
17:10-3.1	Judicial Retirement: Computation of benefits	11-15-82	14 N.J.R. 1299(a)
17:16-17.2, 17.3	State Investment Council: Applicable funds; equity investments	2-7-83	15 N.J.R. 133(a)
17:19-2	Contractor classification: Bid prequalification	2-22-83	15 N.J.R. 235(a)
TREASURY-TAXATION—TITLE 18			
18:7-3.5	Corporation Business Tax: Short tax table	3-7-83	15 N.J.R. 320(a)
18:7-5.2	Correction: Corporation Business Tax	11-1-82	14 N.J.R. 1299(b)
18:12-4	Local property tax: Revaluation of real property	3-7-83	15 N.J.R. 322(a)
18:24-4.6, 5.16	Sales tax and capital improvements	10-4-82	14 N.J.R. 1086(a)
18:24-11.3	Sales Tax increase: Transitional provisions	3-7-83	15 N.J.R. 324(a)
18:35-1.15	Gross income tax withholding exclusion	11-16-82	13 N.J.R. 839(b)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
TITLE 19 SUBTITLES A-L—OTHER AGENCIES (Except Casino Control Commission)			
19:4-4	Waterfront Recreation Zone: Permitted uses	7-6-82	14 N.J.R. 706(a)
19:4-4.18A-4.27A	New planned park zone	1-3-83	15 N.J.R. 16(b)
19:4-6.28	Zoning change in Little Ferry	2-7-83	15 N.J.R. 133(b)
19:4A	Flood plain management	1-3-83	15 N.J.R. 18(a)
19:8-2.12	Emergency service fees on Parkway	2-7-83	15 N.J.R. 134(a)
19:17	Appeal Board on representation fees	8-16-82	14 N.J.R. 903(a)
19:25-19	Financial disclosure by candidates for State elective office	3-7-83	15 N.J.R. 326(a)
19:75	Rules of operation: Atlantic County Transportation Authority	3-15-82	14 N.J.R. 272(a)
TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION			
19:40-3	Confidential information: Maintenance and release	2-22-83	15 N.J.R. 238(a)
19:41-9.9A	Junkets (with Emergency Adoption)	2-22-83	15 N.J.R. 257(a)
19:45	Readopt accounting and internal controls	2-22-83	15 N.J.R. 240(a)
19:45-1.1, 1.8, 1.9	Junkets (with Emergency Adoption)	2-22-83	15 N.J.R. 257(a)
19:45-1.11	Line of authority; reporting of violations	10-4-82	14 N.J.R. 1087(b)
19:45-1.36	Slot machine entry	9-20-82	14 N.J.R. 1052(a)
19:45-1.39	Resetting of progressive slot machines	9-20-82	14 N.J.R. 1053(a)
19:46-1.1, 1.6	Gaming chips and plaques	8-2-82	14 N.J.R. 828(a)
19:46-1.2	Gaming plaques	7-6-82	14 N.J.R. 708(a)
19:46-1.16, 1.18	Use of cards and dice	8-2-82	14 N.J.R. 829(a)
19:46-1.17	Use of cards in baccarat	7-19-82	14 N.J.R. 754(a)
19:46-1.19	Blackjack equipment	6-7-82	14 N.J.R. 559(b)
19:47-1.10	Craps: Point thrown	2-22-83	15 N.J.R. 242(b)
19:47-2.1	Exclusion of card counting in blackjack	5-17-82	14 N.J.R. 467(a)
19:47-2.1-2.7	Blackjack play and wagering (see 14 N.J.R. 841(b), 991(a))	6-7-82	14 N.J.R. 559(b)
19:47-2.2	Correction: Double shoe in blackjack		14 N.J.R. 832(a)
19:47-2.5	“Shuffle-at-will” in blackjack	5-17-82	14 N.J.R. 469(a)
19:47-2.8, 2.13, 2.23-2.26	Blackjack rules	8-16-82	14 N.J.R. 907(a)
19:47-2.9-2.12, 2.15, 2.16	Blackjack play and wagering (see 14 N.J.R. 841(b))	6-7-82	14 N.J.R. 559(b)
19:47-2.16-2.19	Card counting exclusion	5-17-82	14 N.J.R. 467(a)
19:47-2.20-2.22, 5.7	Blackjack play and wagering (see 14 N.J.R. 841(b))	6-7-82	14 N.J.R. 559(b)
19:49	Junkets (with Emergency Adoption)	2-22-83	15 N.J.R. 257(a)
19:52-1.4	Casino room entertainment	2-7-83	15 N.J.R. 139(a)
19:54	Readopt Gross Revenue Tax rules	3-7-83	15 N.J.R. 328(b)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

4:1-16.1-16.5, 24.1, 24.3-24.12; 4:2-16.1, 16.2; 4:3-16.1, 16.2	Layoffs and demotions (see 15 N.J.R. 272(a))	2-16-82	14 N.J.R. 184(a), 298(a)
14:3-11	New major gas and electric facilities	3-1-82	14 N.J.R. 228(a)



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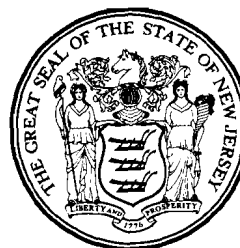
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CONTENTS
(Continued From Front Cover)

“Hearings on the papers” and MV cases 436(a)
 Special Education Program hearing rules 437(a)
AGRICULTURE
 Sire Stakes Program 439(a)
BANKING
 Home mortgage disclosure 439(b)
EDUCATION
 Child nutrition program changes 440(a)
ENVIRONMENTAL PROTECTION
 Correction: Select trench backfill payment width 440(b)
HEALTH
 Residential health care facilities 440(c)
 Ambulatory care facilities: Surgical services 440(d)
 Outpatient drug abuse counseling 441(a)
 Medical day care in long-term facilities 441(b)
HUMAN SERVICES
 Medical day care in hospital-affiliated facilities 442(a)
 LTC: Related-party lease costs 442(b)
 LTC: Capital Facilities Allowance rate 443(a)
 PAM: Liquidation and transfer of resources 443(b)
 ASH: Resources 443(c)
 Readopted Food Stamp Program revisions 444(a)
LABOR
 Repayment of unemployment benefits 447(a)
LAW AND PUBLIC SAFETY
 Minimum standards for eyeglass dispensing 447(b)
TRANSPORTATION
 Readopt school zone on Route 18 in Old Bridge 448(a)
TREASURY—GENERAL
 Pensions: Monthly transmittals and interest charges .. 448(b)
 PERS: Insurance liability for unenrolled members 449(a)
 Teachers’ Pension and Annuity Fund 449(b)
OTHER AGENCIES
CASINO CONTROL COMMISSION
 Hotel alcoholic beverage license fees 449(c)
MISCELLANEOUS NOTICES
HUMAN SERVICES
 Licensing of care centers for children under 2 and 6 .. 450(a)
ENERGY
 Public hearing: PSE&G application to implement residential
 “seal-up” programs 450(b)
INDEX OF PROPOSED RULES 453

Filing Deadlines

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