

# NEW JERSEY



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# REGISTER

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(Includes rules filed through June 6, 1983)

*The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State agency rule changes, see the Rule Adoptions in This Issue, the Rule Adoptions in the June 6 issue, and the Index of Adopted Rules beginning on Page 951 of that issue.*

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# RULE PROPOSALS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Special Education Program Hearing Rules Appeals of Administrative Law Judge Decisions

#### Proposed Amendment: N.J.A.C. 1:6A-5.3

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 July 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 1983-290.

The agency proposal follows:

#### Summary

The purpose of this amendment is to alert the litigants in special education cases of the decision of the New Jersey Appellate Court in **Board of Education of Cranford School District, Union County v. Mr. and Mrs. M.E. on behalf of their son**, N.E. Superior Court of New Jersey, Appellate Division, Docket No. A-5707-81T1 (Decided March 4, 1983). In that decision, the Appel-

late Court indicated in a footnote that appeals from administrative decisions in special education cases should not be made to the Appellate Division, and that New Jersey Court Rule 2:2-3 does not apply to these cases. (Slip Opinion P.6, footnote 5).

The Appellate Court reached this decision because of the Federal requirement that a court reviewing a special education case "shall hear additional evidence at the request of a party." 20 U.S.C.A. 1415(e)(2). The appellate court concluded that "the work of this court would be turned into turmoil and chaos by such matters." (Slip opinion p.6, footnote 5).

The court did not specify the review procedure which might be appropriate for these cases but hinted that an action in lieu of prerogative writ, pursuant to New Jersey Court Rule 4:69-1, might be appropriate. The court also suggested that some revision of the New Jersey Court Rules might be necessary to accommodate these cases.

In specifying that an appellant should file a "complaint" and thereby bring a "civil action," this OAL amendment follows the language of the Federal rules, 34 CFR 300.511, but also has the affect of directing litigants seeking appeals in the state courts to the Rules Governing Civil Practice in the Superior Court and Surrogate's Courts, New Jersey Court Rules Part IV. See New Jersey Court Rules 4:2-1 and 4:2-2.

#### Social Impact

This amendment attempts to clarify the proper avenue for appeal of a special education decision. Hopefully the amendment will help prevent some litigants from wasting some time and money.

#### Economic Impact

This amendment is for clarification purposes only and has no specific economic impact.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]). The original text of this rule was proposed at 14 N.J.R. 930(a) and adopted at 15 N.J.R. 25(b).

#### 1:6A-5.3 Appeal

Any party may appeal the decision of the judge **by filing a complaint and bringing a civil action** either [to] **in** the Superior Court of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey, or [to] **in** a district court of the United States, pursuant to 20 U.S.C.A. 1415(e)[(3)] (2). (34 CFR 300.511)

## NEW JERSEY REGISTER

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## CIVIL SERVICE

(a)

### CIVIL SERVICE COMMISSION

#### Examinations and Applications Promotion Upon Waiver of Competitive Examination

#### Proposed Amendment: N.J.A.C. 4:1-8.5

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner.  
Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:9-1, 11:10-7.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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 1983-293.

The agency proposal follows:

#### Summary

N.J.A.C. 4:1-8.5 currently lists five conditions which must be met in order to waive a competitive promotional examination. The second condition provides that an employee must not have failed a promotional examination for the subject title within the previous three years. The proposed amendment revises the condition of three years to one year. The balance of the changes are in accord with Department of Civil Service policy of reviewing all rules for clarity.

#### Social Impact

This amendment is beneficial to all employees as well as to management since it permits a greater number of qualified employees to avail themselves of promotional opportunities.

#### Economic Impact

The amendment will have negligible economic impact.

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

4:1-8.5 Promotion upon waiver of competitive examination

(a) The President of the **Civil Service Commission** may authorize the promotion of a qualified permanent employee[,] by regular appointment [and] without [a] competitive examination[,] provided all of the following conditions are met:

1. The employee has [previously taken and] passed an examination for the basic skills required [in] for the [position] title to which the promotion is to be made;

2. The employee has not, within [three years] **one year** previous to the announced closing date for filing applications, failed [to pass] a promotional examination for the [position] title to which the promotion is to be made[.]; **however**, [ but] if the employee [shall

have passed] subsequently **passed** an examination for the [position] title, s/he shall be eligible [notwithstanding the earlier failure];

3. The employee is serving [under a provisional appointment] **provisionally** in the [class or position] title to which the promotion is to be [effected] **made**;

4. [Not more than three eligible employees file applications to take such test when only one promotional appointment is to be made; or when more than one promotional appointment is to be made,] [t]The number of **interested** eligible employees [who file applications to take the examination] does not exceed by more than two the number of promotional appointments to be made;

5. Preference rights of veterans will not be affected.

## EDUCATION

(b)

### STATE BOARD OF EDUCATION

#### Evaluation of Pupil Achievement; Statewide Assessment Thorough and Efficient System of Free Public Schools

#### Proposed Amendments: N.J.A.C. 6:8-1.1, 3.4, 3.8, 4.2, 4.6 and N.J.A.C. 6:39-1.1

Authorized By: State Board of Education, Saul Cooperman, Secretary.  
Authority: N.J.S.A. 18A:4-15, 18A:4-24, 18A:7A-1 et seq., 18A:7C-1 et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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 1983-305.

The agency proposal follows:

#### Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:4-24, 18A:7A-1 et seq., and 18A:7C-1 et seq., proposes to amend N.J.A.C. 6:39-1.1 through 6:39-1.4, Statewide assessment, and N.J.A.C. 6:8-1.1, 3.4, 3.8, 4.2 and 4.6, thorough and efficient system of free public schools. The proposed amendments will bring the existing rules into conformity with the components of the new State testing program. The major components of the new program involve the administration of State developed reading, mathematics and writing tests at grade nine and the collection of school district data at grades three and six. In addition, school district tests shall meet State criteria.

There is a change in language from "basic communication and computational" skills to the more specific reading, writing and

mathematics. References to "minimum" levels of pupil proficiency have also been eliminated to permit development of more rigorous tests. The interpretation requirements for certain types of reports have also been relaxed.

These rules were originally developed in 1976 to implement the minimum standards legislation. The new Statewide testing program has been designed to move away from minimum competency testing, thus the need to amend the Administrative Code.

#### Social Impact

The implementation of a more rigorous State testing program will contribute to the better preparation of the State's pupils to be productive members of society. In addition, the provision permitting school districts to use their own tests at grades three and six will allow them to better assess their curriculum in a continuous fashion. This rule regulates the Department's implementation of the State testing program and specifies the criteria for school district compliance.

#### Economic Impact

The new State testing program will result in reduced State expenditures due to elimination of testing at grades three and six. This will also have an indirect economic impact on school districts through the elimination of duplicative testing and the reduced interpretive requirements which required a commitment of staff time. However, the new State testing program may result in increased cost for basic skills remedial programs due to the more rigorous nature of the tests.

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

#### 6:8-1.1 Words and phrases defined

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

"[Minimum levels] **Levels** of pupil proficiency" means standards established pursuant to N.J.S.A. 18A:7A-6 in grades where statewide testing takes place; and the State approved uniform levels of achievement in grades where State testing does not take place.

"Preventive program" means programs designed to prevent regression in the [basic] areas of [communication and computational] **reading, writing and mathematics** skills.

"Remedial program" means programs designed to improve the level of pupil proficiency in the [basic] areas of [communication and computational] **reading, writing and mathematics** skills.

#### 6:8-3.4 Assessment

(a) Pupil needs shall be assessed by teaching staff members to determine pupil attainment of educational objectives. Procedures for [each] **such** assessment shall include but not be limited to teacher observations, parental or guardian interview, formal and informal evaluation techniques, cumulative pupil records, student performance data collected through local testing programs which meet State criteria, State testing results and visual, auditory, and/or medical examination. Pupil identification required by N.J.A.C. 6:8-3.8 (Pupil [minimum] proficiency levels and preventive and remedial programs in [communication and computational] **reading, writing and mathematics** skills) shall be determined as part of this assessment of pupil needs.

(b) (No change.)

#### 6:8-3.8 Pupil [minimum] proficiency levels and preventive and remedial programs in [communication and computational] **reading, writing and mathematics** skills

(a) Each pupil shall be assessed, upon entrance into the educational system and annually thereafter, to identify pupils not meeting State [minimum] proficiency levels. In instances of pupil transfers, assessment records shall be forwarded from the previous school or district to the school or district in which the pupil is newly enrolled. Pupils so identified shall be provided with an individual comprehensive assessment which shall include but not be limited to the assessment procedures set forth in N.J.A.C. 6:8-3.4. For pupils with identified deficiencies after completion of six academic years of instruction beyond kindergarten, local school districts shall develop procedures for the development and implementation of individual student improvement plans. These procedures shall include but not be limited to:

1.-3. (No change.)

(b) Preventive and remedial programs, supplemental to the regular school program, shall be established. Application for and approval of these State compensatory education programs shall be based upon the following:

1.-4. (No change.)

5. Evaluation procedures which measure pupil gains in basic skills proficiency related to preventive and remedial program objectives and standards and to statewide standards in [communication and computational] **reading, writing and mathematics** skills;

6.-8. (No change.)

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

(e) As part of the annual district and school classification procedure, the State Department of Education shall monitor the district board of education's programs and the rate of pupil growth in achievement with particular attention to services and preventive and remedial educational programs for the basic [communication and computational] **reading, writing and mathematics** skills.

(f) The Department of Education shall conduct studies and evaluate findings biennially after the effective date of this chapter in order to report the status of progress toward the attainment of pupil [minimum] proficiency levels in [basic communication and computational] **reading, writing and mathematics** skills.

#### 6:8-4.2 Promotion and graduation

(a) The district board of education shall adopt policies and procedures for:

1. (No change.)

2. High school graduation, pursuant to law and regulation, which shall be consistent with the achievement of State and district goals, objectives and pupil proficiency with particular reference to [basic communication and computational] **reading, writing and mathematics** skills; except that by July 1, 1981 revised policies and procedures, shall be adopted as specified in N.J.A.C. 6:8-4.2(b), (c), (d) and (e).

(b) By July 1, 1981, district boards of education shall adopt policies and procedures for high school graduation of all pupils pursuant to law and regulation, which shall include but not be limited to performing at or above the established uniform statewide [minimum] levels of pupil proficiency on the ninth grade statewide assessment tests in reading, writing, and [computational] **mathematics** skills. This requirement shall commence with the ninth grade class of the 1981-82 school year.

1.-8. (No change.)

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

#### 6:8-4.6 School and community relations

(a) The district board of education shall provide parents or guardians, other district residents and teaching staff members opportunities through one or more public meetings of the board of education for discussion regarding State regulations and local school procedures for implementation of district goals, objectives

and standards. The initial meeting shall be held prior to November 30 of each year. The district board shall publish a special notice 10 days in advance of these meetings describing the purpose, listing the items to be discussed and indicating the availability of material relative to such items. The discussion at such meeting shall include, but not be limited to:

- 1.-2. (No change.)
- 3. The results of:
  - i. The [Minimum Basic Skills test] **Statewide Testing System**;
  - ii.-iv. (No change.)
- 4.-6. (No change.)
- (b) (No change.)

6:39-1.1 Authority of the commissioner

- (a) (No change.)
- (b) All such means, tests, if determined to be appropriate by the commissioner, and examinations to be administered pursuant to this rule shall be conducted by and in all operating school districts in New Jersey **and shall meet State criteria.**
- (c) [Said school] **School** districts shall conduct such means, tests and examinations in the manner and at the times prescribed by the commissioner.
- (d) **School districts shall report to the Department of Education the results of such means, tests and examinations in the manner and at the times prescribed by the commissioner.**

6:39-1.2 [Minimum levels] **Levels** of pupil proficiency

- (a) The State Board of Education, after consultation with the commissioner shall establish uniform statewide [minimum] levels of pupil proficiency in [basic communication and computational] **reading, writing and mathematics** skills on the statewide assessment instruments pursuant to N.J.S.A. 18A:7A-6.
- (b) In the event that certain grades are not administered the statewide assessment instruments, the Department of Education shall establish, for those grades, equivalent standards of pupil proficiency on tests which measure performance in [basic communication and computational] **reading, writing and mathematics** skills and meet State criteria.
- (c) All pupils performing below the established [minimum] levels of pupil proficiency in [basic communication and computational] **reading, writing and mathematics** skills, as determined under N.J.A.C. 6:39-1.2(a) and (b), shall be provided appropriate instructional services according to the district's basic skills improvement plan, pursuant to N.J.S.A. 18A:7A-6.

1. [A local board may apply to the commissioner for ] **A waiver of this requirement [which] may be granted if the program of needs assessment conducted pursuant to N.J.A.C. 6:8-3.4(a) clearly demonstrates such enrollment is unnecessary or enrollment of a pupil above [minimum] the levels of pupil proficiency as established in (a) and (b) above is necessary.**

6:39-1.3 Dissemination of information

- (a) (No change.)
- (b) The State Department of Education shall produce and distribute to chief school administrators as uninterpreted reports **for tests developed by the Department**: [minimum standards reports; objective-referenced summary reports for the class(es), school(s), district and county] **rosters of pupil performance and other reports as deemed appropriate by the commissioner.**
- (c) (No change.)
- (d) Each of these reports shall consist of completed report forms and interpretive aids prescribed and approved by the commissioner.]

[(e)](d) [Objective-referenced summary] **Summary** reports **for the class(es), school(s) and district** shall be distributed to chief school administrators, as indicated in (b), [(c), and (d)] above, in such a manner as to provide a 45-day period from receipt of all reports for analysis of data [and for the development of additional essential interpretive material by the chief school administrator

pursuant to N.J.A.C. 6:39-1.4]. During this period such material shall not be available for public distribution.

[(f)](e) Upon completion of the analysis, as indicated in [(e)] (d) above, but in no case later than the 45-day [interpretation] period established by the commissioner[, all schools and districts shall submit a copy of their objective-referenced summary reports to the county superintendent, who shall verify within 45 days of receipt that the reports are consistent with the interpretation guidelines previously approved by the commissioner. Upon notification of approval by the county superintendent,] and upon approval by the local board of education[, but in no case later than 30 days following the notification of approval by the county superintendent, objective-referenced], summary reports for class(es), school(s) and district shall be made available to the public.

[(g)](f) Individual pupil reports **for tests developed by the Department** shall be returned to districts in duplicate for all pupils tested. One copy of the report shall be maintained with the pupil's permanent records, and one copy shall be made available to the pupil, his[/] or her parent or legal guardian in a timely fashion.

[(h)](g) [Minimum standards reports] **Rosters of pupil performance for tests developed by the Department** shall be distributed to chief school administrators as indicated in (b) above in such a manner as to provide a 30-day interpretation period prior to reporting to the [local] **district** board of education and the public. Following this 30-day period, the commissioner shall make available to the public [minimum standards] reports [on] **about** each district which **at a minimum** shall list the number of pupils tested and percent of pupils at or above the established [minimum] levels of pupil proficiency, by grade and by test **for tests developed by the Department and for certain other grades as deemed appropriate by the commissioner on tests administered by each district.**

[(i)](h) At the time the commissioner makes available to the public the information stated in [(h)](g) above, all districts shall make available to the public the number of pupils tested and the percent of pupils at or above the established [minimum] levels of pupil proficiency for each school and the district, by grade and by test.

[(j)](i) The commissioner may make exceptions to the above regulations, such as those required by the [minimum standards] provisions of the Public School Education Act of 1975 (N.J.S.A. 18A:7A-1 et seq.) as well as special reports requested by local school districts.

6:39-1.4 Interpretation of data

[(a)] Local chief school administrators and county superintendents of school shall interpret the results of all data within 45 days of receipt of all objective-referenced summary reports.

(b) Local school district interpretation shall involve the chief school administrator in the interpretation of the district reports; the school principal in the interpretation of the school reports; and the teachers in the interpretation of the class reports.]

[(c)](a) The State Department of Education will provide technical assistance in the development of essential interpretive material by local districts.

[(d)](b) The State Department of Education may provide interpretations for local, county and State use.

(c) **All results which are made available to the public must be accompanied by interpretive materials.**

6:39-1.5 Exclusion of pupils

(No change.)

(a)

**STATE BOARD OF EDUCATION**

**Bookkeeping and Accounting in Local School Districts  
Petty Cash Fund**

**Proposed Amendment: N.J.A.C. 6:20-2.10**

Authorized By: State Board of Education, Saul Cooperman, Secretary.  
Authority: N.J.S.A. 18A:4-15 and 18A:19-13.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before July 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 1983-306.

The agency proposal follows:

**Summary**

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15 and 18A:19-13, proposes to amend N.J.A.C. 6:20-2.10 concerning petty cash fund.

The proposed amendments are presented to eliminate weaknesses in the present code language by establishing certain accountability standards recommended by the Bureau of Auditing, Department of Education. The present language does not require a district board of education to set the maximum expenditure which may be made from a petty cash fund or to designate an individual responsible for the fund. The proposed amendment establishes these requirements to strengthen the fiscal controls for petty cash funds.

**Social Impact**

The proposal establishes responsibility for the proper disposition of petty cash funds and minimum reporting periods for disbursement from petty cash funds. These changes allow for more accountability of petty cash expenditures.

**Economic Impact**

The changes have no direct economic impact on a district board of education. Since petty cash funds are optional, district boards of education would continue to establish petty cash funds at their discretion. However, if established, such funds would have to be established in accordance with the requirements contained in these proposed amendments. The requirements do not entail any additional cost to a district board of education.

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

6:20-2.10 Petty cash fund

(a) Pursuant to **the** provisions of N.J.S.A. 18A:19-13, [any] **a district** board of education [having need for] **may establish on July**

**1 of each year, or as needed, an imprest** petty cash [may establish such a] fund or funds for the purpose of making immediate payments of comparatively small amounts.

(b) [It shall be an imprest fund in which the] **A district** board of education **establishing an imprest petty cash fund** shall [fix the amount or amounts to be set aside for disbursement. At certain intervals, a report shall be prepared for the amount disbursed and the fund shall be replenished through a voucher approved by the board of education. All unused petty cash funds are to be returned to the depository at the close of each fiscal year.]:

- 1. Indicate the amount or amounts authorized for each fund;**
- 2. Set the maximum expenditure which may be made from each fund;**
- 3. Designate an individual who will be responsible for the proper disposition of each fund;**
- 4. Establish the minimum time period in which the designated person shall report to the board on amounts disbursed from each fund; and**
- 5. Approve a voucher prepared by the board secretary to replenish each fund.**

(c) **All unused petty cash funds are to be returned to the depository at the close of each fiscal year.**

(b)

**STATE BOARD OF EDUCATION**

**Pupil Transportation; School Bus Standards  
Extension of Useful Life to 12 Years**

**Proposed Amendment: N.J.A.C. 6:21-1.4**

Authorized By: New Jersey State Board of Education, Saul Cooperman, 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 July 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 1983-307.

The agency proposal follows:

**Summary**

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15 and 18A:39-21, proposes to amend N.J.A.C. 6:21-1.4 concerning the retirement of school buses.

In 1974, the State Board of Education adopted a rule which allowed school buses to be used for a maximum of 10 years after the date of manufacture. When the original rule was adopted, it was applicable to Type I school buses (defined as having a capacity of 17 or more passengers, fully identified as school buses with lettering, color and lights).

This proposal would extend the useful life of a school bus to 12 years and would include only those buses manufactured on or after

April 1, 1977, the date on which the Federal safety standards became effective. This recommendation is based on economic constraints as well as the increased cost of vehicles. This proposal will be applicable to all vehicles used to transport pupils to and from school with a capacity of more than 10 persons as redefined in the Code of Federal Regulations, 49 CFR§571.3.

Safety was a major consideration in the code amendment and that factor is addressed by a recent change in the inspection policy of the Division of Motor Vehicles. The new policy calls for an in-depth inspection of the school vehicle at the school or owner's garage, as well as the annual inspection at the motor vehicle station. This inspection, along with Federally mandated safety standards, should assure safe vehicles for pupils.

**Social Impact**

Parents, pupils, school administrators, law and safety officials will be assured that all vehicles manufactured on or after April 1, 1977, will receive an in-depth inspection and all vehicles used for pupil transportation in use for 12 years instead of 10 will have been produced with the latest product development, technology and standards.

**Economic Impact**

The two-year delay in the purchase of new vehicles should make available funds now budgeted for transportation expenditures to be used for other educational programs or a possible surplus. There is also a possibility that maintenance costs may increase for the additional two-year use of the vehicle.

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

6:21-1.4 Retirement of school buses

(a) School buses (**Type I**) **manufactured prior to April 1, 1977**, other than those of the transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds, shall not be [utilized] **used** for pupil transportation purposes beyond the end of the 10th year from the date of manufacture, as noted on the vehicle registration or the end of the school year in which that date falls, whichever is later.

(b) **School buses, as defined by the Code of Federal Regulations (49 CFR§571.3) and manufactured on or after April 1, 1977, other than those of the transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds, shall not be utilized for pupil transportation purposes beyond the end of the 12th year from the date of manufacture, as noted on the vehicle registration, or at the end of the school year in which that date falls, whichever is later. Such buses, when used beyond the 10th year, shall have an annual in-depth inspection by the Division of Motor Vehicles prior to the beginning of the school year.**

[(b)] (c) School buses of transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds shall not be [utilized] **used** for pupil transportation purposes beyond the end of the 20th year from the date of manufacture, as noted on the vehicle registration, **or at the end of the school year in which that date falls, whichever is later.**

**ENVIRONMENTAL PROTECTION**

(a)

**DIVISION OF PARKS AND FORESTRY**

**State Park Service**

**Proposed Amendments: N.J.A.C. 7:2-1.2, 2.1-2.4, 2.6-2.10, 2.12-2.15, 2.17, 2.18, 3.1-3.5, 7.4, 7.8, 7.10, 7.13, 7.14, 8.3, 8.4, 8.5, 8.7-8.10, 9.1-9.6, 13.2, 13.3, 16.5**

**Proposed New Rules: N.J.A.C. 7:2-1.5, 1.6, 1.7, 2.19-2.23, 3.6, 3.7, 5.5, 7.2, 7.3, 8.12-8.19**

**Proposed Repeal: N.J.A.C. 7:2-4, 6, 10, 12**

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

Authority: N.J.S.A. 13:1B-3 specifically N.J.S.A. 13:1B-15.100 et seq.

DEP Docket No. 029-83-05.

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

Russell Myers, Director  
 Division of Parks and Forestry  
 Department of Environmental Protection  
 CN 404  
 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 1983-308.

The agency proposal follows:

**Summary**

The proposal amends the existing State Park Service rules (N.J.A.C. 7:2) governing the administration, management and regulation of those lands and waters under the jurisdiction of the Division of Parks and Forestry, Department of Environmental Protection, in the State Park Service. A notice of a proposal to readopt the existing text was published in the June 6, 1983 New Jersey Register at 15 N.J.R. 822(b) in order to continue the existing rules in effect subsequent to the expiration date of July 13, 1983, pursuant to Executive Order No. 66.

The proposal contains substantive revisions and a reorganization of the entire chapter for the State Park Service. The existing subchapter 4 "Hunting, Fishing and Trapping", subchapter 6 "Scuba and Skin Diving", subchapter 10 "Bathing" and subchapter 12 "Equestrian Use" have been proposed for repeal inasmuch as the sections set forth in those subchapters are proposed for recodification under subchapter 2 "General Use" and subchapter 5 "Ocean Parks".

The remaining subchapters contain revisions intended to clarify the provisions in the existing rules, and also contain amendments to certain sections to provide for additional regulatory and informational requirements deemed necessary by the Department in

order to insure the safe and proper utilization of the lands and waters in the State Park Service.

#### Social Impact

The social impact of the proposed amendments will be positive as a result of a clarification of the existing rule provisions and by the addition of regulatory and informational requirements intended to provide for the safe and proper operation, supervision, maintenance and administration of the lands and waters under the jurisdiction of the Division of Parks and Forestry, Department of Environmental Protection.

#### Economic Impact

There will be no new economic impact as a result of the adoption of the proposed amendments set forth below. There are no revisions to any permit or fee requirements for the lands and waters in the State Park Service. The fees and charges referred to in N.J.A.C. 7:2-2.13 are essentially business-related charges, and not regulatory fees. The monies collected are used to offset the costs of maintaining the Park Service facilities. The fees are not used as a method of regulating access or use of the facilities. As such, the schedule of charges will correspond to changing costs of services, and not to changing regulatory policy. Therefore, considering the purposes of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the proprietary business practices of the State of New Jersey, these fees do not have to be promulgated as rules, but may instead be formulated and periodically revised by the State Park Service.

In certain instances additional requirements for the production of driver licenses or other documents are required for the authorization of specified uses on the lands and waters in the State Park Service, however, such additional requirements will not result in an economic impact to the public.

#### Environmental Impact

The proposed amendments will have a positive environmental impact on the public by insuring the proper management, administration, regulation and supervision of activities and uses on the lands and waters in the State Park Service, thereby promoting the environmental management and protection of such lands and waters; and by providing for only such uses and at such locations as will minimize any adverse environmental impact on the natural resources of the lands and waters affected thereby, with an additional positive impact on the health and safety of the public making use of such lands and waters.

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

### SUBCHAPTER 1. GENERAL PROVISIONS

7:2-1.1 (No change.)

7:2-1.2 Scope

Unless otherwise provided by [the] rule or statute, the following shall constitute the rules of the State Park Service and shall govern the use of all applicable State park, forest, recreation area, historic site, natural area, marinas, **golf courses**, and other lands, waters and facilities under the jurisdiction of the Department of Environmental Protection and assigned to the Division of Parks and Forestry.

7:2-1.3-1.4 (No change.)

7:2-1.5 Relationship to Federal and State law

**The provisions of this chapter are not intended to and do not relieve any person of the duty to comply with all other valid governmental regulations governing activities regulated under this chapter, including regulations of the Department of**

**Environmental Protection, and other appropriate State, Federal and local agencies.**

7:2-1.6 Severability

**If any section, subsection, provision, clause or portion of this chapter is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.**

7:2-1.7 Definitions

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

“Closed season” means the time during the year when fish, game, birds, or animals, as the case may be, may not be captured, taken, killed or had in possession.

“Commissioner” means the Commissioner of Department of Environmental Protection.

“Department” means the Department of Environmental Protection.

“Director” means the Director of the Division of Parks and Forestry.

“Division” means Division of Parks and Forestry.

“Facilities” means the combination of all State Park Service resources designed or utilized for conservation, recreation, and environmental purposes. The Department interprets the statutory intent to use the term “facilities” in its broadest sense so as to provide adequate environmental and administrative safeguards.

“Fire” means the phenomenon of combustion manifested in light, flame and heat.

“Motor vehicle” means any vehicle propelled otherwise than by muscular power, except such vehicles that run only upon rails or tracks.

“Officer-in-charge” means the area park superintendent, designated chief ranger or other designee of the Director.

“Open fire” means any fire built for cooking or recreational purposes on State Park Service property, outside the confines of a structure or vehicle, which cannot be immediately shut off.

“Open season” means the time during the year when fish, game, birds, or animals as the case may be, may be captured, taken, killed or had in possession.

“Permission” means the written or verbal authority to engage in a use given by a lawful designee of the Director.

“Permit” means a formal request on forms supplied by the State Park Service, supported by all necessary data requested by reference on the form, for approval of a use, properly executed and signed by authorized persons.

“Person” means any natural person, company, firm association, corporation, or other entity.

“Power boats” shall include all fuel, or battery-powered boats.

“Snowmobile” means any motor vehicle designed primarily to travel over ice or snow, of a type which uses sled-type runners, skis, an endless belt, treads, cleats, or any combination of those or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military vehicle.

“State” means the State of New Jersey.

“State Park Service” means the Park Service within the Division of Parks and Forestry.

“Vessel” means a boat or watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

“Waters” means all waters within the jurisdiction of the State Park Service, both tidal and nontidal, and the marginal sea adjacent to State Park Service property.

SUBCHAPTER 2. GENERAL USE

7:2-2.1 Purpose

(a) (No change.)

(b) Failure or refusal to obey such rules and regulations or any other applicable State law, rule or regulation shall be sufficient cause for removal and/or prosecution by duly authorized personnel.

7:2-2.2 Designation of land use

The State Park Service [reserves the right to] **shall** designate or direct any and all recreational or other use on its lands and waters and within its facilities to such specific areas or locations within or upon said lands, waters, and facilities as will be in the best interest of conservation, recreation, preservation, management and the health, safety, and welfare of all persons concerned.

7:2-2.3 Limitation of [park] use

The State Park Service or its authorized personnel may limit or close the public use specific areas, lands, waters and facilities whenever such action is deemed necessary for proper management and operation and/or in the best interest of health, safety, and general welfare of the public.

7:2-2.4 Posting, **selling, soliciting**

The posting of signs or notices, distribution of advertisements, begging, soliciting, selling or attempting to commit such acts without the written consent of the State Park Service is prohibited.

7:2-2.5 (No change.)

7:2-2.6 Alcoholic beverages

The open possession and/or consumption of alcoholic beverages is prohibited on all lands and waters under the jurisdiction of the State Park Service except in certain locations on those forests, parks, recreational areas, natural areas, marinas, **golf courses** and historic sites where the sale, use or possession is specifically approved.

7:2-2.7 Dumping/littering

(a) The dumping/littering or burning of trash, refuse, garbage, bottles, pollutants, or any other [foreign] substances or liquids on lands and waters under the jurisdiction of the State Park Service is prohibited.

(b) (No change.)

7:2-2.8 Furred animals and pets

(a) All furred animals or other pets are prohibited from buildings, bathing beaches, bathing waters [and], all overnight facilities, **and botanical gardens.**

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

7:2-2.9 Exemption of seeing eye, **companion** and hunting dogs

(a) Seeing eye dogs **and companion dogs for the hearing impaired** are permitted, with the master, in any location necessary to perform the duty for which they are trained.

(b) Dogs used while hunting during open season, or while used in field trials, in accordance with New Jersey Fish, Game, and [Shellfisheries] **Wildlife** regulations, are exempt from the leasing regulation.

7:2-2.10 Damage to [public] **property**

No person shall abuse, mutilate, injure, destroy, move or remove any living plant or animal or any structures or other physical features or properties on lands and waters under the jurisdiction of the State Park Service unless specifically authorized.

7:2-2.11 (No change.)

7:2-2.12 Fires (**open**)

(a) The starting or maintaining of any **open** fire on any lands under the jurisdiction of the State Park Service is prohibited unless specific approval is given by the officer-in-charge or his designee. Such approval may include designated hours, location and types of fuel to be used.

**(b) All types of fire may be prohibited during periods of high forest fire danger, as determined by the State Fire Warden or Executive Order by the Governor.**

[(b)](c) Designated camping areas along that portion of the Appalachian Trail on State Park Service lands do not require a permit for campfires. Fires may be prohibited during periods of high forest fire danger.

7:2-2.13 Charges/fees

[The right is reserved to make charges to the general public for entry, parking, use of facilities, and for other services, products and/or uses, except as otherwise provided by law. Such charges shall be subject to periodic revision.]

**The State Park Service shall periodically establish by policy, fees and charges for entry, parking, use of facilities and for other services, products and uses, except as otherwise provided by law.**

[7:2-2.14 Speed limits

Maximum speed limit is 35 miles per hour on improved roads and 20 miles per hour on unimproved roads unless otherwise posted.]

7:2-2.14 **Posted instructions**

**No person shall make use of the lands, waters, conveniences and facilities under the jurisdiction of State Park Service contrary to posted instructions.**

[7:2-2.15 Parking

(a) The parking of vehicles or other conveyances or equipment so as to block or impede traffic on roadways or paths or damage lawns, shrubs or other plant life, is prohibited.

(b) Parking shall be strictly confined to areas designated for that purpose.]

7:2-2.15 **Changing clothes**

**Changing of clothes is restricted to changing areas, bathhouses or such facilities or private areas specifically designated for such purposes.**

7:2-2.16 (No change.)

7:2-2.17 Metal detectors

The use of metal detectors and similar devices requires a [Special Use Permit ] **permit** issued by the officer-in-charge. Said permit may limit the location, hours and days of use. Permits will not be issued for use in areas of significant historical or other value or where such use would be incompatible with protection of the resource and/or interfere with public use of the facility.

7:2-2.18 Target practice

No target practice [with firearms] **of any type** is permitted on State Park Service lands unless designated, in a specific area, by written permission of the Director [, Division of Parks and Forestry] **or his designee.**

7:2-2.19 **Restrictions: hunting, fishing and trapping**

**(a) Hunting, fishing, and trapping are permitted only on specifically designated lands and waters. All such use must be consistent with laws, rules, and regulations, and other limitations set forth by the New Jersey Division of Fish, Game, and Wildlife.**

**(b) Hunting with a rifle is prohibited, except muzzle loading**

in conformance with current Fish, Game and Wildlife regulations.

(c) The temporary use of portable hunting blinds and tree stands is permitted in authorized hunting areas, provided they are immediately removed by the hunter after use.

#### 7:2-2.20 Supervised bathing

Supervised bathing is restricted to the areas specifically designated for this purpose and is limited to hours and conditions set forth on posted signs.

#### 7:2-2.21 Camper beaches

Beaches designated specifically as camper beaches are restricted to use by campers only, and proof in the form of a valid camping permit may be required.

#### 7:2-2.22 Horseback riding

Horseback riding use of lands under the jurisdiction of the State Park Service is permitted only on designated areas and trails.

#### 7:2-2.23 Activities for which written approval is required

(a) No person shall engage in the following recreational activities on State Park Service lands and waters without the written approval of the Director or his designee:

1. Parachuting;
2. Hot air ballooning;
3. Hang gliding;
4. Musketry, flint-lock, black powder shooting (other than hunting as noted in (N.J.A.C. 7:2-2.19);
5. Spelunking;
6. Rapelling;
7. Model airplane flying;
8. Ice sailing;
9. Rocketry; and
10. Geological sampling expeditions.

(b) The activities listed in (a) above are not all inclusive and the Director shall limit any activity not in the interest of conservation, safety, or the public health and welfare.

### SUBCHAPTER 3. MOTORIZED VEHICLES

#### 7:2-3.1 Identification and license

(a) (No change.)

(b) Before [it] a **vehicle** is operated on said lands, the operator of the vehicle shall also have in his or her possession a valid operator's license **and other documentation required by the Division of Motor Vehicles.**

#### 7:2-3.2 Unauthorized motorized vehicles

(a) Any motorized vehicle which does not require licensing by the New Jersey Division of Motor Vehicles may not be operated on lands and/or waters under the jurisdiction of the State Park Service unless specific authority is granted. [(Motorized bicycles exempted.)]

(b) Any authority so granted shall include designated hours and specific locations.

(c) **No person shall operate a motor vehicle, other than a snowmobile upon ice-covered waters under the jurisdiction of the State Park Service at any time without written permission.**

#### 7:2-3.3 Conformance to State laws

All motor vehicles operated on lands under the jurisdiction of the State Park Service shall be subject to New Jersey Motor Vehicle Laws, N.J.S.A. 39, and all [park] **State Park Service** regulations.

#### 7:2-3.4 [Restrictions] All motor vehicles

[All motor vehicles are restricted to defined roadways and parking lots unless otherwise posted or permitted.]

(a) **No person shall operate any motor vehicle on or over any**

established roads under the control of the State Park Service unless the motor vehicle is properly registered and is displaying the proper and valid registration plates for the vehicle.

(b) All motor vehicles are restricted to established public roads or to designated parking areas. Motor vehicles shall not be operated at any time on or over any road designated "closed" by signs or barriers or on or over any cultivated or planted area, transmission line, survey line or in the woods or fields unless permission is granted by the officer-in-charge of the area.

(c) No person shall operate snowmobiles, trail bikes or off-road motor vehicles on the areas prohibited in (b) above at any time, except that on any areas so designated by the State Park Service permits may be granted to organized special events to operate on an established course, under prescribed regulations.

1. "Special event" means an organized race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule or in which general public interest is manifested.

#### 7:2-3.5 Snowmobiles

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

5. Any race, rally or organized snowmobile activity involving more than 20 persons shall require application for a [special] use permit and/or scheduling at least five days in advance with the field office having jurisdiction over the property to be utilized. Said application or request may be denied for reasonable cause.

6.-9. (No change.)

#### 7:2-3.6 Speed limits

**Maximum speed limit is 35 miles per hour on improved roads, and 20 miles per hour on unimproved roads unless otherwise posted.**

#### 7:2-3.7 Parking

(a) **The parking of vehicles or other conveyances or equipment so as to block or impede traffic on roadways or paths, or damage lawns, shrubs or other plant life, is prohibited.**

(b) **Parking shall be strictly confined to areas designated for that purpose.**

### SUBCHAPTER 4. [HUNTING, FISHING AND TRAPPING] (RESERVED)

#### [7:2-4.1 Restrictions

(a) Hunting, fishing, and trapping are permitted only on specifically designated lands and waters. All such use must be consistent with laws, rules, and regulations, and other limitations set forth by the New Jersey Division of Fish, Game, and Shellfisheries.

(b) **Hunting with a rifle is prohibited.]**

### SUBCHAPTER 5. OCEAN PARKS RESTRICTIONS

#### 7:2-5.1-5.4 (No change.)

#### 7:2-5.5 Surfboarding, scuba diving, skin diving

**Surfboarding, scuba diving and skin diving are permitted only in designated areas with the permission of the officer-in-charge.**

### SUBCHAPTER 6. [SCUBA AND SKIN DIVING] (RESERVED)

#### [7:2-6.1 Restrictions

(a) Scuba diving, skin diving and spear fishing are permitted only in designated areas.

(b) **Permission may be granted by the officer-in-charge upon proper registration.]**

## PROPOSALS

## ENVIRONMENTAL PROTECTION

### SUBCHAPTER 7. OVERNIGHT FACILITIES USE

7:2-7.1 (No change.)

#### 7:2-7.2 Group campers under 18 years of age

(a) All groups of campers under 18 years of age (not accompanied by parent or guardian) must have a minimum of one adult supervisor 18 years of age or older for each nine children in the group.

(b) The names and addresses of adult supervisors shall be furnished to the officer-in-charge upon arrival.

(c) For safety purposes all adult supervisors of group campers under 18 years of age shall be required to supply a roster of children under their supervision to the officer-in-charge upon request. The roster shall include each child's name, address, age and the parents' or legal guardians home phone number.

#### 7:2-7.3 Transportation for group campers under 18 years of age

Adult supervisors of group campers under 18 years of age not accompanied by parent or guardian will be required to have a vehicle readily available at a parking location designated by the officer-in-charge to transport children in the event of emergencies.

#### 7:2-7.4 Maximum occupancy

Not more than six persons may occupy a family campsite, lean-to or camp shelter unless they are all members of one family and specific permission is granted by the officer-in-charge. [("One family" is defined as a man, wife and their children.)]

7:2-7.5-7.7 (No change.)

#### 7:2-7.8 Wilderness campsites

[Vehicles are prohibited at Lower Forge and Mullica River campgrounds on Wharton Forest and at the wilderness campgrounds at Round Valley.]

(a) Motorized vehicles are prohibited at Lower Forge and Mullica River wilderness campsites on the Wharton State Forest and at the wilderness campsites at Round Valley Recreation Area.

(b) Motorized vehicles are prohibited in all designated wilderness and wild and scenic river areas except where specifically authorized.

7:2-7.9-7.12 (No change.)

#### 7:2-7.13 Reservation[s] procedures

(a) Applications for reservation of family campsites and lean-to's cannot be accepted or postmarked prior to November 1 of the year immediately preceding that in which the facility will be used. All these applications will be acted upon on November 15 or the first working weekday thereafter.

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

(f) Group campsites are reservable [for a minimum of two,] to a maximum of 14 days.

(g)-(k) (No change.)

#### 7:2-7.14 Cancellations and refunds

(a) Cancellations may be made and refunds will be given, provided a cancellation fee will be deducted from any refund due.

(b) No refunds will be made to persons evicted as a result of violations of this chapter or other State law.

### SUBCHAPTER 8. BOATING/WATERCRAFT

7:2-8.1-8.2 (No change.)

#### 7:2-8.3 Motorboats permitted

Motorboats, where permitted on nontidal waters, may be restricted

as to maximum horsepower and minimum and maximum boat length, such criteria being determined by use and [total] safety factors.

#### 7:2-8.4 Sailboats

Sailboats, where permitted, on nontidal waters may be restricted as to minimum and maximum length and maximum mast height, such criteria being determined by use and [total] safety factors.

#### 7:2-8.5 Use of ramps

Rigging of sailboats [is not permitted] on the launching ramps or in such manner as to impede the use of the ramps by others **is prohibited**.

7:2-8.6 (No change.)

#### 7:2-8.7 Swimming [from boats] and diving

Swimming or diving from piers, catwalks, boats, canoes and watercraft of any kind is prohibited on all waters under the jurisdiction of the State Park Service unless specific written authorization is given.

#### 7:2-8.8 Round Valley and Spruce Run boating restrictions

All boating on Round Valley and Spruce Run Reservoirs must be discontinued when the wind reaches or exceeds a velocity of 25 miles per hour, **as indicated by a flashing white warning light**.

#### 7:2-8.9 Boat storage

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

(c) Boats must be removed from the water each night and placed in their assigned storage spaces **unless water berthing facilities are provided**.

(d) (No change.)

#### 7:2-8.10 Ice boating

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

(d) Mast or rigging, or any attachments thereto, of ice yachts [used at Spruce Run may not exceed a height of 25 feet from the ice] **may be restricted as determined by use and public safety**.

7:2-8.11 (No change.)

#### 7:2-8.12 Conformance to State laws

All boating use on waters under the jurisdiction of the State Park Service shall be subject to all laws, rules, and regulations as promulgated by the Department and these rules shall be consistent with the Federal Motorboat Act of 1940 (46 USC 526 et seq.), the Federal Safe Boating Act of 1971 (46 USC 1451 et seq.), and all regulations adopted under each Act, as amended and as may be amended, and other applicable Federal law or regulation relating to vessels.

#### 7:2-8.13 Lifesaving devices

(a) No person shall operate or allow any person to operate any vessel in or on the waters of this State unless such vessel has a serviceable United States Coast Guard approved personal flotation device (PFD) for each person on board.

1. Such PFDs shall be of the type(s) and number(s) required by the United States Coast Guard for a vessel of that class operating on navigable waters.

2. Such PFDs shall be readily accessible when the vessel is underway.

(b) This section includes all vessels except surfboats, racing shells, rowing sculls and racing kayaks.

#### 7:2-8.14 Negligent operation

No person shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, limb or property of any person.

**7:2-8.15 Rules of the road**

All vessels navigating the waters of this State shall comply with the inland rules of the road as set forth in the United States Coast Guard pamphlet C.G. 169 and the amendments thereto, except where the international rules of the road are applicable. Copies of the pamphlet may be obtained at any office of the United States Coast Guard or the New Jersey Marine Police.

**7:2-8.16 Speed**

The speed of power vessels shall at all times be regulated so as to avoid danger of injury to all manner of craft whether floating, moored, anchored or underway, or to piers, wharves, bulkheads, draw spans or other waterfront construction, either directly or by the effect of the wash or wave raised by such power vessel through its speed or otherwise.

**7:2-8.17 Obeying orders**

No person shall fail to stop or lay to when ordered to do so by any State Park Service law enforcement officer.

**7:2-8.18 Exclusion of racing events**

The provisions of this subchapter shall not apply to any vessel while actually competing in an authorized race held under the auspices of a duly incorporated yacht club or racing association approved by the Director.

**7:2-8.19 Boating safety**

The use of boats, canoes and watercraft of all types on any and all waters under the jurisdiction or control of the State Park Service may be prohibited by the officer-in-charge whenever the safety, health or welfare of the public dictates.

**SUBCHAPTER 9. DAY GROUP USE****7:2-9.1 [Reservation] Day use group reservation requirements**

(a) Groups of 20 or more persons utilizing any lands or waters under the jurisdiction of the State Park Service for any purpose whatsoever are required to make reservations for such use and/or visitations.

(b) Reservations must be made with the individual park, forest, recreation area, historic site, marina, or natural area, at its administrative headquarters, at least five days in advance of the visit.

**7:2-9.2 Failure to make a reservation**

[The right is reserved to refuse admittance to groups without reservation.]

(a) **The State Park Service may refuse admittance to day groups without reservations.**

(b) **The area officer-in-charge may waive day use group reservation requirements when field conditions dictate.**

**7:2-9.3 Adult supervision**

[(a) All groups of persons under 18 years of age must have a minimum ratio of one adult supervisor for each eight children in the group.

(b) Where junior supervisors are used, the ratio must be one junior supervisor for each four children.

(c) In no case, however, shall there be fewer than four adults for each 50 children, even when junior supervisors are used.

(d) Adult supervisors must be 21 years of age or older, and junior supervisors must be at least 18 years of age.]

**Each day use group of persons under 18 years of age must have a minimum ratio of one adult supervisor, 18 years of age or older, for each nine children in the group.**

**7:2-9.4 [Responsible person] Group leader**

Each day use group making reservations for visitation must

designate one responsible adult **18 years or older** as group leader, and his or her name and address shall be furnished to the officer-in-charge upon arrival.

**7:2-9.5 [Roster] Day use group roster**

(a) For safety purposes all day groups must have available and may be required to supply a manifest to the officer-in-charge showing: the name [and], address **and phone number** of the organization, the name and address of the designated group leader [, the names of any and all other leaders and supervisors of the group] and the names of all other persons in the group.

(b) (No change.)

**7:2-9.6 Buses, day use groups**

(a) All buses transporting day use groups must remain at a parking location designated by the officer-in-charge for the entire period the group is present at the facility.

(b) Drivers of buses transporting day use groups will remain in the immediate use area at all times and are not to leave the area [under any condition] **without specific approval of the officer-in-charge.**

**SUBCHAPTER 10. [BATHING] (RESERVED)****[7:2-10.1 Supervised bathing**

Supervised bathing is restricted to the areas specifically designated for this purpose and is limited to hours and conditions set forth on posted signs.]

**[7:2-10.2 Camper beaches**

Beaches designated specifically as camper beaches are restricted to use by campers only and proof in the form of a valid camping permit may be required.]

**SUBCHAPTER 11. NATURAL AREAS AND THE NATURAL AREAS SYSTEM**

(No change.)

**SUBCHAPTER 12. [EQUESTRIAN USE] (RESERVED)****[7:2-12.1 Designated areas**

Equestrian use on lands under the jurisdiction of the State Park Service is permitted only on designated areas and trails determined to be in the best interests of conservation-preservation and the health, safety, and general welfare of the public.]

**SUBCHAPTER 13. STATE MARINAS****7:2-13.1 (No change.)****7:2-13.2 Berthing**

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

(c) Berths are assigned following proper completion of a permit and payment of the designated fee prior to the berthing period. **A valid New Jersey Registration in the name of the Permittee, for the vessel which is the subject of the permit, is required.**

[(f) Signature by the permittee constitutes agreement to abide by Marina regulations, State Park Service regulations and State and Federal laws where applicable. Failure to comply with said regulations and laws shall be cause for immediate cancellation of the permit, forfeiture of all fees paid and removal of the boat from the marina.]

**(f) A permit shall not be issued to any individual whose berthing payment is in arrears.**

**(g) Any vessel occupying a berth without a valid seasonal permit shall be charged at the transient rate for the duration of berth occupancy.**

**(h) No vessel shall be removed from the marina premises prior to payment of all outstanding fees and charges.**

**(i) Transient berths are not reservable.**

(j) Signature by the permittee constitutes agreement to abide by Marina regulations, State Park Service regulations and State and Federal laws where applicable. Failure to comply with said regulations and laws shall be cause for immediate cancellation of the permit, forfeiture of all fees paid and removal of the boat from the marina.

7:2-13.3 Marina regulations

(a)-(p) (No change.)

(q) Boat owners and their guests only are permitted pier access between the hours of 10 P.M. and 8 A.M.

(r) The State Park Service reserves the right to utilize, assign or reassign any berth.

(s) A berth permittee shall advise the officer-in-charge of vessel absences in excess of 48 hours.

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. ISLAND BEACH STATE PARK RULES

7:2-16.1-16.4 (No change.)

7:2-16.5 Park hours

(a) Island Beach State Park will be closed to all persons, excepting beach buggy permit holders, persons actively engaged in the [support] sport of fishing and lessees, from 12:00 midnight to 4:00 A.M.

(b) (No change.)

7:2-16.6 (No change.)

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations
Floodway Delineation along a Portion of Mill Brook in Montvale

Proposed Amendment: N.J.A.C. 7:13-1.11

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection. Authority: N.J.S.A. 58:16A-50 et seq. DEP Docket No. 031-83-05.

A public hearing concerning this proposal will be held on July 12, 1983, at 1:00 P.M. at: Montvale Borough Municipal Building Memorial Avenue Montvale, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before July 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to: Clark Gilman Bureau of Flood Plain Management Division of Water Resources 1911 Princeton Avenue CN 029 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 1983-311.

The agency proposal follows:

Summary

The proposed amendment provides for the application of rules and regulations concerning the development and use of land in designated floodways to portions of Mill Brook, in the Borough of Montvale, Bergen County, New Jersey. The proposed delineation is based on an application by the National Association of Accountants to modify the existing floodway and flood plain delineation to allow for the construction of a new office building. The consulting engineering firm of Canger, Schoor & Cassera, Inc., provided plans and hydraulic analyses. The proposed delineation reflects a series of three new bridges and weirs along the relocated concrete lined channel of Mill Brook to accommodate the proposed National Association of Accountants office building. The amended and proposed new floodway and flood hazard area are identified by the plate specifically entitled: State of New Jersey, Department of Environmental Protection, Division of Water Resources "Delineation of Floodway and Flood Hazard Area, Mill Brook Sta. 69 + 50 to 119 + 00 and Laurel Brook Sta. 0 + 00 to 30 + 20", Plate No. 27. The proposed delineation will continue to maintain the flood carrying capacity of Mill Brook.

Social Impact

The proposed delineation amends the floodway delineation in the Borough of Montvale within the Passaic-Hackensack Basin. A positive social impact will result to the applicant requesting modification of the existing floodway delineation, without jeopardizing the public safety and welfare.

Economic Impact

The proposed amendment will have only a minor economic impact in the community. The delineation would be modified and would result in a positive economic impact for the applicant, National Association of Accountants, while continuing the environmental protection of the floodway delineations on Mill Brook.

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

7:13-1.11 Delineated floodways

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

(d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

1.-46. (No change.)

47. . . . The floodway and flood hazard areas of Mill Brook from approximately 600 feet upstream of Paragon Drive to approximately 1,350 feet upstream of Paragon Drive.

48. (No change.)

(e)-(i) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice was submitted as part of the Department's notice of proposed rule. This map can be inspected at:

Bureau of Flood Plain Management  
Division of Water Resources  
1911 Princeton Avenue  
CN 029  
Trenton, NJ 08625; or

Office of Administrative Law  
Administrative Filings  
88 East State Street  
CN 301  
Trenton, NJ 08625

(a)

## DIVISION OF FISH, GAME AND WILDLIFE

### Shellfisheries

### Oyster Dredging Licenses; Oyster Management in Delaware Bay

#### Proposed Amendments: N.J.A.C. 7:25A-1.1, 1.2, 2.1, 2.3-2.5

Authorized By: Robert E. Hughey, Commissioner,  
Department of Environmental Protection.  
Authority: N.J.S.A. 50:1-5.  
DEP Docket No. 030-83-05.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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 1983-309.

The agency proposal follows:

#### Summary

Previous proposed changes to the oyster dredging and management rules (N.J.A.C. 7:25A) were published in the February 22, 1983 New Jersey Register at 15 N.J.R. 199(a). Based on discussions with the Shellfish Council, the Department made changes to that proposal concerning vessels licensed in 1981 and the leasing of "B" lots, license renewals, and Section E leases. These changes are reflected in the new proposal, which supersedes the one at 15 N.J.R. 199(a).

The new proposed amendments also contain a provision to allow two owners of licensed oyster vessels to exchange vessels without increasing the tonnage or fishing power of the fleet. The vessel owners have requested such permission to exchange use of their vessels so that they may be able to utilize the vessels in a more cooperative and efficient manner. Those owners with small vessels will be able to use larger vessels of other owners and vice versa wherever circumstances dictate the use of smaller or larger vessels by individual owners. The amendments also make explicit the previously implied requirement that vessel licenses must be

renewed annually, that a vessel transferred to a new owner must be licensed in the new owner's name, and requires presentation of documentation of ownership upon application for a license.

The proposed amendments also correct several previous anomalies in the language of the rule.

#### Social Impact

The proposed changes will serve to make uniform, licensing practices in the oyster management plan without disrupting the lives or businesses of licensees. No effect on the general public is foreseen.

#### Economic Impact

There will be some additional expense for those few oystermen who have in the past failed to license their vessels every year. The right to lease Section E lots is based on the ownership of a licensed oyster vessel. The division and the Delaware Bay Shellfish Council have reaffirmed that annual renewal of vessel licenses is essential to participation in the Section E leasing program.

#### Environmental Impact

The proposed changes involve only administrative procedures and will have no effect on the environment.

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

#### SUBCHAPTER 1. OYSTER DREDGING LICENSES

##### 7:25A-1.1 Licenses

No new [or 1981] oyster licenses authorized by N.J.S.A. 50:3-1 shall be issued except to those vessels validly licensed in either 1978, 1979, [or] 1980, **or 1981**.

##### 7:25A-1.2 Substitution of vessels

(a) Any person who owns a vessel validly licensed in 1978, 1979, 1980 or 1981, pursuant to N.J.S.A. 50:3-1 may substitute a new vessel for the previously licensed vessel, except that no substituted vessel shall [displace more] **have a greater gross tonnage than the** previously licensed vessel.

(b) **However, two persons owning validly licensed vessels may exchange their vessels, with the approval of the Commissioner, Department of Environmental Protection, and the Delaware Bay Shellfish Council.**

##### 7:25A-1.3 Review

(No change.)

#### SUBCHAPTER 2. OYSTER MANAGEMENT IN DELAWARE BAY

##### 7:25A-2.1 Division of Section E

The Division of Fish, Game and Wildlife will divide Section E, as defined in [R.S.] **N.J.S.A. 50:1-23** and consisting of approximately 7,877.7 acres, into 12 acre lots and designate each either an "A" or "B" lot, an "A" lot being in the judgement of the division more suitable for the planting and cultivation of oysters. The coordinates of each corner of each lot shall be determined by the division. All the remaining parcels will be "B" lots.

##### 7:25A-2.2 Leasing of "A" lots

(No change.)

##### 7:25A-2.3 Leasing of "B" lots

The owner of an operable vessel which was licensed to dredge oysters pursuant to [R.S.] **N.J.S.A. 50:3-1** in either 1978, 1979, or 1980 may lease one "B" lot of his choice for each vessel licensed **in any calendar year**. However, no owner may lease more than two "B" lots per vessel. The initial fee for each "B" lot will be \$1,000 and thereafter shall be the regular lease fee per acre.

7:25A-2.4 Expiration and renewal of "A" and "B" lot leases and licenses

(a) Each "A" or "B" lot lease will expire at the end of the calendar year in which it [is] was issued. Leaseholders or their heirs and assigns will have the option to renew each year provided the leased lot to be renewed has been, in the judgement of the Council and the division, actively worked by the recorded leaseholder, and an accurate report of the use to which the lot was put is filed with the division on a form provided by the division. Any lot, the lease of which is not renewed, will be classified as a "B" lot.

(b) **Oyster dredge boat licenses must be renewed annually. Application for said renewal must include documentation as to ownership of the vessel, and last year's license.**

(c) **A license not renewed within the calendar year shall be retired together with its corresponding Section E leases.**

7:25A-2.5 Non-transferability of Section E leases; exceptions

(a) No lease in Section E may be sold, rented, assigned or in any manner conveyed or transferred, unless the vessel to which the lot was originally allocated in N.J.A.C. 7:25A-2.2 or 2.3 is dealt with in the same manner thereby becoming part of the same transaction. No lot in Section E may be subleased.

(b) **The new owner of a transferred vessel must have its license reissued in his own name. Application for said renewal must include documentation as to ownership of the vessel, and the current year's license.**

7:25A-2.6 Power to lease  
(No change.)

7:25A-2.7 Review  
(No change.)

HEALTH

(a)

DIVISION OF HEALTH FACILITIES  
EVALUATION

Standards for Licensure of Residential Health  
Care Facilities  
Fire Protection; 20 or More Beds

Proposed Amendment: N.J.A.C. 8:43-3.22

Authorized By: J. Richard Goldstein, M.D.,  
Commissioner, Department of Health (with approval  
of Health Care Administration Board).  
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-  
5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before July 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  
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 1983-301.

The agency proposal follows:

Summary

The current text of N.J.A.C. 8:43-3.22 requires that residential health care facilities that are licensed for 50 or more beds, except those of fire-resistive construction or one-story, one-hour rated noncombustible construction, provide an operational automatic comprehensive sprinkler system which is equipped with an alarm system. The proposed amendment will revise the existing rule to require residential health care facilities that are licensed for 20, rather than 50, or more beds, except those of fire-resistive construction or one-story, one-hour rated noncombustible construction, provide an operational automatic comprehensive sprinkler system which is equipped with an alarm system. The current N.J.A.C. 8:43-3.22 became effective on November 2, 1981. Since that date, legislation was adopted to provide funding in the form of low interest loans to residential health care facilities for the installation of automatic comprehensive sprinkler systems. The Department proposes this amendment since funding is now available and to make N.J.A.C. 8:43-3.22 consistent with rules of other departments of State government.

Social Impact

The proposed amendment to N.J.A.C. 8:43-3.22 will increase the number of licensed residential health care facilities, if not of fire-resistive construction or one-story, one-hour rated noncombustible construction, that will be required to provide automatic comprehensive sprinkler systems equipped with an alarm system. Therefore, the lives and safety of additional residents will be protected by automatic comprehensive sprinkler systems.

Economic Impact

There will be an economic impact upon facilities which do not fall within the exemptions and are required to install automatic comprehensive sprinkler systems with alarm systems. However, funding is available to assist facilities in meeting the expense of installing an automatic comprehensive sprinkler system equipped with an alarm system.

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

8:43-3.22 Specifications for electrical automatic fire alarm and detection systems; Office of State Fire Marshal

(a)-(p) (No change.)

(q) All facilities licensed for [50] **20** or more beds except those of fire-resistive construction or one-story, one-hour rated noncombustible construction shall have an operational automatic comprehensive sprinkler system equipped with an alarm system. **Facilities licensed for 50 or more beds shall [have through January 31, 1983, to] comply with this requirement by January 31, 1983. Facilities licensed for 20 to 49 beds shall comply with this requirement by January 1, 1985.**

(a)

## DIVISION OF HEALTH FACILITIES EVALUATION

### Standards for Licensure of Residential Health Care Facilities Resident Rights; Facility Responsibilities, Policies, Procedures

**Proposed New Rule: N.J.A.C. 8:43-7**  
**Proposed Repeal: N.J.A.C. 8:43-4.14**

Authorized By: J. Richard Goldstein, M.D.,  
Commissioner, Department of Health (with approval  
of Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5  
and 55:13B-17.

**Interested persons** may submit in writing, data, views or  
arguments relevant to the proposal on or before July 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  
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 1983-299.

The agency proposal follows:

#### Summary

The proposed amendments will require residential health care  
facilities to establish written policies regarding the rights of  
residents and to develop and adhere to procedures for implementing  
those policies. The residential health care facility will be required  
to provide a copy of the written resident rights to each resident and  
to his or her next of kin and/or sponsor and/or guardian and to each  
member of the facility's staff. The residential health care facility  
will be required to conspicuously post these written policies and  
procedures in a public place in the facility and to make them  
available to the residents and the public. The facility will be  
required to train its staff members to implement these policies and  
procedures, as specified in the facility's staff orientation and staff  
education plans.

In addition to providing residents with written policies and  
procedures regarding residents' rights, the residential health care  
facility will be required to give each resident, prior to or at the time  
of admission and during his or her stay, a written statement of  
services available in the facility and of related charges, including  
charges for room, board, laundry, and personal services, and any  
other charges. This written statement shall also include the  
payment, fee, deposit, and refund policy of the facility. The  
residential health care facility will be required to conspicuously post  
this statement in a public place in the facility and to document in  
the resident's record when the resident is given a copy of the  
statement. Furthermore, the residential health care facility will be  
required to give written notification to each resident at least 30 days  
prior to any change in charges.

The proposed resident rights will protect other rights of the

residents. For example, the resident may retain the services of his  
or her personal physician at his or her own expense or under a health  
care plan; the resident shall be given at least 30 days advance written  
notice of a nonemergency transfer or discharge; the resident may  
voice grievances to facility staff and/or to outside representatives  
of his or her choice, free from restraint, interference, coercion,  
discrimination, or reprisal; the resident is free from mental and  
physical abuse and from chemical and physical restraints; the  
resident is assured of confidential treatment of his or her records and  
has the opportunity to examine his or her records; the resident is  
treated with consideration, respect, and full recognition of his or her  
dignity, individuality, and right to privacy; the resident is not  
required to perform services for the facility; the resident may  
associate and communicate privately with persons of his or her  
choice and may send and receive personal mail unopened; the  
resident may participate in facility and other activities at his or her  
discretion; the resident may leave the facility; the resident shall be  
given at least a quarterly written statement of financial transactions  
made on his or her behalf when the resident has delegated this  
responsibility to the facility in writing; the resident is allowed  
visiting hours at least from 8:00 A.M. to 8:00 P.M. daily; the  
resident may exercise civil and religious liberties, including the  
right to independent personal decisions; the resident is not the object  
of discrimination; the resident is not deprived of any constitutional,  
civil, and/or legal rights solely by reason of admission to the  
facility; and the resident may wear his or her own clothing and may  
determine his or her own dress, hair style, and other personal  
choices according to individual preference.

N.J.A.C. 8:43-4.14 is proposed for repeal since this rule has  
been incorporated into the proposed new rule, N.J.A.C. 8:43-7.

#### Social Impact

The proposed resident rights (N.J.A.C. 8:43-7) are based on  
Chapter 500, P.L. 1979, N.J.S.A. 55:13B-17 et seq. which  
provides for the rights of residents of residential health care  
facilities, as well as residents of other boarding facilities. The  
proposed rule on resident rights elaborate upon N.J.S.A. 55:13B-  
17 et seq. and delineates the rights of residents in residential health  
care facilities. The proposed rule on resident rights will give  
residents in residential health care facilities similar rights as patients  
have in other health care facilities, such as long-term care, medical  
day care, and alcoholism treatment facilities, and as residents have  
in other boarding facilities licensed by other State agencies.

The proposal, which delineates some of the rights of the residents  
and some of the responsibilities of the facilities, will ensure that  
residents are not deprived of any constitutional, civil, and/or legal  
rights solely by reason of admission to a residential health care  
facility. The requirements that the facility maintain specific records  
regarding residents' personal financial affairs, receipt and  
disbursement of Social Security Administration (SSA) and/or  
Supplemental Security Income (SSI) checks, and notification of the  
resident of the facility's charges and prior notification of any change  
in charges are intended to protect the resident's income.

#### Economic Impact

There should be no discernible economic impact for residential  
health care facilities since Chapter 500, P.L. 1979, N.J.S.A.  
55:13B-17 et seq. requires the facilities to protect resident rights.  
The facilities should already be providing these services for the  
residents.

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

8:43-4.14 [Resident discharge] (**Reserved**)

[(a) No resident shall be transferred, discharged, or evicted except  
for the following reasons:

1. Failure to pay for rent or other services;
2. Requires a higher level of care than the facility can provide as  
documented by a physician;

3. Presents a danger to himself or other residents such as repeated violation of smoking regulations, violent or disorderly behavior so as to destroy the peace and quiet of others;

4. Repeated violations of the facilities written rules and regulations after being advised of them in writing;

(b) The resident who is being transferred shall be given 30 days advance written notice prior to such transfer, discharge or eviction except where a medical emergency exists. In cases of medical emergency, the physician shall state in writing the reason for such transfer in the resident's record. This shall not pertain to residents whom the Department of Health orders removed.]

**SUBCHAPTER 7. RESIDENT RIGHTS**

**8:43-7.1 Facility's responsibilities**

(a) The facility shall establish written policies regarding the rights and responsibilities of residents, and shall be responsible for developing and adhering to procedures implementing such policies. These policies and procedures shall be given to residents and their next of kin and/or sponsors and/or guardians, and to each member of the facility's staff. These policies and procedures shall also be conspicuously posted in the facility at a location accessible to and seen by residents and the public and be made available to the public.

(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 resident rights, including Chapter 500, P.L. 1979, N.J.S.A. 55:13B-17 et seq., N.J.S.A. 52:27G-7.1, and these rules.

**8:43-7.2 Policies and procedures**

(a) Resident rights, policies, and procedures shall ensure that, as a minimum, each resident admitted to the facility:

1. Is informed of these rights, as evidenced by his/her written acknowledgment, and is given a statement of these rights and the facility's rules and regulations, and an explanation of the resident's responsibility to adhere to all regulations of the facility and to respect the personal rights and private property of other residents;

2. Is informed, and is given a written statement prior to or at the time of admission and during stay, as documented in the resident's record, of services available in the facility and of all charges including room, board, laundry, and personal services, and is given written notification at least 30 days prior to any change in charges. This statement shall include the payment, fee, deposit, and refund policy of the facility and shall be conspicuously posted in the facility at a location accessible to and seen by residents and the public;

3. Is allowed to retain the services of his/her personal physician at his/her own expense or under a third-party payment system; is assured of assistance in obtaining medical care; may refuse medication and treatment, after being informed of the consequences of such actions; and may refuse to participate in research projects (but if he/she chooses to participate, his/her informed written consent shall be obtained);

4. Is, except in the case of an emergency, transferred or discharged only for medical reasons or for his/her welfare or that of other residents upon the written order of the resident's physician, who shall document the reason for the transfer or discharge in the resident's record, or for nonpayment for the resident's stay, or for repeated violations of the facility's written rules and regulations, or if required by the Department.

i. If a transfer or discharge on a nonemergency basis is requested by the facility, the resident or, in the case of an adjudicated mentally incompetent resident, the next of kin and/or sponsor and/or guardian, shall be given at least 30 days advance notice in writing of such transfer or discharge;

5. Is encouraged and assisted, throughout the period of stay, to exercise rights as a resident 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 resident's choice, free from restraint, interference, coercion, discrimination, or reprisal.

i. The administrator shall provide all residents and/or next of kin and/or sponsors and/or guardians with the following names, addresses, and telephone numbers where complaints may be lodged:

Division of Health Facilities Evaluation  
 Department of Health  
 CN 367  
 Trenton, NJ 08625  
 Telephone: (800) 792-9770; and

State of New Jersey  
 Office of the Ombudsman  
 for the Institutionalized Elderly  
 CN 808  
 Trenton, NJ 08625  
 Telephone: (800) 792-8820

ii. These telephone numbers shall be conspicuously posted in the facility at every public telephone and on all bulletin boards used for posting public notices. The facility shall also conspicuously post the name, address, and telephone number of the county welfare agency and the county office on aging;

6. Is free from mental and physical abuse, free from exploitation, in accordance with N.J.S.A. 52:27G-7.1, 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 resident's living activities;

7. Is assured security in storing personal possessions and confidential treatment of his/her personal and health/social records; and has the opportunity to examine such records. The written consent of the resident shall be obtained for release of his/her records to any individual outside the facility, except in the case of the resident's transfer to another health care facility, or as required by law or third-party payor;

8. 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 resident's body shall be maintained during, but not be limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

9. Is not required to perform services for the facility;

10. May associate and communicate privately with persons of his/her choice, may join with other residents or individuals within or outside the facility to work for improvements in resident care, may send and receive personal mail unopened, and upon his/her request, shall be given assistance in the reading and writing of correspondence.

i. The facility shall, with the consent of the resident being visited, permit visitors, legal services representatives, employees of the Department of the Public Advocate, employees and volunteers of the Office of the Ombudsman for the Institutionalized Elderly in the Department of Community Affairs, representatives of governmental welfare and social agencies, and all governmental representatives full and free access at a reasonable hour to the facility in order to visit with, and make personal, social, and legal services available to, all residents;

11. May participate in facility activities, and meet with, and participate in activities of, social, religious, and community groups at his/her discretion; and has the opportunity for physical exercise and the opportunity to be outdoors;

12. Is allowed to leave the facility;

13. May retain and use personal possessions as space permits,

unless to do so would infringe upon rights of other residents. If the resident has property on deposit with the facility, he/she shall have daily access to such property during specific periods established by the facility, and at a reasonable hour;

14. Has the right to unrestricted communication, including personal visitation with any person of his/her choice, at any reasonable hour between 8:00 A.M. and 8:00 P.M. daily;

15. Is allowed, or his/her next of kin and/or sponsor and/or guardian is allowed, to manage the resident's personal financial affairs, or is given at least a quarterly written statement of financial transactions made on his/her behalf should the facility accept his/her written delegation of this responsibility;

i. The written delegation of responsibility shall be reviewed annually and witnessed by a person who is unconnected with the facility, its operations, and its personnel, and shall be included in the resident's record;

ii. The financial statement shall account for all the resident's property on deposit at the beginning of the quarter, all deposits and withdrawals transacted during the quarter (substantiated by receipts given to the resident or his/her next of kin and/or sponsor and/or guardian), and the property on deposit at the end of the quarter;

iii. The facility shall maintain a monthly written record for each resident who receives Social Security Administration (SSA) and/or Supplemental Security Income (SSI) checks. The written record shall include the resident's name, the date and amount of each check, the date and amount of each disbursement, the reasons for each disbursement, and to whom each disbursement was made;

16. Is allowed daily visiting hours at a reasonable hour, and, if ill, is allowed visits from his/her next of kin and/or sponsor and/or guardian at any time. The facility shall conspicuously post that visiting hours are from 8:00 A.M. to 8:00 P.M. daily. Members of the clergy shall be notified by the facility at the resident's request, and shall be admitted at the request of the resident and/or next of kin and/or sponsor and/or guardian at any time. Privacy shall be ensured for visits with family, friends, clergy, social workers, or for professional or business purposes;

17. Is allowed unaccompanied access to telephones at a reasonable hour, both to make and to receive confidential calls, and has the right to a private telephone at his/her expense;

18. Is not required to go to bed and has the right to be outside his/her bedroom;

19. 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 resident or facility. Knowledge of available choices shall not be infringed upon and the facility shall encourage and assist in the exercise of these rights. Arrangements shall be made, at the resident's expense, for attendance at religious services of his/her choice when requested;

20. Is not the object of discrimination with respect to participation in recreational activities, meals, or other social functions because of age, race, religion, sex, or nationality. The resident's participation may be restricted or prohibited if recommended by the resident's physician in the resident's record, and consented to by the resident;

21. Is not deprived of any constitutional, civil, and/or legal rights solely by reason of admission to the facility. Such rights shall include, but not be limited to, the right to gainful employment, to move to a different living arrangement, to wear his/her own clothing, and to determine his/her own dress, hair style, and other personal choices according to individual preference; and

22. Is allowed to discharge him/herself from the facility upon presentation of a written release and, in the case of an adjudicated mentally incompetent resident, upon the written consent of his/her next of kin and/or sponsor and/or guardian.

(a)

## DIVISION OF HEALTH FACILITIES EVALUATION

### Ambulatory Care Facilities Standards for Licensure

#### Proposed Readoption with Amendment: N.J.A.C. 8:43A

Authorized By: J. Richard Goldstein, M.D.,  
Commissioner, Department of Health (with approval  
of Health Care Administration Board).  
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-  
5.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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  
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). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 9, 1983. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The concurrent amendment to the existing rules becomes effective upon publication in the Register of a notice of its adoption.

This proposal is known as PRN 1983-300.

The agency proposal follows:

#### Summary

The current text of N.J.A.C. 8:43A, Ambulatory Care Facilities, is scheduled to expire on August 9, 1983, pursuant to the "sunset" provisions of Executive Order No. 66 (Governor Byrne, 1978) which mandates the five year automatic expiration of a rule. The proposed readoption for one year of N.J.A.C. 8:43A will allow the Standards for Licensure of Ambulatory Care Facilities to remain in effect from August 9, 1983, to August 9, 1984. This will provide time for the thorough evaluation of the standards by concerned persons and facilities and for revision of the standards. **The proposed readoption does not include any changes in the current text**, except for the addition of N.J.A.C. 8:43A-1.10 which states that the chapter will expire on August 9, 1984.

Ambulatory care facilities provide a variety of health care and medical care services on an outpatient basis. Such services include family practice services including as a minimum internal medicine, pediatrics, obstetrics and gynecology, surgery, and psychiatry, health maintenance organization services, computerized axial tomography services, family planning services, prenatal and postpartum services, pediatric services, surgical services, drug abuse treatment services, dialysis services, radiology services, electrocardiogram services, health education and counseling, dental services, and emergency medical care. N.J.A.C. 8:43A, Ambulatory Care Facilities, contains the rules for licensure for these various health care and medical care services as well as rules regarding organization and delivery of health services and medical care services, staffing patterns, patient flow, continuity of care,

medical records, patient care statistics, financial data, audit and evaluation, infection control, housekeeping services, physical plant, definitions and/or qualifications, licensure procedure, general requirements, auspices, administration, and laboratory tests and diagnostic procedures.

The Department's objectives in establishing rules for licensure of ambulatory care facilities are as follows:

1. To ensure access to comprehensive health and medical services, through the licensure of facilities.
2. To protect the patient by establishing minimum standards for quality health care.
3. To protect the safety of each patient receiving health care services, with due regard for patient amenities.
4. To reduce the financial burden of health care services by promoting cost containment.
5. To protect the dignity of the patient.

In order to fulfill these objectives and to ensure that ambulatory care facilities provide preventive, diagnostic, and therapeutic health services to patients, it is essential that N.J.A.C. 8:43A be readopted at this time so that the rules for licensure of ambulatory care facilities will remain in effect. Because of the extensiveness of these rules and because of recent advances in medicine and technology within the health care field, an extension of the expiration date of these rules for one year is necessary to allow sufficient time for a thorough evaluation and revision of the rules.

**Social Impact**

The social impact of the readoption of the Standards for Licensure of Ambulatory Care Facilities will be the assurance of the continuity of services to the residents of the State in ambulatory care settings. In the absence of these rules, the services provided by the ambulatory care facilities would not be reimbursed by third-party payors, resulting in the possible closure of many ambulatory care facilities. Ambulatory care facilities provide comprehensive health and medical services ranging from the family practice to the highly developed and sophisticated computerized axial tomography services and the recently developed cost-effective health care model, Health Maintenance Organizations. Minimum standards are required to ensure health and safety of patients in these facilities. The readoption of these standards will not only ensure quality of care but, through early detection and control of diseases, these facilities will reduce the number of inpatient hospital days required by patients. The reduction in the number of inpatient hospital days will minimize the loss of work days by patients, resulting in increased productivity which would ultimately boost the economy of the State. Moreover, only health and active residents can contribute to the welfare of their community and the State. The readoption of these standards would be a positive step in ensuring the health and welfare of the residents of the State.

**Economic Impact**

This proposed readoption will have no discernible increased economic impact for the Department of Health since ambulatory care facilities are already operating under these regulations. In fact, adherence to these regulations is an economic necessity for ambulatory care facilities since licensure is required for third-party reimbursement.

Ambulatory care facilities are the centers for the early detection and control of disease which will eventually reduce the cost of care and reduce the number of inpatient hospital days which are both cost-containment measures. The licensure of ambulatory care facilities will reduce the financial burden of health care services by promoting cost-containment. Ambulatory care facilities provide a more rational management of illness by reducing unnecessary, and unnecessarily costly, care, especially in a hospital.

These rules will ensure that the medical services that are provided meet minimum required standards for quality care. In the absence of these regulations, care and safety of patients may be jeopardized and these services would not be reimbursed, thus resulting in the

possible closure of many facilities and the discontinuation of services.

The financial benefits for patients, physicians, and third-party payors will be significant for all concerned since ambulatory care facilities allow services to be provided on an outpatient basis thus reducing the spiraling costs of health care in the State by eliminating inpatient hospitalization and by providing outpatient cost-effective services. Treating patients and providing services on an outpatient basis will ultimately reduce the cost of care. It will lessen the strain on the patient and his/her family by providing needed medical attention on an outpatient basis to protect the health, safety, and welfare of the patients without overburdening a hospital, the individual patient, or the patient's family. Thus, the patient will be able to return to the community earlier.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43A, as amended in the New Jersey Register.

**Full text** of the proposed amendment to the readoption follows:

8:43A-1.10 Expiration date of chapter

This chapter concerning Ambulatory Care Facilities shall expire on August 9, 1984.

**(a)**

**PUBLIC HEALTH COUNCIL**

**Chapter IV, State Sanitary Code Laboratories**

**Proposed Readoption with Amendments:  
N.J.A.C. 8:44**

Authorized By: Evelyn Geddes, Chairperson, Public Health Council.  
Authority: N.J.S.A. 45:9-42.26 et seq., specifically 45:9-42-34.

A **public hearing** concerning the proposed readoption will be held on July 11, 1983 at 9:30 A.M. at:

State Department of Health  
Health-Agriculture Building  
Room 805 - Conference Room  
John Fitch Plaza  
Trenton, NJ

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

James E. Prier, Ph.D.  
Division of Public Health &  
Environmental Laboratories  
State Department of Health Room 401  
CN 360  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on September 18, 1983. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-302.

The agency proposal follows:

#### Summary

The purpose of this proposal is to readopt with amendments the existing regulations of the New Jersey State Sanitary Code on the Operation of Clinical Laboratories, N.J.A.C. 8:44. The current text of the chapter is due to expire on September 18, 1983 pursuant to Executive Order No. 66 (1978), commonly known as the "sunset" Executive Order. The applicability of the regulations (N.J.A.C. 8:44-1.2) includes all sites at which clinical laboratory work is performed for the purpose of determining states of health or disease, except those sites operated by agencies of the Federal government. The regulations are not applicable to laboratories which are operated only for purposes of research, and in which no patient work is done for purpose of diagnosis and treatment. The qualifications required for director and other personnel in clinical laboratories are those which are considered to be consistent with acceptable laboratory practice required for optimal reliability and accuracy of clinical laboratory results. Further, the requirements for director, supervisor, and technologist are consistent with those of the Federal agencies which also apply to New Jersey laboratories which are in interstate commerce or provide services for recipients of social security benefits (CFR 405.1310) (N.J.A.C. 8:44-1.3, 1.4 and 1.6). N.J.A.C. 8:44-1.3(c)4. is being amended to be consistent with the recent amendments to the Bioanalytical Laboratory Act (P.L. 1953 c.420; N.J.S.A. 49:9-42.1 et seq.). Requirements for monitoring records and reports (N.J.A.C. 8:44-1.7) are designed to assure that adequate reference is kept in regard to individual patients and the work done in their behalf. Also, such records indicate whether work was done under proper authority and direction. Quality control measures (N.J.A.C. 8:44-1.8) are necessary to assure that accuracy is constantly present in the complex analytical procedures done in modern clinical laboratories. Because of a change in Federal regulations regarding inapplicability of N.J.A.C. 8:44-1.8(b)2iii, this subparagraph is deleted. Also, records of such quality control procedures must be maintained for review by Department inspectors. The regulations specify the minimum requirements for such control procedures.

In all instances throughout the chapter where "Department of Health, Education, and Welfare" is used, it is changed to "Department of Health and Human Services" in order to be consistent with the change in title of the Federal agency.

Public notice of this proposed readoption will be printed in newspapers throughout the State on or about June 20, 1983.

#### Social Impact

A significant amount of the total medical service performed for citizens of the State is in clinical laboratory procedures. These are diverse in nature, requiring a variety of personnel, skills and technical expertise. These tests are necessary adjuncts for clinical physicians to accurately diagnose and effectively treat disease states. Errors in such testing can seriously impair the proper remedy of illness, by providing misleading direction to clinicians who rely upon the data produced by clinical laboratories.

The process of licensing and regulating clinical laboratories, as mandated by the Clinical Laboratory Improvement Act, N.J.S.A. 45:9-42.26 et seq., is designed to assure that only competent work and accurate results are produced by all licensed laboratory facilities. Also, the Act and regulations seek to provide a mechanism to prevent unregulated laboratories from offering and providing services to the public.

All laboratories that are licensed must meet basic standards before the license is issued. In addition, all licensed facilities must maintain standards of performance in order to continue providing services.

The effect upon society of regulating clinical laboratories is to assure a standard of quality for all who obtain services from licensed facilities. This is a positive contribution to the health of citizens of the State, since accurate laboratory data in turn frequently provides

a basis for accurate diagnosis, and effective therapy. This may limit duration of illness, aid in prevention of disease, and reduce the chance of erroneous diagnosis and therapeutic procedures.

In some cases, such as those related to contagious disease, rapid and accurate laboratory procedures may have a limiting effect upon the spread of such maladies. By application of the regulatory program, as provided by the Clinical Laboratory Improvement Act, the specific procedures and technical expertise which are necessary to detect the presence of such disease agents are maintained in licensed laboratories.

In the period of over 20 years in which Clinical Laboratory Improvement programs have been mandated by various jurisdictions of the United States, various studies have shown an increase in proficiency and accuracy as a direct effect of regulatory programs. There can be little room for argument against the premise that continuing regulation of clinical laboratories is a positive factor in continuing optimal levels of proficiency of licensees.

Programs of the Federal government which support Medicare and Medicaid reimbursement have regulations which are applicable to clinical laboratories. These regulations address themselves to matters of personnel, facilities, testing, and quality control. Regulations of the New Jersey Clinical Laboratory Improvement Act meet or exceed the Federal regulations. Therefore citizens of the State, whether recipients of the Medicare-Medicaid programs or not, are assured that laboratory providers operate under standards which equal or exceed the most rigid Federal requirements.

#### Economic Impact

Continuation of these existing regulations will have no significant additional adverse economic impact, either to the providers of service or to recipients of such service. However, expiration of the regulations could have an adverse economic impact on recipients since unregulated laboratory operations could then be established without restraints relating to quality of tests or costs. Lack of regulations would permit unscrupulous laboratory operators to provide inadequate service, without any mechanism available to detect and prohibit such faulty testing. The loss in direct cost, poor treatment, lost time, and extended periods of treatment and recovery would be significant.

**Full text** of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 8:44.

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

8:44-1.3 Laboratory director

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

(c) The laboratory director shall hold a valid, current license as a bioanalytical laboratory director issued pursuant to L. 1953, c.420 (N.J.S.A. 45:9-42.1 et seq.), and, in addition, shall meet one of the following requirements:

1.-3. (No change.)

4. The requirements of (c)1, 2 and 3 above do not apply to individuals who qualified as a bioanalytical director and were licensed pursuant to L. 1953 c. 420 (N.J.S.A. 45:9-42.1 et seq.) **as amended** prior to adoption of these regulations.

8:44-1.8 Quality control

(a) (No change.)

(b) Provision shall be made for an acceptable quality control program covering all types of analysis performed by the laboratory for verification and assessment of accuracy, measurement of precision, and detection of error.

1. (No change.)

2. Serology:

i.-ii. (No change.)

iii. Equipment, glassware, reagents, controls, and techniques for

tests for syphilis shall conform to those recommended in the "Manual" of Tests for Syphilis 1969, "U.S. Public Health Service Publication No. 411, January 1969".] 3.-7. (No change.)

## HUMAN SERVICES

(a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Administration Manual Prior Authorization in Emergency Situations

#### Proposed Amendment: N.J.A.C. 10:49-1.8

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.  
Authority: N.J.S.A. 30:4D-7 and 7b.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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 1983-283.

The agency proposal follows:

#### Summary

This proposal concerns prior authorization for Title XIX (Medicaid) services. The legal basis for prior authorization is sections 1902(a)(4) and (30) of the Social Security Act, which require states to provide for proper and efficient administration, including the establishment of methods and procedures designed to insure proper utilization of, and payment for, medically necessary care and services, and to guard against unnecessary utilization of such care and services. The goal of prior authorization is to assure that Medicaid patients receive appropriate services covered by the New Jersey Medicaid program, with consideration being given to less costly alternatives.

The proposal itself defines exceptions to the normal prior authorization requirements. If there is a medical emergency, as defined in the regulations, prior authorization is not required. However, the provider must document the circumstances which were the basis for claiming a medical emergency. There is also provision for an "administrative emergency", which differs from a medical emergency in that the situation is not life-threatening. For example, a patient may need to be transferred from a hospital to a long term care facility on a weekend using invalid coach transportation. The transportation provider would be unable to contact the Medicaid District Office to obtain prior authorization. Therefore, the service could be provided and the Medicaid District Office notified within five calendar days, and the provider could be reimbursed in accordance with Medicaid fee schedules if the

Medical Consultant determines that the service was medically necessary.

It should be noted that this proposal only pertains to prior authorization requirements. Other Medicaid program requirements, such as financial eligibility, medical necessity and third-party liability remain in effect.

This proposal will not affect those services and/or items where prior authorization is not required.

#### Social Impact

This proposal should have a positive social impact on both Medicaid patients and providers. Services that normally require prior authorization may be rendered in "emergency" situations, and providers will be entitled to reimbursement, provided they can document the "medical emergency", and, whenever appropriate, submit timely requests with adequate documentation of medical necessity for retroactive authorization under the "administrative emergency" provision.

#### Economic Impact

The economic impact on both the Division and Medicaid providers should remain constant, because there are no new services being added and/or deleted, nor is there any change in Medicaid reimbursement rates and/or fee schedules.

There is no cost to the Medicaid patient.

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

10:49-1.8 Prior **and retroactive** authorization (general)

(a) Under the program, payment for certain services will require prior authorization except in an emergency. It is the responsibility of the provider to obtain prior authorization before furnishing or rendering service. Specific instructions are detailed in the appropriate provider manual sections.

1. "**Medical emergency**" means a critical illness or injury status for which prompt medical care may be crucial to saving life and limb or sparing the patient significant or intractable pain. Services provided for a medical emergency are exempt from prior authorization. Any service classified as a medical emergency, which would have been subject to prior authorization had it not been so classified, must be supported by a practitioner's statement which describes the nature of the emergency, including relevant clinical information, and must state why the emergency services rendered were considered to be immediately necessary. Simply stating an emergency existed is not sufficient.

(b) Retroactive authorization may be granted under certain circumstances provided that the service is a part of continuing patient care and, on the basis of medical judgment, would have been authorized at the time the service was rendered. Each case is considered on its own merits. Retroactive authorization is to be an exceptional measure granted only under the following unusual circumstances:

1. "**Other coverage**" (Medicare, Third Party liability, other insurance and so on) has denied or made only partial payment of a claim for services or items requiring prior authorization and it would have been unreasonable to expect the provider to have requested authorization prior to rendering the service.

2. An "**administrative emergency**" existed because communication between the provider and New Jersey Medicaid Program staff could not be established (for example, during a weekend, holiday or evening) and provision of the service should not have been delayed. This differs from a medical emergency in that the recipient's condition would not be impaired if the service was not provided (see example). In such instances, the request for retroactive authorization including an explanation of the circumstances as well as the medical documentation supporting the services must be submitted to the

**Medicaid District Office or Central Office, as appropriate, within five calendar days after the service was provided or initiated. If verbal authorization was obtained, confirming written documentation must follow.**

**Example: A patient is to be transferred from a hospital to a skilled nursing facility on a weekend but an invalid coach is required to move the patient. The invalid coach provider is unable to contact the Medicaid District Office to obtain prior authorization. It is advantageous to the Medicaid Program, the hospital and the patient to transfer on Saturday and not wait until authorization can be obtained on Monday.**

**3. In situations not covered by (b)1 and 2 (above), the New Jersey Medicaid Program is to follow the doctrine of reasonableness which asks, "Is it reasonable to conclude that the situation presented warrants waiver of procedural rules?"**

**(c) Retroactive authorization will not be granted under the following circumstances:**

- 1. Services the provider identified as medically emergent are determined, following the medical review by the Contractor, to be non-emergent.**
- 2. Services rendered were found to be medically unnecessary.**
- 3. The request is for appliances, such as eyeglasses, hearing aids, or other kinds of non-emergency services, when the provider fails to comply with established procedures and later seeks payment through retroactive approval.**

**(a)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Administration Manual  
Availability of Program Policy Issuances**

**Proposed Readoption: N.J.A.C. 10:49-2**

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.  
Authority: N.J.S.A. 30:4D-7 and 7b and 42 CFR 431.18.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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). Pursuant to Executive Order No. 66(1978), this rule would otherwise expire on August 16, 1983. The readoption of this rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of its readoption.

This proposal is known as PRN 1983-291.

The agency proposal follows:

**Summary**

The Division of Medical Assistance and Health Services (the Division) is proposing to readopt subchapter 2 of the Administration Manual (N.J.A.C. 10:49-2) entitled "Availability of Program Policy Issuances". This subchapter was developed

pursuant to Federal regulations (42 CFR 431.18) which require that copies of rules and policies affecting the public be available for review, study, and reproduction by individuals during regular working hours. The topics covered should include policies on eligibility, provision of medical assistance, covered services, and recipient rights and responsibilities.

The existing regulations reflect the Federal requirements. The Division's manuals, newsletters, circular letters, and so forth are available in the 16 Medicaid District Offices, or can be obtained directly from Central Files located at 324 East State Street, Trenton. Providers are issued their own copy of the appropriate manual, e.g., pharmacists receive a copy of the pharmacy manual, when they enroll as Medicaid providers. They remain on the mailing list, and receive periodic updates. Recipients receive "stuffers", i.e., pamphlets, with their monthly checks when there is a policy change affecting eligibility and/or services.

Division administrative personnel have reviewed this rule, and find it necessary to insure continued compliance with Federal requirements. The rule is adequate, reasonable, efficient, understandable and responsive to the purpose for which it was promulgated, because it insures both providers and recipients will be informed of Division policies, procedures, and any changes thereto.

The rule has not been amended. There is no need for any changes at this time, because it conforms to the Federal regulations.

**Social Impact**

The rule has had a positive social impact, because both providers and recipients have been kept informed of the Division's policies and procedures regarding eligibility, services and so forth. Since the same social conditions still exist, the rule should be continued in its present form. The public's reaction to the method of notification has generally been favorable.

The rule has potential impact on all Medicaid providers, who must be kept informed of Medicaid policies concerning billing procedures, prior authorization procedures, when applicable and so forth.

The rule also impacts on applicants and/or recipients, who are informed of Medicaid eligibility standards, covered and non-covered services, through the issuance of pamphlets and stuffers as necessary.

The rule also impacts on the Office of Administrative Law, Division of Publications and Filings, who is responsible for publishing the Division's regulations, and any amendment thereto, in the New Jersey Administrative Code.

Readoption is necessary to insure providers are notified of Medicaid policies and any changes thereto.

**Economic Impact**

There is no economic impact on recipients. Providers are not charged for their individual copies of program manuals, newsletters and so forth.

The cost of writing, printing and distributing the various publications is part of the Division's administrative expenses, and is subject to Federal matching funds. It is most essential that the Division inform the public of changes (in Medicaid policy and procedures) which are often precipitated by Federal and/or State legislation that has either been enacted or amended. In addition, the Federal Government may impose requirements on the State Medicaid agency via the Federal regulatory process.

**Full text** of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:49-2.

(a)

## DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

### Transportation Services Manual

#### Proposed Readoption: N.J.A.C. 10:50

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(15), 7 and 7b, and 42  
CFR 431.53 and 440.170(a).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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). Pursuant to Executive Order No. 66(1978), this rule would otherwise expire on August 29, 1983. The re-adoption of this rule becomes effective upon acceptance for filing of the notice of its re-adoption by the Office of Administrative Law.

This proposal is known as PRN 1983-303.

The agency proposal follows:

#### Summary

The New Jersey Medicaid program is required to provide transportation services pursuant to 1905(a)(18) of the Social Security Act, 42 CFR 431.53, and 42 CFR 440.170(a). As described in the Federal regulations, "transportation includes expenses for transportation and other related travel expenses determined to be necessary by the agency to secure medical examinations and treatment for a recipient" (440.170(a)(1)). The Division of Medical Assistance and Health Services developed these regulations to insure compliance with cited Federal regulations, thereby insuring continued receipt of Federal matching funds.

The two types of services provided are ambulance and invalid coach. The former does not require prior authorization. The latter (invalid coach) requires prior authorization from the Medicaid Medical Consultant at the Medicaid District Office. Whenever a transportation provider participating in the Medicaid program transports a Medicaid patient, the provider must submit a claim to Prudential Insurance Company in order to be reimbursed. If the claim is for ambulance service, a prescription must accompany the claim form. If the claim is for invalid coach, the Medicaid Medical Consultant must have signed the claim form indicating prior authorization was granted. The correct method of completing the claim form is set forth in Subchapter 2, entitled Billing Procedures.

Division administrative personnel have reviewed the existing regulations and found them necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were created. The rules allow Medicaid patients to receive necessary transportation for medical treatment, and for providers to be reimbursed for providing the transportation. The rules also enable the Division to claim Federal matching funds for transportation services. Therefore, the rules should be left unchanged.

The rule was amended in 1980 to delete the requirement that ambulance service be prior authorized. The rule was adopted

effective March 1, 1980 as R. 1980 d.93, notice of which appeared at 12 N.J.R. 193(e). The criteria set forth in the regulation obviated the need for prior authorization.

#### Social Impact

The social impact on Medicaid patients has been positive, because transportation services allow them accessible, available modes of transport to and from medical care providers. Since the same social conditions still exist, the rule should be continued.

The rule impacts on the Division, especially the several Medicaid District Offices, and Prudential Insurance Company, who is responsible for processing claims submitted by transportation providers. The rule also has a direct impact on these providers, and an indirect impact on all medical care providers. There is a potential impact on all Medicaid patients, who may need these services.

There are approximately 70 transportation providers in the Medicaid program statewide.

If the rule were not re-adopted, patients would not get services, providers would not be reimbursed, and the Division would lose Federal matching funds.

#### Economic Impact

The cost of transportation services (for ambulance and invalid coach) was approximately 5.6 million dollars for FY 1982 (Federal-State share combined). The receipt of Federal funds is a major reason for this re-adoption.

There is no cost for the Medicaid patient. Transportation providers are reimbursed in accordance with Medicaid policies, procedures, and fee schedules.

The economic conditions that necessitated the rule still exist; that is, there are Medicaid patients who are not able to pay privately for transportation to and from providers of medical care.

**Full text** of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:50, as amended in the New Jersey Register.

(b)

## DIVISION OF PUBLIC WELFARE

### Medicaid Only Program Financial Eligibility Standards: Resources and Income

#### Proposed Readoption: N.J.A.C. 10:94-4.1 through 4.5 and 5.1 through 5.6

#### Proposed Readoption with Amendment: N.J.A.C. 10:94-4.6

#### Proposed New Rules: N.J.A.C. 10:94-4.7 and 5.7

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 44:7-87 and 30:4D-7.

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

Audrey Harris, Acting 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). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 23, 1983. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The concurrent amendment to the existing rules, and the new rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-304.

The agency proposal follows:

#### Summary

The purpose of this proposal is to readopt N.J.A.C. 10:94-4 and 10:94-5 pursuant to the "sunset" provisions of Executive Order No. 66(1978). Both subchapters have been reviewed by professional staff of the Division of Public Welfare and found necessary for continued operation of the Medicaid Only program for the aged, blind and disabled. These rules establish a uniform system of determining eligibility for all applicants under the same criteria established by the Federal government for eligibility determinations in the Supplemental Security Income program. Subchapter 4 describes resources eligibility, those resources which are not considered, and establishes value limits on countable resources. Subchapter 5 details income eligibility, deductions, exclusions, and standards.

The Medical Assistance and Health Services Act (N.J.S.A. 30:4D) was effective January 1, 1970. With implementation of Title XVI of the Social Security Act on January 1, 1974, the State was required to determine Medicaid eligibility for aged, blind, and disabled individuals in accordance with Federal rules prescribed for the Supplemental Security Income program. These subchapters were originally promulgated July 1, 1976 in accordance with the Administrative Procedure Act. The subchapters have been revised as Federal rules regarding Supplemental Security Income have changed. In 1981, both subchapters were substantially revised to clarify eligibility criteria thus facilitating the county agency's eligibility determinations.

Public Law 96-265 requires that the income and resources of an alien sponsor be deemed available to the sponsored alien in the Supplemental Security Income program. As Federal rules require that eligibility for Medicaid for the aged, blind, and disabled be the same as those in the Supplemental Security Income program, the Department proposes these rules to count the income and resources of alien sponsors.

Public Law 96-611 provides the State with the option of imposing a penalty of up to 24 months' ineligibility for persons disposing of resources in order to qualify for program benefits. Additionally, N.J.S.A. 30:4D-3 and FY 1983 Budget Resolution require the Department implement the penalty as provided for in Federal law. This proposal considers as a resource for a period of 24 months from the point of disposal, the uncompensated value of the disposed resource. The proposal provides that the presumption that the disposal was made to qualify for Medicaid benefits may be rebutted by the applicant.

#### Social Impact

The Medicaid Only program for the aged, blind, and disabled provides an opportunity for needy individuals to secure medical care and services which they could not otherwise afford. In the most recent month for which data is available (March 1983), there were 29,598 eligible persons of which 26,058 received medical services. If the program were not available, many of these financially needy individuals would forego necessary medical treatment.

The two proposed revisions to these subchapters are anticipated to have little or no social impact. It is expected that few persons will dispose of non-excluded property prior to application for benefits knowing that such disposal will incur a penalty of ineligibility. However, persons unable to successfully rebut the

presumption that the disposal was made to qualify for Medicaid benefits and thus determined ineligible for the program may be forced to delay necessary medical care and treatment or to find alternative financial arrangements in order to pay for required care. The incidence of aged, blind, or disabled sponsored aliens applying for program benefits is expected to be small resulting in minimal social impact.

#### Economic Impact

In the most recent month for which data is available (March 1983), expenditures for Medicaid Only-aged, blind, and disabled were approximately \$27.5 million of which \$27.3 million were matchable by the Federal government. The rate for matching Medicaid expenditures is 50 percent subject to reduction pursuant to the Omnibus Budget Reconciliation Act of 1981.

As indicated in the social impact statement, it is expected that the proposed revisions to these subchapters will have an insignificant effect on the population served, thus it is expected that there will be minimal fiscal impact.

Full text of the proposed readoption can be obtained from:

Division of Public Welfare  
CN 716  
Trenton, NJ 08625; or

Office of Administrative Law  
Administrative Filings  
CN 301  
Trenton, NJ 08625

Full text of the proposed amendment and the new rules follows (additions indicated in boldface **thus**).

10:94-4.6 Deeming of resources

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

**(f) Deeming resources of an alien's sponsor: When the sponsor of an alien is subject to deeming provisions (see N.J.A.C. 10:94-5.7) any countable resources of the sponsor in excess of the appropriate standard (\$1,500 for the sponsor and \$2,250 if the sponsor resides with him or her spouse) shall be considered to be resources of the alien in addition to whatever resources the alien has.**

10:94-4.7 Transfer of resources

(a) The following definitions apply in situations regarding the transfer of resources:

**1. Fair market value: The fair market value (FMV) is equal to the current market value at the time of resource disposal. The FMV shall be determined in accordance with the evaluation instructions set forth in N.J.A.C. 10:94-4.1(d).**

**2. Uncompensated value: The uncompensated value (UV) is the difference between the FMV of a nonexcludable resource (less any encumbrances) and the compensation received by the individual. If the resource was jointly owned before disposal, the UV considered is only the individual's share of that value (see N.J.A.C. 10:94-4.1(d)).**

**(b) General procedures: If an individual applying for Medicaid has sold, given away, or otherwise transferred any nonexcluded resources within the 24 months preceding the date of application, the following steps shall be taken and fully documented in the case record.**

**1. Ascertain and document the FMV of the resource.**

**2. Document the amount of compensation received by the individual for the transfer.**

**3. Determine the UV, if any.**

**4. Add the amount of the UV, if any, to the amount of other countable resources.**

**5. Notify the applicant, in all cases when any amount of UV is established, of the determination via Form PA-13 before the application is approved or denied.**

6. Advise the applicant that he or she may rebut the presumption that a resource was transferred at less than FMV in order to qualify for Medicaid (see (g) below).

(c) Excluded resources: Resources which are excluded in accordance with N.J.A.C. 10:94-4.4 are not subject to the transfer provisions. A transferred resource shall be excluded if, at the time of transfer, the resource would have been excluded if the individual were an applicant. For example, if an individual transfers a home serving as his or her residence and subsequently applies for Medicaid, the CWA would not consider the UV of the home as a resource.

(d) Resource transferred at fair market value: When the resource was transferred at FMV, the application shall be processed as usual. No special procedure is required.

(e) Resource transferred, resource limit not exceeded: When the UV of a transferred resource, combined with other countable resource does not exceed the applicable resource limit, the application shall be processed as usual. In addition, the following procedures shall be adhered to.

1. It shall be explained to the applicant that he or she has transferred a resource at less than FMV, the amount of the UV, and that this amount must be counted toward the resource maximum for 24 months from the date of disposal. This shall be accomplished via completion and mailing of Form PA-13.

2. The client shall be informed that although eligible at time of application, if his or her resources, including the amount of the UV, should exceed the resource maximum within the 24 month period, he or she will lose Medicaid eligibility.

i. Example: At the time of application the UV equals \$1,000, other resources equal \$200.00 for a total of \$1,200, the client is resource eligible. At time of determination, the UV equals \$1,000, other resources equal \$600.00 for a total of \$1,600, client is ineligible because of excess resources and the case must be terminated.

3. A list shall be maintained of all such cases for control purposes. This should include the case number, client's name, Social Security number, date of resource disposal, FMV of resource, amount of UV, and date of termination, if applicable.

(f) Resource transferred, resource limit exceeded: When the UV of a transferred resource, combined with other countable resources, exceeds the resource limit, the application for Medicaid shall be denied and the procedures below followed.

1. Notify the applicant via Form PA-13 that he or she has transferred a resource at less than FMV, the amount of the UV, and that this amount will be counted toward the resource maximum for 24 months from the date of disposal. Explain that the law states that transfer of a resource at less than FMV is presumed to be for the purpose of establishing Medicaid eligibility.

2. Advise the applicant that he or she may rebut the presumption (see (g) below).

3. Prepare a list of such cases for control purposes in accordance with (e) 3 above.

(g) Rebuttal of presumption that the resource was transferred to establish eligibility: All applicants or recipients may rebut the presumption that a resource was transferred to establish Medicaid eligibility. If the individual wishes to rebut such presumption, explain that it will be his or her responsibility to present convincing evidence that the resource was transferred exclusively (that is, solely) for some other purpose. The applicant should be assisted in obtaining information when necessary. However, the burden of proof rests with the applicant. Accordingly, when the applicant expresses the desire to rebut the agency's presumption that he or she transferred a nonexcludable resource to establish Medicaid eligibility, the procedures below shall be followed.

1. The applicant's statement concerning the circumstances of the transfer shall be recorded. The statement should include, but need not be limited to, the following:

- i. The applicant's stated purpose for transferring the resource;
- ii. The applicant's attempt to dispose of the resource at FMV;
- iii. The applicant's reasons for accepting less than FMV for the resource;
- iv. The applicant's means of, or plans for, supporting himself or herself after the transfer;
- v. The applicant's relationship, if any, to the person(s) to whom the resource was transferred.

2. Request the applicant to submit any pertinent documentary evidence (for example, legal documents, realtor agreements, relevant correspondence).

3. Take statements from other individuals if material to the decision.

(h) Factors which may indicate that the transfer was for some other purpose: The presence of one or more of the following factors, while not conclusive, may indicate that resources were transferred exclusively for some purpose other than establishing Medicaid eligibility.

1. The occurrence after transfer of the resource of:
  - i. Traumatic onset of disability;
  - ii. Unexpected loss of other resources which would have precluded Medicaid eligibility;
  - iii. Unexpected loss of income which would have precluded Medicaid eligibility.

2. Resources that would have been below the resource limit during each of the preceding 24 months if the transferred resource had been retained.

3. Court-ordered transfer.

(i) Agency determination pursuant to client rebuttal:

1. The presumption that a resource was transferred to establish Medicaid eligibility is successfully rebutted only if the applicant demonstrates that the resource was transferred exclusively for some other purpose.

2. If the applicant had some other purpose for transferring the resource, but establishing Medicaid eligibility seems to have been a factor in his or her decision to transfer, the presumption is not successfully rebutted.

3. The determination will not include an evaluation of the merits of the applicant's stated purpose of transferring a resource. The determination will only deal with whether or not the applicant has proven that the transfer was solely for some purpose other than establishing Medicaid eligibility.

4. The final determination regarding the purpose of the transfer shall be made at a supervisory level and documented in the case record.

5. The applicant shall be sent a notice of the decision which shall include his or her right to a fair hearing.

#### 10:94-5.7 Deeming from sponsor to alien

(a) For the purposes of determining eligibility for Medicaid Only for a legal alien (applying for the first time on or after October 1, 1980), the income and resources (see N.J.A.C. 10:94-4.7) of any person who sponsored the alien's entry into the United States will be deemed to the alien. Such deeming applies for a period of three years from the month of the alien's entry into the United States. However, deeming shall not apply to any alien who is:

1. Admitted to the United States under the provisions of section 203(a)(7) of the Immigration and Nationality Act which were in effect prior to April 1, 1980;
2. Admitted to the United States under the provisions of section 207(c)(1) of such Act which became effective March 31, 1980;
3. Paroled into the United States as a refugee under section 212(d)(5) of such Act;
4. Granted political asylum by the Attorney General;
5. Determined to be blind or disabled if such blindness or disability began after the date of admission into the United States for permanent residence; or

6. Sponsored by an institutional sponsor such as an employer or a church.

(b) In the event an alien is sponsored by a person subject to the deeming rules at N.J.A.C. 10:94-5.5, those rules will be used in lieu of the sponsor-to-alien rules.

(c) No inquiry shall be made regarding a sponsor's financial circumstance unless the alien's own countable income and resources indicate potential program eligibility.

(d) Normal income exclusions do not apply in deeming of a sponsor's income to an alien. Additionally, SSI benefits, AFDC payments, as well as any other public income maintenance payments are not excluded in sponsor-to-alien deeming.

(e) To determine the amount of income to be deemed to an alien, the CWA shall proceed as follows:

1. Determine the total gross earned (wages and net earnings from self employment) and gross unearned income of the sponsor (and spouse if living with the sponsor).

2. Subtract \$304.30 for the sponsor, \$456.45 for the sponsor if living with his or her spouse, \$608.60 for the sponsor if his or her spouse is a co-sponsor.

3. Subtract \$152.15 for any other dependent of the sponsor who is or could be claimed for Federal Income Tax purposes.

4. The remaining amount is deemed as unearned income to the alien.

(f) In the event that a sponsor has sponsored more than one alien, there is no proration of deemable income among the sponsored aliens. The income is fully charged to each alien for which the sponsor has executed an affidavit of support.

**LABOR**

**(a)**

**DIVISION OF WORKPLACE STANDARDS**

**Carnival-Amusement Rides**

**Proposed Readoption: N.J.A.C. 12:195**

Authorized By: Roger A. Bodman, Commissioner,  
Department of Labor.  
Authority: N.J.S.A. 5:3-31 et seq., specifically 5:3-36.

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

William J. Clark, Director  
Division of Workplace Standards  
Department of Labor  
CN 054  
Trenton, NJ 08625-0054

The Department of Labor thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 1, 1983. The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption.

This proposal is known as PRN 1983-289.

The agency proposal follows:

**Summary**

The purpose of this proposal is to readopt the existing rules on carnival-amusement rides, N.J.A.C. 12:195. The current chapter

is due to expire August 1, 1983 pursuant to Executive Order No. 66(1978), commonly known as the "sunset" Executive Order, and is proposed for readoption without change.

This chapter of the New Jersey Administrative Code first became effective June 26, 1975 to implement the purposes of the Carnival-Amusement Rides Safety Act, N.J.S.A. 5:3-31 et seq. The Act mandates the Department of Labor to adopt rules and regulations for the safe installation, repair, maintenance, use, operation and inspection of all amusement rides for the protection of the public.

The rule was amended August 1, 1978; May 1, 1979; and October 15, 1981. The amendments to the rules reflected amendments to the Act; updated references, improved organization of the requirements, and new issues that the Division of Workplace Standards' in administering the rule discovered a need for.

Development of the rules and amendments to the rules were accomplished with internal agency review, public input, and notice to affected interested persons. The rules were reviewed by an Executive Order 66 Review Committee and were found necessary, adequate and responsive to the law. Development of the rules and amendments to the rules were accomplished with the advice and consent of the Advisory Board on Carnival-Amusement Ride Safety organized by statute under N.J.S.A. 5:3-33.

The chapter consists of five subchapters. Subchapter 1, General Provisions, are rules relating to administration, records, reporting and insurance for rides. Subchapter 2 covers definitions for terms used in the chapter. Subchapter 3 addresses design and construction standards for safety of rides. Subchapter 4 concerns safety construction standards for buildings and structures as part of a ride. Subchapter 5 consists of rules relating to the safe operation and use of rides.

The rules provide an indispensable set of standards for the carnival-amusement ride industry and the Division in achieving the purposes of the Act. They are deemed necessary, adequate, reasonable, understandable and responsive to the purposes for which they were promulgated. This is evident from the effective safety program, which is administered by the Division of Workplace Standards under these rules and the general public acceptance of the rules.

The rules remain unchanged for the readoption since any consequential changes made to the rules could not be achieved before the sunset date. Failure to readopt these rules could place the public in jeopardy at amusement rides.

**Social Impact**

With the increased popularity of amusement rides in New Jersey the risk in participating in amusement rides should not be permitted to increase. The readoption of the chapter would continue to provide for the assurance of safety hazards at carnival-amusement rides and continue to provide for improved safety for the public. The current text of the chapter has, to the greatest extent possible, maintained adequate safety standards and will continue to do so in the future.

**Economic Impact**

The continued application of the chapter presents no additional hardship to the carnival-amusement ride industry. The chapter should continue to provide economic advantage to the public and the operators and owners of carnival-amusement rides by reducing the likelihood of accidents and resulting expensive injuries.

Though compliance with the rules does impose some minimal expense (although not easily or readily quantifiable in terms of dollars) on the owners or operators of amusement rides, this expense is far outweighed by the positive preventative measures and added expenses the owners save and the protection to the public.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 12:195, as amended in the New Jersey Register.

## LAW AND PUBLIC SAFETY

(a)

### DIVISION OF ALCOHOLIC BEVERAGE CONTROL

#### Regulation of Use of Manufacturers' Rebates and Coupons

#### Proposed New Rule: N.J.A.C. 13:2-24.11

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.  
Authority: N.J.S.A. 33:1-39 and 33:1-39.2.

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

John F. Vassallo, Jr., Director  
Division of Alcoholic Beverage Control  
Richard J. Hughes Justice Complex  
CN 087  
Trenton, NJ 08625

The Director, Division of Alcoholic Beverage Control, 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 1983-310.

The agency proposal follows:

#### Summary

Cash rebates and discount coupons from manufacturers and suppliers have become an important part of food and merchandise marketing and advertising throughout the country. With prices being a prime concern to consumers, the use of rebates provides consumers a reduction in price, and affords manufacturers and suppliers the ability to introduce or reintroduce products to consumers.

The use of rebates and coupons has also spread to the alcoholic beverage industry, although alcoholic beverage control regulations have tended to develop their use differently from use in the supermarkets for food products. Only 14 states allow redemption of manufacturers' "cents off" coupons at retail alcoholic beverage outlets, while a majority of states (32, including the District of Columbia and the 13 states that permit the "cents off" coupons) permit mail-in refunds or rebates directly from the manufacturer or suppliers, usually processed for an alcoholic beverage supplier or manufacturer through a clearinghouse or agency specializing in such services. Included among the states permitting mail-in refunds or rebates, but not "cents-off" coupons, are the neighboring or closely situated states of New York, Delaware, Maryland, and Connecticut. Advertising media utilized in these states frequently also cover part of New Jersey and therefore the publication of ads for rebates in those advertising areas has been confusing to New Jersey alcoholic beverage consumers.

There is no good reason to any longer deprive New Jersey consumers and alcoholic beverage suppliers of the benefits that can be derived from rebates and rebate offers. "Cents-off" coupons, which are redeemed by the retailer at the point of purchase, however, will not be permitted as alcoholic beverage coupons tend to be for larger amounts than food-product coupons and, therefore, chances for abuse and fraud are increased. For example, a retailer

might find it profitable to purchase a number of newspapers containing a one dollar coupon and then redeem them even though no consumer retail purchase was made for each item. Not permitting the cents-off coupons will prevent this. The prohibition will also avoid any conflict with the "tied-house" statute, N.J.S.A. 33:1-43, which prohibits a brewery, winery, distillery or rectifying and blending plant from having an interest in the retailing of alcoholic beverages. The prohibition of such "cents-off" coupons is specifically covered in N.J.A.C. 13:2-24.11(b) of the proposed new rule.

N.J.A.C. 13:2-24.11(a) of the proposed new rule sets forth the permission for manufacturers and suppliers of alcoholic beverages to offer the mail-in rebates or refunds, limits that which may be offered and prescribes the manner in which the offer may be made. The proposed new rule also requires the manufacturer or supplier to file a copy of the offer with the Director of the Division of Alcoholic Beverage Control prior to the introduction of the rebate or refund program in New Jersey. This will allow the division to monitor the offers being made and to be familiar with the details in order to be able to answer any inquiries or complaints concerning rebate offers. At the same time, there will not be "over-regulation" or unnecessary burden on manufacturers or suppliers. The advance filing will also permit the division time to advise a manufacturer or supplier proposing a rebate offer of any problems with the offer or of non-compliance of the offer with regulations.

#### Social Impact

It is anticipated that the new rule will permit a greater advertising impact and a wider introduction and reintroduction of alcoholic beverage products to the consumer. Problems that have been associated with advertisements for rebates in surrounding states, which were not available to New Jersey residents receiving those same ads, will be eliminated. Consumers will receive a savings through use of rebates, and interbrand competition between alcoholic beverage manufacturers and suppliers should be stimulated. It is not anticipated that use of rebates and refunds will unduly promote an excess consumption of alcoholic beverages.

#### Economic Impact

Consumers will benefit and save money from the rebate of a part of a purchase price. In addition to this saving to the consumer, the permitting of refunds and rebates will create more advertising and will thereby give revenue dollars to advertising media. Thus, there will be a definite benefit to various segments of the State, and primarily to the consuming public.

There will be no significant impact on the division since the proposed rule only requires filing of the rebate and coupon proposal with the director. The filing retention and review costs to the division will be minimal and insignificant and will be far offset by the benefits otherwise accruing to the citizens of the State from rebates and refunds.

**Full text** of the proposed new rule follows.

13:2-24.11 Manufacturers' rebates and coupons

(a) Subject to the provisions of this section, a manufacturer, distiller, blender and rectifier, brewer, vintner, or any importer may offer mail-in rebates or refunds of a portion of the purchase price of alcoholic beverages directly to consumers for the purpose of introducing or reintroducing consumers to its product(s) or for advertising, promotion, or market-testing purposes.

1. No such rebate may be for more than the full amount of the retail purchase price of the alcoholic beverage. In addition, the reimbursement of first-class postage to the consumer for the cost of mailing in the rebate offer for redemption is permitted.

2. Any such rebate offer shall require a form, with all the terms and conditions of the rebate offer clearly stated thereon, to be completed and mailed by a consumer who must be of legal age to purchase alcoholic beverages. A proof-of-purchase may also be

required to be submitted with the form. Such forms shall be distributed to consumers via advertisements in newspapers, magazines, or circulars of general distribution; by general address mailings; by point-of-sale tear-off pads on retail licensed premises; or by neck-hangers on bottles; provided that such pads or neck-hangers shall be non-discriminatorily distributed to licensees within a targeted advertising area. Nothing shall prohibit the directing of a rebate offer to a specific geographic area, but rebates shall be made to any New Jersey resident complying with the terms of the offer, whether or not they shall reside in the targeted advertising area.

3. Any rebate offered in accordance with this section shall be mailed to the consumer completing the form at the address shown thereon in the form of cash or check only.

4. At least 10 days prior to the commencement of any rebate promotion offered in accordance with this section, the manufacturer, distiller, blender and rectifier, brewer, vintner, or importer making such rebate offer shall file with the Director of the Division of Alcoholic Beverage Control a statement setting forth all terms and conditions of the rebate offer, including, but not limited to, the amount of rebate, any proof-of-purchase requirement, the effective dates of the offer, the marketing area in which the offer will be promoted, and the name and address of any clearinghouse retained to process rebates. A facsimile or copy of the rebate offer shall also be filed. The division shall promptly be notified of any change in the terms of a rebate offer prior to such change's taking place.

(b) No manufacturer, distiller, blender and rectifier, brewer, vintner, importer, wholesaler or distributor shall provide or distribute by any means whatsoever any coupon or certificate redeemable for a discount on or "cents-off" the purchase price of any alcoholic beverage by a consumer at any retail licensed premises, nor shall any retail licensee redeem any such coupon or certificate.

**(a)**

**DIVISION OF MOTOR VEHICLES**

**Driver Control Service  
Point System; Motorized Bicycle Offenses**

**Proposed Amendment: N.J.A.C. 13:19-10  
Proposed Repeal: N.J.A.C. 13:25-6**

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:5-30 P.L. 1982, c.43, §1 (C. 39:5-30.5) and P.L. 1983, c.105, §8 (C. 39:4-14.3q) .

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

Clifford W. Snedeker, Director,  
Division of Motor Vehicles  
25 South Montgomery Street  
Trenton, NJ 08666

The Division of Motor Vehicles 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 1983-298.

The agency proposal follows:

**Summary**

The proposal amends the Point System Regulation to bring it into conformity with P.L. 1982, c. 43, (C. 39:5-30.5 et seq.) and P.L. 1983, c.105 (C.39:4-14.3q). The proposal also reestablishes the motor vehicle violations for which points shall be assessed by the Division of Motor Vehicles. In addition, the proposal establishes periods of suspension for point system violators within the legislative guidelines set forth in P.L. 1982, c.43, §4 and §6. The proposal also repeals N.J.A.C. 13:25-6, the Motorized Bicycle Regulation, dealing with the assessment of points for offenses committed on motorized bicycles. Motorized bicycle offenses and motor vehicle offenses are, therefore, consolidated under one regulation.

**Social Impact**

The proposed amendments foster highway safety by providing a framework within which persistent motor vehicle violators are subjected to driver license suspension and driver improvement courses.

**Economic Impact**

There is an economic impact on the State in implementing the amendments as the existing system has to be redesigned to conform with P.L. 1982, c.43. There is a direct economic impact on the public in that surcharges will be assessed against drivers who accumulate points in accordance with P.L. 1983, c.65, §6b(1)(a) and §6b(1)(b).

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

SUBCHAPTER 10. POINT SYSTEM AND DRIVING DURING SUSPENSION

13:19-10.1 Point assessment

(a) [For convictions of violations of the motor vehicle and traffic laws, the following amounts of points shall be assessed:

STATUTORY VIOLATIONS	DESCRIPTIONS	POINTS
1. N.J.S.A. 39:4-66.1	Improper entering or leaving highway	2
2. N.J.S.A. 39:4-82.1	Improper use of divided highways	2
3. N.J.S.A. 39:4-85.1	Wrong way on one-way street	2
4. N.J.S.A. 39:4-90.1	Failure to use proper entrances or exits	2
5. N.J.S.A. 39:4-127.1	Improper crossing of railroad grade crossing	2
6. N.J.S.A. 39:4-127.2	Failure to comply with signals on bridge	2
7. N.J.S.A. 39:4-128.1	Passing school bus	5
8. N.J.S.A. 39:5C-1	Racing on highway	5
9. N.J.S.A. 27:23-29.4A	Moving against traffic - New Jersey Turnpike, Garden State, and Atlantic City Expressway	2
10. N.J.S.A. 27:23-29.7	Improper passing - Garden State Parkway and Atlantic City Expressway	4
11. N.J.S.A. 27:23-29.7	Illegal use of median strip - New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
12. N.J.S.A. 39:4-97.1	Operating at slow speed blocking traffic	2

**PROPOSALS**

**LAW AND PUBLIC SAFETY**

13. N.J.S.A. 39:4-105	Improper operation at intersections control traffic signals	2	45. N.J.S.A. 39:4-87	Passing" line	3
14. N.J.S.A. 39:4-115	Improper turn at traffic control signal	3	46. N.J.S.A. 39:4-88	Failure to give way to overtaking vehicle	2
15. N.J.S.A. 39:4-119	Failure to stop at flashing red signal	2	47. N.J.S.A. 39:4-89	Improper operation on highways with marked lanes	5
16. N.J.S.A. 39:4-122	Failure to stop for police (whistle)	2	48. N.J.S.A. 39:4-90	Following too closely	2
17. N.J.S.A. 39:4-123	Improper right and left turns	3	49. N.J.S.A. 39:4-91	Failure to yield - right-of-way	2
18. N.J.S.A. 39:4-124	Improper turn: marked turning course	3	50. N.J.S.A. 39:4-92	Failure to stop and yield to emergency vehicles	2
19. N.J.S.A. 39:4-125	Improper turn: "U" turns	3	51. N.J.S.A. 39:4-96	Failure to stop and yield to emergency vehicles	5
20. N.J.S.A. 39:4-126	Failure to give proper signal	2	52. N.J.S.A. 39:4-97	Reckless driving	2
21. N.J.S.A. 39:4-127	Illegal backing or turning in street	2	53. N.J.S.A. 39:4-98	Careless driving	2
22. N.J.S.A. 39:4-128	Failure to stop at railroad crossing	2		Speeding up to 14 mph above limit	4
23. N.J.S.A. 39:4-129	Leaving scene of accident:			Speeding up to 15 to 29 mph above limit	5
24. N.J.S.A. 39:4-129A	Personal Injury	8		Speeding up to 30 mph or more above limit	2]
25. N.J.S.A. 39:4-129B	Property Damage	2	54. N.J.S.A. 39:5D-4	Moving violation out-of-state	
26. N.J.S.A. 39:4-144	Disregard of stop sign regulations	2			
27. N.J.S.A. 39:4-145	Failure to yield right-of-way to line of vehicles entering through street	3			
28. N.J.S.A. 39:3-20	Constructor registered vehicles exceeding 30 mph	3			
29. N.J.S.A. 39:4-35	Failure to give pedestrian right to complete crossing	2			
30. N.J.S.A. 39:4-36	Failure to give pedestrian right-of-way	2			
31. N.J.S.A. 39:4-41	Driving through safety zones prohibited	2			
32. N.J.S.A. 39:4-52	Racing on highway	5			
33. N.J.S.A. 39:4-55	Improper action on steep grades or curves	2			
34. N.J.S.A. 39:4-57	Failure to comply with instruction of police officer	2			
35. N.J.S.A. 39:4-66	Improper emerging from driveway, alley, or garage	2			
36. N.J.S.A. 39:4-71	Improper driving on sidewalk	2			
37. N.J.S.A. 39:4-97.1	Retarding traffic	2			
38. N.J.S.A. 39:4-80	Disregard of officer directing traffic	2			
39. N.J.S.A. 39:4-81	Failure to observe traffic control device	2			
40. N.J.S.A. 39:4-82	Failure to keep right	2			
41. N.J.S.A. 39:4-83	Failure to keep right at intersection	2			
42. N.J.S.A. 39:4-84	Failure to pass to right when proceeding to opposite direction	5			
43. N.J.S.A. 39:4-85	Improper passing	4			
44. N.J.S.A. 39:4-86	Improper passing, Crossing "No	4			

**Any person who is convicted of any of the following offenses, including offenses committed while operating a motorized bicycle, shall be assessed points for each conviction in accordance with the following schedule:**

<b>SECTION NUMBER</b>	<b>OFFENSE</b>	<b>POINTS</b>
<b>1. N.J.S.A. 27:23-29</b>	<b>Moving against traffic - New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</b>	<b>2</b>
<b>2. N.J.S.A. 27:23-29</b>	<b>Improper passing - New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</b>	<b>4</b>
<b>3. N.J.S.A. 27:23-29</b>	<b>Unlawful use of median strip - New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway</b>	<b>2</b>
<b>4. N.J.S.A. 39:3-20</b>	<b>Operating constructor vehicle in excess of 30 mph</b>	<b>3</b>
<b>5. N.J.S.A. 39:3-76.7 and 39:4-14.3q</b>	<b>Operating motorcycle or motorized bicycle without protective helmet</b>	<b>2</b>
<b>6. N.J.S.A. 39:4-14.3</b>	<b>Operating motorized bicycle on a restricted highway</b>	<b>2</b>
<b>7. N.J.S.A. 39:4-14.3d</b>	<b>More than one person on a motorized bicycle</b>	<b>2</b>
<b>8. N.J.S.A. 39:4-35</b>	<b>Failure to yield to pedestrian in cross-</b>	<b>2</b>

9. N.J.S.A. 39:4-36	walk Failure to yield to pedestrian in crosswalk; passing a vehicle vehicle yielding to pedestrian in crosswalk	2		mph over limit Exceeding maximum speed 30 mph or more over limit	5
10. N.J.S.A. 39:4-41	Driving through safety zone	2	36. N.J.S.A. 39:4-105	Failure to stop for traffic light	2
11. N.J.S.A. 39:4-52 and 39:5C-1	Racing on highway	5	37. N.J.S.A. 39:4-115	Improper turn at traffic light	3
12. N.J.S.A. 39:4-55	Improper action or omission on grades and curves	2	38. N.J.S.A. 39:4-119	Failure to stop at flashing red signal	2
13. N.J.S.A. 39:4-57	Failure to observe direction of officer	2	39. N.J.S.A. 39:4-122	Failure to stop for police whistle	2
14. N.J.S.A. 39:4-66	Failure to stop vehicle before crossing sidewalk	2	40. N.J.S.A. 39:4-123	Improper right or left turn	3
15. N.J.S.A. 39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2	41. N.J.S.A. 39:4-124	Improper turn from approved turning course	3
16. N.J.S.A. 39:4-71	Operating a motor vehicle on a sidewalk	2	42. N.J.S.A. 39:4-125	Improper "U" turn	3
17. N.J.S.A. 39:4-80	Failure to obey direction of officer	2	43. N.J.S.A. 39:4-126	Failure to give proper signal	2
18. N.J.S.A. 39:4-81	Failure to observe traffic signals	2	44. N.J.S.A. 39:4-127	Improper backing or turning in street	2
19. N.J.S.A. 39:4-82	Failure to keep right	2	45. N.J.S.A. 39:4-127.1	Improper crossing of railroad grade crossing	2
20. N.J.S.A. 39:4-82.1	Improper operating of vehicle on divided highway or divider	2	46. N.J.S.A. 39:4-127.2	Improper crossing of bridge	2
21. N.J.S.A. 39:4-83	Failure to keep right at intersection	2	47. N.J.S.A. 39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2
22. N.J.S.A. 39:4-84	Failure to pass to right of vehicle proceeding in opposite direction	5	48. N.J.S.A. 39:4-128.1	Improper passing of school bus	5
23. N.J.S.A. 39:4-85	Improper passing on right or off roadway	4	49. N.J.S.A. 39:4-128.4	Improper passing of a frozen dessert truck	4
24. N.J.S.A. 39:4-85.1	Wrong way on a one-way street	2	50. N.J.S.A. 39:4-129	Leaving the scene of an accident	2
25. N.J.S.A. 39:4-86	Improper passing in no passing zone	4		No personal injury	2
26. N.J.S.A. 39:4-87	Failure to yield to overtaking vehicle	2	51. N.J.S.A. 39:4-144	Personal injury	8
27. N.J.S.A. 39:4-88	Failure to observe traffic lanes	2		Failure to observe "stop" or "yield" signs	2
28. N.J.S.A. 39:4-89	Tailgating	5	52. N.J.S.A. 39:5D-4	Moving violation	
29. N.J.S.A. 39:4-90	Failure to yield at intersection	2		Out-of-State	2
30. N.J.S.A. 39:4-90.1	Failure to use proper entrances to limited access highways	2			
31. N.J.S.A. 39:4-91 and 39:4-92	Failure to yield to emergency vehicles	2			
32. N.J.S.A. 39:4-96	Reckless driving	5			
33. N.J.S.A. 39:4-97	Careless driving	2			
34. N.J.S.A. 39:4-97.1	Slow speed blocking traffic	2			
35. N.J.S.A. 39:4-98 and 39:4-99	Exceeding maximum speed 1-14 mph over limit	2			
	Exceeding maximum speed 15-29	4			
			13:19-10.2	Point accumulation; period of suspension	
				[(a) On or after the effective date of this subchapter, the Director of the Division of Motor Vehicles is authorized to exercise discretionary authority to suspend or revoke the license or permit of any person to operate a motor vehicle when the individual accumulates a total of 12 or more points.	
				(b) If the Director determines to revoke or suspend an individual's driving privileges pursuant to subsection (a) of this section, the individual shall, if he so requests, be entitled to a hearing before the Director or a hearing officer or driver improvement analyst designated by the Director.	
				(c) In lieu of revocation or suspension, the Director may authorize an individual to participate in a driver improvement program of the Division of Motor Vehicles. In making a determination of the action to be taken, the Director shall take into consideration the nature and number of an individual's offenses and convictions, and prior suspensions or revocations appearing on the individual's driving record.]	
				(a) The Director shall, except for good cause, suspend a person's license to operate a motor vehicle and/or motorized bicycle in accordance with the following schedule:	
				POINTS ACCUMULATED	PERIOD OF SUSPENSION

1. 12 to 15 points in a period of two years or less	30 days
2. 16 to 18 points in a period of two years or less	60 days
3. 19 to 21 points in a period of two years or less	90 days
4. 22 to 24 points in a period of two years or less	120 days
5. 25 to 27 points in a period of two years or less	150 days
6. 28 or more points in a period of two years or less	not less than 180 days
7. 15 to 18 points in a period greater than two years	30 days
8. 19 to 22 points in a period greater than two years	60 days
9. 23 to 26 points in a period greater than two years	90 days
10. 27 to 30 points in a period greater than two years	120 days
11. 31 to 35 points in a period greater than two years	150 days
12. 36 or more points in a period greater than two years	not less than 180 days
13. 12 to 14 points in a period greater than two years	30 days

(b) For good cause shown, the Director may in his discretion permit a person to attend a driver improvement course of the Division of Motor Vehicles in total or partial satisfaction of a period of suspension imposed under (a) above. In exercising his discretion, the Director shall consider the person's driving record, prior warnings or driver improvement school attendance, maturity and any other aggravating or mitigating factor.

13:19-10.3 Driver improvement program attendance

(a) [An individual] A person who is permitted to attend a driver improvement program of the Division of Motor Vehicles in [lieu] total or partial satisfaction of suspension or revocation shall agree to attend each session of the assigned driver improvement program and to comply with all rules governing attendance, conduct, instruction, and examinations. [An individual] A person who fails to comply with the foregoing requirements or who otherwise fails to successfully complete the assigned driver improvement program shall be subject to a driver license suspension for the period contained in the notice of proposed suspension. [An individual] A person who successfully completes the assigned driver improvement program shall be officially warned with respect to future driving.

(b) [An individual who accumulates 12 or more points, and] A person whose driver license has been suspended, pursuant to N.J.A.C. 13:19-10.2 (Point accumulation; periods of suspension) may be required to attend and successfully complete a driver improvement program of the Division of Motor Vehicles as a condition for restoration of the [driver's] driver license.

(c) The fee for attendance at a Division of Motor Vehicles driver improvement program shall be [\$20.00] \$40.00.

(d) The Director is authorized to exercise discretionary authority to require any person who is licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b to attend a Probationary Driver Program whenever said [individual] person accumulates two or more violations of the motor vehicle law which result in the assessment of four or more points under [section 1 (Point assessment) of this subchapter.] N.J.A.C. 13:19-10.1 (Point assessment).

(e) [An individual] A person who is required to attend a Probationary Driver Program shall agree to attend each session of

the program and to comply with all rules governing attendance, conduct, instruction, and examinations. [An individual] A person who fails to comply with the foregoing requirements or who otherwise fails to successfully complete the Probationary Driver Program shall be subject to a driver license suspension for the period contained in the notice of proposed suspension. [An individual] A person who successfully completes the Probationary Driver Program shall be officially warned with respect to future driving.

(f) The fee for attendance at a Division of Motor Vehicles probationary driver program shall be [\$20.00] \$40.00.

13:19-10.4 Advisory notice

(a) Whenever [an individual] a person accumulates [a point total between six and 11] six or more points, the Division shall send an official notice advising the motorist of such status.

(b) Whenever [an individual] a person who is licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b is first convicted of a motor vehicle violation requiring the assessment of points against the individual's driving record under [section 1 (Point assessment) of this subchapter,] N.J.A.C. 13:19-10.1 (Point assessment) the Division shall send an official notice advising the motorist of the status of the driving record.

13:19-10.5 Reductions of point accumulation

(a) The record of points assessed against any individual shall be reduced by three points for each 12 months of violation-free driving. If an individual's point total is three or less at the time of eligibility for such credit, the driver's point total shall be reduced to zero.

(b) No point totals shall be reduced below zero or so as to reflect minus points. An individual whose license has been suspended for some other reason during the 12-month period of violation-free driving shall, within the discretion of the Director, not be eligible for the three-point reduction. For purposes of determining the date of point reduction, the following shall apply:

1. If a six-point award is granted in accordance with section 4 of L. 1977, c. 27, the three-point reduction will be made effective one year from the date of the six-point award;

2. If a six-point award is not granted in accordance with section 4 of L. 1977, c. 27, the three-point reduction will be made effective one year from the date of the last point violation, or driver license restoration, whichever applies;

3. The annual three-point reduction will be granted effective one year from the date of the last point violation, one year from the date of the last reduction or award, or one year from the date of the last driver license restoration, whichever applies.]

Points recorded against the licensee shall be reduced in accordance with the provisions of N.J.S.A. 39:5-30.9.

13:19-10.6 Restoration, official warning, completion of Driver Improvement or Probationary Driver Program

(a) Persons whose licenses are restored after a suspension imposed under [section 2 (Point accumulation) of this subchapter,] N.J.A.C. 13:19-10.2 (Point accumulation; period of suspension) persons who are officially warned after [a] an administrative hearing [before the Division] and persons who successfully complete a Division Driver Improvement Program [upon accumulation of 12 or more points] or a Probationary Driver Program [upon accumulation of four or more points] may retain their licenses upon the express condition and understanding that any subsequent violation of the Motor Vehicle Laws of the State of New Jersey committed within a period of one year of the restoration, official warning or warning following successful completion of a Driver Improvement or Probationary Driver Program [may] shall, except for good cause, result in suspension of driving privileges for the following periods:

1. When the subsequent violation occurs within six months of the

date of the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - [three months] **90 days**;

2. When the subsequent violation occurs more than six months but less than nine months after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - [two months] **60 days**;

3. When the subsequent violation occurs more than nine months but less than one year after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - [one month.] **45 days**.

**(b) A second violation of the Motor Vehicle Laws committed within one year of the restoration, official warning or warning following successful completion of a Driver Improvement or Probationary Driver Program shall, except for good cause, result in suspension of driving privileges for the following periods:**

1. When the second violation occurs within six months of the date of the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - **180 days**.

2. When the second violation occurs more than six months but less than nine months after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - **120 days**.

3. When the second violation occurs more than nine months but less than one year after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program - **90 days**.

[(b)] (c) Persons, licensed on a probationary basis in accordance with N.J.S.A. 39:3-10b, who have been subject to a license suspension action under [subsection] (a) or (b) [of this section] **above** may be required to successfully complete additional programs of driver rehabilitation within the discretion of the Director.

13:19-10.7-10.8 (No change.)

**SUBCHAPTER 6. [POINT SYSTEM REGULATION] (RESERVED)**

[13:25-6.1 Point assessment

(a) Points shall be assessed in the following amounts for convictions of violations of the Motor Vehicle and traffic laws or for convictions of juvenile delinquency that would otherwise be convictions of violations of motor vehicle and traffic laws if the individual were over 17 years old:

STATUTE	DESCRIPTION	POINTS
39:4-66.1	Improper entering or leaving highway	2
39:4-82.1	Improper use of divided highways	2
39:4-85.1	Wrong way on one-way street	2
39:4-90.1	Failure to use proper entrances or exits	2
39:4-127.1	Improper crossing of railroad grade crossing	2
39:4-127.2	Failure to comply with signals on bridge	2
39:4-128.1	Passing school bus	5
39:4-97.1	Operating at slow speed blocking traffic	2
39:4-105	Improper operation at intersections control traffic signals	2
39:4-115	Improper turn at traffic control signal	3
39:4-119	Failure to stop at flash-	2

39:4-122	ing red signal	2
39:4-123	Failure to stop for police (whistle)	2
39:4-124	Improper right and left turns	3
39:4-125	Improper turn: marked turning course	3
39:4-126	Improper turn: "U" turns	3
39:4-127	Failure to give proper signal	2
39:4-128	Illegal backing or turning in street	2
39:4-129	Failure to stop at railroad crossing	2
39:4-129A	Leaving scene of accident	8
39:4-129B	Personal injury	2
39:4-144	Property damage	2
39:4-145	Disregard of stop sign regulations	2
39:4-35	Failure to yield right-of-way line of vehicles entering through street	3
39:4-36	Failure to give pedestrian right to complete crossing	2
39:4-41	Failure to give pedestrian right-of-way	2
39:4-52	Driving through safety zones prohibited	2
39:4-55	Racing on highway	5
39:4-57	Improper action on steep grades or curves	2
39:4-66	Failure to comply with instruction of police officer	2
39:4-71	Improper merging from driveway, alley, or garage	2
39:4-97.1	Improper driving on sidewalk	2
39:4-80	Retarding traffic	2
39:4-81	Disregard of officer directing traffic	2
39:4-82	Failure to observe traffic control device	2
39:4-83	Failure to keep right	2
39:4-84	Failure to keep right at intersection	2
39:4-85	Failure to pass to right when proceeding to opposite direction	5
39:4-86	Improper passing	4
39:4-87	Improper passing, crossing "No Passing" line	4
39:4-88	Failure to give way to overtaking vehicle	3
39:4-89	Improper operation on highways with marked lanes	2
39:4-90	Following too closely	5
39:4-91	Failure to yield right-of-way	2
39:4-92	Failure to yield right-of-way to emergency vehicles	2
39:4-96	Failure to stop and yield to emergency vehicles	2
39:4-97	Reckless driving	5
39:4-97	Careless driving	2

13:25-6.2 Point accumulation

On or after the effective date of this regulation, whenever a motorized bicycle operator accumulates 12 points, the motorized bicycle operator may be subject to a license suspension hearing before the Director of the Division of Motor Vehicles or a hearing officer designated by the Director. The motorized bicycle operator may, within the discretion of the Director, be permitted to participate in a driver improvement program of the Division of Motor Vehicles. There shall be one point accumulation applicable to both motorized bicycle operators and operators of other vehicles.

13:25-6.3 Driver improvement school attendance

(a) A motorized bicycle operator who is permitted to attend a driver improvement program of the Division of Motor Vehicles shall agree to attend each session of the assigned driver improvement program and to comply with rules governing attendance, conduct, instruction, and examinations. A motorized bicycle operator who fails to comply with the foregoing agreements, or who otherwise fails to successfully complete the assigned driver improvement program shall be subject to a motorized bicycle operator license suspension. A motorized bicycle operator who successfully completes the assigned driver improvement program shall be officially warned with respect to future motorized bicycle operating.

(b) A motorized bicycle operator who accumulates 12 or more points and whose motorized bicycle operator license is suspended, may be required to attend and successfully complete a driver improvement program of the Division of Motor Vehicles as a condition for restoration of the motorized bicycle operator's license.

13:25-6.4 Advisory notice

Whenever a motorized bicycle operator accumulates between 6 and 11 points, the division shall send an official notice advising the motorized bicycle operator of such status.

13:25-6.5 Reductions of point accumulation

(a) The record of points assessed against any motorized bicycle operator shall be reduced by three points for each 12 months of violation-free motorized bicycle operating. If a motorized bicycle operator's point total is three or less at the time of eligibility for such credit, the motorized bicycle operator's point total shall be reduced to zero.

(b) No point totals shall be reduced beyond zero so as to reflect minus points. A motorized bicycle operator whose license has been suspended during the 12-month period of violation-free motorized bicycle operating may not, within the discretion of the Director, be eligible for the three point reduction.

(c) The annual three point credit will be granted effective one year from the date of the last point violation, one year from the date of the last credit or award, or one year from the date of the last motorized bicycle operator license restoration, whichever applies.

13:25-6.6 Restoration

(a) Restoration after suspension or official warning or warning after successfully completing a division driver improvement program following accumulation of 12 or more points shall be with the express condition and understanding that any violation of the motor vehicle laws of New Jersey committed within a period of one year may result in summary suspension of motorized bicycle operating privileges, without hearing, for the following periods:

1. When the violation occurred within six months of the date of action, three months;
2. When the violation occurred after six months but within nine months, two months;
3. When the violation occurred after nine months but within one year of the date of action, one month.

13:25-6.7 Operating a motorized bicycle during period of suspension

(a) Whenever the motorizing bicycle operating privileges of an individual have been suspended or revoked for any reason, either judicially or administratively:

1. The operation of a motorized bicycle by the individual during the period of suspension or revocation shall be cause for extending the period of revocation or suspension for an additional six months, or for some other period determined by the Director.

2. Should information be received by the division after restoration of an individual's motorized bicycle operating privileges that the individual operated a motorized bicycle during the period of revocation or suspension, the Director may revoke or suspend the individual's motorized bicycle operating privileges for a period of six months or for some other period which the Director determines.]

(a)

**DIVISION OF MOTOR VEHICLES**

**Out-of-State Conviction; Administrative Determination or Bail Forfeiture for Driving While Intoxicated; Refusal to Submit to Chemical Test  
Periods of Suspension and Attendance at Alcohol Countermeasures Program**

**Proposed New Rule: N.J.A.C. 13:19-11**

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.  
Authority: N.J.S.A. 39:3-11, 39:5-30, 39:5-30.1, 39:5D-4 and 39:5F-1 et seq.

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

Clifford W. Snedeker, Director  
Division of Motor Vehicles  
25 So. Montgomery Street  
Trenton, NJ 08666

The Division of Motor Vehicles 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 1983-295.

The agency proposal follows:

**Summary**

The proposed new rule provides a uniform standard for driver license suspensions for out-of-state convictions, administrative determinations and bail forfeitures incurred by New Jersey drivers for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug and refusal to submit to chemical tests. The proposed new rule provides for the imposition of the mandatory minimum periods of suspension as set forth in N.J.S.A. 39:4-50 and 39:4-50.4a for convictions and administrative determinations. The proposed new rule provides for the imposition of an indefinite suspension for bail forfeitures. Additionally, the new rule requires satisfactory completion of a program of alcohol education or rehabilitation as provided in N.J.S.A. 39:4-50 and 39:4-50.4a.

**Social Impact**

The proposed new rule fosters highway safety in that out-of-state convictions, administrative determinations and bail forfeitures incurred by New Jersey licensed drivers for alcohol and drug-related motor vehicle offenses result in license suspension and mandatory completion of an alcohol education or rehabilitation program.

**Economic Impact**

The State will receive statutory restoration and alcohol program fees from drivers who are subject to the new rule.

**Full text** of the proposed new rule follows.

**SUBCHAPTER 11. SUSPENSION FOR OUT-OF-STATE CONVICTIONS; ADMINISTRATIVE DETERMINATIONS AND BAIL FORFEITURES FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REFUSAL TO SUBMIT TO CHEMICAL TEST**

13:19-11.1 Suspension period determined by N.J.S.A. 39:4-50 and 39:4-50.4a

(a) Out-of-state convictions, administrative determinations or bail forfeitures for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be given the same effect as if such conviction, administrative determination or bail forfeiture had occurred in this State.

(b) The driving privileges of a New Jersey licensee who incurs an out-of-state conviction or administrative determination for operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be suspended for the minimum term specified in N.J.S.A. 39:4-50 or 39:4-50.4a. If the out-of-state conviction constitutes said driver's second, third or subsequent violation for operating while under the influence, a suspension shall be imposed under N.J.S.A. 39:4-50 corresponding to the number of the violation. If the out-of-state conviction or administrative determination for refusal to submit to a chemical test was a subsequent refusal or was in connection with said driver's subsequent offense for operating while under the influence, a suspension shall be imposed for the term specified for subsequent offenses in N.J.S.A. 39:4-50.4a.

(c) The driving privileges of a New Jersey licensee who incurs an out-of-state bail forfeiture in connection with a charge of operating a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical test after arrest for operating while under the influence shall be suspended until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the Division of Motor Vehicles pursuant to N.J.S.A. 39:5F-1 et seq.

13:19-11.2 Alcohol education or rehabilitation program

A New Jersey resident who incurs an out-of-state conviction or administrative determination for operating a motor vehicle under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or for refusal to submit to chemical tests shall be required to satisfactorily complete a program of alcohol education or rehabilitation approved by the director.

**(a)****BOARD OF ARCHITECTS****Plans for Single Family Dwellings****Proposed New Rules: N.J.A.C. 13:27-7**

Authorized By: New Jersey Board of Architects, John Seuass, Vice President.  
Authority: N.J.S.A. 45:3-3.

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

M. Lisbeth Citrino, Executive Secretary  
State Board of Architects  
1100 Raymond Boulevard, Room 327  
Newark, NJ 07102

The Board of Architects 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 1983-294.

The agency proposal follows:

**Summary**

This rule would permit persons wishing to build a house for their own use to purchase commercially sold pre-prepared plans instead of designing or having an architect design the house. Such plans are typically sold through magazines. The rule would provide an opportunity for substantial savings to the person building a home for himself or his family, while protecting life, health and safety by requiring a New Jersey licensed architect to review, sign and seal the plans, and adapt them to the specific building site. The rule would allow a New Jersey architect to sign and seal preprepared plans for persons building their own homes, even though these plans were not physically drawn by the architect. However, the plans must originally have been drawn by an architect licensed in some jurisdiction, and adapted by the New Jersey architect to the present building site. The New Jersey architect's signature and seal would represent full assumption of responsibility for the design.

**Social Impact**

Consumers would benefit by having available a wider range of quality home designs, including innovative home designs from other parts of the country.

**Economic Impact**

Considerable savings could be realized by allowing New Jersey architects to sign and seal single family dwelling plans without having to redraw them.

**Full text** of the proposed new rule follows.

**SUBCHAPTER 7. EXEMPTIONS**

13:27-7.1 Single family dwellings

(a) In accord with N.J.S.A. 45:3-10, any person in this State may act as a designer of a detached dwelling and appurtenances thereto to be constructed by that person solely as a residence for that person or member of that person's immediate family.

(b) The person may design the dwelling and all appurtenances thereto, prepared the plans, then file the plans with an affidavit indicating that that person drew the plans.

(c) In lieu of personally preparing the plans, the person may utilize pre-prepared (commercially published, available to the public)

plans which bear a certification that they were originally drawn by an architect licensed in any United States jurisdiction, provided that these plans are reviewed, signed, sealed and adapted to the specific site by a New Jersey licensed architect. By signing and sealing these plans, the New Jersey architect assumes full responsibility, just as if the plans were prepared under the architect's direct supervision.

(d) The person, in lieu of personally constructing the residence, may engage others to perform the work.

(a)

**BOARD OF OPTOMETRISTS**

**Patient Records  
Availability of Records**

**Proposed Readoption: N.J.A.C. 13:38-6.1**

Authorized By: State Board of Optometrists, Leonard Strulowitz, President.  
Authority: N.J.S.A. 45:12-4.

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

Leonard Strulowitz, President  
New Jersey State Board of Optometrists  
1100 Raymond Boulevard, Room 501  
Newark, NJ 07102  
Telephone (609)648-2012

The New Jersey State Board of Optometrists thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), this rule would otherwise expire on July 21, 1983. The readoption of this rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of its readoption.

This proposal is known as PRN 1983-312.

The agency proposal follows:

**Summary**

N.J.A.C. 13:38-6.1 (Subchapter 6), as it has been in effect, was originally prompted by Federal Trade Commission (FTC) opinion which looked favorably upon the release of eyewear prescriptions to the patient consumers and a decision by the Appellate Division. **Hillman/Kohan Eyeglasses, Inc. v. New Jersey State Board of Optometrists**, 169 N.J. Super. 259 (A.D. 1979). That decision held that the former language of N.J.A.C. 13:38-6.1 (b) of the rule had to be changed to allow the release of the complete record of contact lens specifications to ophthalmic dispensers as well as other optometrists or ophthalmologists upon request of the patient or the professional acting on the patient's behalf.

The rule has evolved in its present form mainly as a result of these mandates, but also due to the Board's recognition of a need to have uniform policy in this area. For example, the regulation of this subchapter details an additional step by requiring patient records to be maintained by optometrists for seven years. The rule then goes on to provide for their release.

The subchapter is intended to benefit optometric patients and consumers by allowing the transfer or release of patient records, including eyeglass and contact lens prescriptions. Such practices effectively give patients more freedom to choose the providers of their vision care and products from an expanded field. Relying upon communication with the consumers and optometrists, as well as their own experience in the field, it is apparent to the Board that

this rule has resulted in greater awareness and increased accessibility to the eyeglass and contact lens market. Easier excess to various professionals within the vision field can provide the means and incentive for consumers to comparison shop for price and quality in vision care. Further, they may readily avail themselves of the economic benefits, such as lower prices, which tend to accompany a broader more competitive market.

Upon internal review of this subchapter, the Board is seeking to preserve the preceding benefits by proposing adoption of the rule in its present form without change. If readoption does not occur, the Board fears some of the following consequences. Those optometrists examining patients' eyes would once again be able to require that the prescribed eyeglasses or contact lenses be purchased from them also. Since the examiner would be able to hold onto the results of their eye examination, patients would have little control over any dissatisfaction with the price, quality or selection of the resulting eyewear. Without this rule the vision corrected public can more easily be placed in the position of being held a captive audience. Once patients may be forced to undergo a full examination for simply purchasing a replacement lens or frame, if the dispensing practitioner happens not to be the original fitter. Further, those patients needing contract lenses would not be able to take advantage of the range of prices now available. The existence of the current regulation serves to eliminate the above practices.

By its presence this subchapter has benefited consumers as well as those dealing in vision care by injecting the above mentioned consumer considerations into optometric practice in a reasonable and controlled manner.

**Social Impact**

N.J.A.C. 13:38-6.1 has provided everyone requiring optometric and ophthalmic services and/or devices with accessibility to their own records and prescriptions. As a consequence, this rather large segment of the public purchasing eyewear is able to comparison shop for the most advantageous deal to fill their prescriptions. In summary, the rule is a vehicle to prevent denial to consumers of their right to information concerning their vision and grants them the right to make an informed decision in the purchase of eyewear in a competitive economic environment.

This rule has also served to open the contact lens market to ophthalmic dispensers who prior thereto had been excluded from the sale of contact lenses. The rule provides that as dispensers they may accept contact lens specifications from the optometrists and ophthalmologists. Prior to the promulgation of N.J.A.C. 13:38-6.1, optometrists were prohibited from releasing these specifications to ophthalmic dispensers. Practically, this rule has expanded the market offering the product, thus encouraging those dispensing contact lenses to engage in competitive pricing. This results in the availability of options in price ranges to the consumer.

If the current rule is not readopted as proposed, ophthalmic dispensers would once again be excluded from the contact lens market and individual ocular practitioners would once again have the means to inhibit the freedom of patient choice in vision care.

**Economic Impact**

The impact that this subchapter has had economically is most favorable from the consumer's point of view by keeping prices down. Observation and assessment of recent advertisements have indicated that prices for contact lenses have come down over the past years while the rule has been in effect. The rule has apparently provided the stimulation for competitive pricing in the market place. The public's use and awareness of contact lenses seems to have increased and, as a product, they are more widely available.

Without readoption, the Board feels certain that the price of eyewear would increase.

**Full text** of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:38-6.1.

# TRANSPORTATION

(a)

## TRANSPORTATION OPERATIONS

### Restricted Parking and Stopping Route 439

#### Proposed Amendment: N.J.A.C. 16:28A-1.70

Authorized By: John P. Sheridan Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-197.5.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before July 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  
CN 600  
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 1983-284.

The agency proposal follows:

#### Summary

The proposed amendment will establish restricted parking space for handicapped drivers along Route 439 in the City of Elizabeth, Union County. Parking will be authorized for persons having special Vehicle Identification Cards issued by the Division of Motor Vehicles. Based upon requests made by the local officials of Elizabeth City, engineering studies were conducted by the Bureau of Traffic Engineering of the Department of Transportation. The engineering studies found the establishment of "Handicapped Parking Space" along Route 439 warranted. The Department therefore proposes to amend N.J.A.C. 16:28A-1.70 in compliance with the request of the local officials. Appropriate signs will be erected to advise the motoring public.

#### Social Impact

The proposed amendment will restrict parking along Route 439 and in the area designated to handicapped persons so identified for the safe and efficient flow of traffic and the enhancement of safety in the City of Elizabeth. Additionally, it ensures confidence in State government's commitment to the protection and safety of the handicapped.

#### 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).

16:28A-1.70 Route 439

(a) The certain parts of State highway Route 439 described in 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.-3. (No change.)

(b) **The certain parts of State highway Route 439 described in this section are designated and established as Restricted Parking Space, for the use of persons who have been issued special Vehicle Identification Cards by the Division of Motor Vehicles. No other person shall be permitted to park in these areas.**

**1. Handicapped Parking Space:**

**i. Along the southside, 1108 S. Elmora Avenue, in the City of Elizabeth, Union County:**

**(1) Beginning at a point 82 feet west of the westerly curb line of Cedar Avenue and continuing for a distance of 25 feet westerly thereof.**

## TREASURY-GENERAL

(b)

### DIVISION OF PENSIONS

#### Maternity Leaves of Absence Physician's Certificate; Purchase of Service Credit

#### Proposed New Rule: N.J.A.C. 17:1-12.6

Authorized By: William J. Joseph, Director, Division of Pensions.

Authority: N.J.S.A. 52:18A-96.

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

William J. Joseph, Director  
Division of Pensions  
20 West Front St.  
CN 295  
Trenton, NJ 08625

The Division of Pensions 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 1983-285.

The agency proposal follows:

#### Summary

The proposed new rule sets forth the requirement that a physician's certification as to a member's personal disability due to pregnancy beyond a three month period of the termination of a pregnancy will be required in order for such member to qualify for the subsequent purchase of pension credit for such official leave of absence or for the continuation of certain death benefits during such leave. In the case of **Chaleff v. Board of Trustees, Teachers' Pension and Annuity Fund**, 188 N.J. Super. 194 (App. Div. 1983), the appellate court's decision suggested that such physician's certification as to the member's personal illness or disability due to pregnancy should be sought by the Division of Pensions. For pension purposes, a member, who is on an official leave of absence but not as a result of a personal illness or disability arising from the pregnancy (for example, child care), would not qualify for the benefits that are available to a member who is on

an official maternity leave of absence involving a personal illness or disability arising from the pregnancy.

**Social Impact**

The proposed new rule may affect current and future members of all of the New Jersey State-administered retirement systems who may be able to purchase service credit for official maternity leaves of absence or who may continue certain death benefits coverage during such leaves if the official maternity leave of absence extends beyond three months from the date of the termination of the pregnancy.

**Economic Impact**

The proposed new rule may have an adverse economic impact upon members of the retirement systems whose official maternity leaves of absence extend beyond three months from the date of the termination of the pregnancy and who do not provide the Division of Pensions with a physician's certification that the member is personally disabled due to the pregnancy during such leave. If the physician's certification is not provided, the member would not be permitted to subsequently purchase service credit for the leave or continue certain death benefits coverage during such leave.

Full text of the proposed new rule follows.

17:1-12.6 Purchase of service credit; continuation of death benefits coverage; maternity leaves of absence

In the event of an unpaid leave of absence for maternity, no leave of absence period granted by any public employer can be approved for a continuation of death benefits coverage or for the subsequent purchase of credit for a period in excess of three months unless the Division of Pensions receives a certification from a physician that such member was disabled due to pregnancy and resulting disability for the period in excess of three months. During the first three months of an unpaid leave of absence for maternity, the member shall be presumed to be disabled from the performance of her job duties because of her pregnancy and its resulting disabilities.

(a)

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Withdrawals From System; Interest Credited**

**Proposed New Rule: N.J.A.C. 17:10-1.11**

Authorized By: Judicial Retirement System, William J. Joseph, Secretary.  
Authority: N.J.S.A. 43:6A-10, 43:6A-11 and 43:6A-29d.

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

William J. Joseph, Secretary  
Judicial Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State Health Benefits 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 1983-297.

The agency proposal follows:

**Summary**

The proposed new rule provides that appropriate interest upon the contributions made by a member of the Judicial Retirement System will be credited if such member terminates his or her eligible judicial service. However, no such interest will be credited beyond two years from the date of the last contributions made to the system.

**Social Impact**

The proposed new rule may affect current and future members of the Judicial Retirement System who terminate their judicial service and withdraw from the system.

**Economic Impact**

The members of the Judicial Retirement System who terminate their judicial service and withdraw their contributions will receive a larger amount upon such withdrawal due to the interest to be paid thereon. The system will incur the additional liability of paying such interest to withdrawing members.

Full text of the proposed new rule follows.

17:10-1.11 Withdrawals; interest

(a) A member, who terminates eligible judicial service and who is ineligible or does not elect any benefits for which he or she is eligible, may apply for the return of contributions and appropriate interest thereon.

(b) Interest will not be credited to a member's account beyond two years from the last date of contributions made to the Judicial Retirement System.

(b)

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Insurance Liability for Unenrolled Members**

**Proposed Repeal: N.J.A.C. 17:10-3.5**

Authorized By: Judicial Retirement System, William J. Joseph, Secretary.  
Authority: N.J.S.A. 43:6A-29d.

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

William J. Joseph, Secretary  
Judicial Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State Health Benefits 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 1983-296.

The agency proposal follows:

**Summary**

This proposal repeals the current rule concerning the insurance liability for unenrolled members who die while employed. Such repeal is being made upon advice from the Attorney General's office which has determined that the Pension System will be liable

for a larger portion of the insurance benefit amount while the employer will have to contribute a lesser sum. Therefore, the amount a beneficiary receives will not change but the source from which it comes will.

#### **Social Impact**

This proposal will affect current and future members of the retirement system and designated beneficiaries of the members. The proposal also affects the Pension System and public employers who ultimately pay out insurance benefits to beneficiaries.

#### **Economic Impact**

The retirement system and public employers may experience economic effects as a result of this proposal. Both may be liable for a portion of certain death benefits payable to deceased employees who were not enrolled in the retirement system in a timely manner. The benefits payable to the deceased employee's beneficiaries are not affected by this proposal.

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

17:10-3.5 [Insurance liability for unenrolled members]  
(Reserved)

[(a) In the event of the death of an individual prior to enrollment and on account of whom the commission has determined that insurance benefits are payable:

1. The employer will be charged directly for the full amount of the insurance benefit when no application was completed by the employee.

2. The employer will not be charged directly if an application for enrollment was filed with the retirement system prior to the employee's date of death.

3. The system may assume the liability when application has been executed by the employee but not received by the system prior to his demise provided satisfactory evidence concerning the filing delay has been presented to the commission.]

# RULE ADOPTIONS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Hearing Rules of Special Applicability Special Education Program

**Adopted Amendments: N.J.A.C. 1:6A-3.3  
and 4.4**

**Adopted New Rule: N.J.A.C. 1:6A-4.5**

Proposed: March 21, 1983 at 15 N.J.R. 451(a).

Adopted: June 6, 1983 by Howard H. Kestin, Director,  
Office of Administrative Law.

Filed: June 6, 1983 as R.1983 d.253, **without change**.

Authority: N.J.S.A. 52:14F-5e, f, g, h, n, o and p.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
January 1, 1988.

#### Summary of Public Comments and Agency Responses:

Several general comments were submitted in favor of the proposed rules. However, the Division of Advocacy for the Developmentally Disabled in the Department of the Public Advocate felt that the "blanket prohibition on formal interrogatories, formal requests for admissions, and depositions in proposed N.J.A.C. 1:6A-3.3 is too broad." (Letter of April 20, 1983) A series of letters between the Office of Administrative Law (OAL) and the Division clarified the issue. The Division felt that the prohibited discovery techniques should be permitted when special education parents are represented by counsel or upon special application to the judge. The OAL disagrees, and feels that the prohibited discovery procedures are not necessary or proper for these special education cases, because:

(a) The prohibited procedures may be useful in the initial stages of litigation involving situations and persons that are little known to the parties. However in special education cases, the parties are generally not strangers to each other, and the issues and evidence are generally not novel to them;

(b) The Federally mandated time frames for completing these cases, in the best interests of the child's educational progress, are too short to permit these lengthy discovery procedures;

(c) The prohibited procedures are themselves expensive and, if permitted, could force parents to the further expense of hiring attorneys rather than appearing with lay advocates as permitted by Federal law; and

(d) The parties are required to disclose fully their cases prior to a hearing, which should effectively accomplish the purpose of the prohibited procedures without the burden and complications involved with them.

In any case, if the application of N.J.A.C. 1:6A-3.3(d), or any other OAL rule, would cause unfair hardship on any party, the Administrative Law Judge hearing the case could modify the rule's application.

## CIVIL SERVICE

(b)

### CIVIL SERVICE COMMISSION

#### Separations and Demotions Request for Reemployment

**Adopted Amendment: N.J.A.C. 4:1-16.13**

Proposed: March 7, 1983 at 15 N.J.R. 272(b).

Adopted: March 16, 1983 by the Civil Service Commission,  
Eugene J. McCaffrey, Sr., President.

Filed: May 31, 1983 as R.1983 d.222, **without change**.

Authority: N.J.S.A. 11:1-7(a) and (d), 11:5-19, 11:6-2(e),  
11:22-10.4.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
May 7, 1986.

#### Summary of Public Comments and Agency Responses:

A request was received from the Jersey City Fire Officers Association that firefighters be included in the amendment to N.J.A.C. 4:1-16.13. A letter of response was sent explaining that the legislation that precipitated the rule amendment specified that only police employees may request reemployment rights beyond the general two-year limit.

## COMMUNITY AFFAIRS

(c)

### DIVISION OF HOUSING AND DEVELOPMENT

#### Rooming and Boarding Houses Rental Assistance Agreements

**Adopted Amendment: N.J.A.C. 5:27-12.2**

Proposed: April 18, 1983 at 15 N.J.R. 587(b).

Adopted: June 2, 1983 by Department of Community  
Affairs, John P. Renna, Commissioner.

Filed: June 6, 1983 as R.1983 d.251, **without change**.

Authority: N.J.S.A. 55:13B-4 and -7 and 55:14J-57.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): July 1, 1985.

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

**(a)**

**OFFICE OF THE OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY**

**Ombudsman Practice and Procedure and Public Notice Requirements Reporting of Abuse and Exploitation**

**Adopted New Rule: N.J.A.C. 5:100-2**  
**Adopted Amendments: N.J.A.C. 5:100-1.5 and 1.6**

Proposed: April 18, 1983, at 15 N.J.R. 588(a).  
 Adopted: May 25, 1983 by John J. Fay, Jr., Ombudsman.  
 Filed: May 25, 1983 as R.1983 d.215, **without change.**

Authority: P.L. 1977, c.239, N.J.S.A. 52:27G-1 et seq., specifically N.J.S.A. 52:27G-2, 52:27G-5(d), and P.L. 1983, c. 43, N.J.S.A. 52:27G-7.1, 8.1.

Effective Date: June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978): May 1, 1984 for 5:100-1 and June 20, 1988 for 5:100-2.

**Summary of Public Comments and Agency Responses:**

The office received comments from both the Department of Human Services and the Department of Community Affairs, Division on Aging.

The Department of Human Services was particularly concerned with the possible duplication of reporting and investigating because of an existing statutory provision, specifically N.J.S.A. 30:1A-3b. This provision requires that any report of abuse regardless of the age of the victim be reported to the Department of Human Services.

The Ombudsman statute, N.J.S.A. 52:27g-1 et seq. limits the jurisdiction of the office to institutionalized persons over the age of 60. Therefore, any report of abuse or exploitation involving an individual under the age of 60 will immediately be forwarded to the Commissioner of the Department of Human Services or to the person designated by the Commissioner to receive such reports. The office feels that all other reports of abuse or exploitation should be investigated by the Office of the Ombudsman regardless of any investigative efforts made by any other governmental agency.

The Department of Community Affairs, Division on Aging, was particularly concerned with the following: The use of the Department's hotline; the well-being of the alleged victim during the course of the investigation; and the inclusion of only one department for reporting purposes.

With regard to the hotline in question, it has been the policy of the Department, since December of 1979, to maintain a single hotline for handling all Aging, Energy and Ombudsman programs. Because no change has been made in this policy, use of the existing hotline for compliance with the statutory amendment is proper.

The Division's concern with respect to the well being of the alleged victim during the course of the investigation is appropriate.

It has always been the intention of this office to include in its investigation the procurement of any necessary intermediate protective services. The office intends to continue the same for cases of abuse and exploitation.

As to the Division's query with respect to reporting only to the Commissioner of the Department of Human Services, the office feels that this comment refers to the substance of the law instead of the content of the rules. Further, both the statute and the rules provide for notification to any appropriate governmental agency. Therefore, the office feels that this concern has been sufficiently addressed.

There were no other comments received in response to the proposed rules. A copy of the full record of the opportunity to be heard is available for review at the Office of the Ombudsman for the Institutionalized Elderly, 28 West State Street, Third Floor, Trenton, New Jersey.

**EDUCATION**

**(b)**

**STATE BOARD OF EDUCATION**

**School Districts General Provisions**

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

Proposed: March 21, 1983 at 15 N.J.R. 376(a).  
 Adopted: June 1, 1983 by State Board of Education, Saul Cooperman, Secretary.  
 Filed: June 3, 1983 as R.1983 d.248, **with minor technical changes** not requiring additional public notice and comment.

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:40-12.1, 18A:40-12.2 and 18A:49-1 to 49-8.

Effective Date for readoption, June 3, 1983; for amendments, June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1988.

**Summary of Public Comments and Agency Responses:**

Six letters with comments were received from interested persons. Three expressed support for the new rules. Two persons suggested:

1. Clarification on contact lens users and definition of highly particulate atmosphere;
2. Substantive changes in the duties and responsibilities of the school business administrator.

The reactions of the Department of Education to these suggestions were that:

1. Consideration will be given to a clarification of policy statements and suggested guidelines to incorporate the needs of the expressed concerns.
2. The changes for the school business administrator will be

reviewed in depth, and amendments will be considered in the near future.

Note: This adoption contains no change in the text of N.J.A.C. 6:3-1.10, Standards for determining seniority. However, the seniority rules were amended by a separate proposal published on April 4, 1983 at 15 N.J.R. 464(a) and adopted at 15 N.J.R. 1017(a).

**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]\***).

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

(a) (No change from proposal.)

(b) (No change from proposal.)

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

2.-4. (No change from proposal.)

(c) (No change from proposal.)

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.**

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

(The current text of this section, as it appears in the New Jersey Administrative Code, is replaced with the following text.)

(a) **Each district board of education shall require *\*[such]\* \*each\* 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]\* \*liquids\* or solids, molten materials, welding operations of any type, repairing or servicing of vehicles, heat treatment or tempering of metals, the shaping of solid materials and laser device operation and experimentation or any similar process or activity is engaged in, exposure to which might have a tendency to cause damage to the eyes.****

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

6:3-1.18 School business administrator

(a) (No change from proposal.)

(b) (No change from proposal.)

1. (No change from proposal.)

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

3.-6. (No change from proposal.)

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 from proposal.)

6:3-1.22 Evaluation of tenured chief school administrators

(a)-(i) (No change from proposal.)

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

(a)

## STATE BOARD OF EDUCATION

### School Districts Standards for Determining Seniority

#### Adopted Amendment: N.J.A.C. 6:3-1.10

Proposed: April 4, 1983 at 15 N.J.R. 464(a).

Adopted: June 1, 1983, by State Board of Education, Saul Cooperman, Secretary.

Filed: June 6, 1983 as R.1983 d.255, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5), and an administrative correction (see N.J.A.C. 1:30-2.7).

Authority: N.J.S.A. 18A:4-10, 18A:4-15 and 18A:28-9 et seq.

Effective Date: June 20, 1983.

Operative Date: September 1, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1988 (already established as part of N.J.A.C. 6:3-1).

#### Summary of Public Comments and Agency Responses:

While a great many letters were received by individual members of the State Board, official detailed comments were received from eight individuals. Six letters supported the general concept of the amendments which limit seniority to actual experience but offered either alternate approaches or additional recommendations for modifications. Two letters actively opposed the restrictions on seniority entitlement. Additionally, over six hours of testimony on both sides of the issue were heard by a special sub-committee of the State Board of Education on two separate publically-announced hearing dates (March 16, 1983 and April 20, 1983). About 30 persons testified.

The supportive letters described above generally argued in favor of a "renewal" process which would permit teaching staff members whose experience in a particular subject area was five or more years in the past who had never taught under a particular endorsement to demonstrate continued competency through some form of retraining through the pursuit of academic credits.

The position of the Department of Education has been that the question of renewal or efficacy of course work as a means of demonstrating competency are not appropriate subjects to be addressed within the framework of rules on seniority. Seniority rules, in the Department's view, should be limited to simply providing an orderly and qualitative process for distinguishing between which teachers will remain and which teachers will be released in a reduction in force. The Department has done so by providing a process whereby those persons who were interviewed, hired, and actually served in a particular subject area endorsement or grade level designation are the exclusive recipients of seniority credit in that subject area endorsement or grade level designation.

Letters and testimony in opposition to the amended rules on seniority centers on the determination to limit seniority entitlement to subject areas or grade levels actually taught. Opponents

contented that there should be a single category known as "teacher" rather than separate elementary and secondary categories and the most senior person having an endorsement permitting that individual to teach a subject or grade level be permitted to do so. These persons likewise argued against extending the concept of elementary and secondary categories to special subject field endorsements and educational service certificate holders.

Note: On March 21, 1983, at 15 N.J.R. 376(a), as part of the proposed readoption with amendments of N.J.A.C. 6:3-1, the rules for determining seniority (N.J.A.C. 6:3-1.10) were published with no change. The proposal noticed herein is separate and amends the seniority rules.

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]\*).

6:3-1.10 Standards for determining seniority

(a) (No change from proposal.)

(b) Seniority \*,\* pursuant to N.J.S.A. 18A:28-9 at et seq., shall be determined according to the number of academic or calendar years of employment, or fraction thereof, as the case may be, in the school district in specific categories as hereinafter provided. [Seniority status shall not be affected by occasional absences and leaves of absence.] **The periods of unpaid absences not exceeding 30 calendar days aggregate in one academic or calendar year, leaves of absence at full or partial pay and unpaid absences granted for study or research shall be credited toward seniority. All other unpaid absences or leaves of absence shall not receive seniority credit.**

(c) through [(d)] (e) (No change from proposal.)

[(e)] (f) Not more than one year of employment may be counted toward seniority in any one academic or calendar year. Whenever a person shall hold employment simultaneously **\*under two or more subject area endorsements or\*** in two or more categories, seniority shall be counted in **\*all subject area endorsements and categories\*** [the category]\* in which he or she **\*is or has been employed.\*** [spends the greatest percentage of his or her time. If the percentage of time spent in two or more categories shall be equal, the person shall be permitted to elect in which category his or her seniority shall be counted. Notwithstanding the provisions of this section,]\* [t]The seniority of a principal who teaches shall be counted in the appropriate principal's category.

[(f)] (g) to [(j)] (k) (No change from proposal.)

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

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

[11. General secondary supervisor;]

[12. General elementary supervisor;]

[13. General vocational supervisor;]

[14.] **11.** High school vice-principal or assistant principal;

[15.] **12.** Junior high school vice-principal or assistant principal;

[16.] **13.** Elementary school vice-principal or assistant principal;

[17.] **14.** Vocational school vice-principal or assistant principal;

[18. Assistant to the high school principal;]

[19. Assistant to the junior high school principal;]

[20. Assistant to the elementary school principal;]

[21. Assistant to the vocational school principal;]

[(Each vice-principalship, assistant principalship or assistant to the principalship in paragraphs 14 through 21 of this subsection shall be a separate category.)]

[22. Subject supervisor;]

[23. Vocational, trade and industrial teacher coordinator;]

[24. Vocational distributive education coordinator;]

[25. Vocational guidance counselor;]

[26. Junior college. The words "junior college" shall include grades 13 and 14. Seniority shall apply to all subjects and fields endorsed on the certificate;]

[27.] **15.** Secondary. The word "secondary" shall include grades 9-12 in all high schools, grades 7-8 in junior high schools, and grades 7-8 in elementary schools having departmental instruction. Any person holding an [secondary] **instructional certificate with subject area endorsements shall have seniority within the secondary category only in such subject area endorsement(s) under which he or she has actually served. Whenever a person shall be reassigned from one subject area endorsement to another, all periods of employment in his or her new assignment shall be credited toward his or her seniority in all subject area endorsements in which he or she previously held employment.** [in all subjects or fields covered by his certificate, except those subjects or fields for which a special certificate has or shall be required by the State Board of Education. However, if a person has held employment in the school district in any special subject or field endorsed or his secondary certificate, such special subject or field shall, for the purposes of these regulations, be regarded as any other subject or field endorsed upon his certificate;] **Any person employed at the secondary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the secondary category and only for the period of actual service under such \*educational services\* certificate or \*special field\* endorsement. \*Persons employed and providing services on a district-wide basis under a special subject field endorsement or an educational services certificate shall acquire seniority on a district-wide basis.\***

[28.] **16.** Elementary. The word "elementary" shall include Kindergarten, grades 1-6 and grades 7-8 [with or] without departmental instruction [, including grades 7-8 in junior high schools]. **\* District boards of education who make a determination to reorganize instruction at grades seven and eight pursuant to these rules must do so by adoption of a formal resolution setting forth the reasons for such reorganization.\*** Any person employed at the elementary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the elementary category and only for the period of actual service under such **\*educational services\* certificate or \*special field\* endorsement. \*Persons employed and providing services on a district-wide basis under a special subject field endorsement or an educational services certificate shall acquire seniority on a district-wide basis.\***

[29. Evening schools. Categories for employment in evening schools shall correspond to those of day schools except that employment in the day school shall not count in determining seniority in the evening school and vice versa;]

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

(m) **This section shall apply prospectively to all future seniority determinations as of the \*[effective]\* \*operative\* date of this rule \*, September 1, 1983\*.**

(a)

## STATE BOARD OF EDUCATION

Pupil Transportation  
Standards for School BusesReadoption and New Rules: N.J.A.C. 6:21-5.1  
through 5.12  
Adopted Repeal: N.J.A.C. 6:21-5, -6, -18  
and -19

Proposed: March 21, 1983 at 15 N.J.R. 383(a).  
Adopted: June 1, 1983 by State Board of Education, Saul  
Cooperman, Secretary.  
Filed: June 3, 1983 as R.1983 d.247, **with minor technical  
and language changes** not requiring additional public  
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15 and 18A:39-21.

Effective Date for readoption, June 3, 1983; for new  
rules, June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
June 1, 1988.

## Summary of Public Comments and Agency Responses:

Four letters were received commenting on the proposed new  
rules on school buses (body, chassis and equipment specifications).  
One of these letters represented the comments of a statewide  
organization of school bus owners and the others were from private  
bus owners.

There were comments concerning the inclusion of certain  
mandatory operational and safety features. The reaction of the  
Department of Education was that many of these suggestions are  
sound and substantive, and will be considered by the Department  
in the near future. All safety-related items will be evaluated  
constantly and specifications will be revised when there is an  
indication that change will improve safety.

**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]\***).

## 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 one 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. (No change from proposal.)

## 6:21-5.6 Doors

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

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

## 6:21-5.8 Lamps and signals

(a) (No change from proposal.)

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

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 a automatic  
integrated system. The warning lamps shall be of a type  
approved by the Director of **\*the Division of\*** Motor Vehicles,  
Department of Law and Public Safety.

6.-8. (No change from proposal.)

(b) (No change from proposal.)

(b)

BUREAU OF RECORDS MANAGEMENT  
SERVICES

## State and Local Records Manuals

Adopted Amendments: N.J.A.C. 6:66-2.15,  
2.17, 2.20, 2.21, 3.12 and 3.13

Proposed: April 18, 1983 at 15 N.J.R. 590(a).  
Adopted: June 1, 1983 by William C. Wright, Head,  
Bureau of Records Management Services (with the  
approval of the New Jersey State Records Committee).  
Filed: June 2, 1983 as R.1983 d.241, **without change**.

Authority: N.J.S.A. 47:3 et seq., specifically 47:3-30.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
May 13, 1986.

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

## ENVIRONMENTAL PROTECTION

(c)

## DIVISION OF WATER RESOURCES

## Safe Drinking Water Act Rules

## Readoption: N.J.A.C. 7:10

Proposed: April 18, 1983 at 15 N.J.R. 592(a).  
Adopted: May 31, 1983 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.  
Filed: June 3, 1983 as R.1983 d.244, **without change**.

Authority: N.J.S.A. 58:12A-1 et seq. and 58:11-14 et  
seq., and 58:11-23 et seq.

Effective Date: June 3, 1983.

Repromulgation date pursuant to Executive Order No. 66(1978): June 3, 1988.

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

## (a)

## DIVISION OF WATER RESOURCES

## Shellfish-Growing Water Classification

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

Proposed: April 18, 1983 at 15 N.J.R. 595(a).

Adopted: June 6, 1983 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.

Filed: June 6, 1983 as R.1983 d.249, 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. 13:1D-1 et seq. and 58:24-1.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
June 6, 1988.

Summary of Public Comments and Agency Responses:

The only comment received on this proposal was from the Division of Fish, Game and Wildlife in the Department of Environmental Protection. The Division was concerned that by amending N.J.A.C. 7:12-2.9 and 2.12 to allow the harvesting of all seed shellfish, instead of just seed oysters, would be contrary to the management objectives of the Department. Changes to the proposal to reflect this concern have been made and are shown in this adoption notice.

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]\*).

## 7:12-2.2 Applications

(a) Applications for said permits shall be submitted on forms supplied by the Department as follows:

- 1.-2. (No change from proposal.)
3. **\*[Soft Clam]\*** Depuration/Harvester (WR-004);
- 4.-6. (No change from proposal.)
7. **\*[Soft Clam]\*** Possession and/or processing plant permit application (WR-008);
- 8.-9. (No change from proposal.)

## 7:12-2.3 Bait program; sea clams

- (a) (No change from proposal.)
- (b) (No change from proposal.)
- 1.-5. (No change from proposal.)
6. The harvester shall possess a valid **\*[(Bait Clam) license]\*** **Bait Boat License to Dredge Sea Clams\*** issued by the Division of Fish, Game and Wildlife.
- 7.-17. (No change from proposal.)

## 7:12-2.7 Relay program

(a) The purpose of Permit No. 5a ("Harvest, Buy, Sell and Relay [Hardclams] Hard Clams Permit") is to allow [hardclams] **hard**

**clams** to be harvested, purchased, sold and relayed **\*[for]\* \*from\*** specified Special Restricted or Condemned Waters in conjunction with a State approved shellfish relay program.

(b) (No change from proposal.)

1. (No change from proposal.)
2. Areas of harvest are limited to specified Special Restricted or Condemned Waters within the State of New Jersey and further described on an attached chart provided with each permit. **The harvester shall verbally notify on a day to day basis, the \*area coordinator\* \*[designated enforcement unit(s) and the]\* as to the area and hours he intends to work, under the provisions of this permit.**

3. (No change.)

4. The harvester must possess a valid NEW JERSEY COMMERCIAL **\*SHELLFISH\* HARVESTING LICENSE** issued by the New Jersey Division of Fish, Game and [Shellfisheries] **Wildlife.**

5. (No change.)

6. [Harvesting] **The relay of hard clams** from the specified Special Restricted or Condemned Waters shall be permitted Monday through Friday of each week between the hours of sunrise **and sunset** (as listed at Trenton, [and no later than 1300 hours.] **except as provided at N.J.S.A. 50:2-11. Hard clams shall be relayed to leased lots in Approved waters before sunset of the \*same\* harvest day.**

7. (No change.)

8. This permit shall apply only to the waters noted above and further specified on a day to day basis by the [applicable area Station Commander, New Jersey Marine Police] **designated enforcement unit(s) \*to manage the resource and protect the public health, safety and welfare\*.**

9. All [hardclams] **hard clams** taken from the specified Special Restricted or Condemned Waters shall be relayed to the special relay leased plots specified by this Department **before sunset of the \*same\* harvesting day. The coordinator(s) shall notify \*the\* Bureau of Shellfish Control by letter after the final transferring to a particular leased lot. The minimum 30 day purging period will not begin until notice of final transferring is received. Additionally, the water temperature of the Approved waters during the 30 day purging period shall be at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

10.-15. (No change from proposal.)

16. Shellfish taken from the specified Special Restricted or Condemned harvest areas shall be bagged by the participant **and sealed by the coordinator with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the relay lots. Participants will place their sealed bags in trucks provided by them and approved by the designated enforcement unit(s) for transportation to a designated landing. Each participant shall inform the designated enforcement unit(s) of the route he will \*[routinely]\* follow from the harvest area to the planting area.**

DEP NOTE: Most of the original text of this paragraph was deleted in the proposal, but has not been reproduced here. See 15 N.J.R. 602 for the deleted language.

17.-24. (No change from proposal.)

(c) (No change from proposal.)

(d) (No change from proposal.)

1. (No change from proposal.)
2. Areas of harvest are limited to specified Special Restricted or Condemned Waters within the State of New Jersey and further described on an attached chart(s) provided with each permit. The harvester shall verbally notify, on a day to day basis, the **\* [designated enforcement unit(s)]\* \*area coordinator\*** as to the area and hours he **\*[intends]\* \*would like\*** to work, under the

provisions of this permit.

3.-5. (No change from proposal.)

6. [Harvesting] **The relay of hard clams** from the specified Special Restricted or Condemned Waters will be permitted Monday through Friday of each week between the hours of sunrise and sunset as listed at Trenton [and no later than 1350 hrs.] **except as provided at N.J.S.A. 50:2-11. Hard clams shall be relayed to leased lots in Approved waters before sunset of the \*same\* harvest day.**

7. (No change.)

8. This permit shall apply only to the waters noted above and further specified on a day to day basis by the [applicable area Station Commander, New Jersey Marine Police] **designated enforcement unit(s) \*to manage the resource and protect the public health, safety and welfare\*.**

9.-19. (No change from proposal.)

7:12-2.8 Transfer program

(a) (No change from proposal.)

(b) (No change from proposal.)

1. Species is limited under said permit to oysters (*Crassostrea virginica*), **hard clams (*Mercenaria mercenaria*)**, **mussels \*[(*Mytilus edulis*)\* \*(*Mytilus edulis*)\* and soft clams (*Mya \*[\*A]\* \*a\*renaria*)]**.

2.-6. (No change from proposal.)

7. To facilitate compliance with [paragraph 6 of this section] **(b)6 above**, the permittee shall notify the **\*Bureau of\* Shellfish Control** \*[Office]\* by letter after the final transferring to a particular leased lot. The minimum [thirty] **30 day** purging period will not begin until notice of final transferring is received **and the water temperature of the Approved waters is maintained at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

8. From the time the Transfer Permit is issued until written notification for reharvest is received by the permittee, the transfer lots(s) which appears on the permit shall be considered condemned for the harvest of shellfish. **\*Transfer lots shall be marked at the corners with signs (supplied by the Bureau of Shellfish Control) during the Condemned period.\***

9. **\*[The [area Marine Police Station] designated enforcement unit(s) shall be given 24 hour notice prior to each days harvester from lots in [c]Condemned waters.]\* The harvester shall verbally notify, on a day to day basis, the designated enforcement unit(s) as to the area and hours he intends to work, under the provisions of this permit.**

10. (No change from proposal.)

(c) (No change from proposal.)

7:12-2.9 Transplant program

(a) The purpose of Permit No. 7 ("Transplant Permit Seed [Oysters] Shellfish") is to allow for the harvest of seed [oysters] **shellfish (oysters, clams and mussels)** from [c]Condemned waters for transplanting to leased lots in [a]Approved waters for purging **\*[of waters]\*** of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control. **The purging period will be for a minimum of 30 days at which the water temperature of the Approved waters is maintained at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

(b) (No change from proposal.)

1. Species is limited under said permit to oysters (*Crassostrea virginica*) **\*[, hard clams (*Mercenaria mercenaria*)**, **soft clams (*Mya arenaria*) and mussels (*Mytilus edulis*)]\***.

2. The harvester of seed [oysters] **\*[shellfish]\* \*oysters\*** from [c]Condemned waters shall possess a valid **commercial shellfish** harvesting license issued by the New Jersey Division of Fish, Game and Wildlife.

3.-5. (No change from proposal.)

6. Seed [Oysters] **\*[shellfish]\* \*oysters\*** transplanted to leased

lots in [a]Approved waters shall remain upon said lot until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Shellfish Control.

7.-9. (No change from proposal.)

(c) (No change from proposal.)

7:12-2.10 Possession and/or processing plant program; bait store

(a) The purpose of Permit No. 8a ("Bait Shore Permit") is to allow sea or surf clams, [and] soft clams **and hard clams** that have been harvested from [c]Condemned Waters, to be sold for bait purposes only, by persons other than the original harvester or depuration/controlled purification **\*[plan]\* \*plant\* processor.**

(b) (No change from proposal.)

7:12-2.12 Possession and/or processing plant program; seed [oysters] **\*[shellfish]\* \*oysters\***

(a) The purpose of Permit No. 8c ("Possession Permit for Seed [Oysters] **\*[Shellfish]\*** is to allow the leasee of shellfish grounds to purchase seed [oysters] **\*Oysters\***") **\*[shellfish]\* \*oysters\*** harvested in [c]Condemned waters, for planting on his leased lots in [a]Approved waters for purging of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control.

(b) (No change from proposal.)

1. Species is limited under said permit to oysters (*Crassostrea virginica*) **\*[, hard clams (*Mercenaria mercenaria*)**, **soft clams (*Mya arenaria*) and mussels (*Mytilus edulis*)]\***.

2.-5. (No change from proposal.)

6. Seed [Oysters] **\*[shellfish]\* \*oysters\*** transplanted to leased lots in [a]Approved waters shall remain upon said lots until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Shellfish Control.

7.-9. (No change from proposal.)

(c) (No change from proposal.)

## HEALTH

### (a)

#### DIVISION OF HEALTH FACILITIES EVALUATION

##### Health Care Facilities Licensure Ownership; Convicted Persons

##### Adopted Amendments: N.J.A.C. 8:31-26.1 and 8:43F-3.3

Proposed: March 7, 1983 at 15 N.J.R. 307(a).

Adopted: May 19, 1983 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).

Filed: June 1, 1983 as R.1983 d.235, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically, 26:2H-5.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): July 1, 1984 for 8:31-26.1 and January 2, 1985 for 8:43F-3.3.

Summary of Public Comments and Agency Responses:

COMMENT: The Department received one comment concerning the rigidity and harshness of the regulation.

RESPONSE: The Department does not concur with the comment. The Department maintains that these amendments are a revision to existing standards which clarify and strengthen the existing rules. The restrictions proposed in the amendments are intended to protect the rights of the consumer, promote a safe and efficient environment within a health care facility, and provide consistency with current health care practices, therefore, the Department maintains its stringency. The Department is in support of these regulations since the amendments prohibit a person from having an opportunity to commit the same crime again. No changes were made in these amendments as proposed.

COMMENT: The Department received a comment from the Division of Medical Assistance and Health Services, Department of Human Services indicating support for the regulations, however, it questioned their applicability and implementation.

RESPONSE: The Department does not believe it prudent or within its jurisdiction to provide a legal interpretation of the standards. The standards' applicability are dependent upon the legal issues involved in each case which should be dealt with on an individual basis. Since the comment indicated support of the proposed amendments, the Department made no change in these amendments.

## (a)

## DIVISION OF HEALTH FACILITIES EVALUATION

### All Health Care Facilities Standards for Licensure

#### Adopted Amendment: N.J.A.C. 8:31-26.3

Proposed: April 4, 1983 at 15 N.J.R. 470(a).  
Adopted: May 23, 1983 by J. Richard Goldstein, M.D.,  
Commissioner, Department of Health (with approval  
of Health Care Administration Board).  
Filed: June 1, 1983 as R.1983 d.234, **without change**.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
July 1, 1984.

#### Summary of Public Comments and Agency Responses:

The Department received one comment from the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly. The Ombudsman recommended that employees in long-term care facilities be required to have a Mantoux tuberculin skin test upon employment and annually thereafter because of the vulnerability of "the frail, chronically ill elderly who reside in our Long Term Care facilities."

The revision of this amendment which exempted long-term care facilities from the requirement that each employee be given a Mantoux tuberculin skin test upon employment and annually thereafter was proposed on November 15, 1982 at 14 N.J.R. 1274(a), was adopted on February 14, 1983, and became effective on March 7, 1983 (see 15 N.J.R. 337(a)). No comments were received during the public comment period recommending that

long-term care facilities not be exempt from Mantoux tuberculin skin testing. Therefore, this amendment was adopted without change.

The proposal at 15 N.J.R. 470(a) was published in order to include the words "and/or special hospital" that were inadvertently omitted from the first proposal. The Department believes that there was adequate public notice for the proposal published at 14 N.J.R. 1274(a) and, therefore, is opposed to making the recommended change at this time.

## (b)

## DIVISION OF HEALTH FACILITIES EVALUATION

### Long-Term Care Facilities Standards for Licensure

#### Adopted Repeal: N.J.A.C. 8:30 (except 8:30-14 now recodified as 8:39-27) 8:37, and 8:39 Adopted New Rule: N.J.A.C. 8:39

Proposed: March 7, 1983 at 15 N.J.R. 279(a).  
Adopted: May 23, 1983 by J. Richard Goldstein, M.D.,  
Commissioner, Department of Health (with approval  
of Health Care Administration Board).  
Filed: June 1, 1983 as R.1983 d.236, **with substantive  
and technical changes** not requiring additional public  
notice and comment (see N.J.A.C. 1:30-3.5), and  
**with a portion of the proposal not adopted**.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
June 20, 1988.

AGENCY NOTE: The original proposal found at 15 N.J.R. 279(a) deleted in its entirety the then existing texts of N.J.A.C. 8:30, N.J.A.C. 8:37, and N.J.A.C. 8:39 and proposed new rules in their place. The Commissioner of Health subsequently adopted the repeal of N.J.A.C. 8:30 except Subchapter 14, adopted the repeal of N.J.A.C. 8:37 and N.J.A.C. 8:39 in their entirety, and adopted the new rules. N.J.A.C. 8:30-14 remains in effect and will be recodified as N.J.A.C. 8:39-27. The proposed repeal of N.J.A.C. 8:30-14 was an inadvertent error. This subchapter has been in effect since January 24, 1977, and is essential for the Department of Health to protect the health and welfare of indigent persons who require the services and level of care provided by a long-term care facility. Furthermore, the Supreme Court of New Jersey has upheld the Department's authority to enforce these rules (see: **New Jersey Association of Health Care Facilities v. Finley**, 83 N.J. 67 (1980)). The Supreme Court of the United States supported the decision of the Supreme Court of New Jersey by dismissing an appeal by various operators of long-term care facilities in New Jersey (see: 449 U.S. 944 (1980)).

#### Summary of Public Comments and Agency Responses:

The Department received comments and recommendations on the proposed rules for Licensure of Long-Term Care Facilities from the Department of Human Services, Office of the Ombudsman for the Institutionalized Elderly, Professional Boards - Board of Nursing and Board of Pharmacy, Associations representing the

industry - New Jersey Association of Non-Profit Homes for the Aging and New Jersey Association of Health Care Facilities, and Professional Associations - New Jersey Dental Association, New Jersey State Nurses Association, New Jersey Dietetic Association, Inc., Medical Record Association of New Jersey, Inc., Recreation and Park Association, New Jersey Pharmaceutical Association, and National Association of Social Workers, Inc., Glenlora Nursing Home, Medford Leas, a physician, and Shirley Dozier, Inc.

The proposed rules have been supported by the industry, associations, and persons engaged in the management of long-term care facilities in the State and have been hailed as a "substantial step forward." In contrast, another commentator regarded the proposed rules as an indication that "the Department of Health is ready to relinquish a considerable portion of its responsibility for setting standards governing operations of nursing homes." The same commentator considered the new rules to be more lenient than the previous ones, thus giving the facility a free hand in the day-to-day administration of the facility "with minimal guidance from the Department of Health," and felt that "patient care would suffer under the new regulations."

The Department, on the basis of five years of experience with the previous Manual of Standards for Licensure of Long-Term Care Facilities, N.J.A.C. 8:39, due to expire on June 19, 1983, is, however, confident that the proposed rules are at least equal to the existing rules. The new rules incorporate requirements for facilities regulated by the Manual of Standards for Licensure of Nursing Homes, N.J.A.C. 8:30, the Manual of Standards for Intermediate Care Facilities, N.J.A.C. 8:37, and the previous Manual of Standards for Licensure of Long-Term Care Facilities, N.J.A.C. 8:39.

In addition to receiving comments and recommendations for the revisions of some rules, the Department also received questions and requests for clarification and interpretation of particular rules. The Department has compiled these comments chronologically, responded to them individually, and sent a copy of the compiled document to each respondent. This listing of the comments and the Department's responses is on file at the Office of Administrative Law and the Department of Health. The following is a summary of the comments and Departmental responses.

The Department received a number of recommendations to increase the qualifications and/or experience requirements for charge nurse, director of nursing services, patient activities coordinator, social worker, and social work designee, as defined in Subchapter 1. Recommendations were made to exclude the occupational therapist and the occupational therapy assistant from the definition of a patient activities consultant and patient activities coordinator. There was a request to exclude the experience requirement for a charge nurse, a request to add experience requirements for a pharmacist consultant, and recommendations to require a gerontological nurse specialist.

The Department's philosophy of adopting minimum rules precluded the adoption of the recommended increases in the qualifications and experience requirements. The Department did not delete the occupational therapist and occupational therapy assistant. The qualifications for patient activities coordinator are based on Regulations No. 5 - Subpart K - Conditions of Participation, Skilled Nursing Facilities which accepts a qualified occupational therapist or occupational therapy assistant as a patient activities coordinator (qualified consultant). The Department believes that the absence of a minimum experience requirement for the charge nurse would jeopardize and endanger patient safety since the charge nurse position requires administrative skills as well as nursing skills. The qualifications and experience of staff in the proposed rule have been in effect for over the past five years and the Department has not had indications that would justify revising the qualifications and experience requirements as recommended. The facilities do have the option of increasing the qualifications and experience requirements according to their needs. The definition of a social work designee was rewritten to be consistent with N.J.A.C. 8:39-

12.2(a)1-4.

The State Medicaid program wished to go on record as not allowing the cost of training ancillary nursing personnel in Medicaid reimbursement to long-term care facilities. The regulation requiring training and certification of ancillary nursing personnel was developed in 1978 as the result of a study of the New Jersey Nursing Home Study Commission. The Commission recommended that a plan be developed and implemented to ensure that nurse aides employed in licensed long-term care facilities would be adequately prepared to provide quality care to New Jersey citizens residing in these institutions.

Specific requirements for continuing education were recommended for nurses and pharmacists. The jurisdiction for mandating such requirements would be within the purview of the New Jersey State Board of Nursing and the New Jersey State Board of Pharmacy and not within the purview of the Department of Health.

Comments were received concerning "Care plan," "Medical portion of the patient treatment plan," and "Patient treatment plan" regarding the deletion of a mandatory schedule of 30, 60, and 90 days for the reassessment of patient needs, for scheduled visits to patients, for review and revision of various care plans, including medical care plans, and progress notes. One commentator noted that "It appears as if the Department of Health (DOH) is relinquishing its responsibility to insure that patients at long-term care facilities are receiving appropriate medical supervision." The comments not only apply to Subchapter 1, but to Subchapters related to patient care services, Subchapters 6, 7, 8, 10, 11, 12, and 13.

The Department contends that mandating time schedules would be regulating professional practice. It is of more importance to deal with a patient's individual needs since some patients may need to be seen more frequently than others. The present regulations already permit health care professionals to exercise their professional judgment by prescribing an alternate schedule for care. The new rules are a logical extension of that principle. The Department is not abrogating its responsibility to ensure that patients receive appropriate care. The only thing that is guaranteed by a requirement for specified visits on a given day is a "fee" for the visit. Rather than abrogating its responsibility, the Department has built in a safeguard by mandating that the professional develop a schedule for each patient which can be monitored by the Department's survey teams. These new rules allow health care professionals more flexibility and freedom to initiate their own course of action for patient care according to the individual patient's needs. Patient care will not be jeopardized since the health care professional is responsible for making judgments, establishing individual patient schedules based upon the patient's needs, and documenting the schedules in the patient's medical record.

The definition of "Nursing unit" was rewritten as requested to insert from the previous rules the maximum of 60 beds in each nursing unit. As one commentator stated, "Most facilities have been built around the 60 bed units, current Certificate's of Need for construction have done the same and Medicaid's reimbursement formula for nursing also takes this into account. We feel chaos could develop and damage the industry if the original limitation of 60 beds is not continued."

Another commentator requested that in facilities of 45 or fewer beds, there be a means of staff communication between the floors in the facility. "Means of staff communication" was not added since the Department would not approve of a nursing unit in a facility of 45 or fewer beds without a means of communication between each floor. The commentator provided no specific recommendations as to the "means of staff communication."

Concern was expressed by one commentator concerning the implementation of "Reality orientation" by incompetently trained staff. N.J.A.C. 8:39-6.2(c)3 requires that the facilities develop policies and procedures for integrating reality orientation into patient care services. The commentator was assured that the Department's survey teams would monitor the services provided to

patients to see that the services are provided by competent staff.

Based upon recommendations received, technical changes were made in the definitions of "Drug dispensing" and "Pharmacist consultation sheet." However, a recommendation to decrease the number of doses for each patient from a maximum of 48 hours to 24 hours in the "Unit dose drug distribution system" was not adopted. The Department has not experienced any problems during the past five years which would require revision of the rule. In addition, mandating a 24 hour supply might incur substantial increased cost without specific patient benefits.

The Department received a recommendation to include in Subchapter 2 additional information regarding the temporary license, including the length of the term, the purpose, the penalties for violations, a requirement for conspicuously posting, and a restriction against the transfer or assignment of the temporary license. The rules regarding temporary license were revised to include these recommendations. It was further recommended that the new rules contain the statutory provisions for assessing and collecting fines for violations of the rules, revocation of a license, notification of the facility of impending fine and/or revocation, and the opportunity for a hearing. The Department's position is that Subchapter 2 is in compliance with N.J.S.A. 26:2H-1 et seq., and that there is no need to repeat the statutory provisions in the new rules.

The Department received a recommendation to include in the employees health evaluations certification of freedom from communicable disease (N.J.A.C. 8:39-3.5(a)8). The Department maintains that mandating a yearly employee certification of freedom from communicable disease will not ensure or guarantee the absence of disease. N.J.A.C. 8:39-21, Infection Prevention and Control, is comprehensive and requires policies and procedures for ongoing surveillance of both patient and staff.

An explanation was provided to clarify the use of the term "awake" when referring to staff members who are on duty. The inclusion of this rule, N.J.A.C. 8:39-3.6(b), by the Department was due to incidents relating to staff members "sleeping" while on duty.

The Department accepted a recommendation for the revision of N.J.A.C. 8:39-3.10(a)3 ensuring compliance with N.J.S.A. 52:27G-7.1. A clarification was requested regarding the use of the term "alleged" in the same rule. The term "alleged" must be used in this rule because the crime(s) in question have been declared without proof.

A commentator questioned the need for Medicaid-participating facilities to submit a separate annual financial report to the Department of Health (N.J.A.C. 8:39-3.3(b)) and recommended that Medicaid-participating facilities be deemed in compliance with this section upon satisfactory completion and submission of cost reports and supporting data required by Medicaid. The Department agrees with the comment and Medicaid facilities will be considered in compliance with the rule upon completion and submission of cost reports and supporting data required by Medicaid, which is the current practice.

A commentator questioned, "what does the State mean" by the "establishment of qualifications of the members and officers of the governing body?" The new rule, N.J.A.C. 8:39-4.1(a)9, simply expands the powers of the governing authority by allowing the facility to delineate the qualifications of members and officers.

A commentator questioned the possible oversight in Subchapter 5 of stipulating the hours that an administrator must be present in the facility to include a full-time administrator on the day shift. N.J.A.C. 8:34, Rules for Licensing Nursing Home Administrators, prohibits the Department from writing such a regulation.

The Department did not accept a recommendation to decrease the number of days for completion of the patient treatment plan and discharge summary upon the patient's discharge. The Department maintains that this rule, N.J.A.C. 8:39-5.2(a)9, has not been a problem in the past. The current 30 day time period is allowed since medical records can be long, complicated, and voluminous due to the patient's length of stay in long-term care facilities as compared

to short durations in acute care settings.

The Department accepted a recommendation for the revision of N.J.A.C. 8:39-6.2(c)2 requiring staff accountability for the whereabouts of each patient at all times to ensure patient safety.

The Department received comments on Subchapter 6 regarding pronouncement of death and the notification of death to next of kin and/or sponsor and/or guardian. The suggestions to mandate the pronouncement of death by a physician were not adopted. The Board of Medical Examiners is responsible for regulating the practice of medicine and recently revised General Administrative Regulations, Pronouncement of Death, as cited at 14 N.J.R. 90, indicating who can pronounce death and under what circumstances. The regulation as written coincides with the New Jersey State Board of Medical Examiners rules.

Two recommendations were received on the rule regarding the notification of death to relatives, N.J.A.C. 8:39-6.2(c)6i. One recommendation was that the notification should be made "promptly" and the other recommendation was that notification be made within "four hours." The Department does not concur with these recommendations. The inclusion of the subjective term "promptly" could lead to confusion and misinterpretation of the rule. The Department preferred the more stringent rule that notification be made at the time of death. The rule as currently stated has not caused difficulty in the past years. In the event that the family cannot be reached for notification at the time of the death by telephone, the Department would expect that the facility would choose an appropriate alternate mean of communication until the family is reached.

The proposed rule, N.J.A.C. 8:39-6.2(c)7, regarding accepting, recording, and countersigning verbal orders received mixed reactions. Suggestions were made to change this rule to include the acceptance of verbal orders by personnel authorized under the laws and regulations of the State of New Jersey and countersigning by the physician within 48 hours to ensure the physician's visit to the facility, and to require review of the orders by the nursing supervisor within 24 hours for elimination of the possibility of errors. The Department did not concur with the comments. The Department has tried to make this rule realistic and practical based on past experience. N.J.A.C. 8:39-3.1(b) mandates the facility to comply with "applicable Federal, State, and local regulations and requirements." The Department did not remind the facility of this requirement in each and every rule. The inclusion of the stringent requirement for countersigning the verbal order within 48 hours would not guarantee the physician's visit as indicated in the comment. Moreover, prescriptions may be hand-delivered or mailed. Many of the facilities do not have a nursing supervisor. The Department is, however, unaware of any reason as to why the charge nurse or the nurse responsible for patient care cannot review and implement the physician's orders.

A comment was received requesting that the summary of the admission interview and information required in N.J.A.C. 8:39-6.2(c)13iv be maintained in the business office. The Department believes the information requested in the rule encompasses physician services and the information required may be needed at a critical time when personnel from the business office or an administrative file would not be available without delay, thus jeopardizing patient safety.

The rule on the housing of blind, nonambulant, and semiambulant patients, N.J.A.C. 8:39-6.2(c)14 ii, was deleted as recommended. The deletion of the rule will not jeopardize patient safety since the new rules in Subchapters 24 and 25 eliminate outdated fire regulations now imposed on facilities. The 1981 National Fire Protection Association regulations now permit second floor occupancy in noncombustible construction, or under the Fire Safety Equivalency System of the National Fire Protection Association, in sprinklered combustible construction. The deletion of this rule was also made to coincide with the changes of the United States Department of Health and Human Services, 42 CFR Parts 405 and 442, Medicare and Medicaid; Miscellaneous

## Amendments.

A comment was received in support of N.J.A.C. 8:39-6.2(c)14 iii but the validity concerning implementation of the rule, which cannot be resolved by the rulemaking process, was questioned. The commentor, however, has brought forth serious questions regarding the needs of disruptive patients, the lack of community resources, and the lack of appropriate placement for these patients.

N.J.A.C. 8:39-6.2(c)16iv was added to the proposed rules regarding restraints to require authorization in writing by a physician as recommended. However, a suggestion to add "frequency of restraint release" was not accepted by the Department, since a preceding rule (N.J.A.C. 8:39-6.2(a)16i) encompasses such requirements.

A request was made to add "documentation in the patient record" to N.J.A.C. 8:39-7.2(a)5. The Department prefers to have the rule remain as proposed since the rule would apply in some instances to people other than patients, for example, staff and visitors.

A comment was received in support of the proposed rule, N.J.A.C. 8:39-7.2(a)9, however, concern was expressed regarding the interpretation and implementation of the regulation. The Department maintains that through the ongoing monitoring by the survey teams the expressed concern would be eliminated.

A comment was expressed regarding the difficulty of enticing physicians to attend medical staff meetings. No indication for changing the regulation was offered. Once again, the Department maintains that through the survey process the implementation of the rule would be monitored.

Two comments were received concerning the 30 and 60 day time frames for the physician's visits. An explanation of the Department's response can be found in the summary regarding Subchapter 1.

Many comments were received concerning Subchapter 8. NURSING SERVICES, specifically N.J.A.C. 8:39-8.1(c), (g), and (i). The majority of comments addressed the need to increase nursing care hours for all levels of care, to consolidate the two levels of intermediate care facility patients into one level requiring 2.39 hours of nursing care per day, and to change the ratio of registered professional nursing hours to ancillary nursing hours. A comment was also received requesting to "Change a licensed nurse to professional nurse . . . on evening and night shift."

The Department supports the concepts of the comments. However, the increase in nursing hours is not feasible at this time due to budgetary constraints. In 1978, when the rules for long-term care facilities were promulgated, rules were written to increase staffing. The implementation of these rules has been delayed until "the State budgets include additional funds for Medicaid for this specific purpose. . ." (10 N.J.R. 423(a)). Every year since 1978, the implementation of the rules for increased staffing have been postponed by the Health Care Administration Board due to the non-availability of funds. The ratio of registered professional nurse hours to ancillary nursing hours is specified in N.J.A.C. 8:39-8.1(g). Any change in the number of ancillary nursing personnel would result in a corresponding increase in the number of registered professional nurses. Due to budgetary constraints, the Department did not change these rules at this time.

A comment was received from the Medicaid Program regarding N.J.A.C. 8:39-8.1(e), the computation of direct nursing care time. The computation, however, does not include the hours of the director of nursing services, except in facilities with 45 or fewer beds rather than 50 beds as stated in N.J.A.C. 8:37-6.1(b) iv. The commentor stated, "This may increase Medicaid Program expenditures by as much as \$1.5 million (State share) if we must consider these costs for reimbursement separate from the per diem nursing allowance which now includes these hours. Those LTCF's [long-term care facilities] who are not receiving full nursing care cost reimbursement will have the DON [Director of Nursing] hours and cost either considered for separate screening or grouped with administrative allowability." The rule was not rewritten since the Department questioned the \$1.5 million dollar estimate. There are

a maximum of nine facilities which could be affected by the reduction from 50 to 45 beds. Not all of these facilities would be in the Medicaid Program.

Two requests were received to include "philosophy of nursing" in N.J.A.C. 8:39-8.2(a)1 and 8:39-8.4(a)5. These rules were rewritten as requested.

The rule N.J.A.C. 8:39-8.5(a)10 was rewritten to conform with N.J.S.A. 45:11-23 to specify that the licensed practical nurse reinforces the patient and family teaching program which is performed by registered professional nurses.

Additional comments were received concerning the deletion of 30, 60, and 90 day time frames for writing nursing progress notes and nursing care plans. The response to these comments are noted in the summary regarding N.J.A.C. 8:39-1.1.

Comments were received requesting that licensed practical nurses be allowed to assess nursing needs. According to the Department's understanding, a registered professional nurse is responsible for assessing the nursing needs of patients and, accordingly, for making assignments. The registered professional nurse decides in which situation the licensed practical nurse can be permitted self-direction. Therefore, the rule remains as proposed, but N.J.A.C. 8:39-8.6(a)1 was rewritten to allow a licensed practical nurse to review and revise the nursing care plan.

A comment was received supporting the inclusion of N.J.A.C. 8:39-8.7 into the new rules.

N.J.A.C. 8:39-8.7(a)5, reporting of medication errors and drug reactions, was rewritten as recommended to include the pharmacist.

Recommendations were made to delete United States Pharmacopoeia from N.J.A.C. 8:39-8.7(a)8. The rule was not rewritten; the United States Pharmacopoeia establishes specific recognized standards for medications requiring refrigeration.

Changes for rewording were recommended for N.J.A.C. 8:39-8.7(a)9; however, the rule was revised prior to publication in the New Jersey Register and the revision reflects the recommendation made by the commentor.

A suggestion was made to delete "procurement" and "storage" as unnecessary from N.J.A.C. 8:39-8.7(a)10. While the words may be repetitive, they further reinforce the previous standards and the suggestion was not accepted.

A comment was made regarding the storage of Schedule II drugs, specifically noted in N.J.A.C. 8:39-8.7(a) 10ii and iii, so as not to require a double lock and key at each nursing station. The Department favors a more stringent rule by requiring Schedule II substances to be stored under double lock and key. The Department retains this rule in order to ensure accountability factors at this point and time. There are no cost factors or loss of "nursing time" associated with the double locking and this has been acceptable practice over the years.

A comment was received regarding patient's medications requesting "that the wording from the previous manual allowing for emergency borrowing with proper documentation be reinserted. In times of emergency, when drugs might be needed immediately or in the middle of the night when its not immediately available from the pharmacy, this practice has been essential and we feel it should continue." The Department believes this to be a dangerous practice and may be contrary to the New Jersey State Board of Pharmacy regulations. There are provisions in the proposed rules for the requirement of an emergency kit which will alleviate the need for emergency borrowing, particularly since the facility can establish the contents of the kit (N.J.A.C. 8:39-9.2(b)1). The rule was, therefore, not rewritten.

A recommendation was made to revise the rule relating to the pharmacy and therapeutics committee, N.J.A.C. 8:39-9.2(a), to ensure that a pharmacist serve as chairman or secretary of the committee and that the staff or provider pharmacist serve on the committee along with the consultant pharmacist. The Department did not concur with the recommendation since the participation of the pharmaceutical service in the facility's committees depends upon the facility's policies and procedures as well as on

administrative decisions within the facility. This rule will remain as written since it provides flexibility to give more leeway to facilities for better utilization of staff.

The Department received a comment to revise the rule concerning information that is contained on each patient's individual medication container, N.J.A.C. 8:39-9.2(b)3. The Department agreed with the recommendation to delete the phrase "if indicated by the prescriber," but retained "location of the patient in the facility" and "directions for use" on the medication container as important factors to ensure patient safety.

A recommendation was made to delete N.J.A.C. 8:39-9.2(b)5iii regarding the documentation of administered medications in the patient's medical record because it is a repetition of N.J.A.C. 8:39-8.6(a)4 which also deals with the recording of the administration of medications. One rule is concerned with the establishment by the pharmacy and therapeutics committee of policies and procedures regarding documentation, while the other rule denotes the implementation of the policies and procedures. Therefore, no change was made.

The Department received two comments concerning the storage of medications in locked storage areas in patient's rooms when self-administration is permitted, N.J.A.C. 8:39-9.2(b)6ii. One commentor sought to add to the rule that medication should be locked "unless otherwise specified by the Pharmacy and Therapeutics Committee." Since the Department is concerned with the safety of patients the rule remained as proposed. The second commentor doubted the practicability of the implementation of this rule because it is "ridiculous" since very few patients have medications in their rooms and confused patients are debarred from the self-administration of medications. This rule is not mandatory and the facility has the right to determine whether or not to allow self-administration of medication.

Recommendations to revise the rule on reporting, recording, and reviewing of medication errors and adverse drug reactions were accepted (N.J.A.C. 8:39-9.2(b)9ii). N.J.A.C. 8:39-8.7(a)5 was also revised to coincide with this rule.

A recommendation was made for the approval by the pharmacy and therapeutics committee of the list of abbreviations and chemical symbols that are used in the facility. The rule was not rewritten; N.J.A.C. 8:39-9.2(b) encompasses the recommendation.

A suggestion was made regarding N.J.A.C. 8:39-9.2(a) to require both the director of pharmaceutical services and the consultant pharmacist to attend the quarterly meetings of the pharmacy and therapeutics committee. The rule as written indicates that either the director of pharmaceutical services or the consultant pharmacist attends the quarterly meetings of the pharmacy and therapeutics committee. The facility may appoint additional committee members in accordance with their needs. A different commentor stated that the pharmacy and therapeutics committee has "provided for and stimulated interdisciplinary discussions of patient care with a resultant increased appreciation and awareness of the necessity for the team effort required to provide quality patient care."

The rule concerning the preparation, review, dating, and signing of the pharmacist consultation sheet, N.J.A.C. 8:39-9.3(a)8, was revised to coincide with N.J.A.C. 8:39-1.1 "Pharmacist consultation sheet."

A comment was received to include in the staff or consultant pharmacist's responsibilities the monitoring of N.J.A.C. 8:39-8.7. The proposed rules N.J.A.C. 8:39-9.3(a) allows the pharmacist to perform the recommended functions.

A comment was received noting that in N.J.A.C. 8:39-10.1 "there is nothing written about a food service manager or a dietitian on duty during the 12 hour period, seven days a week." The rule as written requires that dietary service personnel are scheduled for a period of 12 hours daily. The rule does not specify that one particular person be on duty for 12 hours daily. The food service manager or dietitian is not required to be on duty during the 12 hour period, however, dietary service personnel are required to be

scheduled to cover the 12 hour period.

A question was received concerning N.J.A.C. 8:39-10.2, "Is it feasible that one dietitian can do all that is listed in eight hours a month?" The feasibility depends on the size of the facility and the needs of the patients. The rule further specifies that additional hours may be required by the dietitian. The Department received a suggested time formula for calculating the hours of consultation the dietitian should provide per month. Since the Department recently amended this section (14 N.J.R. 427), there is no objective basis for change at this time. Comments were also received concerning the deletion of the 30 and 60 day time frames for the review of dietary care plans. A recommendation was made to require a reassessment of the patient at least every six months. An explanation of the Department's response can be found in the summary regarding Subchapter 1.

A comment was made that the proposed rules for Subchapter 10 should apply to all long-term care facilities regardless of size. Subchapter 10. DIETARY SERVICES does apply to all long-term care facilities except for N.J.A.C. 8:39-10.2 which has been modified for facilities of 45 or fewer beds (see N.J.A.C. 8:39-26.1(a)8).

A comment was received concerning N.J.A.C. 8:39-11.1 which requires that rehabilitation services for skilled nursing patients be performed on the premises. The commentor indicated that this requirement "will negate a lot of contracts with quite a few nursing homes and make it much more difficult for them to obtain services." The rule was not rewritten, since it has been in effect over the past years and the Department is unaware of any difficulties. In the event that facilities experience difficulties, they may apply to the Department for consideration of a waiver regarding the performance of rehabilitation services "on the premises" for skilled nursing patients.

Comments and recommendations were received regarding Subchapter 12, including a request to change the title of the subchapter from Social Services to Social Work Services to more accurately reflect the content of the subchapter. This change was made. Two comments were received regarding the appointment of a social worker or social work designee and social work consultation (N.J.A.C. 8:39-12.2). Since the Department recently amended this section (14 N.J.R. 427), there is no objective basis for change at this time. Another comment pointed out that the proposed rules for social work services do not conform to Federal Medicaid/Medicare requirements for long-term care facilities. The Department is aware of this; but, since there are no direct conflicts, the Department does not anticipate difficulties in implementing the new rules as licensure regulations.

The Department received a recommendation regarding N.J.A.C. 8:39-13.2(a)1 to mandate the availability of individual, group, and independent activities in the facility seven days a week, including evenings. This recommendation was not accepted because this rule was recently revised (14 N.J.R. 427) to allow a choice of individual, group, and/or independent activities seven days a week, including evenings. The Department has not experienced any difficulties in the implementation of this rule. The new rule allows facilities more flexibility to plan activities to better meet the needs of individual patients.

A recommendation was made regarding N.J.A.C. 8:39-13.4(a)4 to specify the committees where patient activities coordinator's representation is required "to insure interaction with other professionals . . . ." The rule was not revised because the participation of the patient activity service in the facility's committees depends upon the facility's policies and procedures as well as on administrative decisions in the facility. This rule is flexible to give more latitude to the management of the facility for the better utilization of the staff. The facility will have more freedom in appointing staff members and consultants to various facility committees, thus allowing some staff members and consultants to provide direct patient care rather than attend committee meetings.

The rule regarding patient activities coordinator's role in selection, supervision, assignment of duties, and evaluation of personnel was supported (N.J.A.C. 8:39-13.4(a)7).

Following a suggestion, the rule relating to the maintenance of a current record of community services was rewritten to correct a grammatical error (N.J.A.C. 8:39-13.4(a)9).

A comment was received in support of N.J.A.C. 8:39-13.4(a)8 regarding staff orientation and staff education programs for the facility. A recommendation was made to retain the existing rules regarding "summaries of conferences with a physician or other personnel" and "the patient activities portion of the discharge summary and discharge plan" because "the interaction with other professionals" is necessary for the performance of duties. These rules were not revised. The information required for the discharge summary and discharge plan should be reflected in the individual care plan and the patient treatment plan. See: N.J.A.C. 8:39-1.1. The rule does not preclude the documentation of conferences with a physician as indicated in N.J.A.C. 8:39-17.3(a)20.

The Department received recommendations for mandating specific time frames in N.J.A.C. 8:39-13.4(a)13 for reviewing the care plan and writing progress notes. The comments have been responded to in the summary regarding N.J.A.C. 8:39-1.1.

The Department received a request that long-term care facilities be required to conspicuously post and to give each patient a copy of N.J.S.A. 30:13-1 et seq., P.L. 1976, Chapter 120, An Act Concerning the Responsibilities of Nursing Homes and the Rights of Nursing Home Residents, as required by that law. N.J.A.C. 8:39-16.1(c) and (d)1 were revised accordingly.

The validity of the rule, N.J.A.C. 8:39-16.1(d)3, regarding the patient's right to retain his/her own physician has been questioned because "medical institutions have physicians assigned to patients." The rule was not revised because the patient has the right to retain the services of his/her own personal physician and has the right to refuse treatment, pursuant to N.J.S.A. 30:13-5(g).

A suggestion was made to revise rule N.J.A.C. 8:39-16.1(d)3, so that the patient can refuse treatment prior to being informed of the consequences of accepting or refusing treatment. In addition, the commentor wished to add a statement that medication shall be used only for therapeutic benefit. While the Department agrees with both concepts of this recommendation, it revised the rule to delete "and understanding" because the determination of understanding is subjective. The Department honors the absolute and unchallenged right of the patient to refuse treatment. However, the Department feels that for the patient's welfare, he/she should at least be informed of the effects of accepting or refusing the treatment. Moreover, in regards to the therapeutic use of medication, the Department is unable to revise the rule since the regulation of the practice of medicine is beyond its jurisdiction. However, the Department has tried to secure the therapeutic benefits of the medication by precluding its abuse.

The address of the Office of the Ombudsman for the Institutionalized Elderly was corrected to include the CN number and correct zip code and delete the street number in N.J.A.C. 8:39-16.1(d)5, as requested.

N.J.A.C. 8:39-16.1(c)6 which prohibits mental and physical abuse of patients was revised to also prohibit exploitation of patients in accordance with N.J.S.A. 52:27G-7.1, as requested.

A recommendation was made to revise N.J.A.C. 8:39-16.1(c)13 which allows patients to retain their own personal possessions as space permits because it conflicts with N.J.S.A. 30:13-5(c). The rule was revised to agree with N.J.S.A. 30:13-5(c) so that the statutory language replaced the language of the proposed rule.

A recommendation was made to assign the responsibility to facility personnel, rather than to persons unconnected with the facility, to witness the annual written delegation of responsibility for financial matters by the patient (N.J.A.C. 8:39-16.1(d)15). N.J.S.A. 30:13-5(a) precludes the Department from adopting the recommendation.

An explanation was sought regarding the inclusion of "a record

of clothing and personal effects" in the quarterly financial statement (N.J.A.C. 8:39-17.3(a)18). The confusion was due to a misinterpretation of the rule. The rule refers only to items that the patient deposits with the facility for safekeeping and does not refer to items in daily use.

Doubts were expressed on the implementation of the rule relating to the definition of business hours during which the patient has access to his/her medical record, N.J.A.C. 8:39-17.4(a)3. The facility is required to delineate the business hours in its policies and procedures and may include the business hours in "the contract on admission," as questioned by the commentor. The rule was given flexibility in order to give initiative to the facility in the management of its affairs.

A recommendation regarding obtaining a "blanket consent" from the patient at the time of admission for treatment in emergency situations was not accepted. The Department does not advocate obtaining a "blanket consent," since this would be a violation of the patient's rights. The facility should develop policies and procedures relating to this matter based upon consultation from an attorney (N.J.A.C. 8:39-17.5). A question was raised concerning N.J.A.C. 8:39-17.5 as being in conflict with Federal regulations. N.J.A.C. 8:39-16.1(d)7 notes the exception as mentioned by the commentor. N.J.A.C. 8:39-17.5 was added in the event that a patient does deny permission for release of information. The rules as written are consistent with Federal regulations.

The deletion of the "level of care" from the patient care statistics (N.J.A.C. 8:39-18.1(a)1) has been regarded as "an oversight." The deletion is, however, not an oversight since it is no longer required. A recommendation was made to add "diagnostic indexing" to N.J.A.C. 8:39-18.1. The Department contends that there is insufficient data and justification relating to patient care and cost-effectiveness to warrant mandating such a regulation at this time.

A recommendation was made to appoint the social worker responsible for discharge planning because traditionally a social worker is accountable for "referrals, community arrangements, etc." which are essentially discharge planning functions. The Department believes that N.J.A.C. 8:39-19.3(a) does not preclude the administrator from designating a social worker for this purpose; however, the Department does not wish to mandate a specific discipline for this position. The Department does not believe that the absence of a specific requirement for a social worker for this position will jeopardize the care and safety of patients. The Department has not excluded the social worker from discharge planning since N.J.A.C. 8:39-19.2(a)4 requires the availability of the social work consultant in facilities of 46 or more beds. A review of the literature concerning discharge planning indicates that either a nurse or a social worker may be assigned the responsibility for discharge planning. The Department contends that the decision should be based upon the needs of the facility, the resources available, and the judgment of the administrator.

The requirement for discharge planning, N.J.A.C. 8:39-19, was objected to on financial grounds, and the utilization of an interdisciplinary team approach in discharge planning, including the patient, his/her next of kin or sponsor or guardian, and the medical director was regarded as impracticable and hard to comply with. The Department, however, is of the opinion that the requirements for discharge planning would ultimately minimize the cost of patient care by lessening needless hospital stays, unnecessary emergency visits, and better utilization of personnel. Patient care will be enhanced if sound management techniques are applied to the implementation of the proposed rule.

Two recommendations to include a nurse both on the discharge planning committee and on the multidisciplinary team were received. N.J.A.C. 8:39-19.2(a)4 was revised to ensure representation of the nursing service on the multidisciplinary team. As with other committees, the administrator appoints the committee members and may appoint a nurse as a member of the discharge planning committee.

A recommendation was made to revise N.J.A.C. 8:39-19.2(a)3

regarding the review of the patient's discharge plan so as to make the review ongoing for all patients and, thus, negating the need for an annual review for patients "expected to remain in the facility for life." If the sentence were to be deleted as recommended, the rule would become more general, and the facility could establish a time frame for all patients greater than an annual review. The Department would, therefore, interpret this rule as meaning all other patients have to be reviewed more frequently than once a year and the patient expected to remain in the facility for life at least once a year.

A recommendation was made to require, in addition to the review and audits required by N.J.A.C. 8:39-20.2(a), "any others where the facility has problems and use the audit and evaluation discipline to find answers to the problems of the facility." N.J.A.C. 8:39-20.2(a) and (b) state the minimum requirements and do not preclude the facility from conducting additional audits, reviews, and medical care evaluation studies. Therefore, the rule was not changed. The involvement of "appropriate professional discipline(s)" in the evaluation process was suggested to ensure "professional input" necessary for maintaining the quality and continuity of patient care. The Department realizes the importance of professional input necessary for maintaining the quality and continuity of patient care. N.J.A.C. 8:39-20.1 requires that the Department approve of the written evaluation plan annually. This will ensure the proper representation of the professionals in the evaluation and review activities based upon the individual facility's needs and resources. These rules regarding evaluation have not been revised and have been in effect since 1978 and we are unaware of any difficulties.

A recommendation was received to reinstate the requirement for an infection control committee in Subchapter 21. The Department did not concur with the recommendation since the facility has the flexibility to establish this committee based on the facility's policies and procedures and specific needs.

The Department received a recommendation to revise N.J.A.C. 8:39-22.3(a)1 requiring that the facility and its contents be free from dust, dirt, and debris as the proposed rule was regarded as "unrealistic." The Department agreed, in part, with the recommendation and revised the rule by deleting "dust" to make the rule more realistic.

Following the suggestion of a commentator, N.J.A.C. 8:39-22.3(a)6 regarding the maintenance of all furnishings and mechanical equipment was revised to require that all furnishings shall be clean and in good repair and worn items shall be replaced or removed.

A recommendation was made to maintain the uniform temperature of the hot water "at each hot water outlet at all times." N.J.A.C. 8:39-22.3(a)22 was partially revised since there are times when this would be impossible and may endanger patient safety. For example, when first turning on a hot water faucet.

A recommendation was made to mandate the minimum temperature within the facility at "72 degrees F. at all times" to ensure the "comfort of the patient with diminished circulation and of the incontinent patient who must be bathed and changed during night time hours" (N.J.A.C. 8:39-22.3(a)23). The rule was not revised since it is not medically indicated or energy efficient to mandate that the temperature within the facility remain at 72 degrees F. at all times. Moreover, N.J.A.C. 8:39-6.2(c)2 ensures the care and comfort of patients in the facility at all times.

The rule, N.J.A.C. 8:39-22.4(a)4ii, prohibiting the use of latex foam pillows was questioned. Latex foam pillows produce potential toxic fumes and smoke when they burn, according to the New Jersey State Fire Marshall's office. Therefore, the standard was not deleted.

A request for a new rule concerning the provision of fans during hot weather in facilities not equipped with air conditioning was not deemed feasible because of cost constraints. Moreover, during the last five years, the Department has not received substantial complaints to warrant such a requirement.

A recommendation was made that N.J.A.C. 8:39-23.2(b) "be

amended to allow the testing of at least one manual pull alarm each month. This test would then be done at the time of the monthly fire drill, be less disruptive to the patients and not necessitate fire companies coming to the facility to reset said alarm which is necessary in many cases." The recommendation was not accepted; patient safety takes precedence over the disruption of patients and inconvenience of fire companies.

The Department of Community Affairs challenged the statutory authority of the Department of Health to adopt the rules on construction and suggested their withdrawal (N.J.A.C. 8:39-24 and N.J.A.C. 8:39-25.1), "even though the standards you seek to adopt have already been adopted by the Department of Community Affairs and are, at present, law." The Department of Health contends that it is common practice to cross-reference to other existing State and Federal laws and regulations as part of the licensure requirements for health care facilities and wishes to cooperate with the Department of Community Affairs.

A meeting was held with representatives of the Division of Housing of the Department of Community Affairs and the Director of Licensing, Certification and Standards of the Department of Health on May 2, 1983. As a result of the meeting, changes were made in Subchapter 24 and in N.J.A.C. 8:39-25.1.

A comment was received concerning N.J.A.C. 8:39-25.3(a)5i, "The annual inspection of wiring is thought to be meaningless in some newer facilities, especially if constructed of poured concrete." The Department contends that the annual inspection of electrical circuits and wiring is required to ensure the safety of patients. There is no guarantee that the electrical circuits and wiring are not subject to breakdown in a newly constructed facility of poured concrete. Therefore, no change was made in this rule.

A comment was received regarding N.J.A.C. 8:39-26.1(a)9 and 10, "which removes the standards for social services for facilities of 45 or fewer beds. Size does not negate the need for social care." Another commentator stated, "We are opposed to exempting these facilities from appointing social workers or designees to provide social services. Patients residing in these facilities have as great a need for social services as those in larger facilities. Since the amount of hours spent by staff is relative to the numbers of patients, we question the added fiscal strain on small facilities as different from large facilities. Shared staff or part-time staff are always options." The Department contends that the proposed regulation does not negate the need for social work care but does alter the requirement as to who can provide the care. The proposed rule is more stringent than the existing requirement; therefore, the rule was not revised.

A recommendation was made to mandate that a qualified medical record practitioner provide consultation to facilities with 45 or fewer beds, N.J.A.C. 8:39-26.1(a)11. The Department has been unable to develop or justify a measurable, objective, cost-effective staffing pattern for medical record services in a long-term care facility of any size. The rule as written has been in effect for a number of years and the Department has not experienced difficulties. It is the Department's understanding, based upon conferences with at least four facilities with 45 or fewer beds, that a qualified medical record practitioner had been employed to establish and develop the medical record system in the facility. Consultants were also utilized if the facility experienced operational difficulties. The Department, through annual surveys, ensures compliance with the standards by the facilities.

A comment was received objecting to N.J.A.C. 8:39-26.1(a)12 and 13 which allow the patient care policy committee to serve as the discharge planning committee and the multidisciplinary evaluation committee in facilities of 45 or fewer beds. The intent of these rules is to allow flexibility for the administrator to use his/her prerogative for better utilization of the staff in the facility. The administrator will have more freedom in appointing staff members and consultants to various facility committees, thus allowing some staff members and consultants to provide direct patient care rather than attend committee meetings. The Department agrees that the

professional disciplines should actively participate in the facility committees. N.J.A.C. 8:39-6.2(a) clearly states that the Department will approve all policies and procedures developed by the facility. Thus, the Department will monitor through the survey process, and ensure the proper representation of all services in the facility committees, based upon the individual needs of the facility. This rule was not revised.

**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]\***).

#### 8:39-1.1 Definitions and/or qualifications

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

“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]\* **\*all applicable Federal, State, and local rules and regulations\*****.

“Nursing unit” shall mean a continuous area, on one floor approved by the Department, which includes rooms housing **\*60 or fewer\*** patients. In facilities of 45 or fewer beds, a nursing unit may be on one or more floors, as approved by the Department.

“Occupational therapist” shall mean a person who:

1. (No change from proposal.)
2. Is eligible for **\*[certification]\* **\*registration\***** by the American Occupational Therapy Association as an occupational therapist.

“Pharmacist consultation sheet” shall mean an individual patient record included in the **\*patient’s\*** medical record, containing pertinent information regarding the monthly review of the patient’s drug regimen by the staff pharmacist or consultant pharmacist, **\*including, but not limited to,\*** laboratory tests, dietary requirements, physician’s and nurse’s clinical notes, physician’s orders, and progress notes, in order to monitor potential adverse drug reactions, allergies, drug interactions, contraindications, rationality **\*of therapy\***, drug **\*therapy\*** evaluation, and laboratory test modifications. The pharmacist shall review and sign the pharmacist consultation sheet **\*[, including the drug regimen,]\* **\*at least [every 30 days]\* **\*monthly\*****.**

“Social work designee” shall mean a person **\*[with a bachelor’s degree in social sciences, or a high school graduate with four years of full-time, or full-time equivalent, social service experience in a health care facility. One year of experience may be substituted for each year of college.]\* **\*who\*****

1. **Is a high school graduate with four years of full-time, or full-time equivalent, social work experience in a health care facility; or**
2. **Has an associate’s degree with two years of social work experience; or**
3. **Has a bachelor’s degree in social work or another major with or without a practicum in a health care or geriatric setting.\***

#### 8:39-2.4 Surveys and temporary license

- (a) (No change from proposal.)
- (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 **\*, who**

**will be advised that the purpose of the temporary license is to allow the Department to determine the facility’s compliance with 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 rules and regulations pursuant thereto\*;**

2.–5. (No change from proposal.)

(c)–(d) (No change from proposal.)

**\*(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.**

**(f) The temporary license shall be conspicuously posted in the facility.**

**(g) The temporary license is not assignable or transferable and shall be immediately void if the facility ceases to operate or if its ownership changes.\***

#### 8:39-2.8 Action against a license

(a)–(c) (No change from proposal.)

**\*(d) This section shall apply to facilities with a temporary license and facilities with a full license.\***

#### 8:39-3.10 Reportable events

(a) The facility shall notify the Department immediately by telephone (609-292-4304), followed within 72 hours by a written confirmation, of the following:

1.–2. (No change from proposal.)

3. All alleged or suspected crimes related to patients, which shall also be reported at the time of occurrence to the police department **\*[;]\* **\*. In addition, the State Office of the Ombudsman for the Institutionalized Elderly shall be notified of any suspected patient abuse or exploitation pursuant to P.L. 1983 C.43, N.J.S.A. 52:27G-7.1;\*****

4.–5. (No change from proposal.)

#### 8:39-5.2 Administrator’s responsibilities

(a) The administrator shall be responsible for, but not limited to, the following:

1.–6. (No change from proposal.)

7. Administering and supervising the **\*[non-clinical]\* **\* nonclinical\***** operations of the program;

8.–11. (No change from proposal.)

#### 8:39-6.2 Policies and procedures

(a)–(b) (No change from proposal.)

(c) Patient care policies and procedures shall include, but not be limited to, policies and procedures for the following:

1. (No change from proposal.)

2. Care of patients, to ensure that all patients are provided with room, board, and services in accordance with these standards and are kept clean, dry, and comfortable **\*, and to ensure that the whereabouts of each patient is known at all times\*;**

3.–8. (No change from proposal.)

9. Medical **\*[record-keeping]\* **\*recordkeeping\*****;

10. Assisting patients and ensuring that arrangements are made for transportation in order to obtain health services such as podiatric and dental services, eye examinations, **\*[eye glasses]\* **\* eyeglasses\*****, auditory testing, and hearing aids, when requested by the patient;

11.–13. (No change from proposal.)

14. Restrictions to the admission and retention of patients, to ensure that:

i. (No change from proposal.)

**\*[ii. If the facility is not of fire-resistive construction, blind, nonambulant, and semi-ambulant patients shall be housed on the first floor;]\***

Renumber iii.–v. as ii.–iv.

15. (No change from proposal.)

16. The use of restraints. Policies and procedures governing restraints shall, as a minimum:

i. (No change from proposal.)

ii. Prohibit the use of locked restraints and confinement of a patient in a locked or barricaded room, and prohibit the use of restraints for punishment or for the convenience of facility personnel;\*[and]\*

iii. Specify that physical restraints be used so as not to cause physical injury or discomfort to the patient. Opportunity for motion and exercise shall be provided for a period of not less than 10 minutes during each two-hour period in which the restraint is employed, to ensure opportunity for elimination of body wastes, good body alignment, circulation, and change of position\*[\*]\* \*; **and\***

**\*iv. Require that a physical restraint be used only when authorized in writing by a physician for a specified period of time except when necessitated by an emergency, in which case it shall be approved by the medical director, or the director of nursing services or his/her designee.\***

17.–18. (No change from proposal.)

#### 8:39-8.2 Director of nursing services' responsibilities

(a) The director of nursing services shall be responsible for the direction, provision, and quality of nursing care provided. He/she shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, **\*a philosophy of nursing,\*** standards of practice, policies, a procedure manual, and an organizational plan for the nursing service;

2.–13. (No change from proposal.)

#### 8:39-8.4 Charge nurse's designation and responsibilities

(a) The director of nursing services shall designate in writing a charge nurse on each nursing unit for each shift, seven days a week. The charge nurse shall be responsible for, but not limited to, the following:

1.–4. (No change from proposal.)

5. Assisting the director of nursing services in developing and maintaining written objectives, **\*a philosophy of nursing,\*** standards of practice, policies, a procedure manual, and an organizational plan for the nursing service;

6.–7. (No change from proposal.)

#### 8:39-8.5 Nursing personnel responsibilities

(a) In accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., the standards in N.J.A.C. 8:39-7 and 8:39-9, and written job descriptions, nursing and ancillary nursing personnel shall be responsible for, but not limited to, the following:

1.–9. (No change from proposal.)

10. Teaching, supervising, and consulting with other personnel, the patient, next of kin and/or sponsor and/or guardian, regarding methods of meeting the nursing care needs and other related problems of the patient (**\*[licensed nursing personnel]\* \*registered professional nurses\* only shall perform these functions\*, which may be reinforced by licensed nursing personnel\***).

(b) (No change from proposal.)

#### 8:39-8.6 Nursing portion of the medical record

(a) In accordance with written job descriptions and with the standards in this document, nursing personnel shall enter in the patient's medical record:

1. The nursing care plan which is the nursing portion of the patient treatment plan. This shall be reviewed, and revised as necessary, by a **\*[registered professional]\* \*licensed\* nurse in accordance with a schedule documented in the patient's medical record;**

2.–4. (No change from proposal.)

#### 8:39-8.7 Nursing care services related to pharmaceutical services

(a) Nursing personnel shall be responsible for, but not limited to, ensuring the following:

1.–4. (No change from proposal.)

5. Medication errors and adverse drug reactions are orally reported immediately to the director of nursing services, the prescriber, **\*[and]\* the administrator, \*and the pharmacist,\*** and an entry made in the patient's medical record **\*by the end of the shift\*;\* \*.** **The pharmacy and therapeutics committee shall review all incidents relating to drugs, including medication errors and adverse drug reactions;\***

6.–10. (No change from proposal.)

#### 8:39-9.2 Pharmacy and therapeutics committee; policies and procedures

(a) (No change from proposal.)

(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.–2. (No change from proposal.)

3. 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;

4.–8. (No change from proposal.)

9. Policies and procedures for documenting and reviewing adverse drug reactions, medication errors, and drug defects, including, but not limited to, the following:

i. (No change from proposal.)

ii. Medication errors and adverse drug reactions shall be orally reported immediately to the director of nursing services, the prescriber, **\*[and]\* the administrator, \*and the pharmacist,\*** and an entry made in the patient's medical record **\*by the end of the shift\*.** The pharmacy and therapeutics committee shall review all incidents relating to drugs\*, **including medication errors and adverse drug reactions\*.**

10.–15. (No change from proposal.)

#### 8:39-9.3 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.–7. (No change from proposal.)

8. Preparing, reviewing, dating, and signing the pharmacist consultation sheet in each patient's medical record at least **\*[every 30 days]\* \*monthly\***, noting any **\*[problems such as interactions or incorrect dosages;]\* \*findings and recommendations in accordance with N.J.A.C. 8:39-1.1 "Pharmacist consultation sheet;"/>**

9. (No change from proposal.)

#### SUBCHAPTER 12. SOCIAL **\*WORK\*** SERVICES

(No change in text of subchapter.)

#### 8:39-13.4 Patient activities coordinator's responsibilities

(a) The patient activities coordinator shall be responsible for the direction, provision, and quality of the patient activities. He/she shall be responsible for, but not limited to, the following:

1.–8. (No change from proposal.)

9. Maintaining a current record of community services, resources, programs, and materials accessible to **\*[patients,]\* staff, \*patients,\*** and their relatives and friends;

10.–17. (No change from proposal.)

#### 8:39-16.1 Policies and procedures

(a)–(b) (No change from proposal.)

(c) The facility shall comply with all applicable State and Federal

statutes, rules, and regulations concerning patient rights, including N.J.S.A. 30:13-1 et seq., P.L. 1976, Chapter 120, \*N.J.S.A. 52:27G-7.1,\* and this chapter \*[:]\*. N.J.S.A. 30:13-1 et seq., P.L. 1976, Chapter 120 shall be conspicuously posted in the facility.\*

(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 acknowledgment, and is given a statement of these rights and of the facility's rules and regulations, **\*a copy of N.J.S.A. 30:13-1 et seq., P.L. 1976, Chapter 120,\*** 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. (No change from proposal.)

3. Is allowed to retain the services of his/her physician at his/her own expense or under a third-party payment system; is assured of medical care; is informed by a physician of his/her complete and current medical condition unless medically contraindicated (as documented, by a physician, in the patient's medical record), in which case the physician shall inform the patient's next of kin and/or sponsor and/or guardian; is afforded the opportunity to participate in the planning of his/her care and treatment; to refuse medication and treatment after being informed of \*[and understanding]\* the \*[consequences]\* **\*effects\*** of such actions, and to refuse to participate in experimental research (but if he/she chooses to participate, his/her informed written consent shall be obtained);

4. (No change from proposal.)

5. 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 and/or next of kin and/or sponsors and/or guardians with the name, address, and telephone numbers of the following offices where complaints may be lodged:

Division of Health Facilities Evaluation  
New Jersey State Department of Health  
CN 367  
Trenton, NJ 08625  
Telephone: (800) 792-9700; and

\*[Ombudsman for the Institutionalized Elderly  
28 West State Street  
Trenton, NJ 08608]\*  
**\*State of New Jersey  
Office of the Ombudsman for the Institutionalized Elderly  
CN 808  
Trenton, NJ 08625\*  
Telephone: (800) 792-8820**

i. (No change from proposal.)

6. Is free from mental and physical abuse, **\*free from exploitation, in accordance with N.J.S.A. 52:27G-7.1,\*** and free from chemical and physical restraints, except those restraints authorized by a physician for a specified and limited period of time or in an emergency (see N.J.A.C. 8:39-6.2(c)16). 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;

7.-12. (No change from proposal.)

13. May retain and use personal clothing and possessions **\*[as space permits]\***, unless to do so would **\*be unsafe or impractical or would\*** infringe upon 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 periods established by the facility, and at a reasonable hour;

14.-22. (No change from proposal.)

\*[8:42B-17.2]\* **\*8:39-17.2\*** Assignment of responsibility

The facility shall assign supervisory responsibility for the medical record service to a full-time employee, who, if not a medical record practitioner, functions with consultation from a person so qualified.

8:39-19.2 Discharge planning committee; policies and procedures

(a) A discharge planning committee appointed by the administrator shall develop written discharge planning objectives, policies and procedures, approved by the Department, which shall describe:

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

4. The manner in which the facility shall utilize a multidisciplinary team approach in discharge planning, including **\*a representative of the nursing service,\*** the patient and his/her next of kin and/or sponsor and/or guardian. The social work consultant shall be available in facilities of 46 or more beds; and

5. (No change from proposal.)

8:39-22.3 Facility's responsibilities

(a) The facility shall comply **\*[with the provisions of the New Jersey State Sanitary Code and]\*** with the following:

1. The facility and its contents shall be free from **\*[dust,]\* dirt \* [,]\*** and debris;

2.-5. (No change from proposal.)

6. All furnishings **\*shall be clean and in good repair\*** and mechanical equipment shall be in working order. Equipment shall be kept covered to protect from contamination, and accessible for cleaning and inspection. Broken **\*or worn\*** items shall be repaired **\*, replaced, or removed\*** promptly;

7.-21. (No change from proposal.)

22. The temperature of the hot water supply **\*at each hot water outlet\*** shall be regulated and shall not exceed 110 degrees F. (43 degrees C.), except as specified in the New Jersey State Sanitary Code for dishwashing purposes; and

23. (No change from proposal.)

8:39-24.1 Standards for construction

(a) Standards for construction of new buildings, additions, alterations, and renovations to existing buildings shall be in accordance 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) 79-14500. In order to avoid conflict, Sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, Article 7 except Sections 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.<sup>1</sup> Copies of these publications may be reviewed at:**

Health Facilities Construction  
and Monitoring Program  
Division of Health Planning and  
Resources Development  
Department of Health  
Health-Agriculture Building  
John Fitch Plaza  
CN 360  
Trenton, NJ 08625

(b) All patient bedrooms in facilities constructed after the adoption of these standards shall be equipped with a comprehensive smoke detection system connected to the central alarm system.]\*

\*[DHEW Publication No. (HRA) 79-14500 may be obtained from the United States Government Printing Office, Washington, D.C.]\*

8:39-25.1 Standards for existing buildings \*[or major alterations]\*

(a) Standards for existing buildings \*[or major alterations]\* constructed after July 1, 1979, shall be in accordance 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) 79-14500. In order to avoid conflict, Sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, Article 7 except Sections 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.

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

SUBCHAPTER \*[14.]\***27.\* BEDS FOR INDIGENT PERSONS**

8:30-14.1 through 14.7 has been recodified as 8:39-27.1 through 27.7

## HIGHER EDUCATION

(a)

### STUDENT ASSISTANCE BOARD

#### Tuition Aid Grant Program 1983 - 1984 Award Table

#### Adopted Amendment: N.J.A.C. 9:7-3.1

Proposed: February 22, 1983 at 15 N.J.R. 206(a).  
Adopted: June 2, 1983 by the Student Assistance Board,  
Luis Nieves, Chairman.  
Filed: June 6, 1983 as R.1983 d.250, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
April 13, 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]\*).

#### 9:7-3.1 Tuition Aid Grant Award Table

The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award table below shows approximate award levels depending upon tuition and ability to pay.

(Delete the existing table in the New Jersey Administrative Code at N.J.A.C. 9:7-3.1 and replace it with the following table.)

#### TUITION AID GRANT (TAG) AWARD TABLE FOR 1983-84

#### APPROXIMATE TUITION AID GRANT VALUES<sup>1</sup> NEW JERSEY COLLEGES AND UNIVERSITIES

New Jersey Eligibility Index (NJEI)	County Colleges	State Colleges	Independ- ent Insti- tutions	Rutgers	Renewal <sup>2</sup>
				U.*, *[*&]*NJ Tech.*, & UMDNJ <sup>3*</sup>	Out-of -State & Univer- sities
A	B	C	D	E	F
Under 750	\$625	\$960	\$1600	\$1366	\$450
750-1049	525	860	1500	1260	260
1050-1349	425	760	1400	1160	260
1350-1649	325	660	1300	1060	260
1650-1949	225	560	1200	960	200
1950-2249	200	460	1100	860	0
2250-2549	0	360	1000	760	
2550-2849		260	900	660	
2850-3149		200	800	560	
3150-3449		0	700	460	
3450-3749			600	360	
3750-4049			500	260	
4050-4349			400	200	
4350-4649			300	0	
4650-4949			200		
Over 4949			0		

<sup>1</sup>In accordance with State guidelines, the value of your grant may decrease dependent upon appropriated funds, your college budget, your available resources and your Estimated Family Contribution. You will be notified of any increase in your grant if additional funds become available.

<sup>2</sup>"Renewals" are students who receive a tuition Aid grant in \*[a prior year]\* **\*1981-82 or prior years\***.

<sup>3</sup>**Approved programs only at UMDNJ. Contact the financial aid office for details.\***

## HUMAN SERVICES

(a)

### DIVISION OF PUBLIC WELFARE

#### Food Stamp Program Amendments Required by the Food Stamp Amendments of 1982 and the Omnibus Budget Reconciliation Act of 1981

#### Readopted Amendments: N.J.A.C. 10:87-2.3, 2.21, 3.10, 3.11, 4.4, 4.6, 4.7, 4.14, 4.16, 5.4, 5.6, 7.14, 7.15 and 9.7

Proposed: April 18, 1983 at 15 N.J.R. 629(a).  
Adopted: May 27, 1983 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: May 31, 1983 as R.1983 d.223, with technical  
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 Food Stamp Act  
Amendments of 1982 (P.L. 97-253), the Omnibus  
Budget Reconciliation Act of 1981 (P.L. 97-35), 47  
FR 53309 issued November 26, 1982 and 48 FR 6836  
issued February 15, 1983.

Effective Date: May 31, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
March 1, 1984.

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]\*).

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  
effect the household's eligibility or benefit level. Procedures for  
verifying loans and liquid resources are described in [paragraph 8  
of this subsection] (a)8v below.

i.-ii. (No change from proposal.)

iii. Citizenship: When a household's statement that one or more  
of its members is a United States citizen is questionable, the  
household shall be asked to provide acceptable verification.  
Acceptable forms of verification include birth certificates, religious  
records, voter registration cards, or certificates of citizenship or  
naturalization provided by INS, such as Identification cards for Use  
of Resident Citizens in the United States (INS Form I-179 or INS  
Form I-197) or United States Passports.

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

(3) The member whose citizenship is in question shall be [allowed  
to participate for two months pending verification of citizenship if  
the household is otherwise eligible and efforts are being made to  
obtain the necessary verification. If verification has not been

obtained within two months, the member whose citizenship is in  
question shall be ineligible and his/her income and resources shall  
not be considered available to any remaining household members]  
**ineligible to participate until proof of United States citizenship  
is obtained. Until proof of United States citizenship is obtained,  
the member whose citizenship is in question shall have \*his or  
her income, less a pro rata share, and all of\* his or her  
resources considered available to any remaining household  
members as set forth in N.J.A.C. 10:87-7.14(c).**

iv-v. (No change from proposal.)

9. (No change from proposal.)

10:87-3.11 Awaiting verification

(a) If verification of eligibility alien status or citizenship as  
required by N.J.A.C. 10:87-2.21 (a)2 and (a)8, respectively, is  
not provided on a timely basis, the eligibility of the remaining  
household members shall be determined. [The alien(s) whose status  
is unverified shall be considered a nonhousehold member(s), and  
the remaining members shall be determined in accordance with  
N.J.A.C. 10:87-7.15.] **The income and resources of the alien(s)  
whose status is unverified or individual whose citizenship is  
questionable shall be treated in the same manner as an excluded  
member as specified in N.J.A.C. 10:87-7.14(c) and considered  
available in determining the eligibility of the remaining  
household members.**

1. Subsequent verification: If verification of eligible alien status  
or citizenship is subsequently received, the CWA shall act on the  
information as a reported change in household membership in \*  
[accordance]\* **\*accordance\*** with timeliness standards in  
[subchapter 9 of this chapter] N.J.A.C. 10:87-9.

10:87-7.14 **Treatment of [Income] income and resources of  
[disqualified] excluded household members**

(a) (No change from proposal.)

(b) **Excluded for intentional program violation  
disqualification: The eligibility and benefit level of any  
remaining household members of a household containing  
individuals excluded because of disqualification for intentional  
program violation shall be determined as follows:**

1. **Resources: The resources of the excluded household  
member\*(s)\* shall continue to count in their entirety to the  
remaining household members.**

2. **Income and deductions: The income of the excluded  
household member\*(s)\* shall continue to be counted in its  
entirety and the entire household's allowable 18 percent earned  
income, standards, medical, dependent care, and excess shelter  
deductions shall continue to apply to the remaining household  
members.**

3. **Eligibility and benefit level: The excluded member\*(s)\*  
shall not be included when determining the household's size for  
the purpose of:**

i.-iii. (No change from proposal.)

(c) **Excluded for other causes: The eligibility and benefit level  
of any remaining household members of a household containing  
\*[an]\* individual\*s\* excluded \*[as]\* **\*for being\* an ineligible  
alien, having questionable citizenship status, or because of  
disqualification for refusal to obtain or provide a Social  
Security number shall be determined as follows:****

1. **Resources: The resources of \*[the]\* [disqualified] **\*such\*  
excluded member\*(s)\* shall continue to count in their entirety to  
the remaining household member[;].****

2. **Income: A pro rata share of the income of \*[the]\* [disqualified]  
**\*such\* excluded member\*(s)\* shall be counted as income to the  
remaining members. This pro rata share is calculated by first  
subtracting the allowable exclusions (see N.J.A.C. 10:87-5.9) from  
the [disqualified] excluded \*[member's]\* **\*members'\*** income  
and then dividing the income evenly among the household  
members, including the [disqualified] **excluded member\*(s)\***. All  
but the [disqualified] **excluded \*[member's]\* **\*member's\*** share  
is counted as income to the remaining household members.******

3. Deductible expenses: The 18 percent earned income deduction shall only apply to that portion of the [disqualified] **excluded** \* [member's]\* **\*members\*** earned income which is attributed to the household in N.J.A.C. 10:87-7.14[(a)](c)2. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the [disqualified] **excluded** member\*(s)\* shall be divided evenly among the household members, including the [disqualified] **excluded** member\*(s)\*. All but the [disqualified] **excluded** \*[member's]\* **\*members\*** share is counted as a deductible shelter expense for the remaining household members.

4. Eligibility and benefit level: The [disqualified] **excluded** member\*(s)\* shall not be included when determining the household's size for purposes of [assigning a benefit level to the household or for purpose of comparing the household's net monthly income with the income eligibility standards.]:

- i.-iii. (No change from proposal.)
- (d) (No change from proposal.)

10:87-9.7 Changes

- (a)-(b) (No change from proposal.)
- (c) Changes not requiring advance notice. Individual notices of adverse action are not required when:
- 1.-9. (No change from proposal.)

**10. Converting household from cash and/or food stamp coupon repayment to benefit reduction: The household's food stamp allotment is reduced to repay a claim as a result of failure to make agreed upon installment payments in cash and/or food stamp coupons (see N.J.A.C. 10:87-11. \*[28]\* \*29\* (a)2iii).**

**(a)**

**DIVISION OF PUBLIC WELFARE**

**Food Stamp Program  
Disqualification Penalties for Intentional  
Program Violation and Improved Recovery  
of Overpayments**

**Readopted Amendments: N.J.A.C. 10:87-11.1  
through 11.12, 11.15, 11.16 and 11.20  
through 11.29**

Proposed: April 18, 1983 at 15 N.J.R. 633(a).  
Adopted: May 27, 1983 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: May 31, 1983 as R.1983 d.224, **with technical  
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 Food Stamp Act  
Amendments of 1982 (P.L. 97-253), the Omnibus  
Budget Reconciliation Act of 1981 (P.L. 97-35), 48  
FR 6836 issued February 15, 1983.

Effective Date: May 31, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
March 1, 1984.

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]\***).

10:87-11.15 Computing amount to be restored

(a) After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12 month time limits described in [section 12 of this subchapter] N.J.A.C. **10:87-11.12**, the CWA shall calculate the amount to be restored as follows:

- 1.-4. (No change from proposal.)
- 5. Offsetting claims: If a claim against a household is unpaid or held in suspense as provided in N.J.A.C. 10:87-11. [26] **27(a)3**, the amount to be restored shall be offset against the amount due on the claim before any restoration is made to the household. At the point in time when the household is certified and receives an initial\* [allot-ment]\* **\*allotment\***, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively. Similarly, initial allotments given at recertification shall not be reduced to offset claims.

10:87-11.[28] **29** Methods of collection

(a) The CWA shall collect [fraud or nonfraud] **intentional program error, inadvertent household error and administrative error** claims as provided below[.]:

- 1.-2. (No change from proposal.)
- [3. Civil court action: The CWA may initiate civil court action to obtain payment of a claim. However, the CWA shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule, or to make the agreed upon payments. Nor shall the CWA threaten the household with a denial, termination or reduction in benefits or otherwise infer that it has the power to do so.]

**3. Allotment reduction: The CWA shall collect payments for inadvertent household error and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.**

- i. (No change from proposal.)
- ii. Prior to reducing the household's monthly allotment, the CWA shall advise the household of the appropriate formula to be used to determine the amount of food stamps to be recovered each month, the effect on the coupon allotment and the availability of other methods of repayment. If the household does not select another method of repayment, the CWA shall determine the amount to be recovered each month as follows:
  - (1) **Inadvertent household error: The household's food stamp allotment shall be reduced by the greater of 10 percent of the monthly allotment or \$10.00. \*The allotment may be reduced by a greater amount if the household so chooses.\***
  - (2) (No change from proposal.)
  - (3) **Intentional program violation claims: The household's food stamp allotment shall be reduced by the greater of 20 percent of the household's entitlement or \$10.00. \*The allotment may be reduced by a greater amount if the household so chooses.\***

- (A) (No change from proposal.)
- (4) (No change from proposal.)
- 4.-6. (No change from proposal.)

**(b)**

**DIVISION OF PUBLIC WELFARE**

**Food Stamp Program  
Food Stamp Program Plan of Operation  
Manual**

**Adopted Repeal: N.J.A.C. 10:88**

Proposed: April 18, 1983 at 15 N.J.R. 611(a).

## ADOPTIONS

Adopted: June 2, 1983 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: June 3, 1983 as R.1983 d.246, **without change**.

Authority: N.J.S.A. 30:4B-2.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
No Expiration Date.

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

### (a)

## DIVISION OF PUBLIC WELFARE

### Eligibility of Immigrants, Disabled Persons and Refugees for Public Assistance

#### Adopted Repeal: N.J.A.C. 10:93

Proposed: April 18, 1983 at 15 N.J.R. 611(b).  
Adopted: June 2, 1983 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: June 3, 1983 as R.1983 d.245, **without change**.

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
No Expiration Date.

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

## LAW AND PUBLIC SAFETY

### (b)

## DIVISION OF MOTOR VEHICLES

### Driver Control Service Probationary Driver Licenses

#### Adopted Repeal: N.J.A.C. 13:19-2

Proposed: April 4, 1983 at 15 N.J.R. 501(b).  
Adopted: May 19, 1983 by Clifford W. Snedeker, Director,  
Division of Motor Vehicles.  
Filed: June 2, 1983 as R.1983 d.242, **without change**.

Authority: N.J.S.A. 39:2-3, 39:3-10 and 39:5-30.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No.66(1978):  
No expiration date.

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

## LAW AND PUBLIC SAFETY

### (c)

## BOARD OF ACCOUNTANCY

### Applications for Reexamination

#### Adopted Amendment: N.J.A.C. 13:29-1.7

Proposed: November 15, 1982 at 14 N.J.R. 1279(a).  
Adopted: March 4, 1983 by State Board of Accountancy,  
Elliott Pachtman, President.  
Filed: May 25, 1983 as R.1983 d.211, **with substantive  
changes** not requiring additional public notice and  
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:2B-10.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
July 21, 1983.

Summary of Public Comments and Agency Responses  
and Reasons for Changes Upon Adoption:  
**No comments received.**

N.J.A.C. 13:29-1.7(b)8 is being deleted because it is duplicative  
of what is already contained in (b)1-5.

**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]\***).

13:29-1.7 Application for reexamination

(a) (No change.)

(b) Rules on conditional credit are:

1.-7. (No change from proposal.)

**\*[8. An applicant who fails to qualify for conditional credit  
pursuant to this rule shall be deemed to be a new applicant at the  
next succeeding examination for which he sits and shall be required  
to write the entire examination therefor.]\***

**\*[9.]\* \*8.\*** (No change in text.)

**\*[10.]\* \*9.\*** (No change in text.)

### (d)

## BOARD OF VETERINARY MEDICAL EXAMINERS

### Fee Schedule General Provisions

#### Adopted Amendment: N.J.A.C. 13:44-4.1

Proposed: April 18, 1983 at 15 N.J.R. 612(a).  
Adopted: June 1, 1983 by Board of Veterinary Medical  
Examiners, David Eisenberg, D.V.M., President.  
Filed: June 6, 1983 as R.1983 d.252, **without change**.

Authority: N.J.S.A. 45:1-3.2.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No.66(1978):  
January 17, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

**TRANSPORTATION**

**(a)**

**TRANSPORTATION OPERATIONS**

**Speed Limits for State Highways  
Route 18**

**Adopted Amendment: N.J.A.C. 16:28-1.23**

Proposed: April 4, 1983 at 15 N.J.R. 519(a).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.232, **without change**.

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

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(b)**

**TRANSPORTATION OPERATIONS**

**Speed Limits for State Highways  
Route 166**

**Adopted Amendment: N.J.A.C. 16:28-1.90**

Proposed: April 4, 1983 at 15 N.J.R. 520(a).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.231, **without change**.

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

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(c)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route 17**

**Adopted Amendment: N.J.A.C. 16:28A-1.9**

Proposed: April 4, 1983 at 15 N.J.R. 520(b).

Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.228, **without change**.

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

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(d)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route 23**

**Readopted Amendment: N.J.A.C. 16:28A-  
1.15**

Proposed: April 4, 1983 at 15 N.J.R. 555(a).  
Adopted: May 18, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.225, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-6, 39:4-138.1  
and 39:4-139.

Effective Date: June 1, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(e)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route US 9W**

**Adopted Amendment: N.J.A.C. 16:28A-1.61**

Proposed: April 4, 1983 at 15 N.J.R. 521(a).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.227, **without change**.

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

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(a)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route 439**

**Adopted Amendment: N.J.A.C. 16:28A-1.70**

Proposed: April 4, 1983 at 15 N.J.R. 521(b).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.226, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and  
39:4-139.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(b)**

**TRANSPORTATION OPERATIONS**

**Miscellaneous Traffic Rules  
Route US 22**

**Adopted Amendment: N.J.A.C. 16:30-3.7**

Proposed: April 4, 1983 at 15 N.J.R. 522(a).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.229, **without change**.

Authority: N.J.S.A. 27:1A-1, 27:1A-5, 27:1A-6, 27:1A-44,  
27:7-21 and 39:4-6.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
August 1, 1983.

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

**(c)**

**TRANSPORTATION OPERATIONS**

**Turns  
Route US 206**

**Adopted Amendment: N.J.A.C. 16:31-1.1**

Proposed: April 4, 1983 at 15 N.J.R. 522(b).  
Adopted: May 19, 1983 by David W. Gwynn, Chief  
Engineer, Transportation Operations and Local Aid.  
Filed: June 1, 1983 as R.1983 d.230, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1-6 and 39:4-183.6.

Effective Date: June 20, 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**

**(d)**

**DIVISION OF PENSIONS**

**Administrative Practices  
Transfers; Court Attendants/Sheriff's  
Officers**

**Adopted New Rule: N.J.A.C. 17:1-12.4**

Proposed: April 4, 1983 at 15 N.J.R. 525(a).  
Adopted: May 23, 1983 by William J. Joseph, Director,  
Division of Pensions.  
Filed: May 26, 1983 as R.1983 d.216, **without change**.

Authority: N.J.S.A. 52:18A-96.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
May 15, 1988.

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

**(e)**

**DIVISION OF PENSIONS**

**Administrative Practices  
Interfund Transfers; Accumulated Interest**

**Adopted New Rule: N.J.A.C. 17:1-12.5**

Proposed: April 4, 1983 at 15 N.J.R. 526(a).  
Adopted: May 23, 1983 by William J. Joseph, Director,  
Division of Pensions.  
Filed: May 26, 1983 as R.1983 d.217, **without change**.

Authority: N.J.S.A. 52:18A-96.

Effective Date: June 20, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
May 15, 1988.

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

**(a)**

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Update of Administrative Rules**

**Adopted Amendment: N.J.A.C. 17:10**

Proposed: November 15, 1982 at 14 N.J.R. 1296(b).  
Adopted: May 20, 1983 by State House Commission for  
Judicial Retirement System, William J. Joseph,  
Secretary.

Filed: May 25, 1983 as R.1983 d.212, **without change**.

Authority: N.J.S.A. 43:6A-29d.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
May 16, 1988.

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

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**(b)**

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Proof of Age**

**Adopted Amendment: N.J.A.C. 17:10-1.8**

Proposed: November 15, 1982 at 14 N.J.R. 1298(a).  
Adopted: May 20, 1983 by State House Commission for  
Judicial Retirement System, William J. Joseph,  
Secretary.

Filed: May 25, 1983 as R.1983 d.214, **without change**.

Authority: N.J.S.A. 43:6A-8 and 43:6A-29d.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
May 16, 1988.

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

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**(c)**

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Computation of Benefits; Insurance**

**Adopted Amendment: N.J.A.C. 17:10-3.1**

Proposed: November 15, 1982 at 14 N.J.R. 1299(a).  
Adopted: May 20, 1983 by State House Commission, for  
Judicial Retirement System, William J. Joseph,  
Secretary.

Filed: May 25, 1983 as R.1983 d.213, **without change**.

Authority: N.J.S.A. 43:6A-17 and 43:6A-29d.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
May 16, 1988.

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

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**(d)**

**DIVISION OF INVESTMENT**

**Classification of Funds**

**Readoption: N.J.A.C. 17:16-5.1 and 5.2**

Proposed: April 4, 1983 at 15 N.J.R. 531(a).  
Adopted: June 1, 1983 by Roland M. Machold, Director,  
Division of Investment, and State Investment Council.  
Filed: June 1, 1983 as R.1983 d.233, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: June 1, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
June 1, 1988.

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

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**TREASURY-TAXATION**

**(e)**

**DIVISION OF TAXATION**

**Corporation Business Tax  
Computation of Tax by Short Tax Table**

**Adopted Amendment: N.J.A.C. 18:7-3.5**

Proposed: March 7, 1983 at 15 N.J.R. 320(a).  
Adopted: May 31, 1983 by John R. Baldwin, Acting  
Director, Division of Taxation.  
Filed: May 31, 1983 as R.1983 d.219, **without change**.

Authority: N.J.S.A. 54:10A-5 and 54:10A-27.

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
February 6, 1984.

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

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(a)

## DIVISION OF TAXATION

**Local Property Tax  
Revaluation of Real Property****Repeal and Adopted New Rule: N.J.A.C.  
18:12-4**

Proposed: March 7, 1983 at 15 N.J.R. 322(a).  
 Adopted: May 31, 1983 by John R. Baldwin, Acting  
 Director, Division of Taxation.  
 Filed: May 31, 1983 as R.1983 d.221, **without change**.

Authority: N.J.S.A. 54:1-35.35.

Effective Date: June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978):  
 August 15, 1983.

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

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(b)

## DIVISION OF TAXATION

**Sales and Use Tax  
Transitional Provisions for Increase in Tax  
Rate****Adopted New Rule: N.J.A.C. 18:24-11.3**

Proposed: March 7, 1983 at 15 N.J.R. 324(a).  
 Adopted: May 31, 1983 by John R. Baldwin, Acting  
 Director, Division of Taxation.  
 Filed: May 31, 1983 as R.1983 d.220, **without change**.

Authority: N.J.S.A. 54:32B-24 and P.L. 1982, c.227.

Effective Date: June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978):  
 August 15, 1983.

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

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## OTHER AGENCIES

(c)

**HACKENSACK MEADOWLANDS  
DEVELOPMENT COMMISSION****Revised Fee Schedules****Adopted Amendments: N.J.A.C. 19:3-1.1,  
1.2 and 1.4**

Proposed: March 21, 1983 at 15 N.J.R. 428(a).  
 Adopted: May 23, 1983 by Hackensack Meadowlands  
 Development Commission, Anthony Scardino, Jr.,  
 Executive Director.  
 Filed: June 6, 1983 as R.1983 d.254, **without change**.

Authority: N.J.S.A. 13:17-1 et seq.

Effective Date: June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978):  
 June 19, 1988.

**Summary of Public Comments and Agency Responses:**

Written comments were received from Patricia Segedin, Assistant Vice President of Bellemead Development Corporation and Richard Fritzky on behalf of the Meadowlands Chamber of Commerce. They both commented that the proposed fees appeared to be excessive, and that they should be linked to actual costs incurred by the Hackensack Meadowlands Development Commission.

A written response to Miss Segedin and Mr. Fritzky was provided, explaining the rationale for revised fees. This response included charts of cost estimates based upon reviews of typical applications, which do not include costs for overhead and supplies.

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(d)

**GARDEN STATE PARKWAY****Rules Governing Use of the Garden State  
Parkway****Readoption: N.J.A.C. 19:8**

Proposed: April 18, 1983 at 15 N.J.R. 615(a).  
 Adopted: June 1, 1983 by New Jersey Highway Authority,  
 William F. Smith, Executive Director.  
 Filed: June 2, 1983 as R.1983 d.237, **without change**.

Authority: N.J.S.A. 27:12B-5(j).

Effective Date: June 2, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978):  
 June 1, 1988.

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

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(a)

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Schedule of Charges Public Vehicular Parking at Journal Square Transportation Center

Adopted: April 14, 1983 by Board of Directors of the Port Authority Trans-Hudson Corporation, Francis A. Gorman, Vice-President and General Manager. Filed: May 26, 1983 as R.1983 d.218, (exempt from Administrative Procedure Act as "exempt agency", see N.J.S.A. 52:14B-2(a)).

Effective Date: June 1, 1983.

Full text of the adoption follows:

Journal Square Transportation Center Public Vehicular Parking Revision of Schedule of Charges

RESOLVED, that the Schedule of Charges for public vehicular parking at the Journal Square Transportation Center, adopted by the Board, at its meeting on June 12, 1975, be and the same is hereby amended, effective June 1, 1983, or such other date as the Jersey City parking tax may become effective, to read as follows:

PARKING RATES\* MONDAY TO FRIDAY

6 AM-6 PM EXCLUDING HOLIDAYS\*\*

Table with 2 columns: Duration (Up to 1 hour to Up to 24 hours\*\*\*), Rate (\$1.25 to \$5.75)

PARKING RATES\* WEEKEND, HOLIDAY OR BETWEEN 6 PM-6AM

Table with 2 columns: Duration (Up to 1 hour to Up to 24 hours\*\*\*\*), Rate (\$.75 to \$3.50)

\*Rates include City of Jersey City 15% tax

\*\*New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

\*\*\*Maximum Daily Rate, excluding weekend and holidays

\*\*\*\*Maximum Daily Rate for weekends and holidays

Over 24 hours - \$.75 each hour or part up to daily maximum

MINIMUM OF \$5.75 IF TICKET IS LOST

(b)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Slot Machines; Coin Containers; Keys

Adopted Amendment: N.J.A.C. 19:45-1.36

Proposed: September 20, 1982 at 14 N.J.R. 1052(a). Adopted: June 2, 1983 by Casino Control Commission, Walter N. Read, Chairman. Filed: June 2, 1983 as R.1983 d.239, without change.

Authority: N.J.S.A. 5:12-63(c).

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): April 7, 1988.

Summary of Public Comments and Agency Responses:

One comment was received on the proposal from Alfred Luciani for Don Pors, Slot Manager of GNAC, Corp. Mr. Pors suggested that supervisors should not be required to sign the log.

This suggestion was rejected inasmuch as the amendment would clarify the fact that the intention of the regulation is not to place restrictions on who signs the log. Further, all slot machines are equipped with Machine Entry Authorization Logs, supervisors must simply sign the log and enter appropriate information which takes a minimal amount of time.

(c)

CASINO CONTROL COMMISSION

Gaming Equipment Dealing Shoes

Adopted Amendment: N.J.A.C. 19:46-1.19 (proposed under Group A)

Proposed: June 7, 1982 at 14 N.J.R. 559(b). Adopted: June 2, 1983 by Casino Control Commission, Walter N. Read, Chairman. Filed: June 2, 1983 as R.1983 d.238, without change.

Authority: N.J.S.A. 5:12-63(c) and -70(f).

Effective Date: June 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1988.

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

(a)

## CASINO CONTROL COMMISSION

Rules of the Games  
Craps; Point Throw; Settlement of Wagers

## Adopted Amendment: N.J.A.C. 19:47-1.10

Proposed: February 22, 1983 at 15 N.J.R. 242(b).  
 Adopted: June 2, 1983 by Casino Control Commission,  
 Walter N. Read, Chairman.  
 Filed: June 2, 1983 as R.1983 d.240, **with a technical  
 change** not requiring additional public notice and  
 comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:12-63(c), -69(a), -70(f).

Effective Date: June 20, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978):  
 May 4, 1988.

## Summary of Public Comments and Agency Responses:

Comments received on the proposal include the Division of Gaming Enforcement supporting the amendment and from a Michael L. Ticktin suggesting that the letters "i.e." be changed to "for example" in 19:47-1.10(a)(1). This suggestion has been accepted and incorporated as a non-substantive change for purposes of clarity and comprehension.

Mr. Ticktin further suggested that since the amendment establishes a rule for resolving disputes concerning a "cocked die," that N.J.A.C. 19:47-1.10(a)(2) be deleted. N.J.A.C. 19:47-1.10(a)(2) does not change the intent or interpretation of the amendment. It is, therefore necessary for the existing language to continue in the event that a different type of dispute occurs. This suggestion has been rejected.

**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]\***).

19:47-1.10 Point throw[n]; settlement of wagers

(a) When the dice come to rest from a valid throw, the Stickman shall at once call out the sum of the numbers on the high or uppermost sides of the two dice. Only one face on each die shall be considered skyward.

1. **In the event either or both of the dice do not land flat on the table (\*[i.e.]\* \*for example\*, one edge of the die is resting cocked on a stack of chips), the side directly opposite the side that is resting on the chips or other object shall be considered uppermost and skyward. If more than one side of a die is resting on a stack of chips or other object, the roll shall be void and the dice shall be re-thrown.**

2. (No change from proposal.)

(b) (No change from proposal.)

# LATE FILING

## ENVIRONMENTAL PROTECTION

(a)

### DIVISION OF WATER RESOURCES

#### Standards for the Construction of Individual Subsurface Sewage Disposal Systems

#### Readoption: N.J.A.C. 7:9-2

Proposed: April 18, 1983 at 15 N.J.R. 581(a).  
Adopted: May 31, 1983 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.  
Filed: June 3, 1983 as R.1983 d.243, **without change**.

Authority: N.J.S.A. 58:11-36 and N.J.S.A. 13:1B-3.

Effective Date: June 3, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
June 3, 1988.

#### Summary of Public Comments and Agency Responses:

Only one comment was received by the Department, from Jersey  
Central Power and Light Company which strongly supported  
readoption of the rule.

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# INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between June 21, 1982 and June 6, 1983, and which have not been adopted and filed by June 6, 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)
<b>ADMINISTRATIVE LAW—TITLE 1</b>			
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:1-10.1	Pre-hearing conferences by telephone	4-18-83	15 N.J.R. 582(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)
<b>AGRICULTURE—TITLE 2</b>			
2:23	Voluntary Gypsy Moth Suppression Program	3-21-83	15 N.J.R. 370(a)
2:68-1	Commercial feeding stuffs: Association standards	4-18-83	15 N.J.R. 583(a)
2:69-1.11	Commercial values for fertilizers and conditioners	5-2-83	15 N.J.R. 658(a)
2:71-2.28	Fruits and vegetables: Rates for inspection services	4-4-83	15 N.J.R. 462(a)
2:73-2	Readopt State Seal of Quality for eggs	4-18-83	15 N.J.R. 584(a)
<b>BANKING—TITLE 3</b>			
3:1-13.1	Insurance tie-in prohibition by lenders	6-6-83	15 N.J.R. 820(a)
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)
3:11-1.1	Readopt approval for banks to exceed 10% limitation on investments	5-2-83	15 N.J.R. 658(b)
<b>CIVIL SERVICE—TITLE 4</b>			
4:1-8.3	Notice of examinations	5-16-83	15 N.J.R. 726(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-18.9, 18.10	Flexitime and operation hours (State)	3-21-83	15 N.J.R. 373(a)
4:1-18.11	Alternative workweek programs (State)	3-21-83	15 N.J.R. 374(a)
4:1-20.9	Tuition aid program (State)	3-7-83	15 N.J.R. 274(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-20.9	Repeal (see 4:1-20.9)	3-7-83	15 N.J.R. 273(a)
4:3-6.7	Repeal: Modification of sheriff's officer series	6-6-83	15 N.J.R. 820(b)
<b>COMMUNITY AFFAIRS—TITLE 5</b>			
5:10	Readopt Hotel and Multiple Dwellings rules	5-16-83	15 N.J.R. 727(a)
5:2-1.4	Residential tax exemptions: Additions and improvements	4-18-83	15 N.J.R. 586(a)
5:23-3.8A	Products violating the Uniform Construction Code	4-18-83	15 N.J.R. 587(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:27-1.5	Certificate of occupancy for boarding house change of use	6-6-83	15 N.J.R. 821(a)
5:30	Readopt Local Finance Board rules (except 5:30-16)	4-4-83	15 N.J.R. 463(b)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-5	Housing Finance Agency: transfer of ownership interests	6-6-83	15 N.J.R. 822(a)
<b>EDUCATION—TITLE 6</b>			
6:3-3.1-3.5	Readopt rules on withdrawal from limited purpose districts	5-16-83	15 N.J.R. 728(a)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:20-4.1, 4.2	Tuition for private schools for the handicapped	5-16-83	15 N.J.R. 730(a)
6:28	Readopt Special Education rules	5-16-83	15 N.J.R. 732(a)
6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
<b>ENVIRONMENTAL PROTECTION-TITLE 7</b>			
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)
7:2	Readopt State Park Service rules	6-6-83	15 N.J.R. 822(b)
7:6-1.37	Water skiing events on private lakes	5-16-83	15 N.J.R. 765(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)
7:7A-1.13	Wetlands in Middlesex County	3-21-83	15 N.J.R. 386(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 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	2-22-83	15 N.J.R. 198(a)
7:13-1.11	Floodways along the Raritan River	5-2-83	15 N.J.R. 659(a)
7:13-1.11	Readopt Delineated Floodway rules	6-6-83	15 N.J.R. 839(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14A	Readopt NJPDES permit program rules	4-18-83	15 N.J.R. 606(a)
7:15	Water quality management planning and implementation process	5-16-83	15 N.J.R. 765(b)
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)
7:25-2	Use of Wildlife Management Areas	6-6-83	15 N.J.R. 840(a)
7:25-5	1983-84 Game Code	5-16-83	15 N.J.R. 771(a)
7:25-7.13	Crab dredging off Atlantic coast	3-21-83	15 N.J.R. 388(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-14	Crab pots	3-21-83	15 N.J.R. 388(b)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(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)
7:26-1.4, 2.6, 2.11, 2.13, 3.5	Solid waste management	5-2-83	15 N.J.R. 660(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-1.4, 9.1, 12.1	Hazardous waste: Gas cylinder exemption	3-21-83	15 N.J.R. 390(a)
7:26-4	Readopt solid waste fee schedules	5-2-83	15 N.J.R. 662(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(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)
<b>HEALTH-TITLE 8</b>			
8:21-9	Readopt licensing rules for food and cosmetic plants	4-18-83	15 N.J.R. 609(a)
8:31A-8.1	Hospital reporting: Medical discharge abstract	4-4-83	15 N.J.R. 470(b)
8:42-2	Repeal (see 8:42B)	3-21-83	15 N.J.R. 397(a)
8:42B	Drug treatment facilities: Licensure	3-21-83	15 N.J.R. 397(a)
8:43-8	Residential health care: Maintenance and monitoring services	3-7-83	15 N.J.R. 309(b)
8:57-4	Immunization of pupils in schools	5-16-83	15 N.J.R. 781(a)
8:65-10	Controlled dangerous substances: schedule changes	6-6-83	15 N.J.R. 844(a)
8:70	Readopt: Drug Evaluation and Acceptance Criteria	6-6-83	15 N.J.R. 845(a)
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), 690(c))	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	Oxycodones; Schedule II policy	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes (see 15 N.J.R. 339(a), 691(a))	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 (see 15 N.J.R. 691(b))	2-7-83	15 N.J.R. 127(a)
8:71	Generic drug list additions	3-21-83	15 N.J.R. 420(a)
8:71	Additions to generic drug list	6-6-83	15 N.J.R. 846(a)
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9:9	Readopt Student Loan Program rules	4-4-83	15 N.J.R. 475(a)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)

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10:49-5	Readopt Fair Hearing rules	6-6-83	15 N.J.R. 848(a)
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10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:60-1.3	Covered home health services: Medical supplies	4-18-83	15 N.J.R. 610(a)
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10:82-1, 2, 3	ASH: readopt rules on AFDC eligible units, monthly grants, resources (with Emergency Adoption)	6-6-83	15 N.J.R. 935(a)
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