

# NEW JERSEY REGISTER



## REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS\*, PAGE 3322

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\* *The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.*

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# RULE PROPOSALS

**Interested persons** may submit, in writing, information or arguments concerning any of the following proposals until **January 2, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

On occasion, a proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

## COMMUNITY AFFAIRS

(a)

### DIVISION OF HOUSING AND DEVELOPMENT

#### Rooming and Boarding Houses Fire Safety

#### Proposed Amendment: N.J.A.C. 5:27-5.1

Authorized by: John P. Renna, Commissioner,  
Department of Community Affairs.

Authority: N.J.S.A. 55:13B-4.

Proposal Number: PRN 1984-674.

Address comments and inquiries to:  
Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing and Development  
CN 804  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The current regulation, N.J.A.C. 5:27-5.1 concerning egress requirements in rooming and boarding houses, requires a three-quarter hour fire-rated protection for windows next to the path of a fire escape. The proposed amendment will allow fire-rated wire glass in windows next to the path of a fire

escape instead of the current three-quarter hour fire rated protection.

#### Social Impact

The Department considers fire-rated wire glass to be an acceptable means of fire protection for windows and there will be no adverse social impact on the residents of rooming and boarding houses from the proposed amendment.

#### Economic Impact

The Department's acceptance of fire-rated wire glass in lieu of three-quarter hour fire-rated opening protectives for windows will result in savings for facility owners without jeopardizing the safety of the residents.

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

5:27-5.1 Egress requirements

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

(c) Means of egress:

1. (No change.)

2. All fire escapes shall be constructed of steel and shall conform to the following minimum requirements:

i.-iv. (No change.)

v. Doors [and windows] located next to the path of a fire escape shall be protected with three-quarter hour fire rated opening protectives. **Windows located next to the path of the fire escape shall be protected with fire-rated wire glass.**

3. (No change.)

(d) (No change.)

## NEW JERSEY REGISTER

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# ENVIRONMENTAL PROTECTION

(a)

## OFFICE OF THE COMMISSIONER

### 90 Day Construction Permit Rules

#### Proposed New Rule: N.J.A.C. 7:1C-1

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

Authority: N.J.S.A. 13:1D-9, 13:1D-33.

Proposal Number: PRN 1984-693.

**Interested persons** may submit data, views or arguments relative to this proposal, in writing on or before January 29, 1985, to:

Michael Marotta  
Department of Environmental Protection  
Office of Regulatory Services  
CN 402  
Trenton, New Jersey 08625

Any inquiries about the regulations may be made by calling Mr. Marotta at (609) 984-3588.

The agency proposal follows:

#### Summary

The 90-Day Construction Permit Law (N.J.A.C. 7:1C-1) imposes a number of procedural requirements on the Department of Environmental Protection's review of five different permit applications: Coastal Area Facility Review Act (CAFRA) Permits, Wetlands Permits, Waterfront Development Permits, Stream Encroachment Permits and Treatment Works Approvals for sanitary sewage collection systems (sewer extensions). The law's basic purpose is to secure timely decisions and to insure adequate public notice of those decisions.

N.J.A.C. 7:1C-1 expired on June 30, 1983. Due to its expiration, the rule is proposed for re-adoption as a new rule, with amendments to the current text, which appears in the New Jersey Administrative Code at N.J.A.C. 7:1C-1. Pursuant to Executive Order 66(1978), the rule was reviewed, and was found to be reasonable, necessary, reasonable, adequate, and proper.

The 90 Day Construction Permit Rules have been in effect since 1975. The purpose of this proposal is to re-adopt these rules as well as to update and clarify a number of provisions, and to make the rules consistent with a 1981 amendment to the Waterfront Development Law (N.J.S.A. 12:5-3), with the changes in the CAFRA, Wetlands and Waterfront Development Rules (See 16 N.J.R. 1072(d)). and with the revised Stream Encroachment Rules (See 16 N.J.R. 1201(a)).

The following changes have been proposed (editorial changes are not listed).

1. References to the authority for Stream Encroachment Permits have been changed to reflect the repeal of N.J.S.A. 58:1-26 and its replacement by N.J.S.A. 58:16A-55. (N.J.A.C. 7:1C-1.2)

2. References to Treatment Works Approvals under the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) have

been changed to be consistent with the Act and other regulations. (N.J.A.C. 7:1C-1.2)

3. The requirement that applicants file a notice of intent to file an application has been made optional, at the discretion of the reviewing agency. (N.J.A.C. 7:1C-1.3)

4. Applicants for Treatment Works Approvals will be required to submit the endorsement of the affected sewage authority or municipality. (N.J.A.C. 7:1C-1.3)

5. For some of the programs, the five year limit on permit duration has been extended to 10 years for projects of unusual size or scope. (N.J.A.C. 7:1C-1.5)

6. The fee for a modification in detail has been revised because the current provision is unclear to many people. (N.J.A.C. 7:1C-1.5)

7. The process for appealing permit decisions has been revised. The existing rules require that an appeal be filed within 10 days of publication of the decision in the DEP Bulletin. Because of the delays that are inherent in getting decisions into the Bulletin, the proposal provides that a permittee may publish notice of a decision in a newspaper of general and regional circulation, and by certified mail to any person who requested it. In those cases where the permittee exercises this option, a notice of appeal must be filed within 10 days of such publication. In all cases, appellants will now have 14 days from the date of the notice of appeal in which to file a more complete appeal request. (Note item 14 below, however.) (N.J.A.C. 7:1C-1.9)

8. The definition of a minor sewer extension project for purposes of over-the-counter processing has been slightly expanded. (N.J.A.C. 7:1C-1.13)

9. The over-the-counter process for Waterfront Development maintenance and repair has been eliminated, since a 1981 amendment (P.L. 1981, c.315) to the Waterfront Development Law eliminated the need for a permit for maintenance and repair. (N.J.A.C. 7:1C-1.13)

10. Several changes have been made so that the fees assessed are more in line with the Department's costs in processing and reviewing permit applications. These changes include eliminating the cap on fees, raising the fees for sewer extension permits and Stream Encroachment Permits, and increasing the fee for extension reviews of Stream Encroachment Permits. (N.J.A.C. 7:1C-1.5)

11. A minimum fee for certain types of projects that require a Waterfront Development Permit has been set. (N.J.A.C. 7:1C-1.5)

12. An amended definition of "minor stream encroachment project" and a new definition of "major stream encroachment project" have been added to reflect programmatic changes. (N.J.A.C. 7:1C-1.5)

13. Because of the importance of "projects of special concern" in the Stream Encroachment Program, a provision has been added so that these projects will not qualify for over-the-counter processing. (N.J.A.C. 7:1C-1.13)

14. A new section has been added to provide cross references to other sections that supplement or supersede the 90 Day Rules. (N.J.A.C. 7:1C-1.14)

#### Social Impact

The proposed re-adoption and amendments will have a positive social impact in that the classifications referred to in the Summary above will, among other things result in a better understanding of the permit process and the requirements which it imposes upon the applicant.

The amendments will also serve to ease potential delays in approved construction by allowing a permittee to publish

notice of the issuance of a permit in a local newspaper. The period within which an appeal may be filed will then run from that date rather than from a later date of publication of notice in the D.E.P. bulletin. In general, the proposed amendment will, wherever possible, result in a streamlining of the permit application process, and will contribute to the program's greater self-sufficiency.

#### Economic Impact

The proposed fee increases will result in greater self-sufficiency for the program, and will allow applicants, rather than the general public, to bear the principal financial burden of compliance. Applicant's fees will increase substantially. Some of this increase will be offset by the beneficial economic impact of reducing the complexity of the existing rules.

The increases reflect actual costs incurred by D.E.P. in its review process. Some of this increase will be offset by the beneficial economic impact of reducing the complexity of the existing rules.

For the sewer extension program the increase in fees will bring them more in line with the costs of the program. The increase in fees to handle over-the-counter processing will pay for the faster processing which results from this procedure. It should be added that the fees for very large projects has been lowered reflecting the Department's economies of scale.

For the stream encroachment program the increase in costs will pay for the more extensive review required by the changes in the programmatic rules.

#### Environmental Impact

The fee increase imposed by the proposed amendments will allow for a more extensive and efficient review process thereby contributing to a positive environmental impact.

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

### [SUBCHAPTER 1. GENERAL PROVISIONS]

#### 7:1C-1.1 Purpose

[These rules and regulations] **This chapter** implements P.L. 1975, Chapter 232 (N.J.S.A. 13:1D-29 et seq.), to secure timely decisions by the Department of Environmental Protection on construction permit applications as defined therein, to assure adequate public notice of procedures thereunder, and to continue effective administration of the substantive provisions of other laws[,], [and to revise certain procedures involving the Water Policy and Supply Council and the Natural Resources Council. These regulations do not supersede or preempt specific rules and regulations establishing procedures for the individual construction permit programs administered by appropriate agencies within the Department, unless the context so requires or specific provisions so prescribe.]

#### 7:1C-1.2 Definitions

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

"Act" means P.L. 1975 Chapter 232, N.J.S.A. 13:1D-29 et seq.

"Applicant" means any person requesting a construction permit who has submitted an application to the department.

"Application" means DEP Application Form CP-1 and the appropriate agency supplement.

"Appropriate agency" means:

1. The Division of [Marine Services] **Coastal Resources** for:

i. Approval of plans for the development of any waterfront upon any tidal or navigable waterway pursuant to N.J.S.A. 12:5-3 [(riparian permit)] (**Waterfront Development Permit**);

ii. Permits for a regulated activity under the Wetlands Act of 1970, P.L. 1970, c. 272 (N.J.S.A. 13:9A-1 et seq.); and

iii. Permits issued pursuant to the Coastal Area Facility Review Act, P.L. 1973, c.185 (N.J.S.A. 13:19-1 et seq.).

2. The Division of Water Resources for:

i. Stream encroachment permits under [N.J.S.A. 58:1-26] N.J.S.A. 58:16A-55 or 55.2, and

ii. [Permits for sanitary sewer facilities under N.J.S.A. 58:11-10] **Approvals for the construction, alteration or extension of sanitary sewage collection systems pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-12.1 et seq.**

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

"Construction cost" means the project cost, not including financing or insurance charges, of that portion of a project which is subject to review for a construction permit.

"Construction permit": means

1. Approval of plans for the development of any waterfront upon any tidal or navigable waterway pursuant to N.J.S.A. 12:5-3;

2. A permit for a regulated activity pursuant to "The Wetlands Act of 1970," P.L. 1970, c.272 (N.J.S.A. 13:9A-1 et seq.);

3. A permit issued pursuant to the "Coastal Area Facility Review Act," (CAFRA) P.L. 1973, c.185 (N.J.S.A. 13:19-1 et seq.);

4. [Approval of any structure within the natural and ordinary high-water mark of any stream pursuant to R.S. 58:1-26 (stream encroachment)] **A permit issued pursuant to the "Flood Hazard Area Control Act", P.L. 1979, c.359 (N.J.S.A. 58:16A-55 or 55.2) and the "Flood Hazard Area Regulations" (N.J.A.C. 7:13 et seq.; or 55.2;**

5. [Approval of plans and specifications for the construction, changes, improvements, extensions or alterations to any sewer system, excluding wastewater sewage projects which are eligible for funding under P.L. 92-500 and sewage treatment facilities, pursuant to N.J.S.A. 58:11-10.] **A wastewater allocation permit which approves the construction, alteration or extension of sanitary sewage collection systems that is, treatment works approval) issued pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-12.1 et seq., excluding all those for which Federal grants have been requested pursuant to P.L. 92-500 as amended (The Federal Clean Water Act as amended).**

Note: "Construction permit" does not include any approval of or permit for an electric generating facility or for a petroleum processing or storage facility, including a liquified natural gas facility, with a storage capacity of over 50,000 barrels.

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

"DEP Bulletin" means [an] **the official publication of the Department of Environmental Protection[.] required by N.J.S.A. 13:1D-34, listing the status of pending construction permit applications.**

"Person" means corporations, companies, associations, societies, firms, partnerships, and joint stock companies, as well as individuals, the State, and all political subdivisions of the State or any agencies or instrumentalities thereof.

"Structure" means any assembly of materials above or below the surface of land or water, including but not limited to buildings, fences, dams, pilings, breakwaters, fills, levees, bulkheads, dikes, jetties, embankments, causeways, culverts, pipes, pipelines, roads, railroads, bridges and the facilities of any utility or governmental agency. Trees or other vegetation shall not be considered to be structures.

#### 7:1C-1.3 Pre-application procedure and requirements

(a) As a means of expediting permit review, potential applicants are encouraged to request an optional pre-application conference with the appropriate agency. At the voluntary pre-application conference a potential applicant may present a conceptual description of the proposed project, discuss his proposed project informally with the appropriate agency, and obtain guidance on the permit process; however, the conference is not a forum for preliminary approval or rejection of the proposed project. However, if the appropriate agency determines that the proposed project is exempt from the permit requirement, the agency shall issue a written statement of such finding which shall be binding in the agency.

(b) Prior to submitting an application to the Department, the applicant shall, **if required by the appropriate agency**, notify [at least] the following local agencies of intent to file an application by mailing them a completed DEP Form CP-1 and shall obtain an acknowledgement of receipt of notification by Certified Mail, Return Receipt Requested:

1.-4. (No change.)

Note: The foregoing requirements may be postponed or modified by the appropriate agency in cases of emergency as the public interest dictates.

(c) Applicants for minor stream encroachment projects are exempt from the provisions of [subsection] (b) **above (unless they are projects of special concern (See N.J.A.C. 7:13-5.2))**.

[(d) Applicants for Waterfront Development (Riparian) permits for minor maintenance and/or repair projects shall be exempted from the requirement of subsection (b) upon written request from such exemption where:

1. The proposed maintenance and/or repairs are confined to existing structures and/or facilities without any deviation from or enlargement or original approvals;

2. The existing structures and/or facilities have been previously authorized by permit; and

3. The present state of disrepair existed for less than two years from application date.]

**(d) Applicants for a wastewater allocation permit require the endorsement of the affected sewerage authority and/or municipality.**

#### 7:1C-1.4 Application for construction permit

(a) To apply for a permit, the applicant shall prepare and submit a formal application to the appropriate agency.

1. The application shall consist of a complete and acknowledged DEP construction permit Standard Application Form CP-1, the fee required by [Section 5 of this subchapter] **N.J.A.C. 7:1C-1.5**, and other materials of a format and content as specified by rules or otherwise for individual permit programs.

2. Any inaccurate material which could affect the outcome of a permit decision or falsification of information submitted shall be cause for rejection of the application at any time during the review procedure, or voiding a permit approved before the misinformation was discovered.

#### 7:1C-1.5 Fees

(a) [Except as provided in subsection (g) of this section below, fees] Fees shall be charged for the review of any

application for a construction permit in accordance with the following schedule.

1. Waterfront development [(N.J.S.A. 12:5-3) (Riparian Permits)]: [i.] **The fee for any work consisting solely of capital repairs or reconstruction with all work taking place on piles or above the mean high water line shall be \$250.00. For all other waterfront development projects, the [The] fee shall be one percent of the construction cost, or a minimum of \$100.00.**

[ii. The fee for permits for minor maintenance, and/or repair or replacement of lawful existing structures shall be one percent of the construction cost or a minimum of \$25.00.]

2. Wetlands permits [(N.J.S.A. 13:9A-1 et seq.):

i. The fee for a Type A permit (N.J.A.C. [7:7A-3.2]7:7-2.2) shall be one half of one percent of the construction costs, or a minimum of \$100.00.

ii. The fee for a Type B permit (N.J.A.C. [7:7A-4.2]7:7-2.2) shall be one half of one percent of the construction costs, or a minimum of three hundred dollars \$300.00.

3. CAFRA permits [(N.J.S.A. 13:19-1):

i. The fee for Residential Facilities shall be \$1,000.00 plus \$10.00 per dwelling unit.

ii. The fee for Non-Residential and Mixed-Use facilities shall be \$1,500.00 plus \$10.00 per acre to be developed.

4. Stream encroachment [(N.J.S.A. 58:16A-55.2):

i. As used in this [subsection] **paragraph**, the following terms shall have the following meanings [unless the context clearly indicates otherwise]:

(1) "Drainage area" means the total area contributing runoff to a specified point, expressed in acres or square miles;

(2) "Minor stream encroachment project" means an encroachment project that does not [adversely change the water carrying capacity of the floodway, does not increase erosion or sedimentation in the stream and does not require substantial channel modification or relocation] **require hydrologic and/or hydraulic review to determine the impact on flood carrying capacity; does not require review of any stormwater detention basin for compliance with Stormwater Management Regulations, N.J.A.C. 7:8; does not increase potential for erosion or sedimentation in stream and does not require substantial channel modification or relocation; and does not need to be reviewed for 20 percent "net fill" limitation as specified under N.J.A.C. 7:13-4.7(d)**. These shall include but are not limited to major desnagging and stream clearing, minor dredging projects, dug ponds without structure, **outfall structures**, [sewer headwalls, outlets works, sewer outlet diffusers,] minor water intake facilities, [channel excavation projects where all material is removed from the flood plain, or graded and stabilized in a manner acceptable to the Department,] minor regrading, utilities **in the floodplain** [that are constructed within 100 feet of the top of the channel bank], each channel crossing of utility, **bank stabilization at grade**, minor bank reestablishment and/or protection projects [limited to 100 feet], [residential] footbridges, bridge deck replacements, recreation and habitat management structures of the Division of Fish, Game and Shellfisheries, farming practices (including ditches) approved by the Soil Conservation Service, and projects whose major purpose is mosquito control pursuant to N.J.S.A. 26:9-1 et seq. Governmental agencies may combine their minor projects for a calendar year and submit them as one project which will be considered a minor project.

(3) "Major stream encroachment project" means a project that requires hydrologic and/or hydraulic review to determine the impact on flood carrying capacity of the stream or review of stormwater detention basin(s) for compliance with Stormwater Management Regulations (N.J.A.C. 7:8) or involves fill or structures necessitating review for compliance

with 20 percent "net fill" limitation specified in N.J.A.C. 7:13-4.7(d). In addition, developments involving more than one acre in flood plain for commercial use and subdivision of more than ten acres for residential development shall also be classified as major projects.

ii. For minor stream encroachment projects, the fee shall be \$150.00 [ \$100.00 ] except that no fee shall be charged for such projects in a drainage area of less than 320 acres which has been approved by the appropriate municipal or county engineer, or a professional engineer for State agency projects, and the certification of such approval has been submitted to and acknowledged by the department. **An additional \$200.00 shall be charged for minor stream encroachment projects that are projects of special concern (See N.J.A.C. 7:13-5.2.).**

[iii. Fees:]

[ (1) ] iii. No fee shall be charged for major projects located in a drainage area of less than 150 acres which has been approved by the appropriate municipal or county engineer, or a professional engineer for State agency projects, and the certification of such approval has been submitted to and acknowledged by the department.

[ (2) ] iv. For each project element of [other] major projects, the fee shall be [ \$1,000.00 ] **\$1,500.00** for each **project element that is to be reviewed.** [structure in or along the channel, or portion of the channel thereof up to one thousand feet.] [This fee] **These project elements** shall include but not be limited to the following [types of projects]: bridges, culverts, small dams, [concrete lining, major riprap and gabion protection,] channel modification, **stream enclosures, stormwater detention basins, fill, structures, and retaining walls more than four feet high,** channel realignment, and channel relocation [and all retaining walls]. The fee for major projects such as culverts or bridges shall include channel work for a distance of 300 feet upstream and downstream.

[ (3) ] v. For major projects outside the channel but within the 100 year floodplain and requiring the establishment of an encroachment line, the fee shall be [ \$1,000.00 ] **\$1,500.00** for each [project] **1,000 feet reach of the channel or portion thereof.**

vi. **For major projects that consist of individual driveway culverts for residential dwellings, the fee shall be \$1,000.00 for each project.**

5. [Sanitary Sewer Facility Permits (N.J.S.A. 58:11-10)] **Wastewater Allocation Permit:** The fee for sanitary sewer [facility permits] **approvals** shall be [one-half] **six-tenths** of one percent [ $\frac{1}{2}$  of 1%] of the construction costs up to [ \$100,000 ] **\$250,000**, plus [one-fourth] **three tenths** of one percent [ $\frac{1}{4}$  of 1%] of the construction costs in excess of **\$250,000.** [(\$100,000.00)] up to **\$1,000,000** plus **fifteen one-hundredths of one percent in excess of \$1,000,000.00.** A minimum fee of [(\$100.00)] **\$150.00** shall be charged.

(b) Each extension of time requested must be accompanied with a \$50.00 non-refundable base fee. Each extension, if granted, will be for a maximum period of one year. No permit will be extended beyond a total of five years from the original date of the permit[.], **except for projects of unusual size or scope or for projects which are delayed due to circumstances beyond the permittee's control (such as a delay in the funding of a public works project), in which case the appropriate agency may, upon request of the applicant prior to the expiration of the original permit, extend the permit for a total of 10 years from its original effective date. This exception shall not apply to Stream Encroachment or Wastewater Allocation Permits.**

1. **Besides the base fee, an additional \$50.00 shall be charged for each extension of time requested for a permit for a minor stream encroachment project and \$150.00 for each extension of time requested for a permit for a major stream encroachment project.**

(c) Each request for an approval of a **major** modification [in detail] of the approved project must be accompanied with a fee equal to [50 percent] **one-half** of the total permit fee [charged] **attributable** to that portion of the project to be modified. **For the purposes of this section, a major modification is one which will result in a significant change in the scale, use, design or impact of the project as approved.**

(d) The department may also charge additional fees to engage such essential expertise as may be necessary for the processing and review of large scale and complex projects. The applicant will be consulted before imposition of such fees.

(e) Where a public hearing is conducted, the cost thereof, including but not limited to court reporter attendance fees, transcript costs, hearing officer fees[,] and hearing room rental, shall be borne by the applicant unless otherwise determined by the department for good cause shown.

(f) All fees shall be paid by check, made payable to the "Treasurer State of New Jersey—Environmental Services Fund" and shall accompany the application.

[(g) The maximum fee for waterfront development, wetlands and CAFRA permit applications shall be \$10,000 except for unusually large scale or complex projects where the appropriate agency determines, after consultation with the applicant, that additional fees are necessary for a proper review of the application.]

7:1C-1.6 Dep bulletin

(a) (No change.)

7:1C-1.7 Review of application

(a) Within a maximum of 20 working days of receipt of the application, the appropriate agency shall:

1. Accept the application for filing, assign an agency project number, and proceed to review on the merits; or

2. Assign an agency project number, accept the application for filing, but request in writing that the applicant submit within a specific period of time, additional information to assist in its review. In such cases, the application will not be considered complete until all the additional information has been received and deemed acceptable for review; or,

3. Return the application without filing, explaining why it is unacceptable for review, and return the filing fee upon notification that the applicant does not intend to reapply.

4. Following the assignment of the agency project number, the initial application status report will be published in the DEP Bulletin.

5. The Department shall consider written initial comments from public agencies and other interested persons, received within five working days of publication of the initial project status report in the "DEP Weekly Bulletin."

(b) The appropriate agency shall hold the public hearing required by the "Coastal Area Facility Review Act," N.J.S.A. 13:19-1 et seq., and may schedule public hearings for other construction permit programs within the time limits prescribed by these regulations.

(c) An application for waterfront development permit is not complete unless and until the applicant has in his possession a legal document setting forth the person's right to use or occupy the riparian land, including but not limited to grants, leases or licenses.

7:1C-1.8 Decision on permit application

(a) The Department shall approve, condition or disapprove an application for a construction permit, other than a CA-FRA permit, within 90 days after the application has been accepted for filing, except when additional information has been requested in accordance with N.J.A.C. 7:1C-1.7(a)2. In the latter case, the Department shall make a decision on the permit within 90 days after such additional information has been accepted.

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

(e) This time period may be extended for a **one time only** 30 day period by the mutual consent of the applicant and the appropriate agency, provided that the applicant or the appropriate agency, request from the other such an extension at least 15 days prior to the expiration date for the approval, conditioning, or disapproval of such an application.

(f) (No change.)

7:1C-1.9 Appeals

[(a) An appeal from an action of the Division of Water Resources pursuant to N.J.S.A. 58:16A-50 et seq. shall be to the Water Policy and Supply Council in accordance with the procedure of this section.]

[(b)] (a) An appeal from an action of the Division of Coastal Resources pursuant to N.J.S.A. 12:5-3, **N.J.S.A. 13:19-1 et seq. or N.J.S.A. 13:9A-1 et seq.** shall be to the Commissioner in accordance with the procedures of [this section] **N.J.A.C. 7:7-5.**

[(c) An appeal from an action of the Division of Coastal Resources pursuant to N.J.S.A. 13:9A-4 shall be to the Commissioner in accordance with the procedures of this section.]

[(d)] (b) Any interested person who considers himself aggrieved by [an action of one of the above-mentioned agencies] **the approval or denial of a stream encroachment permit or sanitary sewer approval** [shall] **may**, within [ten] 10 days of publication of notice of the decision in the DEP Bulletin, **or within 10 days of publication of notice of the decision by the permittee pursuant to (c) below, whichever occurs first**, request a hearing by addressing a written request for such hearing to the [secretary of the Water Policy & Supply Council, CN 029, Trenton, New Jersey 08625, or to the] Commissioner, Department of Environmental Protection, [P.O. Box 1390] **CN 402**, Trenton, New Jersey 08625.

[(e)] 1. The written notice of request for hearing on appeal shall include[;] [1.] [T]the appropriate agency project number[;] 2. Details of how the decision aggrieves the appellant[;] and [3.] [W]here the appeal is taken by someone other than the applicant, evidence that a copy of the written request for hearing an appeal has been mailed to the Applicant.

2. **The person appealing the decision shall, within 14 days of the date on which the initial hearing request was post-marked, submit an additional statement describing, in detail, how that person is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.**

(c) **A permittee may, if it so desires, publish notice of the final decision in a newspaper of Statewide circulation and a newspaper of regional circulation which includes the municipality in which the project site is located, and by certified mail to any person who requested such notice. The Department shall maintain a list of such newspapers.**

[(f)] (d) Pending the decision on appeal by the Commissioner and upon a typewritten request with stated reasons therefore, the Commissioner may stay the issuance of the permit, for good cause shown, upon such terms and conditions as are deemed proper. The request for stay of issuance

of the permit shall be made within 21 days of the issuance of the decision of the Commissioner on the permit application.

[(g)] (e) Where a request for a hearing on appeal has been granted, **the request shall be referred to the Office of Administrative Law for the holding of a fact finding hearing pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), after which the decision on appeal shall be rendered by the Commissioner** within the time frame specified in N.J.S.A. 52:14B-10.

7:1C-1.10 Other state statutes, rules and regulations  
(No change.)

7:1C-1.11 Severability

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

7:1C-1.12 Implementation of these rules and regulations

Th[e] is [Rules and Regulations set forth herein] **Chapter** shall apply to all construction permit applications submitted to the Department on or after December 22, 1975.

7:1C-1.13 Over-the-counter processing

(a) As a means of expediting permit review for certain minor projects, the Department will fast process, to the extent possible, reasonable, and practical, **and** unless emergencies dictate otherwise, minor [projects in the categories of] stream encroachment[, and sewer extension[s] [, and waterfront development.] projects.

(b) Stream encroachment rules are as follows:

1. The Department will provide, workload and staff permitting, a 24-hour processing service for certain "minor" stream encroachment permits (listed below). Projects must be in-house by 9:30 A.M., and may be picked up at 4:30 P.M., otherwise the permit will be mailed, or can be picked up the next day. Pre-application conferences are recommended to ensure that all necessary material will be submitted. An appointment must be made for the over-the-counter submittal, review and permit issuance. Over-the-counter processing will be limited to one project per day per applicant. **Projects may not be divided in order to qualify for over-the-counter processing.**

2. The construction permit "Standard Application Form (CP-1)" must be properly completed, but it does not need to be forwarded to any county or municipal agency. [(See N.J.A.C. 7:1C-1.3(c).)] An Engineering Data Sheet (DWR-086) must be completed for all stream encroachment projects.

3. Minor stream encroachment projects are [projects which do not adversely change the water carrying capacity of the floodway, do not increase erosion or sedimentation in the stream, and do not require substantial channel modification or relocation] **defined in N.J.A.C. 7:1C-1.5(a)4v(2).**

i. (No change.)

(8) Bridge deck replacements (see paragraph (b) 3 above);

(9) Farming practices (including ditches) approved by the Soil Conservation Service;

(10) Projects whose major purpose is mosquito control pursuant to N.J.S.A. 26:9-1 et seq.;

(11) "Over-stream" utility crossings "attached" to an existing bridge or culvert above the underclearance or within the superstructure.

ii. Minor stream encroachment projects which will not be processed on an "over-the-counter" basis shall include:

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

(6) Combined projects of government agencies submitted as one minor project for a calendar year will not be considered as a minor project for "over-the-counter" permit purposes [.] ; and

(7) **Projects of special concern.**

(c) [Sewer extension] **Wastewater Allocation** rules are as follows.

1. The Department of Environmental Protection has a 24-hour processing service for "minor" sewer extension projects. "Minor" sewer extension projects must be:

- i. A length of [1,000] **1,200** linear feet or less;
- ii. At a cost of [\$25,000] **\$50,000** or less;
- iii. Of a sewage flow per day of 12,000 gallons or less.

2. No projects with pump stations, force mains, siphons, gallonage transfers, or holding tanks will be processed over-the-counter. Projects cannot be located in areas under sewer ban[,] or administrative order[s], or subject to litigation. **Projects may not be divided in order to qualify for over-the-counter processing.**

3. Projects must be in-house by 9:30 a.m., and all administrative documents must be in proper order. Pre-application conferences are strongly recommended. Over-the-counter projects will be processed by appointment only.

4. Applicants must include in the application package proof of a prior approval, endorsement, or a letter of no objection from all required local agencies prior to filing application with the State.

5. An "engineer's report" form, available from the Bureau of Municipal Waste Management of the Division of Water Resources, must be completed and certified by a licensed New Jersey **professional** engineer and submitted with the application.

[(d) Waterfront development rules are as follows:

1. The Department of Environmental Protection has a 24-hour, one-day processing service for "minor" maintenance and/or repair or replacement of lawful existing structures. Minor maintenance and/or repair or replacement projects are those projects which:

- i. Are confined to existing structures;
- ii. Have been previously authorized by permit; and
- iii. Are in a present state of disrepair which has existed for less than two years.

2. Applications shall be accompanied by:

- i. A copy of the tidelands conveyance (a grant, lease, or license from the State of New Jersey) for the project site, if applicable; and
- ii. A site inspection report from the Bureau of Coastal Enforcement and Field Services, 1433 Hooper Avenue, Toms River, New Jersey, (609) 292-5120.

3. No over-the-counter authorization will be given for dredging, filling, or additions to or changes in configuration of structures.

4. As a condition of approval, the applicant must give a 48-hour notice prior to commencing work.

5. An applicant should apply for a same day permit by 11:30 a.m., otherwise his permit can be picked up the next day or mailed.

6. General permits: The Department may, by rule, established criteria and conditions for the approval of minor maintenance projects by general permits. The projects authorized under such a general permit must conform with those criteria and special conditions.]

#### 7:1C-1.14 Related regulations

(a) **This Subchapter does not supersede or preempt specific rules and regulations establishing procedures for the individual construction permit programs administered by appropriate agencies within the Department, unless the context so requires or specific provisions so prescribe. In order to assist applicants in the use of this subchapter and the specific programmatic rules and regulations, this section sets forth the provisions in the programmatic rules which are in addition to or supersede this subchapter.**

(b) **For waterfront development permits wetlands permits and CAFRA permits, reference should be made to the following:**

1. **For pre-application procedures, N.J.A.C. 7:7-3 supercedes this Subchapter;**
2. **For permit review procedures, N.J.A.C. 7:7-4 supercedes this Subchapter; and**
3. **For appeals; N.J.A.C. 7:7-5 supercedes this Subchapter.**

(c) **For a stream encroachment permit, reference should be made to the following:**

1. **For pre-application notice procedures, the requirements of N.J.A.C. 7:13-2.2 in addition to 7:1C-1.3;**
2. **For pre-application conferences, the requirements of N.J.A.C. 7:13-2.3 are in addition to 7:1C-1.3;**
3. **For permit application review procedures, N.J.A.C. 7:13-2.8 supercedes this Subchapter;**

4. **For appeals, the requirements of N.J.A.C. 7:13-2.11 are in addition to N.J.A.C. 7:1C-1.9, except that the applicant or the person making the hearing request shall comply with N.J.A.C. 7:13-2.11(b); and**

5. **For application information, the requirements of N.J.A.C. 7:13-2.1 are in addition to N.J.A.C. 7:1C-1.4.**

(d) **The requirements of this Subchapter concerning appeals governs Wastewater Allocation Permits, not N.J.A.C. 7:14A.**

## HEALTH

The following proposals are authorized by J. Richard Goldstein, M.D., Commissioner, Department of Health, with the approval of the Health Care Administration Board.

(a)

### NARCOTIC AND DRUG ABUSE CONTROL

#### Good Drug Manufacturing Practices

#### Proposed New Rule: N.J.A.C. 8:21A

Authority: N.J.S.A. 24:5-1.

Proposal Number: PRN 1984-686.

Address comments and inquiries to:

Lucius A. Bowser, RP, MPH  
Chief, Drug Control Program  
CN 362  
Trenton, NJ 08625  
(609) 984-1308

The agency proposal follows:

**Summary**

Pursuant to Executive Order No. 66(1978), the Department of Health proposes to readopt the provisions of the Good Manufacturing Practices that specifies the conditions of manufacture, packaging and distribution of drugs suitable for human and animal use. These regulations have been in effect since 1979 and were established to make the State Food & Drug laws consistent with the Federal Food & Drug Law and to set forth uniform standards governing the production of drugs.

Pursuant to Executive Order No. 66(1978), N.J.A.C. expired on November 13, 1984. Therefore, the current text of the rule is proposed for readoption as a new rule, with no changes to the existing text, except for the amendment of N.J.A.C. 8:21A-2.55, which was previously published at 16 N.J.R. 1685(a), and which has not yet been adopted. The amendment adds the sentence: "For compressed medical gas products, distribution records are not required to lot or control numbers."

The proposed amendment brings the State regulations into conformity with Federal food and drug regulations that became effective on April 16, 1984 cited as 49 F.R. No. 53, page 9865, dated March 16, 1984. The amendment does away with the need to list the lot or control numbers on distribution records for compressed medical gases.

The compressed gas industry has a unique mechanism for prompt recall of any improper or violative compressed gas and such mechanism allows it to effectuate a recall without the need to record the lot or control numbers of the batches of compressed medical gases on invoices and other distribution records.

The original set of regulations were revised twice since 1979. One revision clarified the name of the manufacturer/distributor that would appear on the label while the other set a time period for the retention of radioactive ingredients and radioactive products.

These regulations set forth all steps of production, laboratory controls to ensure that all ingredients for a drug product have been tested and approved before compounding. They also set forth the production steps through manufacturing, packaging and distribution of drug products. These regulations set forth the qualifications of personnel handling and processing drug products.

These proposed regulations adequately safeguard the quality and safety of marketable drugs in this State.

**Social Impact**

The readoption of these regulations would continue to have a safety control mechanism built into any production and marketing of human and animal drugs and would protect the public from counterfeit drugs and improper manufacturing practices. The regulations would ensure that every step of drug manufacturing could be documented and traced should contamination of the manufacturing process and/or failure of the drug to correspond to the potency indicated on the label occur. These regulations would impact on the public in that they would protect the quality and efficacy and safety of all drugs. They would also impact upon drug manufacturers to keep them ever mindful of their obligation to produce quality drugs.

These regulations continue to protect consumers from counterfeit drugs being offered for sale in New Jersey and the United States and the greatest impact would be on the con-

sumer not by more expensive drugs but by affording better medical care through safe drugs.

The proposed amendment would not create any social impact upon manufacturers, distributors, or users of compressed medical gasses. It would not have any adverse effect upon the general public because the protective mechanisms utilized by the medical gas industry already serve to protect the public from impure or adulterated compressed medical gas products.

**Economic Impact**

The readoption of these regulations would impose no additional cost to the public in the acquisition of safe drugs. They would have little additional impact on manufacturers since the industry is already utilizing these regulations being readopted and which are identical to those in place under the U.S. Federal Food & Drug Laws. Manufacturers would incur no additional expenses by the readoption of these regulations.

The readoption would expand quality control costs of the manufacturer, but it is impossible to predict the amount involved. Such costs are, however, overshadowed by considerations of public health and safety.

The proposed amendment would not economically impact upon manufacturers, or distributors of compressed medical gasses, but would in fact have a minor savings in time and manpower saved in recording lot or control numbers on all distribution records.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:21A.

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

8:21A-2.55 Distribution records

Distribution records shall contain the name and strength of the product and a description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product. **For compressed medical gas products, distribution records are not required to contain lot or control numbers.**

**(a)**

**DIVISION OF HEALTH FACILITIES  
EVALUATION**

For proposals numbered PRN 1984-687, 688, 689, 690 and 691, address comments and inquiries to:

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

**Standards: All Health Care Facilities  
Employees Physical Examinations; Child  
Abuse and Neglect**

### Proposed Amendments: N.J.A.C. 8:31-26.3 and 26.4

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1984-688.

The agency proposal follows:

#### Summary

N.J.A.C. 8:31-26 contains a series of licensure regulations governing certain characteristics pertaining to ownership and operation of health care facilities as well as particular management and personnel practices within health care facilities. Also included in this subchapter is a section on licensure fees charged by the Department. Subchapter 26 was established in order to group together licensure regulations which commonly apply to all types of health care facilities in the State of New Jersey. As the types of facilities encompassed under the regulations have grown in diversity, exceptions to these rules have increased as well. For this reason, the Department contends that changes in the format of organization of these regulations are appropriate.

N.J.A.C. 8:31-26.3 and 26.4 contain licensure rules for all health care facilities regarding certain specific requirements. N.J.A.C. 8:31-26.3 delineates the requirements for physical examinations (health evaluations) for employees of health care facilities. N.J.A.C. 8:31-26.4 requires health care facilities to establish and implement written policies and procedures for reporting all diagnosed and/or suspected instances of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq.

The Manual of Standards for Licensure of Ambulatory Care Facilities, N.J.A.C. 8:43A, has been revised (see proposal this Register). As part of the revision, in order to make the manual more useful to providers and surveyors and to eliminate cross-referencing to other sections of the New Jersey Administrative Code, the text of N.J.A.C. 8:31-26.3 and 26.4 has been included in the proposed revision of N.J.A.C. 8:43A. Editorial changes were made for clarification without changing the intent of the regulations. Since N.J.A.C. 8:31-26.3 and 26.4 have now been incorporated into the proposed N.J.A.C. 8:43A, Manual of Standards for Licensure of Ambulatory Care Facilities, it is no longer necessary to make reference to ambulatory care facilities in N.J.A.C. 8:31-26.3 and 26.4. Therefore, N.J.A.C. 8:31-26.3 and 26.4 are being amended to exclude ambulatory care facilities.

#### Social Impact

The intent of the rule, N.J.A.C. 8:31-26.3, for employee physical examinations (health evaluations) is to ensure the health, safety, and welfare of the patients in health care facilities. Physical examinations (health evaluations) and the screening tests required in the rules help to ensure that employees are free from communicable diseases that could be transmitted to patients.

The intent of the rule, N.J.A.C. 8:31-26.4, for child abuse and/or neglect is to ensure that health care facilities continue as an important element in the implementation of N.J.S.A. 9:6-1 et seq. which mandates the reporting of diagnosed and/or suspected instances of child abuse and/or neglect to the Division of Youth and Family Services, New Jersey State Department of Human Services.

The proposed amendments to N.J.A.C. 8:31-26.3 and 26.4 will not alter the social impact of these rules since the rules will continue in effect and will continue to apply to ambula-

tory care facilities. The elimination of cross-referencing in the proposed new rules for N.J.A.C. 8:43A will facilitate the use of the Manual of Standards for Licensure of Ambulatory Care Facilities by Department staff and providers.

#### Economic Impact

N.J.A.C. 8:31-26.3 has been in effect since March 7, 1983, and June 20, 1983. The current rule is a revision of a previous rule that became effective on October 9, 1980, which also required rubella testing. The greatest economic impact on ambulatory care facilities and employees would have been felt when the rules were first required since all employees had to be tested. Since that time, only new employees need be tested so that the economic impact on the facilities and employees should be lessened. There is no discernible economic impact of N.J.A.C. 8:31-26.3 or N.J.A.C. 8:31-26.4 upon the Department since these rules are already in effect.

The Department contends that the social impact of protecting the health, safety, and welfare of patients, employees, and the public outweighs any economic impact of the proposed readoption of these rules. The cost of rubella screening will be negligible compared to the ultimate cost of treating a newborn with birth defects.

The proposed amendments to N.J.A.C. 8:31-26.3 and 26.4 will not change the economic impact of these rules since the rules will continue in effect and will continue to apply to ambulatory care facilities. The proposed amendments will permit a more practical, efficient, and cost-effective application of the proposed new rules for ambulatory care facilities.

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

8:31-26.3 Employee physical examinations (health evaluations)

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

**(d) The standards herein shall not apply to ambulatory care facilities.**

8:31-26.4 Child abuse and neglect

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

(c) The standards herein shall not apply to the following health care facilities:

1. Long-Term Care Facilities;
2. Non-Residential Medical Day Care Facilities;
3. Residential Health Care Facilities;
4. Drug Treatment Facilities [-] ;
5. **Ambulatory Care Facilities.**

(a)

### Home Health Agencies Standards for Licensure

#### Proposed Readoption: N.J.A.C. 8:42-1

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1984-689.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:42-1 expires on February 1, 1985. The readoption of the existing rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption.

The agency proposal follows:

#### Summary

Subchapter 1 of N.J.A.C. 8:42 is the basis for licensure of 56 home health agencies currently in operation in New Jersey. The provisions of N.J.A.C. 8:42-1, Standards for Licensure of Home Health Agencies, were adopted pursuant to the authority of N.J.S.A. 26:2H-1 et seq. and became effective on May 26, 1976. (See: 8 N.J.R. 182(c), 8 N.J.R. 282(a).) Pursuant to the requirements of Executive Order No. 66(1978), this Subchapter will expire on February 1, 1985. Therefore, the Department proposes the readoption of the existing rules without change.

The rules were originally developed with input from State-wide providers, including the Home Health Agency Assembly of New Jersey, Inc., the New Jersey Chapter of the American Physical Therapy Association, the New Jersey Occupational Therapy Association, and the New Jersey State Department of Human Services. N.J.A.C. 8:42-1 has functioned well in providing minimal regulations for the organization, staffing, and patient care services of home health agencies. The regulations have given the Department's survey teams a workable set of measures to determine agency compliance and have given the provider agencies quantifiable bases for meeting Departmental expectations regarding the quality of the home health services provided to patients. The regulations have also assisted in the fulfillment of the Department's obligations mandated by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

Since the adoption of N.J.A.C. 8:42-1, five amendments to the rules have been proposed and adopted. A technical change, editorial in nature, was made to N.J.A.C. 8:42-1.18(f) regarding the supervision of homemaker-home health aide services, effective October 1977. (See: 9 N.J.R. 364(a), 9 N.J.R. 519(a).) N.J.A.C. 8:42-1.1 contains a technical, editorial change in the definition of "governing authority," effective February 1980. (See: 11 N.J.R. 545(d), 12 N.J.R. 15(c).) N.J.A.C. 8:42-1.8(1) was repealed, effective October 1980, in deference to the adoption of N.J.A.C. 8:31-26.3, which addresses the requirements for physical examinations of employees of home health agencies. (See: 12 N.J.R. 463(b), 12 N.J.R. 578(c).) The Health Care Administration Board adopted a new rule, N.J.A.C. 8:42-1.8(p), effective June 1981, requiring home health agencies to comply with the provisions of N.J.A.C. 8:31-26.4 regarding the reporting of child abuse and neglect. (See: 13 N.J.R. 12(a), 13 N.J.R. 342(b).) Finally, in March 1983, an amendment to N.J.A.C. 8:42-1.4(b) became effective. The amendment increased the licensure fee required of a home health agency from \$50.00 to \$100.00. (See: 14 N.J.R. 1273(a), 15 N.J.R. 336(a).)

Health care services provided by New Jersey home health agencies include services directed towards preservation and restoration of health, and prevention of disease and disability, as well as therapeutic care and rehabilitation in the presence of illness. Home health agencies provide home health care and supportive services to sick or disabled persons in their residences. In addition, home health agencies also serve patients in clinics or outpatient departments of hospitals, schools, industrial plants, day care centers, residential health care facilities, and agency offices. Examples of community health programs offered by New Jersey home health agencies include, but are not limited to, the following: home health care programs (care of the sick at home); non-public school health programs; maternal and child health; child health conferences; adult health supervision; senior citizen health maintenance;

teen-parent programs; mental health programs; day care centers; special child health services; hospital coordination; and teaching homemaker-home health aides.

In addition to providing specific services required in individual situations for the provision of safe and effective care, agencies are required by N.J.A.C. 8:42-1 to provide at least nursing services directly, and homemaker-home health aide services and physical therapy services directly or through contractual agreement. The lack of similarity among distinct home health agencies is a noteworthy characteristic of these providers of service. New Jersey agencies differ greatly, for example, in the number and variety of services offered. At one end of the spectrum are agencies that provide only minimal services to the homebound patients. At the other end of the spectrum are agencies that provide comprehensive home care programs which consolidate under a central administration the provision of nursing services, physical therapy services, occupational therapy services, speech pathology or audiology services, nutrition/dietary services, medical social services, and homemaker-home health aide services. Specialized modalities, such as hospice services and respiratory or intravenous therapy, are also being offered by home health agencies.

The specific characteristics and problems of an area served by a home health agency affect the determination of the types and organization of services provided by the agency. The delivery of service is effected through cooperation with individuals, families, and groups. All age groups are served. The general population is served as well as those enrolled in Medicare and Medicaid, Titles XVIII and XIX of the Social Security Act. Home health agencies vary in size, organization, and the number of patients served. Home health agencies subject to State licensure include voluntary (visiting nurse associations), governmental (health departments), hospital-based, combination (visiting nurse association-health department), and proprietary agencies.

After an internal review of the rules by the Department, the Department is proposing re adoption of N.J.A.C. 8:42-1 without change. Although minor editorial and linguistic changes may prove to be necessary, the rules have served the State quite well in their current form. Due to time constraints, priorities within the Department, and the complexity of the rules themselves, it has not been possible to make editorial revisions in the existing rules before the expiration date. In proposing the re adoption of N.J.A.C. 8:42-1, the Department has taken into consideration the considerable amount of time which the procedure for the promulgation of new rules entails. The Department proposes to re adopt, without change, the existing text of N.J.A.C. 8:42-1 to ensure the continuity of care which might be interrupted in the absence of these rules. The process of making further adjustments in the language of the rules can begin subsequent to re adoption, as priorities and the availability of resources permit. Based upon the consumer and provider input received to date, however, the Department maintains that the re adoption of N.J.A.C. 8:42-1 will serve the intent of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, regarding the protection of the health and safety of patients.

Following is a summary of the contents of the current text of N.J.A.C. 8:42-1:

N.J.A.C. 8:42-1.1 provides definitions of the technical terms used throughout the Subchapter and delineates the qualifications required of persons serving in particular capacities.

The licensure procedure for home health agencies is detailed in N.J.A.C. 8:42-1.2 through 1.7, which include rules regarding Certificate of Need, newly constructed or expanded facilities, application for licensure, surveys, full license, and surrender of license. The payment of a licensure fee of \$100.00 is required by N.J.A.C. 8:42-1.4(b).

General requirements are enumerated in N.J.A.C. 8:42-1.8. According to N.J.A.C. 8:42-1.8(a), the agency is required to provide at least nursing services, homemaker-home health aide services, and physical therapy services. In addition, other therapeutic and related services may be provided including, but not limited to, speech pathology or audiology, occupational therapy, nutritional, and medical social services. Although agencies may contract for certain services, N.J.A.C. 8:42-1.8(b) requires agencies to provide nursing services directly through agency employees, except for hospital-based programs which may contract for nursing services but must provide at least one of the required services (homemaker-home health aide or physical therapy services) directly.

In order to ensure that the agency and its components (subunits or branches), if any, are organized so as to effectively and efficiently deliver home health services to patients, an organizational chart and narrative describing the program are required by N.J.A.C. 8:42-1.8(g) and (h).

A requirement for a policy and procedure manual, N.J.A.C. 8:42-1.8(i), is similar to requirements in the manuals of standards for licensure of other types of health care facilities. The policies and procedures referred to in N.J.A.C. 8:42-1.8(i)1 through 7 include a description of the services provided by the agency; a system for maintenance of patient records; a description of the process of agency evaluation; personnel practices; patient care practices; and policies and procedures for acceptance and discharge of patients. N.J.A.C. 8:42-1.8(k) requires the agency to designate a public health nurse director and/or supervisor and an administrator. The rule allows the public health nurse director or supervisor to act as administrator of the agency. N.J.A.C. 8:42-1.8(l) prohibits the agency from delegating administrative functions to another facility or organization in the event that contractual arrangements exist. Similarly, N.J.A.C. 8:42-1.8(m) requires that all services not provided directly shall be monitored and supervised by the home health agency. In instances in which the agency provides services to patients through contracts with individuals who are not agency employees or with other organizations, a written contractual arrangement is required by N.J.A.C. 8:42-1.8(o). Furthermore, N.J.A.C. 8:42-1.8(o)1 through 8 delineate the specific requirements for the contract and state that only the home health agency has the authority to accept patients for care and that the care rendered under such contracts must be in accordance with the policies and procedures of the home health agency. The requirement for reporting child abuse and neglect, currently stated in N.J.A.C. 8:31-26.4, in cross-referenced in N.J.A.C. 8:42-1.8(p).

N.J.A.C. 8:42-1.9(b) addresses the responsibility of the governing authority in general terms, whereas N.J.A.C. 8:42-1.9(c)1 through 8 specify particular responsibilities of the governing authority. Of particular interest is N.J.A.C. 8:42-1.9(c)7, which requires the selection and appointment of an advisory group of professional personnel responsible for governing the health care services provided by the agency (see the discussion of N.J.A.C. 8:42-1.11 below). It should be noted that the appointment of such a committee is a Federal statutory requirement and a Federal condition of participation in the Medicare and Medicaid programs (Titles XVIII and XIX of the Social Security Act).

The appointment of an administrator is required by the existing rule, N.J.A.C. 8:42-1.10(a). The public health nurse director and/or supervisor may serve as the administrator. The responsibilities specified in the rules, N.J.A.C. 8:42-1.10(b)1 through 6, are indicative of the varied duties of the administrator. In the event that an administrator does not have the qualifications of a public health nurse director, as defined in N.J.A.C. 8:42-1.1, the agency must appoint a public health nurse director to be responsible for the nursing services, as stated in N.J.A.C. 8:42-1.10(e). The specific responsibilities of the public health nurse director are delineated in N.J.A.C. 8:42-1.10(g)1 through 5 and include, but are not limited to, planning for and provision of patient care services, maintaining the quality of patient care services provided, developing and maintaining a system of audit and evaluation, and developing and directing an ongoing training program for professionals and paraprofessionals in order to assure that each employee has the opportunity to develop and enhance his or her skills and to broaden and increase his or her knowledge which contribute to the provision of more effective and efficient care to the patient. N.J.A.C. 8:42-1.10(i) requires that the public health nursing supervision be available full time to each agency and to each of its branch offices. In this instance, full time is interpreted to mean assigned to the agency during all the hours of operation, including time in patients' homes providing and/or supervising care and time out of the office on agency business.

N.J.A.C. 8:42-1.11(a) mandates that a professional advisory committee be appointed by the governing authority, while N.J.A.C. 8:42-1.11(b)1 through 6 specify the constitution of the professional advisory committee which must include the following members: at least three physicians; a public health nurse director and/or supervisor; a representative of each therapeutic service offered by the agency; representatives of other professional disciplines; and a lay person knowledgeable in health affairs. At least one member of the professional advisory committee shall be neither an owner nor an employee of the facility. The responsibilities of the professional advisory committee are specified in N.J.A.C. 8:42-1.11(c) and include responsibilities for establishing and reviewing the agency's policies governing the services offered, admission and discharge policies, medical supervision and plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation.

A written plan of treatment for each patient is required by N.J.A.C. 8:42-1.11(f). The contents of the written plan of treatment, as well as the requirement that agency personnel involved in the care of a patient participate in developing the plan, are stated in N.J.A.C. 8:42-1.11(f)1 through 5 and are considered by the Department to be necessary for the provision of safe patient care.

The facility is required by the current rule, N.J.A.C. 8:42-1.12(a), to provide nursing services under the supervision of a public health nurse director or supervisor, in accordance with the plan of treatment.

The provision of physical therapy services is mandated by N.J.A.C. 8:42-1.13(a). The rule further requires that the services be provided by a physical therapist in accordance with the plan of treatment.

When the agency provides or arranges for provision of speech pathology or audiology services, occupational therapy services, nutritional services, or medical social services, it must do so in accordance with the rules contained in N.J.A.C. 8:42-1.14, 1.15, 1.16, and 1.17, respectively. Each of these services, if provided, must be rendered in accordance with the plan of treatment by a speech pathologist or audiolo-

gist, occupational therapist, dietitian or nutritionist, or social worker who has the appropriate qualifications as specified in N.J.A.C. 8:42-1.1. The therapy sections also contain provisions which ensure that the therapeutic services provided are adequately documented in the patient clinical record.

Homemaker-home health aide services are required by N.J.A.C. 8:42-1.18(a). In order to protect the health and safety of patients, the homemaker-home health aide is required to complete a training program in personal care services approved by the Department, as stated in N.J.A.C. 8:42-1.18(b). In accordance with N.J.A.C. 8:42-1.18(c) through (g), the homemaker-home health aide must be assigned to a particular patient by a registered nurse, and written instructions for patient care must be prepared by a registered nurse or therapist as appropriate. Duties include the performance of simple procedures such as personal care, ambulation and exercise, household services essential to health care at home, assistance with medications that are self-administered, reporting changes in the patient's condition, and completing appropriate records.

In accordance with N.J.A.C. 8:42-1.18(f), the registered nurse, or appropriate professional staff member, if other services are provided, must make a supervisory visit to the patient's residence, either when the aide is present to observe and assist, or when the aide is absent, to assess relationships and determine whether goals are being met.

In order to promote continuity and coordination of patient care services, N.J.A.C. 8:42-1.19(a) through (g) require that a patient registration system be established, fee schedules be made available to the patient, patient rights be established, personnel providing services maintain liaison to ensure that their efforts effectively complement one another, and the entire course of the patient's care be conducted by the home health agency in accordance with the plan of treatment and the written policies of the agency.

The clinical records required by N.J.A.C. 8:42-1.20 serve as documentation of the medical, nursing, therapeutic, and preventive care rendered to the patient and serve as a means of communication between the physician and agency. The requirements in this section are intended to ensure that the content of the clinical records will provide documentation of the patient's course of treatment.

In addition, the information documented in the clinical record is relevant to other rules within N.J.A.C. 8:42-1. The clinical record provides documentation that the agency has implemented its policies and procedures and provides an indication of the effectiveness of the delivery of services. For example, the records may show that services are being provided to patients in their residences; may indicate use of additional services; may verify that services are being provided in accordance with the plan of treatment; and may document that the homemaker-home health aide is being supervised and that professional staff members are making supervisory visits to patients' homes.

Requirements regarding patient care statistics and financial data, pursuant to Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and to Subpart L of Part 405 of Chapter III of Title XX of the Code of Federal Regulations, are contained in N.J.A.C. 8:42-1.21 and 1.22.

The facility is required by the rule, N.J.A.C. 8:42-1.23, to establish and implement a written plan for the audit and evaluation of patient care. The objective of the rule is to enhance the ability of the facility to provide appropriate patient care of high quality through the identification and resolution of problems.

### Social Impact

The need for rules for licensure of home health agencies is especially significant in light of current expansion in the home health care industry. In the past few years, home health care has been identified as one of the fastest growing segments of the health care industry on a national level. Quality assurance and reimbursement for home health care services have become issues of national concern. The delivery of home health care is proliferating in both the public and private sectors.

The Department recognizes the impact of the home health movement upon patient care in this State. For many patients, including those with acute or chronic illnesses, home health care represents an alternative to either long-term placement or hospitalization. The development of new technologies is making available sophisticated treatments and equipment which enable patients to receive care in their homes, in some cases, as a substitute for institutional care. In order to ensure proper channeling of the growth and changes now occurring in the home health field, regulation is necessary. Such regulation includes protection of patients and monitoring of managerial and administrative practices. It is essential that the agencies employ staff who are qualified to provide services at the level of sophistication required; that agencies provide adequate continuity and coordination of services; and that adequate record-keeping and administrative back-up are provided to support the patient care services.

The benefits to patients and their families of receiving home health care are manifold. Studies have shown that patients who remain in their homes to receive care often respond better and recover more quickly. The psychological factor associated with receiving care within the familiar home environment has been demonstrated to be significant. There is also a preventive aspect to home health care insofar as services provided in some instances prevent disease, avert disability, reduce the likelihood of institutionalization, or postpone its occurrence. For some patients, home care is less stressful than institutionalization. Feelings of isolation and dependence are reduced. Disruption of family life and dislocation of the patient's personal life are minimized. The patient and family retain a sense of control. This generalization applies to cases of both chronic and acute illness in which the patient is eligible for home health care services.

Given the potential benefits to patients accruing from home health care, it is important that the agencies supplying these services maintain adequate levels of patient care. In light of the challenges presented to the home health industry by the rapid growth in technology and service modalities, there exists a special need for acceptable, quantifiable measures of agency performance in order to protect providers and consumers of home health care services. The Department maintains that the current text of N.J.A.C. 8:42-1 provides one such basic form of quality control and protects the health and safety of patients in the spirit and intent of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

### Economic Impact

The Department foresees no adverse financial consequences in readoption of the current rules for home health agencies, N.J.A.C. 8:42-1. Since the rules are now in effect and the survey process is functioning, no additional costs will result from readoption of the existing rules. In fact, readoption is necessary at this point to ensure that the reimbursement process, dependent upon licensure, will not be disrupted. Failure to maintain the rules will jeopardize the flow of funds from third-party payors to agencies meeting licensure requirements.

All licensed home health agencies in New Jersey presently receive reimbursement through their participation in Titles XVIII and XIX of the Social Security Act.

The rules for licensure of home health agencies contain provisions to ensure continuity of care and consistent record-keeping, both of which are cost-containment measures which prevent duplication of services. Policies and procedures regarding administrative and managerial functions are required so as to promote efficient use of agency resources. Contractual agreements between agencies and other providers of services are described in such a way that responsibilities, including those pertaining to finances, are clearly delineated. The functions of professional personnel, including the administrator and health care professionals in charge of various services, are outlined to ensure the effective and efficient functioning of agency operations and the appropriate assignment of duties to all levels and categories of health care workers. The agencies are required to collect statistical and financial data which contribute to the assessment of agency efficiency. Evaluation measures are required on an ongoing basis—a fact which promotes cost control. These and other specific items contained in the rules represent efforts to contain cost while ensuring delivery of quality patient care services.

On an individual patient level, home health care as delivered by licensed home health agencies can result in considerable savings over the alternative cost of institutional care in a hospital or a long-term care facility. Furthermore, home health care may prevent disease or disability. While conclusive evidence that home health care is, in all cases, less costly than institutional care has not been amassed, studies point to the lessening of costs, and many health care authorities maintain that home health care is a less expensive method of delivering long-term care services as well as acute post-hospital care. There is no doubt that for many individuals and their families the use of home health care reduces the drain on their personal finances.

The growing use of home health services is motivated by economic as well as humanitarian considerations. New technologies have made it financially feasible for the first time to provide in the patient's home many sophisticated service modalities which were previously available only in acute-care settings. On a national level, escalating costs for both hospital and long-term institutional care have led to increased use of home care as a way of reducing length of institutional stay, either by postponing the need for institutional care or by allowing earlier discharge. Given the increase in the elderly population, home health care services are needed to maintain the chronically ill and elderly in their homes and to forestall the need for costly institutional care for those who do not require expensive, institution-based services.

Home health care has expanded partly in response to cost-saving measures applied to other sectors of the health care industry. The use of the DRG system encourages early discharge from hospitals in order to reduce the number of expensive hospital days. Recuperation even from major surgery or major illness is taking place increasingly at home, supported by the proliferation of drug therapies, equipment, and professional home health care services. Hospice services are now being provided to patients by home health agencies. As this trend increases and is perhaps augmented in the future, home health care will have a greater impact on containment of total health care costs.

Given the growth in the home health industry and the capability it offers for preventing or reducing disease, disability, and institutional care, the Department proposes readop-

tion of the current rules, N.J.A.C. 8:42-1, as one method of encouraging the strengthening of the home health industry in New Jersey. This will enable agencies to continue providing services without interruption, with reimbursement being dependent upon compliance with licensure rules. The overall economic impact of N.J.A.C. 8:42-1 will be favorable in that no additional expenses will be incurred, while the long-term economic implications of quality home health services will continue to be significantly beneficial.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:42-1.

## (a)

### Ambulatory Care Facilities Standards for Licensure

#### Proposed Repeal: N.J.A.C. 8:43A

#### Proposed New Rule: N.J.A.C. 8:43A

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1984-687.

The agency proposal follows:

#### Summary

N.J.A.C. 8:43A was scheduled to expire on August 9, 1983, pursuant to the "sunset" provisions of Executive Order No. 66(1978) which mandates the five-year automatic expiration of a rule. Also, in recent years it became increasingly apparent that the current Standards for Licensure of Ambulatory Care Facilities, N.J.A.C. 8:43A, were in need of revision. On June 20, 1983, the Department proposed that N.J.A.C. 8:43A be readopted without change so as to extend the expiration date by one year and allow sufficient time for the extensive revision of the regulations (see 15 N.J.R. 994(a)). The proposal was adopted and a notice of adoption was published on October 3, 1983 (see 15 N.J.R. 1662(a)). Since the Department was unable to complete the revision within the period of time allowed, the Department again proposed the readoption without change of N.J.A.C. 8:43A on August 20, 1984 (see 16 N.J.R. 2208(a)). The notice of adoption for this latter two-year readoption was published on November 5, 1984. The proposed new rule is the result of the Department's extended effort to reorganize, simplify, update, and increase the flexibility and cost-effectiveness of the Standards for Licensure of Ambulatory Care Facilities.

Ambulatory care facilities provide a variety of health care services on an outpatient basis. The various types of ambulatory care facilities include family planning, family practice, prenatal and postpartum, pediatric, surgical, drug abuse treatment, chronic dialysis, and computerized tomography facilities, and health maintenance organizations. Both the current rule, N.J.A.C. 8:43A, and the proposed rule, N.J.A.C. 8:43A, contain rules for licensure of these diverse types of facilities. The Department's objectives in establishing rules for licensure of ambulatory care facilities continue to be the following:

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 attain these objectives and to ensure that ambulatory care facilities provide preventive, diagnostic, and therapeutic health services to patients, the Department proposes these new rules for licensure of ambulatory care facilities.

The rules have been reorganized by means of a recategorization with reference to pervasive rather than specialized services. Such an approach has the advantage of emphasizing the unity rather than the diversity of ambulatory care services. Accordingly, specialized subchapters of the current rule such as Family Practice, N.J.A.C. 8:43A-10, Health Maintenance Organization Services, N.J.A.C. 8:43A-11, Family Planning Services, N.J.A.C. 8:43A-5, Prenatal and Postpartum Care, N.J.A.C. 8:43A-6, Pediatric Services, N.J.A.C. 8:43A-7, Drug Abuse Treatment Services, N.J.A.C. 8:43A-9, and Intermediate Renal Dialysis, N.J.A.C. 8:43A-13, have been deleted, and new subchapters such as Patient Care Policies, Medical Staff Services, Nursing Services, Pharmaceutical Services, Counseling Services, and Emergency Services and Procedures have been added. Although the current rules, N.J.A.C. 8:43A-3.11, N.J.A.C. 8:43A-3.18 and 19, and N.J.A.C. 8:43A-4.1, regarding health education and counseling, patient care statistics, financial data, and dental services, respectively, have been omitted as separate sections, the intent and content of these current rules are expressed in the proposed new rule.

The cross-references, which appear throughout the current rules, have been virtually eliminated in the interest of simplicity and ease of use. This simplicity is a direct result of the reorganization described above.

The proposed rules permit more flexibility than the current rules. A major manifestation of this change is the requirement for the facility to develop and implement many policies and procedures which address matters currently addressed by more prescriptive rules. The requirements regarding medical history and physical examination, N.J.A.C. 8:43A-6.3(a)18 and 19, and screening services, N.J.A.C. 8:43A-6.3(a)21, exemplify this type of revision and are discussed below.

A summary of the proposed new rule and of the major changes contained in the proposed new rule, N.J.A.C. 8:43A, follows:

The proposed new rule comprises the following subchapters: Definitions and/or Qualifications, Licensure Procedure, General Requirements, Governing Authority, Administration, Patient Care Policies, Medical Staff Services, Nursing Services, Pharmaceutical Services, Counseling Services, Laboratory, Radiological, and Computerized Tomography Services, Surgical Services, Medical Records, Infection Prevention and Control, Emergency Services and Procedures, Patient Rights, Housekeeping, Sanitation, and Safety, Evaluation, and Physical Plant Requirements.

The proposed rule, N.J.A.C. 8:43A-1.1, provides definitions of the technical terms used throughout the chapter and delineates the qualifications required of persons serving in particular capacities. The proposed definitions include the current definitions which are suitable for retention. The current regulations do not pertain to hospital outpatient services. The proposed definition of "ambulatory care facility," which represents a substantive change, extends the scope of the licensure regulations so as to include outpatient services in a hospital. The aggregation of the definitions into a single subchapter is expected to facilitate use of the manual by both

providers of ambulatory care services and surveyors of the Department. In the current regulations, in contrast, definitions of terms pertaining to computerized axial tomography, drug abuse treatment, an dialysis are located in the separate subchapters, N.J.A.C. 8:43A-12, N.J.A.C. 8:43A-9, and N.J.A.C. 8:43A-13, respectively.

The licensure procedure for ambulatory care facilities is detailed in the proposed rule, N.J.A.C. 8:43A-2, which includes regulations regarding Certificate of Need, application for licensure, newly constructed or expanded facilities, surveys and temporary license, full license, surrender of license, waiver of regulations, and action against a license. The proposed licensure procedure, including the payment of a licensure fee of \$100.00 as specified in N.J.A.C. 8:43A-2.2(b), is essentially the same as the current procedure with the exception of technical differences such as program titles and addresses.

The proposed rule, N.J.A.C. 8:43A-3.1(a), requires each facility to provide preventive, diagnostic, and therapeutic services and specifies the particular services which must be provided. The requirements regarding child abuse and neglect and employee physical examinations, currently stated in N.J.A.C. 8:31-26.4 and N.J.A.C. 8:31-26.3, respectively, are, in the proposed rule, stated in N.J.A.C. 8:43A-3.3 and N.J.A.C. 8:43A-3.6(a)10, respectively, in order to facilitate use of the manual by allowing the user to view these general requirements together with the other general requirements. Editorial changes, which do not change the intent of the regulations, have been made in each of these two rules. The proposed rule, N.J.A.C. 8:43A-3.5(c), requires the presence of at least one person trained in cardiopulmonary resuscitation. This latter rule, which has been added in the interest of patient safety, is not expected to be a source of difficulty for the facility since physicians and nurses typically have the required training. Establishment, implementation, and review of a policy and procedure manual are required by the proposed rule, N.J.A.C. 8:43A-3.6(a). The requirements regarding the policy and procedure manual are similar to those which appear in manuals of standards for licensure of other types of health care facilities. There are some technical and organizational differences between the proposed Subchapter 3 and the current rule, N.J.A.C. 8:43A-3.1. For example, requirements regarding emergency plans, procedures, and drills, currently stated in N.J.A.C. 8:43A-3.1(r), have been added to the proposed subchapter, N.J.A.C. 8:43A-15, which concerns emergency services and procedures (see N.J.A.C. 8:43A-15.1(a) and (b) and N.J.A.C. 8:43A-15.2(a)).

The title of N.J.A.C. 8:43A-4 has been changed from "Auspices" to "Governing Authority" so as to agree with the style and format of other licensure manuals. Nevertheless, the proposed Subchapter 4 is similar in content to the current rule, N.J.A.C. 8:43A-3.2. The proposed rule, N.J.A.C. 8:43A-4.1(a), addresses the responsibility of the governing authority in general terms whereas N.J.A.C. 8:43A-4.1(a)1 through 10 specify particular responsibilities. The proposed rule, N.J.A.C. 8:43A-4.1(a)10, which requires approval of the medical staff bylaws by the governing authority, is complementary to the proposed rules, N.J.A.C. 8:43A-7.4(a) and N.J.A.C. 8:43A-12.2(a).

The appointment and availability of an administrator and an alternate administrator are required by the proposed rule, N.J.A.C. 8:43A-5.1. N.J.A.C. 8:43A-5.1(a)1 and 2 concern the documentation and computation of the administrator's time. The reference to the availability of the administrator in the proposed rule, N.J.A.C. 8:43A-5.1, is indicative of a departure from the stringent requirements of the current regu-

lations, such as the current rule, N.J.A.C. 8:43A-3.14(a)1, which requires a facility with 20,000 or more annual patient visits to provide a full-time administrator. The responsibilities specified in the proposed rules, N.J.A.C. 8:43A-5.2(a)1 through 8, are indicative of the varied duties of the administrator and are similar to those specified in the current rules, N.J.A.C. 8:43A-3.3(b)1 through 6. In contrast to the current rule, N.J.A.C. 8:43A-3.3, the proposed Subchapter, N.J.A.C. 8:43A-5, does not concern the designation or responsibilities of a medical director. Regulations regarding the medical director appear in the proposed Subchapter, N.J.A.C. 8:43A-7.

The proposed Subchapter, N.J.A.C. 8:43A-6, attempts to realize the collective goal of the current rules, N.J.A.C. 8:43A-3.4 through 12 and N.J.A.C. 8:43A-3.15 and 16. The proposed subchapter differs from the current rules in title, format, and content. The proposed rule, N.J.A.C. 8:43A-6.2(a), specifies the constitution of the patient care policy committee, or its equivalent. The items which are to be addressed by the patient care policies and procedures are listed in the proposed rules, N.J.A.C. 8:43A-6.3(a)1 through 28. The proposed rule, N.J.A.C. 8:43A-6.3(a)1, requires all ambulatory care facilities to provide preventive, diagnostic, and therapeutic services. Provision of these services is presently required by N.J.A.C. 8:43A-3.4. The proposed rule, however, does not require facilities providing comprehensive medical services to also provide pediatric and/or prenatal, postpartum, and gynecological services and thus markedly differs from the current rules, N.J.A.C. 8:43A-3.5 through 7. The Department affirms the necessity of revising the rules in the manner described in order to render them more pertinent to ambulatory care facilities as such facilities presently exist. The policies and procedures required by N.J.A.C. 8:43A-6.3(a)1 through 28 are intended to facilitate continuity of care and, therefore, must necessarily concern many diverse aspects of patient care. Thus, N.J.A.C. 8:43A-6.3 requires policies and procedures regarding admission and registration of patients, emergency care and transportation, informed consent, a written patient plan of care, referral of patients, dietary counseling, social work services, appropriate equipment and supplies, patient instruction and health education, telephone consultation, documentation to be obtained at each patient visit, a medical history, a physical examination, screening services, interpretation services, immunization schedules, and discharge, termination, retention, and readmission of patients. Most of the above items are addressed in the current rules. The requirements for policies and procedures regarding a medical history, a physical examination, and screening services are considerably less restrictive than the current rules, N.J.A.C. 8:43A-3.5(a)1 through 2viii, N.J.A.C. 8:43A-3.6(c) and (d), and N.J.A.C. 8:43A-3.7(h), which require a complete medical history, a physical examination, and the performance of specific screening services. The proposed requirements for policies and procedures permit flexibility so as to allow the free exercise of medical judgement and the consideration of external circumstances such as the costs and benefits of performing particular screening procedures. It is the Department's contention that this fundamental change in the degree of flexibility permitted will not jeopardize patient care or safety. The proposed rules, rather, foster the appropriate, cost-effective use of ambulatory care services. The proposed rules, N.J.A.C. 8:43A-6.4 and 5, pertain exclusively to patient care policies regarding chronic dialysis services and drug abuse treatment services, respectively.

Reorganization of the rules has resulted in the absence of a section such as the current rule, N.J.A.C. 8:43A-3.14, regard-

ing staffing patterns. Rather, the proposed rule includes distinct subchapters concerning medical staff services and nursing services. These proposed subchapters, N.J.A.C. 8:43A-7 and 8, contain staffing requirements for various types of ambulatory care facilities similar to those contained in the current rules. The proposed rule, N.J.A.C. 8:43A-7.2, requires the appointment of a medical director and the designation of a physician to act in his or her absence. The proposed rules, N.J.A.C. 8:43A-7.5(a)1 through 3 and 5, substantively differ from, and are more flexible than, some of the current rules insofar as they require availability of the physician or medical director rather than service dependent upon the number of patient visits. N.J.A.C. 8:43A-7.5(a)4 is in agreement with N.J.A.C. 8:33G-1.3(a)1, Certificate of Need: Computerized Tomography Scanners, and with the current rule, N.J.A.C. 8:43A-12.3(c).

The facility is required by the proposed rule, N.J.A.C. 8:43A-8.2, to designate a registered professional nurse as the director of nursing services. Also, the director or the director's alternate is required to be on the premises of the facility during its hours of operation. The medical record entries for which nursing personnel are responsible are specified in N.J.A.C. 8:43A-8.5(a)1 through 3 and include the nursing portions of the patient plan of care, clinical notes, and a record of medications administered. The proposed rule, N.J.A.C. 8:43A-8.6, identifies the nursing personnel who may administer medication, is in agreement with the policies of the New Jersey State Board of Nursing, and is included for the convenience of facility personnel. N.J.A.C. 8:43A-8.7 through 9, require facilities which provide specialized services to have nursing personnel on duty in prescribed numbers or ratios. In contrast to the current rule, N.J.A.C. 8:43A-3.14(c)1, the proposed rules do not contain a requirement for a public health nurse. The proposed rule, N.J.A.C. 8:43A-8.9(a)1, has been added because of the emerging capacity of chronic dialysis facilities to provide home (self) care dialysis services and is in agreement with N.J.A.C. 8:43B-15.8(a)1 and 2. Also, the proposed rule, N.J.A.C. 8:43A-8.9(a)2, is similar to N.J.A.C. 8:43B-15.10(e).

The current rules regarding pharmaceutical services, N.J.A.C. 8:43A-3.13 and N.J.A.C. 8:43A-13.4, are no longer sufficient given the presence and importance of the pharmacy in the modern ambulatory care facility. Consequently, the proposed rules contain a subchapter, N.J.A.C. 8:43A-9, which more adequately addresses such issues as the storage of drugs and is more able to protect the safety of patients. The proposed rule, N.J.A.C. 8:43A-9.1, pertains specifically and exclusively to facilities which possess an institutional pharmacy. The proposed rules N.J.A.C. 8:43A-9.2 and 3, apply only to facilities which store or administer drugs. N.J.A.C. 8:43A-9.2 requires the development, implementation, approval, and documented review of policies and procedures for the administration, control, and storage of medications. The policies and procedures, as stated in N.J.A.C. 8:43A-9.3(a)1 through 17, must include policies and procedures regarding a requirement that all medications be ordered in writing; documentation and review of adverse drug reactions and medication errors; stop orders and discontinued orders; control of the administration of toxic and dangerous drugs; use and labeling of parenterals; purchase, storage, use, accountability, and disposition of drugs, needles, and syringes; a verifiable record system of the intentional or unintentional loss of controlled substances; provision of current pharmaceutical reference materials and sources of information; activities of medical and pharmaceutical sales representatives; storage of medications in accordance with specified restrictions; patient

identification and measurement of vital signs prior to drug administration; prompt drug administration; relabeling, disposal, or destruction of drugs in specified instances; and storage and verification of controlled substances in accordance with N.J.A.C. 8:43A-9.3(a)17. A declining inventory of all substances in Schedule II of the Controlled Dangerous Substances Acts is required by the proposed rule, N.J.A.C. 8:43A-9.3(a)17iii.

Rules regarding dietary, social work, and drug abuse counseling services, currently stated in N.J.A.C. 8:43A-6.3(a)4 and 5, N.J.A.C. 8:43A-6.4(c), N.J.A.C. 8:43A-7.1(a)3ii and iii, N.J.A.C. 8:43A-9.8 and 9, N.J.A.C. 8:43A-10.2(a)2, and N.J.A.C. 8:43A-13.5 are expressed in equivalent form, despite linguistic modifications, in the proposed new Subchapter, N.J.A.C. 8:43A-10, entitled "Counseling Services." As stated in the proposed rule, N.J.A.C. 8:43A-10.1(a), the facility is required to provide or arrange for the provision of dietary counseling and social work services. The responsibilities of the administrator, or his or her designee(s), are delineated in the proposed rule, N.J.A.C. 8:43A-10.2. It is anticipated that performance of these duties will promote cost-effective patient care. The proposed rule concerning drug abuse counseling services, N.J.A.C. 8:43A-10.3, is consistent with the current rules, N.J.A.C. 8:43A-9.8 and 9. Reference to specific types of patients requiring counseling or social work services does not appear in the proposed Subchapter. In conjunction with the requirements in the proposed rule, N.J.A.C. 8:43A-6.3, the proposed Subchapter regarding counseling services grants health care professionals the flexibility to initiate courses of action concerning patient care in accordance with the policies and procedures of the facility.

The proposed rule, N.J.A.C. 8:43A-11.1(a), requires the facility to provide laboratory and radiological services directly or through written agreement. Requirements for the provision of specific laboratory and diagnostic procedures, such as those stated in the current rules, N.J.A.C. 8:43A-3.8 and 10, do not appear in the proposed new rule. This omission will allow health care professionals to determine, in accordance with the policies and procedures of the facility, which particular tests are appropriate in any given case. The proposed rule, N.J.A.C. 8:43A-11.2, lists specific staffing requirements for facilities providing computerized tomography services. These requirements are currently stated in N.J.A.C. 8:43A-12.3(e) and (f). The current rules regarding utilization requirements and data reporting, N.J.A.C. 8:43A-12.4 and 5, respectively, have been omitted from the proposed subchapter because they are duplicative of guidelines and criteria contained in N.J.A.C. 8:33G. Proposed rules regarding patient rights and physical plant, unlike the current rules, N.J.A.C. 8:43A-12.6 and 7, appear in separate subchapters of the proposed new rule.

Subchapter 12 of the proposed new rule, entitled "Surgical Services," is similar in content and intent to the current Subchapter 8. Changes have resulted from the relocation of some rules to more appropriate Subchapters of the proposed new rule. The requirement in the current rule, N.J.A.C. 8:43A-8.1(j), for the maintenance of monthly records of all unusual incidents, such as postoperative complications, has been broadened through the deletion of the term "monthly." The resultant proposed rule, N.J.A.C. 8:43A-12.3(a), is more functional, workable, and realistic. The current rule, N.J.A.C. 8:43A-8.2(e), which requires the facility to have a written arrangement for immediate access to both an emergency room and a hospital, is not included in the proposed rule. The proposed rules, N.J.A.C. 8:43A-3.6(a)8 and N.J.A.C. 8:43A-3.8(a)1 through 5, however, require that at

least one member of the medical staff maintain admitting privileges at a hospital and that the facility have a written agreement, or its equivalent, for services not provided in the facility. Moreover, the proposed rule, N.J.A.C. 8:43A-15.3(a), requires the facility to have a written plan for emergency transportation of patients. Patient care and safety, therefore, will not be jeopardized. Finally, the proposed rules, N.J.A.C. 8:43A-12.2(a)9 and N.J.A.C. 8:43A-12.2(a)9i, substantively exceed the current rule, N.J.A.C. 8:43A-8.2(h), insofar as the proposed rules address the disposal of gross and microscopic tissue.

The proposed rule, N.J.A.C. 8:43A-13, is a distinct subchapter concerning medical records. The facility is required by the proposed rule, N.J.A.C. 8:43A-13.1(a), to maintain a medical record for each patient. In general, the rules contained within the proposed Subchapter 13 are similar to the current rule, N.J.A.C. 8:43A-3.17. Substantive changes, however, have been made. For example, the proposed new rule does not require the facility to maintain a plan of care for each patient. The Department contends that the need for a plan of care is dependent upon the reason for the patient visit and that patient care and safety is not in jeopardy since the proposed rule, N.J.A.C. 8:43A-13.2(b), requires that the medical record include, for each visit, at least the patient's complaint or purpose of the visit, the diagnosis or medical impressions, orders for tests, and therapies administered. Also, the proposed Subchapter contains a new rule, N.J.A.C. 8:43A-13.3(a)3, which requires the facility to establish policies and procedures for release and/or provision of copies of the patient's medical record to the patient and/or the patient's authorized representative.

The purpose of the proposed Subchapter regarding infection prevention and control, N.J.A.C. 8:43A-14, is to allow the facility flexibility to develop, implement, and enforce an infection prevention and control plan appropriate for that facility. The proposed Subchapter 14 is similar in function to the current rule, N.J.A.C. 8:43A-3.21. Due to the reorganization of the rules, of which Subchapter 14 is a product, there is no longer a need for sections regarding infection control in facilities specifically providing drug abuse treatment services and intermediate renal dialysis. Accordingly, the current rules, N.J.A.C. 8:43A-9.16 and N.J.A.C. 8:43A-13.8, are absent from the proposed new rule. In order to compensate for the deletion of some current rules, the proposed rules, N.J.A.C. 8:43A-14.5 and 6 and N.J.A.C. 8:43A-14.8, have been added. The proposed rule, N.J.A.C. 8:43A-14.5, concerns pathological and infectious waste. The inclusion of the proposed rule, N.J.A.C. 8:43A-14.6, complements the proposed rules, N.J.A.C. 8:43A-12.2(a)9 and N.J.A.C. 8:43A-12.9(a)9i, and the proposed rule, N.J.A.C. 8:43A-14.7, regarding infection control procedures in facilities providing surgical services in an operating room and recovery area. The proposed new rule, N.J.A.C. 8:43A-14.8, requires that facilities providing chronic dialysis services adhere to the recommendations in "Hepatitis Surveillance," Report No. 41, September 1977.

The content of the current rules, N.J.A.C. 8:43A-3.1(r)1 and 2, regarding written plans and procedures to be followed in case of medical emergencies, equipment breakdown, fire, or other disaster, is contained in the proposed new subchapter on emergency services and procedures, N.J.A.C. 8:43A-15. The proposed rule, N.J.A.C. 8:43A-15.3, in the interest of patient safety, requires the facility to provide medical services on the premises during its hours of operation to persons requiring such services and to have a written plan for emergency transportation of patients to another facility for care.

N.J.A.C. 8:43A-15.3 is consistent with the intent of the current rules, N.J.A.C. 8:43A-3.12, N.J.A.C. 8:43A-11.4, and N.J.A.C. 8:43A-13.9, regarding emergency medical care, emergency medical care provided by health maintenance organizations, and emergency procedures of facilities providing dialysis services, respectively. In contrast to the current rules, the proposed rules, N.J.A.C. 8:43A-15.3(c)1 through 3, grant facilities, with the exception of facilities providing surgical or chronic dialysis services, flexibility in the establishment and implementation of policies and procedures regarding the locations and contents of emergency kits and carts. The proposed rules, N.J.A.C. 8:43A-15.3(c)4 and N.J.A.C. 8:43A-15.4, contain minimum requirements pertaining specifically to facilities providing chronic dialysis services and to facilities providing surgical services.

The proposed subchapter regarding patient rights, N.J.A.C. 8:43A-16, is more specific and detailed than the current rules, N.J.A.C. 8:43A-3.15(i) and N.J.A.C. 8:43A-12.6, from which the proposed subchapter was derived. The proposed rules are similar to those contained in licensure manuals for other types of health care facilities and are intended to ensure that patients are treated in a manner which recognizes and respects their basic human rights. Such rights include, for example, freedom of association, freedom from mental and physical abuse, and freedom from discrimination or reprisal.

Housekeeping, sanitation, and safety are the topics of the proposed subchapter, N.J.A.C. 8:43A-17. The proposed rule is similar to the current rule, N.J.A.C. 8:43A-3.22. The Department expects that observance of the specified practical requirements will result in the provision of a safe and sanitary environment patients, personnel, and visitors.

The proposed rule regarding evaluation (quality assurance), N.J.A.C. 8:43A-18, is similar to the current rule, N.J.A.C. 8:43A-3.20, although minor linguistic modifications have been made. The facility is required by the proposed rule, N.J.A.C. 8:43A-18.1, to establish and implement a written plan for the audit and evaluation of patient care. The objective of the proposed subchapter is to enhance the ability of the facility to provide appropriate patient care of high quality through the identification and resolution of problems.

The current rule concerning construction and additional requirements, N.J.A.C. 8:43A-19.1 and 2, with editorial changes, appears in Subchapter 19 of the proposed new rule. Since the need for cross-references has been eliminated through reorganization, the proposed new rule, N.J.A.C. 8:43A, does not contain physical plant regulations such as the current rules, N.J.A.C. 8:43A-6.9, N.J.A.C. 8:43A-7.3, N.J.A.C. 8:43A-8.3, N.J.A.C. 8:43A-9.15, N.J.A.C. 8:43A-10.3, and N.J.A.C. 8:43A-11.7.

#### **Social Impact**

Ambulatory care represents a cost-effective means by which consumers can receive health care on an outpatient basis. Through early detection and control of diseases, ambulatory care facilities reduce the number of inpatient hospital days required by patients and minimize the loss of days on which patients could otherwise function productively in society. Since so many health care services can be provided on an outpatient basis, the capacity to provide ambulatory care services is an important societal asset. Licensure of ambulatory care facilities promotes the availability and accessibility of the services which such facilities offer.

The comprehensive nature of the health care services provided by the many ambulatory care facilities in New Jersey, which range from family practice services to computerized tomography services, requires that there be comprehensive minimum rules capable of safeguarding the physical well-being of the consumers of these services. In addition to containing current rules which beneficially affect the safety of patients in ambulatory care facilities, the proposed chapter also contains new rules of similar intent such as the rule, N.J.A.C. 8:43A-3.5(c), regarding the presence of at least one person trained in cardiopulmonary resuscitation and the proposed rule, N.J.A.C. 8:43A-9, regarding pharmaceutical services.

The above summary describes some of the ways in which the proposed new rule allows greater flexibility than the current rule allows. The Department expects that this diminution of restriction will permit the providers of ambulatory care services to respond more appropriately and effectively to the individual needs of communities and patients throughout New Jersey—needs which vary as a function of such variables as demography and economy.

The proposed new rules are simpler and better organized than the current rules. As a result of these improvements, providers of ambulatory care services and surveyors of the Department will be able to use the regulations in any particular type of ambulatory care facility without frequently having to check cross-references. Greater ease of use is expected to result in greater understanding and less misinterpretation of the rules.

#### **Economic Impact**

Licensure of ambulatory care facilities produces economically advantageous consequences for consumers, providers, and third-party payors. Ambulatory care facilities are intrinsically well-suited to promote containment of health care costs. Costs associated with unnecessary care and unnecessarily long inpatient visits to hospitals can be reduced as a result of the capacity of ambulatory care facilities to provide services which lead to the early detection and control of disease. By offering preventive, diagnostic, and therapeutic health services on an outpatient basis, ambulatory care facilities afford a means by which a patient may receive health care services without incurring an excessive financial burden. Adherence to N.J.A.C. 8:43A on the part of the facility is the basis for licensure. Licensure makes it possible for the facility to receive reimbursement from third-party payors and, in this way, contributes to the realization of the potential for cost containment inherent in ambulatory care.

The proposed new rule permits flexibility at two levels. It is less prescriptive than the current rule with regard to the degree of comprehensiveness of services which it requires. As noted above, the proposed rule, N.J.A.C. 8:43A-6.3(a)1, does not require facilities providing medical services to also provide pediatric and/or prenatal, postpartum, and gynecological services. The proposed rule is also less prescriptive with regard to the manner in which services may be provided. Particular screening procedures, for example, are not required. Flexibility at both of these levels is conducive to cost containment.

**Delete** in its entirety the current text found in the New Jersey Administrative Code at N.J.A.C. 8:43A.

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

**CHAPTER 43A  
MANUAL OF STANDARDS  
FOR LICENSURE OF  
AMBULATORY CARE FACILITIES**

**SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS**

**8:43A-1.1 Definitions and/or qualifications**

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

“Administrator” shall mean a person with a baccalaureate degree and two years of administrative or supervisory experience in a health care facility. Additional years of experience and/or training in a health care facility may be substituted on a year for year basis in lieu of the required baccalaureate degree.

“Administrator-drug abuse treatment facilities” shall mean a person approved by the Division of Narcotic and Drug Abuse Control.

“Ambulatory care facility” shall mean a facility or a distinct part of a facility which is licensed by the New Jersey State Department of Health to provide preventive, diagnostic, and therapeutic services under medical supervision to persons who come to the facility to receive services and depart from the facility on the same day. All ambulatory care facilities shall provide at least medical, nursing, dietary counseling, social work services, laboratory, and radiological services. The regulations contained in this manual are applicable to a wide range of ambulatory care facilities including outpatient services in a hospital.

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

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

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

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

“Certified nurse-midwife (CNM)” shall mean a person who is licensed to practice nurse-midwifery by the New Jersey State Board of Medical Examiners.

“Certified registered nurse anesthetist (CRNA)” shall mean a person as defined by the New Jersey State Board of Nursing in N.J.A.C. 13:37-13.

“Chronic dialysis” shall mean the rendering of dialysis to a patient with end stage renal disease in whom recovery of renal function is not expected.

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

“Clinical note” shall mean a written, signed, and dated notation made at each patient visit by each health care professional who renders a service to the patient, and shall include a description of signs and symptoms, treatment and/or medica-

tion(s) given, the patient’s response, and any changes in physical or emotional condition. Clinical notes are written into the patient’s medical record the day service is rendered.

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

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

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

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

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

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

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

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

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

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

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

“Disinfection” shall mean the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied.

1. “Concurrent disinfection” shall mean the application of measures of disinfection as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges, all personal contact with such discharges or articles being minimized prior to such disinfection.
2. “Terminal disinfection” shall mean the application of measures of disinfection after the patient has ceased to be a source of infection, or after the facility’s isolation practices have been discontinued. Terminal disinfection is rarely practiced; terminal cleaning generally suffices (see definition of “cleaning” above), along with airing and sunning of rooms, furniture, and bedding. Terminal disinfection is necessary only for diseases spread by indirect contact.

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

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

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

"Drug counselor" shall mean a physician, nurse, or mental health professional, or a staff member of the drug abuse treatment facility under the supervision of a physician, nurse, or administrator of the drug abuse treatment facility.

"Family practice physician" shall mean a physician who is certified or eligible for certification by the American Board of Family Practice, Inc., or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

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

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

"Hospital" shall mean a health care facility as defined in N.J.A.C. 8:43B.

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

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

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

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

"Medical director—chronic dialysis services" shall mean a nephrologist. The same person shall not serve as medical director for more than two facilities providing chronic dialysis services.

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

"Medication error" shall mean the administration of the wrong medication or dose or medication, drug, diagnostic agent, chemical, or treatment requiring use of such agents, to the wrong patient, or at the wrong time, or the failure to administer such agents at the specified time, or in the manner prescribed or normally considered as accepted practice. Errors may be classified as "commissions," that is, medications incorrectly administered to the patient, such as unordered medication or medication in the wrong strength; and "omissions," that is, medication not administered at prescribed times.

"Mental health professional—drug counseling services" shall mean a person approved by the Division of Narcotic and Drug Abuse Control who, by virtue of education, training, or experience, is capable of assessing the psychological and sociological background of the patient to determine the plan of care most appropriate for the patient.

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

"Nephrologist" shall mean a physician who is certified or eligible for certification by the American Board of Internal Medicine, Inc., or the American Osteopathic Board of Internal Medicine, Inc., or the American Osteopathic Board of Internal Medicine, with two years of full-time training in nephrology, or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

"Obstetrician-gynecologist" shall mean a physician who is certified or eligible for certification by the American Board of Obstetrics and Gynecology, Inc., or the American Osteopathic Board of Obstetrics and Gynecology, or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

"Pediatrician" shall mean a physician who is certified or eligible for certification by the American Board of Pediatrics, Inc., or the American Osteopathic Board of Pediatrics, or who has been granted privileges by the facility to provide services equal to or greater than those provided by a Board-certified or Board-eligible physician.

"Pharmacist" shall mean a person who is registered, as defined in N.J.A.C. 13:39-1.1, by the New Jersey State Board of Pharmacy.

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

"Plan of care" shall mean a written plan, initiated and implemented in accordance with the policies and procedures of the facility, which documents an assessment of the patient, and the care and treatment to be provided, including the type, amount, frequency, and duration. Each service of the facility which provides services to the patient shall develop its own portion of the plan of care. The plan of care shall be kept current and shall be revised in accordance with the policies and procedures of the facility.

"Podiatrist" shall mean a person who is licensed by the New Jersey State Board of Medical Examiners.

"Prescriber" shall mean a person who is authorized to write prescriptions in accordance with Federal and State laws and the medical staff bylaws, rules and regulations.

"Radiation physicist/health physicist" shall mean a person who meets the requirements for certification as a specialist in radiation safety by the American Board of Radiology, Inc., or the American Association of Physicists in Medicine; or who has a master's degree with a major in medical radiation physics, health physics, or radiologic health.

"Radiologist" shall mean a physician who is certified or eligible for certification by the American Board of Radiology, Inc., or the American Osteopathic Board of Radiology, or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

"Radiologic technologist" shall mean a person who is licensed by the New Jersey State Department of Environmental Protection.

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

"Secondary care" shall mean care delivered by a specialist or subspecialist following referral by the primary care source. This may include ambulatory or inpatient care.

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

“Social worker” shall mean a person who has a master’s degree in social work from a graduate school of social work accredited by the Council on Social Work Education.

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

“Staff orientation plan” shall mean a written plan for the orientation of each new employee to the duties and responsibilities of the service to which he or she has been assigned, as well as to the personnel policies of the facility.

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

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

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

“Tertiary care” shall mean specialized inpatient care.

**SUBCHAPTER 2. LICENSURE PROCEDURE**

**8:43A-2.1 Certificate of need**

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

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

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

**8:43A-2.2 Application for licensure**

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

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

(b) The Department shall charge a nonrefundable fee of \$100.00 for the filing of an application for licensure of an ambulatory care facility and for the annual renewal of the license.

(c) Any person, organization, or corporation considering application for license to operate a facility shall make an

appointment for a preliminary conference at the Department with the Licensing, Certification and Standards Program.

**8:43A-2.3 Newly constructed or expanded facilities**

(a) The application for license for a new facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction and Monitoring  
 Program  
 Division of Health Facilities Evaluation  
 New Jersey State Department of Health  
 CN 360  
 Trenton, NJ 08625

(b) A final on-site inspection of the construction of the physical plant shall be made by representatives of the Health Care Facilities Construction and Monitoring Program and the Health Facilities Inspection Program, to verify that the building has been constructed in accordance with the architectural plans approved by the Department.

(c) Any health care facility with a construction program, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction and Monitoring Program of the Department for review and approval prior to the initiation of construction.

**8:43A-2.4 Surveys and temporary license**

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department shall be conducted to determine if the facility meets the regulations contained in this chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to occupancy.

(b) A temporary license may be issued to a facility when the following conditions are met:

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility’s compliance with Chapter 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. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;

3. Written approvals of the water supply and sewage disposal system from local officials are on file with the Department for any water supply or sewage disposal system not connected to an approved municipal system;

4. Survey(s) by representatives of the Department indicate the facility meets these regulations; and

5. Professional personnel are employed in accordance with the staffing requirements in these regulations.

(c) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department.

(d) Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and patient records and conferences with patients.

(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.

#### 8:43A-2.5 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the health care facility is operated as required by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules and regulations pursuant thereto.

(b) A license shall be granted for a period of one year or less as determined by the Department.

(c) The license shall be conspicuously posted in the facility.

(d) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless sooner suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date. The facility will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

(f) The license may not be renewed if local regulations and/or requirements are not met.

#### 8:43A-2.6 Surrender of license

The facility shall directly notify each patient, the patient's physician, and any guarantors of payment concerned at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days.

#### 8:43A-2.7 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the regulations in this chapter, waive sections of the regulations if, in his or her opinion, such waiver would not endanger the life, safety, or health of the patient or public.

(b) A facility seeking a waiver of these regulations shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department.

(c) A written request for waiver shall include the following:

1. The specific regulation(s) or part(s) of the regulation(s) for which waiver is requested;
2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;
3. An alternative proposal which would ensure patient safety; and
4. Documentation to support the application for waiver.

(d) The Department reserves the right to request additional information before processing a request for waiver.

#### 8:43A-2.8 Action against a license

(a) Violations of the following regulations shall result in action to impose a fine: N.J.A.C. 8:43A-2.1(a), 2.3(c), and 2.4(c).

(b) If the Department determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination.

(c) The Commissioner may order the immediate removal of patients from a facility whenever he or she determines imminent danger to any person's health or safety.

(d) This section shall apply to facilities with a temporary license and facilities with a full license.

### SUBCHAPTER 3. GENERAL REQUIREMENTS

#### 8:43A-3.1 Compliance with regulations and laws

(a) The facility shall provide preventive, diagnostic, and therapeutic services under medical supervision to patients. This shall include, but not be limited to, nursing, dietary counseling, social work services, and laboratory and radiological services.

(b) If a health care facility licensed by the Department provides ambulatory care services in addition to other health care services, it shall adhere to these regulations and to the regulations for licensure of facilities providing the other health care services.

1. Hospital facilities providing renal dialysis services shall adhere to N.J.A.C. 8:43B-15.

(c) The facility shall adhere to applicable Federal, State, and local regulations and requirements.

(d) A facility operating as a health maintenance organization shall meet all Federal and State regulations regarding health maintenance organizations and shall possess a valid certificate of authority issued by the Commissioner of Health.

(e) The facility shall adhere to all applicable provisions of Chapter 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

#### 8:43A-3.2 Ownership

(a) The ownership and control of the facility and the property on which it is located shall be disclosed to the Department. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Director of the Licensing, Certification and Standards Program of the Department in writing at least 30 days prior to the change.

(b) No health care facility shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

#### 8:43A-3.3 Child abuse and neglect

(a) The facility shall establish and implement written policies and procedures for reporting all diagnosed and/or suspected cases of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq.<sup>1</sup>

(b) The facility shall have in effect written policies and procedures including, but not limited to, the following:

1. The designation of a staff member(s) to be responsible for coordinating the reporting of diagnosed and/or suspected cases of child abuse and/or neglect on a 24-hour basis, recording the notification to Division of Youth and Family Services on the medical record, and serving as a liaison between the facility and Division of Youth and Family Services.
2. The development of written protocols for the identification and treatment of abused and/or neglected children.
3. The provision of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of child abuse and/or

neglect and regarding the facility's policies and procedures on at least an annual basis.

<sup>1</sup> Copies of the law can be obtained from the local district office of Division of Youth and Family Services (DYFS) or from the Office of Program Support, Division of Youth and Family Services, New Jersey State Department of Human Services, CN 717, Trenton, New Jersey 08625.

**8:43A-3.4 Submission of documents**

(a) The facility shall, upon request, submit in writing any documents which are required by these regulations to the Director of the Licensing, Certification and Standards Program of the Department.

1. All documents required by these regulations shall be retained by the facility for a period of at least three years after the date of the annual licensure inspection.

2. All documents required by these regulations shall be made available, upon request, to patients, staff, and the public. Copies shall be provided upon request, within a reasonable time, at a reasonable charge, and in accordance with the facility's policies and procedures regarding confidentiality. If any of the requested documents contain information involving corporate or business matters, such information may be deleted; however, if information is deleted for such reasons, the requesting party shall be informed in writing by the administrator of the reason for deletions.

**8:43A-3.5 Personnel**

(a) The facility shall ensure that the duties and responsibilities of all personnel are described in job descriptions and in the policy and procedure manual for each service.

(b) All personnel who require licensure or authorization to provide patient care shall be licensed or authorized under the appropriate laws or regulations of the State of New Jersey.

(c) At least one person trained in cardiopulmonary resuscitation in an approved course, as defined in the facility's policy and procedure manual, shall be in the facility at all times during its hours of operation.

**8:43A-3.6 Policy and procedure manual**

(a) A policy and procedure manual(s) for the organization and operation of the facility shall be established, implemented, and reviewed at intervals specified in the manual. Each review of the manual shall be documented, and the manual(s) shall be available in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1. A written narrative of the program describing its philosophy and objectives, the staffing patterns, and the services provided by the facility;

2. An organizational chart delineating the lines of authority, responsibility, and accountability, so as to ensure continuity of care to patients;

3. A description of the system for maintenance of patient records while the facility is in operation, and in the event that it ceases to operate;

4. A description of the process of audit and evaluation (quality assurance) of patient care and staff performance;

5. Definition and specification of business hours, hours of operation, and full-time;

6. A staff orientation and a staff education plan, including plans for each service and designation of the person(s) responsible for training;

7. A system for referral of patients to sources of secondary and tertiary health care. A facility providing chronic dialysis

services shall have a written transfer agreement with at least one hospital having an acute dialysis center and with at least one facility having a transplant program;

8. A requirement for at least one member of the medical staff to maintain admitting privileges at a hospital;

9. Policies and procedures for the maintenance of personnel records for each employee, including at least his or her name, previous employment, educational background, license number and date of expiration (if applicable), health evaluation records, job description, and evaluation of job performance; and

10. Policies and procedures for employees' (including persons providing direct patient care services through contractual arrangements or written agreements) physical examinations upon employment and subsequently, including the content and frequency, to ensure that:

i. Each employee who cannot document the result of a previous rubella screening test shall be given a rubella screening test using the rubella hemagglutination inhibition test or other rubella screening test approved by the Department. Each new employee who cannot document the result of a previous rubella screening test shall be given the rubella screening test upon employment. An employee who can document seropositivity from a previous rubella screening test or who can document inoculation with rubella vaccine shall not be required to have a rubella screening test.

(1) Each employee tested shall be informed in writing by the facility of the results of his or her rubella screening test.

(2) The facility shall ensure that each employee's record contains documentation of all tests performed and the results.

(3) The facility shall ensure the maintenance of a list of each employee who is seronegative and unvaccinated to be used in the event that an employee is exposed to rubella and a determination is needed as to whether or not the employee can continue to work.

(b) The policy and procedure manual(s) shall be available and accessible to all patients, staff, and the public.

**8:43A-3.7 Staffing**

The facility shall maintain written staffing patterns. Provision shall be made for substitute staff with equivalent qualifications to replace absent staff members. Staffing patterns shall be implemented to facilitate continuity of care to patients.

**8:43A-3.8 Consultant services**

(a) The facility shall have a written agreement, or its equivalent, for consultant services and for services not provided in the facility. The written agreement, or its equivalent, shall:

1. Be dated and signed by a representative of the facility and by the person or agency providing the service;

2. Specify each party's responsibilities, functions, and objectives, and time during which services are to be provided, the financial arrangements and charges, and the duration of the written agreement or its equivalent;

3. Specify that the facility retain administrative responsibility for services rendered;

4. Require that services are provided in accordance with these regulations; and

5. Require the provision of written documentation to the facility, including, but not limited to, documentation of services rendered and recommendations made by the person or agency providing the service.

**8:43A-3.9 Reportable events**

(a) The facility shall notify the Department immediately by telephone (609-292-4304), followed within 72 hours by written confirmation, of the following:

1. Interruption or cessation of services listed in these regulations; and

2. All fires, disasters, and all deaths resulting from accidents or incidents in the facility. The written confirmation shall contain information about injuries to patients and/or personnel, disruption of services, and extent of damages.

#### 8:43A-3.10 Notices

(a) The facility shall conspicuously post that the following information is available in the facility during business hours to patients and the public:

1. All waivers granted by the Department;
2. All documents required by this chapter;
3. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable);
4. A list of the facility's committees, or their equivalents, and the membership, minutes, and annual reports of each;
5. The names and addresses of members of the governing authority;
6. Any changes of membership of the governing authority, within no more than 30 days of the change;
7. Policies and procedures regarding patient rights; and
8. Hours of operation and business hours of the facility.

#### 8:43A-3.11 Reporting information to the State Board of Medical Examiners

(a) The facility shall establish and implement written policies and procedures for reporting to the State Board of Medical Examiners in writing on forms provided by the Department, within 30 days of the proceeding or action, request, settlement, judgment or award, information in compliance with P.L. 1983, Chapter 247 (N.J.S.A. 26:2H-12.2).<sup>2</sup>

1. A disciplinary proceeding or action taken by the governing body against any physician or surgeon licensed by the Board when the proceeding or action results in a physician's or surgeon's reduction or suspension of privileges or removal or resignation from the medical staff, including:

- i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was the subject of governing body action which resulted in the reduction or suspension of privileges, or the removal or resignation of the physician or surgeon from the medical staff;
- ii. Nature and grounds of proceedings;
- iii. Date(s) of precipitating event(s) and of official action taken;
- iv. Name, title, and telephone number of facility official(s) having knowledge of existence and location of pertinent records or persons familiar with the matter;
- v. Pendency of any appeal; and
- vi. Other information relating to the proceeding or action as may be requested by the Board.

2. A medical malpractice liability insurance claim settlement, judgment or arbitration award in which the facility is involved, including:

- i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was involved in the medical malpractice liability insurance claim settlement, judgment or arbitration award;
- ii. Nature and grounds of proceedings;
- iii. Date(s) of precipitating event(s), and of official action taken;
- iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;
- v. A copy of the complaint, response, and settlement order, judgment, or award; and

vi. Other information relating to the settlement, judgment, or arbitration award as may be required by the Board.

<sup>2</sup> Submit forms to the New Jersey State Board of Medical Examiners, 28 West State Street, Trenton, NJ 08608. Questions may be directed to the Board office at (609) 292-4843.

#### SUBCHAPTER 4. GOVERNING AUTHORITY

##### 8:43A-4.1 Responsibility

(a) The facility shall have a governing authority which shall assume legal responsibility for the management, operation, and financial viability of the facility. The governing authority shall be responsible for, but not limited to, the following:

1. Services provided and the quality of care rendered to patients;
2. Provision of a safe physical plant equipped and staffed to maintain the facility and services;
3. Adoption and documented review of written bylaws, or their equivalent, according to time frames established by the governing authority;
4. Appointment, reappointment, assignment of privileges, and curtailment of privileges, and written confirmation of such actions;
5. Formulation and documented review of all policies and procedures;
6. Establishment and implementation of a system whereby patient and staff grievances and/or recommendations, including those relating to patient rights, can be identified within the facility. This system shall include a feedback mechanism through management to the governing authority, indicating that action was taken;
7. Determination of the frequency of meetings of the governing authority, holding such meetings, and documenting them through minutes, including a record of attendance;
8. Delineation of the powers and duties of the officers and committees, or their equivalent, of the governing authority;
9. Establishment of the qualifications of members and officers of the governing authority, the procedures for electing, appointing, or employing officers, and the terms of services for members, officers, and committee chairpersons or their equivalents; and
10. Approval of the medical staff bylaws or their equivalent.

#### SUBCHAPTER 5. ADMINISTRATION

##### 8:43A-5.1 Administrator

(a) The governing authority shall appoint an administrator who shall be accountable to the governing authority and who shall be available in the facility during its hours of operation.

1. In a facility where an administrator has both administrative and other functions, the facility shall maintain written documentation of the individual's time in each function.

2. The administrator's hours shall not be included in computation of staffing ratios for nursing or counseling services.

3. An alternate shall be designated in writing to act in the absence of the administrator.

##### 8:43A-5.2 Administrator's responsibilities

(a) The administrator shall be responsible for, but not limited to, the following:

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;

- 2. Planning for, and administration of, the managerial, operational, fiscal, and reporting components of the facility;
- 3. Ensuring that all personnel are assigned duties based upon their education and training;
- 4. Ensuring the provision of staff orientation and staff education;
- 5. Ensuring that a file is maintained for each staff members, including at least his or her name, previous employment, educational background, license number and date of expiration (if applicable), staff orientation and staff education records, personnel evaluations, health evaluation records, and job description;
- 6. Communicating with staff through group meetings, individual conferences, written memoranda, and/or other methods of exchanging information;
- 7. Establishing and maintaining liaison relationships, communication, and integration with support services and community resources in accordance with the philosophy and objectives of the facility; and
- 8. Establishing and maintaining a system for the collection, processing, storage, retrieval, and distribution of patient medical records.

**SUBCHAPTER 6. PATIENT CARE POLICIES**

**8:43A-6.1 Establishment and implementation of policies and procedures**

The facility shall establish and implement written patient care policies and procedures governing the services provided.

**8:43A-6.2 Patient care policy committee**

(a) The facility shall establish a patient care policy committee, or its equivalent, consisting of, but not limited to, the administrator, medical director, a representative of the nursing service, and a representative of each service offered by the facility, at least on a consultative basis.

(b) The committee, or its equivalent, and the governing authority shall review all patient care policies and procedures developed by the committee, as well as all policies developed and implemented by each service, and shall document the review. This shall be done at intervals specified in the policy manual.

**8:43A-6.3 Policies and procedures**

(a) Patient care policies and procedures shall facilitate continuity of care to patients and shall include, but not be limited to, policies and procedures for the following:

- 1. Services to be provided, including preventive, diagnostic, and therapeutic services;
- 2. Care of patients, to ensure that each patient receives services in accordance with these regulations;
- 3. The provision of after-hours and emergency care and treatment and emergency transportation, including a definition of emergency;
- 4. Admission of patients, including limitations on admission based on diagnosis, type or degree of disability, medical condition, or other factors;
- 5. Patients' age range for eligibility of services;
- 6. The facility's registration and appointment system;
- 7. Follow-up of broken appointments including specification of the circumstances under which such follow-up will be performed;
- 8. Obtaining and documenting written informed consent;
- 9. The provision of laboratory and radiological services;
- 10. A written patient plan of care including the initiation, implementation, review, and revision of the plan of care, and

indication of the types of patients for whom a plan of care will be written;

- 11. A system whereby, whenever possible, the patient is cared for by the same health care professionals;
- 12. Referral of patients and for use of consultant services;
- 13. The provision of dietary counseling and social work services. Social work services shall be provided by a social worker. Dietary counseling shall be provided by a dietitian or dietary consultant;
- 14. The provision of equipment and supplies which are suited to the age and type of patients;
- 15. Patient instruction and health education;
- 16. The provision of printed and/or written instructions and information for patients, including multilingual instructions as indicated. Information shall include, but not be limited to, tests and/or procedures needed, possible complications, a telephone number to call when needed, and instructions for obtaining care in an emergency;
- 17. The provision of telephone consultation to patients during the facility's hours of operation;
- 18. Obtaining a medical history including specification of the circumstances under which a medical history will be performed, the frequency of updating, and the contents. The contents shall include at least past surgical procedures and medical conditions, allergies, adverse reactions to drugs, and current or recently used medications;
- 19. Performing a physical examination including specification of the circumstances under which a physical examination will be performed, the frequency, and the contents. The contents shall include at least an assessment of body systems;
- 20. Documenting information to be obtained at each patient visit including, but not limited to, the following:
  - i. The patient's complaint or purpose of the visit;
  - ii. The diagnosis or medical impressions;
  - iii. Orders for laboratory, radiological, diagnostic, and/or screening tests; and
  - iv. Therapies administered;
- 21. The policies and procedures shall specify where, when, and to whom the screening services shall be provided, including indications for, and frequency of, screening services;
- 22. Discharge/termination, retention, and readmission of patients;
- 23. Financial arrangements, to ensure that the facility:
  - i. Makes known to patients the fees for services (where a fee is charged);
  - ii. Maintains a written record of all financial arrangements with the patient, with copies furnished to the patient;
  - iii. Notifies the patient of any additional charges, expenses, or other financial liabilities in excess of the predetermined rate; and
  - iv. Describes, for the patient, agreements with third-party payors and/or other payors and referral systems for patients' financial assistance;
- 24. Interpretation services, if the patient population is non-English speaking or for patients who are blind or deaf;
- 25. The safe-keeping of patients' valuables when required;
- 26. Ensuring visual and auditory privacy of patients;
- 27. The control of smoking in the facility in accordance with N.J.S.A. 26:3D-1 et seq. and 26:3D-7 et seq.; and
- 28. Immunization schedules.

**8:43A-6.4 Chronic dialysis services**

(a) A facility providing chronic dialysis services shall ensure that:

1. If dialyzers are reused, they shall be reused in accordance with the Guidelines for Reuse of Dialyzers of the Renal Dialysis Program;

2. Patients shall be permitted to bring their own food provided that it is consumed only in the dialysis treatment area, and only by the patient; and

3. All food served to patients in the dialysis service shall be provided in completely disposable food service equipment. The facility shall adhere to Chapter 12 of the New Jersey Sanitary Code, N.J.A.C. 8:24.

(b) If home (self) care dialysis services are provided, the facility shall have written policies and procedures including, but not limited to, policies and procedures regarding the following:

1. A written outline of the home (self) care training program for the unsupervised performance of dialysis treatments by patients;

2. Surveillance of the patient's home adaptation through visitation of the patient's home, including the frequency of home visitation;

3. Installation and maintenance of equipment in the home;

4. Testing and treatment of the water in the home, when indicated; and

5. Ordering of supplies for the home on an ongoing basis.

#### 8:43A-6.5 Drug abuse treatment services

(a) A facility providing drug abuse treatment services shall provide or arrange provision of educational services, vocational counseling and training, job placement, and legal services.

1. In the event that the facility is unable to provide or make available these supportive services, the facility shall submit in writing an alternative plan of action to the Division of Narcotic and Drug Abuse Control of the Department.

### SUBCHAPTER 7. MEDICAL STAFF SERVICES

#### 8:43A-7.1 Services

The facility shall maintain the organization, management, and operation of medical staff services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationship of personnel, the functional structure of the service, and its relationship to other services.

#### 8:43A-7.2 Medical director's appointment

(a) A medical director shall be appointed and shall be responsible for the direction, provision, and quality of medical care.

(b) The medical director shall designate, in writing, a physician to act in the absence of the medical director.

#### 8:43A-7.3 Medical director's responsibilities

(a) The medical director shall be responsible for, but not limited to, the following:

1. Monitoring the professional performance of medical staff members who provide care to patients;

2. Developing and maintaining written objectives, philosophy, policies, a procedure manual, an organizational plan, and an evaluation plan for the medical service;

3. Participating in planning and budgeting for the medical service;

4. Coordinating and integrating the medical service with other patient care services in the facility;

5. Ensuring representation of medical staff in meetings of the facility's staff committees, or their equivalents, at least on a consultative basis;

6. Ensuring that medical staffing patterns are implemented;

7. Assisting in developing and maintaining written job descriptions for medical staff, and assigning duties based upon education and training;

8. Participating in the development and maintenance of a system of patient care evaluation (quality assurance), including peer review and audit;

9. Assisting in the development and implementation of patient care policies;

10. Assisting in the development of, and participating in, orientation of staff to the facility;

11. Assisting in determining staff education needs, and planning and organizing staff education programs; and

12. Approving the contents, locations, and frequency of checking contents (including expiration dates), of emergency kits or carts, equipment, and supplies, and assigning responsibility for these checks, if the facility does not have a Pharmacy and Therapeutics Committee or its equivalent.

#### 8:43A-7.4 Policies and bylaws

(a) The medical director shall be responsible for developing and implementing written medical policies, including medical staff bylaws, or their equivalent, in cooperation with the medical staff. These shall be approved by the governing authority and shall include, but not be limited to, the following:

1. A plan for medical staff meetings and their documentation through minutes;

2. A mechanism for establishing and implementing procedures relating to credentials review, delineation of privileges, appointment and reappointment, and evaluation of medical care;

3. A mechanism for recommending to the governing authority medical staff appointments, reappointments, and the granting, denial, curtailment, suspension, or revocation of medical staff privileges; and

4. Policies regarding entries made in the patient medical record by a member of the medical staff, including, but not limited to, specification of a time limit for completion of the medical record following patient discharge and disciplinary action for noncompliance.

#### 8:43A-7.5 Facility's responsibilities

(a) The facility shall provide the following medical staff:

1. A facility providing pediatric services shall have a pediatrician or a family practice physician available;

2. A facility providing family practice services shall have a program director available. The program director shall be a family practice physician.

3. A facility providing prenatal, postpartum, gynecological, and/or family planning services shall have an obstetrician-gynecologist available.

4. A facility providing computerized tomography services shall have at least 1.0 full-time equivalent radiologist on the premises during the facility's hours of operation.

5. A facility providing chronic dialysis services shall have a medical director—chronic dialysis services available.

### SUBCHAPTER 8. NURSING SERVICES

#### 8:43A-8.1 Services

The facility shall maintain the organization, management, and operation of nursing services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and its relationship to other services.

**8:43A-8.2 Designation of director of nursing services**

The facility shall designate in writing a registered professional nurse as the director of nursing services, who shall be on the premises of the facility during its hours of operation. A registered professional nurse shall be designated in writing to act in the absence of the director of nursing services.

**8:43A-8.3 Responsibilities of director of nursing services**

(a) The director of nursing services shall be responsible for the direction, provision, and quality of nursing services. He or she shall be responsible for, but not limited to, the following:

1. Monitoring the performance of nursing personnel;
2. Developing and maintaining written objectives, philosophy, policies, a procedure manual, an organizational plan, and an evaluation plan for the nursing service;
3. Participating in planning and budgeting for the nursing service;
4. Coordinating and integrating the nursing service with other patient care services in the facility;
5. Ensuring representation of nursing personnel in meetings of the facility's staff committees, or their equivalent, at least on a consultative basis;
6. Ensuring that nursing staffing patterns are implemented;
7. Assisting in developing and maintaining written job descriptions for nursing personnel, and assigning duties based upon education and training;
8. Participating in the development and maintenance of a system of patient care evaluation, including peer review and audit;
9. Assisting in the development and implementation of patient care policies;
10. Assisting in the development of, and participating in, orientation of staff to the facility; and
11. Assisting in determining staff educational needs, and planning and organizing staff educational programs.

**8:43A-8.4 Responsibilities of nursing personnel**

(a) In accordance with the State of New Jersey Nursing Practice Act, N.J.A.C. 45:11-23 et seq., The Standards of Practice for the Registered Nurse in the State of New Jersey and The Standards of Practice for the Licensed Practical Nurse in the State of New Jersey of the New Jersey State Board of Nursing (1983) Published by the New Jersey State Board of Nursing and written job descriptions, nursing personnel shall be responsible for providing nursing care including, but not limited to, the following:

1. Care of patients through health promotion, maintenance, and restoration;
2. Care toward prevention of infection, accident, and injury;
3. Assessing the patient's nursing care needs and providing nursing care services;
4. Monitoring the patient's response to treatment and nursing care;
5. Coordinating and integrating the nursing service with other patient care services to provide a continuum of care for the patient; and
6. Teaching, supervising, and counseling the patient and the staff regarding nursing care and the patient's needs. Only a registered professional nurse shall perform these functions, which may be reinforced by licensed nursing personnel.

**8:43A-8.5 Nursing portion of the medical record**

(a) In accordance with written job descriptions and with these regulations, nursing personnel shall enter in the patient's medical record:

1. The nursing portions of the patient plan of care, in accordance with the facility's policies and procedures;
2. Clinical notes; and
3. A record of medications administered. After each administration of medication, the following shall be documented: name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the licensed nurse administering the drug.

**8:43A-8.6 Administration of medications**

(a) Medications shall be administered in accordance with all Federal and State laws and regulations by the following licensed or authorized nursing personnel:

1. Registered professional nurses;
2. Licensed practical nurses who have undergone formal training in drug administration in programs approved by the New Jersey State Board of Nursing;
3. Nurses with valid "permission to work" letters issued by the New Jersey State Board of Nursing;
4. Unlicensed nurses who are graduates of domestically accredited nursing schools, in accordance with the New Jersey State Board of Nursing Rules (N.J.A.C. 8:43A-8.4);
5. Student nurses in a school of nursing approved by the New Jersey State Board of Nursing under the supervision of a nurse faculty member.

**8:43A-8.7 Surgical services**

A facility providing surgical services shall have a registered professional nurse other than the director of nursing services to serve as circulating nurse and a registered professional nurse other than the director of nursing services on duty in the recovery area. (This may be the same person if there is no patient in the operating room or no patient in the recovery area.)

**8:43A-8.8 Methadone detoxification and methadone maintenance programs**

Methadone detoxification and methadone maintenance programs shall have on duty during all hours when medications are administered at least one licensed nurse for 150 or fewer patients and at least one additional licensed nurse for each additional 150 or fewer patients.

**8:43A-8.9 Chronic dialysis services**

(a) A facility providing chronic dialysis shall have a minimum of one licensed nurse on duty for every three patients receiving dialysis services on the premises.

1. If home (self) care dialysis services are provided, a registered professional nurse shall be responsible for the supervision of the home (self) care dialysis training program, and there shall be a minimum of one member of the nursing staff on duty for every two patients on the premises receiving home (self) care dialysis training.

2. If pediatric dialysis services are provided, there shall be a minimum of two licensed nurses on duty for every three patients receiving chronic pediatric dialysis services on the premises.

**SUBCHAPTER 9. PHARMACEUTICAL SERVICES**

**8:43A-9.1 Services**

If the facility has an institutional pharmacy, as defined in N.J.A.C. 13:39, the pharmacy shall be licensed by, and operated in accordance with, the New Jersey State Board of Pharmacy and shall possess a current Drug Enforcement Administration registration and a Controlled Dangerous Substance registration from the Department.

## 8:43A-9.2 Patient care policy committee

The facility shall develop and implement written policies and procedures, approved by the patient care policy committee, or its equivalent, for the administration, control, and storage of medications. The patient care policy committee, or its equivalent, shall review the policies and procedures and document the review at intervals specified in the facility's policies and procedures.

## 8:43A-9.3 Policies and procedures

(a) Policies and procedures shall ensure that the right drug is administered to the right patient in the right amount through the right route of administration and at the right time. Policies and procedures shall include, but not be limited to, policies and procedures for the following:

1. A requirement that all medications are ordered in writing, the written order specifies the name of the drug, dose, frequency and route of administration, the order is signed and dated by the prescriber, and all medications are administered in accordance with the laws of the State of New Jersey;

2. Documenting and reviewing adverse drug reactions and medication errors, including, but not limited to, the following:

i. Allergies shall be documented in the patient's medical record and on its outside front cover; and

ii. Medication errors and adverse drug reactions shall be orally reported immediately to the nurse in charge and the prescriber, and an entry shall be made in the patient's medical record. An incident report shall be completed in accordance with procedures established by the facility;

3. Stop orders and discontinued orders, as defined in the facility's policies and procedures, including, but not limited to, the following:

i. The length of time orders may be in effect; and

ii. A policy for control of drugs, including intravenous infusion solutions, not specifically limited as to duration of use or number of doses when ordered;

4. The control of the administration of toxic and dangerous drugs, including at least narcotics, sedatives, anticoagulants, antibiotics, oxytocics, corticosteroid products, intravenous infusion solutions, and other drugs specified in the facility's policies and procedures;

5. The use of parenterals, if used, including the labeling of intravenous infusion solutions, such that a supplementary label is affixed to the container of any intravenous infusion solution to which drugs are added;

6. The purchase, storage, safeguarding, accountability, use, and disposition of drugs in accordance with the New Jersey State Board of Pharmacy Rules N.J.A.C. 13:39-1 et seq., and the Controlled Substances Acts N.J.S.A. 24:21-1 et seq. and amendments thereto;

7. The procurement, storage, use, and disposition of needles and syringes in accordance with the laws of the State of New Jersey and amendments thereto. There shall be a system of accountability for the purchase, storage, and distribution of needles and syringes. There shall be a system of accountability for the disposal of used needles and syringes which shall not necessitate the counting of individual needles and syringes after they are placed in the container for disposal;

8. The control of drugs subject to the Controlled Dangerous Substances Acts and amendments thereto, in compliance with the New Jersey State Board of Pharmacy Rules N.J.A.C. 13:39-1 et seq. and all other Federal and State laws and regulations concerning procurement, storage, dispensing, ad-

ministration, and disposition. Such policies and procedures shall include, but not be limited to, the following:

i. Provision for a verifiable record system for controlled substances;

ii. Policies and procedures to be followed in the event that the inventories of controlled substances cannot be verified or drugs are lost, contaminated, unintentionally wasted, or destroyed. A report of any such incident shall be written and signed by the persons involved and any witnesses present;

iii. In all areas of the facility where drugs are dispensed, administered, or stored, procedures for the intentional wasting of controlled substances, including the disposition of partial doses, and for documentation. A second person shall witness the disposition; and

iv. A declining inventory shall be maintained by the surgical service of all controlled substances. This inventory shall be checked by actual count by two persons at least once every 24 hours. The following shall be recorded: name of patient receiving the drug, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, route of administration, signature of the person administering the drug, amount of drug remaining, amount of drug destroyed or wasted (when appropriate), and the signature of the person witnessing the destruction or wasting of the drug (when appropriate);

9. The maintenance of records of prescribers' Drug Enforcement Administration numbers for New Jersey;

10. The provision of current pharmaceutical reference materials and sources of information. These shall include pharmaceutical compendia and periodicals, and current editions of texts and reference books;

i. Authoritative, current antidote information and the telephone number of the regional poison control center shall be provided at locations specified in the facility's policies and procedures;

ii. Information on drugs, their indications, contraindications, actions, reactions, interactions, cautions, precautions, toxicity, and dosage, shall be provided at locations specified in the facility's policies and procedures; and

iii. A list of abbreviations, metric apothecary conversion charts, and chemical symbols, approved by the medical staff, shall be kept in areas where medications are prepared for administration;

11. The activities of medical and pharmaceutical sales representatives in the facility. Drug samples shall not be accepted, placed or maintained in stock, distributed or used in the facility;

12. Storage of medications according to the following:

i. All medications are kept in locked storage areas. Medication storage and preparation areas shall be kept locked when not in use;

ii. Drugs requiring refrigeration are kept in a separate, locked box in the refrigerator, in a locked refrigerator, or in a refrigerator in a locked room. The refrigerator shall have a thermometer to indicate temperature in conformance with U.S.P. (United States Pharmacopoeia) requirements; and

iii. Drugs for external use are kept separate from drugs for internal use;

13. Identification of the patient prior to drug administration. Drugs prescribed for one patient shall not be administered to another patient;

14. Measurement of vital signs, as defined in the facility's policies and procedures, prior to drug administration;

15. Administration of drugs promptly after the dose has been prepared, and by the individual who prepared the dose;

16. Discontinued, unused, expired (outdated), recalled, visibly deteriorated, or unlabeled drugs and intravenous solutions, and containers with worn, illegible, damaged, incomplete, or missing labels, are returned to the institutional pharmacy or, in the absence of an institutional pharmacy, to a location specified in the facility's policies and procedures, for relabeling, disposal, or destruction within 30 days, in accordance with Federal and State laws;

17. Storage and verification of controlled substances according to the following:

i. Substances in Schedules III and IV of the Controlled Dangerous Substances Acts and amendments thereto shall be stored under lock and key. Substances in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto shall be stored in a separate, locked, permanently affixed compartment within the locked medication cabinet, medication room, refrigerator, or mobile medication cart. The key to the separate, locked compartment for Schedule II drugs shall not be the same key that is used to gain access to storage areas for other drugs;

ii. The keys for the storage compartments for controlled substances in Schedules II, III, and IV shall be kept on a person who meets the criteria listed in N.J.A.C. 8:43A-8.6; and

iii. A declining inventory of all substances in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto retained wherever these drugs are maintained shall be made at the termination of each tour of duty. This record shall be signed by both the outgoing and incoming nurses who shall meet the criteria listed in N.J.A.C. 8:43A-8.6. The following shall be recorded: name of the patient receiving the drug, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, method of administration, signature of the licensed nurse administering the drug, amount of drug remaining, and amount of drug destroyed or wasted (when appropriate).

SUBCHAPTER 10. COUNSELING SERVICES

8:43A-10.1 Services

(a) The facility shall provide or arrange for provision of dietary counseling and social work services, directly or through written agreement. If services are provided through written agreement, the services shall adhere to these regulations.

(b) The facility shall maintain the organization, management, and operation of these services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the service to other services. The facility shall establish and implement written policies and procedures for providing dietary counseling and social work services and, if the facility provides drug abuse treatment services, drug counseling services to patients.

8:43A-10.2 Administrator's responsibilities

(a) The administrator or his or her designee(s) shall be responsible for, but not limited to, the following:

1. The provision, direction, and quality of counseling and/or social services provided to patients;
2. The development and implementation of written objectives, standards of practice, policies, a procedure manual, and an organizational plan for counseling and/or social services;
3. Coordinating and integrating the counseling and/or social services with other patient care services in the facility and

with services in the community to provide a continuum of care for the patient;

4. Representing the counseling and/or social services in the facility's staff committees, or their equivalent, at least on a consultative basis;

5. Assessing the patient's counseling and/or social service needs and providing counseling and/or social services;

6. Provision of consultation to staff;

7. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility, and documenting these activities; and

8. Entering in the patient's medical record:

i. The counseling and/or social service portions of the patient plan of care, in accordance with the facility's policies and procedures; and

ii. Clinical notes.

8:43A-10.3 Drug abuse counseling services

(a) A facility providing drug abuse treatment services shall, in addition to the above, establish and implement policies and procedures for drug counseling services including, but not limited to, the following:

1. Assignment of each patient to a drug counselor, with assignment documented in the patient's medical record. A drug counselor's caseload shall not exceed 50 patients;

2. All outpatient methadone detoxification and outpatient drug-free programs shall provide a minimum of one counseling session per week to each patient during the first four months after initiation of treatment and at least one counseling session every two weeks thereafter until discharged;

3. All outpatient methadone maintenance programs shall assign each patient to one of the following phase levels and provide counseling to the patient in accordance with the following minimum regulations:

i. One counseling session per week during the first three months of treatment;

ii. One counseling session every two weeks from the beginning of the fourth month to the end of the ninth month of treatment;

iii. One counseling session per month from the beginning of the tenth month to the end of the second year of treatment; and

iv. One counseling session every three months after completion of two or more years of treatment.

4. A patient in an outpatient methadone maintenance program who becomes symptomatic of drug or alcohol abuse for the first time after admission shall return to a minimum of one counseling session per week until symptoms cease and shall remain in his or her present phase level of treatment.

5. A patient in an outpatient methadone maintenance program who becomes symptomatic of drug or alcohol abuse for a second time after admission shall return to a minimum of one counseling session per week and shall be treated as a newly admitted patient.

(b) Drug abuse counseling services shall mean the provision of group and/or individual counseling.

SUBCHAPTER 11. LABORATORY, RADIOLOGICAL, AND COMPUTERIZED TOMOGRAPHY (CT) SERVICES

8:43A-11.1 Services

(a) The facility shall provide laboratory and radiological services directly or through written agreement.

(b) Laboratory services provided directly or through written agreement shall be licensed or approved by the Department.

(c) Radiological services provided directly or through written agreement shall be licensed or approved by the New Jersey State Department of Environmental Protection, Bureau of Radiation Protection.

(d) The facility shall establish and implement policies and procedures for obtaining, identifying, storing, and transporting laboratory specimens.

#### 8:43A-11.2 Computerized tomography services

(a) A facility providing computerized tomography services shall have:

1. At least 1.8 full-time equivalent radiologic technologists on the premises during the facility's hours of operation; and
2. A radiation physicist/health physicist who shall be available for safety evaluations of equipment and of storage and handling practices, and for staff education.

### SUBCHAPTER 12. SURGICAL SERVICES

#### 8:43A-12.1 Services

(a) If the facility provides surgical services in an operating room and recovery area, the surgical and anesthesia services provided shall be limited to those procedures approved by the governing authority and the medical staff.

(b) Surgical procedures requiring overnight care shall not be performed in the facility.

#### 8:43A-12.2 Policies and procedures

(a) The medical staff shall develop and implement written bylaws, rules, regulations, policies, and procedures for surgical and anesthesia services, in accordance with the governing authority and medical staff bylaws. The policies and procedures shall be reviewed and revised as specified in the facility's policy and procedure manual(s), and shall include at least the following:

1. Delineation of the surgical and anesthesia services which may be performed in the facility;
2. Delineation of the responsibilities of medical staff members in providing care to patients;
3. Designation of a time frame and of persons responsible for completing a medical history, physical examination, and laboratory tests prior to surgery;
4. Policies and procedures to ensure that every patient is examined by a physician immediately prior to surgery;
5. Policies and procedures for use of analgesia and anesthesia, including types which may be used for each procedure, safety regulations, and persons responsible for administration;
  - i. A physician shall be immediately available in the facility when anesthesia is administered by a nonphysician (for example, by a podiatrist, dentist, or certified registered nurse anesthetist);
  - ii. Surgical procedures shall be performed only by practitioners who are licensed to perform such procedures in New Jersey and who have been granted privileges to perform those procedures by the governing body of the organization, upon the recommendation of the medical staff, after medical review of each practitioner's documented education, training, experience, and current competence;
6. Delineation of responsibilities, qualifications, and supervision required for persons responsible for administering anesthesia;
7. Policies and procedures for recording of vital signs (blood pressure, temperature, respiration rate, and pulse) prior to surgery and before discharge;
8. Pre- and postoperative observation and care required for each type of procedure;

9. Methods to ensure that gross and microscopic tissue removed surgically or by any other procedure, including termination of pregnancy in accordance with the regulations of the New Jersey State Board of Medical Examiners, N.J.A.C. 13:35-4.2, is examined by a pathologist and a report of the findings is documented in the patient's medical record;

i. The facility shall ensure that the tissue is disposed of in accordance with N.J.A.C. 8:43A-14.6 of this chapter whether it is examined on the facility's premises or off the facility's premises.

10. Duration of time the patient shall remain in the facility after surgery. If the patient received anesthesia, he or she shall be evaluated by a physician after recovery from anesthesia and before discharge;

11. Requirements for written documentation of surgical procedures performed, including complete findings and techniques used (as specified in N.J.A.C. 8:43A-13.2(c)11), to be completed immediately following the procedure by the person performing the surgery and incorporated into the patient's medical record;

12. Designation of a physician qualified in resuscitative techniques to be present during all surgical procedures and to remain in the facility as long as any postoperative patients are in the facility;

13. Provision of written instructions to the patient (multilingual, if indicated) on pre- and postsurgical care, including, but not limited to, restrictions on food and beverages before surgery and procedures for obtaining help in the event of postoperative problems; and

14. Procedures for a systematic review and evaluation of patient care and surgical and anesthesia practices and techniques, as part of the audit and quality assurance (evaluation) system.

#### 8:43A-12.3 Records

The facility shall maintain a record of all surgical procedures performed which shall include the type of procedure performed, operative diagnosis, type of anesthesia used, personnel participating, postoperative diagnosis, and any unusual or untoward occurrence.

### SUBCHAPTER 13. MEDICAL RECORDS

#### 8:43A-13.1 Services

(a) The facility shall maintain a medical record for each patient.

(b) The facility shall maintain the organization, management, and operation of medical record services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and its relationship to other services.

#### 8:43A-13.2 Content and maintenance of medical record

(a) The patient medical record shall include patient identification data, including name, date of admission, address, date of birth, race and religion (optional), and sex.

(b) The patient medical record shall include at least the following for each patient visit:

1. The patient's complaint or purpose of the visit;
2. The diagnosis or medical impressions;
3. Orders for laboratory, radiological, diagnostic, and/or screening tests; and
4. Therapies administered.

(c) The patient medical record shall also include, but not be limited to, the following:

1. A dated medical history, if performed;

2. A dated report of physical examination, if performed;
  3. A plan of care, in accordance with the facility's policies and procedures;
  4. Documentation of assessment of growth (for pediatric patients);
  5. A medication sheet indicating at least the name, date, dosage, and duration of all medications prescribed;
  6. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person administering the drug;
  7. The results of laboratory, radiological, diagnostic, and/or screening tests performed;
  8. An immunization record, in accordance with the facility's policies and procedures;
  9. Referrals to and from other health care agencies;
  10. Instructions given to the patient and/or family for follow-up care;
  11. For patients receiving surgical services, an operative note, written or dictated immediately after surgery. The operative note shall include at least a description of the findings, procedures used, specimens removed, patient's condition, any unusual events occurring during the procedure, postoperative diagnosis, and names of the surgeon and assistants;
  12. A pathologist's report of gross and microscopic tissue surgically removed;
  13. Any signed written informed consent forms; and
  14. A copy of the Client-Oriented Data Acquisition Process (CODAP) form (for patients receiving drug abuse treatment services).
- (d) All entries contained in the patient medical record shall be typewritten or written in ink, legible, and signed and dated by the person entering them.
- (e) All completed patient medical records shall include a discharge summary, in accordance with N.J.S.A. 26:8-5 et seq.
- (f) All patient medical records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.
- (g) The patient medical record shall be completed within the time frames specified in the medical staff bylaws or their equivalent.
- (h) The patient's medical record shall be available to the facility's health care practitioners involved in the patient's care.

8:43A-13.3 Policies and procedures

- (a) The facility shall establish and implement policies and procedures regarding medical records, including, but not limited to, the following:
1. Protection of medical record information against loss, tampering, alteration, destruction, or unauthorized use;
  2. Transfer of patient information when the patient is transferred to or from another health care facility, or if the patient has been an inpatient and becomes an outpatient at the same facility, to ensure continuity of care; and
  3. Release and/or provision of copies of the patient's medical record to the patient and/or the patient's authorized representative. Such policies and procedures shall include, but not be limited to, the following:
    - i. Establishment of a fee schedule for obtaining copies of the patient's medical record;
    - ii. Definition of the business hours or hours of operation during which the patient has access to his or her medical record;
    - iii. Availability of the patient's medical record to the patient's authorized representative if it is medically contraindicated

(as documented by a physician in the patient's medical record) for the patient to have access to or obtain copies of the record; and

- iv. Procedures to ensure that a copy of the patient's medical record is provided within 30 calendar days of a written request.

8:43A-13.4 Storage and retrieval of medical records

If the facility plans to cease operations, it shall notify the Department in writing, at least 14 days before cessation of operation, of the location where medical records shall be stored and of methods for their retrieval.

SUBCHAPTER 14. INFECTION PREVENTION AND CONTROL SERVICES

8:43A-14.1 Infection prevention and control program

The facility shall establish and implement an infection prevention and control program. The administrator shall ensure the development and implementation of the program.

8:43A-14.2 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding infection prevention and control, including, but not limited to, the following:

1. In accordance with the New Jersey State Sanitary Code, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility, and maintaining records for all patients or personnel having these infections, diseases, or conditions;
  2. Reportable and other diseases shall be reported in accordance with N.J.A.C. 8:57-1 et seq. of the New Jersey State Sanitary Code, and amendments thereto;
  3. Care of patients with communicable diseases;
  4. Policies and procedures for exclusion from work, and authorization to return to work, for personnel with communicable diseases;
  5. Surveillance techniques to minimize sources and transmission of infection;
  6. Sterilization, disinfection, and cleaning practices and techniques used in the facility, including, but not limited to, the following:
    - i. Care of utensils, instruments, solutions, dressings, articles, and surfaces;
    - ii. Selection, storage, use, and disposition of disposable and nondisposable patient care items. Disposable items shall not be reused;
    - iii. Methods to ensure that sterilized materials are packaged and labeled to maintain sterility and to permit identification of expiration dates; and
    - iv. Procedures for care of equipment and other devices that provide a portal of entry for pathogenic microorganisms;
  7. Techniques to be used during each patient contact, including handwashing before and after caring for a patient; and
  8. Criteria and procedures for isolation of patients.
- (b) Each service in the facility shall develop written infection control policies and procedures for that service.

8:43A-14.3 Orientation and inservice education

All personnel shall receive orientation at the time of employment and continuing inservice education regarding the infection prevention and control program.

8:43A-14.4 Inspection reports

The administrator shall evaluate written reports of State and local sanitary inspections, including results of cultures

taken of food, equipment, and personnel, and shall take the necessary corrective action.

#### 8:43A-14.5 Pathological and infectious wastes

(a) The facility shall establish and implement policies and procedures for the collection, storage, handling, and disposition of all pathological and infectious wastes within the facility, and for the collection, storage, handling, and disposition of all pathological and infectious wastes to be removed from the facility, including, but not limited to, the following:

1. Needles and syringes shall be destroyed in accordance with N.J.S.A. 2A:170-25.17;
2. Needles and syringes and other solid, sharp, or rigid items shall be placed in a puncture-resistive container and incinerated or compacted prior to disposal;
3. Non-rigid items, such as blood tubing and disposable equipment and supplies, shall be incinerated or placed in double, heavy-duty, impervious plastic bags and disposed of at a facility approved by the New Jersey State Department of Environmental Protection;
4. Fecal matter and liquid waste, such as blood and blood products, shall be flushed into the sewerage system;
5. All pathology specimens and waste, including gross and microscopic tissue removed surgically or by any other procedure, shall be incinerated; and
6. If the facility provides laboratory services directly, the facility shall adhere to the following:
  - i. Solid waste from the laboratory shall be incinerated or autoclaved prior to disposal; and
  - ii. Liquid waste from the laboratory shall be autoclaved prior to disposal into the sewerage system.

#### 8:43A-14.6 Disposition of tissue

All tissue, including gross and microscopic tissue, removed surgically or by any other procedure including termination of pregnancy in accordance with the regulations of the New Jersey State Board of Medical Examiners, N.J.A.C. 13:35-4.2, shall be incinerated or interred in accordance with N.J.S.A. 26:6-5.1.

#### 8:43A-14.7 Surgical services

(a) Facilities providing surgical services in an operating room and recovery area shall establish and implement policies and procedures regarding infection prevention and control, including, but not limited to, the following:

1. Use of aseptic technique and scrub procedures;
2. Gowning and operating room attire;
3. Traffic control;
4. Cleaning of the operating room after each procedure; and
5. Care of operating room equipment and anesthesia equipment.

#### 8:43A-14.8 Hepatitis Surveillance

Facilities providing chronic dialysis services shall adhere to the recommendations of the United States Department of Health and Human Services, Centers for Disease Control, "Hepatitis Surveillance," Report No. 41, September 1977.<sup>1</sup>

<sup>1</sup> Copies of the report can be obtained from the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, GA 30333.

## SUBCHAPTER 15. EMERGENCY SERVICES AND PROCEDURES

### 8:43A-15.1 Emergency plan and procedures

(a) The facility shall have a written emergency plan which shall include plans and procedures to be followed in case of medical emergencies, equipment breakdown, fire, or other disaster. The plan shall be developed with the assistance of fire and safety experts from local municipalities.

(b) Procedures for emergencies shall specify persons to be notified, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating patients, frequency of fire drills, and tasks and responsibilities assigned to all personnel.

(c) The emergency plans and all emergency procedures shall be conspicuously posted throughout the facility, as specified in the facility's policy and procedure manual(s).

### 8:43A-15.2 Simulated drills; alarm and fire extinguisher tests

(a) Simulated drills of emergency plans shall be conducted on each shift at least four times a year. Each drill shall be documented, including the date, hour, description of the drill, participating staff, and signature of the person in charge. The drills on each shift shall include at least one drill for emergencies due to fire and one drill for emergencies due to another type of disaster, such as storm, flood, other natural disaster, bomb scare, or nuclear accident.

(b) The facility shall test at least one manual pull alarm each week of the year, and maintain a written log showing test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

(c) Fire extinguishers shall be examined annually and maintained in accordance with manufacturers' and National Fire Protection Association (N.F.P.A.) requirements.

### 8:43A-15.3 Emergency medical services

(a) The facility shall provide emergency medical services on the premises during its hours of operation to persons requiring such services. Services not provided at the facility shall be provided through a written agreement, or its equivalent, with a hospital(s). The facility shall have a written plan for emergency transportation of patients to another facility for care.

(b) Personnel trained in the use of emergency equipment and in cardiopulmonary resuscitation shall be available whenever there is a patient in the facility.

(c) The facility shall establish and implement policies and procedures, approved by the pharmacy and therapeutics committee, or its equivalent, or by the medical director, regarding emergency kits and emergency carts. The policies and procedures shall:

1. Specify the locations, contents, frequency of checking contents (including expiration dates), and assignment of responsibility for checking contents;
2. Ensure that pediatric doses are provided in areas of the facility where pediatric emergencies may occur;
3. Ensure that emergency kits are secure but are not kept under lock and key; and
4. Ensure that the facility provides an emergency cart, an electrocardiogram machine, a cardiac defibrillator, oxygen, and an aspirator, if the facility provides chronic dialysis services.

**8:43A-15.4 Surgical services**

(a) Emergency equipment available to the operating room and recovery area in a surgical service shall include at least the following:

1. Oxygen;
2. Mechanical ventilatory assistance equipment;
3. Cardiac defibrillator;
4. Cardiac monitoring equipment;
5. Thoracotomy set;
6. Tracheostomy set;
7. Laryngoscopes and endotracheal tubes;
8. Suction equipment with catheter tip;
9. Cardiac arrest board; and
10. Emergency drugs and supplies specified by the medical staff in the facility's policies and procedures.

**SUBCHAPTER 16. PATIENT RIGHTS**

**8:43A-16.1 Policies and procedures**

(a) The facility shall establish written policies regarding the rights of patients and shall be responsible for developing and adhering to procedures implementing such policies. These policies and procedures shall be available to patients and the public and shall be conspicuously posted in the facility.

(b) Patient rights shall ensure that, as a minimum, each patient:

1. Is informed of these rights, and of the facility's rules and regulations, including the patient's responsibility to respect the personal rights and private property of others;
2. Is informed of services available in the facility, of the names and professional status of personnel providing and/or responsible for his or her care, and of fees and charges, including any fees and charges for services not covered by sources of third-party payment;
3. Is assured of medical care and is informed of his or her current medical condition unless medically contraindicated (as documented by a physician in the patient's medical record);
4. Has the right to participate in the planning of his or her care and treatment; has the right to refuse medication and treatment; is informed of available treatment options, including the option of no treatment, and of the possible benefits and risks of each option;
5. Has the right to refuse to participate in experimental research (but if he or she chooses to participate, his or her written informed consent shall be obtained);
6. Has the right to express grievances to the facility's staff and governing authority and to recommend changes in policies and services;
7. Is free from mental and physical abuse, free from exploitation, and free from chemical, physical, and other types of restraints;
8. Is assured confidential treatment of his or her medical record, and shall approve or refuse its release to any individual outside the facility, except as required by law or third-party payment contract;
9. Is treated with consideration, respect, and full recognition of his or her dignity, individuality, and right to privacy, including, but not limited to, auditory and visual privacy and confidentiality concerning patient treatment and disclosures;
10. Is not required to perform services for the facility;
11. May join with other patients or individuals to work for improvements in patient care;
12. Is assured of exercising civil and religious liberties, including the right to independent personal decisions;
13. Is not the object of discrimination because of age, race, religion, sex, nationality or ability to pay; and

14. Is not deprived of any constitutional, civil, and/or legal rights solely because of receiving services from the facility.

**8:43A-16.2 Notice**

The administrator shall ensure that a notice is conspicuously posted in the facility at every public telephone and on all bulletin boards used for posting public notices with the name, address, and telephone number of the following office where complaints may be lodged:

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

**SUBCHAPTER 17. HOUSEKEEPING, SANITATION, AND SAFETY**

**8:43A-17.1 Services; policies and procedures**

(a) The facility shall establish and implement written policies and procedures for the provision and maintenance of a sanitary and safe environment, including, but not limited to, the provision of housekeeping, laundry, and pest control services, directly or through written agreement. If services are provided through written agreement, the services provided shall adhere to these regulations. The governing authority shall perform a documented review of these services at intervals specified in the facility's policy and procedure manual(s).

(b) The facility shall maintain the organization, management, and operation of these services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability relationships of personnel, the functional structure of the service, and the relationship of the service to other services.

**8:43A-17.2 Facility's responsibilities**

(a) The facility shall establish and implement a written work plan for housekeeping operations, with categorization of cleaning assignments as daily, weekly, monthly, or annual within each area of the facility.

(b) Procedures shall be developed for selection and use of housekeeping and cleaning products and equipment.

(c) Housekeeping personnel shall be trained in cleaning procedures, including the use, cleaning, and care of equipment.

(d) The facility shall adhere to the following:

1. The facility and its contents shall be free from dirt and debris;
2. Nonskid wax shall be used on all waxed floors;
3. All rooms shall be ventilated to help prevent condensation, mold growth, and noxious odors;
4. All patient areas shall be free of noxious odors;
5. Throw rugs or scatter rugs shall not be used in the facility;
6. All furnishings 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 required, replaced, or removed promptly;
7. All equipment shall have unobstructed space provided for operation;
8. All equipment and materials necessary for cleaning, disinfecting, and sterilizing shall be provided;
9. Thermometers shall be maintained in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

10. All poisonous and toxic materials shall be identified as poisonous or toxic, labeled, and stored in a locked cabinet or room that is used for no other purpose;

11. Pesticides shall be applied in accordance with the New Jersey State Pesticide Control Regulations, N.J.A.C. 7:30;

12. Articles in storage shall be elevated from the floor and away from walls;

13. Unobstructed aisles shall be provided between articles in storage;

14. A program shall be maintained to keep rodents, insects, vermin, birds, dust, and contamination out of the facility;

15. Insect and rodent harborages shall be eliminated from the facility;

16. Toilet tissue, soap, and towels or air dryers shall be provided in each bathroom at all times;

17. Solid or liquid waste, garbage, and trash shall be stored or disposed of in accordance with the rules and regulations of the New Jersey State Department of Environmental Protection and the New Jersey State Department of Health and so as to prevent fire, contamination, or transmission of disease. Solid waste shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers. Procedures and schedules shall be developed and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage, and trash in accordance with Chapter 12 of the New Jersey State Sanitary Code, N.J.A.C. 8:24-6.10;

18. Draperies, upholstery, and other fabrics or decorations shall be fire-resistant and flameproof;

19. Wastebaskets and ashtrays shall be made of noncombustible materials;

20. Latex foam pillows shall be prohibited; and

21. The temperature of the hot water supply at each water outlet shall be regulated and shall not exceed 100°F. (43°C.), except as specified in the New Jersey State Sanitary Code for dishwashing purposes.

#### 8:43A-17.3 Linen and laundry services; policies and procedures

(a) The facility shall establish and implement written policies and procedures for linen and laundry services, including methods of storage and transportation, including, but not limited to, the following:

1. Ensuring the provision of clean linen for each patient, including blankets, if required. Linen shall be changed between each instance of patient use;

2. Procedures to ensure that soiled linen and laundry are collected so as to avoid microbial dissemination into the environment, and are placed in impervious bags or containers that are closed at the site of collection. Separate containers shall be used for transporting clean linen and laundry, and for transporting soiled linen and laundry;

3. Procedures to ensure that soiled linen and laundry are stored in a ventilated area separate from any other supplies; and

4. Procedures to protect clean linen from contamination during processing, transporting, and storage.

#### 8:43A-17.4 Chronic dialysis services

A facility providing chronic dialysis services shall establish and implement policies and procedures regarding cleaning and disinfecting of patient reclining chairs, beds (including mattresses), and dialysis machines between each instance of patient use, and daily cleaning and disinfecting of floors and walls in the dialysis area.

## SUBCHAPTER 18. EVALUATION (QUALITY ASSURANCE)

### 8:43A-18.1 Evaluation plan

The facility shall establish and implement a written plan for the audit and evaluation of patient care. The plan shall specify a timetable and the staff responsible for the audit and evaluation process, and shall provide for ongoing monitoring of staff and program activities, and for audit of patient medical records.

### 8:43A-18.2 Evaluation committee's responsibilities

(a) A multidisciplinary evaluation committee, or its equivalent, shall be appointed. The committee shall be responsible for, but not limited to, the following:

1. Annual review of staff qualifications;

2. Annual review of patient care statistics;

3. Annual review of staff orientation and staff education plans;

4. Evaluation of the delivery of care, costs, services, staffing patterns, maintenance of physical plant and equipment, and reports on infection control;

5. Establishment of goals, objectives, and criteria for evaluating each service providing patient care;

6. Audit of patient medical records on an ongoing basis to determine their conformity to the established goals, objectives, and criteria for evaluating each service providing patient care; and

7. Recording of deficiencies found, provision of written recommendations for corrections or improvements, and documented follow-up to ascertain whether or not deficiencies have been corrected.

(b) Based upon the findings of evaluation, audit, and review, the evaluation committee, or its equivalent, shall annually select for study at least one topic related to patient care or facility operation. At least one such evaluation study shall be completed each year.

(c) Reports of the activities of all committees, or their equivalents, in the facility shall be made available to the evaluation committee or its equivalent.

(d) The evaluation committee, or its equivalent, shall submit to the governing authority at least an annual written report of its findings, including recommendations for corrections or improvements.

### 8:43A-18.3 Administrator's responsibilities

The administrator shall, with the approval of the governing authority, implement measures to ensure that corrections or improvements are made.

## SUBCHAPTER 19. PHYSICAL PLANT REQUIREMENTS

### 8:43A-19.1 Construction

(a) Regulations for new buildings and existing buildings constructed after May 7, 1981, and additions, alterations, and renovations to existing buildings for ambulatory health care facilities under 6,000 square feet 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 State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).<sup>1</sup> 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 (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

(b) Regulations for new buildings and existing buildings constructed after May 7, 1981, and additions, alterations, and renovations to existing buildings for ambulatory health care facilities over 6,000 square feet 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 State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).<sup>1</sup> 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 (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

<sup>1</sup> HHS Publication No. (HRA) 79-14500 may be obtained from the United States Government Printing Office, Washington, D.C.

8:43A-19.2 Additional requirements

(a) Regulations for existing buildings or major alterations constructed from July 1, 1979, through May 7, 1981, for ambulatory care facilities under 6,000 square feet 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 State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).<sup>1</sup> 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 (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

(b) Regulations for existing buildings or major alterations constructed from July 1, 1979, through May 7, 1981, for ambulatory care facilities under 6,000 square feet 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 State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).<sup>1</sup> 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 (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Construction Code of the State in all matters regulated by the sections herein specified.

<sup>1</sup> HHS Publication No. (HRA) 79-14500 may be obtained from the United States Government Printing Office, Washington, D.C.

(a)

**Standards for Licensure of Hospital Facilities Definitions, Classifications and Licensing Policies**

**Proposed New Rule: N.J.A.C. 8:43B-1**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1984-690.

The agency proposal follows:

**Summary**

The current text of N.J.A.C. 8:43B-1, Definitions, Classifications and Licensing Policies, of the Manual of Standards for Hospital Facilities, expired on December 1, 1984, in accordance with the "sunset" provisions of Executive Order No. 66(1978). The Department is proposing to readopt N.J.A.C. 8:43B-1, as a new rule without change from the expired text, for a five-year period. Therefore, the proposed readoption includes no changes in the current text.

The New Jersey State Department of Health is mandated by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, to license health care facilities, establish and enforce licensure regulations for health care facilities, inspect health care facilities to determine their adherence to the rules and regulations, and collect licensing fees to help offset the Department's expenditures for carrying out these regulatory functions. N.J.A.C. 8:43B-1 includes essential rules required by the Department to fulfill its regulatory functions regarding hospital facilities. This Subchapter became effective prior to September 1, 1969, and was promulgated by the New Jersey State Department of Institutions and Agencies, which is no longer in existence. The responsibility for the licensure and regulation of health care facilities was transferred from the New Jersey State Department of Institutions and Agencies to the New Jersey State Department of Health in 1971 by the aforementioned legislation, N.J.S.A. 26:2H-1 et seq. However, N.J.A.C. 8:43B-1 has continued in effect. The regulations were first amended effective December 1, 1979, and were assigned an expiration date of December 1, 1984.

The licensure rules included in N.J.A.C. 8:43B-1 assist the Department to perform its regulatory functions by licensing hospital facilities and, therefore, to effect its legal mandate to protect the health, safety, and well-being of hospitalized patients and the public.

N.J.A.C. 8:43B-1.1 through 1.4 include definitions, for example, definitions for "hospitalization" and "licensee." In addition, there are definitions for "general hospital," "special hospital," and "mental hospital" which are necessary for the Department since hospitals in New Jersey are licensed in accordance with these classifications.

N.J.A.C. 8:43B-1 also includes rules regarding inspections of hospital facilities by the Department (N.J.A.C. 8:43B-1.5), issuance of a license to hospital facilities by the Department (N.J.A.C. 8:43B-1.7), licensure fees charged by the Department for filing applications and for annual renewal of the facility's license (N.J.A.C. 8:43B-1.8), and revocation or sus-

pension of a facility's license by the Department (N.J.A.C. 8:43B-1.9). These rules are needed by the Department to protect the patients in hospital facilities and the citizens of New Jersey.

Annual inspections and reinspections of all health care facilities are made by the Department to ascertain the quality of the care rendered to patients. Inspections include surveys of the various departments and services within the hospital, such as nursing services, dietary services, pharmaceutical services, medical record services, including review of patient records, review of medical staff bylaws which govern the activities of physicians in the facility, review of the facility's policies and procedures, and inspection of the physical plant for fire protection and safety, lighting and ventilation, heating, maintenance and sanitation, and pathological and infectious waste disposal. These inspections are necessary to determine if the facility should be issued a license to operate. A license is issued for a period of time not to exceed one year and the license must be conspicuously posted in the facility. The results of the inspections and the subsequent issuance of the license indicate to the patients and the public that the facility has met the minimum standards required for licensure. The Department has statutory authority to suspend or revoke a facility's license and/or to assess a fine when the facility does not meet the minimum standards for licensure.

In accordance 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, the Department charges a fee for the filing of an application for licensure of a health care facility and for the annual renewal of the facility's license. N.J.A.C. 8:43B-1 was amended effective August 20, 1984, to increase the licensure fees for hospitals. The fee increase was needed in order to maintain a level of surveillance of hospital facilities sufficient to support the effort of the Department to ensure the quality of the health care provided. The amendment to N.J.A.C. 8:43B-1.8 established a new fee schedule for hospitals consisting of a fixed component of \$500.00 and a variable component the value of which depends upon the number and types of services in each hospital. The revised fee schedule is no longer dependent upon the number of beds in each hospital as was the case before N.J.A.C. 8:43B-1.8 was amended effective August 20, 1984. See: 16 N.J.R. 802(a), 16 N.J.R. 2278(b). N.J.A.C. 8:43B-1.8 was previously amended effective March 7, 1983, to increase the fees charged by the Department of Health for the filing of an application for licensure of a health care facility and for the annual renewal of the license, pursuant to N.J.S.A. 26:2H-1 et seq., as amended in 1978, and the Appropriations Bill of 1982. See: 14 N.J.R. 1273(a), 15 N.J.R. 336(a). This fee increase also was needed to help ensure the quality of care in health facilities by maintaining the present level of oversight of the facilities by the Department.

N.J.A.C. 8:43B-1.11 contains rules regarding the planning of a new hospital and expansion of an existing facility, including the procedure for the approval of the license application, a requirement for written approvals by local fire, building, and health authorities, and a listing and description of the required departments, services and facilities. N.J.A.C. 8:43B-1.11 (q)7ii was amended effective December 1, 1979 (See: 11 N.J.R. 437(a), 11 N.J.R. 550(d)) to allow the Commissioner of Health or his or her designee to waive the requirement for 24-hour licensed physician coverage in the emergency department if, in his/her opinion, such waiver would not endanger the life, safety, and or health of the patients, staff, or public and sufficient justification exists.

N.J.A.C. 8:43B-1.12 regarding civil rights mandates that a hospital shall not practice discrimination against persons because of race, creed, color, national origin, ancestry, age, or their liability for service in the Armed Forces of the United States.

N.J.A.C. 8:43B-1.13 regarding child abuse and neglect was added to this subchapter effective June 4, 1981, and requires the facility to adhere to N.J.A.C. 8:31-26.4. See: 13 N.J.R. 12(a), 13 N.J.R. 342(b). N.J.A.C. 8:31-26.4 regarding child abuse and neglect was adopted at the request of the Division of Youth and Family Services, New Jersey State Department of Human Services, to assist in the enforcement of N.J.S.A. 9:6-1 et seq. which provides for the protection of children under 18 years of age who have had serious injury inflicted upon them other than by accidental means. The intent of the legislation was to safeguard children from further injury and possible death and to protect the legal rights of such children. The statute requires the reporting of suspected or diagnosed instances of child abuse or child neglect. N.J.A.C. 8:31-26.4 strengthens the enforcement of the statute by mandating specific reporting protocols as part of the licensure regulations for certain health care facilities, including hospital facilities.

An internal review and evaluation of N.J.A.C. 8:43B-1 by the Department indicated that this Subchapter has been effective in assisting the Department to carry out the licensure functions mandated by the Health Care Facilities Planning Act, particularly those functions relating to licensure of individual hospital facilities, surveillance of hospital facilities through inspections, enforcement of the regulations, and establishment and collection of licensure fees. These rules are necessary for the Department to effect its legal mandate to protect the health, safety, and well-being of hospitalized patients and the public. The licensure functions of the Department are essential for the regulation of hospital facilities to assure minimum quality patient care and the provision of required services.

The Department intends to revise N.J.A.C. 8:43B-1 in the near future to make it consistent with similar subchapters in licensure regulations for other types of health care facilities and to incorporate newer terminology and more specific language. Due to time constraints and priorities within the Department, it has not been possible to revise the current rules prior to the expiration date of December 1, 1984, mandated by Executive Order No. 66 (1978). In proposing the readoption of N.J.A.C. 8:43B-1, the Department has also taken into consideration the considerable amount of time necessary to complete the procedures for the promulgation of new rules. Until this Subchapter is revised, it is imperative that the current text of N.J.A.C. 8:43B-1 be readopted without change. The Department needs these rules to accomplish its legal mandates and, pursuant to the regulatory process, to assist the Department to continue its efforts to provide minimum standards for quality patient care.

#### Social Impact

The readoption of N.J.A.C. 8:43B-1 will have social impacts on the Department, patients, and the hospitals. The Department is mandated by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, to protect and promote the health and safety of the inhabitants of the State. Licensure rules are one of the means by which the Department monitors the quality of health care services provided to patients in hospital facilities throughout the State. The quality of patient care, to a great extent, depends on the organization and effectiveness of the health care services provided. Therefore, the

rules regarding the organization and expansion, licensure fees, and reporting requirements for hospitals are essential for the safety and well-being of the residents of the State.

Licensure requirements for health care facilities help to ensure that comprehensive and coordinated care is rendered to patients. The mandated availability of laboratory services, blood bank, accident/emergency services, and diagnostic x-ray services is intended to ensure that required services, which in some instances may be vital to the care and safety of patients, are available. The rule ensures the care of patients without discrimination because of race, creed, or national origin. Similarly, the rule prohibits discrimination in employment. The regulations, thus, not only ensure that no one should be deprived of hospital care in the State, but also protects the Civil Rights of the inhabitants seeking employment in hospitals.

The effective identification, reporting, and treatment of instances of child abuse and neglect would be greatly hampered if there were no established system of reporting for hospitals and no mandate for policies and procedures for the problem of child abuse and neglect which has increased to epidemic proportions in today's society.

The definitions, classifications of institutions, and the requirements for types of services to be available in hospitals provide an organized structure for the management and coordination of care which is essential for the provision of minimum quality care to patients.

The surveillance of hospital facilities for compliance with regulations for licensure is an indispensable part of the Department's effort to ensure minimum quality of health care to hospitalized patients. The increase in the fees charged by the Department for the filing of an application for licensure of a hospital and for the annual renewal of a license is necessary to permit the current level of surveillance of hospitals to be maintained. Failure to maintain the present level of surveillance would compromise the care and safety of hospital patients.

The Department contends that if the rules are not re-adopted, the Department would not be able to fulfill its obligations for the protection of the health and safety of the residents of the State of New Jersey.

#### **Economic Impact**

The re-adoption of the rules will not have any discernible economic impact on hospitals, the Department, and patients since these rules are already in effect. The hospitals would not incur any additional expense because they are already following these rules. Similarly, the Department's expenditures will not increase because hospitals are being surveyed under the current regulations.

However, the expiration of the rules would have an adverse impact on providers, patients, and the Department. The rules regarding requirements for services to be provided in hospitals prevent unnecessary delay in diagnosis and treatment of patients which not only reduces the cost of care but also prevents the fragmentation of care and services. The re-adoption of the current rules would not increase the cost of care, but would ensure the continuity of hospitals' operations and provision of services to patients.

The licensure fees paid by hospitals benefit the Department by providing funds for the Department to execute its legal mandate regarding the surveillance of hospital facilities. In addition to containing higher fees, the fee schedule in the amended N.J.A.C. 8:43B-1.8 applies to a greater number of hospital facilities. This is due to the inclusion of "satellite" hospital facilities among those hospitals which are charged a

licensure fee. This extension of applicability will result, of course, in the collection of greater revenue by the Department in the future.

The re-adoption of the current text of N.J.A.C. 8:43B-1 will allow the current licensure rules to remain in effect without change, enabling the Department to execute its legal mandate regarding the surveillance of hospital facilities, as well as imposing sanctions against hospitals in accordance 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.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43B-1.

### **(a)**

#### **Non-Residential Medical Day Care Facilities Standards for Licensure**

#### **Proposed Re-adoption: N.J.A.C. 8:43F**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1984-691.

The agency proposal follows:

#### **Summary**

The current Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities, N.J.A.C. 8:43F, will expire on January 2, 1985, pursuant to the "sunset" provisions of Executive Order No. 66(1978), which mandates the five-year automatic expiration of a regulation. Therefore, the Department proposes to re-adopt the existing regulations without change.

N.J.A.C. 8:43F of the New Jersey Administrative Code has been the basis for licensure of the 28 non-residential medical day care facilities currently in operation in New Jersey. These facilities exist either as free-standing facilities or as program-matically distinct components of inpatient facilities. N.J.A.C. 8:43F was adopted by the Health Care Administration Board on November 1, 1979, and became effective January 2, 1980. (See: 11 N.J.R. 437(b), 11 N.J.R. 622(b).)

N.J.A.C. 8:43F was originally developed with the assistance of the New Jersey Association of Health Care Facilities, the New Jersey Association of Non-Profit Homes for the Aging, the New Jersey State Department of Human Services, and the Office of the Ombudsman for the Institutionalized Elderly. Input into the regulations was also provided by a task force established by the Department. The rule was developed in order to provide a cost-effective alternative to total institutionalization of patients and a means of permitting patients to continue to live independently in the community.

Non-residential medical day care facilities are designed to provide services to the frail elderly and handicapped younger adults who are well enough to live in their homes, but who need ongoing medical attention and assistance with the tasks of daily living. The provision of medical and other health-related services to individuals who primarily need a health-focussed day care program differentiates medical day care from the more socially-oriented adult day care programs under Title III of the Older American Act and Title XX of the Social Security Act. N.J.A.C. 8:43F requires non-residential medical day care facilities to provide eight basic services:

medical services, nursing services, social services, transportation, personal care, dietary services, patient activities, and rehabilitative services.

The facility must provide staff members in a ratio of one staff member for every nine patients. The required staff comprises a full-time program director, a part-time medical director, a full-time nurse, a social worker, and an activities coordinator. The program director can also be the nurse or social worker. The size of the program or number of participants is directly related to the availability of space and the size of the staff.

The regulations in N.J.A.C. 8:43F concentrate on the health-centered aspects of non-residential medical day care facilities. Consequently, the services provided and the patients served must satisfy a medical model. Individuals must need direct health care and supervision and the program must be equipped to meet these needs.

Each person admitted to a non-residential medical day care facility must be certified by a physician as needing this type of health care. An individualized plan of care must be developed by a multidisciplinary team and must reflect the medical, nursing, social, dietary, and rehabilitative needs and services required. The plan of care must be reviewed and revised by the multidisciplinary team thus providing for the continual review of a patient's capacity to remain at home while taking advantage of community-based support services. Non-residential medical day care has become another cost-effective option in the continuum of care for patients.

Since January 2, 1980, when N.J.A.C. 8:43F became effective, four amendments to the rules have been proposed and adopted. The rule was first amended in October, 1980, at which time N.J.A.C. 8:43F-1.1 and 3.7 were amended and a new rule, concerning employee health examinations, N.J.A.C. 8:31-26.3, was adopted. In addition, N.J.A.C. 8:43F-3.7(a)9, which called for the development of a plan for staff preemployment physical examinations and subsequent health examinations, was deleted. (See: 12 N.J.R. 463(b), 12 N.J.R. 578(c).)

N.J.A.C. 8:43F-2.3, Application for licensure, was amended, effective March, 1983, to make uniform the licensure fees charged to a free-standing facility and to a facility which forms part of a different type of health care facility. At the same time, the phrase "medical day care center" was changed to "non-residential medical day care facility." (See: 14 N.J.R. 1273(a), 15 N.J.R. 336(a).)

The rule regarding ownership, N.J.A.C. 8:43F-3.3, was amended, effective June, 1983. The amended rule prohibits individuals convicted of a crime and considered to be rehabilitated from owning or operating a health care facility. (See: 15 N.J.R. 307(a), 15 N.J.R. 1021(a).)

Effective June, 1983, two rules were amended, N.J.A.C. 8:43F-4.3 and 4.20, concerning the responsibilities of attending physicians and social worker or social work designee. The change made in N.J.A.C. 8:43F-4.3 concerned the time period within which a physician is required to perform a medical history and physical examination of a patient. Originally, the time frame was "within five days prior to or upon admission." This was changed to "thirty days prior to or upon admission." The amended rule, N.J.A.C. 8:43F-4.20, specifies the amount of consultation and training a social work designee must receive from a qualified social worker. The amount of consultation and training required depends on the social work designee's education and experience. (See: 15 N.J.R. 312(a), 15 N.J.R. 923(c).)

The Department has reviewed N.J.A.C. 8:43F in order to comply with the mandates of Executive Order No. 66(1978).

The Department has concluded that no substantive changes in the content or intent of the rule is necessary at this time. The Department contends that the current rule promotes the quality of patient care, assure a continuum of care to patients, and contribute to the provision of patient care in a safe, cost-efficient, and cost-effective manner. The Department proposes that the existing rule, N.J.A.C. 8:43F, be readopted with no changes in the current text.

Non-substantive changes need to be made in the existing rule. These changes are editorial in nature and do not affect the content or intent of the regulations. Editorial changes are needed in order to reorganize, simplify, and further enhance the applicability of the rule. Due to time constraints, priorities within the Department, and the complexity of the rules themselves, it has not been possible to revise the existing rules before the expiration date. In proposing the re adoption of N.J.A.C. 8:43F, the Department has also taken into consideration the considerable amount of time which the procedure for the promulgation of new rules entails. The Department proposes to readopt, without change, the existing text of N.J.A.C. 8:43F in order to ensure the continuity of care which might be interrupted in the absence of these rules. The Department intends, depending upon the availability of resources and priorities within the Department, to make editorial changes in the future.

N.J.A.C. 8:43F is divided into four subchapters: Definitions, Licensure Procedure, General Requirements and Administration, and Medical Requirements and Patient Service. A summary of the current text of N.J.A.C. 8:43F follows:

N.J.A.C. 8:43F-1.1 provides definitions of the technical terms used throughout the regulations and delineates the qualifications required of staff members.

The licensure procedure for non-residential medical day care facilities is detailed in N.J.A.C. 8:43F-2, which includes regulations regarding Certificate of Need, application for licensure, newly constructed or expanded facilities, surveys and temporary license, full license, surrender of license, waiver of regulations, and action against a license. The licensure procedure also entails the payment of a licensure fee of \$100.00 (N.J.A.C. 8:43F-2.3(b)).

The general requirements for non-residential medical day care facilities are delineated in N.J.A.C. 8:43F-3.1 through 3.12. Facilities are required to provide health or health-related services under medical supervision to patients who do not require 24-hour inpatient or residential health care services. The facility is required to be in operation at least seven consecutive hours daily and a minimum of five days a week. A requirement regarding employee physical examinations is currently stated in N.J.A.C. 8:31-26.3. The establishment, implementation, and review of a policy and procedure manual are required by N.J.A.C. 8:43F-3.7(a). The requirements stated in N.J.A.C. 8:43F-3.7(a)1 through 10, regarding the policy and procedure manual, are similar to those which appear in manuals of standards for licensure of other types of health care facilities.

N.J.A.C. 8:43F-3.13(a) addresses the responsibility of the governing authority in general terms, whereas N.J.A.C. 8:43F-3.13(a)1 through 8 specify particular responsibilities. The appointment and the availability of an administrator and an alternate administrator are required by N.J.A.C. 8:43F-3.14(a) and (c). The responsibilities specified in N.J.A.C. 8:43F-3.15(a)1 through 10 are indicative of the varied duties of the administrator. N.J.A.C. 8:43F-3.16 delineates the program director's responsibilities.

The current rule, N.J.A.C. 8:43F-3.17(a), specifies that the facility establish and implement written patient care policies

and procedures. The items which are to be addressed in the patient care policies and procedures are listed in N.J.A.C. 8:43F-3.17(d)1 through 22 and are intended to facilitate patient care as well as continuity of patient care. Thus, N.J.A.C. 8:43F-3.17(d) requires policies and procedures regarding the specific services provided, patient rights, admission, discharge, and transfer of patients, assignment of duties to staff in accordance with written job descriptions, transportation services, staffing ratios calculated on the basis of daily census, provision of beds, dining area, emergency care, financial arrangements, provision of podiatric, dental, and audiologic services, a medical care plan, a home assessment, a multidisciplinary individualized patient care plan, and restrictions on the admission and retention of patients in non-residential medical day care facilities.

Patient rights are specified in N.J.A.C. 8:43F-3.18. The rules are similar to those contained in licensure manuals for other types of health care facilities and are intended to ensure that patients are treated in a manner which recognizes and respects their basic human rights. Such rights include, for example, freedom of association, freedom from mental and physical abuse, and freedom from discrimination or reprisal.

N.J.A.C. 8:43F-3.19 addresses the continuity of patient care while the patient is receiving medical day care services. Written policies and procedures must ensure that a patient registration system is established and that registration initiates a scheduling and alerting system to ensure that all necessary appointments and follow-up for health services take place.

A discharge planning program is required by N.J.A.C. 8:43F-3.20. Facilities are required to establish and implement a discharge planning program in order to ensure continuity of care. The Department is of the opinion that the requirement for discharge planning ultimately minimizes the cost of patient care through the decrease of needless care and unnecessary emergency visits, and through better utilization of personnel.

Patient care statistics and financial data requirements are stated in N.J.A.C. 8:43F-3.21 and 3.22, respectively, pursuant to Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

The facility is required by N.J.A.C. 8:43F-3.23 to establish and implement a written plan for the audit and evaluation of patient care. The objective of the rules is to enhance the ability of the facility to provide appropriate, quality patient care through the identification and resolution of problems.

The current rule, N.J.A.C. 8:43F-3.24, in the interest of patient safety, requires the facility to establish written plans and procedures to be followed in case of medical emergencies, equipment breakdown, fire, or other disaster.

The rules concerning construction and additional construction and equipment requirements are delineated in N.J.A.C. 8:43F-3.25 and 3.26.

Subchapter 4 of N.J.A.C. 8:43F requires the appointment of a medical director responsible for the direction, provision, and quality of the medical care provided. N.J.A.C. 8:43F-4.1(c)1 through 10 enumerate the specific duties and responsibilities of the medical director. Administrative responsibilities and the responsibilities of the attending physician are delineated in N.J.A.C. 8:43F-4.2 and 4.3.

N.J.A.C. 8:43F-4.3(a)3 requires that a written patient care plan be developed by the attending physician in conjunction with the multidisciplinary team. The physician is required to perform a history and physical examination and to write initial and subsequent orders for services to be provided to the patient (N.J.A.C. 8:43F-4.3(a)5 and 6).

The facility is required by the existing rule, N.J.A.C. 8:43F-4.5(a), to designate a registered professional nurse as the director of nursing services. Nursing responsibilities are specified in N.J.A.C. 8:43F-4.6; N.J.A.C. 8:43F-4.6(a)2i through v identify the nursing personnel who may administer medication. The medical record entries for which nursing personnel are responsible are specified in N.J.A.C. 8:43F-4.7.

The current rules regarding pharmaceutical services, contained in N.J.A.C. 8:43F-4.8, are appropriate for a non-residential medical day care facility. The rules adequately address such issues as the self-administration of medication, N.J.A.C. 8:43F-4.9; the need for a pharmacist or pharmacist consultant, N.J.A.C. 8:43F-4.10; and the control of dangerous substances, N.J.A.C. 8:43F-4.11.

Rules regarding dietary services are stated in N.J.A.C. 8:43F-4.12. The facility is required to provide a minimum of one meal per day. N.J.A.C. 8:43F-4.13(a) requires that a dietitian be appointed on a full-time, part-time, or consultant basis. The duties and responsibilities of the dietitian are enumerated in N.J.A.C. 8:43F-4.13(b)1 through 10. N.J.A.C. 8:43F-4.14(a) requires the appointment of a food service supervisor who, if not a dietitian, must function with scheduled consultation from a dietitian. The duties and responsibilities of the food service supervisor are delineated in N.J.A.C. 8:43F-4.14(b)1 through 12.

The facility is also required to provide Rehabilitation services, N.J.A.C. 8:43F-4.16; Social work services, N.J.A.C. 8:43F-4.19; and Patient activities services, N.J.A.C. 8:43F-4.22. Appointment of supervisors for these services is required by N.J.A.C. 8:43F-4.17 and 4.23, the duties and responsibilities associated with each of the services are delineated in N.J.A.C. 8:43F-4.18, 4.20 and 4.23(c) and the requirements for entries into the medical records are specified in N.J.A.C. 8:43F-4.18A, 4.21, and 4.23A.

N.J.A.C. 8:43F-4.24(a) requires the facility to make dental services available, either directly or through written agreement. A consultant or staff dentist must be appointed, and the responsibilities of the staff or consultant dentist are enumerated in N.J.A.C. 8:43F-4.24(b) and (d).

The rules contained in N.J.A.C. 8:43F-4.25 require the facility to provide laboratory and radiological services, directly or through written agreement.

The facility is required by the current rule, N.J.A.C. 8:43F-4.26, to maintain a medical record for each patient. N.J.A.C. 8:43F-4.26(c)1 through 25 specify the contents of a complete medical record, including at least patient identification data; name of patient's attending physician; signed acknowledgment of receipt of patient rights; history and report of physical examination; assessment of the patient's home environment; assessment of the patient by the multidisciplinary team; daily records of the patient's attendance and of services utilized; record of physician visits; record of medication administered; and a patient care plan. Policies and procedures regarding the release of medical records to patients are required by N.J.A.C. 8:43F-4.27.

Housekeeping, sanitation, and safety are the topics of N.J.A.C. 8:43F-4.28. The Department expects that observance of the specified practical requirements will result in the provision of a safe and sanitary environment for patients, personnel, and visitors.

The purpose of N.J.A.C. 8:43F-4.29, regarding infection control, is to allow the facility flexibility to develop, implement, and enforce an infection prevention and control plan appropriate for the facility.

### Social Impact

Readoption of N.J.A.C. 8:43F, Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities, will permit the frail elderly and younger handicapped adults of New Jersey access to needed medical care, while simultaneously enabling them to maintain independent residence in familiar, community surroundings. Non-residential medical day care, therefore, occupies a unique position in the continuum of patient care. Its existence increases access to care for those who are either ineligible for, or unable to afford, inpatient nursing home care and who would forego needed medical care as a result. The social benefits received by consumers of non-residential medical day care services are the ability to live independently and the ability to enjoy the unity and companionship of family and friends. These benefits reinforce feelings of dignity and selfworth and greatly enhance the quality of life of patients.

Non-residential medical day care facilities have become increasingly important and versatile. Readoption of the existing regulations will allow such programs to continue so that "many chronically ill elderly and some younger disabled [adults] can more appropriately receive service in a community setting, where they can also retain their independence, dignity, maximize potentials, and achieve a quality of life which all desire."<sup>1</sup>

If N.J.A.C. 8:43F is not readopted, there may be severe social consequences. Patients may have to be reinstitutionalized at higher cost. "Continuous institutional forms of health care not only are costly but in the main are traumatic and disruptive to family relationships and independent living, contrary to the traditional American way of life."<sup>1</sup>

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<sup>1</sup> Kurland, Carol H., "The Medical Day Care Program in New Jersey," Home Health Care Services Quarterly, Vol. 3(2), Summer 1982, pp. 45-61.

### Economic Impact

Non-residential medical day care is a cost-effective and cost-efficient approach to providing an alternative to institutionalization of the elderly and handicapped.

The relative cost of non-residential medical day care has been studied. "Two studies of participants attending medical day care centers are reported. One study examines 406 persons in six centers, providing a profile of the population served. The second study reviews the cost of care of 52 participants over a one and one-half year period, comparing total cost of care with institutional care, concluding that medical day care is much less expensive."<sup>1</sup>

The readoption of the current rules will ensure the continuity of Statewide non-residential medical day care services to patients. The readoption of the rules will not have any discernible economic impact on non-residential medical day care facilities, the Department, or patients since these rules are already in effect. The non-residential medical day care facilities will not incur any additional expense because they are already adhering to these rules. Similarly, the Department's expenditures will not increase because non-residential medical day care facilities are currently being surveyed with respect to these rules.

However, the expiration of the rules will have an adverse impact on providers, patients, and the Department. The discontinuation of medical day care services will lead to the institutionalization of patients which will increase the cost of care. The need for long-term care beds will increase, and there

will be large numbers of inappropriate institutional placements.

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<sup>1</sup> Kurland, Carol H., "The Medical Day Care Program in New Jersey," Home Health Care Services Quarterly, Vol. 3(2), Summer 1982, pp. 45-61.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43F.

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## (a)

### CONSUMER HEALTH SERVICES

#### Controlled Dangerous Substances Exempt Chemicals

#### Proposed Amendments: N.J.A.C. 8:65-10.8

Authority: N.J.S.A. 24:21-3.

Proposal Number: PRN 1984-692.

Address comments and inquiries to:

Lucius A. Bowser, RP, MPH  
Chief, Drug Control Program  
New Jersey State Department of Health  
CN 364  
Trenton, NJ 08625

The agency proposal follows:

#### Summary

This proposal will bring New Jersey's controlled dangerous substances regulations into conformity with the Federal regulations through the deletion of chemical preparations no longer manufactured and the addition of certain chemical preparations to the exempt chemical schedule within the controlled dangerous substances regulations.

This proposal will accomplish two purposes. First, it will remove from the list of exempt chemical preparations those preparations which are no longer being manufactured. Secondly, it will add to the list of exempt chemical preparations certain preparations containing controlled dangerous substances which are intended for laboratory, industrial, educational or special research purposes and for which there is no intended administration to man or animals. The chemicals being added to the exempt schedule do not present any significant potential for abuse since the preparations either (a) contain no narcotic controlled dangerous substances or are packaged in such a form or concentration that the packaged quantity does not present a significant abuse potential, (b) contain either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration that the preparation or mixture does not present any significant potential for abuse, or (c) are so formulated or so incorporated or denatured whereby the controlled dangerous substances cannot in practice be removed and therefore the preparation or mixture does not present any significant potential for abuse.

The addition of chemical preparations to the exempt chemical schedules relieves researchers, chemical analysts and suppliers of these products from having to comply with certain

## PROPOSALS

## HIGHER EDUCATION

sections of the controlled dangerous substances regulations which are intended to control chemical preparations which have significant potential for abuse.

### Social Impact

This proposal has no significant social impact on the general public since the chemical preparations being added or deleted from the exempt chemical schedules in the controlled dangerous substances regulations are not available to the public. The proposal does provide for the use of certain chemical preparations which pose no significant potential for abuse by laboratories, researchers and chemical analysts without having to adhere to regulations intended for chemical substances with a high abuse potential.

### Economic Impact

The proposal will have no major economic impact on the general public. It will have, however, a beneficial economic factor on the manufacturers and suppliers of these exempted chemical entities by their removal from the controlled dangerous substances schedules in that they will now be exempt from all aspects of the Act such as inventory, labeling, security and controls.

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

8:65-10.8 Exempt chemical preparations

(a) A list of preparations and mixtures in 21 C.F.R. 1308.24(i) as amended through [Volume 45, No. 19.] **Volume 48, No. 199**, of the Federal Register dated [September 30, 1980] **October 13, 1983**, which in the form and quantity listed in the application (indicated as the "date of application") are designated exempt chemical preparations and are not subject to the provisions of the New Jersey Controlled Dangerous Substances Act.

(b) A complete listing of these preparations and mixtures subject to the proposal may be reviewed in the Office of Drug Control, Consumer Health Services, [1911 Princeton Avenue, Trenton, NJ 08648 (609-392-1180).] **CN 362 129 E. Hanover St., Trenton, NJ 08625 (609-984-1308)**.

## HIGHER EDUCATION

For the following proposals, address comments and inquiries to:

Grey J. Dimenna, Esq.  
Administrative Practice Officer  
Department of Higher Education  
225 West State Street  
CN 542  
Trenton, NJ 08625

### (a)

## STUDENT ASSISTANCE BOARD

### Garden State Scholars Award Amounts

### Proposed Amendment: N.J.A.C. 9:7-4.2

Authorized By: Student Assistance Board, Joseph Streit, Chairman.

Authority: N.J.S.A. 18A:71-26.8, 18A:71-26.10 and P.L. 1984, c.94.

Proposal Number: PRN 1984-695.

The agency proposal follows:

### Summary

The proposed amendment permits the Student Assistance Board to establish annual maximum award amounts for the Garden State undergraduate and graduate scholarship programs based upon available appropriations and the cost of attendance at New Jersey public and private institutions.

### Social Impact

The Garden State Scholarship, Garden State Distinguished Scholars, and Garden State Graduate Fellowship Programs provide awards to enable students to obtain undergraduate and graduate degrees from both public and private colleges in New Jersey.

### Economic Impact

The proposed amendment is consistent with legislation signed into law that enables the Board of Higher Education and the Student Assistance Board to annually establish award amounts for undergraduate and graduate Garden State Scholarship recipients. The annual maximum awards will be based on the Department's available appropriations for these programs.

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

9:7-4.2 Award amounts

Undergraduate scholarship award amounts shall be a minimum of \$200.00 [and a maximum of \$500]. **The maximum award shall be established annually by the Student Assistance Board.** The exact amount of the award shall be determined by the college financial aid officer and depend upon the student's financial need taking into account the family contribution and other aid received, the total of which may not exceed the college budget (as defined by the institution). [Graduate fellowships may be awarded up to an annual maximum of \$4,000.] **The maximum graduate fellowship award amount shall be established annually by the Student Assistance Board.**

### (b)

## HIGHER EDUCATION ASSISTANCE AUTHORITY

### Guaranteed Student Loan Program Prohibition: Institutional Fees

### Proposed Amendment: N.J.A.C. 9:9-1.6

Authorized By: Higher Education Assistance Authority, Jerome Lieberman, Chairman.

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

Proposal Number: PRN 1984-694.

The agency proposal follows:

### Summary

The New Jersey Higher Education Assistance Authority administers the Federal Guaranteed Student Loan Program

(GSL) and the Parent Loan Program (PLUS) in New Jersey. Federal regulations governing those programs allow the Authority to charge all student borrowers a fee of up to one percent of the loan amount to cover administrative costs of the Authority. The proposed amendment prohibits an educational institution from levying an administrative fee upon student borrowers in conjunction with a student loan application.

#### Social Impact

The proposed amendment will prohibit educational institutions from charging an administrative fee to student loan borrowers in connection with a student loan application.

#### Economic Impact

The proposed amendment will not result in any costs or loss of funds to the State of New Jersey but shall limit the level of costs involved to student loan borrowers in obtaining student loans.

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

9:9-1.6 Insurance and origination fees

(a) (No change.)

**(b) No educational institution may charge an applicant a fee for processing an application for a Guaranteed Student Loan or a PLUS Loan.**

## HUMAN SERVICES

### (a)

#### DIVISION OF PUBLIC WELFARE

#### Public Assistance Manual

#### Assignment of Support Rights; Continued Absence

#### Proposed Amendment: N.J.A.C. 10:81-3.9, 3.17, and 3.40

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

Authority: N.J.S.A. 2A:4-3.1 et al. 44:7-6, 44:10-2, and 44:10-3; 45 CFR 232.11, 45 CFR 302.50 and 45 CFR 303.20(c)(3).

Proposal Number: PRN 1984-682.

Address comments and inquiries to:

Audrey Harris, Director  
Division of Public Welfare  
CN 716  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

Current regulations at N.J.A.C. 10:81-3.17(a), (d), and (e) contain material pertaining to the determination of paternity and the obtaining of child support. Text at N.J.A.C. 10:81-3.17(a) provides that court-ordered support is not necessary if legally responsible relatives (LRRs) fulfill their evaluated obligation. However, Federal regulations at 45 CFR 302.50 provide that: (1) the support rights assigned to a Title IV-D

(Child Support and Paternity (CSP)) agency constitute an obligation owed to the State by the person responsible for providing such support; and (2) such obligation is established by court order or legally enforceable binding agreement. This proposal would amend the regulation at N.J.A.C. 10:81-3.17(a) by stipulating that support payments must be established through court action.

N.J.A.C. 10:81-3.17(d)4 currently provides that filiation proceedings may be initiated in the county juvenile and domestic relations court or in a municipal court. However, State law (N.J.S.A. 2A:4-3.1) places filiation and support proceedings under the jurisdiction of the Family Division of Superior Court. Hence, N.J.A.C. 10:81-3.17(d)4 is being amended to ensure uniformity with State law.

N.J.A.C. 10:81-3.17(d)5 provides procedures to be followed when a mother in the Aid to Families with Dependent Children (AFDC) program either refuses or claims inability to identify the father(s) of her child(ren). Since this duplicates material found at N.J.A.C. 10:81-11.9(d)2v, text at N.J.A.C. 10:81-3.17(d)5 is being deleted. Text at N.J.A.C. 10:81-3.17(e)3, 4 and 5 makes reference to Form PA-17A, "Notice to County Prosecutor of Alleged Desertion". However, Federal regulations at 45 CFR 303.20(c)(3) give State IV-D agencies authority to locate an absent parent, thereby making Form PA-17A obsolete. This proposal would delete the regulations at N.J.A.C. 10:81-3.17(e)3-5.

Federal regulations at 45 CFR 232.11 require that each applicant for or recipient of AFDC shall assign any rights to support to the State. In addition, State law (N.J.S.A. 44:10-2) requires that the assignment of support rights become automatic with the application for or receipt of AFDC. Hence, in keeping with the aforementioned law and Federal regulation, text at N.J.A.C. 10:81-3.9(a)5ii(2) and 3.40(d)3 is being amended to provide that an application for or the receipt of AFDC operates as an automatic assignment of support rights to the county welfare agency (CWA).

#### Social Impact

The amendments at N.J.A.C. 10:81-3.17(a) and (d)4 are being proposed to ensure uniformity with 45 CFR 302.50 and N.J.S.A. 2A:4-3.1. The regulations at N.J.A.C. 10:81-3.17(d)5 are being deleted because they duplicate material found at N.J.A.C. 10:81-11.9(d)2v. Text at N.J.A.C. 10:81-3.17(e)3-5 is being deleted because it contains obsolete material. The deletion at N.J.A.C. 10:81-3.9(a)5ii(2) and the change at N.J.A.C. 10:81-3.40(d)3 is being proposed to comply with N.J.S.A. 44:10-2 and comport with current regulations at N.J.A.C. 10:81-11.4. There should thus be no new adverse social impact on either the client population or CWAs administering the program. Rather, inasmuch as these amendments will ensure uniformity within the rules, this proposal should provide a positive impact.

#### Economic Impact

These amendments eliminate duplicate regulations, delete obsolete material, and bring N.J.A.C. 10:81-3.17(a), (d)4 and 3.40(d)3 into conformity with the aforementioned laws and regulations. Therefore, there is no new adverse economic impact anticipated as a result of this proposal. Some administrative savings may however be experienced as a result of this proposal, inasmuch as it provides for uniformity of rules.

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

10:81-3.9 Applicant in AFDC-C and -F

(a) **AFDC-C:** The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative deci-

sion to apply for financial assistance or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for [him/her] **him or her** (see N.J.A.C. [10:81-3.3(b)] **10:81-2.3(b)1**) in order to maintain and provide for one or more dependent children of eligible age who are in [his/her] **his or her** care and custody. It shall also include the stepparent when the natural or adoptive parent designates the stepparent as an individual whose presence in the home is essential to [his/her] **his or her** well being and elects that such person shall be included (see N.J.A.C. 10:82-2.9).

1.-4. (No change.)

5. **Application during pregnancy (all segments):** Upon presentation of documented medical evidence of pregnancy, which shall include the estimated date of conception and delivery, a pregnant woman may make application for medical assistance on behalf of her unborn child and for AFDC following the child's birth. One application form will be prepared to cover both requests.

i. (No change.)

ii. The regulations below extend medical assistance (Medicaid Special) on behalf of the unborn child to women age 21 and over and to expectant mothers under age 21 who are not eligible in their own right for Medicaid Special (see N.J.A.C. 10:81-8.23(e)). Persons in either age group may make application for AFDC pending the anticipated birth of the child.

(1) (No change.)

(2) Within 30 days prior to the expected delivery date, the CWA will make a determination regarding eligibility for AFDC, including the evaluation of LRRs. [The client will be required to sign Form PA-10G, Assignment of Support Rights, as a condition of eligibility for AFDC.] If eligibility is established, money payments will begin following the birth of the child provided the client affirms that she desires assistance and intends to retain care and custody of the child. (See N.J.A.C. 10:82-2.3 regarding initial grants.)

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

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

10:81-3.17 Continued absence of parent from the home

(a) The county welfare [board] **agency** will make every reasonable effort to locate an absent parent in order to obtain support payments. An absent parent will be given the opportunity to voluntarily support [his/her] **his or her** child [to the extent of his/her ability based on State standards], but it must be explained to both parents that the extent of support will be established by the **court**. [if there is cause for legal action. There is no cause for action if legally responsible relatives in fact fulfill their evaluation obligation. (See subsection (d)2 of this section and N.J.A.C. 10:82-3.8 through 3.12.)]

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

(d) Eligibility of child born out-of-wedlock:

1.-2. (No change.)

3. Court action may be necessary to establish paternity or to obtain support; in the absence of the mother's willingness to initiate such proceedings, the county welfare [board] **agency** cannot refuse to grant assistance but may initiate proceedings (see N.J.A.C. **10:81-11.9(d)**). This provision must be fully explained to each applicant mother of an out-of-wedlock child.

4. By law, the county welfare agencies are authorized to initiate proceedings to establish paternity and responsibility for support of a child born out-of-wedlock who is a recipient of AFDC-C (see N.J.A.C. **10:81-11.9**). This authority should be used only when neither parent is willing to initiate proceedings. Filiation proceedings should be initiated in the [county juvenile and domestic relations court, but may be initiated in

a municipal court in accordance with local practice] **Family Division of Superior Court**.

[5. A complaint to establish paternity should be filed in the name of the county welfare board by the director or the duly authorized representative. The complaint will normally be filed against the reputed father, as identified by the mother. However, in cases where the mother refuses, or claims inability to reveal the identity of the reputed father, a complaint may be filed naming the defendant as follows:

i. "John Doe, reputed father of (name of child) said name John Doe being fictitious." Such a complaint must be accompanied by an affidavit of inquiry made by the county welfare board director or duly authorized representative, stating the mother's refusal or inability to identify the reputed father and that other diligent inquiry has failed to reveal the identity. The court may then hold an examination of the mother who withheld disclosure of the name of the reputed father. If she refuses to cooperate, the court may hold her in contempt.

ii. Normally after the complaint is filed, and an examination held as required for disclosure of identity of the reputed father, a warrant will be issued against the reputed father so that when he is personally served he may be subject to the jurisdiction of the court. This is followed by a hearing where testimony is given by the parties, on the basis of which the court decides the issue of paternity.

iii. If the court decides that the person charged is the father, an order of filiation is made which also specifies the support to be paid by the father for the maintenance of the child.

iv. There will also be cases where the reputed father admits paternity and agrees that he will not contest the entry of an order of filiation. Such action can be encouraged by the county welfare board interview with the reputed father before initiation of filiation proceedings. In such cases, with the cooperation of the court, the procedure may be simplified in that the issue of paternity and responsibility of support can be adjudicated without issuance of a warrant or formal hearing.

v. Exceptions to the requirements for initiating filiation proceedings may be made when, in the judgment of the welfare agency, based on information from the recipient, the situation is one in which the disadvantages to the child and his/her parent outweigh the social and economic advantages that might be accomplished through such proceedings. Illustrative situations include the following:

(1) An older child's reputed father has not been seen or heard from over a period of years, so that paternity would be hard to prove; or

(2) A reputed father who is married has legitimate children to support, and such action would cause family discord or would result in deprivation to the legitimate children;

(3) When contact between father and family may be harmful to family and court action may cause such contact.

vi. All activity with regard to the aforementioned shall be noted in the income maintenance file.]

(e) **Desertion:** A parent may be considered "continuously absent from the home" when a condition of desertion is established. A desertion may already be a matter of public record, or may be alleged or assumed.

1.-2. (No change.)

[3. In accordance with existing statutes, desertion not only forms a basis of eligibility for AFDC, but also subjects the deserter to legal action for enforcement of civil liability with respect to support. This action shall not be confused with the activity specifically required pursuant to the Social Security Act, that is, notifying, in writing, the appropriate law enforcement authorities of the circumstances surrounding the

desertion or abandonment of an AFDC child (accomplished in New Jersey by means of Form PA-17A).

4. In every instance where eligibility for AFDC is based on the factor of "continued absence from the home" by reason of "alleged desertion", Form PA-17A, Notice to County Prosecutor of Alleged Desertion, shall be sent to the prosecutor concurrently with the issuance of the initial assistance payment.

AGENCY NOTE: Form PA-17A does not require applicant parent's signature. It shall rest with the judgment of the prosecutor to determine what action, if any, should be taken in response to the Notice received.

5. Each CWA may wish to appoint special investigators whose duties it will be to devote special attention to cases involving situations of desertion or alleged desertion to prepare necessary reports for the legal authorities and to function as a liaison for the county welfare agency with the law enforcement authorities. In general, proceedings appropriate in cases of desertion or alleged desertion should be referred to the CWA counsel for determination as to appropriate legal activity (notwithstanding the submittal of Form PA-17A to the county prosecutor). All activity with regard to the aforementioned shall be noted in the case record.]

(f) (No change.)

(g) **Requesting information regarding deserting parents:** The CWA is charged with the general responsibility of reducing the extent of the recipient family's reliance on public assistance payments. In striving for this objective, the CWA shall attempt to effect a resumption of or increase in financial support provided the recipient AFDC-C family by the absent parent within the ability of such parent. In cases of absent parent(s) whose whereabouts are unknown, the CWA will forward Form PA-450 to the State Parent Locator Service (see [appendix D] **N.J.A.C. 10:81-11.9**).

This is a service to aid and supplement local efforts; the basic obligation for locating parents rests with the county's parent locator service.

10:81-3.40 Repayment

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

(d) Rules when Agreement to Repay is not required:

1.-2. (No change.)

3. Assignment of Support: [(PA-10G): The signing of an Agreement to Repay is not required when the pending payment arises from potential entitlement to payment of support from a relative and Assignment of Support (Form PA-10G) is applicable and has been signed and sent to the CSP unit of the agency.] **Upon signing an application for AFDC (PA-1J), the applicant or recipient automatically assigns all support rights (whether for past due or future support) to the CWA. The signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative. The IM worker shall, at the time of application for AFDC-C, complete the appropriate parts of the CSP referral document and forward the document to the CWA/CSP unit (see N.J.A.C. 10:81-11.49(d)1).**

(e) (No change.)

## CORRECTIONS

(a)

### DIVISION OF ADULT INSTITUTIONS

#### Adult County Correctional Facilities

#### Proposed New Rule: N.J.A.C. 10A:31

Authorized By: New Jersey Department of Corrections,  
William H. Fauver, Commissioner.

Authority: N.J.S.A. 30:1-15 and 30:1B-10.

Proposal Number: PRN 1984-703.

Address comments and inquiries to:

Louis J. Scavo, Chief  
Bureau of County Services  
Department of Corrections  
Whittlesey Road, P.O. Box 7387  
Trenton, New Jersey 08628

The agency proposal follows:

#### Summary

This chapter was originally adopted pursuant to authority of N.J.S.A. 30:1-15 and 30:1B-10, and was filed and became effective on November 1, 1979, as R. 1979 d.438. See 11 N.J.R. 284(a) and 11 N.J.R. 627(e).

Under the provision of Executive Order No. 66, 1978 (which provides for the expiration of new rules within five years), the rules in this chapter expired on November 1, 1984.

The New Jersey Department of Corrections, pursuant to the authority of N.J.S.A. 30:1-15 and 30:1B-10, proposes to readopt this chapter as a new rule, without changes or amendments to the expired text.

The chapter contains five subchapters. Subchapter one contains the introduction which discusses and defines the Manual of Standards for New Jersey Adult County Correctional Facilities. Subchapter two presents the requirements for jail planning and design, including submission of plans and specifications, construction principles, the space requirements for reception areas, living areas, support function areas, security and arsenal.

Subchapter three presents the standards on daily operation, including the requirements for personnel and staff development, for classification and security, for food service, health services, and inmate work programs. Also included are standards on visitation, mail, access to the courts and work-release programs.

Subchapter four presents the regulations governing the remission of time or cash payments to inmates who are employed in the facility and who are minimum security prisoners. Subchapter five describes the procedures to be used by the New Jersey Department of Corrections for the enforcement of these standards.

It is necessary to readopt these standards as new rules to permit the Department of Corrections to continue to maintain standards which govern the general operation of county adult detention facilities, and to establish minimum requirements for physical facilities, programs and procedures.

#### Social Impact

A county correctional facility built according to the standards in this chapter will be in compliance with Federal, State, and local sanitation, safety and health codes. The facility,

therefore, will be less likely to be the object of civil rights suits concerning unsafe or unsanitary conditions. The institution will be more secure since serious offenders will be separately and securely confined, thus reducing the danger of escapes and of assaults within the facility.

The facility built according to these standards will be able to provide the services which, for lack of space and staff, could not be provided in a substandard jail. Work and education programs make the detainee less of a burden on the county, by providing the opportunity to pay fines and child support, and by returning the inmates to the community with improved skills and work habits.

**Economic Impact**

The construction or reconstruction of a facility according to these standards will end the cost of maintaining and repairing an old and outdated facility. The increased services of a new facility will provide employment opportunities as citizens of the county are hired to provide correctional and treatment services. Male and female inmates, previously on welfare, can be placed in work-release positions and become self-supporting when they return to the community.

The facility which meets these standards and which is accredited by the American Correctional Association is more likely to be eligible for Federal loans and grants to increase staff and services. These rules will serve as a measure by which the citizens of New Jersey may better judge whether the funds allocated in their community are providing them with the correctional services which are needed in their county.

Full text of the proposed rules appears in the New Jersey Administrative Code at N.J.A.C. 10A:31.

**INSURANCE**

The following proposals are authorized by Kenneth D. Merin, Commissioner, Department of Insurance.

Address comments and inquiries to:  
 Jasper J. Jackson, Director  
 Legislative and Regulatory Affairs  
 Department of Insurance  
 CN 325  
 Trenton, NJ 08625

**(a)**

**DIVISION OF ADMINISTRATION**

**Automobile Insurance  
 Moped Insurance**

**Proposed Amendment: N.J.A.C. 11:3-11.1**

Authority: N.J.S.A. 17:1-8.1, 17:1c-6(e), 17:28-1.3, 39:4-14.3(e).

Proposal Number: PRN 1984-698.

The agency proposal follows:

**Summary**

The existing N.J.A.C. 11:3-11 was promulgated to specify to owners and operators of motorized bicycles (mopeds) the limits of liability insurance required in a moped policy.

The proposed amendment to N.J.A.C. 11:3-11.1 adds pedestrian personal injury protection (PIP) to the coverage requirements for moped policies. The addition of pedestrian PIP coverage as a requirement for moped insurance brings N.J.A.C. 11:3-11.1 into conformity with the pedestrian PIP requirement for motor vehicles and motorcycles set forth in N.J.S.A. 17:28-1.2.

A proposed new subsection (b) is inserted into the existing rule. Any other changes are editorial in nature.

It should be noted that under any pedestrian PIP coverage, only the pedestrian is covered for out-of-pocket expenses incurred as a result of a collision with a moped. The injured operator is responsible for his or her own medical expenses.

**Social Impact**

The addition of pedestrian personal injury protection coverage as a requirement for moped insurance benefits pedestrians injured by these motorized bicycles. This requirement provides an efficient and inexpensive method by which pedestrians injured by motorized bicycles can be reimbursed for out-of-pocket expenses.

**Economic Impact**

The pedestrian PIP coverage required in the proposed amendment will result in, at most, a minimal increase in cost to insureds. There will be a minimal increase in cost to insurers for administrative expenses resulting from the proposed amendments. The increase in cost is however, expected to be commensurate with the additional premiums collected from the insureds.

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

**SUBCHAPTER 11. MOPED INSURANCE**

AGENCY NOTE: The Department of Insurance intends to make the amendments to this subchapter operative approximately 60 days after their effective date.

**11:3-11.1 Required coverages for mopeds**

(a) No policy insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, operation or use of a motorized bicycle as defined in N.J.S.A. 39:1-1, as amended, shall be issued in the State to the owner (or parent or guardian of an owner under 18 years of age) of any motorized bicycle principally garaged or operated in this State unless it includes coverage for the owner and operator in the following minimum amounts or limits.

1. Bodily injury;
  - i. An amount or limit of \$15,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and
  - ii. An amount or limit, subject to such limit for any one person so injured or killed, of \$30,000, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident.
2. Property damage: An amount or limit of \$5,000 in the aggregate for damage to property of others resulting from one accident.

(b) Every liability insurance policy as described in (a) above, issued or renewed on or after the operative date of this subsection, shall provide personal injury protection coverage benefits, in accordance with N.J.S.A. 39:6A-4, to pedestrians who sustain bodily injury in this State caused by the named insured's motorized bicycle or caused by being struck by or from the motorized bicycle.

**1. Every rating organization and insurer making its own rates for policies covering motorized bicycles shall submit to the Commissioner of Insurance filings of rules, rates and forms within 30 days of the effective date of this subsection.**

[(b)](c) Every business entity or individual owner who rents motorized bicycles shall maintain liability insurance coverage pursuant to P.L. 1977, chapter 267, in the minimum amounts or limits set forth in subsection (a) of this section.

[(c)](d) Any such coverages as described in subsections (a), [and] (b) and (c) above shall describe the make and model, piston displacement, and serial number (VIN) of each motorized bicycle insured. This information shall also constitute the description of vehicle required on insurance identification cards, and N.J.A.C. 11:3-5.1 through 6.4 shall apply to moped coverage except where the language is clearly inappropriate.

[(d)](e) The policy period for the coverages described in subsection (a) of this section shall commence at 12:01 A.M. of the effective date shown in the policy declaration page, unless expressly set forth in the policy or in a binder or other contracts for temporary insurance.

[(e)](f) Any insurer authorized to write motor vehicle coverage may write moped coverage.

## (a)

### **Automobile Insurance Personal Injury Protection Coverage; Reduced PIP Premium Charge for Additional Autos in One-Driver Households**

#### **Proposed New Rule: N.J.A.C. 11:3-21**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and P.L. 1983, c. 212, N.J.S.A. 39:6A-4.1.

Proposal Number: PRN 1984-696.

The agency proposal follows:

#### **Summary**

P.L. 1983, c. 212 (N.J.S.A. 39:6A-4.1), which supplements the New Jersey Automobile Repair Reform Act, provides that in any instance in which a named insured is the owner and the only licensed driver residing in a household, the insured shall be charged a reduced personal injury protection (PIP) premium for each automobile listed in addition to the principal automobile, in an amount determined by the Commissioner. The statute further specifies that three years after this initial premium reduction the premium charges for such additional automobiles shall be determined by the loss experience of the rate filer.

A rule implementing N.J.S.A. 39:6A-4.1 was proposed on March 19, 1984 (see 16 N.J.R. 488). This proposal extended PIP premium reductions specified in the law to all instances where the number of automobiles in a household exceeds the number of licensed drivers. The comments received by the Department were unanimous in suggesting that this proposal went beyond its statutory authority. After consideration of the comments received and additional internal review, the original rule is being withdrawn.

The proposed new rule, N.J.A.C. 11:3-21, implements only the specific provisions of the statute. In addition, most com-

menters felt that the immediate effective date required in the original proposal was impractical. The new proposal implements these suggestions by making the rule operative 120 days after its effective date.

The proposed new rule specifies that each insurer shall, for the initial three-year period, provide at least a fifty percent reduction in the basic PIP premium, exclusive of expense fees and policy constants and residual market equalization charges, for the additional automobiles. In response to several comments, the new proposal makes it clear that the PIP premium reduction applies only to individually owned automobiles and excludes certain types of vehicles, such as antique automobiles used for exhibition purposes and for which a PIP premium of \$25.00 or less is charged. Further, the proposal specifies that losses under a policy are charged to the automobile with the full PIP premium unless the injury was sustained in the automobile with the reduced premium.

The proposal also provides that each automobile filer shall segregate and maintain loss experience with respect to the payment of any PIP benefits which are attributable to additional automobiles. The loss experience may be examined by the Commissioner or his designee and must be reported annually to the Department.

There were many comments to the original proposal indicating that it was not possible under present statistical plans to identify households with more automobiles than licensed drivers. While the new proposal does not require a premium reduction for all such households, it does mandate that insurers and rating organizations amend their statistical plans to record households in which the number of licensed drivers is less than the number of insured automobiles. Insurers must segregate and maintain their loss and expense statistics for the Department's further review.

Filings reflecting the actual loss experience of the filer shall be submitted to the Department for review and approval three years after the effective date of the new rule.

#### **Social Impact**

In those instances where there is one licensed operator in the household and more than one automobile all of which are customarily operated by the sole operator, exposure to loss is significantly reduced. This lessened exposure has not heretofore been reflected in the PIP premium charged on additional automobiles.

Accordingly, the statute and this implementing rule will provide more equitable insurance rates for those policyholders who qualify for the reduction in PIP premium based upon additional automobiles in a one-driver household.

#### **Economic Impact**

The proposed new rule will result in reduced premiums on basic PIP coverages for qualifying additional automobiles.

Insurers and rating and statistical organizations, will experience certain increased costs as a result of effecting compliance with the record-keeping requirements of the rule. The reduction in premium collected by insurers is expected to be commensurate with the actual loss experience.

The Department does not anticipate any increased costs as a consequence of the new rule.

Full text of the proposed new rule follows.

**SUBCHAPTER 21. PERSONAL INJURY PROTECTION  
COVERAGE: REDUCED PIP PRE-  
MIUM CHARGE FOR ADDI-  
TIONAL AUTOS IN ONE-DRIVER  
HOUSEHOLDS**

**AGENCY NOTE:** The Department of Insurance intends to make this rule operative approximately 120 days after its effective date.

**11:3-21.1 Purpose**

The purpose of this rule is to implement N.J.S.A. 39:6A-4.1, which provides for reduced personal injury protection premiums for additional automobiles in one-driver households.

**11:3-21.2 Reduction of PIP premium**

In any instance where there is one licensed operator in the household and more than one automobile, all of which are customarily operated by the sole operator and insured by the same insurer on one or more policies, the full basic PIP rate shall be charged on one automobile, and a percentage discount shall be given on the PIP premium charged on each additional automobile. For the three-year period commencing with the operative date of this rule, the premium reduction shall be at least 50 percent of the approved charge for the applicable territory of garaging for the additional automobile(s), exclusive of expense fees and policy constants or residual market equalization charges.

**11:3-21.3 Automobiles eligible for premium reduction**

(a) Except as provided in paragraph 1 below, the reduced premiums shall only apply to an individually owned private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pick-up body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives residing in the same household.

1. The reduced premium shall not apply to automobiles for which the basic PIP premium charge is less than \$25.00 and which are of the following types:

- i. Automobiles 10 years or older and maintained primarily for use in exhibitions, parades and club activities, or
- ii. A self-propelled vehicle with a living area that is an integral part of the chassis or a pick-up with a permanently attached camper body.

(b) A reduced premium charge for PIP coverage as specified in (a) above shall apply to all policies which are issued or in force on or after the operative date of this rule.

**11:3-21.4 Filing and statistical requirements**

(a) Each automobile filer shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval filings of rates and manual rules for implementing the reduced PIP premium charges for additional automobiles required by this rule.

1. Each statistical organization shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval amendments to its statistical plan designed to effectuate the purposes of N.J.S.A. 39:6A-4.1 and this subchapter.

(b) Every insurer, rating organization and statistical organization shall segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to additional automobiles in one-driver households.

1. Any loss or loss adjustment expense for a PIP claim shall be charged to the automobile for which the full premium was paid unless the injury was sustained while in the automobile with the reduced PIP premium.

(c) Every insurer, rating organization and statistical organization shall amend their statistical plans to segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to households in which the number of automobiles insured by the same insurer exceeds the number of licensed drivers customarily operating such automobiles.

(d) The statistics required in (b) and (c) above shall be subject to examination by the Commissioner or his designee and shall be reported annually to the Department.

(e) Three years after the operative date of this subchapter, each automobile filer shall submit to the Commissioner for approval filings of rates or manual rules reflecting the actual loss experience of the filer with respect to the payment of PIP benefits which are attributable to additional automobiles described in N.J.A.C. 11:3-21.3.

(f) All filings submitted pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's filing procedures.

**(a)**

**DIVISION OF ACTUARIAL SERVICES**

**Prohibited Practice; Social Security Disability Offset**

**Proposed New Rule: N.J.A.C. 11:4-25.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:30-2, 17B:30-15.

Proposal Number: PRN 1984-697.

The agency proposal follows:

**Summary**

The proposed new subchapter is intended to prohibit the adjustment of benefits under individual and group disability income policies to offset cost of living increases in social security benefits.

The proposed new subchapter is directed to insurers that reduce disability income payments when social security payments are increased due to cost of living adjustments. This practice, in effect, benefits the insurer and not the social security recipient for whom Congress intended the increase.

When Congress increases social security benefits to disabled persons, such increases are intended to provide the disabled persons with additional income regardless of any other income or insurance benefits payable to such persons. Accordingly, a corresponding benefit reduction by the insurer nullifies the purpose of the social security legislation and results in an inequity contrary to the reasonable expectations of the insured.

Failure to comply with this subchapter will be considered by the Department to be an unfair trade practice in the business of health insurance and will constitute a violation of N.J.S.A. 17B:30-2.

N.J.A.C. 11:4-25.1 and 25.2 set forth the purpose and scope of the new subchapter. N.J.A.C. 11:4-25.3 provides that no life or health insurer shall issue any individual or

group disability income policy which permits reduction in the amount of disability benefit being paid because of changes in social security benefits resulting either from changes in the social security law or because of cost of living adjustments which become effective after the first day for which disability benefits become payable.

**Social Impact**

The proposed new subchapter will insure that social security income recipients receive the benefit of any increases under that program. Insurance companies will be prevented from benefitting from any increased payments in the social security disability program at the expense of the recipient of benefits. Elimination of insured complaints regarding this offset practice will cause a minimal impact on the Department.

**Economic Impact**

The proposed new subchapter will have little or no economic impact upon the Department. There will be some financial loss to insurers no longer able to write policies allowing the offset practice now prohibited by this subchapter. Insureds will benefit from a net increase in payments received, in lieu of having any social security increases negated by corresponding decreases in payments by the insurer.

Full text of the proposed new rule follows.

**SUBCHAPTER 25. PROHIBITED PRACTICE: SOCIAL SECURITY DISABILITY OFFSET**

**11:4-25.1 Purpose**

The purpose of this subchapter is to prohibit the adjustment of disability payments to offset increases in social security benefits.

**11:4-25.2 Scope**

This subchapter shall apply to all individual and group disability income policies delivered or issued for delivery in this State after the effective date hereof.

**11:4-25.3 Prohibition against disability offsets**

No life or health insurer shall issue any individual or group disability income policy which permits any reduction in the amount of disability benefit being paid to the disabled person by changes in social security benefits resulting either from changes in the social security law or because of cost of living adjustments which become effective after the first day for which disability benefits become payable.

**LAW AND PUBLIC SAFETY**

**(a)**

**DIVISION OF MOTOR VEHICLES**

**Enforcement Service**

**Standards and Procedures to be Used by Licensed Reinspection Centers**

**Proposed Amendments: N.J.A.C. 13:20-33.1 and 33.50**

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

Authority: N.J.S.A. 39:8-26 (P.L. 1984, c. 48).

Proposal Number: PRN 1984-680.

Address comments and inquiries to:

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

The agency proposal follows:

**Summary**

P.L. 1984, chapter 48 extended the validity of the motor vehicle inspection system utilizing reinspection centers to conduct initial inspections to May 31, 1986.

The proposed amendments implement P.L. 1984, chapter 48.

**Social Impact**

The proposed amendments implement the public policy of this State as expressed in P.L. 1984, c. 48. The extension of the public-private inspection system to May 31, 1986, will result in shorter waiting times at the 38 State inspection stations by permitting 4,600 reinspection centers to conduct initial inspections. The public will benefit as a result of the shorter waiting times.

**Economic Impact**

There will be an economic impact on the State in monitoring the initial inspections conducted by the reinspection centers. There will be an economic impact on those persons who utilize reinspection centers for initial inspections. Those persons will be charged a fee equal to one-half the reinspection center's hourly rate for motor vehicles and one-quarter the hourly rate for motorcycles.

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

**13:20-33.1 General provisions; Class I and II licensees**

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

(q) Class I and II "full service" licensed reinspection centers shall be required to conduct initial motor vehicle inspections for a period of [12 months] **three years** ending [July 1, 1984] **May 31, 1986**, pursuant to the regulations and procedures for conducting reinspections.

(r)-(u) (No change.)

**13:20-33.50 General information; Class III licensees**

(a)-(m) (No change.)

(n) Class III licensed reinspection centers shall be required to conduct initial motorcycle inspections for a period of [12 months] **three years** ending [July 1, 1984] **May 31, 1986**, pursuant to the [registrations] **regulations** and procedures for conducting reinspections.

(o)-(r) (No change.)

**(b)**

**BOARD OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS**

**Minimum Standards and Tolerances**

**Proposed Amendment: N.J.A.C. 13:33-1.38**

Authorized By: State Board of Ophthalmic Dispensers and Ophthalmic Technicians, J. Leo Kymer, President.

Authority: N.J.S.A. 52:27B-41.13.

Proposal Number: PRN 1984-679.

Address comments and inquiries to:

J. Leo Kymer, President  
 Board of Ophthalmic Dispensers  
 and Ophthalmic Technicians  
 1100 Raymond Boulevard, Room 503  
 Newark, New Jersey 07102

**Summary**

The proposed amendment changes the minimum standards and tolerances currently required for prism power and the location of the optical center in the preparation and disbursement of eyewear by ophthalmic dispensers and technicians in this State. The changes are technical and would be the same as the A.N.S.I. requirements which are the Federal standards for minimum tolerance.

**Social Impact**

The proposed amendment would bring New Jersey State standards into total conformity with the nationally recognized standards. Licensees would benefit by not having to reconcile two different sets of standards in their business. Correspondingly, it should alleviate any confusion over the qualities which the finished product must possess. Moreover, it should not create a total readjustment of the current practices of licensees because all are already aware of, and many currently adhere to the national standards.

The impact upon the public is anticipated to be a better and consistent quality of eyewear dispensed throughout the State.

**Economic Impact**

Since the changes are of a relatively minor technical nature for which there is already much familiarity, there is no discernible economic impact expected.

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

13:33-1.38 Minimum standards and tolerances

(a) Every prepared pair of lenses, spectacles, eyeglasses or appurtenances thereto dispensed to the intended wearers thereof on written prescriptions from physicians or optometrists duly licensed to practice their profession, or duplication, replacement, reproduction or repetitions, must conform to the following minimum standards and tolerances:

1.-6. (No change.)

7. Prism power and location of specified optical center	Vertical + or - 0.25 prism for each lens or a total of [0.50] 1/3 prism imbalance. Horizontal + or - 0.25 prism for each lens or a total of 0.50 prism diopter imbalance; <b>if prism exceeds .50 prism diopter, the optical centers must be within 2 mm. If prism is less than .50 prism diopter, the optical centers must be within 4mm.</b>
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8.-13. (No change.)

(a)

**BOARD OF OPTOMETRISTS**

**General Rules of Optometric Practice**

**Proposed Readoption as New Rules:**

**N.J.A.C. 13:38-2.1 through 2.7;  
 13:38-2.10 through 2.12**

Authorized by: State Board of Optometrists, Kenneth B. Brehne, O.D., President.

Authority: N.J.S.A. 45:12-4 and 12-11.

Proposal Number: PRN 1984-681.

Address comments and inquiries to:

Kenneth B. Brehne, O.D., President  
 Board of Optometrists  
 1100 Raymond Boulevard  
 Room 501  
 Newark, New Jersey 07102

The readoption becomes effective upon publication in the Register of a notice of readoption.

**Summary**

N.J.A.C. 13:38-2 has undergone a comprehensive internal review as a result of its July 17, 1984 expiration date. The Board of Optometrists recognized the importance of updating these regulations because they affect licensees daily in conducting their optometric practices.

The intent of the readoption procedures as set forth by Executive Order No. 66(1978) have been satisfied by the Board prior to this proposed readoption in that the Board carefully evaluated Subchapter 2 for its continued relevancy. The Board proposed the present form for readoption only after substantial consideration.

Changes have been made in the form of amendments to the following expired rules, N.J.A.C. 13:38-2.1 (Minimum examination); N.J.A.C. 13:38-22 (Equipment); N.J.A.C. 13:38-2.3 (Records); N.J.A.C. 13:38-2.7 (Vision service plans); N.J.A.C. 13:38-2.10 (Minimum standards); N.J.A.C. 13:38-2.12 (Preceptorship program); N.J.A.C. 13:38-2.8 and 2.9 dealing with Board approval of vision service plans are not being repropose as new rules and the sections have been reserved; while N.J.A.C. 13:38-2.5 (Free eye examinations or refractions); N.J.A.C. 13:38-2.6 (Division of Fees); N.J.A.C. 13:38-2.11 are being proposed as new rules with little or no substantive changes from the expired text.

In amending N.J.A.C. 13:33-2.1, the Board has recognized that although technological advances now make it practical, during the course of an eye examination to have less than the direct performance of certain procedures by the optometrist, there are other aspects for which the direct physical control by the professional must be retained. The Board is proposing to amend this rule in order to outline those aspects. Moreover, the rule emphasizes that no matter how an optometrist chooses to structure the examination within the regulation, the doctor will always be responsible for the manner and outcome of any test or procedure relevant to the patient.

The amendments to N.J.A.C. 13:38-2.2 constitute an outline of the necessary minimum equipment by describing its function, where possible, instead of naming a specific piece of equipment.

N.J.A.C. 13:38-2.3 increases the number of years for recordkeeping from five to seven and requires clear identification of the optometrist treating a patient, as well as identification of the person dispensing any eyewear to a consumer.

N.J.A.C. 13:38-2.7 is being amended in part and repealed in part to recognize the possibility of vision service plans and to acknowledge that they are not considered within the prohibition of N.J.S.A. 45:12-19.1 regarding the practice of optometry on the behalf of an unlicensed person, association or corporation.

N.J.A.C. 13:38-2.8 and 2.9 are not being repropoed as new rules because the viable substantive portions are addressed in the proposed amendment of N.J.A.C. 13:38-2.7. In reforming these regulations, the Board took direction from the Attorney General's Formal Opinion No. 13 (1980).

N.J.A.C. 13:38-2.10(a)7 is amended to conform to the A.N.S.I. standards, which are adhered to nationwide. The addition of subsections (b) and (c) outline in greater detail and make additions to the standards and tolerances required for acceptable eyewear.

N.J.A.C. 13:38-2.12 imposes an additional requirement for the selection of preceptors, that is, that they shall have been engaged in the practice of optometry in New Jersey for at least five years.

#### Social Impact

The proposed changes to the expired rules will have a positive impact upon the public and licensees. For example, N.J.A.C. 13:38-2.1 and 2.2 will allow licensees to make practical and effective use of technological advances while safeguarding the public against the abandonment of professional knowledge and input in areas where they should not be substituted. These changes from the previous rules will help to assure that quality optometric treatment and services will be provided to the consumer without unreasonable interference with licensees' professional judgements.

Similarly, the public will benefit by the proposed addition to N.J.A.C. 13:38-2.3 requiring the name of the treating optometrist on the patient record, as well as the name of the person dispensing eyewear to that patient. This will enable consumers to readily identify the doctor and/or the doctor's staff member who bear responsibility for the services rendered to a patient, and will assure accountability in this area.

The language of N.J.A.C. 13:38-2.7 is being modified to remain consistent with the intent and practice of the Board regarding vision service plans. The social impact upon licensees and the public is beneficial in that it allows for competent optometric services to be provided upon a planned payment basis.

N.J.A.C. 13:38-2.8 and 2.9 are not being readopted and their absence is not anticipated to have any impact upon the public or licensees.

The impact of the change to N.J.A.C. 13:38-2.10 is anticipated to be of benefit to the public by bringing the State minimum standards into conformity with the national standards as well as the proposed guidelines for New Jersey ophthalmic dispensers and technicians. The changes in the requirement for prism power and location of the optical center are technical in nature and will allow for better quality and consistency in eyewear to the public. There will be minimal impact upon licensees since most are well aware of these national A.N.S.I. standards and will have no trouble adapting to them.

The impact of the specified "five years in practice" qualification for preceptors proposed in N.J.A.C. 13:38-2.12 represents a formalization of a policy to which the Board has

previously adhered. Consequently this proposed change from the previous rule should not have an impact on current preceptors or licensees. The Board feels such a policy benefits the public by insuring a better quality of training and more experienced supervision over the apprentices.

#### Economic Impact

There is no significant economic impact anticipated for the public or licensees by the various amendments to this proposal.

**Full text** of the current rule appears in the New Jersey Administrative Code at 13:38-2.

**Full text** of the readoption as new rules with amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

13:38-2.1 Minimum examination; record of conditions

(a) (No change.)

1.-11. (No change.)

12. **In addition to the above procedures**, [C]corneal examinations shall be performed by the doctor in the course of fitting contact lenses using a slit-lamp (biomicroscope), or such equipment with equivalent technological capabilities.

**(b) Procedures (a) 3, 4, 5, and 12 above must be performed by the doctor. In procedure (a) 11 above, where any form of contact tonometry is used, the doctor must perform the procedure. The accuracy of the findings from the above-referenced procedures shall be the exclusive responsibility of the examining optometrist(s).**

13:38-2.2 [Examination] **Minimum** equipment

(a) For the proper performance of the requirements of [Section 2.1] **N.J.A.C. 13:38-2.1** (Minimum examination), the [optometrist is required to have the following equipment in each office for which he has a license to practice optometry in this State:] **following equipment is mandatory in each office in this State where an optometrist is licensed to practice:**

1. Ophthalmoscope;

2. [Retinoscope] **Instrument for the objective measurement of the refractive status of the eye;**

3. [Ophthalmometer] **Instrument to measure the radius of the curvature of the cornea;**

4. [Refractor or a trial frame or phorometer with trial case, auxiliary prisms and lenses] **Instrument, including but not limited to, trial frame with test lenses and auxiliary prisms, for the measurement of the subjective refractive status of the eye;**

5. (No change.)

6. [Charts for distance and near visual acuity] **Instrument or chart to measure distance and near visual acuity;**

7. Pseudoisochromatic [charts] **method for testing color vision;**

8. [Tangent screen or perimeter] **Equipment to measure central and peripheral fields;**

9. Accurate corneal or [scleral] **non-contact** tonometer to determine intraocular pressure[.];

10. Biomicroscope (slit-lamp), **or such equipment with equivalent technological capabilities.**

13:38-2.3 Records of examinations and prescriptions

(a) (No change.)

(b) All findings and pertinent facts concerning the patient, discovered and disclosed during the course of such examination, as well as the record of professional services rendered and the fees charged, shall be preserved by the optometrist for a period of not less than [five] **seven** years from the date [on

## PROPOSALS

which the professional services were rendered] of the last entry.

(c) In a multi-doctor practice and/or corporation, for every professional service rendered, the name of the doctor or doctors rendering such service or services, shall be clearly indicated on the patient record.

(d) The name of the person dispensing eyeglasses or contact lenses to the consumer/patient, shall also be indicated on the patient record.

### 13:38-2.4 Vision Screening

[(a)] Nothing contained in this Chapter shall be construed to prohibit vision screening under the direction and supervision of an optometrist [or physician] for the purpose of determining the advisability of a complete optometric examination.

[(b) No optometrist shall, without the express consent of the Board, contract with any person, firm, association, organization or corporation for the purpose of engaging in any form of optometric practice other than vision screening, unless in conjunction with a vision service plan approved by the Board].

### 13:38-2.5 Free eye examinations or refractions (No change.)

### 13:38-2.6 Division of fees

(a) (No change.)

(b) No division of fees for services shall be made except with another optometrist, based upon a division of services [or responsibility].

### 13:38-2.7 Vision service plans [construed]

[A vision service plan shall be construed to mean a plan offered by a nonprofit association or corporation whose objective shall be to foster the conservation of human eyesight whereby professional practitioners legally authorized to provide optometric care can offer their professional services upon a planned payment basis to members of groups desiring said services and to make available any and all such other optometric functions and services as contribute to the betterment of the vision care of the public.]

(a) N.J.S.A. 45:12-19.1 shall not be construed to prohibit an optometrist from providing optometric services in conjunction with a vision service plan.

(b) A vision service plan shall be construed to mean a plan offered by an association or corporation whereby professional practitioners legally authorized to provide optometric care can offer their professional services upon a planned payment basis to members of groups desiring said services and to make available any and all other optometric functions and services on such planned payment basis.

### 13:38-2.8 [Approval of Vision Service Plan] (Reserved)

[(a) In approving a vision service plan, the Board shall ascertain whether said vision service plan provides:

1. A sufficient number and geographic distribution of participating optometrists so as to provide for a few choice practitioners;

2. A range and type of services which complies with the provisions of N.J.S.A. 45:12-11 and Sections 1 (Minimum examination) and 2 (Examination equipment) of this Subchapter;

3. That the participating optometrists possess the necessary equipment to provide the services set forth in the vision service plan.]

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### 13:38-2.9 [Optometric services through vision service plan] (Reserved)

[N.J.S.A. 45:12-19.1 shall not be construed to prohibit an optometrist from providing optometric services in conjunction with a vision service plan approved by the Board.]

### 13:38-2.10 Minimum standards and tolerances

(a) (No change.)

1.-6. (No change.)

7. Prism power and location of specified optical center

Vertical + or - 0.25 prism for each lens or a total of [0.50] 1/3 prism imbalance. Horizontal + or - 0.25 prism for each lens or a total of 0.50 prism diopter imbalance; if prism exceeds .50 prism diopter, the optical centers must be within 2 mm. If prism is less than .50 prism diopter, the optical centers must be within 4mm.

8.-12. (No change.)

### 13. Frame selection and fit

Frame shall be selected for the requirements of the prescription and facial contour. Bridge size should fit the nose within 2 mm of its width with flair, and temple length must fit within 5mm.

[(b) Provided, however, that nothing herein shall be construed to prohibit deviations beyond those established by this rule provided that good optometric cause exists therefor.

(c) Failure to comply with this rule may subject the licensee to disciplinary proceedings before the board which may result in the suspension or revocation of his license to practice optometry in the State of New Jersey.]

(b) In order to assure the proper fabrication of lenses and eyewear, the following information shall be recorded:

1. Eye size, bridge size, temple length, frame shape and style, patient pupillary distance, optical centers and, if applicable, bifocal type, segment height and base curve;

(c) Upon completion of the fabrication of such corrective lenses and prior to dispensing within the State of New Jersey, the lenses or finished eyeglasses shall be verified to assure the accuracy of the prescription, the sphere, cylinder, axis prism, base, add, patient pupillary distance, segment height, frame size, eye size, bridge size and temple length. In addition, the eyewear must be adjusted for fit and verified for compliance with the standards set forth in (a) above.

### 13:38-2.11 (Reserved.)

### 13:38-2.12 Preceptorship program

(a) (No change.)

1.-3. (No change.)

4. The school or college shall select the preceptors and shall submit those names to the New Jersey State Board of Optometrists. Such preceptor shall have been engaged in the practice of optometry in the State of New Jersey for at least five years. The Board shall issue a Certificate of Preceptorship which shall be valid no longer than one year from the date of issuance and which shall be displayed conspicuously on the office premises of the preceptor. It shall be the responsibility of the preceptor to inform his/her patients of the preceptee's status prior to the submission of the patient to the examination by the preceptee.

5.-8. (No change.)

(a)

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**Trade Practices, Discrimination, Marketing, and Advertising Preproposal Hearings on Possible Amendments to N.J.A.C. 13:2-23.16, 13:2-24.1-24.12, and 13:2-35.1-35.6**

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.

Authority: N.J.S.A. 33:1-3, 1-10, 1-11, 1-12, 1-12.23, 1-23, 1-39, 1-39.2, 1-43, 1-43.1, 1-79, 1-89, 1-90 and 1-93.

**Take Notice** that Director John F. Vassallo, Jr., Division of Alcoholic Beverage Control, will hold public hearings on January 3, 4, 7, 10 and 11, 1985 at 9:30 A.M. at:

Richard J. Hughes Justice Complex  
4th Floor, Conference Hearing Room A-1  
25 Market Street  
Trenton, New Jersey

Subject: Possible modifications and amendments to industry trade practice, marketing and advertising regulations.

Various regulatory changes that became effective in March 1980 significantly altered the manner in which the alcoholic beverage industry in New Jersey sold, marketed and advertised its products. These changes, commonly referred to as "deregulation", have introduced concepts and policies which necessitate evaluation and assessment to insure that the basic purposes of the Alcoholic Beverage Law; that is, the promotion and temperance and industry stability, are maintained. *Heir v. Degnan*, 82 N.J. 109, 127-28 (1980).

The public hearings are being held as a forum for eliciting comments on existing trade practice, marketing and advertising regulations contained in N.J.A.C. 13:2-24, and in N.J.A.C. 13:2-35. Also, the hearings will serve to review promotional practices of the industry (N.J.A.C. 13:2-23.16). The Division invites all industry members, other governmental agencies or law enforcement departments, the news and advertising media and the general public to discuss their experiences and to make suggestions concerning the regulations and possible amendments or modifications.

The general topics to be addressed are the existing trade practice, marketing and advertising regulations of the Division, specifically as referenced above. Though not necessarily all-inclusive, specific areas or topics of discussion are the following:

1. Are quantity discounts discriminatory? Should quantity discounts be limited? Must quantity discounts be cost justified? (N.J.A.C. 13:2-24.1)

2. Should wholesale licensees continue to file monthly price listings with the Division? Should wholesale prices remain

unchangeable for an entire month period? Is a system for communication of prices to retailers necessary? (N.J.A.C. 13:2-24.6 and 7)

3. Are changes necessary to the Division's credit regulations? (N.J.A.C. 13:2-24.4)

4. Does the existing Division definition of "cost" adequately achieve the purposes of the Alcoholic Beverage Control law? Are changes necessary in the definition? (N.J.A.C. 13:2-24.8)

5. Should wholesalers be permitted to combine different types of the same brand of alcoholic beverages in sales to retailers? (N.J.A.C. 13:2-24.9)

6. Is there a need for stricter regulation of cooperative price advertising by nonidentically owned retailers? (N.J.A.C. 13:2-24.10)

7. Should promotional practices be specifically addressed in regulation? (N.J.A.C. 13:2-23.16)

8. Should the Division's regulation identifying the permissible areas where retail consumption licensees, without the "Broad Package Privilege", can display and sell packaged goods be modified? (N.J.A.C. 13:2-35)

9. Should wholesalers and suppliers be able to provide equipment to retail licensees? (N.J.A.C. 13:2-24.2)

10. Should the manufacturer's rebate regulation be expanded to permit the manufacturer to give or sell at discount to the consumer logo identified or other merchandise with the proof of purchase of an alcoholic beverage product? (N.J.A.C. 13:2-24.11)

**Interested persons** who wish to provide comment should arrange to be scheduled by contacting:

J. Wesley Geiselman, Executive Assistant, Division of Alcoholic Beverage Control, at (609) 984-2626.

Written comments, suggestions or ideas may be sent by the final day of hearing to:

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

**ENERGY**

(b)

**BOARD OF PUBLIC UTILITIES**

**Notice Requirements for Petitions of Solid Waste Collectors**

**Proposed Amendment: N.J.A.C. 14:3-10.9**

Authorized By: Board of Public Utilities, Barbara A. Curran, President.

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-21, 48:13A-1, 48:13A-4 and 48:13A-7.

BPU Docket No: 8410-1161.

Proposal Number: PRN 1984-678.

Address comments and inquiries to:  
 Robert E. Swain, Jr.  
 Regulatory Officer  
 Board of Public Utilities  
 1100 Raymond Boulevard  
 Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The proposed amendment would require solid waste collectors who file or petition the Board under N.J.A.C. 14:1-6.15 (tariff filings which do not propose increases in charges to customers), or N.J.A.C. 14:1-6.16 (tariff filings or petitions which propose increases in charges to customers), to serve notice of the filing or petition upon any municipality within which there is rendered a service that will be affected by the filing or petition, by mailing a copy of the proposed tariff, a copy of the petition and a statement of the affect of the filing or petition to the clerk of the municipality or municipalities. The amendment also would require that a municipality be advised of its statutory right to intervene in any proceeding within which the filing or petition will be considered.

Currently, there is no requirement that municipalities receive notice of tariff revisions that do not seek to increase rates. In cases where a solid waste collection utility petitions the Board of Public Utilities for a rate increase, it is permitted either to serve notice upon an affected municipality by serving a notice of the filing and a copy of the proposed tariff, or a copy of the petition, or a statement of the affect of the proposed filing upon the municipal clerk. The proposed amendment is intended to provide municipalities affected by such filings or petitions with more information upon which they may base a decision to intervene or participate in solid waste collection cases that impact upon them.

**Social Impact**

The proposed amendment will benefit the customers of solid waste collection utilities subject to the jurisdiction of the Board of Public Utilities, by providing their elected municipal officials with critical information at an early stage in proceedings through which said officials may determine to participate on behalf of the citizens affected by the filing or petition. In the event that a municipality determines not to so participate after review of this information, it will nevertheless provide elected officials with a basis upon which to advise their constituents of the type of service offered by the collectors which serve them, and, at what cost it will be provided. The Board of Public Utilities has received a number of complaints from municipal officials that they presently are not served with this type of information. The proposed amendment is thus intended to remedy this problem.

**Economic Impact**

The proposed amendment may increase a solid waste collector's cost of litigating a rate case by the amount chargeable to reproducing documents for municipalities, which are already required to be filed with the Board of Public Utilities, and the cost of mailing same to the affected municipalities. These costs, if shown to be reasonable by the utility claiming to have incurred them, may be borne by ratepayers as legitimate rate case expenses. It is not anticipated that any such increased expenses will be so significant as to offset the benefit that will be derived from the new regulation.

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

14:3-10.9 Rates

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

**(e) The requirements of N.J.A.C. 14:1-6.16(b)1 notwithstanding, any solid waste collector that makes a filing under (c) or (d) above shall serve notice of the filing upon the municipal clerk in each of the municipalities in which there is rendered a service by providing said clerk with a copy of the proposed tariff, a copy of the petition and a statement of the affect of the filing. The statement shall also advise the clerk that pursuant to N.J.S.A. 48:2-32.2, the municipality may, as a matter of right, intervene and/or participate in the proceeding through which the filing will be litigated.**

**(a)**

**DIVISION OF PLANNING AND CONSERVATION**

**Energy Conservation Planning and Program Development Evaluations**

**Proposed New Rule: N.J.A.C 14A:20**

Authorized By: Leonard S. Coleman, Jr., Commissioner, Department of Energy.

Authority: N.J.S.A. 52:27F-11(g)(q) and 18

Proposal Number: PRN 1984-700.

Address comments and inquiries to:  
 Edward J. Linky, Chief  
 Office of Regulatory Affairs  
 Department of Energy  
 101 Commerce Street  
 Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The purpose of the proposed new regulations is to require the natural gas and electric utilities of New Jersey to develop energy conservation plans in accordance with specific criteria and requirements established by the Department. The conservation plans will be evaluated in conjunction with the capital construction, fuel purchase and capacity expansion plans of the affected public utilities. A subsection of these regulations contains specific requirements on the reporting of both conservation plans and the capacity expansion, fuel purchase and capital construction programs of these utilities. Finally, the Board of Public Utilities will prepare plans for promoting utility compliance.

Compliance with these regulations will help ensure consistency with the Energy Master Plan and help lower electricity and natural gas bills in New Jersey and serve to protect the environment and economy of the State.

**Social Impact**

It is anticipated that the proposed new regulations will have a positive impact on ratepayers of electric and natural gas utilities by providing them with cost effective conservation measures to both building shells and appliances in the residential and commercial sectors. Employment is expected to increase in the energy conservation services sector as the public utilities increase their efforts in energy conservation.

### Economic Impact

The economic impacts of these regulations will be positive in three respects. First, jobs will be created with contractors and energy conservation service companies. These jobs will tend to be New Jersey-based jobs that are accessible to a broad spectrum of the workforce, including the young and unemployed. Second, by tying measurable conservation programs to public utility planning, regarding capital construction and need for purchased power, the public utilities may be expected to lower the demand for new capital facilities and power purchases, thereby diminishing the need for rate increases. Third, money expended on conservation improvements will be more likely to be spent on New Jersey-based services and therefore it will have a "multiplier effect" throughout the New Jersey economy.

It is not expected that the Department of Energy will require additional revenue to implement the new regulations.

### Environmental Impact

The proposed new regulations will have a positive impact on the environment. By coordinating conservation measures with capital construction and power purchase planning for the electric public utilities, it is anticipated that there will be less justification to build or operate fossil fueled power plants which can cause extensive air pollution. For natural gas utilities conservation means less demand for peak storage facilities which will have a positive affect on the environment.

### Legal Basis

The Department of Energy proposes to adopt these regulations pursuant to its authority to "design, implement, and enforce a program for the conservation of energy in commercial, industrial and residential facilities," and to "require the annual submission of energy utilization reports and conservation plans by State government departments and agencies, including the Board of Public Utilities." N.J.S.A. 52:27F-11(g) and (n). The department has the authority to "adopt, amend or repeal, pursuant to the 'Administrative Procedure Act' (C. 52:14B-1 et seq.) such rules and regulations as are necessary and proper to carry out the purposes of this act." N.J.S.A. 52:27F-11(g.). Opinion of the Attorney General, May 11, 1984, In the Matter of Rockland Electric Company v. BPU.

Full text of the proposed new rule follows:

CHAPTER 20  
ENERGY CONSERVATION PROGRAM  
DEVELOPMENT  
AND PUBLIC UTILITY PLANNING EVALUATIONS

SUBCHAPTER 1. PUBLIC UTILITY PROGRAMS

14A:20-1.1 Purpose and Scope

The purpose of the regulations in this subchapter is to promote the rapid and effective installation and use of cost-effective energy conservation measures, devices and innovations in the houses and apartments of New Jersey residents. The principal means employed by these regulations is a program of investments and loans by electric and gas utilities, marketing strategies, economic incentives, specified annual targets, and a requirement that utilities incorporate these conservation initiatives into their planning processes.

14A:20-1.2 Definitions

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

"Apartment building" means an apartment building as defined in N.J.A.C. 14A:22-1.1.

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

"CACS" means the Commercial and Apartment Conservation Service Program, N.J.A.C. 14A:22.

"Completion rate" means the percentage ratio of the annual number of households who have or will receive audit, grant, loan or other incentive to the total number of households eligible to receive audit, grant, loan or other incentives respectively.

"Costs and benefits" means direct and indirect costs and benefits to society at large, participating customers, non-participating customers and the utilities.

"Cost effective" means any energy conservation measure which as a result of a HESP or CACS audit is found to have a payback of 10 years or less, or such other measure as may be approved by the department.

"Department" means the New Jersey Department of Energy.

"Direct utility investments" means monies expended or to be expended by a utility for the installation of conservation measures and devices, deemed cost-effective by the department, at no direct cost to the owner or resident in the unit.

"Energy conservation" means the reduction of energy consumption or increase in energy efficiency by any means, method, technology, or practice, including but not limited to the use of alternative energy sources.

"Energy conservation measures" means the program measures specified in N.J.A.C. 14A:21-3.5(a) for residential buildings, the program measures specified in N.J.A.C. 14A:22-3.5(a) for apartment buildings, and other cost effective measures identified by the department.

"Energy conservation plan" or "plan" means any plan, program, operation or procedure developed or implemented by a public utility or required by a state instrumentality to be developed or implemented by a public utility as specified in the Energy Master Plan pursuant to N.J.S.A. 52:27F-(A) that promotes energy conservation.

"Energy efficient appliance" includes, but shall not be limited to, air conditioners, heat pumps, water heaters, space heating units, refrigerators and refrigerator/freezers.

"HESP" means the Home Energy Savings Program, N.J.A.C. 14A:21.

"Incentives" means inducements to achieve participation in any conservation plan or aspect thereof, including but not limited to free samples, cash rebates, utility bill credits, grants of energy conservation measures, and loans.

"Low income" means annual income of less than or equal to 125 percent of poverty level, including all persons eligible for Lifeline assistance pursuant to N.J.S.A. 48:2-29.15 et. seq.

"Public utility" means all electric and natural gas public utilities as defined by N.J.S.A. 48:2-13.

"Residential building" means a residential building as defined in N.J.A.C. 14A:21-1.1.

14A:20-1.3 Timing of submissions

(a) Commencing no later than 90 days after the effective date of these regulations, and every two years thereafter unless directed to do otherwise by the department, each public utility shall submit to the department for review and approval an energy conservation plan meeting the requirements of N.J.A.C. 14A:20-1.4.

(b) No energy conservation plan shall be implemented by a public utility until such plan has been approved by the department.

(c) Once approved, the plan shall remain in effect for two years or until a new plan is required and approved by the department.

**14A:20-1.4 Energy conservation plans: Services provided**

(a) All energy conservation plans shall provide the following:

1. Home Energy Savings Program (HESP) energy audits specified in N.J.A.C. 14A:21. Each public utility shall achieve a five percent annual energy audit completion rate.

2. Commercial and Apartment Conservation Service (CACS) energy audits specified in N.J.A.C. 14A:22. Each public utility shall achieve at least a five percent annual energy audit completion rate.

3. Incentives for purchase, installation and/or use of energy conservation measures. Each public utility shall provide incentives for the purchase, installation and/or use of conservation measures. Each public utility shall achieve at least a five percent annual completion rate for providing such incentives. The incentives shall include the following:

i. Direct utility investments in residential units. Each public utility shall provide direct utility investment up to \$1000 per residential unit for the installation of cost effective conservation measures in residential units where low income households reside.

ii. Loans. Each public utility shall provide low or zero interest rate loans for the installation of cost effective conservation measures to all other households not eligible for direct utility investments.

iii. Additional incentives. Each public utility shall offer such additional incentives as may be necessary to achieve the five percent annual completion rate for investments and loans specified in (a)3i and (a)3ii above.

iv. Other incentives and assistance. The department may require public utilities to provide such other incentives and assistance as it deems necessary to encourage the purchase, installation, and use of energy conservation measures.

4. Incentives for the purchase, installation and/or use of energy efficient appliances.

i. Each public utility shall provide incentives for the use of energy efficient appliances. The incentives shall be offered to residential households. The department may require that incentives also be provided to commercial and industrial customers. Each public utility shall identify the energy efficient appliances, in addition to those specified in N.J.A.C. 14A:20-1.2 (air conditioners, high efficiency water heaters, space heating units and refrigerator/freezers), and the types of incentives that will be provided. Incentives shall include, but need not be limited to, the following:

(1) Rebates or bill credits for the purchase of energy efficient appliances; and

(2) Bounties or bill credits for the surrender or termination of use of inefficient appliances. No purchase of a new energy efficient appliance shall be required as a condition for receipt of the bounty or bill credit specified herein.

ii. Each public utility shall calculate the relative costs and savings for each appliance type at various efficiency levels, times of operation or use and costs of power and shall include same in the energy conservation plan.

iii. The department may require public utilities to include additional energy efficiency appliances or to provide such other incentives as it deems necessary to encourage the use of energy efficient appliances.

5. Load management programs shall be designed to result in lower peak and base load usage, rather than the mere shift of loads to off-peak periods.

6. Programs designed to promote energy conservation through the use of alternative technologies.

**14A:20-1.5 Energy conservation plans: Marketing strategy**

(a) Each energy conservation plan shall include the following:

1. A description of the marketing strategy to be used to market the services specified in N.J.A.C. 14A:20-1.4. The marketing strategy shall include, but not be limited to, a description of the types of advertising, promotional efforts, outreach services and informational materials to be used, and the frequency with which the various aspects of the marketing strategy will be employed.

2. A description of the management organization, personnel, recruitment and training programs that will be offered to personnel who will provide any of the services specified in N.J.A.C. 14A:20-1.4.

3. A description of the efforts that will be made to target priority groups, including Lifeline recipients, the handicapped, low income persons, renters, areas with a need for specific attention owing to special consumption problems (for example, high seasonal demand; use of electric resistance heating), and such other priority groups as the department may identify for special targeting efforts.

**14A:20-1.6 Energy conservation plans: Contractor participation**

(a) Public utilities shall utilize contractors and subcontractors to perform the work and services specified in the energy conservation plans in a manner that will facilitate and promote competition. The energy conservation plans, with respect to contractor and subcontractor participation, shall specify the following:

1. The manner in which selection will be made. Unless the department specifically states otherwise, all selection shall be made on the basis of an open bidding procedure.

2. The criteria on which bidding procedure will be based. Bidding procedure criteria shall be drawn in such a manner as to permit maximum participation by minority-owned and small businesses as contractors and subcontractors.

3. Whenever contractors and subcontractors are not to be used to perform work or services, the energy conservation plan shall state the reasons therefore, including the economic or other factors justifying the exclusion of contractors and subcontractors from participation.

**14A:20-1.7 Energy conservation plans: Recipients of services**

(a) Public utilities shall offer to provide the work and services specified in the energy conservation plans as follows:

1. An electric utility shall provide the work and services, which shall be specified in its energy conservation plan, to customers within its service territory that receive electric space heating service or utilize oil for space heating purposes, except as provided below.

2. A natural gas utility shall provide the work and services, which shall be specified in its energy conservation plan, to customers within its service territory that receive natural gas service for space heat.

**14A:20-1.8 Energy conservation plans: Relationship to system planning**

(a) Each energy conservation plan shall contain an assessment of the effect of the plan on the overall peak, load and energy demand forecasts, construction plans, fuel purchase plans, capacity expansion plans of the utility and the overall investment agenda of the public utility.

(b) The analysis shall include the following:

1. An examination of the costs and benefits to the individual public utility customer (participating and non-participating), the public utility and to society in general. The analysis shall include a description of the forecasting methodology and the effect of the plan on the following:

- i. Electric utilities:
  - (1) Purchase power agreements;
  - (2) Capacity Plan;
  - (3) Wheeling Arrangements;
  - (4) System Reliability;
  - (5) Transmission facility plans (on greater than 69KV);
  - (6) Forecast Methodology;
  - (7) Forecasts, energy peak load and load factors;
  - (8) Load Curves (daily, monthly and annual).
- ii. Natural gas:
  - (1) Displacement by purchase;
  - (2) System load and load factors;
  - (3) Projected sales;
  - (4) Facility operation or reliability;
  - (5) Load curves (daily, monthly, annual).

(c) An evaluation shall be conducted as follows:

1. After a public informational hearing, the Department shall prepare an evaluation on the adequacy of the public utility conservation plan submissions within 60 days after the close of the public hearing record.

2. The evaluation of the conservation plans' effect on the submissions required by N.J.A.C. 14A:20-1.7(a) and (b) shall be prepared by the department within 60 days after the evaluations specified in subsection 1. above.

3. The evaluation shall be forwarded to the Board of Public Utilities for compliance of these programs with the Energy Master Plan pursuant to N.J.S.A. 52:27F-15(a)(b).

(d) The department reserves the right to authorize or require utilities to comply in stages with this subchapter in order to further the purposes of the regulations.

**14A:20-1.9 Plan for proper rate treatment**

The BPU shall, within 90 days of the effective date of this subchapter, and at least annually thereafter, prepare and submit a plan to the Department for the proper rate treatment of energy conservation investments, costs and expenses incurred by public utilities as they comply with this chapter. The plan shall include but need not be limited to financial incentives to promote the achievement of cost-effective energy conservation goals and targets, and financial penalties and disincentives for the failure to achieve these goals and targets.

**TRANSPORTATION**

The following proposals are authorized by John P. Sheridan, Jr., Commissioner, Department of Transportation.

Address comments and inquiries to:

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

**(a)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
 Routes U.S. 40 in Salem County, 161 in  
 Passaic County, and 140 in Salem County**

**Proposed Amendments: N.J.A.C.**

**16:28A-1.28 and 1.85**

**Proposed New Rule: N.J.A.C. 16:28A-1.103**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Proposal Number: PRN 1984-704.

The agency proposal follows:

**Summary**

The proposed amendments and new rule will establish "no stopping or standing" zones along routes U.S. 40 in Carneys Point Township, Salem County; 161 in Clifton City, Passaic County and 140 in Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no stopping or standing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.28 and 1.85 and add new rule N.J.A.C. 16:28A-1.103 based upon the requests from local officials and the traffic investigations.

**Social Impact**

The proposed amendments and new rule will establish "no stopping or standing" zones along Routes U.S. 40 in Carneys Point Township, Salem County; 161 in Clifton City, Passaic County and 140 in Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and well-being of the populace. Appropriate signs will be erected to advise the motoring public.

**Economic Impact**

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.28 Route U.S. 40

(a) The certain parts of State highway Route U.S. 40 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

**6. No stopping or standing in Carneys Point Township, Salem County:**

**i. Along both sides:**

**(1) For the entire length within the corporate limits of Carneys Point Township including all ramps and connections**

which are under the jurisdiction of the Commissioner of Transportation.

**16:28A-1.85 Route 161**

(a) The certain parts of State highway Route 161 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Clifton City, Passaic County:

i.-ii. (No change.)

iii. **Along the easterly side:**

(1) **Clifton Avenue-Beginning at the northerly curb line of Allwood Road to a point 420 feet northerly therefrom.**

**16:28A-1.103 Route 140**

(a) The certain parts of State highway Route 140 described in this section shall be designated and established as "no parking" zone where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Carneys Point Township, Salem County:

i. **Along both sides:**

(1) **For the entire length within the corporate limits of Carneys Point Township including all ramps and connections which are under the jurisdiction of the Commissioner of Transportation.**

**(a)**

**Restricted Parking and Stopping  
Routes U.S. 46 in Warren County, 47 in  
Cape May County, and 48 in Salem  
County**

**Proposed Amendments: N.J.A.C.**

**16:28A-1.32 and 1.33**

**Proposed New Rule: N.J.A.C. 16:28A-1.102**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Proposal Number: PRN 1984-672.

At the close of the period for comments the Department of Transportation may adopt this proposal with minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of this rule, a notice shall be published in the Register. The adopted rule shall become effective upon publication of that notice of adoption in the Register.

The agency proposal follows:

**Summary**

The proposed amendments and new rule will establish "no parking" zones along Routes U.S. 46 in Hackettstown Town, Warren County, 47 in Middle Township, Warren County, and 48 in Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved

that the establishment of "no stopping or standing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.32 and 1.33 and add new rule N.J.A.C. 16:28A-1.102 based upon the requests from local officials and the traffic investigations.

**Social Impact**

The proposed amendment and new rule will establish "no stopping or standing" zones along Routes U.S. 46 in Hackettstown Town, Warren County; 47 in Middle Township, Warren County and 48 in Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

**Economic Impact**

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

**16:28A-1.32 Route U.S. 46**

(a) The certain parts of State [H]highway Route U.S. 46 described in this [sub-] section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-12. (No change.)

13. No stopping or standing in Hackettstown Town, Warren County:

i. (No change.)

ii. **Along the eastbound side:**

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

(4) **Beginning at the westerly curb line of Grand Avenue and extending 75 feet westerly therefrom.**

14.-15. (No change.)

(b) (No change.)

**16:28A-1.33 Route 47**

(a) The certain parts of State highway Route 47 described in this section [and] **shall be** designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Middle Township[;], **Warren County:**

i. **Along both sides:**

(1) **Between Fulling Mill Road and Paula Lane.**

[i. Along the northbound side from the center line of Route US 9 to a point 430 feet north of the center line of New York Avenue;]

ii. **Along the northbound side:**

(1) **From the center line of Route U.S. 9 to a point 430 feet north of the center line of New York Avenue.**

[ii. Along the southbound side from the northerly curb line of Indian Trail (County Road 585 Spur, Green Creek, to a point 275 feet north therefrom.)]

iii. **Along the southbound side:**

(1) **From the northerly curb line of Indian Trail (County Road 585 Spur), Green Creek to a point 275 feet north therefrom.**

(2) **From the center line of Route U.S. 9 to a point 430 feet north of the center line of New York Avenue.**

- 2.-10. (No change.)
- (b) (No change.)

**16:28A-1.102 Route 48**

(a) The certain parts of State highway Route 48 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Carneys Point Township, Salem County:

i. Along both sides:

(1) For the entire length within the corporate limits of Carneys Point Township including all ramps and connections which are under the jurisdiction of the Commissioner of Transportation.

**(a)**

**DIVISION OF PUBLIC TRANSPORTATION**

**Zone of Rate Freedom**

**Proposed Amendment: N.J.A.C. 16:53D**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 48:2-20 through 25.

Proposal Number: PRN 1984-673.

The agency proposal follows:

**Summary**

The proposed amendment will effect a minor administrative change not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The amendment will have no significant impact on the rule as originally proposed at 16 N.J.R. 1039(a) on May 7, 1984 and adopted at 16 N.J.R. 2009(a) without change. The change is simply a correction of the erroneous use of the word "increase" to read "decrease."

**Social Impact**

The proposed amendment will have no significant social impact because the amendment entails a minor change which does not change or affect the intent or purpose of the rules.

**Economic Impact**

The proposed amendment will have no significant economic impact on the Department or those being regulated.

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

**16:53D-1.1 General provisions**

(a) (No change.)

(1) (No change.)

(2) The following chart sets forth the percentage maximum for decrease to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

PRESENT FARE	% OF DECREASE	(INCREASE) DECREASE UPGRADED TO NEAREST \$.05
\$.30	20%	\$.10
\$.55-.75	20%	\$.15
\$.80-upward	20%	\$.20+

**TREASURY-TAXATION**

**(b)**

**DIVISION OF TAXATION**

**Sales and Use Tax**

**Exempt Organizations; Occasional Sale of Food and Drink and Otherwise Taxable Property and Services**

**Proposed Amendment: N.J.A.C. 18:24-9.11**

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

Authority: N.J.S.A. 54:32B-24.

Proposal Number: PRN 1984-699.

Address comments and inquiries to:

Jack Silverstein  
 Chief Tax Counselor  
 Division of Taxation  
 50 Barrack Street, CN 269  
 Trenton, NJ 08646

The agency proposal follows:

**Summary**

N.J.S.A. 54:32B-9 prescribes what are exempt organizations. Once an entity is determined to be an exempt organization by the Division of Taxation, such entity may make purchases without paying Sales or Use Tax thereon. N.J.S.A. 54:32B-1 et seq. is the New Jersey Sales and Use Tax Act. The Director, Division of Taxation has been given authority to prescribe rules by N.J.S.A. 54:32B-24. However, when an exempt organization is making sales, N.J.A.C. 18:24-9.11(d) provides that where an exempt organization conducts a trade or business in substantial competition with privately operated nonexempt businesses such exempt organization shall pay and collect sales and use taxes in the same manner required of the privately operated nonexempt business entity. The proposed amendment provides that an exempt organization is not considered to be in substantial competition with a privately operated nonexempt business entity to the extent sales are made by such organizations through fund raising events or activities which are of short duration, are held on an occasional basis during a calendar year, provided such events or activities do not aggregate more than thirty days in a calendar year. The amended rule does not apply to sales made by an exempt organization which are directly related to the purposes for which it was organized.

**Social Impact**

The proposed amendment clarifies a gray area of the administration of the Sales and Use Tax Act relating to exempt organizations, aiding such organizations and the public in determining when a sales or use tax should be collected. Indications of exempt events or activities are: when they are of short duration, held infrequently, the sale is not made by, for or through a commercial vendor and all monies derived from such event inure to the benefit of the exempt organization. The proposed amendment will lead to a better relationship among the public, the exempt organization and the Division.

**Economic Impact**

With the amended rule, exempt organizations are spared the time, expense and paperwork and many dealings with the Division of Taxation when they want to have a fund raising or social event or activity. The possible revenue loss would be minimal and the Division of Taxation can better direct its efforts to collecting taxes and solving tax problems having a more serious and more monetary impact.

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

18:24-9.11 Organizations carrying on trade or business

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

(d) Where an exempt organization conducts a trade or business in substantial competition with privately operated nonexempt business entities, such organization shall, in the conduct of trade or business, pay and collect sales and use taxes in the same manner required of the privately operated nonexempt business entity.

**1. An exempt organization is considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are either made from a shop or store operated by such organization or by or through a nonexempt business entity on behalf of or under agreement with such organization. Sales made by an exempt organization through agreement with a nonexempt business entity for the provision of property or services, payment to be made by the exempt organization to the nonexempt business entity from the sale receipts or after deduction of a sales commission, are subject to sales tax unless the conditions set forth in paragraph 2 below are satisfied. For the purposes of this paragraph, property or services is defined by reference to subsections (a), (b), (c), (d) and (e) of section 3 of the Sales and Use Tax Act (N.J.S.A. 54:32B-3).**

**2. An exempt organization is not considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are made by such organizations through fund raising events or activities which are of short duration, and are only held on an occasional basis during a calendar year; provided, however, that all such events or activities do not aggregate more than 30 days in a calendar year.**

**i. This paragraph does not apply to sales made by an exempt organization which are directly related to the purposes for which it was organized.**

**OTHER AGENCIES**

**GARDEN STATE PARKWAY**

The following proposals are authorized by the New Jersey Highway Authority, George P. Zilocchi, Executive Director.

Address comments and inquiries to:

George P. Zilocchi, Executive Director  
New Jersey Highway Authority  
Garden State Parkway  
Woodbridge, New Jersey 07095

**(a)**

**Emergency Service**

**Proposed Amendment: N.J.A.C. 19:8-2.12**

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18, and 27:12B-24.

Proposal Number: PRN 1984-677.

The agency proposal follows:

**Summary**

The proposed amendment will increase the maximum charges for emergency services on the Garden State Parkway. The proposed increased charges are as follows:

Service charge increased from \$10.00 to \$11.00; vehicle towing up to 6,999 lbs. increased from \$25.00 to \$30.00, and an increase from \$1.50 per mile or fraction thereof to \$1.75 per mile or fraction thereof; vehicle towing over 7,000 lbs. and two-axle trucks increased from \$40.00 to \$45.00.

**Social Impact**

The allowance of these increases will permit the Authority to continue to maintain reliable and professional emergency services for patrons of the Garden State Parkway and contribute to the use and enjoyment of the Garden State Parkway by the traveling public.

The proposed increases are consistent with increased costs and will be borne by those patrons of the Garden State Parkway who must avail themselves of emergency services.

**Economic Impact**

The rate increases imposed by this amendment will result in minimal increased costs for the traveling public which the Authority believes to be reasonable, while providing a reasonable profit for the licensed towing operators.

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

19:8-2.12 Emergency service

(a) (No change.)

(b) Rules on road service for all vehicles are as follows:

1. Service charge: 24 hours per day, [\$10.00] **\$11.00**;

2.-3. (No change.)

(c) Rules on towing cars and campers up to a registered maximum gross weight of 6,999 lbs. are as follows:

1. Towing charge: [\$25.00] **\$30.00** plus [\$1.50] **\$1.75** per mile or fraction thereof;

2. (No change.)

(d) Rules on towing trucks and buses (two-axle) and cars and campers registered gross weight 7,000 lbs to 14,999 lbs are as follows:

1. Towing charge, [\$40.00] **\$45.00** plus \$2.00 per mile or fraction thereof;

2. (No change.)

(e)-(f) (No change.)

(a)

Tolls

Proposed Amendment: N.J.A.C. 19:8-3.1

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18, and 27:12B-24.

Proposal Number: PRN 1984-676.

The agency proposal follows:

Summary

The proposed amendment permits the use of authorized bus tokens for payment of toll charges at the 30 toll areas along the Garden State Parkway. In addition, the proposed amendment increases the toll to \$1.00 at 26 of the 30 toll areas. The remaining four toll areas are presently set at \$1.00. Consequently, the increases standardize bus tolls at \$1.00 at all toll areas along the Garden State Parkway.

Social Impact

The authorization of the use of tokens by buses should reduce congestion at the toll plazas by permitting buses to utilize automatic lanes. Owing to the variation in rates presently existing, buses heretofore were required to use manned lanes. This change should expedite traffic and reduce delays, thereby reducing costs for bus operators.

The net impact of the toll increase for buses at the 26 indicated toll facilities will initially be absorbed by the bus operators who, in all likelihood, will pass some portion, if not all, of that increase along to bus users. This pass-along consequence is reduced to some extent for commuter bus users since the Authority has also adopted a Resolution providing for discount purchase of bus tokens by commuter buses.

The Authority's Enabling Act, at N.J.S.A. 27:12B-4, requires the prior approval in writing of the Governor and either the State Treasurer or the Comptroller of the Treasury before any revision in tolls can be made effective by the Authority. This required approval has been obtained on condition that regular route bus service be allowed a 50 percent discount for the purchase of bus tokens.

Economic Impact

The use of bus tokens by buses should reduce congestion at toll plazas, thereby reducing the negative economic impact of traffic delays on the overall traveling public. While the Authority will incur some initial cost for the purchase of the tokens, the modification of existing toll equipment and the acquisition and modification of additional sensor equipment and signs, a long-term saving for the Authority should result by reducing the need to hire additional toll collectors to operate manual lanes to meet the increasing bus traffic on the Garden State Parkway.

While there is an initial increased cost to bus operators, the reduction of congestion at the toll plazas should result in reduced wear and tear on buses and a saving of time and operation costs for bus companies. This cost reduction may in the future result in a lessening of costs to bus users. In addition, the reduction in congestion at the toll plazas should also result in a reduction of fuel consumption by buses and other motor vehicles utilizing the Garden State Parkway, thereby reducing those costs.

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

19:8-3.1 Tolls

(a) (No change).

(b) Tolls shall be paid by **currency, coin, or authorized Authority token or scrip** for the passage of all vehicles on the Parkway in amounts and at the locations designated in the following schedule:

PROPOSALS

OTHER AGENCIES

TOLL AREA AND TYPE		CAR (2 AXLES)	CAR WITH SEMI-TRAILER (3 AXLES)	CAR WITH FULL TRAILER (4 AXLES)	OMNIBUS	** TRUCKS 3 1/2-5 TON 2 AXLES, 4 WHEELS	** TRUCKS OVER 5 TON 2 AXLES, 6 WHEELS	** TRUCK OR TRACTOR & SEMITRAILER 3 AXLES	** TRUCK OR TRACTOR & FULL TRAILER 4 OR MORE AXLES
Hillsdale	B	.25	.35	.50	[.75] 1.00	...	...	...	...
Paramus	F	.10	.15	.20	[.25] 1.00	...	...	...	...
Bergen	B	.25	.35	.50	[.75] 1.00	...	...	...	...
Saddle Brook	F	.25	.35	.50	[.75] 1.00	...	...	...	...
Clifton	F	.10	.15	.20	[.25] 1.00	...	...	...	...
Passaic	F	.10	.15	.20	[.25] 1.00	...	...	...	...
Watchung	F	.25	.35	.50	1.00	...	...	...	...
Essex	B	.25	.35	.50	1.00	...	...	...	...
Bloomfield	F	.10	.15	.20	[.25] 1.00	...	...	...	...
East Orange	F	.10	.15	.20	[.25] 1.00	...	...	...	...
Irvington	F	.10	.15	.20	[.25] 1.00	...	...	...	...
Union	F	.25	.35	.50	1.00	...	...	...	...
Union	B	.25	.35	.50	1.00	...	...	...	...
Raritan N/S	B	.25	.35	.50	[.75] 1.00	...	...	...	...
Matawan	F	.15	.20	.30	[.40] 1.00	...	...	...	...
Keyport-Hazlet	F	.15	.20	.30	[.40] 1.00	...	...	...	...
Holmdel	F	.15	.20	.30	[.40] 1.00	...	...	...	...
Red Bank	F	.20	.30	.40	[.50] 1.00	...	...	...	...
Eatontown	R	.25	.35	.50	[.50] 1.00	...	...	...	...
Asbury Park	B	.25	.35	.50	[.75] 1.00	.35	.50	.75	1.00
Belmar-Wall	R	.15	.20	.30	[.40] 1.00	.20	.30	.45	.60
Lakewood-Brick	R	.15	.20	.30	[.40] 1.00	.20	.30	.45	.60
Lakehurst	R	.15	.20	.30	[.40] 1.00	.20	.30	.45	.60
Toms River	B	.25	.35	.50	[.50] 1.00	.35	.50	.75	1.00
Barnegat	B	.25	.35	.50	[.50] 1.00	.35	.50	.75	1.00
New Gretna	B	.25	.35	.50	[.50] 1.00	.35	.50	.75	1.00
Somers Point	R	.15	.20	.30	[.40] 1.00	.20	.30	.45	.60
Great Egg	B	.25	.35	.50	[.50] 1.00	.35	.50	.75	1.00
Cape May	B	.25	.35	.50	[.50] 1.00	.35	.50	.75	1.00
Wildwood	R	.10	.15	.20	[.25] 1.00	.15	.20	.30	.40

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

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## CASINO CONTROL COMMISSION

The following proposals are authorized by the Casino Control Commission, Theron G. Schmidt, Executive Secretary.

### (a)

#### Form of Application Vendor Registration Form

#### Proposed Amendment: N.J.A.C. 19:41-7.14

Authority: N.J.S.A. 5:12-63(c) and 5:12-70(a).  
 Proposal Number: PRN 1984-685.

Address comments and inquiries to:

Steven M. Ingis, Assistant Counsel  
 Casino Control Commission  
 Princeton Pike Office Park  
 Bldg. No. 5, CN-208  
 Trenton, NJ 08625

The agency proposal follows:

#### Summary

N.J.A.C. 19:41-7.14 requires all applicants, licensees, registrants or persons required to be qualified under the Casino Control Act to complete and submit all appropriate application, registration, Business Enterprise Disclosure and Personal History Disclosure forms as directed by the Casino Control Commission or Division of Gaming Enforcement. The forms referred to in this regulation have been adopted but are not reproduced herein.

The Casino Control Commission, pursuant to its authority under N.J.S.A. 5:12-63(c) and 5:12-70(a), proposes to amend the Vendor Registration Form, adopted pursuant to N.J.A.C. 19:41-7.14, to require vendor registrants to provide additional information concerning their background, including, inter alia, principal address of enterprise, federal employee identification number, state and date of incorporation of enterprise, and the name and address of parent company and/or subsidiary of the enterprise. These amendments are necessary to facilitate Commission and Division review of vendor registrant applications. The proposed Vendor Registration Form is eight pages long, and the Commission perceives no need to publish it in full. Information on this proposed form may be obtained from the Casino Control Commission, Princeton Pike Office Park, Building No. 5, CN-208, Trenton, New Jersey 08625.

#### Social Impact

As a result of the amendments to the Vendor Registration Form, vendor registrants will be required to provide additional information concerning their background which will better enable the Commission and Division to process vendor registrant applications. Due to the expanded nature of the form and the increased number of questions, it will take additional time and effort to complete the form.

#### Economic Impact

There is no perceived economic impact apart from the minor administrative costs in printing new forms.

However, because these forms are completed by the casino industry, the expanded nature of the forms may have some economic impact on that industry in that it will take additional time and effort to complete the form.

A summary of the proposal follows:

There is no change in the existing text of N.J.A.C. 19:41-7.14 (Form of application). However, the Vendor Registration Form is hereby proposed for amendment.

OFFICE OF ADMINISTRATIVE LAW NOTE: The proposed amendment to the Vendor Registration Form was submitted as part of this notice of proposed rule but is not reproduced herein. Copies of this form can be obtained from: Casino Control Commission, Princeton Pike Office Park, Building No. 5, CN-208, Trenton, New Jersey 08625 or Office of Administrative Law, Administrative Filing, CN-301, Trenton, New Jersey 08625.

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### (b)

#### Accounting and Internal Controls Definitions; Procedure for Exchange of Checks Submitted by Gaming Patrons

#### Proposed Amendments: N.J.A.C. 19:45-1.1, and 1.25

Authority: N.J.S.A. 5:12-63(c), -69(a), -70(g) and -101.  
 Proposal Number: PRN 1984-684.

Address comments and inquiries to:

Robert J. Genatt  
 General Counsel  
 Casino Control Commission  
 3131 Princeton Pike Office Park  
 Bldg. No. 5, CN 208  
 Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The proposed amendments would expand the category of instruments which could be accepted as cash equivalents to include some specified checks made payable to the presenting patron and endorsed in blank before the general cashier. Identification procedures required to be observed by a casino licensee prior to the acceptance of any cash equivalent within this new category are also provided.

#### Social Impact

The proposed amendments to the regulations will permit patrons to place on safekeeping deposit or to redeem counter checks by use of a certified check, cashiers check, treasurers check or recognized money order made payable to the patron and endorsed in blank before the general cashier. The amendment will enable patrons who are wary of carrying cash or bearer instruments more liquid than those proposed for authorization to bring funds to Atlantic City without commit-

ting those funds to deposit at any one of the ten currently licensed and operating casinos. Accordingly, under the proposed amendments, the convenience of patrons is accommodated, while stringent internal control procedures are maintained or established to assure the continued integrity of cash deposit and redemption procedures. The patron identification procedures proposed will significantly reduce the possibility that an instrument with a forged endorsement may be accepted as a cash equivalent.

**Economic Impact**

The proposed amendments will have some positive economic impact on casino licensees and casino patrons. This is due to the added flexibility and security accorded a patron bringing funds to Atlantic City for gaming purposes. The proposed amendment to N.J.A.C. 19:45-1.25 would require casinos to check and document verification of a patron's identity prior to the acceptance of cash equivalents made payable to the presenting patron, a procedure similar to that required when casinos accept counter checks. The minimal cost incurred by casinos by this procedure will be offset by the significant reduction in financial losses from acceptance of cash equivalents with forged endorsements. Patrons are provided with a safe, more convenient form in which to carry and use funds in Atlantic City casinos. There is no economic impact on the regulatory agencies.

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

19:45-1.1 Definitions

“Cash equivalents” means [certified checks, cashiers checks, treasurers checks, recognized travelers checks, recognized money orders or recognized credit cards. Other than recognized credit cards all such instruments described above shall be made payable to the casino licensee, bearer or cash. If an instrument is made payable to a third party it shall not be deemed a cash equivalent.]:

1. **Certified checks, cashiers checks, treasurers checks, recognized travelers checks or recognized money orders, any of which are made payable to the casino licensee, “bearer” or “cash”;**

2. **Certified checks, cashiers checks, treasurers checks or recognized money orders, any of which are made payable to the presenting patron and endorsed in blank, provided, however, that no such instrument shall be accepted as a cash equivalent if the instrument was originally made payable to any person other than the presenting patron; and**

3. **Recognized credit cards presented pursuant to N.J.A.C. 19:45-1.25(f).**

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

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

(e) Cash equivalents, as defined in N.J.A.C. 19:45-1.1, shall only be accepted at the cashiers' cage by general cashiers. Prior to acceptance of [a] **any** cash equivalent from a [person] **patron**, the general cashier shall determine the validity of such cash equivalent by performing the necessary verification for each type of cash equivalent and such other procedures as may be required by the issuer of such cash equivalent. **Prior to the acceptance of a cash equivalent made payable to the presenting patron, the general cashier shall examine that patron's identification credentials to ensure the**

**patron's identity and shall maintain documentation supporting that examination.**

(f)-(m) (No change.)

**(a)**

**Accounting and Internal Controls Retention and Destruction of Books, Records and Documents**

**Proposed Amendments: N.J.A.C. 19:45-1.2 and 1.5**

**Proposed New Rule: N.J.A.C. 19:45-1.8**

Authority: N.J.S.A. 5:12-63(c), 69(a), 70(l) and 96(e). Proposal Number: PRN 1984-683.

Address comments and inquiries to:

William H. Delaney, Director  
Division of Financial Evaluation & Control  
Casino Control Commission  
Princeton Pike Office Park  
Building No. 5, CN-208  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed new rule N.J.A.C. 19:45-1.8 and proposed amendments to N.J.A.C. 19:45-1.2 and -1.5 are intended to implement recent amendments to N.J.S.A. 5:12-96(e) concerning the retention, storage and destruction of books, records and documents relating to a casino licensee's operations and approved hotel.

The proposed amendments to N.J.A.C. 19:45-1.2 and -1.5 are being made simply for the purpose of centralizing these regulatory requirements within one section of the regulations. Proposed new rule N.J.A.C. 19:45-1.8 establishes a general requirement that all original books, records and documents relating to a casino licensee's operations and approved hotel must be retained on the site of the approved hotel building for a period of at least seven years. The proposed rule then sets forth the terms pursuant to which original books, records and documents may either be generated or stored at locations other than the site of the approved hotel. Generally, the rule requires that a casino licensee obtain the permission of the Commission before generating or storing documents at any location other than the site of the approved hotel. The rule also gives the Commission the authority to require that any original book, record or document be duplicated in a form acceptable to the Commission prior to it being transferred to another approved location. The purpose of this provision is to assure the integrity of all records which may be transferred from their original location.

The rule also sets forth terms a casino licensee may seek permission to destroy original books, records and documents. Generally, the licensee is required to demonstrate to the Commission why the book, record or document no longer needs to be retained.

**Social Impact**

The proposed new rule and amendments will provide casinos with greater flexibility in the manner and location for storing books, records and documents. Allowing casinos to store selected books, records and documents off the site of the approved hotel will enable the casinos to better utilize space in the casino hotel facility. Commission approval of the selective destruction of books, records and documents which have no significant accounting, auditing or investigative value will provide casinos with sorely needed storage space. Fire safety at casino hotels will be enhanced by having less combustible materials stored on site; this could significantly reduce the risk of injury or death to employees and patrons of the casinos.

Although the proposals will reduce both the amount of records and the length of time certain records must be retained on the casino hotel premises, there will be no loss of control over these records by the regulatory agencies. A casino licensee will be required to obtain the Commission's permission prior to generating or storing records off the site of the approved hotel, or prior to destroying any book, record or document.

**Economic Impact**

The proposed new rule and amendments will reduce costs to the casinos because non-essential documents will no longer have to be stored at the approved hotel. Valuable space at the approved hotel will become available which will allow casinos to store essential documents, mandated by the regulatory agencies, at the approved hotel without taking space from other operating departments. Cost for maintaining, transporting and controlling non-essential documents will also be reduced. The reduced administrative costs to the casinos should be reflected in greater profits which may have a favorable economic impact on patrons. There will be some economic impact on the regulatory agencies because they must expend time reviewing the details of each petition submitted by the casinos. However, the costs of these reviews will be passed on directly to the casinos involved when they are billed for the services provided.

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

## 19:45-1.2 Accounting records

(a) (No change.)

(b) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on the accrual basis[, and]. **D**[d]etailed, supporting, subsidiary records sufficient to meet the requirements of (c) below **shall also be maintained in accordance with the requirements of this chapter.**

1. (No change.)

(c) (No change.)

[(d) All accounting records shall be located on the premises of the establishment. The required retention period shall be not less than seven years, for all accounting records. Such records may be stored, immediately after preparation of the documents, on microfilm or microfiche or other suitable method approved by the Commission. With Commission approval, all original accounting records and documents recorded on microfilm, microfiche or other suitable method may be stored in a secured location off the premises of the establishment. A microfilm, microfiche or other suitable system shall be submitted to the Commission and such system may be approved or disapproved by the Chairman unless any Commissioner indicates the system should be considered by

the entire Commission in which case such system shall be considered. A microfilm, microfiche or other suitable system shall be approved if the following standards are met:

1. A system of inspection and quality control sufficient to ensure that microfilm or microfiche when displayed on a reader (viewer) or reproduced on paper must exhibit a high degree of legibility and readability.

2. A reader-printer shall be made available, upon request by the Commissioner or Division, at the examination site for the location, ready reading, and reproduction of any record or records being maintained on microfilm or microfiche.

3. A detailed index of all microfilmed or microfiched data shall be maintained and arranged in such a manner as to permit the immediate location of any particular record.

4. A system that will provide for appropriate processing, preservation and maintenance of microfilmed or microfiched records, making them readily available.

(e) All original accounting records and documents stored on a microfilm or microfiche system shall be readily accessible to agents of the Commission and Division and shall not be destroyed until the Commission and Division approve their destruction. The casino licensee may petition the Commission for approval to destroy these records and documents after two years subsequent to their being recorded on microfilm, microfiche or other suitable method.]

## 19:45-1.5 Forms, records[,] and documents[, and retention]

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

(c) Unless otherwise specified in this chapter or exempted by the Commission, all forms, records, documents, and stored data required to be prepared, maintained, and controlled by this chapter shall:

1. Be in a form prescribed or authorized by the Commission; **and**

2. Have the name of the establishment and the title of the form, record, document, and stored data imprinted or pre-printed thereon or therein[;].

3. Be located on the premises of the establishment, and

4. Be retained for a period of at least seven years in a manner that assures reasonable accessibility by agents of the Commission and Division.]

(d) (No change.)

19:45-1.8 [Reserved] **Retention, storage and destruction of books, records and documents**

(a) **Except as otherwise provided in this section, all original books, records and documents pertaining to the casino licensee's operations and approved hotel shall be:**

1. **Prepared and maintained in a complete, accurate and legible form;**

2. **Retained on the site of the approved hotel building for a period of at least seven years;**

3. **Held immediately available for inspection by agents of the Commission and Division during all hours of operation; and**

4. **Organized and indexed in such a manner so as to provide immediate accessibility to agents of the Commission and Division.**

(b) **For the purposes of this section, "books, records and documents" shall be defined as any book, record or document pertaining to, prepared in or generated by the operation of a casino or an approved hotel including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records.**

## PROPOSALS

(c) A casino licensee may petition the Commission at any time for approval to generate or store original books, records and documents at a secure facility off the site of the approved hotel building. Such petition shall include:

1. A list and detailed description of all original books, records and documents which the casino licensee wishes to generate or store at the off-site facility;
2. A detailed description of the proposed off-site facility, including security and fire safety systems, or a recitation of the prior approval of the facility by the Commission;
3. A description of the internal control procedures necessary for the control or safe transport of the original books, records and documents to be generated or stored at the off-site facility;
4. A description of the system by which the original books, records and documents will be organized and indexed so as to provide ready access to agents of the Commission and Division; and
5. The procedures pursuant to which Commission and Division agents will be able to gain access to the original books, records and documents retained at the off-site facility.

(d) The Commission may prohibit the transfer of any original book, record or document from the approved hotel building or an approved off-site facility to any other approved location unless the particular book, record or document has first been copied and stored on microfilm, microfiche or other suitable media in accordance with the provisions of (e) below.

(e) All original books, records and documents may be copied and stored on a microfilm, microfiche or other suitable media system approved by the Commission. A microfilm, microfiche or other media system shall be approved if it contains the following elements to the satisfaction of the Commission:

1. A system that provides for the processing, preservation and maintenance of books, records and documents in a form which makes them readily available for review and copying on the site of the approved hotel building or other site approved by the Commission;
2. A system of inspection and quality control which ensures that microfilm, microfiche or other media when displayed on a reader (viewer) or reproduced on paper exhibit a high degree of legibility and readability;

## OTHER AGENCIES

3. A reader-printer available for use by the Commission or Division on the site of the approved hotel building or other site approved by the Commission which permits the ready location, reading and reproduction of any book, record or document being stored on microfilm, microfiche or other media; and

4. A detailed index of all microfilmed, microfiched or other stored data maintained and arranged in such a manner as to permit the immediate location of any particular book, record or document.

(f) No original book, record or document may be destroyed by a casino licensee without the prior approval of the Commission. The Commission may prohibit the destruction of any original book, record or document unless the particular book, record or document has first been copied and stored on microfilm, microfiche or other suitable media in accordance with the provision of (e) above. No original book, record or document necessary or useful to the audit or certification of a casino licensee's gross revenue may be destroyed unless and until it has been copied and stored on microfilm, microfiche or other suitable media for a period of at least two years. Any petition for approval to destroy books, records or documents pursuant to this section shall include:

1. A list and detailed description of each original book, record, and document which the casino licensee wishes to destroy;

2. A certification as to whether or not each of these books, records or documents has been copied and stored on microfilm, microfiche or other suitable media; and

3. A statement explaining why each of these books, records or documents need not be retained.

(g) Nothing herein shall be construed as relieving a casino licensee from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, state or local governmental body, authority or agency.

# RULE ADOPTIONS

## ADMINISTRATIVE LAW

## AGRICULTURE

(a)

(b)

### OFFICE OF ADMINISTRATIVE LAW Non-Lawyer Representation in Contested Cases

#### Notice of Correction: N.J.A.C. 1:1-3.12

An error appears in the October 15, 1984 issue of the New Jersey Register at 16 N.J.R. 2780 concerning representation and assistance by non-lawyers; authorized situations, applications, notice of appearance, approval procedures, limitations, practice requirements. N.J.A.C. 1:1-3.12 should have appeared as follows:

1:1-3.12 Representation and assistance by non-lawyers; authorized situations, applications, notice of appearance, approval procedures, limitations, practice requirements

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

(f) The presiding judge may revoke any non-lawyer's right to appear in a case if and when the judge determines that a material statement is incorrect in any Notice of Appearance or in any written or oral application by a non-lawyer or party concerning representation or assistance by the non-lawyer.

(g) (No change in text.)

(h) In general, a non-lawyer representative or assistant shall be permitted at the hearing to submit evidence, speak for the party, make oral arguments, and conduct direct examinations and cross examinations of witnesses.

1. In the interest of a full, fair, orderly and speedy hearing, the judge may at any time condition, limit or delineate the type or extent of representation or assistance which may be rendered by a non-lawyer. Conditions or limits may include:

- i. Requiring any examination and cross examination by the non-lawyer to be conducted through the judge;
- ii. Requiring questions from the non-lawyer to be presented to the judge prior to asking;
- iii. Requiring the party to speak for him or herself; or
- iv. Revoking the right of the non-lawyer to appear if the judge finds that the proceedings are being unreasonably disrupted or unduly delayed because of the non-lawyer's participation.

### DIVISION OF DAIRY INDUSTRY

#### Sales Below Cost

**Adopted Amendments: N.J.A.C. 2:52-6.1, 6.2, 6.3, and 2:52-3.2**

#### Notice of Correction

The notice of the adopted amendments concerning sales below cost, published in the November 5, 1984 New Jersey Register at 16 N.J.R. 3005(a), failed to include a change to N.J.A.C. 2:52-6.1 and a summary of comments and agency responses. The adoption notice is now republished in its entirety, including the omitted change to N.J.A.C. 2:52-6.1 and the summary of comments and agency responses.

Full text of the Adoption Notice follows:

### DIVISION OF DAIRY INDUSTRY

#### Sales Below Cost

**Adopted Amendments: N.J.A.C. 2:52-6.1, 6.2, 6.3, and 2:53-3.2**

Proposed: August 6, 1984 at 16 N.J.R. 2030(a).

Adopted: October 2, 1984 by Woodson W. Moffett, Jr., Director, Division of Dairy Industry.

Filed: October 9, 1984 as R.1984 d.487, **with substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 4:12A et seq., specifically 4:12A-20.

Effective Date: November 5, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 1, 1985, for 2:53-3; November 5, 1989 for 2:52-6.

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

Following publication of the proposal to amend N.J.A.C. 2:52-6.1, a letter brief was received from an attorney on behalf of a milk dealer licensee. In the letter brief the attorney objected to the inclusion of the word "defensively" as a condition to meeting competition. A number of court decisions were cited, including a decision of the U.S. Supreme Court which held that under Robinson-Patman, dealers should be free to meet competition both **defensively** and **offensively**.

## ADOPTIONS

The letter brief was reviewed by the Deputy Attorney General and decision was made to remove the proposed restriction on the meeting of competition.

All other proposed amendments to N.J.A.C. 2:52-6.2, 6.3 and 2:53-3.2 are adopted.

**Full text** of the adoption follows (deletions shown in brackets with asterisks \*[thus]\*).

### SUBCHAPTER 6. SALES BELOW COST: DEALER

#### 2:52-6.1 Sales below cost prohibited

It shall be unlawful and a violation of these regulations for any dealer licensee to directly or indirectly be a party to, or assist in, any transaction to sell or offer to sell milk and milk products within the State of New Jersey, or for sale in the State of New Jersey at less than the cost thereof as hereinafter defined; but nothing in this regulation shall prevent a dealer from \*[defensively]\* meeting the price or offer of a competitor for a product or products of like quality and nature in similar quantities; but nothing in this section shall prohibit bulk, distress or business-closing sale if prior notice of such sale has been filed with the director of the Division of Dairy Industry; provided however that the burden of proving and properly documenting the meeting of a competitive price shall rest with the licensee asserting the claim.

#### 2:52-6.2 Cost defined

The term "cost" as used herein shall include, but not be limited to, the basic cost of raw or reconstituted milk or derivatives thereof as determined in accordance with the joint State-Federal orders administered by the Division of Dairy Industry and the United States Department of Agriculture in the State of New Jersey; the cost of any added ingredients; and all other costs associated with the business of the dealer for example, but not limited to, the cost of material, labor, salaries of executives and officers, the cost of receiving, cooling, processing, manufacturing, storing and distributing the products sold; rent, depreciation, selling expense, maintenance charges, delivery expense, license fees, taxes, insurance, advertising, advertising allowances, gifts, free service and all other costs as may be incurred, allocated proportionately to each unit of product sold in accordance with generally accepted cost accounting principles.

#### 2:52-6.3 Certain costs to be averaged

(a) In computing cost as used herein, all costs of doing business with the exception of raw products and ingredient costs shall be based on average costs for the dealer in question during the previous 12 months, adjusted to appropriately reflect any significant changes in costs of operation in the averaging period or such shorter time as the licensee may have been in business.

(b) In determining cost for a specific account, the value of any gifts and free services must be included in cost to be averaged for the 12 month period, except where a written contract for a specified term exists between the dealer and the recipient customer, the value of such gifts and free services may be amortized over the remaining term of the contract.

(c) All costs of delivery shall be based on average costs for the dealer in question during the previous 12 months and allocated proportionately to each unit of product delivered except where specific delivery cost records are maintained for each method and size of delivery, the actual direct cost of the delivery shall be the basis of the allocation and shall be prorated to each unit of product included in the delivery.

## ENVIRONMENTAL PROTECTION

### SUBCHAPTER 3. SALES BELOW COST; STORES

...

#### 2:53-3.2 Cost defined

The term "cost" as used herein shall include the net invoice cost of the milk and milk products plus all other costs directly or indirectly related to the sale of the milk and milk products. Such cost shall be determined in accordance with generally accepted cost accounting principles and be allocated proportionately to each unit of product sold and shall include without limitation all salaries of executives and officers, all costs of labor, rent, depreciation, selling, maintenance, delivery, license fees, taxes, insurance and all other costs as may be incurred by the store.

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## ENVIRONMENTAL PROTECTION

### (a)

#### DIVISION OF WATER RESOURCES

#### FLOOD HAZARD AREA DELINEATIONS

#### **Delineated Floodways for Various Tributaries and Streams Within Warren, Hunterdon, Sussex and Morris Counties (Project "MR")**

#### **Adopted Amendment: N.J.A.C. 7:13-7.1 (formerly 7:13-1.11)**

Proposed: July 16, 1984 at 16 N.J.R. 1863(a).

Adopted: November 13, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 13, 1984 as R.1984, d.542, **without change.**

Authority: N.J.S.A. 58:16A-50 et seq.

Effective Date: December 3, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1989.

DEP Docket No. 045-84-06.

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

The Department of Environmental Protection held a public hearing on July 31, 1984 at 1:00 P.M. at the Hackettstown Municipal Building in Warren County, New Jersey. Ten people attended the hearing. General questions concerning the purpose of the delineation were answered. No specific objections to the proposed delineations or corrections to the maps were made. No written comments were received.

Full text of the adoption follows.

7:13-7.1 Delineated floodways

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

(c) A list of delineated streams in the Delaware Basin follows:

1.-29. (No change.)

30. (See proposal at 16 N.J.R. 1306(a).)

31. Pohatcong Creek from the Township of Pohatcong-Township of Greenwich corporate limit upstream to the Jane Chapel Road Bridge, Merrill Creek from the confluence with Pohatcong Creek upstream along both the left and right channels upstream to Township of Greenwich, Township of Lopatcong Municipal boundaries, Montana Brook from the junction with Pohatcong Creek upstream to 50 feet upstream of Rt. 57 Highway Bridge, Mill Brook from the confluence with Pohatcong Creek upstream approximately 3160 feet, Shabbecong Creek from the confluence with Pohatcong Creek upstream to 1050 feet upstream of Flower Avenue Bridge.

Spruce Run upstream from a location 1000 feet upstream from a private driveway bridge in Bethlehem Township upstream to the Borough of Glen Gardner, Township of Lebanon municipal boundary.

Rocky Run from confluence with Spruce Run upstream to 1250 feet upstream of County Road in Lebanon Township.

South Branch Raritan River from the Lebanon Township, High Bridge Borough corporate limit upstream to Budd Lake near the municipal building in Mount Olive Township, Electric Brook from the confluence with the South Branch Raritan River upstream to the spillway at Lake George Dam in Washington Township, Stony Brook from the confluence with the South Branch Raritan River upstream to Old Farmers Road in Washington Township, Drakes Brook and the Drakes Brook Diversion from the confluence with the South Branch Raritan River upstream to Mount Olive Township-Roxbury Township municipal boundary, Conlon Pond Brook from the confluence with Drakes Brook upstream to Mount Olive Township-Roxbury Township municipal boundary, Tributary to Budd Lake upstream to Route 46 Bridge in Mount Olive Township.

Musconetcong River from the Townships of Pohatcong-Greenwich municipal boundary to 2440 feet upstream of the Conrail bridge between the Townships of Roxbury and Byram, Tributary "A" from the confluence with the Musconetcong River to 50 feet upstream from culvert in the Township of Franklin, Sigler Brook from the confluence with Musconetcong River upstream to 50 feet upstream of Bloomsburg Road in Franklin Township, Stephensburg Brook from confluence with Musconetcong River upstream to 250 feet upstream of dam in Washington Township, Hances Brook from the confluence with Musconetcong River upstream to Grant Avenue Highway Bridge, Tributary "B" from the confluence with Musconetcong River upstream to Route 24 Highway Bridge, Trout Brook from the confluence with the Musconetcong River upstream to abandoned canal, Hackettstown Brook from the confluence with Musconetcong River upstream to private driveway, Lubbers Run from confluence with Musconetcong River upstream to 3950 feet upstream of Stanhope-Sparta access road, Wills Brook from the confluence with Musconetcong River upstream to 7000 feet upstream of Dirt road off railroad.

(d)-(g) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice can be inspected at:

Division of Water Resources  
CN 029  
Trenton, New Jersey 08625

(a)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste Rules

Permit Application

Adopted Amendment: N.J.A.C. 7:26-12.2

Proposed: October 1, 1984, at 16 N.J.R. 2478(b).

Adopted: November 13, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 13, 1984 as R.1984 d.543 with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B-3, 13:1E-6, and 58:10A-1 et seq.

Effective Date: December 3, 1984.

Expiration Date pursuant to Executive Order 66(1978): October 8, 1986.

DEP Docket No. 059-84-08.

Summary of Public Comments and Agency Responses:

The comment period was open from October 1 to October 31, 1984. The only comment received was from Region II EPA staff who commented that, for these rules to be equivalent to the Federal counterparts, the words "For existing hazardous waste landfills" should be omitted from N.J.A.C. 7:26-12.2(g)1.

The department agrees, and has amended N.J.A.C. 7:26-12.2(g)1 to reflect the necessary changes.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks \*thus\*; deletions from proposal shown in brackets with asterisks \*[thus]\*).

7:26-12.2 Permit application

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

(f) The following additional information is required from an owner or operator of specific types of hazardous waste management facilities that are used or to be used for storage or treatment:

1.-4. (No change.)

5. For facilities that dispose of hazardous waste in a landfill, the owner or operator shall submit detailed plans and specifications accompanied by an engineering report which shall collectively include the information itemized in (f)5i through xi below. For new hazardous waste landfills, the plans and specifications shall be in sufficient detail to provide complete information to a contractor hired to build the facility even if the owner or operator intends to construct the facility without having a contractor. For existing hazardous waste landfills, comparable detail shall be provided, but the

## ADOPTIONS

form or presentation need not assume contractor construction except to the extent that the facility will be modified.

i.-ix. (No change.)

x. For existing hazardous waste landfills, documentation showing the performance of the primary liner throughout the operating life of the landfill. This should include, at a minimum, a record showing all instances where liquid was detected in the secondary collection system;

xi. A statement regarding the need for a gas monitoring and gas venting system, including plans and specifications and any permit application required by N.J.A.C. 7:27-8, if appropriate.

(g) The following additional information regarding protection of groundwater is required from owners and operators of all hazardous waste surface impoundments, land treatment units, landfills, underground storage tanks and all other hazardous facilities subject to groundwater monitoring requirements under N.J.A.C. 7:14A-6:

1. \*[For existing hazardous waste landfills,]\* **\*A\*** summary of the groundwater monitoring data obtained during the interim status period under N.J.A.C. 7:14A-6\*];\* **\*where applicable;\***

2. Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification;

3. On the topographic map required under (e)13, above, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under N.J.A.C. 7:14A-6.15(a)1; the proposed location of groundwater monitoring wells as required under N.J.A.C. 7:14A-6.15(h); and, to the extent possible, the information required in 2 above.

4. A description of any plume of contamination that has entered the groundwater from the facility at the time that the application is submitted that:

i. Delineates the extent of the plume on the topographic map required under (e)13, above; and

ii. Identifies the concentrations of each hazardous constituent identified in N.J.A.C. 7:26-8.16 throughout the plume or identifies the maximum concentrations of each hazardous constituent identified in N.J.A.C. 7:26-8.16 in the plume.

5. Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of N.J.A.C. 7:14A-6.15(h).

6. If the presence of hazardous constituents has not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of N.J.A.C. 7:14A-15(i). This submission must address the following items specified under N.J.A.C. 7:14A-6.15(i):

i. A proposal list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

ii. A proposed groundwater monitoring system;

iii. Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

iv. A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

## ENVIRONMENTAL PROTECTION

7. If the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of N.J.A.C. 7:14A-6.15(j). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of N.J.A.C. 7:14A-6.15(k). To demonstrate compliance with N.J.A.C. 7:14A-6.15(j), the owner or operator must address the following items:

i. A description of the wastes previously handled at the facility;

ii. A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

iii. A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with N.J.A.C. 7:14A-6.15(h) and 6.15(j);

iv. Proposed concentration limits for each hazardous constituent, based on the criteria set forth in N.J.A.C. 7:14A-6.15(e) including a justification for establishing any alternate concentration limits;

v. Detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of N.J.A.C. 7:14A-6.15(h); and

vi. A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

8. If hazardous constituents have been measured in the groundwater which exceed the concentration limits established under N.J.A.C. 7:14A-6.15(e) Table 1, or if groundwater monitoring conducted at the time of permit application under N.J.A.C. 7:14A-6.3 to 6.6 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of N.J.A.C. 7:14A-6.15(k). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Department that alternate concentration limits will protect human health and the environment after considering the criteria listed in N.J.A.C. 7:14A-6.15(d)2.i. An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of N.J.A.C. 7:14A-6.15(j) and 6 above. To demonstrate compliance with N.J.A.C. 7:14A-6.15(k), the owner or operator must address, at a minimum, the following items:

i. A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

ii. The concentration limit for each hazardous constituent found in the groundwater as set forth in N.J.A.C. 7:14A-6.15(e);

iii. Detailed plans and an engineering report describing the corrective action to be taken; and

iv. A description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action.

(g)-(k) Renumbered **(h)-(l)** (No change in text.)

(a)

**DIVISION OF WASTE MANAGEMENT****Solid and Hazardous Waste Regulations  
Licensing of Transporters and Facilities:  
Filing of Disclosure Statements****Adopted Amendments: N.J.A.C. 7:26-16.3,  
16.6 and 16.13**

Proposed: October 1, 1984 at 16 N.J.R. 2480(a).

Adopted: November 13, 1984 by Robert E. Hughey,  
Commissioner, Department of Environmental Protection.  
N.J.A.C. 7:26-16.13 adopted November 9,  
1984 by Irwin I. Kimmelman, Attorney General.Filed: November 13, 1984 as R.1984 d.541, **without  
change.**Authority: N.J.S.A. 13:1D-9 and N.J.S.A. 13:1E-6 as  
supplemented by N.J.S.A. 13:1E-126 et seq.

Effective Date: December 3, 1984.

Expiration Date pursuant to Executive Order No.  
66(1978): July 2, 1989.

DEP Docket No. 060-84-08.

**Summary of Public Comments and Agency Responses:  
No comments received.****Full text** of the adoption follows.

## 7:26-16.3 Filing of disclosure statement

(a) Every applicant shall file a disclosure statement with the  
Department and the Attorney General at the time the applica-  
tion is filed, unless exempted under (d) below. Applicants for  
siting under the Major Hazardous Waste Facilities Siting Act,  
N.J.S.A. 13:1E-49 et seq., shall file a disclosure statement at  
the time specified in N.J.A.C. 7:26-13A.6.(b) Disclosure statements shall be filed by submitting an  
original and one conformed copy of all papers, including  
Personal History Disclosure Forms, to the Department at the  
following address:Department of Environmental Protection  
Division of Waste Management  
Bureau of Field Operations (D.I.U.)  
CN 407  
Trenton, New Jersey 086251. The Department will transmit copies to the Attorney  
General for purposes of the investigative report.2. Additional conformed copies of disclosure statements,  
or any portions thereof, shall be supplied upon the request of  
the Department or the Attorney General.3. Within 30 days of receipt of a disclosure statement from  
an applicant, the Department shall advise the applicant if the  
disclosure statement is incomplete on its face, and shall spec-  
ify what additional information is required. Otherwise the  
Department shall transmit the disclosure statement to the  
Attorney General, and shall notify the applicant of the date  
the transmittal is made.

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

## 7:26-16.6 Change of information on disclosure statement

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

(c) Any other changes in the information contained in a  
licensee's disclosure statement currently on file with the De-partment and the Attorney General shall be reported on an  
annual update to be filed with the Department at the time of  
the licensee's annual renewal of its registration with the De-  
partment; provided, however, that amending or updating of  
Personal History Disclosure Forms, other than to report a  
judgement of liability of conviction or a criminal charge, is  
not required unless specifically requested by the Department  
or the Attorney General.

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

(f) Changes of information shall be filed by submitting an  
original and one conformed copy to the Department, which  
shall transmit copies to the Attorney General.

(g)-(h) (No change.)

7:26-16.13 Fees charged by the Attorney General and the  
DepartmentNote: The fee for the Attorney General is adopted pursuant  
to Section 3.d of P.L. 1983, c.392, N.J.S.A. 13:1E-128d. The  
fee for the Department is adopted pursuant to N.J.S.A.  
13:1E-18.

(a) (No change.)

(b) The applicant shall calculate the amount of each fee  
due and submit to the Department a check for the total fee  
amount, made payable to "New Jersey Department of Envi-  
ronmental Protection." The Department shall forward the  
Attorney General's fee to the Attorney General. An applica-  
tion or disclosure statement will not be accepted as complete  
for filing unless accompanied by the appropriate fee payment.

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

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**INSURANCE**

(a)

**DIVISION OF ADMINISTRATION****Group Self Insurance  
Joint Insurance Funds for Local  
Governmental Units****Adopted New Rule: N.J.A.C. 11:15-2**

Proposed: May 21, 1984 at 16 N.J.R. 1164(a).

Adopted: November 9, 1984 by Kenneth D. Merin,  
Commissioner, Department of Insurance.Filed: November 13, 1984 as R.1984 d.540, **with sub-  
stantive changes** not requiring additional public no-  
tice and comment.Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and P.L. 1983  
c.372 (N.J.S.A. 40A:10-36 et seq.).

Effective Date: December 3, 1984.

Expiration Date pursuant to Executive Order No.  
66(1978): December 3, 1989.**Summary of Public Comments and Agency Responses:**

The Department received several comments concerning the proposed new rule, N.J.A.C. 11:15-2, concerning joint insurance funds for local units of government. The most detailed comments came from three governmental units: a county, a borough and a township. The other writers had questions about the scope of the regulation. All of the comments to the proposed rule were reviewed by both the Department of Insurance and the Department of Community Affairs.

Comments or questions concerning existing provisions of the rule included the following:

One writer proposed a change in the definition of administrator to clarify the administrator's functions and to add a statement that the administrator can be the lead agency of the fund, an employee of the fund or an independent contractor.

The definition of administrator in the rule as proposed did not rule out any of the things the commentator has suggested. However, since it appears there is some ambiguity in the definition, it is being amended to reflect the comments.

One commentator felt that servicing organizations, as defined, were being given duties such as preparation of assessment and fee reports that were not usually handled by self-insurance service companies. The writer believed such duties were more appropriate for the administrator of the fund.

The definition of "servicing organization" was based on the NAIC Public Employer Group Worker's Compensation Self-Insurance Association Model Act. The same definition was included in the Hospital Worker's Compensation Group Self-Insurance Regulation (N.J.A.C. 11:15-1) and is in use in other states. On review, the Department has decided to adopt the definition in the proposal without modification. Since the function of the servicing organization in the fund is very important, it is the Department's view that only major companies that can provide all the listed services should be considered.

There were other suggestions for amendments to definitions. One writer wanted to clarify the definition of motor vehicle and equipment liability to include non-owned vehicles under current insurance contract. Another commentator wanted the definition of property damage to specifically mention real and personal property. The Department believes both definitions include the meanings the commentators suggest.

Two writers felt changes were necessary in the definitions of the kinds of liabilities for which separate trust accounts are necessary for the payment of claims as set forth in the definition of Indemnity and Trust agreement. Both commentators felt that the motor vehicle and general liability accounts should be combined into one liability classification. The reason for such a change, as expressed by one writer, is to prevent problems in attributing liability between two accounts and to keep all liability insurance with one carrier.

The four risks specified in the proposed rule correspond to the way insurers do their accounting. Insurers have no difficulty in assigning liability between general and motor vehicle and one carrier would be able to handle both types of liability.

One commentator objected to the requirements in the proposal set forth at N.J.A.C. 11:15-2.4(a) and 11:15-2.20 that joint insurance funds shall be subject to various financial control acts including N.J.S.A. 40A:10-10(b). The writer felt that there was no authority in the statute for such a requirement. The statute governing joint insurance funds (N.J.S.A. 40A:10-38) specifically requires that funds be subject to N.J.S.A. 40A:10-10(b) and other laws governing the investment of public funds.

One commentator recommended that the date for approval of the fund budget by the fund commissioners as set forth in

N.J.A.C. 11:15-2.4(f)(2) be changed from "in January" to "not later than January". This change would allow more flexibility in allowing a budget to be finalized before the beginning of the budget year.

The Department agrees with the comment that funds should have more flexibility in adopting their budgets and certainly should do so before the fiscal year begins. Accordingly, the rule is being amended to reflect the comment.

One writer commented on N.J.A.C. 11:15-2.6(a)(1) and suggested that a government agency that is not a member of the fund be allowed to be a lead agency for the fund. The governing statute, N.J.S.A. 40A:10-39(a), requires that the lead agency be a member of the fund.

N.J.A.C. 11:15-2.6(b)(4) requires the bylaws of the fund to demonstrate sufficient aggregate financial strength and liquidity of the fund. One commentator did not believe the bylaws could demonstrate such a thing and recommended the plan of risk management include sufficient information to demonstrate financial strength.

The Department agrees with the comment to the extent that the bylaws cannot demonstrate the financial strength and liquidity of a fund. A financial statement that shows the ability of the fund to meet its claims is an added fiscal control allowing the Department of Insurance to evaluate the strength of a proposed fund. The adopted rule requires that a financial statement on a form acceptable to the Commissioner accompany the bylaws of the fund.

In response to the requirement set out at N.J.A.C. 11:15-2.6(b)(5) that fund bylaws contain a plan for specific and aggregate excess insurance or reinsurance, one writer recommended that funds be allowed to purchase only specific and not aggregate excess insurance or reinsurance after the Commissioner reviews the fund's financial strength and loss experience.

It is the Department's view that aggregate excess insurance provides an important limit to the amount of risk a municipality can undertake and should be retained in conjunction with specific excess insurance.

One writer felt that the bylaws requirement at N.J.A.C. 11:15-2.6(b)(6) that the fund provide for competent management and ample facilities is not an appropriate item for the bylaws and should be submitted separately with the bylaws.

The Department agrees that the provisions of N.J.A.C. 11:15-2.6(b)(6) do not have to be part of the bylaws. For example, a contract with service company is a separate instrument and could be submitted with the bylaws. The adopted rule reflects the comment.

The same commentator felt that the word "describe" in N.J.A.C. 11:15-2.6(7) and (8) be changed to "establish" since establish includes a description. The Department does not believe there is any difference between the meanings of the two words and has no objection to substituting "establish" for "describe."

The proposed rule at N.J.A.C. 11:15-2.6(9) and (10) requires that funds submit to the Department certified copies of their resolution or written agreement and a certified copy of their indemnity and trust agreement. One commentator felt that submission of sample copies of such documents would expedite the approval procedure. This would allow changes suggested during review of the fund application to be effected without requiring readoption by all participating municipalities.

The Department can require modification of a fund's resolution or indemnity and trust agreement during the approval process. There is no purpose in requiring elaborate readoption procedures to effectuate such modifications. In consideration

of the comment, the adopted rule allows submission of sample copies of the resolution or indemnity and trust agreement to be followed by certified copies within 30 days after approval.

A requirement set out at N.J.A.C. 11:15-2.6(b)(11) that the fund bylaws contain a plan for establishment and maintenance of reserves for unearned assessments provoked a suggestion that this provision was unnecessary and should be deleted. Unearned assessments are analogous to unearned premiums for an insurance company and are necessary to ensure that the fund has sufficient resources to meet its obligations.

The requirements of the bylaws set out at N.J.A.C. 11:15-2(b)(12) generated the most comment. One commentator suggested that the requirement of subparagraph i that information on a fund member's financial strength and liquidity be made available to the Department on request be deleted. The writer felt the requirement was unnecessary since such information is filed annually with the Department of Community Affairs and that agency monitors municipalities with questionable financial strength and liquidity.

Information required by the Department of Community Affairs may be of a different nature than that necessary for the Department of Insurance to document the financial strength and liquidity of fund members. The rule allows the Department of Insurance to get the specific information it needs.

All the comments from municipalities objected to subparagraph ii. All writers were in agreement that the \$1 million minimum manual premium is too high and would tend to prevent the formation of self-insurance groups. One commentator felt a lower minimum of \$500,000 or \$300,000 would be a viable amount for a group, while other writers believed operation of the excess insurance market would be sufficient to set minimum premiums. A third commentator advocated no minimum was necessary since each group must submit a plan of risk management that shows it is actuarially sound.

The Department believes a minimum standard assessment is necessary to ensure a sufficient size for safe operation. However, upon review the minimum assessments are being reduced to \$250,000 for the first year and \$500,000 subsequently. This formula is based on the Hospital Workers Compensation Group Self-Insurance Regulations (N.J.A.C. 11:15-1.3(b)(4)).

One commentator questioned the requirement set out in N.J.A.C. 11:15-2.6(c)(3) that the administrator of the fund carry a fidelity bond. When the administrator is an employee of the fund or a fund member, the writer wanted to know whether the person has to get an individual fidelity bond.

The rule as proposed says that the form and amount of the fidelity bond must be acceptable to the Commissioner. The Commissioner will evaluate in each case whether, for example, an employer's blanket bond is sufficient to cover an employee who is the administrator of the fund.

One writer suggested that the provision of N.J.A.C. 11:15-2.6(f) allowing the Commissioner to employ an examiner at the fund's expense to investigate the fund's financial condition be amended to allow the fund to participate in selecting an examiner. The examination of the fund is for the Commissioner's information and should be conducted by someone chosen by him. In addition, if examination results from a disagreement between the Department of Insurance and a fund, the latter could use its veto of an examiner to forestall the examination.

One commentator wished to expand the refund provision of N.J.A.C. 11:15-2.21(c) to include proportional refunds based on loss experience in addition to fund participation. Refunds

based on loss experience go against the whole concept of pooling. Each member's assessment is calculated on its anticipated losses. Refunds are made in proportion to assessments. Fund members with good loss experience over several years will be rewarded by a lower assessment.

One writer criticized the claim payments section, N.J.A.C. 11:15-2.22 as being unworkable under State guidelines for prompt payment of claims. The rule allows only the fund administrator the authority to settle claims. The writer felt that the fund administrator might not have experience in settling claims and the routing of all decisions to the administrator would be burdensome and expensive for the claims service company. In addition, the requirement that all checks be prepared by the custodian and signed by the chairperson will be cumbersome and result in delays.

The commentator proposed several changes to this rule. First, the fund could authorize the claims service company to pay claims up to \$2,500 each. Claims could be paid out by the servicing company and reimbursed by the fund. Alternatively, the fund could make interest-free loans to the servicing organization for two months' anticipated claim payments.

Two comments objected to the \$2,500 per claim limit on payments by the administrator when designated as a "certifying and approving officer" as set out in N.J.A.C. 11:15-2.22(b). Both writers felt a higher limit of \$5,000 would be a more realistic figure if the purpose of the rule is to settle small claims expeditiously.

The Department agrees that the section as proposed might result in delays and not be efficient. The Department of Community Affairs prepared a new version of the section that allows a servicing organization to be designated as "certifying and approving officer" along with the fund administrator. The dollar limit of claims the officer may settle has been raised from \$2,500 to \$5,000. In addition, the requirement that all claim payment checks be signed by the fund chairperson or treasurer has been changed to allow any two persons designated by the fund commissioner to sign checks.

One writer felt the April 1 deadline for completion of fund annual reports as required by N.J.A.C. 11:15-2.24(a) was inconvenient because auditors were extremely busy at that time of year. The original April 1 deadline corresponded to when municipalities have to submit financial reports to the Department of Community Affairs. However, the Department of Community Affairs and the Department of Insurance have no objection to having joint insurance funds be subject to the same rules for annual reports as commercial insurance companies. The NAIC requires a submission date of June 30 and the rule is being amended to reflect this change.

One commentator suggested that the time periods for funds to request a hearing on an action by the Commissioner or for the Commissioner's action to become effective as set out in N.J.A.C. 11:15-2.28(b), should run from receipt of the notice or order not from mailing of the notice or order. The Department agrees that funds need adequate time to request a hearing when an enforcement proceeding is initiated. The proposed rule requires notification by certified mail. The adopted rule gives a fund 20 days from the date of the mailing to request a hearing. The use of certified mail should ensure that the notice is received and make a record of the date of mailing.

An agency interested in servicing municipal self-insurance funds wanted to know whether the rule applies to public housing authorities. In addition, the agency recommended that reinsurers be rated A + 12 by Bests. N.J.S.A. 40A:10-36 allows local units of government to form joint insurance funds. Local unit of government is defined at N.J.S.A.

40A:1-1 to be a county or municipality. Therefore public housing authorities are excluded by definition. As regards rating of reinsurers, the Department prefers to use its own criteria for determining the acceptability of reinsurers.

A risk management group wrote asking whether it was permissible under this rule or its enabling legislation for municipalities to write a primary master policy in the conventional market as is done for school boards. The Department believes that the language of the Joint Insurance Act, N.J.S.A. 40A:10-36 et seq. allows municipalities to buy a primary master policy in the conventional market with pooled funds. The interpretation is supported by the Assembly Banking and Insurance Committee Statement accompanying the bill. Any group of municipalities that wished to buy such a policy would have to meet all the applicable procedural requirements of the rule.

**Full text** of the adoption follows (additions to the proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***).

## CHAPTER 15 GROUP SELF-INSURANCE

### SUBCHAPTER 2. JOINT INSURANCE FUNDS FOR LOCAL GOVERNMENTAL UNITS

#### 11:15-2.1 Scope

(a) P.L. 1983, c.372 entitled "An Act concerning joint insurance funds for local units of government, and supplementing Chapter 10 of Title 40A of the New Jersey Statutes", authorizes two or more local units of government to join together to establish a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation. This subchapter provides rules for the establishment, operation, oversight, modification and dissolution of such funds.

(b) No local unit of government shall join together with any other local unit or units to act as a joint insurance fund except as authorized by the Commissioner in accordance with the provisions of P.L. 1983, c.372 and this subchapter.

#### 11:15-2.2 Definitions

"Actuary" means a person who is a member of the American Academy of Actuaries qualified in loss reserves and rate making according to professional guides, recommendations, interpretations, and opinions of the Academy or a member of the Casualty Actuarial Society.

"Administrator" means a person, partnership, corporation or other legal entity engaged by the joint insurance fund commissioners or executive committee, as defined herein, **\*to act as executive director\*** to carry out the policies established by the joint insurance fund commissioners or executive committee and to otherwise administer and provide day-to-day management of the joint insurance fund. **\*The administrator may also be the lead agency, an employee of a fund participant or an independent contractor.\***

"Commissioner" means the Commissioner of Insurance.

"Department" means the Department of Insurance.

"Employers' liability" means the legal liability of a public employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his employment by the public employer, which is not covered by a workers' compensation law.

"Excess insurance" means insurance, purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner as a surplus lines insurer, covering losses in excess of an amount established between the joint insurance fund and the insurer up to the limits of coverage set forth in the insurance contract on a specific per occurrence, or per accident, or annual aggregate basis.

"Executive committee" means the committee of insurance fund commissioners, as provided in P.L. 1983, c.372.

"General liability" means any and all liability which may be insured under the laws of the State of New Jersey, excluding workers' compensation and employer's liability.

"Indemnity and trust agreement" means a written contract signed by the members of the joint insurance fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from their participation in the fund.

1. The agreement shall also create a trust and govern the operation thereof under which monies shall be held by the fund commissioners as fiduciaries for the benefit of fund claimants.

2. Where the fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in i through iv below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums for each such risk or liability:

- i. Workers' compensation and employers' liability;
- ii. Liability, other than motor vehicle;
- iii. Property damage, other than motor vehicle;
- iv. Motor vehicle.

"Insolvent fund" means a joint insurance fund which has been determined by a court of competent jurisdiction to be unable to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it, or for which, or for the assets of which, a receiver or liquidator, however entitled, has been appointed by a court of competent jurisdiction and authority, after the effective date of this subchapter.

"Joint insurance fund" or "Fund" means a group organized by two or more local units of government to establish an insurance fund for the purposes of insuring and/or self-insuring against property damage, general liability, vehicular and equipment liability, workers' compensation liability and employers' liability, approved by the Department pursuant to the authority of P.L. 1983, c.372 and this subchapter.

"Joint insurance fund commissioners" means local unit representatives chosen to represent those units in the fund, as provided in P.L. 1983, c.372.

"Lead agency" means a member of the joint insurance fund responsible for performing or providing administrative or other services as may be designated by the joint insurance fund commissioners.

"Local unit of government" or "local unit" means a county or municipality.

"Motor vehicular and equipment liability" means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the local unit or owned by or under the control of any subdivisions thereof including its departments, boards, agencies or commissions.

“Property damage” means any loss or damage, however caused, on property, motor vehicles, equipment or apparatus owned by the local unit or owned by or under the control of any of its departments, boards, agencies or commissions.

“Servicing organization” means an individual, partnership or corporation which provides services to the fund not provided by the administrator, including, but not limited to:

1. Claims adjustment;
2. Safety engineering;
3. Compilation of statistics and the preparation of assessment, loss and expense reports;
4. Preparation of reports required pursuant to P.L. 1983 c.372 or this subchapter;
5. Development of members assessments and fees; or
6. Claim administration.

“Surplus” means that amount of monies in a trust fund that is in excess of all fixed costs and incurred losses attributed to the fund net of any per occurrence or aggregate excess insurance or reinsurance for a particular year.

“Workers’ compensation law” means the provisions of N.J.S.A. 34:15-7 et seq.

#### 11:15-2.3 Agreement to join joint insurance fund; duration

Pursuant to Section 1 of P.L. 1983, c.372, the governing body of any local unit of government may by resolution or ordinance, as appropriate, agree to join together with any other local unit or units to establish a joint insurance fund as defined herein. The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the fund’s bylaws as approved and adopted pursuant to section 4 of the Act. The agreement shall specify the extent of the local unit’s participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6). Members may renew their participation by the execution of a new agreement to join the joint insurance fund.

#### 11:15-2.4 General requirements

(a) Every joint insurance fund shall be subject to and operate in compliance with the provisions of the “Local Fiscal Affairs Law” (N.J.S.A. 40A:5-1 et seq.), the “Local Public Contracts Law” (N.J.S.A. 40A:11-1 et seq.), regulations (N.J.A.C. 5:30-14 et seq.), and the various statutes authorizing the investment of public funds, including but not limited to, N.J.S.A. 40A:10-10(b), 17:12B-241 and 17:9-4.1.

(b) All monies, assessments, funds and other assets of a joint insurance fund shall be under the exclusive control of its board of insurance fund commissioners or executive committee, as applicable.

(c) A joint insurance fund shall be considered a local unit for purposes of the “Local Public Contracts Law” (N.J.S.A. 40A:11-1 et seq.) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.

(d) Each joint insurance fund shall utilize as its fiscal year, the calendar year, January 1 through December 31.

(e) Each joint insurance fund shall adopt a resolution designating a public depository or depositories for its monies pursuant to N.J.S.A. 40A:5-14. Such resolution shall also designate a person to be custodian of funds for the joint insurance fund and shall authorize the custodian to invest the temporarily free balances of any claim or administrative accounts periodically as authorized by law. The custodian shall periodically report to the fund commissioners on investment and interest income.

(f) The joint insurance fund commissioners shall annually prepare in November of each year the proposed budget for the fund’s subsequent fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations, the anticipated amounts and sources of assessments and other income to be received during the fiscal year, and the status of the self-insurance or loss retention trust accounts maintained by the joint insurance fund. The budget shall be prepared on a cash basis.

1. A copy of the fund’s proposed budget or any amendments thereto shall be made available to each member of the joint insurance fund at least two weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held giving all members of the joint insurance fund the opportunity to present comments or objections.

2. \*[In January]\* **\*Not later than December 31\*** of each year the joint insurance fund commissioners, or the executive committee thereof, shall adopt by majority vote the budget for the fund’s operations for \*[that]\* fiscal year.

3. An adopted budget may be amended by majority vote of the membership of the joint insurance fund commissioners, or executive committee thereof.

4. A copy of each adopted budget and any amendment thereto shall be filed with the governing body of each participating local unit, the Commissioner and the Commissioner of the Department of Community Affairs within 30 days of its adoption.

(g) Except as provided at N.J.A.C. 11:15-2.22(g), all books, records, files and other documents of the joint insurance fund shall be retained by the secretary of the fund.

(h) Each fund shall maintain minutes of its meetings and shall make such minutes available to the Commissioner upon request.

(i) A joint insurance fund shall provide its members with periodic reports covering the activities and status of the fund for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the joint insurance fund commissioners.

(j) All officers, employees and agents of the joint insurance fund on the final day of their office or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to such office or employment.

(k) A joint insurance fund may utilize the services of a member to serve as lead agency for the fund. The lead agency may agree to perform such duties and have such responsibilities as the joint insurance fund commissioners may determine and assign **\*including but not limited to those of the executive director or custodian of funds\***.

1. A lead agency may be compensated for its reasonable expenses incurred in administering the affairs of a joint insurance fund. Any administrative costs agreed upon to be paid to a lead agency shall be received by it as a Miscellaneous Revenue and be available for expenditure through the budget appropriation method.

2. A lead agency shall not advance funds of its own to cover a purchase on behalf of the fund or the other participating units.

#### 11:15-2.5 Bylaws and plan of risk management; filing requirements

(a) Each joint insurance fund shall file with the Department for approval by the Commissioners of Insurance and Community Affairs, as provided in P.L. 1983, c.372, its bylaws and plan of risk management and any amendments

thereto. The initial filing shall be accompanied by the information and documentation specified at N.J.A.C. 11:15-2.6(c).

1. All filings and accompanying documents shall be submitted to the Department in duplicate.

(b) No joint insurance fund shall begin providing insurance coverage to its member units until its bylaws and plan of risk management have been approved by the Commissioner.

(c) No amendment to a fund's bylaws or plan of risk management shall take effect until such amendment is approved by the Commissioner.

(d) Within 10 days following any change in the information or documentation required to accompany the filing of the fund's bylaws or amendments thereto, as provided in (a) above, the fund shall file notice of the change, with the Department and the Department of Community Affairs.

#### 11:15-2.6 Bylaws and plan of risk management; contents

(a) The commissioners of a joint insurance fund shall prepare and, after the approval, by resolution, of the governing body of each participating local governmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commission and, if appropriate, the executive committee of the fund. The procedures may include the designation of one member local unit to serve as the lead agency to be responsible for the custody and maintenance of the assets of the fund and such other duties as may be assigned by the commissioners of the fund;

2. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;

3. Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles;

4. Procedures for the purchase of commercial direct insurance or reinsurance if any;

5. Contingency plans for paying losses in the event that the fund is exhausted, including provision for supplemental assessments as provided at N.J.A.C. 11:15-2.16;

6. Procedures governing loss adjustment and legal fees;

7. Procedures for the joining of the fund by a non-member local unit;

8. Procedures for the withdrawal from the fund by a local unit;

9. Procedures for the expulsion of a member local unit;

10. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations.

(b) In addition, the bylaws shall:

1. Include the fund's name, location of its principal office, date of organization, and name and address of each initial member;

2. Specify the insurance coverages to be provided by the fund and the minimum participation required of any member;

3. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

4. **\*[Require that the fund demonstrate sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met, and shall further require that the fund provide]\* **\*Be accompanied by\*** a financial statement on a form acceptable to the Commissioner showing the financial **\*[ability of the fund to meet its obligations;]\* **\*strength and******

**liquidity of the fund to assure that all obligations will be met promptly.\***

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and for retention in accordance with sound actuarial principles and the plan of risk management;

6. **\*[Require that the fund provide]\* **\*Be accompanied by\*** proof of competent personnel and ample facilities within **\*[its own]\* **\*the fund\*** organization with respect to claims administration, underwriting matters, loss prevention and safety engineering or present a contract with a service company for the provision of such services;****

7. **\*[Describe]\* **\*Establish\*** the claims handling procedure to be utilized by the fund which procedure shall provide for the prompt, fair and equitable settlement of claims;**

8. **\*[Describe]\* **\*Establish\*** the complaint handling procedure to be utilized by the fund;**

9. Be accompanied by a **\*[certified]\* **\*sample\*** copy of the resolution or ordinance and written agreement adopted by each participating local unit as specified at N.J.A.C. 11:15-2.3\*[\*] **\*. Within 30 days of approval, the fund shall send certified copies of the resolution or ordinance and written agreement to the Commissioner and Department of Community Affairs;\*****

10. Be accompanied by a **\*[certified]\* **\*sample\*** copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-2.2, and in a form satisfactory to the Commissioner\*[\*] **\*. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement to the Commissioner and the Department of Community Affairs;\*****

11. Provide a plan satisfactory to the Department for the establishment and maintenance of reserves for unearned assessments, loss reserves and claim reserves and for the determination and distribution of assessment and/or investment refunds which shall include a statement from an actuary that the fund's proposed plan is actuarially sound;

12. With respect to funds providing for self-insurance of workers' compensation liabilities, the bylaws of each fund shall:

i. Guarantee benefit levels equal to those required by the workers' compensation law and other applicable statutes and provide a plan for the prompt payment of such benefits. Information documenting an individual member's financial strength and liquidity shall be made available to the Department upon the Department's written request and in a form specified by the Department;

\*[ii. Certify the aggregate of the latest year's payroll of the members of the fund multiplied by the current approved loss and loss adjustment expense portion of the applicable manual rates promulgated by the New Jersey Compensation Rating and Inspection Bureau is equal to or greater than \$1 million as adjusted annually by the percentage increase in the Statewide average weekly wage as such Statewide average weekly wage is determined and promulgated by the Commissioner of Labor on or about September 1 of each year in accordance with the provisions of N.J.S.A. 34:15-12a. Such adjusted dollar eligibility requirement shall take effect on January 1 of each year;]\*

\*[ii. **The bylaws of the fund shall mandate a minimum contribution of at least \$250,000 for the fund's first year of operation and thereafter the minimum contribution shall be at least \$500,000 for each subsequent year of operation unless otherwise approved by the Commissioner.\***

iii. Unless otherwise approved by the Commissioner, provide for assessments based upon the mandatory merit rating plan on file with the Commissioner;

## INSURANCE

(c) The bylaws shall be accompanied by the following information and documentation:

1. Designation of the fund commissioners, executive committee, if any, chairman, secretary, administrator and custodian of the fund's assets;

2. Copies of the fund's prospective agreements or contracts with any administrator or servicing organization. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization or administrator;

3. A fidelity bond for the administrator in a form and amount acceptable to the Commissioner;

4. A surety bond for the servicing organization in a form and amount acceptable to the Commissioner;

5. Errors and omissions coverage for **\*both\*** the servicing organization and administrator;

6. Contain a designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;

7. A letter from each of the fund members certifying that such members:

i. Have never defaulted on claims if self-insured;

ii. Have not been cancelled for nonpayment of insurance premiums for a period of at least two years prior to application.

(d) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided at N.J.A.C. 11:15-2.5(a), file its plan of risk management and any amendments thereto with the Department as provided in P.L. 1983, c.372 as specified in (e) below.

(e) The commissioners shall prepare, or cause to be prepared a plan of risk management for the joint insurance fund. The plan shall include, but not be limited to:

1. The perils or liability to be insured against;

2. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;

3. The amount of risk to be retained by the fund;

4. The amount of reserves to be established;

5. The proposed method of assessing contributions to be paid by each member of the fund;

6. Procedures governing loss adjustment and legal fees;

7. Coverage to be purchased from a commercial insurer, if any;

8. Reinsurance to be purchased, if any, and the amount of premium therefor;

(f) The Commissioner may, at the time of filing of the bylaws and plan of risk management and whenever thereafter he deems it expedient, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may request the fund commissioners or the executive committee, if any, to authorize and employ such person or persons to conduct the same or to assist therein as he deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

### 11:15-2.7 Disapproval of bylaws and plan of risk management

If the Commissioner determines that the bylaws or plan of risk management of the fund or any subsequent amendments thereto do not meet the requirements of P.L. 1983, c.372 or this subchapter, the Commissioner shall issue a written order

## ADOPTIONS

containing the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 30 working days of receipt of the bylaws and plan of risk management, the bylaws and plan shall be deemed approved.

### 11:15-2.8 Revocation of approval

(a) After notice and opportunity for a hearing, the Commissioner may revoke his approval of a fund's bylaws or plan of risk management if a fund:

1. Is found to be insolvent or in a financial condition hazardous to the public;

2. Fails to pay any fee or assessment; or

3. Fails to comply with any of the provisions of P.L.1983, c.372 or this subchapter, or with any lawful order of the Commissioner within the time prescribed.

(b) In addition, the Commissioner may revoke approval if, after notice and opportunity for hearing, he finds that:

1. There was a material misrepresentation in any of the information supplied to the Commissioner or the Commissioner of the Department of Community Affairs;

2. The fund, or any of its commissioners or its administrator, has otherwise shown itself to be untrustworthy or incompetent; or

3. The fund, its commissioners or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto and that have been entrusted to the fund, its commissioners, or its administrator in their fiduciary capacities.

### 11:15-2.9 Approval of non-member local units

(a) Prospective new members of the fund shall submit an application for membership to the fund's commission, or executive committee, as applicable, on a form approved by the Commissioner. Such application shall include the indemnity and trust agreement executed herein. The commission or executive committee may approve or disapprove the application for additional members, pursuant to the bylaws of the fund.

(b) The application approved by the fund shall be concurrently filed with the Department and the Department of Community Affairs and shall be accompanied by such amendments to the fund's bylaws and plan of risk management as may be necessary.

(c) No new membership in the fund shall become effective until the application and accompanying amendments to the fund's bylaws and plan of risk management are approved by the Commissioners of Insurance and Community Affairs.

### 11:15-2.10 Termination and/or withdrawal of fund members

(a) A member of the fund must remain a member for the full term of membership, as provided in the fund's bylaws, unless earlier terminated by the fund for nonpayment of assessments. However, such member shall not be deemed terminated for nonpayment until:

1. At least 10 days notice in writing of the intention to terminate such member is given by registered mail by the fund to the member; and

2. Until like notice shall be filed with the Department and the Department of Community Affairs, together with a certified statement that the notice provided for by (a)1 above has been given; and

3. Until 10 days have elapsed after the filing required by (a)2 above has been made.

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(b) A member of the fund that does not desire to continue as a member after the expiration of its membership term, as provided in the fund's bylaws, must give written notice of its intent to withdraw 90 days before expiration of the term period. The fund shall immediately notify the Department and the Department of Community Affairs of all members that have given notice of withdrawal from the fund.

(c) A member that has been terminated by or does not continue as a member of the fund shall nevertheless remain jointly and severally liable for claims incurred by the fund and its members during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

(d) The fund shall immediately notify the Department, and the Department of Community Affairs, if termination or withdrawal of a member causes the fund to fail to meet any of the requirements of P.L. 1983, c.372 or this subchapter. Within 15 days of such notice, the fund shall advise the Department and the Department of Community Affairs, of its plan to bring the fund into compliance.

(e) A fund member is not relieved of the claims incurred during its period of membership except through payment by the fund or member of those claims.

### 11:15-2.11 Insolvency and/or bankruptcy of fund members

The insolvency or bankruptcy of a member does not relieve the fund or any other member of joint and several liability for the payment of any claims incurred by the member during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

### 11:15-2.12 Voluntary dissolution of a fund

(a) A fund may not voluntarily dissolve, or otherwise cease to do business and distribute its assets to its members, unless and until it satisfies the following requirements:

1. A majority of the fund's members must have voted in favor of a resolution to dissolve the fund, pursuant to a written plan of operation, provided for in the fund's bylaws, at a meeting duly called for such purposes;

2. The plan of dissolution must provide for the payment of all incurred losses of the fund and its members, including all incurred but not reported losses, as certified by an actuary, before any assets of the fund or the trust fund accounts may be used for any other purpose.

3. Such plan of dissolution shall contain a statement of the fund's current financial condition computed according to generally accepted accounting principles as attested to by an independent certified public accountant;

4. The plan of dissolution, and such other information as may be required, must be filed with and approved in writing by the Commissioner and the Commissioner of the Department of Community Affairs.

### 11:15-2.13 Establishment of trust fund accounts; transfers or withdrawals prohibited

(a) Pursuant to the terms of the indemnity and trust agreement, each fund shall establish a separate trust fund account from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums for each type of liability or risk retained jointly on a self insured basis. Such accounts shall be designated as claims or loss retention fund accounts.

1. Other than for the purposes specified in (a) above, or as otherwise authorized by this subchapter, no transfers or withdrawals may be affected from a claim or loss retention fund without the prior written approval of the Commissioner.

### 11:15-2.14 Administrative account

Each fund shall establish an administrative account which shall be utilized for payment of the fund's general operating expenses, loss prevention activities, data processing services and general legal expenses.

### 11:15-2.15 Assessments

(a) Each participating member of a joint insurance fund shall appropriate and pay to the fund its assessments as required by the joint insurance fund. During the first year of operation of a joint insurance fund, these contributions shall be paid in full. Subsequent years' assessments may be paid in full or in such installments as shall be provided in the fund's bylaws.

(b) Each member's annual assessment shall consist of an amount allocated for the administrative account, plus a specific assessment to establish and/or replenish the claim or loss retention trust fund account for each type of coverage provided by the fund and in which such member participates.

(c) The total amount of each member's annual assessments to the joint insurance fund shall be certified by the joint insurance fund commissioners to the governing body of each participant at least one month prior to the beginning of the next fiscal year. As a condition of continued participation in the joint insurance fund each member shall pay the amount certified at such time and in such manner provided in the fund's bylaws.

(e) Unless otherwise approved by the Commissioner, the annual assessment of each fund member funds providing for the self-insurance of workers' compensation and employers' liability coverages shall be based upon the mandatory merit rating plan on file with the Commissioner. The Commissioner of Insurance may withdraw his approval of any assessment not based upon the mandatory plan if he shall find that such assessment is unreasonable or inadequate for the members of the fund to which it applies. In taking any action under this section, the Commissioner may seek assistance from the fund commissioners, the executive committee or the administrator.

(f) Nothing contained in this section shall preclude the assessment and payment of supplemental assessments as provided in N.J.A.C. 11:15-2.16.

### 11:15-2.16 Supplemental assessments

(a) Each fund shall levy upon its members an additional assessment whenever needed or so ordered by the Commissioner, to supplement the fund's claim or loss retention or administrative accounts to assure payment of the fund's obligations, including payment of benefits under the worker's compensation law.

1. The fund shall assess each participating member an additional proportionate amount, as provided in the fund's bylaws and plan of risk management or as directed by the Commissioner, to replenish claims or loss retention or administrative accounts.

(b) The joint insurance fund commissioners shall submit to the Commissioner of Insurance and the Commissioner of the Department of Community Affairs a report of the causes of the fund's or account's insufficiency, the assessments necessary to replenish it and the steps taken to prevent a recurrence of such circumstances.

(c) The participants shall provide such additional assessments in accordance with the provisions of the Local Budget Law (N.J.S.A. 40A:4-1 et seq.).

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### 11:15-2.17 Failure or refusal to provide required assessments

Should any member of a joint insurance fund fail or refuse to pay as directed its assessment(s) to the fund or to pay as directed any supplemental assessment(s), or should the joint insurance fund commissioners fail to assess funds required to meet the obligations of the fund, the chairman of the joint insurance fund commission or in the event of his or her failure to do so, the custodian of the fund's assets, shall notify the Commissioner and the Commissioner of the Department of Community Affairs.

### 11:15-2.18 Individual loss reserve funds

(a) Whenever the risk management plan of a joint insurance fund requires the fund's members to individually retain a specified amount of risk, potential liability, or incurred losses, the participant shall provide for such liability, or incurred losses:

1. As a deductible to be charged to the operating expenses of the incurring department or agency;
2. Through a separate item of appropriation for the loss year in its annual budget; or,
3. Through establishment of an insurance fund pursuant to N.J.S.A. 40A:10-1 et seq.

### 11:15-2.19 Certification of funds

Prior to any commitment or agreement requiring the expenditure of funds by the joint insurance fund, the custodian of the fund's assets shall certify as to the availability of sufficient unencumbered funds to fully pay all charges or commitments to be accepted.

### 11:15-2.20 Investments; application of investment income

(a) The free balance of any account maintained by a joint insurance fund, whether for administrative or claims or loss purposes, shall be invested to obtain the maximum interest return practicable. All investments shall be in accordance with the fund's cash management plan and consistent with the statutes and rules governing the investment of public funds by local governments and pursuant to N.J.S.A. 40A:10-10b.

(b) The investment and interest income earned by the investment of the assets of each claim or loss retention fund account shall be credited to each such account.

(c) The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account.

### 11:15-2.21 Refunds

(a) Any monies for a fund year in excess of the amount necessary to fund all obligations for that fiscal year as certified by an actuary may be declared to be refundable by the fund not less than 12 months after the end of the fiscal year.

(b) The initial refund for any year from a claim or loss retention trust account shall not exceed 30 percent of the surplus available for the year. The fund may, however, seek annual approval for payment of refunds from a claims or loss retention trust fund account remaining from any year which has been completed for at least 30 months or longer and may include such refund payments with initial refund payments from the preceding year.

(c) A refund for any fiscal year shall be paid only in proportion to the members participation in the fund for such year. Payment of a refund on a previous year shall not be contingent on the member's continued membership in the fund after that year.

(d) At the option of the member the refund may be retained by the fund and applied towards the member's next annual assessment.

## ADOPTIONS

### 11:15-2.22 Disbursements and/or payment of claims

(a) All disbursements, payment of claims settlements or other expenditure of funds of the joint insurance fund whether for administrative expenses or for claims purposes must be approved by a majority of the joint insurance fund commissioners or the executive committee thereof, unless approved pursuant to (b) below.

(b) To allow the expeditious resolution of certain claims, the joint insurance fund commissioners may designate the fund's administrator **\*or servicing organization\*** as a "certifying and approving officer" pursuant to N.J.S.A. 40A:5-17. The certifying and approving officer may be authorized by the joint insurance fund commissioners to approve for payment **\*of\*** any or specified types of claims in an amount not to exceed **\*[\$2500]\* \*\$5,000\*** per claim or payment. The designation of the certifying and approving officer may be conditioned or restricted by the joint insurance fund commissioners to require prior consultation, limitation as to the types or total amount of claims or payments which may be approved, or such other procedures or restrictions as the joint insurance fund commissioners may deem appropriate.

**\*[(c)]\*\*1.\*** Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the official having custody of the fund's assets, directing that a check for payment be prepared.

**\*[(d)]\*\*2.\*** The certifying and approving officer shall prepare a report of all claims approved by him or her since the last such report, detailing the nature and amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be submitted to the joint insurance fund commissioners at their next scheduled meeting. The joint insurance fund commissioners shall review and approve the actions of the certifying and approving officer. In the event a claim approved and paid by the certifying and approving officer is not approved by the joint insurance fund commissioners, they shall direct appropriate action to be taken.

**\*[(e)]\*\*3.\*** All requests for payments must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and must carry the certification of some officer or duly designated agent or employee of the joint insurance fund having knowledge of the facts that the goods have been received by, or the services rendered to the fund. In the case of claims or losses to be charged against any loss fund, the joint insurance fund's claims administrator, if there be one, shall certify as to the claim's correctness and validity.

**\*[(f)]\*\*4.\*** All claims shall be paid by check. The check shall be signed by **\*[the chairperson of the joint insurance fund and countersigned by the treasurer or other officer having custody of the fund's assets.]\*** **\*two persons so designated by the joint insurance fund commissioners.\***

**\*[(g)]\*\*5.\*** All claims and other disbursements approved for payment by the joint insurance fund commissioners or the certifying and approving officer shall be recorded in a claims register maintained by the custodian of the fund's assets.

### 11:15-2.23 Excess insurance and/or reinsurance

(a) Each fund providing coverage on a self-insured basis shall secure excess insurance or reinsurance in a form, in an amount and by an insurance company acceptable to the Commissioner.

(b) The policy of excess insurance and/or reinsurance issued by an insurance carrier to a fund shall include provisions for aggregate excess insurance in addition to single accident (single occurrence) excess insurance.

## ADOPTIONS

(c) Certificates of excess insurance and/or reinsurance showing policy limits and other information shall be available for the inspection of each member and shall be filed with the Commissioner.

(d) Losses in excess of the established self-insurance retention shall be borne by the excess carrier(s) according to the terms and conditions of the excess contract(s).

### 11:15-2.24 Financial statement and reports

(a) A sworn annual report in a form prescribed by the Commissioner shall be prepared by each fund, filed concurrently with the Department and Department of Community Affairs and made available to each fund member on or before \*[April 1]\* \*June 30\* of each year. The report shall be accompanied by:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant or registered municipal accountant and performed in accordance with generally accepted accounting principles and section 11 of P.L. 1983, c.372.

2. Reports of outstanding liabilities showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by an actuary.

3. Such other information, as may be required by the Department.

### 11:15-2.25 Examination of funds possibly in financial condition detrimental to the public

(a) The Commissioner shall examine any fund which the Commissioner has reasonable cause to believe may be insolvent or in a financial condition detrimental to its members or to the public. It shall be the duty of the fund members, upon majority vote, to notify the Commissioner of any information indicating that any fund may be insolvent or in a financial condition detrimental to the fund's members or the public.

(b) The members may, upon majority vote, request that the Commissioner order an examination of any fund member which the fund, commissioners or executive committee, if any, in good faith believes may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to P.L. 1983, c.372 and this subchapter shall be conducted in a manner satisfactory to the Commissioner and by such persons as the Commissioner designates. The cost of any examination shall be borne by the fund.

### 11:15-2.26 Servicing organizations; administrator

(a) Except with the approval of the Commissioner, no servicing organization or its employees, officers or directors shall have either a direct or indirect financial interest in an administrator or be an employee, officer or director of an administrator.

(b) Except with the approval of the Commissioner, no administrator, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization.

(c) Each service contract shall include a clause stating, "Unless the Commissioner otherwise permits, the service organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners or the executive committee, if any, shall designate an administrator to carry out the policies established by the commissioners or the executive committee, if any, and to provide day-to-day management of the fund. The minutes of the commissioners or executive committee, if any, meetings shall detail the areas of authority delegated to the administrator.

## INSURANCE

### 11:15-2.27 Conflict of interest

(a) No official or employee of a participating local unit or any members of the family of such officials or employees, or any businesses in which such officials, employees or family members have a beneficial interest shall seek to obtain or participate in any contract to be entered into by the joint insurance fund for administration, loss control, investment or depository services, insurance coverage or any other service, commodity or material without first fully disclosing in writing the nature and extent of such interest, financial or otherwise, to the joint insurance fund commissioners. It shall be the responsibility of the joint insurance fund commissioners to determine if the interest so disclosed is such as to constitute an actual or potential conflict of such degree as to impair the ability of the officer, employee, family member or business from fully and impartially performing the duties required by the joint insurance fund. If so, the officer, employee, family member or business shall be prohibited from entering into such contract until the cause of such conflict is removed.

(b) Any contract entered into between the joint insurance fund and any individual, firm corporation or agency which fails to disclose an actual or potential conflict situation shall be void.

(c) There shall be no collusion or evidence or appearance of collusion, between any official or employee of the members or employees of the joint insurance fund and any official or employee of any contractor, vendor, insurance company, bank, consultant, brokerage firm or any other profit making or non-profit firm attempting to solicit a contract with the joint insurance fund or awarded a contract by the joint insurance fund.

### 11:15-2.28 Notice and hearings

(a) The Commissioner shall give \*[10 days]\* prior written notice of any proposed suspension, revocation, cease and desist order, assessment or other enforcement action to the fund commissioners, its executive committee, or member local unit as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the fund or the person of its right to request a hearing on the proposed enforcement action. A copy of such written notice shall also be provided to the Commissioner of the Department of Community Affairs.

(b) The fund involved shall have \*[15]\* \*20\* days from mailing of the notice to request a hearing, which may be formal or informal, on the proposed enforcement action. Failure to mail a request for hearing within the time prescribed shall result in the revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled. If, after complying with the requirements of this section, the Commissioner orders the revocation of a fund's authority, such revocation shall become effective 30 days after issuance of the Commissioner's order. The Commissioner, in his discretion, may for good cause shown, provide for a reasonable extension of such 30 day period.

### 11:15-2.29 Orders

(a) After notice and opportunity for a hearing, as provided in 11:15-2.28, the Commissioner may issue an order requiring a person or fund to cease and desist from engaging in an act or practice found to be in violation of any provision of P.L. 1983, c.372 or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-2.28, that a fund has violated any cease and desist order, the Commissioner may revoke his approval of the fund.

(c) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-2.28, the Commissioner may issue an order requiring the joint insurance fund commissioners, or the executive committee, if any, to dismiss an administrator or terminate the service contract of a servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibilities by such administrator or servicing organization, or any of the employees, officers or directors thereof.

(d) A copy of any notice issued pursuant to this section shall be furnished to the Commissioner of the Department of Community Affairs.

#### 11:15-2.30 Severability

The rules contained in this subchapter and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules and regulations or any of the provisions thereof.

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## LABOR

### (a)

#### THE COMMISSIONER

#### 1985 Taxable Wage Base under the Unemployment Compensation Law

#### Notice of Correction: 12:15-1.4

An error appears in the November 5, 1984 issue of the New Jersey Register at 16 N.J.R. 3049(b) concerning 1985 taxable wage base under the Unemployment Compensation Law. N.J.A.C. 12:15-1.4 should have appeared as follows:

#### 12:15-1.4 Taxable wage base under the Unemployment Compensation Law

(a) In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first **\$10,100** during the calendar year 1985.

## OTHER AGENCIES

### (b)

#### PORT AUTHORITY OF NEW YORK AND NEW JERSEY

#### Newark International Airport Revision to Schedule of Charges

Adopted: October 30, 1984 by The Port Authority of New York and New Jersey, Doris E. Landre, Secretary.

Filed: November 13, 1984 as R.1984 d.539 (**Exempt**, from **Administrative Procedure Act** as "Exempt Agency", see N.J.S.A. 52:14B-2(a)).

Effective Date: June 1, 1984.

Full text of the adoption follows.

Newark International Airport: Revision to Schedule of Charges

RESOLVED, that the Schedule of Charges for the use of the Public Landing Area, Public Passenger Ramp Area, Public Cargo Ramp and Apron Area and Public Aircraft Parking and Storage Areas at Newark International Airport adopted by the Committee by resolution of October 5, 1959, as subsequently amended, be and the same hereby is amended, effective June 1, 1984 as follows:

1) revising Section V, Federal Inspection Space Charges (North Terminal—International) to substitute Terminal C for the North Terminal, and to increase the fee from \$1.00 to \$1.50 and;

2) renumbering Section VI, North Passenger Terminal Charges to be Section VI 1. and adding a new section VI 2. to be the Terminal C Charges (Domestic) to provide for a fee of \$1.50 for each passenger arriving or departing at the Terminal C International Facility but not using space made available for inspection and examination of aircraft passengers by governmental agencies.

# MISCELLANEOUS NOTICE

## TREASURY-GENERAL

(a)

### DIVISION OF BUILDING AND CONSTRUCTION

#### Architect-Engineer Selection Notice of Assignments

The following assignments have been made:

NOTE: By Special action of the A/E Selection Board on August 2, 1984, a direct assignment was made on the following emergency project:

- DBC C259-01
- Multi Prison Additions
- Additional 632 Beds
- Leesburg State Prison
- Southern State Correctional Facility
- Bordentown Youth Correctional Institution
- Yardville Youth Reception & Correction Center
- Rahway State Prison

A/E: CUH2A  
CCE: \$16,000,000

DBC No.	PROJECT	A/E	CCE
P379	Water Emergency Investigation and Repair Round Valley Recreation Area Lebanon, NJ	Applied Wastewater Technology, Inc.	\$ 5,000 Services
M590	Various Renovations/Replacements NJ Memorial Home at Menlo Park Edison, NJ	O'Connor, Jeffrey & Kallaur	\$ 21,000
M592	Truck Receiving Area & Exterior Door Replacement NJ Memorial Home At Menlo Park Edison, NJ	Leslie M. Dennis & Son	\$ 39,000
E143	Installation of Insulated Glass Windows Lower School/High School Cafeteria Marie H. Katzenbach School for the Deaf West Trenton, NJ	Eugene F. O'Connor, AIA	\$ 85,000
M586	Renovations to New Wayside Inn and New Park School Greystone Park Psychiatric Hospital	Hoagland Associates, PA	\$ 60,000
P458	Inspection of Two Dams Hopatcong Lake Dam, Hopatcong State Park, Greenwood Lake Dam, Ringwood State Park	Thomas H. Otto & Assoc., Inc.	\$ 5,000 Services
H255-05	Energy Management Systems Review Montclair State College Upper Montclair, NJ	Frank R. Holtaway & Son	\$ 18,000 Services

C258	Emergency Generator & Switchgear Investigation Trenton State Prison Trenton, NJ	Frank R. Holtaway & Son	\$ 30,000 Services
M566	Electrical Service Coordination Study Greystone Park Psychiatric Hospital Greystone Park, NJ	Frank R. Holtaway & Son	\$ 40,000 Services
M591	Lincoln Complex Walkways Enclosure Trenton Psychiatric Hospital Trenton, NJ	Millstein, Yezzi & Sapp	\$ 1,000 Services
E901	Various Energy Projects Marie H. Katzenbach School for the Deaf West Trenton, NJ	Wagner Associates	\$ 94,500
H758	Exterior Building & Interior Stair Analysis for Ten Buildings Glassboro State College	Lammey & Giorgio, AIA	\$ 1,500 Services
P434	Comprehensive Program Old Barracks Trenton, NJ	Mendel, Mesick, Cohen, Waite, Architects	\$ 10,000 Services
C269	Investigation of Fuel Tank & System Turrell Residential Center Farmingdale, NJ	John C. Morris & Assoc.	\$ 1,000 Services
C266	Asbestos Removal and Insulation Reapplication Institutional Warehouses and Food Storage Areas Youth Reception/Correction Center Yardville, NJ	Matthew L. Rue, AIA	\$ 71,000
H754	Replace Roof-Carriage House Repair/Replace Roof Flashings Three Buildings Glassboro State College Glassboro, NJ	Harry A. DiFazio, RA, PA	\$ 40,000
H747	Reroof Facilities Building & Grossnickle Hall Jersey City State College Jersey City, NJ	L. J. Mineo, Jr., AIA	\$ 77,500
E139	Facilities Inventory & Master Plan Marie H. Katzenbach School for the Deaf West Trenton, NJ	CUH2A	\$ 109,550 Services
Competitive Proposals			
		CUH2A	\$109,550 Lump Sum
		Vitetta Group	\$192,000 Lump Sum
P453	Fire Engine Museum Allaire State Park Wall Township Monmouth County, NJ	Kelbaugh & Lee, Arch.	\$1,000,000
Competitive Proposals			
		Kelbaugh & Lee, Arch.	6.50%
		Tarquini Organization	7.25%
		Nadaskay-Kopelson, Arch.	7.40%
P450	Closure Levee North Cove Liberty State Park	Louis Berger & Assoc., Inc.	\$1,000,000
Competitive Proposals			
		Louis Berger & Assoc., Inc.	3.89%
		Sidney M. Johnson & Assoc.	4.25%
		PRC Engineering, Inc.	6.60%

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

(The research supplement to the New Jersey Administrative Code)

The new Register Index of Rule Proposals and Adoptions combines the original Index of Proposed Rules and Index of Adopted Rules into a single listing published in every Register. In addition to simplifying research of State agency rulemaking, this important step refines the index in substance and form. *Rule adoptions promulgated in this issue already appear in the Index, and all adoptions in subsequent Registers will appear in the Index of the Register of promulgation.* Formerly, adoptions were not entered in the index listing until the month following adoption. This new feature will facilitate rule research by showing you at a glance all adopted rule changes in any rulemaking area since the most recent update to the Administrative Code.

Further improvements in the Index include the definition of key terms and abbreviations and the addition of an N.J.R. Citation Locator. The locator quickly leads you to the text of a proposal or adoption by converting an N.J.R. citation into the date of the Register in which the rule was published.

## HOW THE INDEX WORKS

The Register Index of Rule Proposals and Adoptions is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes to a given rule, scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

**At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the October 1, 1984 issue.**

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

### Terms and abbreviations:

*N.J.A.C. Citation.* The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

*Proposal Notice (N.J.R. Citation).* The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

*Document Number.* The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

*Adoption Notice (N.J.R. Citation).* The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

*Transmittal.* A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

# N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
15 N.J.R. 1973 and 2084	December 5, 1983	16 N.J.R. 1407 and 1634	June 18, 1984
15 N.J.R. 2085 and 2184	December 19, 1983	16 N.J.R. 1635 and 1832	July 2, 1984
16 N.J.R. 1 and 92	January 3, 1984	16 N.J.R. 1833 and 2026	July 16, 1984
16 N.J.R. 93 and 172	January 17, 1984	16 N.J.R. 2027 and 2184	August 6, 1984
16 N.J.R. 173 and 292	February 6, 1984	16 N.J.R. 2185 and 2318	August 20, 1984
16 N.J.R. 293 and 404	February 21, 1984	16 N.J.R. 2319 and 2390	September 4, 1984
16 N.J.R. 405 and 470	March 5, 1984	16 N.J.R. 2391 and 2474	September 17, 1984
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2709 and 2864	October 15, 1984
16 N.J.R. 779 and 904	April 16, 1984	16 N.J.R. 2865 and 3066	November 5, 1984
16 N.J.R. 941 and 1130	May 7, 1984	16 N.J.R. 3067 and 3240	November 19, 1984
16 N.J.R. 1131 and 1294	May 21, 1984	16 N.J.R. 3241 and 3336	December 3, 1984
16 N.J.R. 1295 and 1406	June 4, 1984		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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### ADMINISTRATIVE LAW—TITLE 1

1:1-3.12	Non-lawyer representation in contested cases	16 N.J.R. 2710(a)	
1:1-3.12	Correction to adoption		16 N.J.R. 3306(a)
1:1-5.2	Notification of second jurisdictional claims	16 N.J.R. 2320(a)	R.1984 d.490 16 N.J.R. 3004(a)
1:10	Public welfare hearings	16 N.J.R. 3068(a)	
1:11-1.1, 15.1	Insurance filing cases	16 N.J.R. 2866(a)	
1:2-3	Motor Vehicle cases: readopt Hearings on the Papers	16 N.J.R. 2711(a)	
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)	

(TRANSMITTAL 8, dated October 15, 1984)

### AGRICULTURE—TITLE 2

2:5-4	Area quarantine for avian influenza (with Emergency Adoption)	15 N.J.R. 2176(a)	
2:52-2.1, 2.2, 3.1, 3.2	Changes in milk suppliers: notice requirements	16 N.J.R. 2028(a)	R.1984 d.488 16 N.J.R. 3004(b)
2:52-2.1, 3.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	
2:52-6.1, 6.2, 6.3	Determining the cost of milk and milk products	16 N.J.R. 2030(a)	R.1984 d.487 16 N.J.R. 3005(a)
2:52-6.1	Correction to adoption		16 N.J.R. 3306(b)
2:53-3.2	Determining the cost of milk and milk products	16 N.J.R. 2030(a)	R.1984 d.487 16 N.J.R. 3005(a)
2:53-4.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	
2:53-4.1, 4.2	Changes in milk suppliers: notice requirements	16 N.J.R. 2028(a)	R.1984 d.488 16 N.J.R. 3004(b)
2:76-3.12	Farmland preservation: deed restrictions	16 N.J.R. 2867(a)	
2:76-4.11	Municipally-approved farmland preservation	16 N.J.R. 2869(a)	
2:76-6.15	Acquisition of development easements	16 N.J.R. 2871(a)	

(TRANSMITTAL 25, dated October 15, 1984)

### BANKING—TITLE 3

3:1-9.2-9.5	Home mortgage disclosure	16 N.J.R. 2872(a)	
3:6-7.1-7.8	Loss deferral accounting for mutual savings banks	16 N.J.R. 2712(a)	
3:28-5.1-5.8	Loss deferral accounting for mutual savings and loan associations	16 N.J.R. 2713(a)	

(TRANSMITTAL 24, dated September 17, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
<b>CIVIL SERVICE—TITLE 4</b>				
4:1-1.1-1.10	Purpose and application of rules	16 N.J.R. 1132(a)		
4:1-2.1	Words and phrases defined	16 N.J.R. 2187(a)		
4:1-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:1-14.6	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:1-20.2	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:2-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:2-14.1	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:2-20.7	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:3-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:3-14.2	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
4:3-15.1	Repeal rule concerning transfer of county caseworkers	16 N.J.R. 3073(a)		
4:3-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
<b>(TRANSMITTAL 21, dated October 15, 1984)</b>				
<b>COMMUNITY AFFAIRS—TITLE 5</b>				
5:22	Readopt tax exemption rules for improvements to residential dwellings	16 N.J.R. 2191(b)		
5:23-2.4, 2.6, 2.17A	UCC: rooming and boarding houses	16 N.J.R. 3073(b)		
5:23-3.8A	UCC: products in violation	16 N.J.R. 3074(a)		
5:23-4.12	Uniform Construction Code: private enforcing agencies	16 N.J.R. 2321(a)	R.1984 d.523	16 N.J.R. 3197(a)
5:23-4.12, 4.22, 4.25	UCC: private enforcing agencies; premanufactured construction	16 N.J.R. 2031(a)	R.1984 d.481	16 N.J.R. 3006(a)
5:23-5.4	Uniform Construction Code: inspector trainees	16 N.J.R. 1643(a)	R.1984 d.494	16 N.J.R. 3007(a)
5:27-1.5	UCC: rooming and boarding houses	16 N.J.R. 3073(b)		
5:27-5.3	Fire safety in rooming and boarding houses	16 N.J.R. 299(a)		
5:31	Local Finance Board: local authorities	16 N.J.R. 1835(a)		
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)		
5:80-7	Housing and Mortgage Finance Agency: housing sponsor's role	16 N.J.R. 2178(a)		
<b>(TRANSMITTAL 23, dated October 15, 1984)</b>				
<b>EDUCATION—TITLE 6</b>				
6:11-1-8	Teacher Preparation and Certification	16 N.J.R. 1646(a)	R.1984 d.469	16 N.J.R. 2788(a)
6:11-4.3	Emergency certification	16 N.J.R. 3075(a)		
6:11-12	Readopt Supplement to Standards for State Approval of Teacher Education	16 N.J.R. 1841(a)	R.1984 d.432	16 N.J.R. 2523(a)
6:20-4.4	Correction: Tuition for private schools for handicapped	_____	_____	16 N.J.R. 2530(a)
6:20-5	Business services: readopt State Aid rules	16 N.J.R. 2392(a)		
6:20-7	Business services: readopt Contracting Qualification and Debarment rules	16 N.J.R. 2394(a)		
6:22-1.8	School districts: long-range facilities plans	16 N.J.R. 1850(a)	R.1984 d.504	16 N.J.R. 3008(a)
6:26-3	Readopt rules on Elementary School Summer Sessions	16 N.J.R. 2715(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:27-3	Readopt rules on Secondary School Summer Sessions	16 N.J.R. 2717(a)		
6:30-2.5	Adult high school graduation requirements	16 N.J.R. 2719(a)		
6:31	Readopt Bilingual Education rules	16 N.J.R. 2721(a)		
6:39-1	Evaluation: readopt Statewide Assessment rules	16 N.J.R. 1852(a)	R.1984 d.505	16 N.J.R. 3009(a)
6:70	Library network services	16 N.J.R. 3076(a)		

**(TRANSMITTAL 23, dated September 17, 1984)**

**ENVIRONMENTAL PROTECTION—TITLE 7**

7:1G-1.2, 6	Worker and Community Right to Know: Trade Secrets (see also 8:59-3)	16 N.J.R. 1854(a)	R.1984 d.437	16 N.J.R. 2530(b)
7:7F-1, 3	Shore Protection Program; local government grants	16 N.J.R. 2881(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)		
7:10-14.7	Interim safe drinking water periodic testing requirements	16 N.J.R. 2396(a)		
7:12	Shellfish-growing water classification	16 N.J.R. 3112(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control: public hearing	16 N.J.R. 2476(a)		
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1	Paulins kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(c)31	Project MR floodway delineations in Warren, Hunterdon, Sussex and Morris counties	16 N.J.R. 1863(a)	R.1984 d.542	16 N.J.R. 3307(a)
7:13-7.1(d)42	Floodway delineation along Green Brook in Somerset and Union counties	16 N.J.R. 1864(a)	R.1984 d.438	16 N.J.R. 2543(a)
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)		
7:19-5	Small water company takeover	16 N.J.R. 563(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)		
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)		
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)		
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-4.19	Endangered and Nongame Species Advisory Committee	16 N.J.R. 2033(a)	R.1984 d.509	16 N.J.R. 3010(a)
7:25-5.29	1984 shotgun deer season permit quotas	16 N.J.R. 2195(a)	R.1984 d.471	16 N.J.R. 2804(a)
7:25-6	1985-86 Fish Code	16 N.J.R. 2034(a)	R.1984 d.498	16 N.J.R. 3011(a)
7:25-7.13	Crab dredging in Atlantic Coast section	Emergency	R.1984 d.537	16 N.J.R. 3216(a)
7:25-12.1	Preservation of sea clams	16 N.J.R. 2885(b)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18.2	Ocean and bay pound nets	16 N.J.R. 1866(a)	R.1984 d.439	16 N.J.R. 2543(b)
7:25-18.4	Spearfishing in Atlantic	16 N.J.R. 2478(a)		
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 2171(a)	R.1984 d.473	16 N.J.R. 2805(a)
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow	16 N.J.R. 1000(a)	R.1984 d.474	16 N.J.R. 2806(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-6.5	Interdistrict and intradistrict solid waste flow	16 N.J.R. 1149(a)	R.1984 d.475	16 N.J.R. 2808(a)
7:26-7.3-7.6	Hazardous waste: national uniform manifest system	16 N.J.R. 2044(b)	R.1984 d.472	16 N.J.R. 2811(a)
7:26-10.7	Hazardous waste incinerators	16 N.J.R. 2046(a)		
7:26-12.2	Hazardous waste rules: permit application	16 N.J.R. 2478(b)	R.1984 d.543	16 N.J.R. 3308(a)
7:26-16.3, 16.6, 16.13	Solid and hazardous waste industry licensing	16 N.J.R. 2480(a)	R.1984 d.541	16 N.J.R. 3310(a)
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-8	Air pollution control: permits and Certificates	16 N.J.R. 1671(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-14	Diesel-powered motor vehicles: air pollution control	16 N.J.R. 2887		
7:27-15	Gas-fueled motor vehicles: air pollution control	16 N.J.R. 2889		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)		
7:27B-4	Air Test Method 4 for motor vehicles	16 N.J.R. 2894		
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 23, dated September 17, 1984)

**HEALTH—TITLE 8**

8:20-1	Birth Defects Registry	16 N.J.R. 3118(a)		
8:21-2.40	Baby foods and ethylene dibromide level	16 N.J.R. 2897(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:23-5	Animal control officer certification	16 N.J.R. 2725(a)		
8:31-30.1	Health care facilities: computing plan review fee	16 N.J.R. 2047(a)	R.1984 d.499	16 N.J.R. 3019(a)
8:31A	Readopt SHARE Guidelines	16 N.J.R. 2898(a)		
8:31A-7.3, 7.4	SHARE: 1985 Rate Review Guidelines	16 N.J.R. 2727(a)		
8:31B-2	1985 uniform bill-patient summary	16 N.J.R. 2728(a)		
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3	Hospital reimbursement: procedure and methodology	16 N.J.R. 2321(b)	R.1984 d.531	16 N.J.R. 3197(b)
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-3.45	Hospital rate setting	16 N.J.R. 2733(c)		
8:31B-4.6, 4.65	Hospital reimbursement: financial elements and reporting	16 N.J.R. 2326(a)	R.1984 d.500	16 N.J.R. 3019(b)
8:31B-5.2	Diagnosis Related Groups: outliers	16 N.J.R. 3119(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33E-2	Cardiac surgical centers	16 N.J.R. 3120(a)		
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F	Renal Disease Services: readopt Planning and Certification rules	16 N.J.R. 3124(a)		
8:39-2.1	All health care facilities: certificate of need approval letter	16 N.J.R. 3125(a)		
8:33H-2.1, 3.1-3.6	Long term care facilities and services: need review	16 N.J.R. 2200(a)	R.1984 d.501	16 N.J.R. 3020(a)
8:33I	Megavoltage oncology services: 1984 batching cycle deadline	_____	_____	16 N.J.R. 2310(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:331-1	Megavoltage radiation oncology services: need review	16 N.J.R. 2205(a)	R.1984 d.502	16 N.J.R. 3027(a)
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)		
8:40-1.1	Licensure of invalid coach and ambulance services	16 N.J.R. 3127(a)		
8:42-1.2	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:42A-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:42B-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43-1.5	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43A	Ambulatory Care Facilities: readopt standards for licensure	16 N.J.R. 2208(a)	R.1984 d.497	16 N.J.R. 3031(a)
8:43A-1.3	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43B-1.7	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43B-6	Hospital facilities: readopt Medical Staff rules	16 N.J.R. 3152(a)		
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)		
8:43F-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:59-1.3, 4.1, 5.1, 5.5, 6.1, 6.2, 6.3, 7.2, 7.5, 8.5	Worker and Community Right to Know Act	16 N.J.R. 2735(a)		
8:65-2	Readopt Security Requirements over Controlled Dangerous Substances	16 N.J.R. 1311(a)	R.1984 d.529	16 N.J.R. 3203(a)
8:65-7	Prescription requirements for controlled dangerous substances	16 N.J.R. 2327(a)		
8:65-10.1	Controlled dangerous substances, Schedule I: Alfentanil	16 N.J.R. 2332(a)	R.1984 d.532	16 N.J.R. 3204(a)
8:65-10.1, 10.2	Controlled dangerous substances: rescheduling of Sufentanil	16 N.J.R. 2900(a)		
8:65-10.4	Controlled dangerous substances: add Triazolam to Schedule IV	16 N.J.R. 2901(a)		
8:71	Generic drug list additions (see 16 N.J.R. 142(b), 1093(a)), 2672(a))	15 N.J.R. 1819(a)		
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a)), 2673(a))	16 N.J.R. 202(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b))	16 N.J.R. 1436(a)		

(TRANSMITTAL 21, dated October 15, 1984)

**HIGHER EDUCATION—TITLE 9**

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-14	Monitoring of violence and hazing on campus	16 N.J.R. 1930(a)		
9:5-2	Tuition-free job training courses	16 N.J.R. 1931(a)	R.1984 d.536	16 N.J.R. 3205(a)
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:7-3.1	Tuition Aid Grant Award Table, 1984-85	16 N.J.R. 2308(a)	R.1984 d.535	16 N.J.R. 3206(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	16 N.J.R. 1932(a)		

(TRANSMITTAL 22, dated August 20, 1984)

**HUMAN SERVICES—TITLE 10**

10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled: Supportive Living Programs	16 N.J.R. 1438(a)		
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<b>N.J.A.C. CITATION</b>		<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>	<b>DOCUMENT NUMBER</b>	<b>ADOPTION NOTICE (N.J.R. CITATION)</b>
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:51-1, App.B, C, D, E	Pharmaceutical Services: appendix changes	16 N.J.R. 2739(a)		
10:51-1.17	Pharmacy Manual: legend drug dispensing fee add-ons	16 N.J.R. 2738(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:52-2	Hospital Services: readopt Admission and Billing Procedures	16 N.J.R. 3159(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a) 16 N.J.R. 3153(a)		
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:54-3	Procedure Code Manual revisions	16 N.J.R. 1685(b)	R.1984 d.457	16 N.J.R. 2813(a)
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:60-3	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:63-1.23	Long-term care: final audited rate calculation	16 N.J.R. 2335(a)		
10:63-3	Long-term care: readopt Cost and Rate Guideline rules	16 N.J.R. 2484(a)		
10:65-2	Medical Day Care Manual: readopt Billing Procedures	16 N.J.R. 2336(a)	R.1984 d.508	16 N.J.R. 3031(b)
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:67-1, 2.6	Readopt Psychologist's Services Manual	16 N.J.R. 3163(a)		
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:69A-6.9	PAAD: authorization to release prescription information	16 N.J.R. 2050(a)		
10:69A-7.1	Pharmaceutical assistance: recovery of benefits correctly made	16 N.J.R. 2051(a)		
10:81-1.6, -3, 4.10, 7.30, 7.32, 8.22	PAM: Federally-required AFDC revisions	Emergency	R.1984 d.464	16 N.J.R. 2813(a)
10:81-3.34	PAM: Temporary absence of children from home	15 N.J.R. 2134(a)		
10:81-6	PAM: complaints, hearings and administrative reviews	16 N.J.R. 2051(b)	R.1984 d.468	16 N.J.R. 2816(a)
10:81-8.22	PAM: eligibility for medical assistance	16 N.J.R. 2740(a)		
10:82-1.2, 1.3, -2, -3, -4	ASH: Federally-required AFDC revisions	Emergency	R.1984 d.463	16 N.J.R. 2837(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:82-4	ASH: readopt Income rules	16 N.J.R. 2336(b)	R.1984 d.528	16 N.J.R. 3206(b)
10:85-3.2, 4.6	GAM: nonresident eligibility; travel grants	16 N.J.R. 2219(b)	R.1984 d.506	16 N.J.R. 3031(c)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>	<b>DOCUMENT NUMBER</b>	<b>ADOPTION NOTICE (N.J.R. CITATION)</b>
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: unearned income	16 N.J.R. 2056(a)	R.1984 d.507	16 N.J.R. 3032(a)
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3, 12	GAM: medical care eligibility; repeal income standards rules	16 N.J.R. 3165(a)		
10:85-5.3	GAM: outpatient facility services	16 N.J.R. 2488(a)		
10:85-7	GAM: readopt Notices and Hearings rules	16 N.J.R. 2221(a)		
10:85-8	GAM: readopt Referral to Other Agency Programs	16 N.J.R. 3166(a)		
10:87-12.1, 12.2	Food Stamps: income deductions; coupon allotments	Emergency	R.1984 d.465	16 N.J.R. 2844(a)
10:89	Home Energy Assistance	Emergency	R.1984 d.538	16 N.J.R. 3217(a)
10:94-5.5, 5.6	Medicaid Only: eligibility computation amounts	Emergency	R.1984 d.467	16 N.J.R. 2845(a)
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)		
10:100-App. A	Supplemental Security Income payment levels	Emergency	R.1984 d.466	16 N.J.R. 2846(a)
10:122B	Readopt Family Day Care Standards	16 N.J.R. 1936(a)	R.1984 d.428	16 N.J.R. 2674(a)
10:128	Residential Child Care rules	16 N.J.R. 10(b)		
10:129	Readopt rules on Child Abuse and Neglect Cases	16 N.J.R. 2224(a)	R.1984 d.489	16 N.J.R. 3033(a)

(TRANSMITTAL 21, dated September 17, 1984)

#### **CORRECTIONS—TITLE 10A**

(TRANSMITTAL 8, dated July 16, 1984)

#### **INSURANCE—TITLE 11**

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-10	Repeal rules on Licensing of Financial Institutions, Subsidiaries and Affiliates	16 N.J.R. 2919(a)		
11:1-15	Petitions for rulemaking	16 N.J.R. 2224(b)	R.1984 d.511	16 N.J.R. 3033(b)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:2-1.1	Required courses for licensees in property and casualty field	16 N.J.R. 1940(a)	R.1984 d.515	16 N.J.R. 3034(a)
11:2-1.3	Required courses for licensees in life and health field	16 N.J.R. 1943(a)	R.1984 d.477	16 N.J.R. 3036(a)
11:2-10.1	Repeal Personal Lines Insurance rule	16 N.J.R. 2920(a)		
11:2-18, Exh. B	Readable policies: Affidavit of Compliance	16 N.J.R. 1945(a)	R.1984 d.514	16 N.J.R. 3037(a)
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-14.3, 14.4, 14.5	Auto insurance: Personal Injury Protection (PIP) options	16 N.J.R. 1692(a)	R.1984 d.480	16 N.J.R. 3037(b)
11:3-15.6	Auto insurance: Buyer's Guide and Written Notice requirements for PIP deductibles	16 N.J.R. 1693(a)	R.1984 d.479	16 N.J.R. 3038(a)
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:4-6	Reserve standards for individual health insurance policies	16 N.J.R. 2225(a)	R.1984 d.512	16 N.J.R. 3039(a)
11:4-8	Charitable annuities	16 N.J.R. 3172(a)		

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11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16.8	Medicare Supplement Coverage: disclosure standards	16 N.J.R. 2944(a)		
11:4-22	Individual life insurance: Use of Gender Blended Mortality Tables	16 N.J.R. 1452(a)	R.1984 d.478	16 N.J.R. 3040(a)
11:4-22	Correction: Gender Blended Mortality Tables	16 N.J.R. 1946(a)	R.1984 d.478	16 N.J.R. 3040(a)
11:4-23	Medicare Supplement Policies and Contracts	16 N.J.R. 2945(a)		
11:5-1.19	Real estate branch offices	16 N.J.R. 2228(a)		
11:5-1.24	Closing or transfer of real estate brokerage	16 N.J.R. 2228(b)		
11:5-1.32	Residential rental referral agencies	16 N.J.R. 2952(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:15-2	Joint insurance funds for local government units	16 N.J.R. 1164(a)	R.1984 d.540	16 N.J.R. 3310(b)
<b>(TRANSMITTAL 22, dated October 15, 1984)</b>				
<b>LABOR—TITLE 12</b>				
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12:15-1.2	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:15-1.3	Unemployment Compensation and Disability: 1985 benefit rates	16 N.J.R. 2343(a)	R.1984 d.517	16 N.J.R. 3049(a)
12:15-1.4	Unemployment Compensation: 1985 taxable wage base	16 N.J.R. 2344(a)	R.1984 d.519	16 N.J.R. 3049(b)
12:15-1.4	Correction: 1985 Unemployment Compensation Taxable Wage Base	16 N.J.R. 2465(a)	R.1984 d.519	16 N.J.R. 3049(b)
12:15-1.4	Correction to adoption			16 N.J.R. 3320(a)
12:15-1.5	Unemployment Compensations: 1985 Contribution rates for governmental entities	16 N.J.R. 2344(b)	R.1984 d.518	16 N.J.R. 3050(a)
12:15-1.6	Base week for Unemployment Compensation and Disability	16 N.J.R. 2345(a)	R.1984 d.521	16 N.J.R. 3050(b)
12:15-1.7	Eligibility for Unemployment Compensation and Disability: alternate earnings test	16 N.J.R. 2345(b)	R.1984 d.520	16 N.J.R. 3050(c)
12:16	Contributions, records, reports	16 N.J.R. 2488(b)		
12:16-10	Hearings concerning unemployment and temporary disability insurance	16 N.J.R. 2240(a)	R.1984 d.459	16 N.J.R. 2821(a)
12:17-1.2-1.6, 3.1, 4.1, 4.2, 5.1, 11.2, 12	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:17-2.1, 2.2, 2.3	Income Security: registration for work and claims for benefits	16 N.J.R. 1456(a)	R.1984 d.458	16 N.J.R. 2822(a)
12:19	Contributions, records, reports	16 N.J.R. 2488(b)		
12:20-3.2	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:90	Boilers, pressure vessels and refrigeration systems: safe operation	16 N.J.R. 1172(a)		
12:100	Safety and health standards for public employees	16 N.J.R. 2057(a)	R.1984 d.510	16 N.J.R. 3051(a)
12:235-1.5	1985 Workers' Compensation Benefit Rates	16 N.J.R. 2346(a)	R.1984 d.522	16 N.J.R. 3054(a)
12:235-1.5	Correction: 1985 Workers' Compensation Benefit Rates	16 N.J.R. 2465(b)	R.1984 d.522	16 N.J.R. 3054(a)
<b>(TRANSMITTAL 16, dated January 3, 1984)</b>				
<b>COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A</b>				
12A	Departmental rules; small business set-aside contracts (see also 17:12-6).	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
<b>LAW AND PUBLIC SAFETY—TITLE 13</b>				
13:2-17	ABC: readopt rules on Appeals	16 N.J.R. 2954(a)		
13:2-19	ABC: readopt rules on Disciplinary Proceedings	16 N.J.R. 2957(a)		
13:2-31	ABC: readopt rules on Seizure Hearings	16 N.J.R. 2959(a)		

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>	<b>DOCUMENT NUMBER</b>	<b>ADOPTION NOTICE (N.J.R. CITATION)</b>
13:13	Discrimination against handicapped persons	16 N.J.R. 838(a)		
13:18-6.1	DMV: notification of liability coverage termination	16 N.J.R. 3174(a)		
13:19-10	Point System and Driving During Suspension: 25-day waiver of expiration of rules	16 N.J.R. 502(a)		
13:20-12	Motor Vehicles: readopt Accident Prevention Clinic rules	16 N.J.R. 2347(a)	R.1984 d.492	16 N.J.R. 3054(b)
13:20-28	New car inspection	16 N.J.R. 2500(a)		
13:20-32.14	Reinspection centers: mechanic certification	16 N.J.R. 3175(a)		
13:20-34	Motor vehicle registration identifying marks	16 N.J.R. 2743(a)		
13:20-37	Motor vehicles with modified chassis height	16 N.J.R. 2501(a)		
13:20-38	Maximum length for auto transporters	16 N.J.R. 3176(a)		
13:21-1.3, 1.4, 1.5	Driver's licenses and social security numbers	16 N.J.R. 2746(a)		
13:22	Motor vehicle race tracks	16 N.J.R. 2503(a)		
13:24-2	Motor Vehicles: readopt Emergency Vehicle Equipment rules	16 N.J.R. 2347(b)	R.1984 d.491	16 N.J.R. 3054(c)
13:27-3.13	Certification of landscape architects: fee schedule	16 N.J.R. 3176(b)		
13:33-1.28, 1.41, 2.1, 2.2	Ophthalmic dispensers and technicians: minimum optical equipment	16 N.J.R. 2062(a)	R.1984 d.534	16 N.J.R. 3207(a)
13:33-4.1	Readopt Dispensing of Contact Lenses rule	16 N.J.R. 2513(a)		
13:35-2.4	Chiropractic licensure	16 N.J.R. 3177(a)		
13:35-2.13	Graduate physician pending licensure: privileges and conditions	16 N.J.R. 216(a)		
13:35-6.1	Medical practice identification	16 N.J.R. 3178(a)		
13:35-6.6	Requirement for issuing prescriptions	16 N.J.R. 2415(a)		
13:35-6.14	Therapeutic treatment by unlicensed Medical aides	16 N.J.R. 2065(a)		
13:35-7.1	Chiropractic practice: standards and scope	16 N.J.R. 686(a)	R.1984 d.533	16 N.J.R. 3208(a)
13:36-9	Funeral industry practices	16 N.J.R. 1315(a)	R.1984 d.525	16 N.J.R. 3210(a)
13:37-2-6	Nursing licensure	16 N.J.R. 3179(a)		
13:37-13.1, 13.2	Nurse anesthetist qualification	16 N.J.R. 2067(a)	R.1984 d.493	16 N.J.R. 3054(d)
13:40-3.1	Engineers and land surveyors: prohibited acts	16 N.J.R. 1321(a)	R.1984 d.486	16 N.J.R. 3055(a)
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)		
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)		
13:45A-6	Readopt rules on deceptive practices in auto sales	16 N.J.R. 2349(a)	R.1984 d.526	16 N.J.R. 3214(a)
13:45A-7	Readopt rules on deceptive practices in auto repair and advertising	16 N.J.R. 2350(a)	R.1984 d.527	16 N.J.R. 3214(b)
13:46	Boxing rules	16 N.J.R. 2241(a)		
13:46	Boxing Rules	16 N.J.R. 2962(a)		
13:46-18.15	Scheduling of boxing programs	16 N.J.R. 1030(a)		
13:46-8.19, 10.7	Scoring of boxing contest; announcement of decision	16 N.J.R. 1956(a)		
13:47A-12	Limited registration for securities broker-dealers and agents	15 N.J.R. 2146(a)		
13:70-2	Thoroughbred rules: readopt Definitions	16 N.J.R. 2976(a)		
13:70-12.4	Claimed horse	16 N.J.R. 2348(a)	R.1984 d.524	16 N.J.R. 3215(a)
13:70-14A	Thoroughbred racing: medication and testing procedures	16 N.J.R. 3180(a)		
13:70-14A.13, 14A.15	Thoroughbred rules: breathalyzer tests for jockeys and track personnel; urine tests	16 N.J.R. 1457(a)		
13:71-4	Harness rules: readopt Definitions	16 N.J.R. 2976(a)		
13:71-19.4	Harness Racing: safety helmets	16 N.J.R. 2977(a)		
13:71-23	Harness Racing: medication and testing procedures	16 N.J.R. 3182(a)		

(TRANSMITTAL 25, dated October 15, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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**PUBLIC UTILITIES—TITLE 14**

14:3-4.7	Adjustment of charges for inaccurate billings	16 N.J.R. 511(a)		
14:3-7.12, 7.13	Discontinuance of service for non-payment of combined utilities	16 N.J.R. 2747(a)		
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(TRANSMITTAL 20, dated October 15, 1984)

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(TRANSMITTAL 14, dated October 15, 1984)

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(TRANSMITTAL 1, dated March 20, 1978)

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16:77	Use of occupancy of NJ TRANSIT-owned property	16 N.J.R. 2415(b)		

(TRANSMITTAL 22, dated September 17, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
<b>TREASURY-GENERAL—TITLE 17</b>				
17:1-1.10	Pensions: minimum adjustments for reconciliation of members' accounts	16 N.J.R. 3192(a)		
17:1-1.17	Administrative expenses prorated	16 N.J.R. 2420(a)		
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	16 N.J.R. 2350(b)		
17:1-8.12	Social Security late filing penalties	16 N.J.R. 2421(a)		
17:2	Readopt Public Employees' Retirement System rules	16 N.J.R. 2515(b)		
17:5-5.5	State Police Retirement: outstanding loans	16 N.J.R. 2997(a)		
17:6-1, 2, 3, 4	Readopt rules on Consolidated Police and Firemen's Pension Fund	16 N.J.R. 2997(b)		
17:6-1.4	Police and firemen's pension: election of Commission members	16 N.J.R. 2999(a)		
17:9-2.3	State Health Benefits Program: annual enrollment period	16 N.J.R. 2422(a)		
17:9-2.8, 2.12, 3.4, 3.7	State Health Benefits Program: coverage; dependents	16 N.J.R. 2422(b)		
17:9-6.3	Health Benefits Program: retired employees' coverage	16 N.J.R. 3192(b)		
17:19-2	Construction contracts: prequalification of bidders	16 N.J.R. 2751(a)		
17:20-4.10	Transfer of lottery license	16 N.J.R. 2758(a)		
17:20-6.1	Distribution of lottery tickets	16 N.J.R. 2758(b)		

**(TRANSMITTAL 24, dated October 15, 1984)**

**TREASURY-TAXATION—TITLE 18**

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18:7-4.1, 5.2, 8.16, 16.1-16.5	Corporation business tax and international banking facilities	16 N.J.R. 1327(a)	R.1984 d.453	16 N.J.R. 2827(a)
18:7-7.1, 7.2	Corporation Tax: "regular place of business"; allocation	16 N.J.R. 2999(b)		
18:7-8.3	Corporation Tax: discretionary adjustment of 100% allocation factor	16 N.J.R. 3002(a)		
18:12-6A.1, 6A.2	Local property tax exemptions	16 N.J.R. 2424(a)		
18:12-7.12	Homestead Rebate: filing extension for claims	16 N.J.R. 252(b)		
18:12A-1.9, 1.12, 1.13	County boards of taxation	16 N.J.R. 2760(a)		
18:24-7.19	Sales tax and rentals in mobile home parks	16 N.J.R. 1965(a)	R.1984 d.431	16 N.J.R. 2689(a)
18:24-31.1-31.9	Sales tax and urban enterprise zones	16 N.J.R. 1332(a)	R.1984 d.495	16 N.J.R. 3059(a)
18:24-31.4	Certified vendors within urban enterprise zones	16 N.J.R. 3193(a)		
18:35-2.12	Setoff of individual liability: collection assistance fee	16 N.J.R. 2760(b)		
18:36	Savings institution tax	16 N.J.R. 3194(a)		

**(TRANSMITTAL 21, dated September 17, 1984)**

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<b>N.J.A.C. CITATION</b>		<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>	<b>DOCUMENT NUMBER</b>	<b>ADOPTION NOTICE (N.J.R. CITATION)</b>
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**(TRANSMITTAL 22, dated September 17, 1984)**

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**(TRANSMITTAL 9, dated September 17, 1984)**



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