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(Includes adopted rules filed through May 28, 1993)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: APRIL 19, 1993
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT MAY 17, 1993

RULEMAKING IN THIS ISSUE

EXECUTIVE ORDERS

RULE PROPOSALS

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INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **July 21, 1993.** Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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NEW JERSEY REGISTER

The official publication containing notices of proposed rules and rules adopted by State agencies pursuant to the New Jersey Constitution, Art. V, Sec. IV, Para. 6 and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Issued monthly since September 1969, and twice-monthly since November 1981.

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EXECUTIVE ORDERS

(a)

OFFICE OF THE GOVERNOR
Governor Jim Florio
Executive Order No. 93(1993)
Transfer of New Jersey Training School for Boys and Juvenile Medium Security Center Under Reorganization Plan No. 001(1993)

Issued: May 7, 1993.
Effective: May 7, 1993.
Expiration: Indefinite.

WHEREAS, Reorganization Plan No. 001(1993) (hereinafter "the Plan") was submitted to the Senate and General Assembly on March 22, 1993; and

WHEREAS, review of the Plan by the Legislature has produced certain comments and suggestions concerning any immediate or future implementation of the proposed transfer under the Plan from the Department of Corrections to the Department of Human Services of the New Jersey Training School for Boys and the Juvenile Medium Security Center and has also produced comments and suggestions for joint management of the aforesaid facilities by the aforesaid Departments, at least for a trial period; and

WHEREAS, I concur with those comments and suggestions and wish, by this Executive Order, to set them forth explicitly and to direct that they be pursued and executed should the Plan become effective.

NOW THEREFORE, I, JIM FLORIO, Governor of the State of New Jersey, by virtue of the authority invested in me by the CONSTITUTION of the STATE do hereby ORDER and DIRECT that, should the Plan become effective, the following shall become operational and shall both modify the Plan and its implementation:

1. Transfer under the Plan from the Department of Corrections to the Department of Human Services (hereinafter "DOC" and "DHS" respectively) of the New Jersey Training School for Boys and the Juvenile Medium Security Center (hereinafter "Jamesburg" and "Bordentown", respectively and "the facilities" collectively) shall not be implemented unless and until such a transfer is approved and further directed by either (1) legislation enacted by the Legislature and signed by the Governor or (2) a further Executive Order of the Governor approved by concurrent resolution of both houses of the Legislature or (3) a further Reorganization Plan submitted to the Legislature by the Governor and not disapproved by the Legislature.

2. (A) Unless and until transfer is implemented pursuant to Paragraph 1 hereof, Jamesburg and Bordentown shall be managed and administered as follows:

(1) DOC shall be responsible for the day to day operation and management of the facilities and shall, through Corrections Officers and other DOC personnel, provide security for and at the facilities.

(2) DOC shall continue to administer and provide the educational, remedial and/or rehabilitative programs which it presently offers inmates at the facilities. DHS may supplement these programs by administering and providing other educational, remedial and/or rehabilitative programs for inmates at the facilities subject to and consistent with security and facility operational requirements and procedures established by DOC.

(3) DOC shall have the authority and responsibility to transfer inmates presenting security or disciplinary problems from the facilities to other secure juvenile or adult institutions. Aside from such security or disciplinary problems at the facilities, DHS shall have the authority and responsibility for the assignment of inmates to the facilities and/or the reassignment of inmates from the facilities to other institutions or facilities operated by the Division of Juvenile Services.

(4) DOC and DHS shall jointly be responsible for planning and overseeing any capital improvements (including security) at, and rehabilitation of, the facilities.

In this connection, I hereby further direct the Commissioners of DOC and DHS: to formulate and implement a plan for the physical rehabilitation of Jamesburg and for enhanced security there; and to take forthwith any and all immediate steps which may be necessary to ensure adequate security is in place at Jamesburg and to improve inmate living conditions.

(B) The Commissioners of DOC and DHS shall, by Memorandum or Memoranda of Understanding, develop and define operating procedures which will permit implementation of the directives contained in 2(A)(1), (2) and (3), above.

3. Furnishings, equipment, capital, personnel (including, without limitation, administrative and support staff) and other resources necessary to accomplish the arrangement and directives set forth in paragraph 2, above, shall be allocated between DOC and DHS as the Commissioners of DOC and DHS shall specify and agree by Memorandum of Understanding. The three (3) month time period within which employees are to make a choice of Department pursuant to Paragraph (A)(1)(J) of the Plan shall not begin to run for any employee remaining with DOC pursuant to said Memorandum of Understanding unless and until a transfer of facilities is accomplished pursuant to Paragraph 1 hereof.

4. Within three (3) months after the expiration of period one (1) year from and after the effective date of the Plan, the Jamesburg Board of Trustees and the Advisory Council on Juvenile Justice created pursuant to the Plan shall, after consultation with the Commissioners of DOC and DHS, file a joint or several Report with the Legislature and with the Governor commenting upon and evaluating the operation of the facilities during the year of management hereunder and making recommendations for future management of the facilities.

5. This Order shall take effect immediately.

(b)

OFFICE OF THE GOVERNOR
Governor Jim Florio
Executive Order No. 94(1993)
Establishment of State Interagency Coordinating Council

Issued: May 21, 1993.
Effective: May 21, 1993.
Expiration: Indefinite.

WHEREAS, The Congress of the United States has found that there is a substantial need for enhanced and improved coordinated services to infants and toddlers with disabilities and has, pursuant to P.L. 99-457, adopted a policy to provide financial assistance to States for developing and implementing a Statewide program to provide early intervention services for infants and toddlers with disabilities and their families; and

WHEREAS, the public interest of the citizens of the State of New Jersey requires that the State shall do all that is or may be required to secure for the State the benefits of federal appropriations for early intervention services under P.L. 101-476, as amended; and

WHEREAS, the Act requires the establishment of a State Interagency Coordinating Council in order to qualify for federal funds; and

WHEREAS, coordination and cooperation between the various State agencies can be enhanced by an advisory body that has representatives from the State agencies, providers, the Legislature and parents of children with disabilities;

WHEREAS, pursuant to L.1992, c.155, the Department of Health has been designated as the lead agency effective July 1, 1993;

NOW, THEREFORE, I, JAMES J. FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the State Interagency Coordinating Council (hereinafter referred to as the State Council), which shall:

a. Advise and assist the designated lead agency for early intervention services for infants and toddlers with disabilities and their families in the performance of its responsibilities, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

b. Advise and assist the lead agency in the preparation of applications and amendments thereto;

c. Prepare and submit an annual report to the Governor and to the U.S. Secretary of Education on the status of early intervention programs

for infants and toddlers with disabilities and their families operated within the State;

d. Advise and assist the Department of Education regarding the transition of toddlers with disabilities to preschool services to the extent such services are appropriate;

e. Advise and assist the lead agency in the development and implementation of the policies that constituted the Statewide system;

f. Assist the lead agency in achieving the full participation, coordination, and cooperation of all appropriate public agencies in the State;

g. Assist the lead agency in the effective implementation of the Statewide system by establishing a process that includes:

(1) seeking information from service providers, service coordinators, parents, and others about any federal, State, or local policies that impede timely service delivery;

(2) taking steps to ensure that any policy problems that impede timely service delivery are resolved; and

(3) to the extent appropriate, assist the lead agency in the resolution of disputes.

2. The Council shall be composed of a minimum of fifteen, and maximum of twenty-five individuals appointed by the Governor who shall be broadly representative of the population of the State. These appointments shall ensure that:

a. At least 20 percent of the members are parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged six or younger.

b. At least 20 percent of the members are public or private providers of early intervention services.

c. At least one member is from the State Legislature.

d. At least one member is involved in personnel preparation.

e. At least one member is from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and has sufficient authority to engage in policy planning and implementation on behalf of such agencies.

f. At least one member is from the State educational agency responsible for preschool services to children with disabilities and has sufficient authority to engage in policy planning and implementation on behalf of such agency.

g. At least one member is from the agency responsible for the State governance of insurance, especially in the area of health insurance.

3. The Governor shall designate a member of the Council to serve as the chair and vice-chair of the Council. Any member of the Council who is a representative of the designated lead agency for early intervention services shall serve as a non-voting member and may not serve as the chairperson of the Council.

4. The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and to the extent appropriate, open and accessible to the general public. Interpreters for persons who are deaf and other necessary services must be provided at Council meetings, both for Council members and participants. The Council may use federal funds made available to it to provide these services.

5. The State Council may draw upon the assistance of the employees of the Department of Health, Department of Education, Department of Human Services and of any other department, organization or agency of the State which may be available to it for these purposes.

6. Subject to the availability of appropriations, the State Council may adopt a budget and expend funds as permitted by federal law.

7. No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

8. Except as provided by federal law, Council members shall serve without compensation.

9. This Order shall take effect immediately.

RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Special Hearing Rules
Division of Consumer Affairs
Lemon Law Hearings

Proposed Amendments: N.J.A.C. 1:13A-1.1, 14.2, 14.4, 18.1 and 18.3

Authorized By: Jaynee LaVecchia, Director, Office of Administrative Law.
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).
Proposal Number: PRN 1993-326.

Submit comments by July 21, 1993 to:
Jeff S. Masin, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9, CN 049
Quakerbridge Road
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Effective April 22, 1993, the New Jersey Lemon Law, N.J.S.A. 56:12-29 et seq., was amended. These proposed amendments to the Office of Administrative Law special rules for conducting lemon law hearings reflect those statutory changes. The time for issuance of an initial decision has been extended from 15 to 20 days; the time for final decision has been extended from 10 to 15 days. The proposed amendments also reflect statutory language which provides that an award shall be made to a prevailing consumer of attorney's fees, costs and expert witness fees.

Social Impact

The proposed amendments implement statutory changes and will result in marginally longer periods of issuance of decisions in these matters.

Economic Impact

The proposed amendments do not have any foreseeable economic impact.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the reproposed repeal and proposed amendment and new rule do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments incorporate into the rules statutorily increased time periods for the issuance of decisions and statutory language providing that an award shall be made to a prevailing consumer of attorney's fees, costs and expert witness fees.

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

1:13A-1.1 Applicability

The special rules in this chapter shall apply to matters transmitted to the Office of Administrative Law (OAL) by the Division of Consumer Affairs (Division) wherein a consumer of a motor vehicle seeks a refund or replacement of the vehicle from a manufacturer under the provisions of the New Jersey Lemon Law, [P.L.1988, c.123, §21] **N.J.S.A. 56:12-29 et seq.** These special rules must be read in conjunction with the Division of Consumer Affairs' rules on dispute resolution at N.J.A.C. 13:45A-26.1 through 26.17. Any aspect of the OAL hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these special rules are inconsistent with the U.A.P.R., these rules shall apply.

1:13A-14.2 Conduct of hearing

(a) (No change.)

(b) There shall be no proposed findings of fact, conclusions of law, briefs, forms of order or other posthearing submissions permitted after the final argument except if permitted by the judge for good cause. In no event shall the submission of posthearing documents extend the [15] **20** days permitted for issuing an initial decision.

1:13A-14.4 Proof of fees and costs

(a) (No change.)

(b) A prevailing consumer [may] **shall** be awarded the following fees and costs: reasonable [attorney fee] **attorney's fees,** filing fee, fees for reports prepared by expert witnesses or for the appearance and testimony of expert witnesses.

1:13A-18.1 Initial decisions

(a) An initial decision shall be issued in writing no later than [15] **20** days from the conclusion of the hearing.

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

1:13A-18.3 Final decision

The Director of the Division of Consumer Affairs shall issue a final decision which shall adopt, reject or modify the initial decision no later than [10] **15** days from receipt of the initial decision. Unless a final decision is issued within the [10] **15** day period, the initial decision shall be deemed adopted as the final decision and the requirements and penalties of N.J.A.C. 13:45A-26.12(c) and (d) and N.J.A.C. 13:45A-26.13 shall apply.

BANKING

(b)

DIVISION OF REGULATORY AFFAIRS

Attorney Fees; Cancellation Charge; Advertising Conversions among Mortgage Bankers, Mortgage Bankers Non-Servicing and Mortgage Brokers

Proposed Amendments: N.J.A.C. 3:1-16.2 and 16.3; 3:2-1.4; 3:38-1.3 and 4.1

Authorized By: Jeff Connor, Commissioner, Department of Banking.
Authority: N.J.S.A. 17:1-8 and 8.1; 17:11B-13; 46:10A-6; and 46:18-11.2.
Proposal Number: PRN 1993-356.

Submit comments by July 21, 1993 to:
Rule Comments
Attn: Stephen Szabatin
Deputy Commissioner
Department of Banking
CN 040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Banking proposes to amend N.J.A.C. 3:2-1.4 regarding advertising by mortgage bankers non-servicing. Pursuant to an amendment which will not become operative until September 1, 1993 (see notice of adoption published elsewhere in this issue of the New Jersey Register), a mortgage banker non-servicing must include in its advertisements "licensed mortgage banker non-servicing, N.J. Department of Banking." This proposed amendment would change this requirement to "licensed mortgage banker n.s., N.J. Department of Banking." The "n.s." serves as an abbreviation for non-servicing. This change is proposed based on comments from the industry that use of the term "non-servicing" may suggest that a superior loan product is available from other lenders.

The Department also proposes to amend N.J.A.C. 3:1-16.2(a)7v in its mortgage processing rules concerning reimbursement of attorney fees to conform with recent changes in the law. In particular, P.L. 1993, c.33 amended N.J.S.A. 46:10A-6 to provide that if a loan is made to a person or persons primarily for personal, family or household purposes secured by a one- to four-family structure, the borrower is not liable for the

lender's legal fees "except to the extent of a fee for the review of the loan documents prepared or submitted by or at the direction of the borrower's attorney or such other work or services as requested by borrower or borrower's attorney." N.J.S.A. 46:10A-6(d).

For other real property loans, the lender and borrower may agree that the borrower shall reimburse the lender for all or any part of the lender's legal fees. The proposed amendment adopts by reference the standards set forth in N.J.S.A. 46:10A-6(d).

The mortgage processing rules concern only loans made for personal, family or household purposes (see: N.J.A.C. 3:1-16.1 (definition of borrower)). Accordingly, for most loans made under these rules, the lender will be limited to be reimbursed for the outside counsel fees permitted under N.J.S.A. 46:10A-6. However, for loans secured by five- and six-family dwellings, the limits contained in N.J.S.A. 46:10A-6 do not apply.

Public Law 1991, c.289, §2 amended N.J.S.A. 46:18-11.2 to permit lenders to collect at closing a service charge of up to $25.00 for cancelling a mortgage, in addition to the fee charged by the county recording officer. The service fee may be charged at the time of the mortgage transaction or at the time the mortgage is redeemed, paid and satisfied, whereas the fee charged by the county recording officer is collectible at the time the mortgage is redeemed, paid and satisfied.

The Department proposes amendments to N.J.A.C. 3:1-16.2 and 3:38-4.1 which provide that, if the lender collects the service fee at the time of the mortgage transaction and transfers the servicing rights prior to cancellation, the lender must refund the service fee to the borrower. In this way, lenders will not receive the service fee if they do not perform the service of cancelling the mortgage. In addition, proposed amendments to N.J.A.C. 3:1-16.3 and 3:38-4.1 would require mortgage bankers non-servicing to disclose at the time of application that the licensee is a mortgage banker non-servicing and is thereby prohibited by New Jersey law from holding mortgage loans or servicing mortgage loans for more than 90 days in the regular course of business.

The proposed amendment to N.J.A.C. 3:38-1.3 provides the application requirements for conversion among a mortgage banker, mortgage banker non-servicing and a mortgage broker. To convert between a mortgage banker and a mortgage banker non-servicing, a licensee must submit the following: (1) the original license, and the licenses of all branch offices; (2) a completed conversion form, which shall include the name and address of the licensee, the requested date of conversion and a copy of the licensee's most recent semi-annual report of tangible net worth; (3) for a conversion to a mortgage banker non-servicing, a signed affidavit from the president, a general partner or the sole proprietor stating that the licensee will not hold or service loans for more than 90 days in the regular course of business; and (4) a conversion fee of $200.00, plus $25.00 for each additional branch office.

A licensee must submit the following to convert between a mortgage banker or a mortgage banker non-servicing and a mortgage broker: (1) the original license, the licenses of all branch offices and the licenses of all licensed individuals; (2) a completed conversion form, which shall include the name and address of the licensee, the requested date of conversion and a copy of the licensee's most recent semi-annual report of tangible net worth; (3) for a conversion to a mortgage broker, a signed affidavit from the president, a general partner or the sole proprietor stating that the licensee will not issue commitments or lock-ins in its name, will not close mortgage loans in its name, and will only charge borrowers application fees and discount points; and (4) a conversion fee of $200.00, plus $25.00 for each additional branch office and for each licensed individual.

The Department will approve all completed conversion applications so long as the licensee satisfies the tangible net worth requirement for the license sought, or the license sought has the same or a lesser tangible net worth requirement as the tangible net worth requirement of the license held by the licensee.

Social Impact

The disclosure requirement will have the positive social impact of advising borrowers at time of application that a mortgage banker non-servicing is not authorized to hold or service loan for more than 90 days in the regular course of business. By providing borrowers with this information at time of application, borrowers will be able to make a more informed decision, and this is to the public benefit. It is unclear what social impact would result from the advertising changes.

Economic Impact

The proposed amendments require a $200.00 application fee when a licensee wants to convert its license. An additional $25.00 charge is imposed for each change required for a branch or individual license. This fee approximates the administrative costs for converting a license, so the Department will not derive a discernable economic gain or loss from the imposition of this charge. The fee will have a negative economic impact on licensees. However, to the extent that these rules permit a conversion to a license requiring a lower net worth and thereby allow the licensee to remain in business, the negative effect is mitigated. The amendments require licensees to refund service fees for cancellation when and if servicing rights are transferred. This may have a negative economic impact on licensees who take cancellation service fees at closing and a corresponding positive economic impact on borrowers. The proposed change from the use of the term "non-servicing" to "n.s." when advertising is not expected to have any discernible economic impact. The amendment to N.J.A.C. 3:1-16.2 regarding outside counsels fees simply references the statute and therefore has no economic impact independent of the statutory requirements.

Regulatory Flexibility Analysis

Licensed mortgage bankers and brokers are predominantly small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments require a licensee to submit an application to the Department to convert its license. The requirements of this conversion application have been kept to a minimum to minimize the impact on small businesses. In addition, the amendments contain proposed requirements for advertisements and in application disclosures. These changes appear necessary to alert consumers that a licensee is a non-servicing mortgage banker, and that it thereby is not authorized to hold or service loans for more than 90 days in the regular course of business. Similarly, the proposed amendment which would require refund of the $25.00 cancellation service charge upon transfer of servicing prior to cancellation is necessary to ensure that no fee is taken for services which are not performed. Accordingly, no differentiation based on business size is made. The amendment to N.J.A.C. 3:1-16.2 regarding outside counsels fees simply references the statute and therefore has no impact on small businesses independent of the statutory requirements.

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

3:1-16.2 Fees

(a) No lender shall charge a borrower any fees incident to the origination, processing or closing of a mortgage loan other than the following, except as otherwise authorized by State or Federal law, either explicitly or as interpreted by the appropriate regulator in official staff commentary, regulatory bulletins, or memoranda.

1.-6. (No change.)

7. Third party fees: Limited to the following fees paid or actually incurred by a lender on behalf of a borrower:

i.-iv. (No change.)

v. Outside counsels' [document and title and review fees, provided that they are for document and title review services only, and are properly designated and documented as being a fee of outside counsel] **fees as permitted by N.J.S.A. 46:10A-6;**

vi.-xiii. (No change.)

xiv. Radon test fees; **and**

[xv. Service fees for cancellation of mortgages as provided by P.L. 1991, c.289; and]

[xvi.] **xv.** (No change in text.)

8. (No change.)

9. A service fee not to exceed $25.00 to cancel the mortgage, providing that the borrower has received prior written notice of the fee required by the lender, and providing further that if the lender collects the service fee at the time of the mortgage transaction and transfers the servicing rights prior to cancellation, the lender shall refund the service fee to the borrower.

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

3:1-16.3 Application process

(a) Before a lender or broker accepts any application fee in whole or in part, any credit report fee, appraisal fee or any fee charged as reimbursement for third party fees, the lender or broker shall make written disclosure to the borrower (which disclosure may be contained in the application) as required by this section or N.J.A.C. 3:1-16.10, respectively, setting forth:

1.-3. (No change.)

4. A realistic estimate of the number of calendar days required to issue a commitment following receipt of such fees by the lender. If the lender subsequently determines that the estimate is unrealistic, it may return the application and all fees paid and offer the borrower the opportunity to reapply subject to a new estimate; [and]

5. The name or title of a person within the lender's organization to whom the borrower may address written questions, comments, or complaints and who will be required to promptly respond to such inquiries[.]; **and**

6. For mortgage bankers non-servicing, a statement indicating that the licensee is a mortgage banker non-servicing and is thereby prohibited by New Jersey law from holding mortgage loans or servicing mortgage loans for more than 90 days in the regular course of business.

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

3:2-1.4 Violations of the Act

(a) (No change.)

(b) Without limiting (a) above, the following conduct shall be deemed deceptive or misleading:

1.-5. (No change.)

6. The advertisement of a mortgage loan or mortgage loan services by a mortgage banker or mortgage broker without including in the advertisement or broadcast announcement the words "licensed mortgage banker—N.J. Department of Banking", "licensed mortgage banker [non-servicing] **n.s.**—N.J. Department of Banking" **for a non-servicing mortgage banker** or "licensed mortgage broker—N.J. Department of Banking," whichever the case may be; and

7. (No change.)

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

3:38-1.3 Applications

(a)-(f) (No change.)

(g) A licensee shall submit the following to convert from a mortgage banker to a mortgage banker non-servicing or from a mortgage banker non-servicing to a mortgage banker;

1. The original license, and the licenses of all branch offices;

2. A completed conversion form, which shall include the name and address of the licensee, the requested date of conversion and a copy of the licensee's most recent semi-annual report of tangible net worth filed pursuant to N.J.A.C. 3:38-1.10;

3. For a conversion to a mortgage banker non-servicing, a signed affidavit from the president, a general partner or the sole proprietor stating that the licensee will not hold or service mortgage loans for more than 90 days in the regular course of business; and

4. A conversion fee of $200.00 plus $25.00 for each additional branch office.

(h) A licensee shall submit the following to convert from a mortgage banker or a mortgage banker non-servicing to a mortgage broker, or from a mortgage broker to a mortgage banker or a mortgage banker non-servicing:

1. The original license, the licenses of all branch offices and the licenses of all licensed individuals;

2. A completed conversion form, which shall include the name and address of the licensee, the requested date of conversion and a copy of the licensee's most recent semi-annual report of tangible net worth filed pursuant to N.J.A.C. 3:38-1.10;

3. For a conversion to a mortgage broker, a signed affidavit from the president, a general partner or the sole proprietor stating that the licensee will not issue commitments or lock-ins in its name, will not close mortgage loans in its name, and will only charge borrowers application fees and discount points; and

4. A conversion fee of $200.00, plus $25.00 for each additional branch office and for each licensed individual.

(i) The Department shall approve a conversion of a license pursuant to (g) or (h) above so long as the licensee satisfies the tangible net worth requirement for the license sought, or the license sought has the same or a lesser tangible net worth requirement as the tangible net worth requirement of the license held by the licensee.

3:38-4.1 Fees permitted

(a) No licensee shall charge a borrower any fees incident to the origination, processing or closing of a mortgage loan other than the following, except as otherwise authorized by State or Federal law, either explicitly or as interpreted by the appropriate regulator in official staff commentary, regulatory bulletins, or memoranda.

1.-6. (No change.)

7. Discount points or fractions thereof; [and]

8. Lock-in fees[.]; **and**

9. A service fee not to exceed $25.00 to cancel the mortgage, providing that the borrower has received prior written notice of the fee required by the licensee, and providing further that if the licensee collects the service fee at the time of the mortgage transaction and transfers the servicing rights prior to cancellation, the licensee shall refund the service fee to the borrower.

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

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Maintenance of Hotels and Multiple Dwellings

Proposed Readoption: N.J.A.C. 5:10

Proposed Amendments: N.J.A.C. 5:10-1.3, 1.6, 1.10, 1.11, 1.12, 2.2, 4.2, 5.1, 5.3, 5.4, 5.8, 7.7, 9.3, 10.1, 12.1, 12.2, 12.4, 13.1, 13.3, 14.3, 16.3, 17.1, 19.2 and 22.1

Proposed Repeals: N.J.A.C. 5:10-7.6, 13.5, 14.6 and 17.5

Authorized By: Stephanie R. Bush, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 55:13A-6(e), 55:13A-7 et seq.

Public Hearing: July 12, 1993.

Proposal Number: PRN 1993-333.

A **public hearing** on this proposal will be held on Monday, July 12, 1993 at 11:00 A.M. at the William Ashby Department of Community Affairs Building, 101 South Broad Street, Trenton, New Jersey.

Submit written comments by July 21, 1993, to:

Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, New Jersey 08625
FAX # (609) 633-6729

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Regulations for the Maintenance of Hotels and Multiple Dwellings, N.J.A.C. 5:10, are scheduled to expire on November 17, 1993.

The Department has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Therefore, N.J.A.C. 5:10 is proposed for readoption. Amendments are proposed that are necessary in order to avoid conflict with, or duplication of, provisions of the Uniform Fire Code, N.J.A.C. 5:18, and the elevator safety subcode of the Uniform Construction Code, N.J.A.C. 5:23-12.1 et seq., that are applicable to hotels and multiple dwellings and to make the rules consistent with statutory amendments concerning in-county agents and the inspection cycle for hotels and with existing procedure concerning recognition of certificates of occupancy for new buildings as equivalent to certificates of inspection. Provision is also made for reports concerning the correction of major structural deficiencies to be prepared by registered architects as well as by licensed professional engineers. Also, the definitions section is revised, a provision is added requiring, where possible, that temporary or alternate service be provided when required services are temporarily discontinued and pressure valves on heating equipment

are required to be connected to a pipe discharging not more than 20 inches above the floor surface. The use of non-ducted range hoods will be permitted under certain conditions.

Under the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., all hotels and multiple dwellings in the State are inspected at least once every five years to ensure compliance with the standards set forth in N.J.A.C. 5:10. (A provision in the rules that restates the statutory requirement, now repealed, that hotels be inspected once every three years is proposed to be deleted.) These standards cover such matters as general and structural maintenance, interior maintenance, waste disposal, screens and infestation, managerial and maintenance personnel, elevators, electrical service and lighting, heating, water supply, light and ventilation, storage and closet facilities, mailboxes and signs, building security, cooking and sanitary facilities, occupancy standards, parking areas and driveways, systems for indirect apportionment of heating costs in multiple dwellings, and vacant buildings.

The Department also proposes to implement the provision in N.J.S.A. 55:13A-13(e) (P.L. 1991, c.179) that "the commissioner shall provide by rule to owners the option of paying inspection fees in installments in the form of an annual fee." The annual fee is to be in the amount of 20 percent of the current inspection fee, except that the first annual fee is to be in the amount of 20 percent of the current inspection fee times the number of years that have elapsed since the last previous inspection for which an inspection fee was paid. The reason for this special provision for the first annual fee is that, while it is reasonable to allow owners the opportunity to avoid sudden changes in their finances by paying inspection fees in installments, the main purpose of P.L. 1991, c.179 was to make the hotel and multiple dwelling inspection program self-supporting, as it was intended to be when the 1970 fee schedule was established, and that this would not be possible if owners were to take five years to pay for inspections that have already been conducted, since the Department would then receive only 20 percent of the inspection fee revenue that it requires to cover the cost of the program in the current year. Moreover, an inspection fee is a personal obligation of the owner, not a lien on the property, and it would not be possible to require a new owner to pay the remaining installments of a fee for an inspection performed several years earlier. Therefore, the partial payment of an inspection fee shall be allowed only if the payment is made in advance of the inspection.

Social Impact

Readoption of the rules will insure continuity in inspection of existing hotels and multiple dwellings throughout the State. Failure to readopt these rules would result in incalculable harm to occupants of these buildings and to the general public, since there would no longer be any uniform standards for the maintenance of these buildings and therefore no effective enforcement mechanism.

Elimination of duplication of, and conflict with, rules adopted under the Uniform Fire Code and the Uniform Construction Code will remove a source of confusion for property owners and enforcement personnel alike.

By requiring that inspection fees be paid in full either right after the inspection is conducted or by annual fees paid in advance only, the proposed rules advance the goal of making the hotel and multiple dwelling inspection program self-supporting and better able to carry out its mission to protect the health, safety and welfare of residents of multiple dwellings, hotel guests and the public generally.

Economic Impact

There will be no economic change as a result of the readoption, or of the amendments and repeals, since no new fees are being established and no new procedural or technical requirements are being imposed. Failure to readopt might provide possible short term benefits to those owners who might be inclined to "cut corners," although this benefit might be tempered by loss incurred as a consequence of litigation, if injury is sustained as a result of improper maintenance. It has been the experience of the Department, however, that responsible owners are mainly concerned that standards and requirements be clear, so that it will be possible to know how to make sure that one's property is in compliance.

By applying the annual fee provision of P.L. 1991 c.179, the amendatory statute, in a manner that is consistent with the goal of ensuring the adequate funding of the inspection program, the Department both prevents an 80 percent reduction in the revenue that it can anticipate from inspection fees and delays the full favorable impact of the annual fee option for those owners who will have to pay inspection fees within the next four years. Once the cycle of annual fees has been established for a given owner, however, the owner will be credited with one-fifth of the inspection fee for each annual fee paid, thereby avoiding, at least in part, the impact of any intervening increase in fees. The advance receipt of inspection fees, through annual fees, will be of economic benefit to the Department. If additional revenue from annual fees is sufficient to offset increased costs, owners will benefit from lower or deferred increases, or perhaps even decreases, in inspection fees.

Regulatory Flexibility Analysis

In the interest of public health and safety, the same standards of maintenance of hotels and multiple dwellings, as contained in this chapter, must apply to buildings owned by small businesses as to those owned by other entities. Approximately half of the approximately 100,000 multiple dwellings in the State are three- or four-unit buildings that are likely to be owned by small business organizations, or by individuals.

The annual fee option is open to all owners, regardless of size or form of business organization. It must be made prospective only, for all owners, in order to insure both that the funding requirements of the housing inspection program are met and that fees are paid.

Full text of the proposed readoption and of the sections to be repealed may be found in the New Jersey Administrative Code at N.J.A.C. 5:10.

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

5:10-1.3 Administration and enforcement

(a) (No change.)

(b) [However, each] **Each** municipality and county of this State may be authorized by the Commissioner to enforce the provisions of this chapter within the corporate limits thereof, subject to the control and supervision of the Commissioner. Any such authorization shall be in accordance with the following terms and conditions:

1.-4. (No change.)

5. [In the case of multiple dwellings, the] **The** municipality or county shall inspect, in each State fiscal year, one-fifth of all the multiple dwellings **and hotels** and units of dwellings space therein. [In the case of hotels, the municipality or county shall inspect, in each State fiscal year, one-third of all the hotels and units of dwellings space contained therein.]

6.-28. (No change.)

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

5:10-1.6 Maintenance requirements

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

(d) A nonprofit corporation owning or controlling buildings of three stories or less in a retirement community, which are excluded from the definition of "multiple dwelling" pursuant to P.L. 1983, c.154, shall maintain all such buildings in compliance with the [basic standards for fire safety as set forth in the] Uniform Fire Code, N.J.A.C. 5:18 [and, until June 16, 1989, in the following rules:

1. N.J.A.C. 5:10-5.1(d), insofar as it relates to storage of materials near electrical or heating devices or equipment or similar possible sources of fire;

2. N.J.A.C. 5:10-5.3;

3. N.J.A.C. 5:10-5.4, insofar as it relates to garbage or refuse left on or in stairways, fire escapes and common hallways, or blocking egress from units or creating a fire hazard, or the use and maintenance of cooking and heating equipment;

4. N.J.A.C. 5:10-5.6(b) and (c);

5. N.J.A.C. 5:10-5.8, insofar as it relates to the storage of combustible materials;

6. N.J.A.C. 5:10-6.1, insofar as it relates to fire hazards;

7. N.J.A.C. 5:10-7.6;

8. N.J.A.C. 5:10-7.7;

9. N.J.A.C. 5:10-8.3;

10. N.J.A.C. 5:10-8.4;

11. N.J.A.C. 5:10-9.3(b)1-2;

12. N.J.A.C. 5:10-13.1(a), (b)5-7, (c), (d) and (e);

13. N.J.A.C. 5:10-14.3;

14. N.J.A.C. 5:10-14.5(a) and (c);

15. N.J.A.C. 5:10-14.6;

16. N.J.A.C. 5:10-14.7, insofar as it relates to fire hazards;

17. N.J.A.C. 5:10-17.1(a) and (d), insofar as it relates to fire hazards;
18. N.J.A.C. 5:10-17.2;
19. N.J.A.C. 5:10-17.5;
20. N.J.A.C. 5:10-20.1(a)6;
21. N.J.A.C. 5:10-22.1(a)3;
22. N.J.A.C. 5:10-24.3;
23. N.J.A.C. 5:10-25; provided that battery-powered single station type smoke detectors shall be permitted as an alternative to the alternating current (AC) constantly active electric circuit type detection system required in common areas, pursuant to N.J.A.C. 5:10-25.3(b), and the maintenance requirements set forth in N.J.A.C. 5:10-25.3(b) shall apply to any such common area battery-powered single station type smoke detectors].

(e) [The maintenance requirements set forth in the Uniform Fire Code, N.J.A.C. 5:18, shall supersede the standards for fire safety set forth in the rules cited in (d)1 through 23 above with regard to all multiple dwellings seven stories or more, or over 75 feet, in height, and in all hotels four stories or more in height or having more than 100 rooms, as of December 19, 1988, and shall be the sole fire safety maintenance requirements applicable to all multiple dwellings and hotels on and after June 16, 1989.

1. All retrofit work required to be done in any hotel or multiple dwelling shall be done in accordance with the Uniform Fire Code, N.J.A.C. 5:18.] All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with [all] **the Act insofar as issues of** fire safety [requirements set forth in this chapter] **are concerned**.

(f) (No change.)

5:10-1.10 Bureau inspections

(a) (No change.)

(b) The Bureau of Housing Inspection shall cause inspections to be made periodically of completed buildings. Each multiple dwelling **and each hotel** shall be inspected once in every five years [and hotels once in every three years.]

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

(f) Upon reasonable request of the Bureau, the owner of any hotel or multiple dwelling in which any major structural deficiency constituting a violation of this chapter has been found to exist, and the correction of which would require the issuance of a building permit by the construction official having jurisdiction, shall provide to the Bureau, at the sole cost and expense of such owner, an [engineering] analysis and report, prepared by a licensed professional engineer **or registered architect**, which specifies the work necessary to correct such violation and the manner in which it should be accomplished, and certification by a licensed professional engineer **or registered architect** that such violation has been properly corrected and that any hazard that may have been created by such violation has been eliminated.

(g) (No change.)

5:10-1.11 Certificate of registration

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

(f) The owner of each hotel, retreat lodging facility or multiple dwelling shall appoint an agent for the purpose of receiving service of process and such orders or notices as may be issued by the Bureau of Housing Inspection pursuant to the Act. Each such agent so appointed shall be a resident of [this State or] **the county in which the hotel or multiple dwelling is located or shall have an office in the county. If the agent is** a corporation, **it shall be** licensed to do business in this State.

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

5:10-1.12 Certificate of inspection

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

(f) A certificate of occupancy issued by the local construction official for a newly-constructed building, pursuant to N.J.A.C. 5:23, shall be equivalent to a certificate of inspection. A certificate of inspection, and the fees therefor, shall not be required until five years after the date of issuance of the certificate of occupancy.

(g) An owner shall have the option, in accordance with the provisions of this subsection, of paying an annual fee in lieu of the inspection fee otherwise payable as a condition of the issuance of a certificate of inspection for the hotel or multiple dwelling.

1. The annual fee shall be in the amount of 20 percent of the current inspection fee chargeable for the hotel or multiple dwelling.

2. The annual fee shall be payable every year for five years on the anniversary date of the last previous inspection; provided, however, that the first annual fee paid for a hotel or multiple dwelling shall be in an amount equal to 20 percent of the current inspection fee times the number of years that shall have elapsed since the last previous inspection, but not more than five years. If, at the time of an inspection, there have been paid fewer than five annual fees, or the equivalent paid in a first annual fee, the balance shall be paid at the rate of 20 percent of the current inspection fee for each unpaid annual fee.

3. The total amount of the annual fees required to be paid for a hotel or multiple dwelling shall in no case exceed the amount of the inspection fee that would be required if the annual fee option had not been chosen. In the event that the amount of the inspection fee chargeable for the hotel or multiple dwelling is increased by rule during the period between inspections, the increase shall not be retroactive to annual fees already paid.

5:10-2.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise; **provided, however, that in the event of any disparity between a definition set forth in this section and a cross-referenced statutory definition, the statutory definition shall govern.**

...

"Architect" means a person registered to practice the profession of architecture under the laws of the State of New Jersey.

...

["Automatic operation" as applied to an elevator, means operation whereby the starting of the car is effected in response to the momentary actuation of operating devices at the landing, and/or of operating devices in the car identified with the landings and/or in response to an automatic starting mechanism, and whereby the car is stopped automatically at the landings.]

...

"Board" **means the Hotel and Multiple Dwelling Health and Safety Board.**

Cross reference

See N.J.S.A. 55:13A-3(c).

...

"Bureau" **means the Bureau of Housing Inspection.**

Cross reference

See N.J.S.A. 55:13A-3(d).

["Car door or gate", as applied to an elevator, means the sliding portion of the car that closes the opening giving access to the car.

"Car door or gate switch", as applied to an elevator, means the sliding portion of the car that closes the opening giving access to the car.]

...

["Chain drive machine", as applied to an elevator, means an indirect drive machine having a chain as the connecting means.]

...

"Condominium" means the form of ownership of real property under a master deed providing for ownership by one or more owners of units, together with an undivided interest in common elements appurtenant to each such unit.

Cross references

See N.J.S.A. 46:8B-3 and 55:13A-3(q).

...

"Construction class (group)" means the category in which a building or space is classified based on the fire-resistance ratings of its construction elements as set forth in the current edition of the BOCA [Basic] **National** Building Code.

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or

other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

Cross reference

See N.J.S.A. 55:13A-3(r).

...

["dbA" means decibel, which is a numerical expression of the relative loudness of a sound.]

...

"Director" means the Director of the Division of Housing **and Development.**

...

"Dwelling unit" **means a room or rooms, or suite or apartment, that is occupied or intended to be occupied for sleeping or dwelling purposes by one or more persons.**

Cross reference

See N.J.S.A. 55:13A-3(h).

...

[Emergency interlock release switch", as applied to an elevator, means a device to make inoperative, in case of emergency, door or gate electric contacts or door interlocks.]

...

["Fire alarm" means a system, automatic or manual, arranged to give a signal indicating a fire emergency.

"Fire partition" means a vertical, horizontal, or other construction having the required fire resistance rating to provide a fire barrier between adjoining rooms or spaces within a building, building section or fire area.]

...

"Fire separation wall" means a fire resistance rated assembly of materials having protected openings which is designed to restrict the spread of fire.

...

["Flammable" means capable of being easily ignited when exposed to flame, and which burns intensely, or has a rapid rate of flamespread.]

...

["Hereafter" means on or after the effective date of these regulations.

"Heretofore" means before the effective date of these regulations.

"Hoistway" means an enclosed or partly enclosed shaft used for the travel of an elevator, dumbwaiter, platform or bucket.

"Hoistway door", as applied to an elevator, means the hinged or sliding portion of a hoistway enclosure which closes the opening giving access to a landing."

"Hoistway door interlock" means a device used to prevent the operation of the driving machine of an elevator by the normal operating device unless the hoistway door is locked in the closed position, and also used to prevent the opening of the hoistway door from the landing side unless the car is within the landing zone and is either stopped or being stopped.]

"Hotel" **means any building, including but not limited to any related structure, accessory building and land appurtenant thereto, and any part thereof, which contains ten or more dwelling units or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to guests. "Hotel" also means any facility that is commonly regarded as a hotel, motor hotel, motel or established guesthouse in the community in which it is located. "Hotel" does not include those facilities that are excluded by statute.**

Cross-reference

See N.J.S.A. 55:13A-3(j).

...

"Law" or "Act" means N.J.S.A. 55:13A-1 et seq., the Hotel and Multiple Dwelling [Health and Safety] Law.

...

"Minor" **means any person who is under the age of 18.**

Cross-reference

See "Emancipated minor" and "Unemancipated minor" of this section.

"Multiple dwelling" **means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded by statute.**

Cross-reference

See N.J.S.A. 55:13A-3(k).

["Multiple station unit" means a smoke detector which may be either a single station unit interconnected with other single station units for common alarm annunciation or a smoke detector of the non-selfcontained alarm type connected to a remote alarm in a system designed to be connected to an alternating current (AC) power supply source.]

...

"Mutual housing corporation" means a not-for-profit corporation incorporated under the laws of the State of New Jersey on a mutual or cooperative basis within the scope of the "Lanham War Housing Act," 42 U.S.C. Sect. 1501 et seq., which acquired a National Defense Housing Project pursuant to said act.

Cross-reference

See N.J.S.A. 55:13A-3(p).

...

["Noncombustible" means a material which, in the form in which it is used in construction, will not ignite and burn when subjected to fire. However, any material which liberates flammable gases when heated to any temperature up to 1,380 degrees Fahrenheit for five minutes shall not be considered noncombustible. No material shall be considered noncombustible which is subject to increase in combustibility beyond the limits established above, through the effects of age, fabrication or erection techniques, moisture or other interior or exterior atmospheric conditions.]

...

["Opening protective" means an assembly of materials and accessories, including frames and hardware installed in an opening in a wall, partition, floor, ceiling or roof to prevent, resist, or retard the passage of flame, smoke or hot gases.

"Operator" means any person who shall either be:

1. Designated to manage or operate any hotel or multiple dwelling on behalf of the owner pursuant to N.J.S.A. 55:13A-12(a)A12 of the law; or

2. In the absence of compliance with Section 12(a), actually managing or operating any hotel or multiple dwelling; or

3. If registration under paragraph 1 of this subsection or evidence of management or operation under paragraph 2 of this subsection is not available, the person collecting rents or making charges for use of the premises; or

4. In the absence of a person satisfying paragraphs 1, 2 or 3 of this subsection, the superintendent, janitor or resident caretaker, having any responsibility for the maintenance of the premises.]

"Owner" **means any person who owns, purports to own, or exercises control of any hotel, multiple dwelling or retreat lodging facility.**

Cross reference

See N.J.S.A. 55:13A-3(1).

...

"Person" **means any individual, corporation, association, or other entity.**

Cross-references

See N.J.S.A. **1:1-2 and** 55:13A-3(m).

...

"Project" **means a group of buildings subject to the Act that:**

1. Are or are represented to be under common or substantially common ownership;

2. Are on a single lot or contiguous lots, and

3. Are named, designated or advertised as a common entity. Lots shall be considered to be contiguous even if they are separated by a public right-of-way.

Cross-reference

See N.J.S.A. 55:13A-3(o).

"Protective equipment" **means any equipment, device, system or apparatus required or permitted to be constructed or installed in any hotel or multiple dwelling for the protection of occupants, intended occupants or the general public.**

Cross-reference

See N.J.S.A. 55:13A-3(i)

...

"Regulations" means [all regulations promulgated as required under N.J.S.A. 55:13A-7] **the rules contained in this chapter.**

...

"Retreat lodging facility" **means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the Federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices or one or more corporations or associations having tax-exempt charitable status under the Federal Internal Revenue Code, which are made available without any mandatory charge to such participants.**

Cross-reference

See N.J.S.A. 55:13A-3(s).

...

["Single station unit" means a smoke detector which contains an alarm.]

...

["Smoke detector" means a fire alarm device which consists of an assembly of electrical components including a smoke chamber and provision for connection to a power source and may either be a single station unit or a multiple station unit.

"Smoke detector of the non-selfcontained type" means a smoke detector, not connected to an alarm, which is interconnected to a common alarm or series of alarms.

"Sprinkler system" means a system of piping and sprinkler heads connected to one or more sources of water supply.]

...

["Tag" means a sticker affixed to a smoke detector containing space for the entry of initials of the person inspecting each detector and the date of inspection.]

...

"Unit of dwelling space", **See "Dwelling unit" of this section.**

Cross-reference

See N.J.S.A. 55:13A-3(h).

...

5:10-4.2 Discontinuation of services

(a) No person shall intentionally cause any service, facility, equipment or utility which is required to be supplied under [these regulations] **this chapter** to be removed, [from or] shut off [from] or discontinued [in], or [after knowledge of the same, to] **knowingly** allow [to remain out of use or unavailable for] **such condition to continue, when the condition affects** any occupied unit of dwelling space[, except for]

1. This section shall not be applicable to such temporary interruption as may be necessary when actual repairs or alterations are in process or during temporary emergencies when discontinuance of services is caused by any public utility[,] **or** public agency or **is** approved by the bureau.

(b) In the event of any discontinuation of services, [Repairs] **repairs** shall be performed expeditiously to minimize inconvenience to occupants **and, to the greatest extent possible, temporary or alternate service shall be provided until permanent service can be restored.**

5:10-5.1 Responsibility of occupants

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

(d) All items stored by occupants in any area provided for common storage by occupants of more than one unit of dwelling space shall bear the name and dwelling unit number of the occupant storing the said item or items. It shall be the responsibility of the occupant to label each item and maintain it labeled. Materials stored in such areas shall be secured against becoming sources of infestation and shall not be placed [near electrical or heating devices or equipment or similar possible sources of fire or otherwise] **so as to** create a hazard.

5:10-5.3 Prohibited acts

(a) No occupant[,] or [any] other person shall:

1. [Remove or render inoperative any self-closing device on any door which is required by any provision of law to be self-closing, or cause or permit such door to be held open by any device] **Create or maintain any condition constituting a violation of the Uniform Fire Code, N.J.A.C. 5:18;**

2. [Place any encumbrance on or obstruct any means of egress;

3.] Take down, obscure, alter, destroy, or in any way deface any notice, certificate or sign required by this chapter to be displayed; **or**

[4. Cause any breach or substitution of materials which would impair any fire wall or partition required for fire protection;

5.] **3.** Destroy [safety] **or damage protective** equipment[, empty fire extinguishers or remove fire hoses from racks].

5:10-5.4 Unsafe and unsanitary conditions

(a) (No change.)

(b) Occupants of each unit of dwelling space shall be responsible to the extent of their own use and activities for keeping the interior thereof safe and sanitary. Occupants shall prevent any accumulation of garbage or waste matter which may become a source of infestation[, a fire hazard or block access to the means of egress from the unit].

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

(f) No occupant shall cause excessive grease, soot or other foreign matter to accumulate on side walls, ceilings or other exposed room surfaces by improper use of heating or cooking equipment. Cooking equipment shall be kept clean, free of garbage, food particles and grease. [Hoods, fans and ducts used in conjunction with cooking facilities shall be kept free of grease and other flammable materials and shall be cleaned by the occupants as frequently as is necessary to eliminate fire hazards.]

5:10-5.8 Storage

No occupant shall utilize any area outside of his dwelling space for storage purposes except [where so] **in an area** designated for such use in accordance with [these regulations] **N.J.A.C. 5:10-5.1(d).** [Combustible materials shall either be stored in a fire-resistant compartment with a one-hour fire rating or stored and packed in containers in such a manner as to eliminate such material as a fire hazard.]

5:10-7.7 Railings

(a) (No change.)

(b) [Stair rails shall be provided on the exposed side of any interior or exterior stairway. The height of the stair rail shall not be less than 27 inches nor more than 33 inches in height.

(c)] Guard rails shall be provided on exterior corridors, balconies, landings or porches having more than a three-foot drop to the adjoining level **and on the exposed side of any interior or exterior stairway.** The height of the guard rail shall not be less than 30 inches [in height].

1.-2. (No change.)

5:10-9.3 Dumbwaiters

(a) (No change.)

[(b) Dumbwaiters where existing shall be equipped with a self-closing door with fire rating conforming to the following requirements:

1. Dumbwaiters: Shaft enclosure of dumbwaiters having a car area of less than nine square feet, which travel through more than one story and serve two or more adjacent floors, shall be enclosed with construction of two-hour fire resistance;

2. Special dumbwaiters: Shaft enclosures of dumbwaiters not more than three square feet in area, having a load capacity of not more than 25 pounds per square foot serving not more than two adjacent floors, shall be constructed of approved non-combustible materials without fire resistance rating;

[3.] **(b)** Every existing device shall be maintained and inspected [to the requirements specified in ANSI A17.1] **in accordance with N.J.A.C. 5:23-12.1 et seq.**

5:10-10.1 Screens

(a) Screens suited to protect the interior of the building against mosquitoes, flies and other undesirable insects shall be provided and kept in good repair for each exterior door ([see] **except as otherwise provided in** exception 2 **below**) and each openable window in habitable and occupiable rooms and common areas. Screens shall be installed and maintained by the owner on all such doors and windows at least from May 1 to October 1 of each year. All screens required pursuant hereto shall be affixed either to the window frame or to the upper sash and the window frame. Fixed windows need not be provided with screens.

1. (No change.)

2. Exception 2: Exterior doors which do not provide any portion of the minimum ventilation area of at least [five] **four** percent of the floor area of the room or space ventilated.

3.-5. (No change.)

5:10-12.1 Standard of maintenance

(a) All elevators shall be so maintained as to meet the standards established and set forth in [ANSI A17.1] **N.J.A.C. 5:23-12.1 et seq.** The elevator doors, flooring, safety devices and operating mechanisms shall be maintained in good working order and free of hazards.

(b) The owner or the agent of the owner of a building containing one or more elevators shall have, and shall provide for inspection by the Bureau's representative, a current certificate of compliance, issued pursuant to N.J.A.C. 5:23-2.23(j), for each such elevator.

5:10-12.2 Preventive maintenance

All elevators and elevator equipment and accessory devices shall be provided with preventive maintenance and inspections as required by [ANSI A17.1] **N.J.A.C. 5:23-12.1 et seq.**

5:10-12.4 [Retroactive provisions] **Mirrors**

[(a) Emergency interlock release switch: Emergency interlock release switches in elevator cars, where provided, shall be of the key-operated continuous-pressure type and all other types not in use shall be removed or replaced with approved key-operated, continuous-pressure type switches.

(b) Machines, belt and chain driven: Single-belted and chain-driven machines shall be permitted only on freight elevators and only when equipped with electrically released, spring applied brakes and with terminal stopping devices as required in ANSI A17.1.

(c) Machines, drum winding: Drum winding machines shall be equipped with electrical machines limits as set forth in ANSI A17.1.

(d) Car gate switches, addition, replacement or relocation of: Car gate electrical contacts where such devices are not provided or are found to be tied or blocked so as to render them inoperative shall be added, replaced or relocated as required by the bureau. Installation or replacement of car gate electric contacts shall conform to the requirements of ANSI A17.1.

(e) Passenger elevator hoistway-door interlocks: All existing passenger elevators not presently equipped with hoistway doors having door interlocks shall be provided with hoistway landing doors equipped with approved hoistway-door interlocks conforming to the requirements of ANSI A17.1. Approved type interlock switches may be installed in connection with exiting hoistway door closers, provided the combination door closers and interlocks conform to all the requirements for approved hoistway-door interlocks. The use of elevator parking devices and hoistway door unlocking devices for opening hoistway doors from the landing side shall conform to the requirements of ANSI A17.1.

1. Exceptions: Interlocks or electric contact shall not be used on hydraulic elevator landing doors or gates except where such elevators are provided with electric control and operating devices.

(f) Emergency signal: Automatic operation elevators or any elevator operating at any time without a designated operator shall be provided with an audible emergency signal;

(g) Mirrors:] In all hotels and multiple dwellings in which there are one or more self-service elevators, there shall be affixed and maintained in each elevator a mirror [which] **that** will enable persons, prior to entering into such elevator, to view the inside thereof to determine whether any person is in such elevator.

5:10-13.1 Electrical service

(a) (No change.)

(b) The following electrical installations shall be provided and hereafter properly maintained in all hotels and multiple dwellings:

1.-4. (No change.)

5. Heating equipment requiring electrical energy for operation or control shall be provided with an individual circuit. [A disconnect switch shall be provided on or adjacent to the heating equipment or at the top of the basement or cellar stairs.]

6.-7. (No change.)

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

5:10-13.3 Artificial lighting

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

[(e) Every required exit shall have light available at all times, with an illumination of at least three-foot candles. Such light shall be measured 30 inches from the floor at the center of the room.]

(Redesignate (f)-(g) as (e)-(f).)

5:10-14.3 Standards of maintenance

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

(e) Any pressure relief valve on any type of heating unit shall be connected to a pipe that discharges vertically toward the floor to a maximum distance of twenty inches from that floor surface.

5:10-16.3 Mechanical ventilation

(a) Where the required natural ventilation is not provided, [than] there shall be ventilation by mechanical means[, expelling air directly to the outdoors], conforming to the following requirements:

1. Kitchens and kitchenettes [located within dwelling units] shall be ventilated by mechanical means [exhausting] **so as to exhaust** at least two cubic feet of air per minute per square foot of floor area **directly to the outdoors or by means of a properly installed and maintained electrically-powered non-ducted range hood equipped with an activated charcoal filter for the elimination of cooking odors**;

[2. Kitchens and side spaces, where cooking of any kind is done, shall be ventilated by mechanical means exhausting at least three cubic feet of air per minute per square foot of floor area, but in no case less than 150 cubic feet of air per minute;]

(Renumber 3. as 2.)

[4.]**3.** Bathrooms and toilet rooms containing only one water closet or urinal shall be mechanically vented by an exhaust system [capable of exhausting] **that exhausts** at least 50 cubic feet of air per minute. Means shall be provided for air ingress by louvers in the door, by undercutting the door or by transfer ducts, grilles or other openings.

[5.]**4.** Bathrooms and toilet rooms containing more than one water closet or urinal shall be mechanically vented by an independent exhaust system [capable of exhausting] **that exhausts** at least 40 cubic feet of air per minute per water closet or urinal.

5:10-17.1 Storage of [occupants] **occupants'** property

(a) Any storage area available to or used by occupants in common areas shall [be separated from all parts of the building used for dwelling purposes by fire-resistant partitions, walls, ceilings or barriers having a fire resistance rating not less than one hour.

(b) Each] **have each** space within the area [shall be] separately designated for each unit of dwelling space and a list identifying each

such space **shall be** retained by the person in charge of the premises[,] or, if the space is used in common by occupants of more than one unit of dwelling space, then all items so stored shall bear the identification of the occupant[s] storing the [said] item or items.

(Redesignate (c)-(d) as (b)-(c).)

5:10-19.2 Multiple dwellings

(a) The following provisions apply to multiple dwellings.

1.-2. (No change.)

3. All exterior entrance doors to common **basement,** cellar or storage areas shall be self-closing and lockable.

4.-11. (No change.)

5:10-22.1 Basements and cellars

(a) Basements and cellars may be used for dwelling space provided that:

1. The entire area constituting the dwelling unit must comply with all requirements set forth in this chapter applicable to habitable rooms or areas **and to all requirements set forth in N.J.A.C. 5:18 applicable to dwelling units in basements or stories below grade; and**

2. The floors, ceiling and walls of each unit of dwelling space must be free of moisture.[; and

3.There shall be at least two approved independent exits remote from each other from the basement or cellar dwelling space except that no second independent exit shall be required from any basement or cellar area not designed, or intended by the owner to be used, for cooking or sleeping. An outside window openable from the inside without the use of tools and providing a clear opening of not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area, with the bottom of the opening being not more than 44 inches above the floor shall be an acceptable exit, provided that unrestricted access to the outside grade is maintained.]

(a)

DIVISION OF COMMUNITY RESOURCES

Office of Recreation Rules Handicapped Persons Recreational Opportunities Proposed Readoption with Amendments: N.J.A.C. 5:51

Authorized By: Stephanie R. Bush, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-173.

Proposal Number: PRN 1993-334.

Submit written comments by July 21, 1993 to:

Patricia Swartz, Supervisor
Office of Recreation
Department of Community Affairs
CN 814
Trenton, NJ 08625

The agency proposal follows:

Summary

N.J.A.C. 5:51, which is entitled "Office of Recreation" and contains rules implementing the Handicapped Persons' Recreational Opportunities Act of 1978, is scheduled to expire on September 1, 1993, pursuant to Executive Order No. 66(1978).

The Department of Community Affairs has reviewed these rules and finds that they continue to be necessary and appropriate for the purpose of implementing this statute and it is therefore proposing that they be readopted.

The Handicapped Persons' Recreational Opportunities Act of 1978 and the implementing rules are intended to encourage, and to support the promotion, planning, development, implementation and maintenance of, comprehensive recreational and leisure services to persons with disabilities by local governments, to reinforce the status of persons with disabilities as members of a total society and to promote the least restrictive environment in providing recreation and leisure services for persons with disabilities. The rules include definitions of eligible applicants and activities, application procedures and the procedure to be followed by the Department in processing applications.

The term "handicapped persons," where it appears in the chapter (other than in the name of the statute itself), is being changed to "persons with disabilities."

Reference to the Governor's Council on Physical Fitness and Sports is being deleted because that council is no longer involved in the administration of the program.

The address of the Office of Recreation is now CN 814, rather than CN 005.

In N.J.A.C. 5:51-1.4, a brief summary of the terms of an agreement between a non-profit agency and a local government will no longer be required to be included as part of the application for funding.

A copy of a resolution indicating that the match requirement of N.J.A.C. 5:51-1.3(c)3 will be acceptable as a form of fiscal certification from the local government.

Social Impact

In Fiscal Year 1993, the Department awarded grants totaling $500,000 for recreational programs in 73 municipalities. Failure to readopt these rules would leave the Department without an established procedure for processing and evaluating future applications, which would be detrimental to the intended beneficiaries of these programs.

Economic Impact

Readoption of the rules will have no economic impact, since the cost of the program is determined by the appropriation made for that purpose in the annual State budget. In the 1993 fiscal year, that amount totaled $500,000.

Regulatory Flexibility Statement

These rules affect applications made by local governments for funding for programs intended to benefit individuals with disabilities. They do not have any impact upon "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Full text of the rules proposed for readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:51.

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

5:51-1.1 Introduction and general provisions

(a) The Handicapped Persons' Recreational Opportunities Act of 1978 **was enacted to** encourage[s] and support[s] the promotion, planning, development, implementation and maintenance of comprehensive recreation and leisure services to [handicapped] persons **with disabilities** by municipal and county governments as a public policy of the State of New Jersey.

(b) The Handicapped Persons' Recreational Opportunities Act of 1978 is administered by the Department of Community Affairs through the Office of Recreation [and in cooperation with the Governor's Council on Physical Fitness and Sports]. All correspondence and inquiries should be addressed to the Office of Recreation, Department of Community Affairs, 101 South Broad Street, CN [005] **814**, Trenton, New Jersey 08625.

(c) The general purposes of the Handicapped Persons' Recreational Opportunities Act are:

1. To reinforce the status of [handicapped] persons **with disabilities** as members of [a] **the** total society;

2. To promote the least restrictive environment in providing recreation and leisure services for [handicapped] persons **with disabilities**; **and**

3. To assist local governments in the commencement or expansion of recreation and leisure services for [handicapped] persons **with disabilities.**

5:51-1.2 Definitions

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

...

"Comprehensive Recreation Services" means a continuous integrated or specialized recreation and leisure service program for [the handicapped which] **persons with disabilities that** promotes and provides the least restrictive environment for [a handicapped person]

a person with disabilities as an integral and on-going aspect of a local government's recreation and leisure service program.

...

["Handicapped Persons"] **"Persons with disabilities"** means persons who are mentally retarded, visually [handicapped] **disabled**, auditorily [handicapped] **disabled**, communication [handicapped] **disabled**, neurologically or perceptually impaired, orthopedically [handicapped] **disabled**, chronically ill, emotionally disturbed, socially maladjusted, multiply [handicapped] **disabled** or developmentally disabled.

...

"Non-Profit Agency" means a private non-profit agency serving [handicapped] persons **with disabilities**.

"Non-Profit Agency Resolution" means a formal written resolution signed by the chairman of the board of directors of [said] **a** private non-profit agency certifying [their] **the non-profit agency's** intent to enter into an agreement with a local government to service the recreation and leisure needs of [handicapped] persons **with disabilities**.

...

"Special Event" means a relatively short-term special activity or program that fulfills particular and specific objectives for those [handicapped] persons **with disabilities** participating.

5:51-1.3 Eligible applicants

(a) (No change.)

(b) The following activities for [the handicapped] **persons with disabilities** shall be accepted as eligible activities for participation in the program.

1.-2. (No change.)

(c) (No change.)

5:51-1.4 Application procedure

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

(e) A non-profit agency serving [handicapped] persons **with disabilities** [will be] **may become** eligible to participate in the program [through] **by entering into** a formal agreement with a local government. The name and address of the non-profit agency [with a brief summary of the terms of the agreement] shall be submitted as **an** attachment[s] to the [proposal] application.

(f) (No change.)

(g) The proposed third party agreement between the local government and the non-profit agency serving [handicapped] persons **with disabilities** must be completed in compliance with the Local Public Contract Law, as determined by the [Divisions] **Department**.

(h) (No change.)

5:51-1.5 Application processing and review procedure

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

(d) Prior to any payment being made **by the Department**, a local government shall submit one of the following documents:

1.-2. (No change.)

3. A letter from the Chief Financial Officer or the Chief Executive Officer stating that, upon adoption of its budget, the local government shall comply with N.J.S.A. 52:27D-170 et seq.; [or]

4. A certificate guaranteeing that the local government will include in its budget an appropriation for the necessary matching funds and, upon adoption of the budget, will comply with N.J.S.A. 52:27D-170 et seq.; **or**

5. A copy of a resolution indicating that the match requirement of N.J.A.C. 5:51-1.3(c)3 shall be met.

(a)

DIVISION OF AGING

Congregate Housing Services Program Service Subsidy Formula

Proposed Amendment: N.J.A.C. 5:70-6.3

Authorized By: Stephanie R. Bush, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-188.

Proposal Number: PRN 1993-335.

Submit written comments by July 21, 1993 to:

Lois Hull, Director
Division on Aging
CN 807
Trenton, NJ 08625

The agency proposal follows:

Summary

The schedule of service subsidies for the year 1992 is deleted. Notice of the upper and lower limits of income categories, and the service subsidy percentages for each, are henceforth to be given by public notice, rather than by an annual rule change. Since the rule already provides that the adjustments in the limits of each income category are automatic because they are based on the percentage increase in Social Security benefits, it is not necessary to amend the rule each time the figures change. A public notice in the New Jersey Register will serve as well as a rule change for purposes of notifying the public.

Social Impact

The proposed amendments, when adopted, will assure the senior citizens who reside in housing projects served by the Congregate Housing Services Program that cost of living adjustments related to service subsidies will be made immediately. While there is no change in economic effect caused by the proposed new method of adjustment of service subsidies, those senior citizens who are affected may be reassured by the more prompt implementation of the cost of living adjustments.

Economic Impact

To the extent that costs are incurred by the Department or by the Office of Administrative Law in publishing rules, these costs will be reduced by substituting a single annual notice for annual proposal and adoption notices. There is no economic impact on the residents of the Congregate Housing Program.

Regulatory Flexibility Statement

This proposed amendment affects only individuals who are eligible for income-based subsidies under the Congregate Housing Services Program. It does not affect small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a Regulatory Flexibility Analysis is not required.

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

5:70-6.3 Income, program costs, and service subsidy formula

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

(e) Service subsidies for eligible program participants [will] **shall** be provided in accordance with the following formula, **as adjusted pursuant to (f) below**:

1. (No change.)

[2. The following STEP II shall be operative from January 1, 1992 through December 31, 1992:

D.I. of $0.00 to $191.00: SERVICE SUBSIDY = 95 percent of PROGRAM COST; PARTICIPANT PAYMENT = 5 percent of PROGRAM COST (CATEGORY A.)

D.I. of $191.01 to $320.00: SERVICE SUBSIDY = 80 percent of PROGRAM COST; PARTICIPANT PAYMENT = 20 percent of PROGRAM COST (CATEGORY B.)

D.I. of $320.01 to $450.00: SERVICE SUBSIDY = 60 percent of PROGRAM COST; PARTICIPANT PAYMENT = 40 percent of PROGRAM COST (CATEGORY C.)

D.I. of $450.01 to $581.00: SERVICE SUBSIDY = 40 percent of PROGRAM COST; PARTICIPANT PAYMENT = 60 percent of PROGRAM COST (CATEGORY D.)

D.I. of $581.01 to $711.00: SERVICE SUBSIDY = 20 percent of PROGRAM COST; PARTICIPANT PAYMENT = 80 percent of PROGRAM COST (CATEGORY E.)]

[3.]**2.** (No change in text.)

(f) The categories of disposable income set forth in (e) above for use in determining percentage levels of program service subsidies shall be adjusted annually on January 1 **for all years after 1993**. The adjustment shall be made on the basis of the percentage increase in Social Security benefits given to Social Security recipients pursuant to 42 U.S.C.A. 415 for the immediately preceding calendar year. [Each] **The limits defining each** income category set forth above [will be multiplied] **shall be determined annually by multiplying the income limits for the previous year** by such percentage increase. The Division on Aging shall ensure that **a public notice of the upper and lower limits of each category of disposable income for the coming year, together with the program service subsidy for each such category, is published in the New Jersey Register prior to the end of each calendar year and that** appropriate notification of each such annual adjustment is **otherwise** properly [made] **given to interested parties.**

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

WATER SUPPLY ELEMENT

Allocation of Water Supply Costs for Emergency Water Projects

Proposed Readoption with Amendments: N.J.A.C. 7:1D

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Authority: P.L.1981, c.28, and P.L.1981, c.29.

DEPE Docket Number: 35-93-05.

Proposal Number: PRN 1993-331.

Submit written comments, identified by the Docket Number above, by July 21, 1993 to:

Janis E. Hoagland, Esq.
Office of Legal Affairs
Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625-0402

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 7:1D will expire on November 28, 1993. The Department of Environmental Protection and Energy (Department) has reviewed the rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department anticipates that this will be the final readoption of the rules since the loan obligations for which these rules set guidelines are expected to be satisfied within the next five-year period. The Department proposes to readopt the rules with only minor revisions pertaining to modifications in the name of the Department of Environmental Protection and the Board of Public Utilities, pursuant to Reorganization Plan No. 002-1991 as set out under N.J.S.A. 13:1D-1.

The rules provide a mechanism for reimbursement to the State of the costs of certain emergency water supply projects originally constructed in response to the drought of 1980-82. These projects were constructed to provide water to the drought-stricken portions of the State. The State awarded funds for the construction of the emergency water supply projects to the following water purveyors: Jersey City Water Department, Newark Water Department, North Jersey District Water Supply Commission, Hackensack Water Company, Passaic Valley Water Commission, Elizabethtown Water Company, and the Commonwealth Water Company. The rules set forth the terms and conditions of reimbursement to the State by the purveyors, as the beneficiaries of the projects.

The rules were promulgated pursuant to P.L. 1981, c.28, and P.L. 1981, c.29, which authorized the Department, in coordination with the Board of Public Utilities, to develop a program to charge any water supply user benefitting from a water supply project constructed with funds from the Clean Water Fund (created pursuant to the "Clean Water Bond Act of 1976," P.L. 1976, c.92), and from any water supply interconnection facility constructed with funds from the Natural Resources Bond Act of 1980 (P.L. 1980, c.70) for the full costs of such projects. The rules established the base for the reimbursement percentage allocation of costs of the Bolster Interconnection between Elizabethtown Water Company and the Newark System, the George Washington Bridge Interconnection, the Great Notch Interconnection Multiple Exchange Facilities, and improvements to the Passaic Valley Water Commission's treatment facility among the following water purveyors: Jersey City Water Department, Newark Water Department, North Jersey District Water Supply Commission, Hackensack Water Company, Passaic Valley Water Commission, Elizabethtown Water Company, and the Commonwealth Water Company. In addition, the rules established the time period in which the costs of the aforementioned projects must be repaid to the State, the manner by which said payments must be made, and the interest to be charged. The rules also provided for the Department to make an annual accounting of the payments. Finally, the rules provided for the recovery of the purveyors' costs through the rate-making process.

The rules have enabled the State to obtain reimbursement of a portion of the funds awarded for emergency water supply projects that were constructed in response to the drought of 1980-82. It is necessary to readopt the rules because the payback period specified in the funding award extends beyond the expiration date of the current rules.

A summary of the provisions of the chapter follows:

N.J.A.C. 7:1D-1.1 sets forth the scope and authority of the chapter.

N.J.A.C. 7:1D-1.2 states that the rules are to be liberally construed to effectuate their purpose.

N.J.A.C. 7:1D-1.3 states that the purpose of the rules is to establish a repayment program for applicable water purveyors.

N.J.A.C. 7:1D-1.4 provides that if any part of the rules is found invalid, the remainder of the rules shall not be affected.

N.J.A.C. 7:1D-1.5 defines the terms used in the chapter.

N.J.A.C. 7:1D-1.6 allocates the respective share of reimbursement obligations among the water systems which benefitted from the projects.

N.J.A.C. 7:1D-1.7 sets forth the rate of interest and the manner by which it shall be applied.

N.J.A.C. 7:1D-1.8 governs the specific terms of reimbursement, the payback period, and the annual accounting requirements.

N.J.A.C. 7:1D-1.9 states that reimbursement costs are to be recovered through rates charged by the water purveyors.

N.J.A.C. 7:1D-1.10 lists the projects and the amounts to be reimbursed to the State.

N.J.A.C. 7:1D-1.11 reserves to the State all rights to seek reimbursement for the costs of the projects.

Social Impact

The emergency water projects have had a positive impact on the people and water purveyors of the State by ensuring an adequate water supply, thus promoting residential, commercial and industrial stability while protecting public safety and welfare. Reliable water systems are essential to sustain the viability of a complex, interrelated society such as ours in New Jersey. Therefore, these rules aid both those directly affected as well as those throughout the region and the State as a whole.

Economic Impact

The readopted rules will continue to have a minor economic impact on the customers of the referenced purveyors, reflected in the form of increased water rates. However, the resultant and safety benefits and ultimate savings far outweigh the project costs. Because the projects promoted regionalization, they improved the transmission of water and increased the availability of water supplies to the public during the drought years of 1980-82 and 1985-86. The readopted rules will also ensure and facilitate the efficient use of water supply projects in the event of a future water emergency.

Environmental Impact

The readopted rules will continue to have a positive effect on the environment by promoting the regionalization of water supply and providing drought assurance capability. There is general recognition that ecological systems should not be treated independently of one another, and that related policies are most effective when implemented holistically

and in concert with one another. Through improvements in water quality and water quantity conditions, regionalization of water supplies benefits those areas of the State which experience water supply problems that might otherwise result in water emergencies.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq., the Department has determined that these rules do not impose reporting, recordkeeping or other compliance requirements on small businesses. The required reimbursement and accounting procedures apply only to the seven water purveyors specifically referenced in the rules. Since none of the purveyors are considered small businesses as defined under the Act, a regulatory flexibility analysis is not required.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:1D.

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

7:1D-1.2 Construction

This chapter shall be liberally construed to permit the Department of Environmental Protection **and Energy** to discharge its statutory functions, and to effectuate the payback provision of P.L. 1981, c.28 and P.L. 1981, c.29.

7:1D-1.5 Definitions

...

"Department" means the Department of Environmental Protection **and Energy.**

...

7:1D-1.8 Payback period and annual accounting

(a) (No change.)

(b) The payback period shall commence upon there being in place and in effect a rate permitting each purveyor to recover the full amount of said charge through such rate.

1. (No change.)

2. Within 60 days after the effective date of this chapter, the purveyors shall make appropriate application to the Board of [Public Utilities] **Regulatory Commissioners** for inclusion of the reimbursement costs in their respective rate schedules.

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

7:1D-1.9 Rate treatment

For rates subject to the jurisdiction of the Board of [Public Utilities] **Regulatory Commissioners,** the costs of the reimbursement shall be recovered from customers in proportion to their water usage. Approval of said rates by the Board of [Public Utilities] **Regulatory Commissioners** shall be sought by the applicable purveyors in the manner prescribed by regulation and statute. (See N.J.A.C. [14:1-6.16] **14:1-5.12** and N.J.S.A. 48:2-21.)

(a)

BUREAU OF DISCHARGE PREVENTION

Notice of Opportunity for Interested Party Review Discharges of Petroleum and Other Hazardous Substances

DEPE Docket Number: 36-93-05.

Take notice that the Department of Environmental Protection and Energy (Department) is soliciting informal input regarding draft amendments to N.J.A.C. 7:1E, Discharges of Petroleum and Other Hazardous Substances. The amendments will improve the clarity of and update these rules, set a de minimus concentration or other criteria for exemption of a listed substance as a hazardous substance, modify the requirements for certification of documents submitted to the Department, and revise the hazardous substance discharge notification and reporting requirements.

Interested parties may obtain a copy of the draft amendments to N.J.A.C. 7:1E from:

Beth Reddy, Section Chief
Bureau of Discharge Prevention
N.J. Department of Environmental Protection and Energy
CN 424
Trenton, NJ 08625-0424
(609) 633-0610

The Department will hold an **informal public meeting** regarding the draft amendments on Friday, July 23, 1993, at 10:00 A.M., in the Public Hearing Room on the first floor of the Department of Environmental Protection and Energy building at 401 E. State Street, Trenton, New Jersey.

Interested parties may submit written comments on the draft amendments until July 26, 1993, to:

Janis Hoagland, Esq.
Office of Legal Affairs
N.J. Department of Environmental Protection and Energy
CN 402
Trenton, NJ 08625-0402

INSURANCE

(b)

UNSATISFIED CLAIM AND JUDGMENT FUND

Unsatisfied Claim and Judgment Fund's Reimbursement of Excess Medical Expense Benefits Paid by Insurer

Proposed Amendments: N.J.A.C. 11:3-28.4 and 28.6
Proposed New Rules: N.J.A.C. 11:3-28.2, 28.10 through 28.13, and Appendices A and B
Proposed Repeal and New Rule: N.J.A.C. 11:3-28.1

Authorized By: Samuel F. Fortunato, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1C-6(e) and N.J.S.A. 39:6-1 et seq.

Proposal Number: PRN 1993-344.

Submit comments by July 21, 1993, to:

Verice M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
New Jersey Department of Insurance
CN 325
Trenton, New Jersey 08625-0325

The agency proposal follows:

Summary

These proposed new rules and amendment establish procedures to be utilized by New Jersey private passenger automobile insurers when submitting claims for reimbursement for excess medical expense benefits by the Unsatisfied Claim and Judgment Fund ("Fund").

N.J.A.C. 11:3-28.1 has been repealed because it is duplicative of N.J.A.C. 11:3-28.4 (recodified as N.J.A.C. 11:3-28.5). This recodified rule, N.J.A.C. 11:3-28.5, makes reference to specific forms to be used by insurers when submitting requests for reimbursement from the Fund. The forms required by this rule and by N.J.A.C. 11:3-28.2, recodified as N.J.A.C. 11:3-28.3, are included in Appendix A which has been added to subchapter 28. Technical changes have also been made to these recodified rules to refer to the corresponding forms in Appendix A.

N.J.A.C. 11:3-28.6, recodified as N.J.A.C. 11:3-28.7, has been amended to allow insurers to submit claims for reimbursement of excess medical expense benefits to the Fund for claims which the insurers did not include with their quarterly submissions. The amendment permits such submissions for a period not to exceed one year from the date the insurer made payment of the claim and also requires the submission of documentation sufficient to specifically identify the payment in question.

The proposed new rules at N.J.A.C. 11:3-28.10 through 28.13 are established in accordance with the provisions of the Unsatisfied Claim and Judgment Fund Law, N.J.S.A. 39:6-61 et seq. The rules require that

insurers conduct an audit of certain claims which have been submitted by licensed providers of health care services where cumulative claims per confinement are equal to or in excess of $10,000 and for health care facilities where the cumulative claims per confinement are equal to or in excess of $25,000. N.J.A.C. 11:3-28.10.

The Fund recognizes that subsequent to audits of bills for health care facility services, at least 20 percent of all charges are determined to be non-reimbursable by the Fund. As a result, the Fund has concluded that where an insurer fails to conduct an audit in accordance with these rules, a 20 percent reduction in reimbursement of the total unaudited bill is appropriate and reasonable.

These new rules also require that insurers receive prior approval from the Fund, where a claimant seeks to make medically necessary alterations to a vehicle (N.J.A.C. 11:3-28.11) or to a residence (N.J.A.C. 11:3-28.12).

Insurers shall be required to obtain a repayment agreement from claimants seeking to modify their residences. The agreement, which will establish the obligations of the claimant shall, among other things, include an amortization provision. The amortization formula is set forth in proposed Appendix B. The agreement will protect insurers' resources in the event that a claimant relocates or dies after modifications have been made to a residence.

The amortization provision of the repayment agreement evaluates the cost of proposed home modifications, the annual cost of the claimant's home care and the life expectancy of the claimant against the annual cost of residential care alternatives. The Fund calculates the number of months which must pass before it becomes cost effective for the insurer to provide the home modification and home care costs to the claimant rather than providing for residential care. The number of months so calculated becomes the amortization term. Pursuant to the terms of the repayment agreement, a lien in the amount of the costs of the modifications is recorded against the property to be modified. Upon the expiration of the amortization term, the lien is discharged. If the claimant dies or relocates before the expiration of the amortization term, the lien in the amount of the unamortized portion of the modification costs must be satisfied within a reasonable period of time. This amortization provision permits the insurer to recoup and ultimately reimburse to the Fund, costs incurred by the insurer and the Fund which would not have been expended had the claimant been placed in a residential facility. The repayment agreement insures that modifications provided to claimants are cost effective.

These rules set forth the information required by the Fund in applying for prior approval of modifications and the standards which will be applied by the Fund in the evaluation of such requests. The codification of these procedures will ensure uniformity in the processing of claims submitted to the Fund and that the claims are reimbursable. Failure to comply with these rules may result in the denial of reimbursement by the Fund.

N.J.A.C. 11:3-28.13 requires insurers to pursue all appropriate tort feasors for reimbursement of personal injury protection ("PIP") medical expense benefit payments in circumstances where the tort feasors are either fully or partially responsible for the claimant's injuries. Failure to comply with this requirement may result in the denial of reimbursement of any or a portion of PIP medical expense benefit payments made by the insurer.

These new rules also add a purpose and scope section at N.J.A.C. 11:3-28.1 and a definition section at N.J.A.C. 11:3-28.2. The repeal and addition of various rules required the recodification of pre-existing rules in the subchapter.

Social Impact

These proposed new rules and amendment establish procedures to be employed by insurers which will have the impact of ensuring that only appropriate claims are reimbursed by the Unsatisfied Claim and Judgment Fund. This is accomplished by requiring mandatory audits for claims submitted by providers of health care services whose claims are equal to or in excess of $10,000 and by health care facilities whose claims are equal to or in excess of $25,000 per confinement, by requiring prior approval from the Fund when alterations are sought by a claimant to either a vehicle or residence and by requiring insurers to pursue tort feasors in order to recoup PIP medical expense benefit payments from the appropriate source.

Economic Impact

These proposed new rules and amendment impose affirmative obligations on insurers to conduct audits of provider and health care facility bills and to engage in investigations of medical necessity for certain types of PIP medical expense benefits. In certain instances, insurers are required to obtain prior approval from the Fund in order to guaranty that they are reimbursed for properly paid PIP medical expense benefits. These measures merely require that insurers utilize prudent business practices which will serve to safeguard the Fund's resources.

The costs associated with the measures imposed by these proposed rules and amendment cannot be viewed as burdensome to insurers because the measures should already be a part of a prudent insurer's procedures. Insurers in the general course of business normally review claims which have been submitted for payment by claimants. These rules merely require that insurers conduct as thorough a review for claims which will ultimately be paid by the Fund as would be performed on claims paid by the insurer. Insurers, therefore, should not experience any significant, additional economic impact as a result of these rules. Any additional costs which may be incurred by insurers are necessary to guaranty that the Fund's resources are targeted for their intended purpose.

Because the Fund's resources are derived from assessments of insurers, any savings realized by the Fund will be passed through to insurers in the form of smaller assessments. Thus, any additional costs incurred by insurers in implementing these rules should be offset by smaller assessments of insurers. Ultimately policyholders should also derive an economic benefit in the form of smaller premium payments.

Regulatory Flexibility Analysis

Few if any insurers affected by these proposed new rules and amendment are "small businesses" as defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-17. These rules set forth procedures which must be employed by all insurers regardless of size. These rules firmly establish insurers' responsibilities to investigate certain provider claims in order to be eligible for reimbursement under the Unsatisfied Claim and Judgment Fund Act. While these rules may impose extra recordkeeping and reporting requirements, and in some instances may generate additional litigation, the associated costs are offset by the overriding need to prevent insurers from improperly or improvidently utilizing the Fund's resources. Any additional expenses or burdens which may be realized by insurers are offset by the attendant benefit of preserving the Fund's assets for the purpose of reimbursing only appropriate claims. Because the Fund's resources are derived from assessments on insurers, any savings realized by the Fund will be passed through to insurers in the form of smaller assessments and ultimately to policyholders in the form of smaller premium payments.

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

[11:3-28.1 Notification of potential for payment of excess medical expense benefits

An automobile liability insurer shall, as soon as practicable, notify the Unsatisfied Claim and Judgment Fund on forms provided by the Fund of all claims for medical expense benefits, as defined in N.J.S.A. 39:6A-2(e), where the potential exposure to the insurer exceeds $75,000 on account of personal injury to any one person in any one accident occurring after 12:00 A.M. on February 19, 1978.]

11:3-28.1 Purpose and scope

(a) The purpose of this subchapter is to establish procedures to ensure that only appropriate, reimburseable claims are submitted to the Fund by insurers by requiring investigation of the medical necessity for certain claims; requiring the audit of claims of $10,000 or more submitted by licensed providers of health care services or claims of $25,000 or more by health care facilities; and requiring prior approval of claims for alterations to vehicles and residences. This subchapter also requires insurers to pursue the proper, alternative sources for reimbursement where such other sources of funds are available.

(b) This subchapter applies to all insurers authorized in this State to write the kinds of insurance specified in paragraphs d and e of N.J.S.A. 17:17-1.

11:3-28.2 Definitions

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

"Diagnosis related groups" or "DRG" means a patient classification scheme in which cases are grouped by shared characteristics of principal diagnosis, secondary diagnosis, age, surgical procedure, and other complications. Each DRG exhibits a consistent amount of resource consumption as measured by some unit (for example, length of stay or dollars).

"Excess medical expense benefits" means medical expense benefits paid in accordance with N.J.S.A. 39:6A-4a which are in excess of $75,000 resulting from personal injury to any one person in any one accident.

"Fund" means the Unsatisfied Claim and Judgment Fund established pursuant to N.J.S.A. 39:6-61 et seq.

"Health care facility" means a facility or institution, whether public or private, engaged principally in providing services for diagnosis of treatment of pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, outpatient clinic, dispensary or residential health care facility.

"Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of diagnosis or treatment of pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board.

"Insurer" means any person authorized or admitted in this State to write the kinds of insurance specified in paragraphs d and e of N.J.S.A. 17:17-1.

"Licensed nursing personnel" or "licensed nurse" means a nurse licensed by the New Jersey State Board of Nursing or the equivalent from another jurisdiction.

"Medical expense benefits" means medical expense benefits paid in accordance with N.J.S.A. 39:6A-4a.

"Medically necessary" means services or supplies including tests or examinations that are needed for the medical care of a diagnosed injury. To be considered "needed" a service or supply must be ordered by a licensed physician and be commonly and customarily recognized throughout the medical profession as appropriate in the treatment of the particular injury for which it was ordered. Neither educational, experimental nor investigational procedures will be deemed "needed" or "medically necessary" for purposes of these rules.

"Per diem" means a daily fixed charge which includes room and board and other fees for services and supplies.

"PIP coverage" means personal injury protection coverage as described at N.J.S.A. 39:6A-4.

"Person" means any individual, association, company, corporation, insurer, joint stock company, organization, partnership, society, syndicate, trust, any combination of the foregoing acting in concert or any other entity.

"Pre-screen" means an off-site review of the billings from a health care facility to determine whether the care given and amounts charged are appropriate.

"Provider" means any person that furnishes services or equipment for medical expense benefits for which payment is required to be made under PIP coverage in automobile insurance policies, but does not include health care facilities.

"Reimbursement" refers to reimbursement to insurers by the Fund as provided at N.J.S.A. 39:6-73.1.

11:3-[28.2]**28.3** Report of such claims when the carrier has paid at least $50,000 for medical expense benefits

In cases where the potential exposure to the automobile liability insurer exceeds $75,000, the insurer shall report on [forms provided by the Fund] **form UC-321 (incorporated herein by reference as Exhibit 1 in Appendix A)** whenever medical expense benefits in a total amount of $50,000 have been paid on account of personal injury to any one person in any one accident.

Recodify existing N.J.A.C. 11:3-28.3 as **28.4** (No change in text.)

11:3-[28.4]**28.5** Supplemental form to be submitted to the Fund

A **two-sided** reimbursement and reserve form, **UCJF-REIMB./91 (incorporated herein by reference as Exhibit 2 in Appendix A)**, shall be filed with the Fund within 90 days after an automobile insurer has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount **in excess** of $75,000. Such form **together with form UC-323(93) (incorporated herein by reference as Exhibit 3 in Appendix A)** shall be filed each quarter that the insurer seeks reimbursement.

Recodify existing N.J.A.C. 11:3-28.5 as **28.6** (No change in text.)

11:3-[28.6]**28.7** Reimbursement of excess medical expense benefits paid by insurers

(a) Insurers shall submit to the Fund itemized accounts with supporting documentation of **excess medical expense benefit** claim payments as soon as practicable after the close of the quarter for which reimbursement is sought. The Fund shall reimburse automobile liability insurers for excess medical expense benefits on a quarterly basis. Insurers shall not be reimbursed for interest, attorney fees or punitive damages.

1. For a period of one year from the date of payment of a claim for excess medical expense benefits by an insurer, the insurer may submit to the Fund a request for reimbursement of a claim which was not included in the insurer's quarterly submission. The insurer shall include with its request, specific documentation to identify the subject payment.

2. Failure to comply with the requirements set forth in (a)1 above shall result in a denial of reimbursement by the Fund.

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

Recodify existing N.J.A.C. 11:3-28.7 and 28.8 as **28.8 and 28.9** (No change in text.)

11:3-28.10 Insurers' obligations to investigate and audit bills for medical benefits

(a) For purposes of reimbursement by the Fund, an insurer shall conduct an investigation and audit of claims submitted by health care facilities where such claims are equal to or in excess of $25,000.

1. Failure of an insurer to complete an audit in accordance with these rules shall result in a 20 percent reduction in payment to the insurer by the Fund of the unaudited, reimbursable bill.

2. Per diem billings for health care facilities are not subject to the audit requirements set forth in this subchapter.

3. An insurer shall conduct an initial on-site audit for charges by health care facilities to determine whether the level of care, need and charges are appropriate.

4. An insurer may pay 80 percent of the provider's bill prior to completion of the initial on-site audit. The remaining amount due, if any, shall be paid following completion of the insurer's audit.

5. Annual on-site audits shall be completed in 12-month intervals, from the initial on-site audit and shall be filed with the Fund within 60 days of completion of the audit; and

6. Whenever a change in services occurs such as, but not limited to, the level of care, the daily room rate or additional charges, an insurer shall conduct an on-site audit and shall provide the audit and auditor's statement to the Fund with the next reimbursement request.

7. All other audits shall be conducted prior to payment to the health care facility and may be performed on a pre-screen basis as set forth in (e) below.

(b) For purposes of reimbursement by the Fund, an insurer shall conduct an investigation and audit of claims submitted by providers where such claims are equal to or in excess of $10,000.

1. Failure of an insurer to complete an audit in accordance with this subchapter shall result in a 20 percent reduction in payment to the insurer by the Fund of the unaudited, reimbursable bill.

(c) The thresholds in (a) and (b) above are cumulative for each confinement associated with damages resulting from bodily injuries

arising out of the ownership, maintenance or use of a motor vehicle in this State and shall incorporate all claims submitted per confinement by the health care facility or by each individual provider.

(d) To be eligible for reimbursement by the Fund, insurers shall audit, prior to payment, bills submitted for continuous treatment from any health care facility or provider which exceed or may exceed the applicable threshold.

(e) Audits of all providers and health care facilities conducted pursuant to this subchapter, including the audit of DRG bills and any successor pricing, shall be performed by:

1. Licensed nursing personnel with two years experience or training in required auditing and hospital practices; or

2. An outside auditing firm retained by the insurer for such purposes.

(f) Audits performed shall include, but not be limited to, confirmation of compliance with the medical fee schedule set forth at N.J.A.C. 11:3-29 including those situations where the insurer does not provide the primary coverage to the claimant.

(g) An insurer is not required to conduct a separate, independent audit, if it has obtained a true copy of an audit conducted by the primary insurer or health insurer.

(h) Insurers shall append copies of audits conducted, including those conducted by the primary insurer or health insurer, and the auditor's statements with the reimbursement request filed with the Fund in accordance with N.J.A.C. 11:3-28.7.

11:3-28.11 Modifications to vehicles

(a) An insurer shall obtain prior approval from the Fund for modifications to a claimant's vehicle, or vehicle to be used for the benefit of the claimant, the cost of which may be reimbursed by the Fund.

(b) An insurer shall submit a written request to the Fund, seeking approval of modifications, within 30 days of a claimant's request for modifications.

(c) A request to obtain prior approval from the Fund shall include the following:

1. A written recommendation for the modification by the claimant's primary care physician including:

i. Where the claimant is the operator of the vehicle, current findings on the claimant's physical ability to drive and a copy of the claimant's current driver's license;

ii. A brief analysis of the medical necessity and medical purpose for the requested modifications;

iii. A description of the purpose for which the vehicle will be used; and

iv. Verification that the requested modifications are necessitated by injuries sustained by the claimant in the subject accident;

2. A cost benefit analysis, supported by appropriate documentation, comparing the cost of modifying the claimant's vehicle to the cost of alternate methods of transporting the claimant. This analysis shall incorporate an evaluation of the anticipated miles to be driven per year for medically necessary health care services, including a breakdown reflecting the number of miles to be driven to obtain health care service and the frequency of such services, the cost per mile of alternate means of such transportation, as well as the useful life of the vehicle;

3. An agreement between the insurer and the claimant setting forth, but not limited to:

i. The claimant's responsibility to maintain insurance on the vehicle; and

ii. The claimant's responsibility to repair and maintain the vehicle; and

4. Any additional information specifically requested by the Fund with regard to a particular application for approval.

(d) The insurer may independently evaluate, or be required by the Fund to evaluate, the claimant by a physician chosen by the insurer and approved by the Fund, at the insurer's cost, to determine whether a medical necessity and medical purpose exist for modifications to the vehicle. The evaluation shall include a review of the elements considered in the primary evaluation as set forth at (c) above.

(e) The Fund shall not approve modifications to a vehicle unless it is demonstrated that the modifications are required for purposes of medical necessity resulting from injuries sustained by the claimant in the subject accident, are required for a medical purpose and the modifications are shown to be cost effective or as the Fund may otherwise determine.

(f) A request for modifications may be denied for failure to fulfill any of the above conditions.

11:3-28.12 Modifications to a claimant's residence

(a) An insurer shall obtain prior approval from the Fund for any modifications to a claimant's primary residence the cost of which may be reimbursed by the Fund.

(b) An insurer shall submit a written request to the Fund, seeking approval of modifications which are equal to or in excess of $10,000, within 30 days of a claimant's request for modifications.

(c) A request to obtain prior approval from the Fund shall include the following:

1. A written recommendation for the modification by the claimant's primary care physician including:

i. A brief analysis of the medical necessity for the requested modifications; and

ii. Verification that the requested modifications are necessitated by injuries sustained by the claimant in the subject accident;

2. Medical documentation estimating the claimant's life expectancy;

3. A cost benefit analysis, supported by appropriate documentation, which establishes that the proposed modifications are more cost effective than long term residential care services. The analysis shall include, in acceptance with Appendix B incorporated herein by reference, an evaluation based on the life expectancy of the claimant and a comparison between the costs of the modifications and home care to be provided, to the costs of other residential care alternatives;

4. An evaluation prepared by an independent consultant experienced in barrier free designs that sets forth the type of modifications required and the costs of such modifications;

5. An agreement setting forth the responsibilities regarding the obligations of the claimant, the owner of the property or both and the insurer for, but not limited to:

i. The claimant's or property owner's responsibility for:

(1) The expenses for upkeep of the residence;

(2) Maintenance of insurance on the property; and

(3) Repayment to the insurer in the event of the claimant's relocation, death or upon the sale of the modified premises; and

ii. The insurer's obligation to remove nonessential equipment;

6. A repayment agreement with an amortization provision which provides an amortization term and amount, once a modification is determined to be cost effective, calculated in accordance with the formula provided in Appendix B to this subchapter; and

7. Any other additional information specifically requested by the Fund with regard to a particular application for approval.

(d) The insurer may independently evaluate, or be required by the Fund to evaluate, the claimant by a physician chosen by the insurer and approved by the Fund, at the insurer's cost, to determine whether a medical necessity for the modifications exist. The evaluation shall include a review of the elements considered in the primary evaluation as set forth at (c) above.

(e) The Fund shall not approve modifications to a residence unless it is demonstrated that the modifications are required for purposes of medical necessity resulting from injuries sustained by the claimant in the subject accident and the modifications are shown to be cost effective or as the Fund may otherwise determine.

(f) A request for modification may be denied for failure to fulfill any of the above requirements.

(g) Where a request for modifications is approved, the insurer shall record a lien against the modified property in the county in which the property is located and shall file a copy of the recorded lien with the Fund within 30 days.

1. This provision shall not apply to rental property.

(h) Where a claimant seeks to modify rental property, the insurer shall obtain:

1. A written consent from the owner of the property which permits the modifications and indemnifies the insurer and the Fund from any other liabilities relating thereto; and

2. A written agreement between the claimant and the insurer, in which the claimant agrees to reimburse the insurer for the unamortized costs of the improvements in the event of the claimant's relocation or death.

(i) Upon the claimant's relocation or death, the claimant, the claimant's estate or the owner of the property against which the lien is recorded, shall reimburse the insurer for the unamortized cost of the modifications to the claimant's residence.

(j) The claimant, the claimant's estate or the owner of the property against which the lien was recorded, shall have a reasonable period in which to reimburse the insurer.

(k) Where repayment by the claimant or the claimant's estate is required pursuant to this section, interest shall accrue at the prevailing rate of post judgment interest as set forth in the rules governing civil practice in the New Jersey Court Rules in effect at the time of execution of the repayment agreement, until the amount owed is paid in full.

(l) Within 30 days from the date of the claimant's relocation or death, the insurer shall so notify the Fund in writing and shall include the terms of repayment by the claimant to the insurer. The insurer shall repay the Fund for such reimbursement.

1. The insurer shall be required to repay the Fund within 60 days from receipt of any and all partial payments or from the receipt of a payment made in full by the claimant.

(m) A warrant discharging the lien shall be filed by the insurer when the full amount owed to the insurer, in accordance with the amortization agreement, is satisfied.

11:3-28.13 Insurer's obligation to obtain recovery of payments for paid medical expense benefit claims

(a) The Fund shall deny reimbursement to insurers for paid medical expense benefit claims if an insurer has failed to pursue any and all responsible tortfeasors within the time prescribed by law at N.J.S.A. 39:6A-13.1.

1. An insurer's failure to diligently pursue its right of recovery of medical expense benefit claim payments shall result in the denial of reimbursement by the Fund for these claims.

2. The Fund shall recover any reimbursement payments which were made to an insurer, where the insurer failed to diligently pursue its right of recovery against a tortfeasor.

3. An insurer shall obtain prior approval from the Fund before settling or compromising a claim against a tortfeasor.

(b) Any and all expenses and fees incurred by the insurer as a result of the pursuit of a right of recovery against a tortfeasor, shall be borne by the insurer.

APPENDIX A
EXHIBIT 1

UNSATISFIED CLAIM AND JUDGMENT FUND
EXCESS MEDICAL BENEFITS FIRST NOTICE FORM

This form shall be completed by the Carrier anticipating reimbursement from the Fund of Medical Expense Benefits. This form shall be sent to the Fund at the time the Carrier has made payments in a total amount of $50,000 and the Carrier expects the payments will exceed a total of $75,000.

PLEASE PRINT OR TYPE

NAME OF CARRIER UNDER WHICH POLICY IS WRITTEN NAIC NUMBER

ADDRESS

CITY STATE ZIP CODE

CONTACT PERSON

TELEPHONE NUMBER INCLUDING AREA CODE

CARRIER FILE NUMBER

CARRIER POLICY NUMBER

POLICY EFFECTIVE DATES

FROM: _____

TO: _____

DATE OF ACCIDENT

LOCATION OF ACCIDENT INCLUDING CITY, COUNTY AND STATE

NAME OF NAMED INSURED ON POLICY

NAME OF INJURED PARTY

ADDRESS

AGE OF INJURED PARTY AT TIME OF ACCIDENT SEX

DESCRIPTION OF INJURIES

PROGNOSIS AS TO INJURIES

AMOUNT OF MEDICAL PAYMENTS MADE TO DATE: $

TOTAL AMOUNT OF EXPECTED FUTURE MEDICAL PAYMENTS: $

RECOMMENDED RESERVE FOR THE TOTAL VALUE OF THE CLAIM TO ITS ULTIMATE DISPOSITION:
$_____.

RECOMMENDED RESERVE FOR THE AMOUNT OF PAYMENTS TO BE MADE IN THE NEXT TWO YEARS:
$_____.

DATE ON WHICH THE $75,000 THRESHOLD MAY BE REACHED: _____.

NAME OF SUPERVISOR RESPONSIBLE FOR INVESTIGATION FILE AND PHONE NUMBER:

COMPLETED BY _____ TITLE _____

PHONE NUMBER _____ DATE _____

UC-321 (R1/91)

EXHIBIT 2

UNSATISFIED CLAIM AND JUDGEMENT FUND
REIMBURSEMENT AND RESERVE FORM

This form shall be completed by the Carrier seeking reimbursement from the fund for Medical Expenses Benefits in excess of $75,000. The reverse side of this form must be completed upon submission of the first request for reimbursement only. A separate form shall be submitted with each request.

PLEASE PRINT OR TYPE

NAME OF CARRIER UNDER WHICH POLICY IS WRITTEN ADDRESS	CARRIER'S FILE NUMBER
NAME OF INJURED PARTY	EMB FILE NUMBER

SET FORTH PROGNOSIS AS TO INJURIES AND EXPECTED FUTURE MEDICAL PAYMENTS

RECOMMENDED RESERVE FOR TOTAL VALUE OF CLAIM TO ITS ULTIMATE DISPOSITION, NOT INCLUDING THE $75,000 THRESHOLD ..... $ _____

TOTAL AMOUNT OF ANTICIPATED PAYMENTS DURING THE NEXT 2 YEARS ..... $ _____

TOTAL AMOUNT OF EXPECTED PAYMENTS DURING THE NEXT 90 DAYS ..... $ _____

THE PIP PAYMENT RECORD AND ADDING MACHINE TAPE(S) ARE TO BE ATTACHED TO THIS FORM. THE PIP PAYMENT RECORD SHOULD INCLUDE THE DATE PAID, AMOUNT PAID, NAME OF THE PARTY PAID AND TREATMENT DATES. THE PIP PAYMENT RECORD SHOULD INDICATE TO WHICH PAYMENTS THE PIP DEDUCTIBLE AND CO-PAYMENT WAS APPLIED.

AMOUNT OF REIMBURSEMENT NOW BEING SOUGHT FROM THE FUND ..... $ _____

AMOUNT OF REIMBURSEMENT PREVIOUSLY RECEIVED, IF ANY ..... $ _____

☐ NO FURTHER REIMBURSEMENT ON THIS CLAIM IS ANTICIPATED. WE HAVE CLOSED OUR MEDICAL EXPENSE FILE.

COMPLETED BY _____

TITLE _____

DATE COMPLETED _____

TELEPHONE NUMBER

*COMPLETE REVERSE SIDE ON INITIAL REQUEST FOR REIMBURSEMENT.

UCJF—REIMB./91

ANSWER THE FOLLOWING QUESTIONS "YES OR NO". IF AUDITS, MEDICAL REPORTS, ETC. ARE REQUIRED, ATTACH TO PIP PAYMENT RECORD AT TIME OF SUBMISSION FOR REIMBURSEMENT.

YES	NO	
_____	_____	CONCURRENCY APPLIES
_____	_____	WORKER'S COMPENSATION COVERAGE INVOLVED
_____	_____	SUBROGATION APPLIES
_____	_____	PIP REIMBURSEMENT OPTION SELECTED (IF YES, ATTACH COPY OF LETTER TO INSD)
_____	_____	CIB WAS FILED
_____	_____	AUDIT REPORTS FOR PAYMENTS OVER $10,000
_____	_____	COMPREHENSIVE MEDICAL AND/OR REHABILITATION REPORTS
_____	_____	PIP PAYMENT RECORDS WITH ADDING MACHINE TAPE(S).
_____	_____	COMPLETED AND SIGNED TREASURY INVOICE
_____	_____	IS CLAIM IN LITIGATION? IF SO, BY WHOM?

PLEASE STATE ADDITIONAL COMMENTS:

_____

_____

_____

_____

_____

UCJF-REIMB./91 p.2

EXHIBIT 3

UNSATISFIED CLAIM AND JUDGMENT FUND
EXCESS MEDICAL BENEFITS PAYMENT RECORD

CARRIER: _____ PAGE NUMBER: _____

CARRIER'S FILE NO.: _____ EMB FILE NO.: _____

INJURED PARTY: _____ DATE OF LOSS: _____

DATE RECEIVED	PROVIDER AND NATURE OF SERVICE	AMOUNT CHARGED	DATES OF SERVICE	AMOUNT PAID	DATE OF PAYMENT
			PAGE TOTAL:		

INDICATE WITH AN ASTERISK (*) NEXT TO THE PAYMENT OR PAYMENTS THE PIP DEDUCTIBLE COPAYMENT WAS APPLIED.

AN ADDING MACHINE TAPE WHICH CORRESPONDS WITH THE PAYMENTS LISTED SHOULD BE ATTACHED TO EACH PAGE. IF THERE IS MORE THAN ONE PAGE OF PAYMENTS SUBMITTED WITH THE REQUEST, A SEPARATE ADDING MACHINE TAPE SHOULD BE ATTACHED SUMMARIZING THE TOTAL OF PAYMENTS ON ALL OF THE PAGES.

C-323 (93)

APPENDIX B
AMORTIZATION FORMULA

The Fund shall evaluate the cost effectiveness of modifications to a residence and shall establish an amortization schedule based on information submitted to the Fund by the insurer. The insurer shall file with the Fund the information in categories (a) through (d) below. This information shall be accompanied by the documentation which supports the information in those categories. The factors which shall be considered by the Fund include:

(a) Cost of modifications;

(b) Annual cost of home care, including but not limited to, nursing care, therapy, transportation for medical treatment and medical supplies;

(c) Life expectancy of the injured person;

(d) Annual cost of other residential care alternatives;

(e) Monthly amount amortized; and

(f) Term of amortization in months.

1. The formula which the Fund shall evaluate to determine the cost effectiveness of requested home modifications is as follows:

$$(a + (b \times c)) < (d \times c)$$

The Fund shall only approve modifications where the above formula applies.

2. The formula to determine the amount to be amortized monthly is as follows:

$$(d - b)/12 = e$$

3. The formula to determine the term of the amortization schedule is as follows:

$$a/e = f$$

The following examples demonstrate how the formulas shall be applied:

	Example One	Example Two	Example Three
Cost of Modifications	100,000	100,000	100,000
Annual Cost of Home Care	60,000	6,000	60,000
Life Expectancy of Injured Party	30	10	20
Annual Cost of Other Residential Care Alternatives	84,000	120,000	60,000
Cost Effective Formula			
Cost for Home Care	1,900,000	160,000	1,300,000
Cost for Alternative Care	2,520,000	1,200,000	1,200,000
Is Home Modification Cost Effective?	Yes	Yes	No
Amortization Schedule			
Amount Amortized Monthly	$2,000	$9,500	
Term of Amortization	50 months	11 months	

(a)

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

Notice of Extension of Written Comment Period Agency Information Statement Proposed New Rule: N.J.A.C. 11:5-1.43

Proposed: May 17, 1993 at 25 N.J.R. 1948(a).
Authorized By: New Jersey Real Estate Commission, Micki Greco Shillito, Executve Director.
Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1993-277.

Take notice that, due to a delay in the distribution of the Commission's quarterly newsletter through which secondary notice of the proposal referenced above was made to real estate licensees and other interested parties, the expiration date on the time period for the submission of written comments on the proposal has been extended from June 16, 1993 to July 16, 1993.

Interested parties may submit written comments through July 16, 1993 to:

Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
CN 328
Trenton, New Jersey 08625-0328

COMMERCE AND ECONOMIC DEVELOPMENT

(b)

URBAN ENTERPRISE ZONE AUTHORITY

Urban Enterprise Zone Program and Business Certification

Proposed Readoption with Amendments: N.J.A.C. 12A:120

Authorized By: Urban Enterprise Zone Authority, James N. Albers, Chairman Designate.
Authority: N.J.S.A. 52:27H-60 et seq., specifically 52:27H-65.
Proposal Number: PRN 1993-322.

Submit comments by July 21, 1993, to:

Beverly Lynch, Legislative Liaison
Office of the Commissioner
Department of Commerce and Economic Development
20 West State Street
CN 820
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12A:120, Urban Enterprise Zone Authority, expires on September 6, 1993. The Department has reviewed these rules and, with the exception of the amendments discussed below, has found them to be reasonable, necessary and proper for the purposes for which they were originally promulgated.

These rules are promulgated by the New Jersey Urban Enterprise Zone Authority (UEZA), which is given responsibility for implementing the New Jersey Urban Enterprise Zones Act (P.L. 1983, c.303) and associated programs. The purpose of these rules is to encourage economic development in certain areas of specifically designated municipalities in the State.

Subchapter 1 outlines the applicability and scope of the Urban Enterprise Zone Program; defines the terms used in the rules; describes the application procedure for zone business benefits; stipulates the time for application for zone business benefits; explains the eligibility requirements for zone business benefits; and outlines the good faith waiver requirements.

Subchapter 2 outlines the applicability and scope for business certification for zone business benefits; defines the terms used in this subchapter; explains the reapplication procedure for zone business benefits, including the time for reapplication, alternative recertification, and acceptance for recertification; outlines the standards for conditional zone business recertification, including the time and procedures for application; describes conditional recertification for an eligible zone business; and stipulates the denial and appeal process for recertification or conditional recertification.

Some key provisions of these rules include the definition of a "qualified business" (see N.J.A.C. 12A:120-1.2); good faith waiver provisions applicable to qualified business unable to meet certain requirements to receive zone business benefits (see N.J.A.C. 12A:120-1.5); information needed to be contained in an application for a business to reapply for zone business benefits (see N.J.A.C. 12A:120-2.3); the time for reapplication for zone business benefits (see N.J.A.C. 12A:120-2.4) and situations under which a business may be granted conditional zone business recertification (see N.J.A.C. 12A:120-2.7).

The proposed amendments establish standards for alternative qualifications for businesses unable to create additional employment, found in N.J.A.C. 12A:120-2.5.

The proposed amendment would further define the allowable improvements in-lieu of job creation; require certain documentation for eligible projects; and extend the allowable monetary contribution to include employment related training programs.

The proposed amendments to N.J.A.C. 12A:120-2.11 and 2.12 bring these two sections into compliance with the Administrative Procedure Act and thereby ensure proper due process rights to those businesses having been denied recertification.

Social Impact

The social impact of this program has and will continue to be positive because it has created additional employment opportunities for residents of the municipalities in which a zone is located and for the residents of the zones. Additionally, zone municipalities are better able to attract business to the zone because of additional flexibility in the readopted rules. The proposed amendments affect less than 10 percent of the businesses applying for zone certification.

Economic Impact

The economic impact of this program has, and will continue to be, positive by providing enhanced economic development opportunities for economically-distressed municipalities. These opportunities will continue to result in sounder economic development within these municipalities by broadening and strengthening the tax base of these municipalities. The State incurs, and will continue to incur, certain costs to administer the program. Certain amounts of State sales tax generated from sales within the zone are set aside to provide certain service improvements within the zones.

The proposed amendments will allow businesses to qualify for zone benefits by providing monetary support for employment-related training programs, and may result in greater availability of training for displaced workers in the zones.

Regulatory Flexibility Analysis

Some but not all of the businesses participating in and therefore subject to the rules of the Urban Enterprise Zone program are small

businesses as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Small businesses that seek to be eligible for zone business benefits must maintain records of the business' employee turnover for the two year period previous to application for eligibility, and estimate the number of new positions to be created by the business during the two years following the date of its zone certificate of occupancy.

To remain certified, small businesses must report the number of full time employees annually and project employment for the following year.

Small businesses that desire to participate in the Urban Enterprise Program must complete an application to the UEZ Authority, which includes an endorsement from the municipality, and a certificate that the business is located in the zone. Participating small businesses must re-apply annually by providing a completed recertification application indicating full time employment figures and whether the business met its capital investment goals and objectives.

If a business is unable to fulfill the employment requirements found in the rules, the business must document the reasons using appropriate forms or reports.

To qualify for the "in-lieu" provisions found in N.J.A.C. 12A:120-2.5, a small business must identify the reason why it is seeking the "in lieu" advantage, as opposed to creating full time employment, and, depending on the number of full-time employees, is required to provide a monetary or in-kind contribution to the qualifying municipality. The "in-lieu" application must be accompanied by a resolution from the municipality supporting the application. The proposed amendment requires small businesses to submit at least one vendor's estimate of the project's costs with the "in-lieu" application, and following completion of the project, submit the "paid in full" bill for the project.

The Urban Enterprise Zone program rules are designed to allow flexibility for small businesses operating in the designated zones. The proposed amendments will create additional flexibility by allowing additional alternative means by which a small business may become re-certified as a qualified zone business. No further differing standards based on business size are proposed at this time because of the considerations already granted small businesses by these rules.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12A:120.

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

12A:120-2.5 Alternative qualified small business recertification

(a) A qualified small business desiring to continue to receive zone business benefits may, upon agreement with the governing body of the qualifying municipality in which the enterprise zone is located and subject to the approval of the UEZA, agree to undertake investments in the enterprise zone in lieu of creating new employment. For purposes of this section, investments in the enterprise zone shall include, but shall not be limited to:

1. Improvements in the exterior appearance or customer facilities of the property constituting the place of business of the qualified business within the zone, **provided that:**

i. All improvements must be of a permanent nature;

ii. All improvements to the structure which are required to meet existing ordinances are not eligible;

iii. The qualified business submits at least one vendor's estimate of the project's costs with its "in-lieu" application; and

iv. Prior to the end of the current recertification year and upon completion of the improvement, a paid in full bill must be submitted to the UEZA and to the municipality;

2. Monetary or in-kind contributions to the qualifying municipality to undertake improvements to increase the safety or attractiveness of the zone to businesses which may wish to locate there or to consumer visitors to the zone, including but not limited to:

i.-vi. (No change.)

vii. Increase in police, fire or sanitation services in the enterprise zone;

3. Monetary contributions to the qualifying municipality to undertake employment related training programs; or

4. Monetary contributions to the qualifying municipality to undertake physical improvements or assist in educational or training programs of county schools, colleges and vocational schools.

(b) In order for an investment to constitute an alternative means by which a small business may become recertified as qualified zone business, the investment by that business shall:

1. (No change.)

2. If the business employs more than 10 employees, **be** not less than the amount produced by multiplying the number of employees employed by the small business by $500.00.

12A:120-2.11 Denial of recertification or conditional recertification of a qualified zone business

(a) When a business has been denied recertification or conditional recertification [based upon the information provided by the business to the Administrator,] **by failing to meet the requirements of a "qualified business," and by failing to increase permanent employment in the business**, the business may appeal the Administrator's decision.

(b) (No change.)

12A:120-2.12 Procedure for appealing denial of recertification or conditional recertification

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

(d) The review will be conducted by a designee of the Commissioner. The designee shall issue a written report [to the Commissioner] within 10 working days of the close of the review.

(e) [The appealing business will be permitted to file written exceptions of the designee's report no later than five working days from the receipt of the report.] **The appealing business may request a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.**

[(f) Thereafter, the Commissioner shall issue a final decision on the appeal and notify the business by certified letter, return receipt requested.]

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Point Assessment

Operating Motorcycle and or Motorized Bicycle without Protective Helmet

Proposed Amendment: N.J.A.C. 13:19-10.1

Authorized By: Stratton C. Lee, Jr., Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:3-76.7, 39:4-14.3q and 39:5-30.5.

Proposal Number: PRN 1993-350.

Submit written comments by July 21, 1993 to:

Stratton C. Lee, Jr., Director
Division of Motor Vehicles
Attention: Legal Staff
225 East State Street
CN 162
Trenton, New Jersey 08666

The agency proposal follows:

Summary

The Legislature has recently enacted Public Law 1992, Chapter 153, amending Public Law 1967, chapter 237 (N.J.S.A. 39:3-76.7) to prohibit the Division of Motor Vehicles from assessing penalty points for failure of a motorcycle operator or rider to wear a protective helmet. The Legislature indicated that the rationale has been to assess such points for moving violations that may endanger the safety of others, and that the failure of a motorcyclist to wear a helmet is not such a violation. The rationale applies with equal validity to an operator or rider of a motorized bicycle and accordingly penalty points shall not be assessed for failure of a motorized bicycle operator or rider to wear a protective helmet as required by N.J.S.A. 39:4-14.3q.

Social Impact

The proposed amendment has the social impact of implementing the public policy of New Jersey regarding motor vehicle operators and

passengers. Operators and passengers of motorcycles and motorized bicycles will continue to be subject to other penalties as provided by law.

Economic Impact

The proposed amendment is expected to have minimal economic impact. The costs of administration to be borne by the Division of Motor Vehicles are expected to be minimal. It is not anticipated that the general public will be subject to significant increase or decrease in penalty assessments or other costs.

Regulatory Flexibility Statement

The proposed amendment affects only operators and passengers of motorcycles and motorized bicycles and places no reporting, recordkeeping or compliance requirements on "small businesses" as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

13:19-10.1 Point assessment

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

Section Number	Offense	Points
1.-4. (No change)		
[5. N.J.S.A. 39:3-76.7 and 39:4-14.3q]	[Operating motorcycle and or motorized bicycle without protective helmet]	[2]

Recodify existing 6.-53. as **5.-52.** (No change in text).

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules

Admission; Age

Proposed Amendment: N.J.A.C. 13:70-3.40

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1993-339.

Submit written comments by July 21, 1993 to:
Mike Vukcevich, Deputy Director
New Jersey Racing Commission
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment would change the minimum age for admittance to a New Jersey racetrack without being accompanied by an adult, from 16 to 18.

Social Impact

The proposed amendment is intended to close a gap in the existing rules that permits 17 year olds to enter a racing facility without being accompanied by an adult, while prohibiting those under 18 years of age from participating in pari-mutuel wagering. The social impact of the amendment will therefore be positive in that it will prohibit a class of minors, who are not able to wager on pari-mutuel wagering, from entering a permitted racetrack facility unless accompanied by an adult.

Economic Impact

The proposed amendment would have a minimal impact on the track associations for paid admissions. Assuming adoption of the amendment, 17 year olds will not be allowed to enter a track unless accompanied by an adult, and consequently, racetracks will not be able to collect admission costs from such unaccompanied minors.

Regulatory Flexibility Statement

The proposed amendment imposes no reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Although the proposed amendment will impose compliance requirements on track associations, a racetrack is not a small business as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

13:70-3.40 Admission; age

(a) Any child under [16] **18** years of age must be accompanied by an adult, parent or guardian to be admitted to any racetrack enclosure as a spectator during the hours when the running of races is being conducted.

(b) (No change.)

(b)

NEW JERSEY RACING COMMISSION

Harness Rules

Penalties

Proposed Amendment: N.J.A.C. 13:71-2.3

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1993-342.

Submit written comments by July 21, 1993 to:
Michael Vukcevich, Deputy Director
New Jersey Racing Commission
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The primary objective of this proposed amendment to N.J.A.C. 13:71-2.3(b) is to revise the manner in which penalties for suspensions from harness driving are imposed.

The rule, in its present state and as here pertinent, in subsection (b) provides that any penalty of suspension from driving shall commence from a day after a hearing before the judges and be served on a continuing basis. A review of penalties imposed in the past reflects that, to an extent, the former aspect of the rule has been relaxed. This appears to have occurred to allow a suspended driver (with his or her consent), in order not to disrupt the race schedule, to compete after the date of the hearing and until exhaustion of the drivers previously scheduled race entries, and as a result of the exercise of discretion on the part of the judges.

An assessment of imposed penalties further reflects that the present manner of levying suspension penalties for driving infractions, pursuant to N.J.A.C. 13:71-23.3(b), may result in a relatively minor suspension falling on a date or dates where no live racing occurs at the track where the infraction occurred. Thus, for example, a three-day suspension from driving for an infraction occurring at "Racetrack A" may presently be imposed so as to fall on a date where no live racing is taking place at such facility (that is, on a "dark date").

The proposed amendment would eliminate the language of the present rule which indicates that the penalty of suspension from driving shall commence "from the day" after a hearing before the judges. Although any imposed suspension from driving would still be required to be served on a continuing basis, the proposed amendment would allow the judges to exercise discretion in terms of the date on which the suspension is to commence following the hearing. However, this discretion would be limited to insure that suspensions from driving are imposed to correspond to scheduled live race dates at the racetrack where the infraction occurred, unless the length of the imposed continuous suspension requires that it encompass a dark date or dates, or unless to do so would be impractical.

More particularly, the amendment would require that, where the term of the suspension equals or is less than the normal number of scheduled live race days during a week at the track association where the infraction occurred, that the continuous suspension be imposed on dates to correspond with those live race dates. Thus, if "Racetrack A" normally conducts living racing five days a week, and is dark Sundays and Mon-

days, a five-day suspension from driving would be imposed after a hearing before the judges and on dates chosen by the judges which correspond to the live race dates (Tuesday through Saturday). However, where the term of suspension exceeds the normal number of scheduled live race days at such track, a continuous suspension under the amendment would be imposed on dates to encompass the maximum number of live race dates there possible. Thus, a 12-day suspension imposed at "Racetrack A" would encompass two dark dates, beginning on a Tuesday and ending 12 days later (on a Saturday). The proposed amendment would permit the judges to not adhere to these formulas for the imposition of penalties either where the term of suspension cannot be imposed consistent therewith (due to the suspension of racing where the infraction occurred), or where they determine that the application thereof would not otherwise be practical. For example, if a driving infraction occurred on the last day of the meet at "Racetrack A," the intent of the proposed amendment could not be effectuated and the judges could exercise discretion in terms of the imposition of the suspension period. Of course, any such suspension would follow the conduct of a hearing and the suspension would be imposed on a continuous basis.

The proposed amendment, as is true of the existing rule, makes no exceptions for stakes, futurities, early closures, or feature races during the period of suspension.

The Commission is of the view that this amendment would result in a more equitable manner of imposing driving suspensions, and would enhance consistency of application. The Commission, however, does recognize that some drivers may be opposed to the limitations which the amendment would place on the ability for driving suspensions to encompass dark dates at the track association where the infraction occurred.

Social Impact

The proposed amendment would not impact upon society as a whole. The Commission believes that the amendment is consistent with the best interests of racing in that it seeks to amend the existing regulation to ensure that driving suspensions, where practical, encompass scheduled live race dates at the track association where the infraction occurred. In doing so, the amendment will likely serve to promote the public perception and confidence in the sport.

Economic Impact

Although a driver whose license is suspended in this State may not compete at any track during the period of his or her suspension, this proposed amendment would require that a suspension from driving encompass the maximum possible number of continuous live race dates at the racetrack where the underlying infraction occurred. Consequently, although adoption of the amendment will affect all drivers, it will most affect those drivers who elect to compete primarily at one track. This arises from the fact that, as is generally the case concerning drivers who presently choose to compete at multiple tracks, the period of non-participation for such drivers will more directly correlate to the activity for which the license was granted. Thus, to the extent that a driver may presently be benefited by the practice of allowing a suspension to fall on a dark date at the track where the infraction incurred, the amendment presents a limited economic impact in terms of loss of driving fees, purse share, etc.

Regulatory Flexibility Analysis

The compliance requirements of the proposed amendment implicate drivers and owners, some of whom may be considered small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Although the number of small businesses to which the amendment would apply is not readily ascertainable, such entities would be required to comply with its requirements. As the amendment concerns suspension penalties imposed upon drivers, it would directly implicate the drivers while indirectly affecting owners by requiring the substitution of drivers where the suspension term encompasses an anticipated race date for the horse where its regular driver is precluded from participation. The Commission is of the view that the objectives of the amendment, to enhance consistency of application and a more equitable manner of imposing driver suspensions, requires application of its terms to small businesses without regard to type or size.

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

13:71-2.3 Penalties

(a) (No change.)

(b) Any penalty of suspension from driving shall commence [from the day] after a hearing before the judges and shall be served on a continuing basis. **Where the term of suspension equals or is less than the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates where live racing there occurs. Where the term of suspension exceeds the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates so as to encompass the maximum number of live race days there possible. However, where the term of suspension cannot be imposed consistent with the formulas set forth in this subsection due to the suspension of racing at the track where the infraction occurred, or where the judges determine that the application of such formulas would otherwise not be practical, the judges shall, in their discretion, determine the continuous dates over which the suspension is to be served.** There shall be no exceptions for stakes, futurities, early closures, or feature races during the period of suspension.

(c) (No change.)

(a)

NEW JERSEY RACING COMMISSION

Harness Rules

Age Limits

Proposed Amendment: N.J.A.C. 13:71-5.18

Authorized By: New Jersey Racing Commission, Frank Zanzucki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1993-341.

Submit written comments by July 21, 1993 to:

Mike Vukcevich, Deputy Director
New Jersey Racing Commission
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment would change the minimum age for admittance to a New Jersey racetrack without being accompanied by an adult, from 16 to 18.

Social Impact

The proposed amendment is intended to close a gap in the existing rules that permit 17 year olds to enter a racing facility without being accompanied by an adult, while prohibiting those under 18 years of age from participating in pari-mutuel wagering. The social impact of the amendment will therefore be positive in that it will prohibit a class of minors, who are not able to wager on pari-mutuel wagering, from entering a permitted racetrack facility unless accompanied by an adult.

Economic Impact

The proposed amendment would have a minimal impact on the track associations for paid admissions. Assuming adoption of the amendment, 17 year olds will not be allowed to enter a track unless accompanied by an adult, and consequently, racetracks will not be able to collect admission costs from such unaccompanied minors.

Regulatory Flexibility Statement

The proposed amendment imposes no reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Although the proposed amendment will impose compliance requirements on track associations, a racetrack is not a small business as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

13:71-5.18 Age limits

Any child under [16] **18** years of age must be accompanied by an adult, parent or guardian to be admitted to any racetrack enclosure as a spectator during the hours when the running of races is being conducted. No person under the age of 18 shall be permitted to wager or in any manner participate in any pari-mutuel pool or system.

TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping Routes N.J. 7 in Essex County; U.S. 9 in Atlantic County; N.J. 47 in Cumberland County; N.J. 77 in Cumberland County; N.J. 173 in Hunterdon County; and U.S. 206 in Mercer County

Proposed Amendments: N.J.A.C. 16:28A-1.6, 1.7, 1.33, 1.41, 1.52 and 1.57

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-197.5, 39:4-198 and 39:4-199.

Proposal Number: PRN 1993-327.

Submit comments by July 21, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will establish "time limit parking" zones along Routes N.J. 7 in Nutley Township, Essex County, N.J. 77 in the City of Bridgeton, Cumberland County, and N.J. 173 in Bethlehem Township, Hunterdon County; "no stopping or standing" zones along Routes U.S. 9 in Galloway Township, Atlantic County, and N.J. 47 in the City of Vineland, Cumberland County; "no parking certain hours" along Route N.J. 77 in the City of Bridgeton, Cumberland County; "no parking bus stop" zones along Route U.S. 206 in Lawrence Township, Mercer County; and a "restricted parking (handicapped) space(s)" along Route U.S. 206 in Lawrence Township, Mercer County, for the efficient flow of traffic, the enhancement of safety, the safe off and on loading of passengers at established bus stops, the establishment of restricted space(s) for the handicapped and the over-all well-being of the populace.

The Department received Resolution No. 91-288, adopted June 11, 1991, from the City of Vineland Council requesting that no stopping or standing zones be established along Route N.J. 47, in the City of Vineland, Cumberland County; Resolution No. 67-92 adopted October 20, 1992 by the City of Bridgeton Council requesting that no parking certain hours be established northbound and southbound along Route N.J. 77 (Washington Street and Medford Drive) during the hours of 7:00 A.M. to 12:00 noon, Monday northbound and Tuesday southbound; and Resolution No. 129-93, adopted March 17, 1993 by the Lawrence Township Council requesting that a handicapped parking space be approved for 1007 Brunswick Avenue (Route U.S. 206) in the Township of Lawrence, Mercer County.

Based upon the requests received from the local governments, and in the interest of safety, as part of a review of current conditions, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "time limit parking" zones along Routes N.J. 7 in Nutley Township, Essex County, N.J. 77 in the City of Bridgeton, Cumberland County, and N.J. 173 in Bethlehem Township, Hunterdon County; "no stopping or standing" zones along Routes U.S. 9 in Galloway Township, Atlantic County, and N.J. 47 in the City of Vineland, Cumberland County; "no parking certain hours" along Route N.J. 77 in the City of Bridgeton, Cumberland County; "no parking bus stop" zones along Route U.S. 206 in Lawrence Township, Mercer County; and a "restricted parking (handicapped) space(s)" along Route U.S. 206 in Lawrence Township, Mercer County, were warranted.

The proposed amendments at N.J.A.C. 16:28A-1.33 and 1.52 are also intended to internally add language at the subsections to bring them into conformity with the Department's rulemaking format.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.6, 1.7, 1.33, 1.41, 1.52 and 1.57 based upon the requests from local governments, the traffic investigations and the need to add language to those sections in conformity with current rulemaking practices.

Social Impact

The proposed amendments will establish "time limit parking" zones along Routes N.J. 7 in Nutley Township, Essex County, N.J. 77 in the City of Bridgeton, Cumberland County, and N.J. 173 in Bethlehem Township, Hunterdon County, and N.J. 173 in Bethlehem Township, Hunterdon County; "no stopping or standing" zones along Routes U.S. 9 in Galloway Township, Atlantic County, and N.J. 47 in the City of Vineland, Cumberland County; "no parking certain hours" along Route N.J. 77 in the City of Bridgeton, Cumberland County; "no parking bus stop" zones along Route U.S. 206 in Lawrence Township, Mercer County; and a "restricted parking (handicapped) space(s)" along Route U.S. 206 in Lawrence Township, Mercer County, for the efficient flow of traffic, the enhancement of safety, the safe on and off loading of passengers at established bus stops, the establishment of restricted parking space(s) for the handicapped, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zone signs and local governments will bear the costs for the installation of "time limit parking," "no parking certain hours," "no parking bus stop," and "handicapped parking space" zone signs. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments primarily affect the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:28A-1.6 Route 7

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

(d) The certain parts of State highway Route 7 described in this subsection shall be designated and established as "time limit parking" zones, where parking is prohibited except as specified. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established time limit parking zones:

1. In Essex County:

i. Nutley Township:

(1) Two hours time limit parking from 8:00 A.M. to 6:00 P.M. Sunday through Saturday along both sides (Washington Avenue) from Hancox Avenue to Centre Street.

(2) Two hours time limit parking from 8:00 A.M. to 6:00 P.M. Sunday through Saturday along both sides (Washington Avenue) from Park Avenue to Nutley Avenue.

16:28A-1.7 Route U.S. 9

(a) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no stopping

or standing" zones where stopping or standing is prohibited at all times, except in areas covered by other parking restrictions adopted in accordance with the Administrative Procedure Act and N.J.A.C. 1:30. In accordance with the provisions of N.J.S.A. 39:4-198, proper signs shall be erected.

1. Stopping or standing along both sides for the entire length within the corporate limits of the following municipalities shall be prohibited, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation, except in areas covered by other parking restrictions.

i. (No change.)

ii. Atlantic County:

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

(5) Absecon City; [and]

(6) Port Republic City[.]; **and**

(7) Galloway Township.

iii.-vi. (No change.)

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

16:28A-1.33 Route 47

(a) The certain parts of State highway Route 47 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times, **except in areas covered by other parking restrictions adopted in accordance with the Administrative Procedure Act and N.J.A.C. 1:30. In accordance with the provisions of N.J.S.A. 39:4-198, proper signs shall be erected.**

1. (No change.)

2. No stopping or standing in Cumberland County:

i. (No change.)

ii. In the City of Vineland:

(1) Along both sides:

[(A) From the south curb line of Wheat Road to 150 feet south thereof.

(2) Along the northbound (easterly) side:

(A) Delsea Drive—From the northerly curb line of Walnut Road (eastern connection) to a point 200 feet north thereof.

(3) Along the southbound (westerly) side:

(A) Delsea Drive—From a point 125 feet south of the projected center line of Walnut Road (eastern connection) to a point 225 feet north thereof.]

(A) For the entire length within the corporate limits, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation, except in areas covered by other parking restrictions adopted in accordance with the Administrative Procedure Act and N.J.A.C. 1:30.

3.-10. (No change.)

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

16:28A-1.41 Route 77

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

(e) The certain parts of State highway Route 77 described in this subsection shall be designated and established as "no parking certain hours" zones. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following zones:

1. No parking certain hours in Cumberland County:

i. In the City of Bridgeton:

(1) Along the southbound (west side):

(A) From 7:00 A.M. to 12:00 noon on Tuesday between Washington Street and Melford Drive.

(2) Along the northbound (east side):

(A) From 7:00 A.M. to 12:00 noon Monday between Washington Street and Melford Drive.

(f) The certain parts of State highway Route 77 described in this subsection shall be designated and established as "Time Limit Parking" zones where parking is prohibited at all times except as specified below in this subsection. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following time limit zones:

1. In the City of Bridgeton, Cumberland County:

i. Two hours time limit parking from 6:00 A.M. to 9:00 P.M. Monday through Saturday:

(1) Along the southbound (west) side:

(A) Beginning at a point 108.57 feet south of the southerly curb line of Washington Street to a point 305.57 feet south of the southerly curbline of Washington Street.

(B) Beginning at a point 65.70 feet south of the southerly curb line of Church Lane to a point 140.70 feet south of the southerly curb line of Church Lane.

(C) Beginning at a point 164.95 feet south of the southerly curb line of East Commerce Street to a point 233.95 feet south of the southerly curb line of East Commerce Street.

(2) Along the northbound (east) side:

(A) Beginning at a point 105.00 feet north of the northerly curb line of Route N.J. 49 to a point 180.00 feet north of the northerly curb line of Route N.J. 49.

(B) Beginning at a point 59.77 feet south of the southerly curb line of McCormick Place to a point 108.77 feet south of the southerly curb line of McCormick Place.

(C) Beginning at a point 90.00 feet north of the northerly curb line of McCormick Place to a point 140.00 feet north of the northerly curb line of McCormick Place.

(D) Beginning at a point 122.00 feet north of the northerly curb line of East Commerce Street to a point 167.00 feet north of the northerly curb line of East Commerce Street.

(E) Beginning at a point 261.00 feet north of the northerly curb line of East Commerce Street to a point 444.00 feet north of the northerly curb line of East Commerce Street.

ii. Fifteen minutes time limit parking from 6:00 A.M. to 9:00 P.M. Monday through Saturday.

(1) Along the southbound (west) side:

(A) Beginning at a point 40.00 feet south of the southerly curb line of Church Lane and extending 25.00 feet south therefrom.

(B) Beginning at a point 124.95 feet south of the southerly curb line of East Commerce Street and extending 22.00 feet south therefrom.

(C) Beginning at a point 50.00 feet north of the northerly curb line of McCormick Place and extending 25.00 feet north therefrom.

(2) Along the northbound (east) side:

(A) Beginning at a point 35.77 feet south of the southerly curb line of McCormick Place and extending 24.00 feet south therefrom.

(B) Beginning at a point 140.00 feet north of the northerly curb line of McCormick Place and extending 24.00 feet north therefrom.

(C) Beginning at a point 100.00 feet north of the northerly curb line of East Commerce Street and extending 22.00 feet north therefrom.

16:28A-1.52 Route 173

(a) The certain parts of State highway Route 173 described in this [section] **subsection** [are] **shall be** designated and established as "no [parking] **stopping or standing**" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139. **In accordance with the provisions of N.J.S.A. 39:4-198, proper signs must be erected.**

1.-5. (No change.)

(b) The certain parts of State highway Route 173 described in this [section] **subsection** [are] **shall be** designated and established as "no parking **bus stop**" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

(c) The certain parts of State highway Route 173 described in this subsection shall be designated and established as "time limit parking" zones where parking is prohibited except as specified below. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs in the following established time limit parking zones:

1. In Bethlehem Township, Hunterdon County:

i. Two hours time limit parking, 24 hours a day, seven days a week for the entire Rest Area within the Jugtown Mountain Rest Area confines.

16:28A-1.57 Route U.S. 206

(a) (No change.)

(b) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as "no parking bus stop["] zones" where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the westerly (southbound) side in Lawrence Township, Mercer County:

i.-ii. (No change.)

iii. Near side bus stops:

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

(9) Lawn Park Avenue—Beginning at the northerly curb line of Lawn Park Avenue and extending 105 feet northerly therefrom.

3.-12. (No change.)

(c) (No change.)

(d) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as a "restricted parking space" for the use of persons who have been issued special Vehicle Identification Cards by the Division of Motor Vehicles. No other persons shall be permitted in these areas. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following parking spaces:

1. Restricted parking space in Lawrence Township, Mercer County:

i. Along the west side (Brunswick Avenue) southbound, in front of 1007 Brunswick Avenue:

(1) Beginning at a point 70 feet north of the northerly curb line of Spruce Street and extending 23 feet northerly therefrom.

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Lane Usage

Route I-195 in Monmouth County

Proposed New Rule: N.J.A.C. 16:30-3.8

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 27:21 and 39:4-6.

Proposal Number: PRN 1993-328.

Submit comments by July 21, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Transportation proposes a new rule, N.J.A.C. 16:30-3.8, to establish a "shoulder use lane" along Route I-195 in Millstone Township of Monmouth County. This rule is being implemented to relieve traffic congestion on I-195 near Great Adventure (Six Flags). The rule permits use of the shoulder for approximately four miles in the vicinity of the exit for Great Adventure. Use of the shoulder will be permitted daily between the hours of 9:00 A.M. and 6:00 P.M. May 1 to September 30 of each year. In addition, the left lane shall be reserved exclusively for through traffic during times when use of the shoulder is permitted. Vehicles may not exit from the left lane at this intersection.

The Department is proposing this rule as requested by the local governmental entity and as a result of traffic investigations completed by the Department's Bureau of Traffic Engineering and Safety Programs. The investigation proved that the establishment of a "shoulder use lane" along Route I-195 in Monmouth County was warranted. Appropriate signs shall be erected to advise the motoring public.

Social Impact

The proposed new rule will establish a "shoulder use lane" along Route I-195 in Millstone Township, Monmouth County, to improve traffic flow and enhance roadway safety. Appropriate signs will be erected on location to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will pay for the installation of signs authorizing the use of shoulder lanes. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed new rule does not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rule primarily affects the motoring public and the governmental entities responsible for the enforcement of the rules.

Full text of the proposed new rule follows:

16:30-3.8 Route I-195 shoulder use lanes

(a) The shoulder of State highway I-195, eastbound, from approximately milepost 12 to milepost 16.6, shall be designated and established as a travel lane from 9:00 A.M. to 6:00 P.M., Monday through Sunday, from May 1 through September 30 of each year.

(b) The left lane at Interchange 16 shall be reserved for through traffic only, and no vehicles shall exit from the left lane at Interchange 16, between 9:00 A.M. and 6:00 P.M., Monday through Sunday, from May 1 through September 30 of each year.

(c) In accordance with N.J.S.A. 34:4-199, proper signs shall be erected to inform motorists of the time and dates when this rule is in effect.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS AND BENEFITS

State Health Benefits Commission

Proposed Readoption: N.J.A.C. 17:9

Authorized By: State Health Benefits Commission, Patricia Chiacchio, Acting Secretary.

Authority: N.J.S.A. 52:14-17.27.

Proposal Number: PRN 1993-332.

Submit comments by July 21, 1993 to:

Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions and Benefits
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Division of Pensions and Benefits is constantly reviewing the administrative rules within N.J.A.C. 17:9 concerning the State Health Benefits Program. When the Division becomes aware of a change in the laws or a court decision that possibly could affect the State Health Benefits Program, the administrative rules are reviewed and, if changes therein are mandated, steps are taken to propose changes to those rules to conform to the new statute or court decision. Additionally, the rules are periodically reviewed by the Division's staff to ascertain if the current rules are necessary and/or cost efficient. After careful scrutiny of the current rules in N.J.A.C. 17:9, the Division is satisfied that they are

necessary and needed for the efficient operation of the Program. Accordingly, the State Health Benefits Commission proposes to readopt the current rules within N.J.A.C. 17:9 and to extend through readoption the expiration date for such rules under Executive Order No. 66(1978) to October 3, 1998. The current rules deal with the administration, coverage, dependents, employees, charges, retirement, and termination procedures concerning the State Health Benefits Program.

Social Impact

The rules involving the State Health Benefits Program affect and work to the benefit of the past, present and future public employees who have, are or will be participating in the State Health Benefits Program. The taxpaying public is affected by these rules in the sense that public monies are used to fund the benefits.

Economic Impact

While the readoption of the rules themselves will not present any adverse economic impact to the public, the payment of the benefits and claims mandated in the statutes are funded by public employer contributions and thus indirectly by taxpayers. If the administrative rules are not readopted, the benefits and claims mandated by the statutes must still be paid. Without the administrative rules to provide for the efficient operation of the State Health Benefits Program, chaos would occur. The readoption of these rules will provide an economic benefit to all current and future State and local employees who are, were or will be enrolled in the State Health Benefits Program.

Regulatory Flexibility Statement

The rules of the State Health Benefits Program only affect public employers and employees. Thus, this proposed readoption does not impose any reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 17:9.

TREASURY-TAXATION
(a)

DIVISION OF TAXATION
Local Property Tax
Proposed Readoption: N.J.A.C. 18:12
Proposed Repeals: N.J.A.C. 18:12-5, 7, 8 and 9

Authorized By: Leslie A. Thompson, Director, Division of Taxation.

Authority: N.J.S.A. 54:1-35.1 et seq.; 54:4-26; 54:50-1 et seq.; 54:4-1 et seq.; and 446:15-5 et seq.

Proposal Number: PRN 1993-276.

Submit comments by July 21, 1993 to:

Nicholas Catalano
Chief, Tax Services
Division of Taxation
50 Barrack Street
CN 269
Trenton, New Jersey 08646

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 18:12 expires on July 29, 1993. The Division of Taxation has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Division proposes to readopt these rules without change excepting those subchapters proposed to be repealed or amended.

The property tax is a local tax which is assessed and collected by municipalities for the support of municipal and county governments and local school districts. It is an ad valorem tax measured by property values and is apportioned among taxpayers according to the value of taxable property owned by each taxpayer. The tax is applied to real estate, and tangible personal property used in the business of local exchange telegraph, and messenger companies. The valuation and assessment of real property for tax purposes is critical to the entire scheme of property taxation and must be performed annually in each of the 567 taxing districts.

By constitutional mandate and legislative direction the Director of Taxation is required to achieve Statewide uniformity in the taxation of all real property, unless otherwise exempt. These rules proposed for readoption purport to provide effective guides for the uniform implementation of the laws by local and county officials who must administer these laws by correct determinations of value and eligibility status for exemption, when applicable.

Subchapter 1 sets forth standards to be employed in the screening of real estate sales transactions for purposes of effecting the "Director's Ratio." The ratio is essential to the distribution of state school aid and is used for other purposes in the taxing system. Subchapter 2 prescribes guidelines and designs for the annual preparation of the property tax list as required for each of the several taxing districts in New Jersey. The statutorily required document is necessary to a comprehensive and uniform system of taxation. The notification features are helpful in the satisfaction of administrative due process. Subchapter 3 is an adjunct to the previous subchapter, providing procedural directives for the filing and certification of the property tax lists. Subchapter 4 deals with revaluation firms performing assessment services to municipalities. Standards of performance, quality control features and certain monitoring mechanisms are prescribed for inclusion in the contracts that revaluation firms execute with municipalities.

Subchapter 5, covering extensions of time for filing appeals with county boards of taxation is proposed to be repealed. The enactment of P.L. 1991, c.75 renders the provisions of this rule void.

Subchapters 6 and 6A are currently in a reserved status having been repealed on March 15, 1993 and published in the New Jersey Register at 25 N.J.R. 1228(c).

Subchapters 7 through 9 are proposed to be repealed, as a result of dictates in legislative changes removing the authority upon which these rules are premised. P.L. 1991, c.441, "The Five-Year Exemption and Abatement Law" was enacted on January 18, 1992 providing for the repeal of P.L. 1975, c.104 and P.L. 1977, c.12. Subchapter 7, governing the administration of the homestead rebate by local tax officials pursuant to P.L. 1976, c.72 is no longer valid by virtue of the recent repeal of said Chapter 72 and replacement legislation changing the calculation of this benefit on a real property value basis. Accordingly, the repeal of this subchapter becomes necessary. The authority for subchapter 8 has evaporated by the terms of its authorizing enactment, P.L. 1977, c.256, as amended by P.L. 1982, c.218. A "sunset provision" in this legislation provided for expiration of the law, commencing January 1, 1988. Similarly, self-expiratory features contained in subchapter 9 render this rule obsolete and thus proposed for repeal.

Subchapter 10, Real Property Defined, establishes definitive guidelines for distinguishing "real" from "personal" property for purpose of the assessment and taxation of certain classifications of local property. These rules have become increasingly necessary for purposes of clarifying and simplifying the certain legislative and judicial mandates on the subject.

Social Impact

The rules proposed for readoption have had a positive effect upon the several areas with respect to which the given guidelines and regulatory features apply. Mostly instructional, the rules have provided property taxpayers the benefit of uniformity in the application of property tax law, wherever in the State. By reducing the incidence of assessment error these rules spare our heavily burdened court system untold numbers of property tax appeals. The guidance provided local tax officials, together with the uniform standards prescribed for administering local property tax laws has elevated the professional quality of the tax assessment with resulting uplift of public confidence.

Economic Impact

The Division and local government units incur administrative costs in the implementation of the rules; however, it is observed that the benefits derived from the proper and efficient administration of property tax laws far outweigh any costs.

Regulatory Flexibility Analysis

The rules proposed for readoption are mostly directed toward local property tax officials to ensure uniform application of this State's property tax enactments. Their application in a general manner affects all property owners alike without special impact upon small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-6 et seq.

Minimal reporting, recordkeeping requirements and compliance standards are prescribed for revaluation firms in rules found in subchapter 4. The standards imposed are hardly oppressive and pose minimal levels of compliance such as may be reasonably expected from a provider of services to the public. Provisions for waiver or modification exist to enable flexibility in negotiating for the services of these firms. Therefore, no further differing standards based on business size are offered.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 18:12.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 18:12-5 and 7 through 9.

(a)

DIVISION OF TAXATION

Local Property Tax

Proposed Readoption with Amendments: N.J.A.C. 18:12A through 18:17

Authorized By: Leslie A. Thompson, Director, Division of Taxation.

Authority: N.J.S.A. 54:1-35.1, et seq.; 54:4-26; 54:4-23.21; 54:3-21.5; 54:50-1, et seq.; 54:4-1, et seq.; 54:3-14; and P.L. 1968, c.49, sec. 7.

Proposal Number: PRN 1993-297.

Submit comments by July 21, 1993 to:

Nicholas Catalano
Chief, Tax Services
Division of Taxation
50 Barrack Street
CN 269
Trenton, New Jersey 08646

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 18:12A through 18:17 expire on July 29, 1993. The Division of Taxation has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Division proposes to readopt these rules without change except N.J.A.C. 18:12A-1.2, 1.3, 1.6 and 1.20; 18:14-3.11 and 18:16-2.1, 5.1 and 5.3, proposed to be amended.

Chapter 12A, entitled "County Boards of Taxation" establishes the administrative structure for these agencies and sets forth procedures and guidelines for their quasi-judicial functions. In addition the rule establishes educational requirements and defines the duties and responsibilities applicable to the board members and other personnel. The rule has proven effective and continued compliance by county boards of taxation is necessary to the success of our system of local property taxation and the appeal rights of taxpayers.

Certain changes in legislation, P.L. 1984, c.188 and P.L. 1991, c.363, have occurred changing the qualifying periods applicable to county tax board members and administrators as stated in N.J.A.C. 18:12A-1.2 and 1.3. To update the latter, accordingly, proposed amendments are set forth. A revision of the statutory appeal deadline respecting county tax boards as enacted under P.L. 1991, c.75 affected N.J.A.C. 18:12A-1.6 and 1.20 which therefore require amending to reflect the changed legislation.

Chapter 13 remains in a reserved status for future use.

Chapter 14 provides guidelines for local officials and county tax boards in their treatment of claims for property tax deductions made available to senior citizens and disabled persons and their surviving spouses under the Constitution. The instructional guidelines provided at N.J.A.C. 18:14-3.11 are also affected by the statutory date changes effected under P.L. 1991, c.75 and therefore requires amendment to reflect said changes.

Chapter 15 sets forth detailed procedures, definitions and guidelines for administering the "Farmland Assessment Act". Eligibility requirements, application procedures, sample documents, methods for verification and standards for approval are provided for the use of local assessors. Most important are the values set forth for guidance in the preferential assessment of qualified farm acreage.

Chapter 16 deals with the administration of the realty transfer fee, a function assumed by the Director of Taxation following repeal of a Federal tax imposed upon real property sales. Since 1968, New Jersey joined several other states by initiating fees upon such transactions. Expansive provisions in the rule provide definitions, fee schedules, exemption provisions and various procedural guidelines for compliance by county clerks/registrars who are responsible for collection of fees at the county level. Certain statutory provisions provided in this rule for guidance have been revised over the years thus requiring amendments for update purposes. The revisions required include N.J.A.C. 18:16-2.1 incorporating a fee change as imposed by P.L. 1985, c.225, and N.J.A.C. 18:16-5.1 and 5.2 extending exemptions to decedent estates and the conveyance of low and moderate income housing in accordance with P.L. 1979, c.293.

Chapter 17 is concerned with the qualifications of local property tax assessors and educational prerequisites to their certification. Continued professionalism in the real property assessment function makes necessary the retention of this rule.

Social Impact

The rules proposed for readoption have had a positive effect upon the several areas with respect to which the given guidelines and regulatory features apply. Mostly instructional, the rules have provided property taxpayers the benefit of uniformity in the application of property tax law, wherever in the State. By reducing the incidence of assessment error these rules spare our heavily burdened court system untold numbers of property tax appeals. The State's Affordable Housing Program is aided by the fees exacted under Realty Transfer Act, thus low income persons derive a positive social benefit from the rules set forth in Chapter 16.

In the wake of increased taxpayer concerns manifested by an inordinate number of property tax appeals across the State, uniform guidelines and standards for use by tax officials at all levels become increasingly important. Consequently, existing rules governing local ministerial functions and those related to the administrative appeal process are heavily relied upon by assessors, county tax board commissioners and administrators, in addition to the taxpayers, their consultants and legal representatives.

Regulatory guidelines given elderly and disabled persons claiming the $250.00 property tax deduction are widely received. Similarly, local tax officials welcome the direction provided by these pertinent rules. In the same manner claimants under the Farmland Assessment Act and the respective local officials who must process and determine the validity of claims experience great benefit through this Division's prescribed rules.

In essence, continuation of the rules cited herein are of paramount importance to the social structure of the State in that they ensure that all facets of property taxation are uniformly administered at local, county and State levels for the benefit of the citizens of New Jersey.

Economic Impact

The State and local government units incur administrative costs in the implementation of the rules, however it is observed that the benefits derived from the proper and efficient administration of property tax laws far outweigh any costs.

The standards and directions provided in Chapter 14 for processing and reviewing claims for the senior citizens' and disabled persons' property tax deduction impact positively by assuring qualified persons in the beneficiary class of the economic benefit to which they are entitled. Also, by screening out ineligible claimants a savings inures to the taxpayers. Similarly, Chapter 15 provides such guidance for proper administration of the preferential tax treatment granted persons in the agricultural and horticultural industries. This positive economic benefit is undoubtedly reflected in the marketing of farm produce for public consumption.

Moreover, revenues derived in administering the Realty Transfer Act, Chapter 16, are in excess of overall costs at this level. Notwithstanding the imposition of the tax on realty transfers no increased public burden results as said transactions were previously taxed at the Federal level. Fees derived from the Realty Transfer Act provides an economic benefit to low income housing efforts and increases construction starts in the State.

Regulatory Flexibility Analysis

The rules proposed for readoption are mostly directed toward local property tax officials to ensure uniform application of this State's proper-

ty tax enactments. Their application in a general manner affect all property owners alike without special impact upon small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-6 et seq.

Chapter 12A and Chapter 17 deal with procedures to be employed by tax officials at the State, county and local levels and have no impact on small businesses. Likewise Chapters 14 and 16 covering the Senior Citizens' Deduction and Realty Transfer Fee, respectively, are directed to administrative officials and the taxpayers at large.

Some claimants for preferential tax treatment covered by Chapter 15, Farmland Assessment are classified as small businesses. These rules do impose some recordkeeping, reporting and compliance requirements. However, none of the requirements impose provisions which do not easily derive from normal business practices and are therefore not so burdensome as to necessitate differing standards based on business size. The type of information required and compliance sought is necessary to insure the integrity of the Farmland Assessment program and to insure those receiving the tax benefit are truly entitled.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:12A through 18:17.

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

18:12A-1.2 Educational requirements, organization and meetings, annual report by board president

(a) Each member shall, within [18] **24** months of appointment, furnish proof that he **or she** has received certificates indicating satisfactory completion of training course designated in Section 4 of P.L. 1967, c.44 (C.54:1-35.28), or that he **or she** possesses an assessor's certificate issued pursuant to P.L. 1967, c.44.

(b) (No change.)

(c) If any board, so required, does not furnish such proof within said [18] **24**-month period, **or 30-month period for any member serving on January 1, 1980,** the Administrator shall immediately notify the President of the Board and the Director of the Division of Taxation who shall upon receipt of such notification declare the position to be vacant and shall notify the Governor of the existence of such vacancies. The Governor shall thereupon appoint with the advice and consent of the Senate, a different citizen and resident of the relevant county to fill such position for the unexpired term.

(d)-(g) (No change.)

(h) Annually, on or before [August 15] **April 1**, the president of the board shall report to the Director of the Division of Taxation in such form as prescribed by the Director, information and statistics as may be appropriate to demonstrate for the immediately preceding three-month period during which tax appeals were heard by the board. The report shall contain the number of appeals filed with the board, the deposition of the appeals disposed of during that period; the character of appeals filed with regard to the classification of properties appealed; the total amount of assessments involved in those appeals, the number of appeals filed in each filing fee category in that period; the total amount of reductions and increases of assessed valuation granted by the board during that period; and, any other information deemed necessary by the Director.

18:12A-1.3 County Tax Administrator

(a)-(f) (No change.)

(g) No person shall be appointed to a first term as county tax administrator after August 5, 1988, unless having served for four years in property tax administration at a State, county or municipal level.

(h) All persons appointed county tax administrator after August 5, 1988 shall complete a training program developed for county tax administrators by the Bureau of Government Research at Rutgers within 24 months following appointment.

Recodify existing (g)-(l) as **(i)**-**(n)** (No change in text.)

18:12A-1.6 Petitions of appeal; cross-petitions of appeal

(a) (No change.)

(b) A petition of appeal filed by a party respondent in a tax appeal shall be denominated as a "cross-petition of appeal" and shall be filed on the same form and subject to the same standards applicable to petitions of appeal. Where a petition of appeal is filed within the period covering 19 days next preceding [August 15] **April 1**, a respondent shall have 20 days from the date of service to file a cross-petition with the county board of taxation.

(c) A separate petition of appeal shall be received and filed by the board on or before [August 15] **April 1** for each separately assessed property under appeal. Where an appeal involved assessments of more than one property, separate petitions of appeal shall be filed for each property separately assessed unless prior permission has been obtained from the board.

(d) (No change.)

(e) A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the first three quarters of taxes assessed against him for the current tax year in the manner prescribed in R.S. 54:4-66 even though his petition to the county board of taxation might request a reduction in excess of one quarter of the taxes assessed for the full year. In the event a taxpayer who has filed a tax appeal has failed to pay the first three quarters of the current year's taxes and in the further event the municipality appropriately makes an application before the county board of taxation for a dismissal of the petition of appeal, the county board of taxation shall allow the taxpayer a 10-day period of time to pay such taxes prior to the entry of a judgment of dismissal. The 10-day period may be extended by the county board in the interest of justice. If such taxes are not paid within the 10-day period, then the county board of taxation shall enter a judgment dismissing the petition for failure to pay taxes. Such a 10-day period for the payment of taxes should be limited where necessary by the [November 15] **July 1** annual deadline imposed upon county boards by law for the entry of judgments.

(f)-(l) (No change.)

18:12A-1.20 Appeals; late filing

(a) Where a petition or cross-petition of appeal to a county board of taxation is actually received by the board after [August 15] **April 1** of the tax year (except if [August 15] **April 1** shall fall on a Saturday, Sunday or holiday, then after the first business day immediately thereafter), the county board of taxation or the county tax administrator, if authorized by the board by resolution, shall not accept said petition or cross-petition of appeal for filing but shall forthwith return the same to the person filing it, together with the filing fee, if the filing fee accompanied said petition or was otherwise paid. The petition or cross-petition to be returned shall have endorsed thereon the date of receipt and a statement "Petition or cross-petition is returned by reason of late filing", and shall be accompanied by a judgment of dismissal by the county board of taxation for late filing.

(b) (No change.)

18:14-3.11 Appeals

An aggrieved taxpayer may appeal from the disposition of a claim for a real property tax deduction in the same manner as is provided for appeals from assessments generally. However, in the event that a claimant's application for allowance of a real property tax deduction is disallowed by the assessor or collector at a date too late to permit the applicant to file an appeal with the county board of taxation on or before [August 15] **April 1** of such year, then, in such case, the applicant would be entitled to file an appeal at any time on or before [August 15] **April 1** of the succeeding year. If such appeal is filed by the applicant within such time as to permit it to be calendared and heard by the county board of taxation during the year immediately following the year to which such appeal relates, the county board of taxation may hear and decide such appeal for the tax year to which the appeal relates. The appeal should set forth the reasons, the nature and the location of the property and relief sought.

18:16-2.1 Conditions for recording of deed

(a) No county recording officer shall record any deed evidencing transfer of title to real property unless:

1.-2. (No change.)

3. A fee at the rate of $1.75 [or] **for** each $500.00 of consideration or fractional part thereof (which shall be in addition to the recording imposed by P.L. 1965, Chapter 123, Section 2 (R.S. 22A:4-4.1)) shall

be paid to the county recording officer at the time the deed is offered for recording. **An additional fee at the rate of $.75 for each $500.00 of consideration or fractional part thereof in excess of $150.00 of consideration shall be paid to the county recording officer.** Every deed subject to the additional fee required by this Act, which is in fact recorded, shall be conclusively deemed to have been entitled to recording, notwithstanding that the amount of the consideration shall have been incorrectly stated, or that the correct amount of such additional fee, if any, shall not have been paid, and no such defect shall in any way affect or impair the validity of the title conveyed or render the same unmarketable, but the person or persons required to pay said additional fee at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof;

4. (No change.)

18:16-5.1 Recording without payment of fee

(a) No fee is required to be paid where it is established to the satisfaction of the recording officer that the deed was given for one of the following reasons:

1.-14. (No change.)

15. By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.

16. Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee.

18:16-5.2 Exemption from payment of $1.25 portion of $1.75 fee

(a) A conveyance of a one or two-family residence is not subject to payment of the $1.25 portion of the $1.75 fee when the grantor qualifies under one or more of the following categories:

1. "Senior citizen";
2. "Blind person"; [or]
3. "Disabled person"[.]; **or**
4. **"Low and moderate income housing."**

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

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Applications
Forms
Gaming School License Standards
Proposed New Rules: N.J.A.C. 19:41-5
Proosed Repeal: N.J.A.C. 19:41-7.14
Proposed Amendment: N.J.A.C. 19:44-3.2

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

Authority: N.J.S.A. 5:12-63c, 69a, 70a, 82, 84, 85, 89b, 90b, 91b, 92, 95.12 and 102b and c.

Proposal Number: PRN 1993-345.

Submit written comments by July 21, 1993 to:

Mary S. LaMantia, Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Proposed new rules N.J.A.C. 19:41-5.1 through 5.10 describe the disclosure forms which must be filed with the Casino Control Commission ("Commission") by applicants, licensees, registrants and other persons required to be qualified under the Casino Control Act ("Act"), N.J.S.A. 5:12-1 et seq.

The new rules outline the information requested in the Personal History Disclosure Forms required of applicants for initial casino key employee and initial casino employee licensure; applicants for casino hotel employee registration; qualifiers of casino licensees or applicants; and qualifiers of gaming-related casino service industry licensees or applicants.

Likewise, the proposed rules describe the Business Entity Disclosure Forms filed by nongaming-related casino service industry ("CSI") license applicants and their holding companies. The rules also explain the Qualifier Disclosure Form and Qualifier Renewal Disclosure Form, which must be filed by those persons required to be qualified under the Act by virtue of their position with such a CSI license applicant.

N.J.A.C. 19:41-5.6 is being reserved for the future codification of forms for gaming related casino service industry license applicants.

The proposed rules reflect recently modified and updated disclosure forms, the product of extensive review and revision by the Commission in conjunction with the Division of Gaming Enforcement.

The proposal would also repeal the provisions of N.J.A.C. 19:41-7.14. Two of the forms included in N.J.A.C. 19:41-7.14, the Personal History Disclosure Form 3 and the Casino Hotel Facilities Statement, are no longer in use by the Commission. The reference to the Statement of Gaming School Proposal is recodified to N.J.A.C. 19:44-3.2. The other forms noted in N.J.A.C. 19:41-7.14 are superseded by the proposed new rules.

Social Impact

The proposed new rules describe disclosure forms that applicants, licensees, registrants and other persons required to be qualified under the Act must file with the Commission. This information should prove useful to such persons, and to those who are considering applying to the Commission for licensure, registration or qualification, by explaining the types of information which must be furnished to complete the application process.

Economic Impact

The rules are not anticipated to have any significant economic impact. Applicants, licensees, registrants and qualifiers who file the forms described in the proposal incur time and expense in compiling the requisite information, and in completing and filing the forms. The regulatory agencies likewise incur costs in reviewing and processing these disclosure forms. However, the Commission has always required this type of disclosure as part of the application process. The proposal herein simply codifies Commission forms, which in itself should not result in any incremental economic impact.

Regulatory Flexibility Analysis

The proposed new rules affect applicants for nongaming-related casino service industry licensure, some of which may qualify as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules outline the information and data which must be provided to the Commission through completion of the Business Entity Disclosure Forms filed by such licensees and applicants. These businesses will incur administrative time and expense in compiling the requisite information, and in completing and filing the forms.

It would not be feasible to exempt small businesses from these rules. Adequate disclosure must be required of all enterprises, without regard to size, to ensure that all casino service industry licensees and their owners, managers, supervisors and other principal employees possess the financial stability, good character, honesty and integrity required by the Act. Therefore no differing standards based on business size are offered.

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

SUBCHAPTER 5. [(RESERVED)] **FORMS**

19:41-5.1 Definitions

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

"Family" is defined at N.J.A.C. 19:40-1.2.

"Immediate family" means a person's spouse and any children, whether by marriage, adoption or natural relationship.

19:41-5.2 Personal History Disclosure Form 1A (Casino Key Employee/Qualifier Form)

(a) A Personal History Disclosure Form 1A (Casino Key Employee/Qualifier Form or PHD-1A) shall be in a format

prescribed by the Commission and may require the applicant to provide the following information:

1. Name, including any aliases or nicknames;
2. Date of birth;
3. Physical description;
4. Current address and residence history;
5. Social security number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. 552a;
6. Citizenship and, if applicable, information regarding resident alien status;
7. Marital history, dependents and other family data;
8. The casino licensee or applicant, casino service industry enterprise licensee or applicant or holding company, as applicable, with which the applicant is affiliated, and the nature of the applicant's position with or interest in such entity;
9. Telephone number at current place of employment;
10. Employment history of the applicant and the applicant's immediate family;
11. Education and training;
12. Record of military service;
13. Government positions and offices presently or previously held, and offices, trusteeships, directorships or fiduciary positions presently or previously held with any business entity;
14. Trusteeships or other fiduciary positions held by the applicant and the applicant's spouse, and any denial or suspension of, or removal from, such positions;
15. Current memberships in any social, labor or fraternal union, club or organization;
16. Licenses and other approvals held by or applied for by the applicant or, where specified, the applicant's spouse, in this State or any other jurisdiction, as follows:

i. Any professional or occupational license held by or applied for by the applicant or the applicant's spouse;

ii. Motor vehicle registrations and operator licenses held by or applied for by the applicant or the applicant's spouse, and any revocation or suspension thereof;

iii. Possession or ownership of any pistol or firearm, or any application for any firearm permit, firearm dealer's license, or permit to carry a pistol or firearm;

iv. Any license, permit, approval or registration required to participate in any lawful gambling operation in this State or any jurisdiction held by or applied for by the applicant; and

v. Any denial, suspension or revocation by a governmental agency of a license, permit or certification held by or applied for the applicant or the applicant's spouse, or any entity in which the applicant or the applicant's spouse was a director, officer, partner or an owner of a five percent or greater interest;

17. Any interest in or employment presently or previously held by the applicant with an entity which has applied for a permit, license, certificate or qualification in connection with any lawful gambling or alcoholic beverage operation in this State or any other jurisdiction; and any current employment or other association by the applicant's immediate family with the gambling or alcoholic beverage industries in this State or any other jurisdiction;
18. Civil, criminal and investigatory proceedings in any jurisdiction, as follows:

i. Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family;

ii. Any instance where the applicant has been named as an unindicted party or co-conspirator in a criminal proceeding or held as a material witness;

iii. Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body, and any refusal to comply with a request to do so;

iv. Lawsuits to which the applicant was or is a party;

v. Any citation or charge for a violation of a statute, regulation or code of any jurisdiction, other than a criminal, disorderly persons, petty disorderly persons or motor vehicle violation;

vi. Any use, distribution, or possession of any narcotic, hallucinogenic, drug, barbiturate, amphetamine or other substance listed in Schedule I through V of N.J.S.A. 2C:35-5 et seq. other than pursuant to a valid prescription issued by a licensed physician; and

vii. Whether any entity in which the applicant has been a director, officer, principal employee or a holder of more than five percent interest, has made bribes or kickbacks to any government official; maintained a bank account or other account not reflected on the books or records of the business; or maintained a bank account in a name other than the name of the business;

19. Whether any entity in which the applicant has been a director, officer, principal employee or a holder of more than five percent interest has donated or used funds or property for the use or benefit of or in opposing any government, political party, candidate or committee; compensated its directors, officers or employees for time and expenses incurred in performing services for benefit of or in opposing any government or political party; or made any loans, donations or other disbursements to its directors, officers or employees for the purpose of making political contributions or reimbursing such individuals for political contributions; and
20. Financial data, as follows:

i. All assets and liabilities of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the Commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;

ii. Bank accounts, including any right of ownership in, control over or interest in any foreign bank account, and safe deposit boxes;

iii. Real estate interests held by the applicant or the applicant's spouse or dependent children;

iv. Businesses owned;

v. Copies of Federal tax returns and related information;

vi. Judgments or petitions for bankruptcy or insolvency concerning the applicant or any business entity in which the applicant held a five percent or greater interest, other than a publicly traded corporation, or in which the applicant served as an officer or director;

vii. Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation;

viii. Executors and beneficiaries of the applicant's Last Will and Testament;

ix. Life insurance policies on the applicant's life which name someone other than the applicant's family as a beneficiary;

x. Positions held or interest received in any estate or trust;

xi. Whether the applicant has ever been bonded for any purpose or been denied any type of bond, including the nature of the bond and if applicable, the reason for denial;

xii. Insurance claims in excess of $100,000 by the applicant or the applicant's spouse or dependent children;

xiii. Referral or finder's fees in excess of $10,000;

xiv. Loans in excess of $10,000 made or received by the applicant, the applicant's spouse or dependent children;

xv. Gifts in excess of $10,000 given or received by the applicant or the applicant's immediate family;

xvi. Brokerage or margin accounts with any securities or commodities dealer;

xvii. Currency exchanges in an amount greater than $10,000;

xviii. Information regarding any instance where the applicant or any entity in which the applicant was a director, officer or holder of a five percent or greater interest has traded in foreign currencies or in a foreign commodities exchange, sold or purchased discounted promissory notes or other commercial paper, or been a party to any leasing arrangements in excess of $50,000; and

xix. Information regarding any ownership interest or financial investment by the applicant in any entity which holds or is an applicant for a license issued by the Commission, or in any gambling venture which does not require licensure by the Commission, includ-

ing persons providing or reasonably anticipated to provide the applicant with support in the financing of such investment or interest; the extent and nature of the applicant's involvement in the management and operation of the entity; whether the applicant has or has agreed to assign, pledge or hypothecate such interest or investment, the nature and terms of any such transaction and a copy of any such agreement.

(b) In addition to the information in (a) above, a completed PHD-1A may include the following:

1. The name, address, occupation and phone number of persons who can attest to the applicant's good character, reputation and business ability;

2. A copy of the applicant's birth certificate or, if a birth certificate is not available, one of the following:

i. A certificate of baptism;

ii. A notarized affidavit, in a form prescribed by the Commission, stating the date and place of birth, and two forms of identification which specify the applicant's date of birth; or

iii. Naturalization papers;

3. An original photograph of the applicant taken within the previous 12 months;

4. An identification number provided by the Division of Gaming Enforcement at the time the applicant is fingerprinted;

5. A signed, dated and notarized certification of truth; and

6. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-5.3 Personal History Disclosure Form 1B (Basic Key Form)

(a) A Personal History Disclosure Form 1B (Basic Key Form or PHD-1B) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:

1. Name, including any aliases or nicknames;

2. Date of birth;

3. Physical description;

4. Current address and residence history;

5. Social security number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. 552a;

6. Citizenship and, if applicable, information regarding resident alien status;

7. Position endorsement selection;

8. Marital history and other family data;

9. Telephone number at current place of employment;

10. Employment history, including any gaming-related employment;

11. Education and training;

12. Record of military service;

13. Licenses and other approvals held by or applied for by the applicant or, where specified, the applicant's spouse, in this State or any other jurisdiction, including:

i. Any license, permit, approval or registration required to participate in any lawful gambling operation in this State or any jurisdiction;

ii. Any denial, suspension or revocation by a government agency in this State or any other jurisdiction of a license, permit or certification held by or applied for by the applicant or the applicant's spouse;

iii. Motor vehicle registrations and operator licenses held by or applied for by the applicant or the applicant's spouse, and any revocation or suspension thereof;

14. Civil, criminal and investigatory proceedings in any jurisdiction, as follows:

i. Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family;

ii. Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body; and

iii. Lawsuits to which the applicant was or is a party; and

15. Financial data, as follows:

i. All assets and liabilities of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the Commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;

ii. Bank accounts, including any right of ownership in, control over or interest in any foreign bank account, and safe deposit boxes;

iii. Real estate interests held by the applicant or the applicant's spouse or dependent children;

iv. Businesses owned;

v. Copies of Federal tax returns and related information;

vi. Judgments or petitions for bankruptcy or insolvency concerning the applicant or any business entity in which the applicant held a five percent or greater interest, other than a publicly traded corporation, or in which the applicant served as an officer or director;

vii. Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation;

viii. Executors and beneficiaries of the applicant's Last Will and Testament;

ix. Positions held or interest received in any estate or trust;

x. Insurance claims in excess of $100,000 by the applicant or the applicant's spouse or dependent children;

xi. Loans in excess of $10,000 made or received by the applicant, the applicant's spouse or dependent children;

xii. Gifts in excess of $10,000 given or received by the applicant or the applicant's immediate family; and

xiii. Referral or finder's fees in excess of $10,000.

(b) In addition to the information in (a) above, a completed PHD-1B may included the following:

1. The name, address, occupation and phone number of persons who can attest to the applicant's good character, reputation and business ability;

2. A copy of the applicant's birth certificate or, if a birth certificate is not available, one of the following:

i. A certificate of baptism;

ii. A notarized affidavit, in a form prescribed by the Commission, stating the date and place of birth, and two forms of identification which specify the applicant's date of birth; or

iii. Naturalization papers;

3. An original photograph of the applicant taken within the previous 12 months;

4. An identification number provided by the Division of Gaming Enforcement at the time the applicant is fingerprinted;

5. A signed, dated and notarized certification of truth; and

6. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-5.4 Personal History Disclosure Form 2A (Casino Employee License Application)

(a) A Personal History Disclosure Form 2A (Casino Employee License Application or PHD-2A) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:

1. Name, including any aliases or nicknames;

2. Date of birth;

3. Physical description;

4. Current address and residence history;

5. Social security number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. 552a;

6. Citizenship, and if applicable, resident alien status;
7. Position endorsement selection;
8. Marital history;
9. Telephone number at current place of employment;
10. Employment history, including any gaming-related employment;
11. Education and training;
12. Record of military services;
13. Licenses of other approvals held by or applied for by the applicant in this State or any other jurisdiction, including:
i. Any license, permit, approval or registration required to participate in any lawful gambling operation;
ii. Any denial, suspension or revocation by a government agency of a license, permit or certification; and
iii. Motor vehicle registrations and operator licenses and any revocation or suspension thereof;
14. Civil, criminal and investigatory proceedings in any jurisdiction, as follows:
i. Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family;
ii. Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body; and
iii. Lawsuits to which the applicant was or is a party; and
15. Financial data, as follows:
i. Businesses owned;
ii. Bank accounts and safe deposit boxes;
iii. Judgments or petitions for bankruptcy or insolvency concerning the applicant, including a copy of the bankruptcy petition and discharge, if granted, and any such judgment or petition concerning any business entity in which the applicant held a five percent or greater interest, other than a publicly traded corporation, or in which the applicant served as an officer or director; and
iv. Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation.
(b) In addition to the information in (a) above, a completed PHD-2A may include the following:
1. The name, address, occupation and phone number of persons who can attest to the applicant's good character, reputation and business ability;
2. A copy of the applicant's birth certificate or, if a birth certificate is not available, one of the following:
i. A certificate of baptism;
ii. A notarized affidavit, in a form prescribed by the Commission, stating the date and place of birth, and two forms of identification which specify the applicant's date of birth; or
iii. Naturalization papers;
3. An original photograph of the applicant taken within the previous 12 months;
4. An identification number provided by the Division of Gaming Enforcement at the time the applicant is fingerprinted;
5. A signed, dated and notarized certification of truth; and
6. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-5.5 Personal History Disclosure Form 4A (Casino Hotel Employee Registration Application)

(a) A Personal History Disclosure Form 4A (Casino Hotel Employee Registration Application or PHD-4A) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:
1. Name, including any aliases or nicknames;
2. Date of birth;
3. Physical description;
4. Current address and residence history;
5. Social security number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. 522a;
6. Citizenship and, if applicable, resident alien status;
7. Marital history;
8. Employment history, including any gaming-related employment;
9. Any license, permit, approval or registration held by or applied for by the applicant and required to participate in any lawful gambling operation in this State or any other jurisdiction; and
10. Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family;
(b) In addition to the information in (a) above, a completed PHD-4A may include the following:
1. The name, address and phone number of personal references;
2. A copy of the applicant's birth certificate or, if a birth certificate is not available, one of the following:
i. A certificate of baptism;
ii. A notarized affidavit, in a form prescribed by the Commission, stating the date and place of birth, and two forms of identification which specify the applicant's date of birth; or
iii. Naturalization papers;
3. An original photograph of the applicant taken within the previous 12 months;
4. An identification number provided by the Division of Gaming Enforcement at the time the applicant is fingerprinted;
5. A signed, dated and notarized certification of truth; and
6. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-5.6 (Reserved)

19:41-5.7 Business Entity Disclosure Form 3

(a) A Business Entity Disclosure Form 3 (BED-3) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:
1. Any official or trade name used by the applicant;
2. Whether the application is for initial licensure or renewal and, if a renewal, the license number and expiration date of the current license;
3. The name and telephone number of a person to be contacted in reference to the application;
4. Current or former business addresses of the applicant enterprise;
5. The business form of the enterprise, and a copy of the certificate of incorporation, charter, by-laws, partnership agreement, trust agreement or other basic documentation of the enterprise;
6. The nature of the applicant's business, and the type of goods and services being provided to the casino industry;
7. The following information regarding agreements with any casino licensee or applicant:
i. The number of written agreements entered into and a sample copy of such an agreement;
ii. The terms of any unwritten agreements with casino licensees or applicants, including the expected duration and compensation; and
iii. Whether any such agreements are in any way subject to or conditioned upon any other agreement between the casino licensee or applicant and the applicant or any other enterprise, or upon other agreements between the applicant and its suppliers, vendors or subcontractors, and the facts related thereto;
8. Any suppliers, vendors or subcontractors of the applicant which are also securities holders or creditors of the applicant;
9. The name and location of any government agency in this State or any other jurisdiction that regulates the applicant, and the nature and extent of regulation;
10. Whether the applicant has had any license or certificate denied, suspended or revoked by any government agency in this

State or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the reasons therefore and the facts related thereto;

11. The following financial information:

i. Two copies of the applicant's most recent financial statement and Federal and state tax returns;

ii. Information regarding any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law; and any receiver, fiscal agent, trustee or similar officer appointed for the applicant's property or business;

12. Civil, criminal and investigatory proceedings in any jurisdiction, as follows:

i. Information regarding any indictment, charge or conviction for any criminal or disorderly persons offense;

ii. Any criminal proceeding in which the applicant has been a party or has been named as an unindicted co-conspirator; and

iii. Any judgment, consent decree or consent order entered against the applicant pertaining to a violation or alleged violation of the Federal antitrust, trade regulation or securities laws or similar laws of any jurisdiction; and

13. The name, home address, date of birth, title or position and percent of ownership, where applicable, of each of the following persons or entities:

i. Any officer, director, trustee, partner or sole proprietor;

ii. Each beneficial owner, whether an enterprise or a natural person, of more than five percent of the outstanding voting securities of the applicant;

iii. Each sales representative or other person who regularly solicits business from a casino licensee or applicant, such person's immediate supervisors and all persons responsible for the office out of which such supervisors work; and

iv. Any person authorized to sign any agreement with a casino licensee or applicant.

(b) In addition to the information in (a) above, a completed BED-3 may include the following:

1. A certification of truth, which shall be dated, notarized and signed by the following:

i. If the applicant is a corporation, the president or any other authorized officer;

ii. If the applicant is a partnership, each partner;

iii. If the applicant is a limited partnership, each general partner;

iv. If the applicant is a sole proprietorship, the sole proprietor; or

v. If the applicant is any other business form, any authorized officer;

2. A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division, which shall be dated, notarized and signed by the following:

i. If the applicant is a corporation, the president or any other authorized officer;

ii. If the applicant is a partnership, a partner;

iii. If the applicant is a limited partnership, a general partner;

iv. If the applicant is a sole proprietorship, the sole proprietor; or

v. If the applicant is any other business form, any authorized officer; and

3. An acknowledgment of receipt of notice regarding confidentiality, consent to search and nonrefundability of filing fees, which shall be dated, notarized and signed in accordance with (b)2i through v above.

19:41-5.8 Business Entity Disclosure Form—Holding Company

(a) A Business Entity Disclosure Form—Holding Company (BED-HC) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:

1. Any official or trade name used by the applicant;

2. The enterprise as to which the applicant has been identified as a holding company and, if different, the applicant for casino service industry licensure for which the BED-HC is being submitted;

3. The name and telephone number of a person to be contacted in reference to the application;

4. Current or former business addresses of the applicant enterprise;

5. The business form of the enterprise, and a copy of the certificate of incorporation, charter, by-laws, partnership agreement, trust agreement or other basic documentation of the enterprise;

6. The name and location of any government agency in this State or any other jurisdiction that regulates the applicant, and the nature and extent of regulation;

7. Whether the applicant has had any license or certificate denied, suspended or revoked by any government agency in this State or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the reasons therefor and the facts related thereto;

8. The following financial information:

i. Two copies of the applicant's most recent financial statement and Federal and state tax returns;

ii. Information regarding any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law; and any receiver, fiscal agent, trustee or similar officer appointed for the applicant's property or business;

9. Civil, criminal and investigatory proceedings in any jurisdiction, as follows:

i. Information regarding any indictment, charge or conviction for any criminal or disorderly persons offense;

ii. Any criminal proceeding in which the applicant has been a party or has been named as an unindicted co-conspirator; and

iii. Any judgment, consent decree or consent order entered against the applicant pertaining to a violation or alleged violation of the Federal antitrust, trade regulation or securities laws or similar laws of any jurisdiction; and

10. The name, home address, date of birth, title or position and percent of ownership, where applicable, of each of the following persons or entities:

i. Any officer, director, trustee or partner;

ii. Each beneficial owner, whether an enterprise or natural person, of more than five percent of the outstanding voting securities of the applicant;

(b) In addition to the information in (a) above, a completed BED-HC may include the following:

1. A certification of truth, which shall be dated, notarized and signed by the following:

i. If the applicant is a corporation, the president or any other authorized officer;

ii. If the applicant is a partnership, each partner;

iii. If the applicant is a limited partnership, each general partner;

iv. If the applicant is a sole proprietorship, the sole proprietor; or

v. If the applicant is any other business form, any authorized officer;

2. A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division, which shall be dated, notarized and signed by the following:

i. If the applicant is a corporation, the president or any other authorized officer;

ii. If the applicant is a partnership, a partner;

iii. If the applicant is a limited partnership, a general partner;

iv. If the applicant is a sole proprietorship, the sole proprietor; or

v. If the applicant is any other business form, any authorized officer; and

3. An acknowledgment of receipt of notice regarding confidentiality, consent to search and nonrefundability of filing fees, which shall be dated, notarized and signed in accordance with (b)2i through v above.

19:41-5.9 Qualifier Disclosure Form

(a) A Qualifier Disclosure Form (QDF) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:

1. Name, including any aliases or nicknames;

2. Telephone number, address and residence history;

3. Position held with the casino service industry license applicant or holding company;

4. Date and place of birth;

5. Physical characteristics;

6. Employment history;

7. Information regarding any license, permit, approval, registration or other authorization to participate in a lawful gambling operation held by or applied for by the applicant in this State or any other jurisdiction; and

8. Arrests, charges or offenses committed by the applicant.

(b) In addition to the information in (a) above, a completed QDF may include the following:

1. An original photograph of the applicant taken within the previous 12 months;

2. A signed, dated and notarized certification of truth; and

3. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-5.10 Qualifier Renewal Disclosure Form

(a) A Qualifier Renewal Disclosure Form (QRDF) shall be in a format prescribed by the Commission and may require the applicant to provide the following information:

1. Name, including any aliases or nicknames;

2. Telephone number, address and residence history;

3. Position held with the casino service industry license applicant;

4. Date and place of birth;

5. Physical characteristics; and

6. Arrests, charges or offenses committed by the applicant since the date on which the applicant last filed a Qualifier Disclosure Form (QDF) or QRDF.

(b) In addition to the information in (a) above, a completed QRDF may include the following:

1. A signed, dated and notarized certification of truth; and

2. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the Commission or the Division.

19:41-7.14 [Form of application] **(Reserved)**

[Each applicant, licensee, registrant or person required to be qualified shall provide all information in a form specified by the Commission or the Division and shall complete and submit all appropriate application, registration, business enterprise disclosure and personal history disclosure forms as directed by the Commission or the Division.

NOTE: Personal History Disclosure Forms 1, 2 and 3, a Casino Hotel's Facilities Statement, and a Statement of Gaming School Proposal were adopted by the Casino Control Commission as part of R.1977 d.475, effective December 15, 1977. Too, Personal History Disclosure Form 4 was adopted by the Commission as part of R.1978 d.175, effective May 25, 1978. Personal History Disclosure Form 4A was adopted by the Commission to replace repealed Form 4 as R.1978 d.175, effective August 20, 1984, operative January 1, 1985. These forms, the statement and the proposal, are not reproduced herein, but can be obtained from:

Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, New Jersey 08401
or
Office of Administrative Law
Administrative Filings
CN 301
Trenton, New Jersey 08625]

19:44-3.2 Gaming school certificate of operation standards

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

NOTE: A Statement of Gaming School Proposal was adopted by the Casino Control Commission as part of R.1977 d.475, effective December 15, 1977. This statement is not reproduced herein, but can be obtained from:

Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, New Jersey 08401
or
Office of Administrative Law
Administrative Filings
CN 049
Trenton, New Jersey 08625

(a)

CASINO CONTROL COMMISSION

Gaming Schools

Proposed Readoption with Amendments: N.J.A.C. 19:44

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

Authority: N.J.S.A. 5:12-63c, 69a, 70a-b, 90b and 92.

Proposal Number: PRN 1993-347.

Submit written comments by July 21, 1993 to:
Mary S. LaMantia, Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:44, Gaming Schools, is scheduled to expire on September 29, 1993. Chapter 44 originally became effective on December 15, 1977. The rules in the chapter implement the provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., concerning the Casino Control Commission's (Commission) responsibility to ensure that persons employed by the casinos in gaming-related positions receive adequate training and that the schools which provide this training are operated by qualified individuals in an appropriate manner. N.J.S.A. 5:12-90b, 92a(1) and 92b.

Chapter 44 requires that each gaming school obtain licensure and a certificate of operations from the Commission, and specifies standards for qualification. Holding and intermediary companies of corporate gaming school licensees must also establish their qualifications, as must owners, managers, supervisors and other principal employees. Instructors, administrative employees and sales representatives must also be licensed by the Commission. Further, Chapter 44 sets standards for names of gaming schools, courses of instruction, facilities and equipment, tuition and fees, scholarships, enrollment agreements, advertising and recordkeeping. Chapter 44 requires that each gaming school submit an annual budget and audited financial statement, obtain adequate insurance coverage, and post a surety bond with the Commission for the performance of all agreements and contracts with students and payment of fees.

The Commission has continually reviewed the viability of these rules since their adoption and readoption in 1983 (15 N.J.R. 1460(a), 15 N.J.R. 1874(b)) and again in 1988 (20 N.J.R. 2050(a), 20 N.J.R. 2802(a)). Since that time, the chapter has been amended to establish minimum training

requirements for the new games of red dog (23 N.J.R. 3731(a), 24 N.J.R. 971(a)); pai gow poker (24 N.J.R. 569(a), 24 N.J.R. 3742(a)); and pai gow (24 N.J.R. 558(a), 24 N.J.R. 3753(a)).

These rules establish standards for the training of many gaming-related casino employees and require that such training be conducted by qualified instructors. Without these rules, the conduct of gaming in Atlantic City may suffer due to a lack of adequately trained personnel.

The proposed amendments merely correct typographical errors in the text of the rules.

Social Impact

The readoption of this chapter will have a positive effect on the public and the casino industry. In order for casino gaming to be conducted fairly and without disruption, casino personnel must be appropriately and professionally trained. These rules help to ensure that existing and prospective casino employees have access to such training.

Professional and orderly control of casino gaming by properly trained casino personnel promotes public confidence and trust in the integrity and credibility of casino gaming and the regulatory process, in accordance with the goals of the Casino Control Act. (See N.J.S.A. 5:12-1b(6).)

Economic Impact

An ample supply of properly trained professional employees is critical to the economic future of casino gaming in the State. N.J.A.C. 19:44 attempts to ensure that those institutions which train these employees have the qualifications to do so successfully.

Gaming schools regulated under this chapter incur the costs of licensure, maintenance of required records, facilities and equipment course and program approval, compliance with instruction standards, and insurance and surety bond maintenance. The rules in Chapter 44 also benefit gaming school enrollees by regulating the tuition, fees and other charges assessed by gaming schools on their applicants and enrollees.

The regulatory agencies, of course, incur time and expense associated with regulating gaming schools and enforcing the standards set forth in Chapter 44. Nevertheless, such costs are outweighed by the benefits which accrue from ensuring the professional and orderly control of casino gaming by properly trained casino personnel.

This chapter also benefits those who seek to take advantage of employment opportunities in the casino industry. The standards in these rules assure students that licensed gaming schools can provide the training necessary for them to meet the relevant job responsibilities.

Regulatory Flexibility Analysis

The readoption of Chapter 44 will continue to impose recordkeeping, reporting and compliance requirements upon casino gaming schools, many of which would qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Such schools must file an application for licensure and provide any other information necessary for the regulatory agencies to review their qualifications for licensure; they must provide certain minimum facilities and equipment to adequately serve their students; they must purchase insurance adequate to protect the institution and its students and purchase a surety bond to cover the performance of its contractual obligations to its students and to pay fees assessed by the regulatory authorities; and they must perform various other administrative functions necessary to comply with the rules.

The rules also require gaming schools to file with the Commission and Division a copy of any agreement with a casino licensee or applicant to provide instruction. A gaming school must also file a course outline, an annual budget, an annual audited financial statement, tuition and fees and a copy of any lease for school facilities. Further, a gaming school must maintain an itemized list of its gaming equipment and a record of all its advertisements. Finally, the chapter sets forth recordkeeping standards for all gaming schools at N.J.A.C. 19:44-18. Pursuant to N.J.A.C. 19:44-10.3, a gaming school is required to have a certified public accountant certify an annual audited financial statement.

Moreover, these rules must be consistently applied to all gaming schools, without regard to size, in order to ensure uniform standards for the training of all gaming-related casino employees. Thus, the public interest would not be served by excluding small businesses from the requirements of this chapter, or by imposing different standards based on business size.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:44.

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

19:44-5.1 Establishment of qualifications

(a) No natural person shall be employed by a licensed gaming school as an instructor, administrative employee or a sales representative unless he shall first have established his qualifications in accordance with the casino employee standards set [fort] **forth** in sections 92b, 86 and 90 of the act and the regulations of the commission and unless a gaming school employee license authorizing the person to hold the particular position of employment shall first have been issued to him, provided, however, that notwithstanding the provisions of this section, the licensure of clerical personnel shall not be required.

(b) (No change.)

19:44-17.4 Classified columns

Schools [used] **using** classified columns of newspapers or other publications to procure students must use only such columns as **are** headed by "Education", "Schools", or "Instruction". Classification such as "Business Opportunities", "Employment", "Help Wanted", may be used only to procure employees or agents for the school.

(a)

CASINO CONTROL COMMISSION

Exclusion of Persons

Proposed Readoption: N.J.A.C. 19:48

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

Authority: N.J.S.A. 5:12-63c, 69a and 71.

Proposal Number: PRN 1993-346.

Submit written comments by July 21, 1993 to:

Mary S. LaMantia, Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:48, Exclusion of Persons, is scheduled to expire on October 13, 1993. The rules were initially promulgated by the Casino Control Commission (Commission) in 1978 to implement section 71 of the Casino Control Act, N.J.S.A. 5:12-1 et seq. Section 71 requires that the Commission promulgate regulations establishing a list of persons who are to be excluded or ejected from all licensed casino establishments, and defining the standards for exclusion and the categories of persons to be excluded.

The rules provide procedures for the maintenance and distribution of the exclusion list; establish criteria for exclusion; define the duties of the Division of Gaming Enforcement; provide procedures for the entry and removal of names on the list; describe the types of information that must be contained on the list; and describe the duties of casino and individual licensees.

These standards and procedures have ensured that unfit persons are excluded from casino hotel facilities. The failure to readopt these rules would engender uncertainty in the substantive and procedural matters associated with the exclusion of persons and would leave the parties without the necessary guidance to determine their rights and duties under the law.

N.J.A.C. 19:48 was readopted without change in 1983 (15 N.J.R. 1466(a), 15 N.J.R. 1874(c)). Amendments to the 1988 readoption accord discretion to the Division of Gaming Enforcement (Division) to request a limited preliminary exclusion hearing pending completion of a plenary evidentiary hearing. The routine scheduling of such preliminary proceedings was eliminated. See 20 N.J.R. 763(a), 20 N.J.R. 1209(a). The Commission has not promulgated any amendments to these rules since the chapter was last readopted since the rules have provided an efficient and effective system for the implementation of the exclusion provisions and procedures.

The rules in N.J.A.C. 19:48 are reasonable and proper for the purposes for which they were originally promulgated, and the chapter is proposed for readoption at this time without amendment.

Social Impact

The readoption of N.J.A.C. 19:48 will have a positive impact on the public and the industry. These rules provide a system of control and regulation which ensures, to the extent practicable, the exclusion from participation in casino gaming of persons with known criminal records, habits or associations or whose presence would be inimical to the interests of the State or of casino gaming. N.J.S.A. 5:12-1b(7). Such rules are thus essential to assure the public trust and confidence in the credibility and integrity of the regulatory process and of casino operations, in accordance with the goals of the Act, N.J.S.A. 5:12-1(b)(6).

Economic Impact

Certain costs will be incurred by the regulatory agencies in enforcing and implementing the standards and procedures set forth in N.J.A.C. 19:48, as well as certain compliance costs incurred by the casino industry. The provisions of N.J.A.C. 19:48 are, however, necessary to fulfill the mandates of the Casino Control Act. Moreover, any such costs are outweighed by the social benefits promoted by these rules.

Regulatory Flexibility Statement

The proposed readoption does not impose any recording, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While requirements are imposed on casino licensees, such licensees are not small businesses. A regulatory flexibility analysis is thus not required.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 19:48.

(a)

CASINO CONTROL COMMISSION

Persons Doing Business with Casino Licensees License Requirements Duration of Licenses; Renewal Proposed Amendments: N.J.A.C. 19:51-1.2 and 1.8

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

Authority: N.J.S.A. 5:12-69, 70a, 92 and 94.

Proposal Number: PRN 1993-348.

Submit written comments by July 21, 1993 to:

O. Lisa Dabreu, Senior Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

In accordance with subsection 92c of the Casino Control Act, N.J.S.A. 5:12-1 et seq., Casino Control Commission rules require nongaming-related enterprises which conduct business with a casino licensee or applicant "on a regular or continuing basis" to be licensed or to receive an exemption from licensure. N.J.A.C. 19:51-1.2(c). This "regular and continuing" standard is defined to include factors related to the actual business conducted by an enterprise, such as the number, frequency and dollar amounts of transactions and the nature of goods and services provided, N.J.A.C. 19:51-1.2(e), as well as specified presumptive monetary thresholds set forth at N.J.A.C. 19:51-1.2(f).

At present, an enterprise must file for licensure pursuant to N.J.S.A. 5:12-92c if the total dollar amount of its transactions with a single casino licensee or applicant is or will be $75,000 or more within any 12-month period, or if the dollar amount of such transactions with all casino licensees or applicants is or will be $225,000 or more within any 12-month period. N.J.A.C. 19:51-1.2(f). The proposed amendments to N.J.A.C. 19:51-1.2(f) would add new "regular and continuing business" monetary thresholds set at a lower dollar value, but over a longer period of time. Under the proposed standards, an enterprise would also be deemed to be conducting "regular or continuing business" if the total dollar amount of its transactions with any one casino total $30,000 or more within each of three consecutive 12-month periods, or if such transactions with all casino licensees or applicants total $100,000 or more within each of three consecutive 12-month periods, or if an enterprise satisfies either of these thresholds within each of three consecutive 12-month periods.

The proposed amendments to N.J.A.C. 19:51-1.8(c) provide that a nongaming-related casino service industry licensee shall not be required to file for renewal of its license if it does not meet the criteria for "regular or continuing business" set forth in N.J.A.C. 19:51-1.2(e) and (f). Any such licensee shall, however, until the expiration of the current license, be required to notify the Commission immediately of any agreements, whether contemplated or in effect, which would result in cumulative transactions which would exceed the monetary thresholds in N.J.A.C. 19:51-1.2(f). If such an enterprise does not file for renewal of its casino service industry enterprise license, it may not transact business with any casino licensee or applicant after the expiration date of its license unless a completed vendor registration form is filed with the Commission on its behalf by a casino licensee or applicant. See N.J.A.C. 19:41-11.1(c).

Under current rules, all licensed casino service industries are requested to file an application for renewal, without regard to the current level of business conducted with the casino industry. Alternatively, a nongaming-related casino service industry enterprise licensee may file a formal petition requesting a Commission ruling that it is no longer conducting "regular and continuing business" and thus need not renew its license. Without such a ruling, the enterprise could not continue to transact business with the casino industry unless it filed for renewal. Thus, the proposed amendments will simplify and expedite the license renewal process for both casino service industry licensees and the regulatory agencies.

Social Impact

The proposed amendments will have a positive impact on both the regulatory agencies and casino service industry enterprises. Licensees who no longer meet the "regular and continuing business" criteria for nongaming-related service industries will no longer be required to file a formal petition requesting relief from filing a renewal application. The new monetary standards are anticipated to benefit a substantial number of current licensees who will no longer incur the time and expense of filing a renewal application. The proposed new thresholds may also result in a slight increase in the number of enterprises required to file initial applications for nongaming-related casino service industry licensure.

Economic Impact

The proposed new monetary thresholds in N.J.A.C. 19:51-1.2, in conjunction with the proposed amendments to N.J.A.C. 19:51-1.8, can be anticipated to reduce the number of applications filed for renewal of casino service industry licenses pursuant to N.J.S.A. 5:12-92c. Licensees who no longer meet the "regular and continuing business" criteria will no longer incur the time and expense involved in filing a renewal application or a petition for relief from renewal. Such decrease in the number of renewal filings can be anticipated to result in a corresponding loss of application fee revenue to the regulatory agencies.

The proposed new thresholds may also result in a slight increase in the number of initial applications for nongaming-related casino service industry licensure. Such enterprises would, of course, incur the time and expense associated with filing an application for casino service industry licensure.

Regulatory Flexibility Analysis

Some of the enterprises licensed as casino service industries under subsection 92c of the Casino Control Act may qualify as small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-17. As stated above, some enterprises which would not otherwise be required to file for licensure may meet the new monetary thresholds, and would thus incur the costs associated with the application process. Nonetheless, the licensing process is necessary to enable the Commission to ensure the integrity of the casino industry and ancillary industries as mandated by the Casino Control Act. Moreover, as also discussed above, a substantial number of current nongaming casino service industry licensees will benefit from the proposed amendments. Licensees who no longer meet the "regular and continuing business" criteria will no longer incur the time and expense involved in filing a renewal application or a petition for relief from renewal. In order to ensure the integrity of the casino industry and in light of the fact that the proposed amendments may ease the burden of renewal on some small businesses, it is the opinion of the Commission that no further differing standards based on business size need be offered.

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

19:51-1.2 License requirements

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

(f) Notwithstanding the provisions of (e) above, persons and enterprises which conduct business as a junket enterprise or provide, or imminently will provide, goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility to casino licensees or applicants, their employees or agents shall, unless otherwise determined by the Commission, be deemed to be transacting such business on a regular or continuing basis if:

1. The total dollar amount of such transactions with a single casino licensee or applicant, its employees or agents, is or will be equal to or greater than $75,000 within any 12-month period; [or]

2. The total dollar amount of such transactions with all casino licensees or applicants, their employees or agents, is or will be equal to or greater than $225,000 within any 12-month period[.];

3. The total dollar amount of such transactions with any single casino licensee or applicant, its employees or agents, is or will be equal to or greater than $30,000 within each of three consecutive 12-month periods;

4. The total dollar amount of such transactions with all casino licensees or applicants, their employees or agents, is or will be equal to or greater than $100,000 within each of three consecutive 12-month periods; or

5. The enterprise transacts business which satisfies either (f)3 or 4 above within each of three consecutive 12-month periods.

(g)-(j) (No change.)

19:51-1.8 Duration of licenses; **renewal**

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

(c) The Commission shall notify each casino service industry enterprise licensed pursuant to the provisions of N.J.S.A. 5:12-92c, at least 120 days prior to the expiration of the current license term, whether that enterprise licensee is conducting business on a regular or continuing basis in accordance with the criteria set forth in N.J.A.C. 19:51-1.2(e) and (f).

1. If the Commission determines that an enterprise licensee is conducting business on a regular or continuing basis, the enterprise shall be required to file an application for the renewal of its license in accordance with the provisions of (a) above.

2. If the Commission determines that an enterprise licensee is not conducting business on a regular or continuing basis, the enterprise shall not be required to renew its casino service industry enterprise license. Any enterprise licensee notified that it is not required to renew its license shall:

i. Have the option to renew its enterprise license voluntarily by complying with the requirements of (a) above; and

ii. Be required, until the expiration of its current license, to notify the Commission immediately of any agreements, whether contemplated or in effect, which would result in cumulative transactions which would meet the regular or continuing business criteria set forth in N.J.A.C. 19:51-1.2(f).

(d) Upon receipt of a notice required to be filed by an enterprise licensee pursuant to the provisions of (c)2ii above, the Commission shall redetermine whether the enterprise licensee shall be required to renew its casino service industry license. The Commission shall notify the enterprise licensee of its determination as soon as is practicable and, if renewal is required, direct that an application for renewal be filed within 30 days; provided, however, that the Commission may, upon written request by the enterprise licensee and for good cause shown, grant the enterprise licensee an additional 30 days within which to file its renewal application.

(e) Any enterprise which is not required to, and chooses not to, renew its casino service industry enterprise license pursuant to (c) above shall not transact business with any casino licensee or applicant or any employee or agent thereof upon the expiration of such license unless a completed vendor registration form is filed on its behalf by a casino licensee or applicant in accordance with N.J.A.C. 19:41-11.1(c).

(f) Notwithstanding (c) above, any shopkeeper or lessee of space on the premises of an approved casino hotel which is licensed as a casino service industry pursuant to N.J.S.A. 5:12-92c shall be required to file an application for renewal of such license in accordance with (a) above.

HEALTH

(a)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING
OFFICE OF EMERGENCY MEDICAL SERVICES
Manual of Standards for Licensure of Invalid Coach and Ambulance Services
Proposed Amendment: N.J.A.C. 8:40-1.1, 2.3, 2.7, 3.1, 4.12, 5.23 and 6.26

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq. and 30:4D-6.3 and 6.4.

Proposal Number: PRN 1993-330.

Submit comments by July 21, 1993, to:

George Leggett, Chief Administrator
Office of Emergency Medical Services
New Jersey State Department of Health
CN 364
Trenton, New Jersey 08625-0364

The agency proposal follows:

Summary

The Department proposes to amend parts of the Manual of Standards for Licensure of Invalid Coach and Ambulance Services found at N.J.A.C. 8:40. These changes are necessitated by changes in the Health Care Facilities Planning Act which took effect on January 1, 1993. This law (P.L. 1992, c.160) exempted invalid coach and ambulance companies from the certificate of need process. The Office of Emergency Medical Services (OEMS) performs many of the requisite background checks that were formally done through the certificate of need process. The current rules still reflect the certificate of need requirements. These rules will be amended to remove the reference to the certificate of need program, while amending the portions regarding application for licensure to reflect what is required at the time of licensure. Finally, there will be an additional definition of "street EMS" added. The Department proposes to add a requirement of non-discrimination at N.J.A.C. 8:40-2.3. This will require agencies engaged in the role of an emergency medical services (EMS) provider of direct response to calls for assistance (emergency service), as recognized by a municipal entity in accordance with N.J.S.A. 27:5F-18 et seq., to provide emergency care and transportation to persons regardless of the person's race, sex, creed, national origin, sexual preference, age, disability, medical condition, or ability to pay. Previously, the applicant's certificate of need held the company to this standard. The incorporation of this requirement into the rules serves to continue this important protection.

In addition to the changes mandated by P.L. 1992, c.160, the Department is amending the certification requirements for the required staff on vehicles licensed in accordance with this chapter. Currently, only those persons certified as an emergency medical technician (EMT) by the Commissioner and the Department are permitted to serve as staff on these vehicles. Persons certified by out-of-State jurisdictions are required to complete a process to gain legal recognition by the Department. This process involves verification that the training the applicant received meets or exceeds the training program for EMTs, as defined at N.J.S.A. 27:5F-18 et seq. This usually results in a period of delay, which prevents licensed companies from utilizing the individual. The Department has evaluated the programs in surrounding states, has determined that the EMT training of those individuals in the identified states is equivalent to New Jersey's training standards, and has issued a blanket recognition to those individuals who hold valid certification from New York, Pennsylvania and through the National Registry of Emergency Medical Tech-

nicians (NREMT). The Department proposes to change these rules to allow individuals certified or recognized by the Department to staff licensed vehicles. This change will allow licensed companies to use EMTs with current certificates from those jurisdictions with no delay. It will also reduce the paperwork required by the individual EMT and the Department. Finally, two technical changes are proposed at N.J.A.C. 8:40-2.7. First, a change is made at subsection (a) to the new address of the Office of Emergency Medical Services (OEMS). At subsection (e), the payee to be listed on any check submitted with an application is changed to meet the current Departmental fiscal guidelines.

Social Impact

The Department licenses invalid coach and ambulance companies which provide both medical transportation services and emergency medical services on a proprietary basis, or as a public entity. These services provide direct care and transportation to a wide variety of individuals in the State. These individuals are often compromised and vulnerable when the call for assistance is made. There is a need to insure that the services provided to people in need of EMS assistance and transportation are of the highest quality possible. The Department has a duty to evaluate each applicant for licensure, with regard to the ability to provide that high quality of care and to conform with these rules. While the removal of the certificate of need process is a benefit to applicants, there remains a duty to protect the public health and safety. These proposed amendments serve to allow for the licensure of qualified applicants without undue delay, while permitting the Department to conduct the required checks which are a part of the licensing process. It should be noted that these rules do not apply to volunteer first aid, emergency and rescue squads as State law exempts them from these rules.

The proposed change to the rules regarding the certification of staff on a licensed vehicle serves to benefit the regulated public, as well as those recipients of their services. The proposed change allows qualified persons to operate on these licensed vehicles without delay due to the legal recognition process. This will apply only to those individuals who demonstrate certification by a jurisdiction that has a training program which meets or exceeds that which is required in New Jersey. Currently, these jurisdictions are New York, Pennsylvania and the National Registry of Emergency Medical Technicians (NREMT).

Economic Impact

The removal of the certificate of need requirement eliminated the statutory application fee of $5,000 which was required to be paid in advance of any licensing actions. These proposed changes are reflective of the statutory intent of P.L. 1992, c.160, in that the processes which are required to guarantee that the level of care is consistent with established standards remain in place, without the burden of filing for a certificate of need. The consumer is better protected when these standards are applied to each application received by the Department. The individual companies benefit from a standard, objective application process. The companies also benefit by using certified EMTs from those jurisdictions recognized by the Department, as no delay is required for the processing of legal recognition paperwork.

Regulatory Flexibility Analysis

The proposed amendments should not increase the burden on applicants for licensure of invalid coach and ambulance services. The rules are actually less restrictive and cumbersome than the existing process which was required by the certificate of need rules. Only that information which is essential to the licensure process is required by these rules. Further, the relaxation of the certification requirements for staff means that these companies, many of which are small businesses as defined by the Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.), are able to use new staff on a more timely basis. This could reduce costs to these companies by limiting overtime. As such, these rules are not deemed burdensome to the small businesses which operate invalid coach and ambulance services.

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

8:40-1.1 Definitions

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

...

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

...

"Street EMS" means the provision of primary emergency care at the basic life support level, to a municipality or municipalities in accordance with the intent of N.J.S.A. 27:5F-18 et seq.

...

8:40-2.3 [Certificate of need required] **Special requirements for licensees providing Street EMS**

[(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 of 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 08625-0360]

[(c)](**a**) Licensed services and municipalities providing emergency ambulance services ("street EMS") cannot discontinue services without sending written notification to the Department at least 60 days prior to the planned closure date. [and receiving certificate of need approval.]

(b) No licensee providing "street EMS" shall fail to respond to an emergency call or refuse to provide emergency treatment and transportation to any person because of that person's race, sex, creed, national origin, sexual preference, age, disability, medical condition, or ability to pay.

8:40-2.7 Application for licensure and/or vehicle licenses

(a) [Following acquisition of a Certificate of Need, any] **Any** person, public or private institution, agency, or business concern desiring to be licensed or relicensed to operate Invalid Coach Services and/or Ambulance Services or to secure a vehicle license shall apply to the Commissioner on forms prescribed by the Department. Forms are available from:

Office of Emergency Medical Services
New Jersey State Department of Health
CN [364] **367**
Trenton, NJ 08625-[0364]**0367**

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

(e) Each set of application(s) submitted to the Department shall be accompanied by a single check in the correct amount made payable to ["Treasurer, State of New Jersey."] **"New Jersey Department of Health."**

(f)-(h) (No change.)

(i) Should an applicant submit an incomplete application, no license shall be issued. Incomplete applications shall be returned to the applicant with no action taken, pending proper completion.

(j) No application will be processed from an applicant if the proposed trade name of the company duplicates or is essentially similar to a currently licensed company's trade name, or to the trade name of a company which has an application pending before the Department.

8:40-3.1 Agency ownership

(a) The ownership of the institution, agency or business concern applying for licensing and the ownership of the vehicle(s) shall be disclosed to the Department **at the time of application. All owners (100 percent of the company's ownership) shall be listed, indicating**

the owners' percent of ownership and home address. Proof of this ownership shall be made available to representatives of the Department.

(b) Any corporation which proposes a redistribution of 10 percent or more of its stock, **changes its trade name,** or any individual owner, partnership or proprietorship which proposes any redistribution of stock whatsoever, **must submit a new application for licensure and receive new provider and vehicle permits or licenses before starting to provide service with the new name and/or owners.** [and any] **Any** licensed agency which proposes a [transfer of ownership or] change in the scope of its service must contact the Department to ascertain if [Certificate of Need approval and/or] new provider and vehicle permits will be needed before [starting to provide service with the new name and/or new owners, and/or] changing the type of service it provides.

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

(e) The past licensure track record performance of any companies licensed under this chapter will be considered when the principals or owners of those companies apply for licensure of any new company, or change in scope of service. The Department may refuse to issue any license until the Department is assured that:

1. The applicant demonstrates continued compliance with all applicable laws, rules and regulations; and

2. The issuance of the license will not pose a threat to the general public health and safety.

[(e)](**f**) (No change in text.)

8:40-4.12 Required training of staff

(a) (No change.)

(b) If oxygen administration devices are carried in the vehicle, the required staff person(s) shall possess valid certification on an Emergency Medical Technician-Ambulance, issued **or recognized** by the Department, in addition to the training required in (a) above.

8:40-5.23 Required training of staff

(a) Each of the required staff persons shall possess current valid certification as an Emergency Medical Technician-Ambulance, issued **or recognized** by the Department.

(b) (No change.)

8:40-6.26 Required training of staff

(a) Each of the required staff persons shall possess current valid certification as an Emergency Medical Technician-Ambulance, issued **or recognized** by the Department.

[(b) (Reserved)]

[(c)](**b**) (No change in text.)

(a)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

Office of Emergency Medical Services Mobile Intensive Care Programs

Proposed Amendment: N.J.A.C. 8:41-4.1 Proposed New Rules: N.J.A.C. 8:41-10.5 through 10.13 and 8:41-11

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner, Department of Health.

Authority: N.J.S.A. 26:1A-15 and 26:2K-17.

Proposal Number: PRN 1993-278.

Submit written comments by July 21, 1993 to:

George Leggett, Chief Administrator
Office of Emergency Medical Services
New Jersey State Department of Health
CN 364
Trenton, NJ 08625-0364

The agency proposal follows:

Summary

These proposed new rules are in response to several comments the Department received as part of the adoption process for the new rules at N.J.A.C. 8:41, which are adopted elsewhere in this issue of the New Jersey Register. An incorporation by reference of the U.S.D.O.T. standards has been added at N.J.A.C. 8:41-4.1, used by the Department in the certification of an Emergency Medical Technician (EMT) pursuant to discussions with the Office of Administrative Law. Several commenters requested expansion of the standing orders which are approved by the Commissioner for use by prehospital advanced life support providers operating on approved MICUs. Currently, there are approved standing orders for use in cases of cardiac arrest, severe trauma, compromised airway status and for the initiation of intravenous therapy. The proposed new rules would allow for certain specific treatments to begin prior to contact with a base station physician so that mitigation of the condition or symptoms can begin in a more timely fashion. These proposed rules have been submitted to the Department after review and approval of the Mobile Intensive Care Advisory Council. The proposed rules would allow a program medical director to authorize the use of these new protocols at their program after Departmental approval is received. These standing orders must be utilized exactly as they are published and cannot be modified, enhanced or abridged by the individual program. Unlike the currently approved standing orders, these rules require that the medical director adopt them and that Departmental approval be received before these proposed standing orders can be utilized.

In addition to the proposed new rules, the Department is proposing a new subchapter 11, which was omitted from the previous proposal. This addition is the paramedic clinical training objectives which are referenced in the body of the rules. During the comment period, the Department received several requests to include this referenced document as part of the body of the rules. After review, it has been determined that these guidelines will be added as Subchapter 11 of these rules.

Social Impact

These proposed new rules are reflective of the needs of the growing prehospital EMS system. The adoption of these rules would benefit the patient in that mitigation of their symptoms or condition could begin without undue delay, yet requires consultation with medical command as part of the treatment regimen. Each program medical director will be able to assess the needs of their program with regard to the service area and determine if these standing orders are needed, and may adopt them or choose not to utilize them. If they are adopted by an individual program, they cannot be altered or abridged, thereby establishing a Statewide standard for their application. This approach to these standing orders represents the greatest protection to the public health and safety possible. These standing orders are limited in their scope in that physician contact is required; no patient can be managed solely on these standing orders. The patient will benefit from earlier intervention, yet have direct medical oversight by a qualified emergency physician. Finally, each program that utilizes these standing orders will be required to perform quality assurance reviews for calls on which these protocols were utilized. This will help contribute to a decrease in the mortality and morbidity associated with certain specific conditions.

The addition of the paramedic clinical training objectives as Subchapter 11 serves to establish a uniform standard for training of student paramedics. The general public benefits from such standardization as it serves to assure that the services provided by MICUs in one part of the State are the same high quality as it is in any other part of the State. Further, Subchapter 11 serves to identify the areas of paramedic clinical training considered essential to the profession, in the event a person should seek to become a paramedic.

Economic Impact

Rapid intervention in certain medical and traumatic emergencies can have great impact on patient outcomes. The sooner mitigation of symptoms and conditions can occur through therapeutic intervention, the less the potential for further injury exists. If a balance exists between rapid mitgation of symptoms and medical supervision of the prehospital providers, patients should experience better outcomes. This could prevent unnecessary hospital admissions and could decrease the length of stay in the hospital if admission is required. These rules do not require the use of any specific brand of medication, so savings can be realized through the use of generic agents. No additional personnel are required to implement these standing orders. While it may be necessary to educate staff members in the use of these protocols, these educational sessions could be done as part of the required continuing education needed for recertification, as specified at N.J.A.C. 8:41-4.10.

The clinical training objectives listed in Subchapter 11 will serve as a uniform standard for paramedic training in New Jersey. These objectives are currently in use by the approved clinical training sites, and are reflective of the standards for training identified by the United States Department of Transportation's (U.S.D.O.T.) national standard curriculum for paramedics. The inclusion of these objectives as new rules should have no financial impact on any existing approved clinical training sites, as these standards have been in force through the U.S.D.O.T. requirements prior to their introduction as Subchapter 11.

Regulatory Flexibility Statement

In accordance with New Jersey law, only hospitals specially authorized by the Commissioner may develop and maintain mobile intensive care programs and provide advanced prehospital life support services in New Jersey. None of the hospitals which have the potential to be so authorized can be considered small businesses, as the term is defined in the Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.). Therefore, a regulatory flexibility analysis is not required.

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

SUBCHAPTER 4. TRAINING AND CERTIFICATION OF ADVANCED LIFE SUPPORT PERSONNEL

8:41-4.1 Paramedic student selection

(a) No person shall be enrolled as a paramedic student in any program, nor shall any person be eligible to be certified as a paramedic, unless that person:

1. Has reached his or her 18th birthday;
2. Has a high school diploma or its equivalent;
3. Is currently certified by the Commissioner as an Emergency Medical Technician-Ambulance (EMT-A), or Intermediate (EMT-I) **in accordance with the standards established by the United States Department of Transportation pursuant to 23 U.S.C. 401 et seq. and incoporated herein by reference** and maintains certification as at least an EMT-A throughout the training **and until either certification as a paramedic or termination from the training program**;
4. Maintains current certification in cardiopulmonary resuscitation to the level of professional rescuer, in accordance with the standards of the American Heart Association, and maintains the certification throughout the training **and until either certification as a paramedic or termination from the training program**;
5. Is physically capable of performing all required skills of a paramedic student; and
6. Has not been convicted of any crime, or an offense involving moral turpitude or drugs.

i. An applicant may apply for a waiver of this requirement from the Commissioner or designee, in accordance with N.J.A.C. 8:41-2.9.

8:41-10.5 Applicability of standing orders

(a) The standing orders established in N.J.A.C. 8:41-10.6 through 10.15, inclusive, may be adopted in their entirety by the medical director of an approved MICU program, after notification to the Office of Emergency Medical Services (OEMS). The standing orders shall not be altered or abbreviated or enhanced in any manner.

(b) The protocols established in N.J.A.C. 8:41-10.6 through 10.13 are initial treatment protocols which may be utilized by prehospital advanced life support providers operating on an approved MICU. These protocols apply only to patients over 12 years old, and may be utilized prior to physician contact. In the event the implementation of these standing orders is delayed for any reason, the base station physician shall be contacted immediately.

(c) Any situation other than those specifically identified in these rules requires the prehospital advanced life support provider to contact the base station physician for medical command before providing any advanced life support treatment not authorized under N.J.A.C. 8:41-10.1 through 10.4, inclusive.

(d) These protocols shall not be interpreted as a requirement to administer advanced life support therapy prior to base station physician contact. The prehospital advanced life support providers may elect to contact the base station physician at any time during the provision of therapy, in accordance with this subchapter. Standing orders cease to be operative once base station physician contact is made.

(e) These standing orders shall not be considered to represent total patient management. Medical command shall be established after the protocols are utilized.

(f) Each case utilizing these standing orders shall be reviewed in accordance with the standards established by N.J.A.C. 8:41-10.1(b)4.

8:41-10.6 Sustained ventricular tachycardia

(a) The following standing orders are authorized in the event a patient presents with a stable (systolic blood pressure greater than or equal to 120 mmHg) ventricular tachycardia:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Perform patient assessment, including medical history and allergies;
4. Administer Lidocaine HCL at a dose of 1mg/kg IV push, if the patient is not allergic to it;
5. Continue to assess the patient and monitor the cardiac rhythm; and
6. Contact the base station physician.

(b) The following standing orders are authorized in the event a patient presents with an unstable (unconscious or hemodynamic compromise) ventricular tachycardia:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Cardiovert the patient at 50 joules. Check the pulse and monitor after the cardioversion;
4. If the rhythm fails to convert, cardiovert the patient at 100 joules. Check the pulse and monitor after the cardioversion;
5. If the rhythm fails to convert, cardiovert the patient at 200 joules. Check the pulse and monitor after the cardioversion;
6. If the rhythm fails to convert, cardiovert the patient at 360 joules. Check the pulse and monitor after the cardioversion;
7. If the rhythm is converted at any point, administer Lidocaine one mg/kg, if there is no history of allergy to the drug; and
8. Contact the base station physician for medical command.

8:41-10.7 Bradycardia

(a) The following standing orders are authorized in the case of bradycardia:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Administer Atropine Sulfate one mg IV if the patient is symptomatic and unstable; and
4. Contact the base station physician for medical command.

8:41-10.8 Pulmonary Edema/Congestive Heart Failure; systolic blood pressure greater than or equal to 120 mmHg

(a) The following standing orders are authorized in the case of pulmonary edema/congestive heart failure, with systolic blood presssure greater than, or equal to, 120 mmHg:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Administer one nitroglycerine tablet (0.4 mg) sublingually;
4. Administer Furosemide one mg/kg IV; and
5. Contact the base station physician for medical command.

8:41-10.9 Suspected myocardial infarction/chest pain: systolic blood pressure greater than or equal to 120 mmHg

(a) The following standing orders are authorized in the case of suspected myocardial infarction/chest pain, with systolic blood pressure greater than, or equal to, 120 mmHg:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Administer one nitroglycerine tablet (0.4 mg) sublingually; and
4. Contact the base station physician for medical command.

8:41-10.10 Unstable paroxysmal supraventricular tachycardia: unconscious and hemodynamically unstable

(a) The following standing orders are authorized in the case of unstable paroxysmal supraventricular tachycardia, with unconscious and hemodynamically unstable patient:

1. Provide appropriate airway management;
2. Establish an intravenous line of five percent dextrose in water to keep vein open;
3. Perform a synchronized cardioversion at 75 joules. Check the patient's pulse and cardiac rhythm after the shock;
4. If the rhythm fails to convert perform a synchronized cardioversion at 200 joules. Check the patient's pulse and cardiac rhythm after the shock;
5. If the rhythm fails to convert perform a synchronized cardioversion at 360 joules. Check the patient's pulse and cardiac rhythm after the shock; and
6. Contact the base station physician for medical command.

8:41-10.11 Anaphylactic shock

(a) This standing order shall apply when the patient exhibits signs of acute respiratory distress and/or hypotension (systolic blood pressure of less than 90 mmHg).

1. Provide appropriate airway management;
2. Establish an intravenous line of 0.9 percent normal saline and give a 300cc fluid bolus.
3. Administer Epinephrine 1:1000 sol. at a dose of 0.5 mg subcutaneously;
4. Administer 50 mg of Diphenhydramine HCL IV; and
5. Contact the base station physician for medical command.

8:41-10.12 Bronchospasm

(a) The standing order shall apply in the case of bronchospasm:

1. Provide appropriate airway management;
2. Administer albuterol 2.5 mg via nebulizer;

i. A program's medical director may elect to substitute metaproterenol or isoetharine for albuterol. This substitution shall be declared at the time these standing orders are authorized by the medical director and approved by the Department.

3. Establish an intravenous line of five percent dextrose in water to keep vein open; and
4. Contact the base station physician for medical command.

8:41-10.13 Unconscious person

(a) The treatment of an unconscious person shall be directed by the suspected etiology of the event. The following standing orders shall apply:

1. Provide appropriate airway management;
2. Draw a blood sample using a red-top tube;
3. Evaluate a blood glucose reagent strip, if available;
4. Establish an intravenous line of 0.9 percent normal saline solution to keep vein open;
5. Administer Naloxone 2 mg IV;
6. Administer Thiamine 100 mg IV;
7. Administer 25 gm of 50 percent dextrose in water IV; and
8. Contact the base station physician for medical command.

SUBCHAPTER 11. PARAMEDIC CLINICAL TRAINING OBJECTIVES

8:41-11.1 Category I; Skills Division

(a) Upon the successful completion of the laboratory, or other designated clinical area, the student will be able to:

1. Identify the proper equipment and materials for venipuncture and blood collection;
2. Identify the proper sites for venipuncture and prepare the patient for the procedure;
3. Perform a minimum of 20 venipunctures utilizing proper aseptic technique and the appropriate blood collection equipment;
4. In accordance with hospital policy, document the procedure performed on the patient's record; and
5. Document all procedures performed on the appropriate clinical sign off sheet.

(b) Upon successful completion of the intravenous therapy experience, the student will be able to:

1. Prepare the patient for the procedure;
2. Select the appropriate site for the procedure and prepare the necessary equipment to accomplish the orders. This includes selecting and preparing the solution, tubing and other associated equipment and calculate the correct rate of infusion;
3. Perform a minimum of 20 successful intravenous infusions. All infusions will be performed utilizing proper aseptic technique and be performed in less than five minutes. Completion of the hospital intravenous therapy certification program may be substituted for this requirement. Prior to completion of the clinical training program, the student will have successfully initiated a minimum of 50 intravenous infusions or cannulations and have demonstrated clinical competency in the skill;
4. In accordance with hospital policy, document all procedures on the patient record; and
5. Document all procedures performed, using the appropriate clinical sign off sheet.

(c) Upon successful completion of the respiratory therapy experience, or other designated clinical areas, the student will be able to:

1. Identify breath sounds on a minimum of 20 patients utilizing proper ausculatory technique. Prior to the conclusion of clinical training, the student will have identified and documented breath sounds on a minimum of 10 patients with rales, rhonchi and wheezing;
2. Demonstrate the correct application of the nasopharyngeal airway, oropharyngeal airway, esophageal obturator airway, esophageal gastric tube airway and the endotracheal tube. The student will perform these skills utilizing appropriate equipment, techniques and sites. All airway insertions will be recorded on the patient record, in accordance with hospital policy, and on the appropriate clinical sign off sheet. These skills will be evaluated by both observation and skill testing by the EMS Educator;
3. Demonstrate, utilizing appropriate equipment, the proper technique for suctioning orally, nasally, tracheally and endotracheally. Prior to the conclusion of clinical training, the student will have suctioned a minimum of 10 patients with an endotracheal tube in place. All suctioning will be recorded on the patient record, in accordance with hospital policy, and on the appropriate clinical sign off sheet;
4. Identify the desired effect for medications administered by the respiratory therapist;
5. Prepare and administer a minimum of 10 nebulized medications. Only approved MICU medications are to be administered by the student. The student will perform this skill utilizing appropriate technique and dosage. All nebulized medication administrations will be recorded on the patient record, in accordance with hospital policy, and on the appropriate clinical sign off sheet;
6. Observe patients on ventilators. The student will be able to identify the various ventilator controls and settings. The student will be able to explain the rationale for the use of the ventilator; and
7. Optional Experiences: Observation of pulmonary function tests and bronchoscopy.

(d) Upon successful completion of the operating room, or other designated clinical area for intubation, the student will be able to:

1. Perform successful endotracheal intubation. The student will perform this skill utilizing appropriate equipment and techniques. This includes the appropriate preoxygenation, reoxygenation and verification of tube placement by inspection and auscultation. All endotracheal intubations will be recorded on the patient record, in accordance with hospital policy, and on the appropriate clinical sign off sheet; and
2. Prior to the conclusion of clinical training, the student will have successfully endotracheally intubated a minimum of five patients. It is recommended that the majority of these be performed in the prehospital environment.

(e) Upon successful completion of the E.K.G., or other designated clinical area, the student will be able to:

1. Perform a minimum of 5 electrocardiograms. A copy of each will be retained by the student for interpretation at a later date with the EMS Educator; and

2. Identify the effects of medications and electrolyte imbalances on the interpreted electrocardiograms; and

3. As an optional experience, observe stress tests, echocardiograms, application of Holter monitors and cardiac catheterizations.

(f) Each clinical training program shall develop a written evaluation mechanism covering all the objectives of the Category I clinical training objectives. Each student shall take and pass this examination prior to proceeding to Category II.

8:41-11.2 Category II; Specialty Care Division

(a) Upon successful completion of the clinical training experience in the Intensive Care Unit, Coronary Care Unit, Emergency Department and Mobile Intensive Care Unit, or designated clinical area, the student will be able to:

1. Document the performance of 20 complete patient histories/assessments using the appropriate clinical sign-off sheet. These histories/assessments will include a minimum of 5 neurological and 5 trauma assessments;

2. Demonstrate medication administration by the intramuscular, subcutaneous, sublingual, topical and intravenous routes. Use of appropriate medication administration equipment and the correct drug calculations are required. The student will document all medication administrations performed on the patient record, as per hospital policy and on the appropriate clinical sign off sheet. Only New Jersey approved MICU medications may be administered;

3. Identify the actions, indications, normal dosage range, side effects and contraindications of all medications administered;

4. Submit one case study from each patient care area. This will include the chief complaint, patient history, past medical history, current medications, clinical presentation, treatment modalities, response to care and patient outcome;

5. Prepare a minimum of 10 medication cards on medication other than those approved for use by paramedics, as defined by Subchapter 8 of these rules, and which were identified during the student's critical care experience. Each card will include the generic and trade names, actions, indications, contraindications, dosage range, routes of administration and adverse reactions;

6. Document the insertion of a pacemaker or the observation of the care of a patient with a pacemaker, on the appropriate clinical sign off sheet;

7. Document a rhythm strip from every monitored patient in each clinical care area. Each strip will be interpreted and the treatment modalities documented on the appropriate clinical sign off sheet;

8. Document the participation and/or observation of a minimum of one cardiac arrest on the appropriate clinical sign off sheet. Prior to the conclusion of the clinical training experience, the student will have participated in a minimum of five cardiac arrest resuscitations;

9. Demonstrate the appropriate technique and situations for the application of defibrillation and cardioversion. By the end of the clinical training experience, the student will have performed a minimum of five defibrillations and/or synchronized cardioversions;

10. Demonstrates appropriate treatment modalities for the patient in cardiac arrest utilizing the Advanced Cardiac Advanced Life Support guidelines of the American Heart Association;

11. Document the insertion or observation of the insertion, of a nasogastric tube on the appropriate clinical sign off sheet. Document the insertion on the patient record, in accordance with hospital policy. The student will utilize the appropriate equipment and techniques during the procedure;

12. Demonstrate the application of and discuss the principles of use of the PASG;

13. Identify etiologies, clinical presentation and treatment modalities of the following: Angina Pectoris, Acute Myocardial Infarction, Congestive Heart Failure, Ventricular and Aortic Aneurysm, Cardiogenic Shock, Myocardial Trauma, Acute Hypertensive Crisis, Diabetic Emergencies, Poisonings and Overdoses, Hypovolemic Shock, Acute Respiratory Failure, Chronic Obstructive Pulmonary Diseases (COPD), Asthma, Pneumonia, Head Injury and Coma, Cerebral Vascular Accident, Seizures, Burns, Infectious Diseases, Acute Abdomen, Renal Failure, Fractures, Septic Shock, Neurogenic Shock, Pulmonary Edema, Pulmonary Embolism and Anaphylaxis; and

14. As an optional experience, review and demonstrate, the use of external Pacemakers, Doppler, and Infusion Pumps.

(b) Upon successful completion of the clinical training experience in the obstetrical department, or other designated clinical area, the student will be able to:

1. Document the observation of a minimum of five vaginal deliveries on the appropriate clinical sign off sheet;

2. Identify the normal stages of labor;

3. Assist in the care of a newborn infant and the post partum mother. Document the experiences on the appropriate clinical sign off sheet;

4. Identify the etiologies, clinical presentations and treatment modalities for abnormal and common complications of deliveries; and

5. Optional Experience: Neonatal Intensive Care Unit.

(c) Upon successful completion of the pediatric clinical training objective, or the designated clinical area, the student will be able to:

1. Document a minimum of 5 pediatric patient histories/assessments on the appropriate clinical sign off sheet. These histories/assessments should be done at various stages of development;

2. Identify normal vital signs for each developmental milestone of childhood;

3. Identify the correct procedure for the administration of medications and intravenous fluids to the pediatric patient;

4. Identify the correct pediatric drug dosages for all approved MICU medications;

5. Submit one pediatric patient case study; and

6. As an optional experience, review/demonstrate the operation of a Pediatric Intensive Care Unit, Well Baby Clinic, and Apnea Monitor.

(d) Upon the successful completion of the clinical training objectives in the Psychiatry Department, or other designated clinical training area, the student will be able to:

1. Document the observation of any crisis interviews and/or interventions on the appropriate clinical sign off sheet. If this experience is unavailable to the student, the EMS Educator may orient the student to the procedures followed during these activities;

2. Submit one case study after observing a crisis interview or intervention. If the required experience is not available, the EMS Educator may substitute the requirement of having the student write a synopsis of the procedures followed during a crisis interview or intervention; and

3. Prepare a minimum of five medication cards on psychiatric drugs. These cards are to include the generic and trade name, actions, indications, contraindications, dosage range, routes of administration and adverse reactions.

(e) Each clinical training program shall develop a written evaluation mechanism covering all the objectives of the Category II clinical training objectives. Each student shall take and pass this examination prior to proceeding to Category III.

8:41-11.3 Category III; Field Internship

(a) Upon the successful completion of the Field Internship and all other clinical training objectives, the student will be able to:

1. Perform adequate patient assessments, communicate via telemetry and correctly document on the approved patient run report on a minimum of 20 patients. Copies of all run reports are to be submitted to the EMS Educator for review. A treatment call record will be completed on every patient that the student treats. This record will be used by the EMS Educator to evaluate the types of patients the student has had experience with;

2. Submit a field observation report, completed by the field preceptor, at the conclusion of each shift.

3. Demonstrate the ability to use and troubleshoot all equipment, including the vehicle, radio and adjunct equipment;

4. Demonstrate knowledge of safe driving habits in accordance with hospital policy and the regulations of the New Jersey Division of Motor Vehicles;

5. Demonstrate the ability to promote or demonstrate positive interpersonal skills with squads, hospital employees and the patients and their families;

6. Function both independently and as a member of the team;

7. Demonstrate the ability to assume responsibility in the field. This includes the ability to set priorities, organize patient care and maintain control of the emergency scene; and

8. Demonstrate clinical competency in the following skills: chest decompression, intraosseous infusion, external cardiac pacing, central venous access and AV shunt.

(b) The program shall document a minimum of 600 hours of clinical training for each student. No clinical training area shall be entered until all didactic material has been presented that is necessary for the student to meet the clinical training objectives of that area. A minimum of 200 hours of field experience shall be documented prior to the successful completion of the didactic program. Hours of training in the following areas are mandated by the United State Department of Transportation National Standard Curriculum for Paramedics and the Department:

1. Emergency department	**100 hours**
2. Intensive/coronary care units	**40 hours**
3. Operating/recovery room	**24 hours**
4. Intravenous team, if available	**8 hours**
5. Pediatric unit	**24 hours**
6. Labor/ delivery/newborn nursery	**24 hours**
7. Psychiatric unit or crisis center	**8 hours**
8. Morgue	**4 hours**

(c) Clinical training shall also be required in the following areas:

1. Laboratory	**4 hours**
2. Respiratory Therapy	**24 hours**

(d) Minimum hour requirements for other clinical areas may be determined by the EMS Educator.

(e) Each clinical training program shall develop a final written evaluation mechanism covering all the objectives of these clinical training objectives. Each student shall take and pass this examination prior to receiving endorsement to take the State certification examination.

(f) The student shall provide the EMS Educator with the appropriate completed clinical sign off sheets documenting successful completion of all clinical training objectives.

(g) The student shall provide and maintain documentation of current certification in EMT-A, BCLS and ACLS. Certification must remain current throughout clinical training. ACLS certification shall be completed before the student enters Category III.

(h) If a student fails to meet any of the minimum numbers for the performance of the required skills listed in this appendix, the clinical EMS educator responsible for the student's training may make application to the Chief Administrator of OEMS for a waiver of that requirement in accordance with the provisions for waivers in N.J.A.C. 8:41-2.

HUMAN SERVICES

(a)

THE COMMISSIONER

Advance Directives to Make Health Care Decisions, Do Not Resuscitate Orders (DNR Orders), and Declaration of Death

Proposed New Rules: N.J.A.C. 10:8

Authorized By: William Waldman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12, 26:2H-53 et seq., 26:6A-1 et seq., and 42 U.S.C. 1395 cc.

Proposal Number: PRN 1993-329.

Comments may be submitted in writing by July 21, 1993 to:

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Department of Human Services
222 South Warren Street, CN 700
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The agency proposal follows:

Summary

The proposed new rules establish the Department of Human Services' policy and procedure regarding patient advance directives to make health care decisions, do not resuscitate orders (DNR orders), and declaration of death.

The Department has already established policies and procedures which address this subject area in Administrative Order 2:07, revised July 17, 1992. These proposed new rules will incorporate this administrative order into the New Jersey Administrative Code and supplement existing Department policies and procedures.

These proposed new rules are proposed in compliance with the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.) and the Federal Patient Self Determination Act (42 U.S.C. 1395 cc). The intent of this legislation is to recognize the personal right of individuals to make voluntary, informed choices about the course of their health care, and to assure that this right is guaranteed through execution of an "advance directive."

The scope of the legislation and the proposed new rules extends to the Department's facilities, which include the Division of Developmental Disabilities developmental centers and the Division of Mental Health and Hospitals psychiatric hospitals. Under the proposed new rules, a significant role of these facilities is to inform patients of their right to execute an advance directive and to facilitate execution of such a document by patients with expressed interest. In fulfilling this role, the facility is required to provide all informational materials concerning advance directives to all interested patients, families and health care representatives and to ensure that patients interested in discussing and/or executing an advance directive are referred for appropriate assistance. The legislation and the proposed new rules ensure that patients are aware of their right to execute an advance directive, by requiring that the facility ask each adult patient, upon admission, about the existence of an advance directive.

The proposed new rules also clarify the Department's policies and procedures concerning do not resuscitate orders (DNR orders). A DNR order is a physician's written order not to attempt cardiopulmonary resuscitation in the event the patient suffers a cardiac or respiratory arrest. A DNR order shall be consistent with the terms of an advance directive, if any, or as otherwise directed by a competent patient or a legal guardian on behalf of an incompetent patient.

Finally, the proposed new rules establish Department policies and procedures for the declaration of the death of patients, if appropriate, in accord with the New Jersey Declaration of Death Act (N.J.S.A. 26:6A-1 et seq.) and the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.) which address declaration of death based on neurological criteria (brain death).

Social Impact

The proposed new rules represent the obligatory responsibilities of Department of Human Services facilities to comply with the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.), the Federal Patient Self Determination Act (42 U.S.C. 1395 cc), the New Jersey Declaration of Death Act (N.J.S.A. 26:6A-1 et seq.), and applicable rules and case law.

Although the proposed new rules are not significantly different from present Department policy and procedure, this subject area does have a significant social impact upon the patients in facilities in terms of their patient rights. The rules assure that the approximately 6,000 residents of the seven mental health and seven developmental disabilities public facilities in New Jersey will have their wishes considered and followed in their health care.

Economic Impact

Adoption of these proposed new rules will have no economic impact upon the patients who reside in the Department's facilities.

There will be no additional costs incurred by the Department, since the Department has already implemented policies and procedures in compliance with the law. Moreover, any costs associated with the implementation of these policies and procedures have been minimal, and

have been related to, informing patients of their rights, and providing patients with a copy of the material contained in Appendix I.

Regulatory Flexibility Statement

The proposed new rules have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules impose no reporting, recordkeeping or other compliance requirements on small businesses; therefore a regulatory flexibility analysis is not required. The new rules concern the Department's facilities and not any private business establishments.

Full text of the proposed new rules follows:

CHAPTER 8
ADVANCE DIRECTIVES TO MAKE HEALTH CARE DECISIONS, DO NOT RESUSCITATE ORDERS (DNR ORDERS), AND DECLARATION OF DEATH

SUBCHAPTER 1. GENERAL PROVISIONS

10:8-1.1 Purpose

This chapter establishes and describes the Department of Human Services policies and procedures regarding patients' use of advance directives to make health care decisions, do not resuscitate (DNR) orders, and declaration of death.

10:8-1.2 Scope

The scope of this chapter applies throughout the Department of Human Services to all developmental centers within the Division of Developmental Disabilities and psychiatric hospitals within the Division of Mental Health and Hospitals.

10:8-1.3 Definitions

The following words and terms, when used in this chapter and in Department policies and procedures, have the following meanings:

"Advance directive" means a written document executed in accordance with the requirements of the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.). It is a written instruction stating the declarant's specific wishes regarding the provision, withholding or withdrawal of any form of health care, including life-sustaining treatment. It may include either a proxy directive designating a health care representative or surrogate in the event the declarant subsequently lacks decision making capacity, or an instructive directive providing instructions and directions regarding the declarant's wishes for health care in the event the declarant subsequently lacks decision making capacity, or both.

"Declarant" means a competent adult of 18 years of age or older who executes an advance directive.

"Decision making capacity" means a patient's ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks of each, and alternatives to any proposed health care, and to reach an informed decision. A patient's decision making capacity is evaluated relative to the demands of a particular health care decision.

"Division(s)" means the Division of Developmental Disabilities and the Division of Mental Health and Hospitals.

"Do not resuscitate order (DNR order)" means a physician's written order not to attempt cardiopulmonary resuscitation in the event the patient suffers a cardiac or respiratory arrest.

"Emergency care" means immediate treatment provided in a response to a sudden, acute and unanticipated medical crisis in order to avoid injury, impairment or death.

"Facility" means a Division of Developmental Disabilities Developmental Center and a Division of Mental Health and Hospitals Psychiatric Hospital.

"Health care decision" means a decision to accept or to refuse any treatment, service or procedure used to diagnose, treat or care for a patient's physical or mental condition, including life-sustaining treatment. Health care decision also means a decision to accept or to refuse the services of a particular physician, other health care professional or health care institution, including a decision to accept or to refuse a transfer of care.

"Health care representative" means the individual designated by a declarant pursuant to the proxy directives part of an advance directive for the purpose of making health care decisions on the declarant's behalf, and includes an individual designated as an alternate health care representative who is acting as the declarant's health care representative in accordance with the terms and order of priority stated in an advance directive.

"Life-sustaining treatment" means the use of any medical device or procedure, artificially provided fluids and nutrition, drugs, surgery or therapy that uses mechanical or other artificial means to sustain, restore or supplant a vital bodily function, and thereby increase the expected life span of a patient.

"Permanently unconscious" means a medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. The term includes, without limitation, a persistent vegetative state or irreversible coma.

"Prognosis committee" means a multi-disciplinary team established on a case-by-case basis to review determinations to withhold or withdraw a patient's life-sustaining treatment.

"Terminal condition" means the terminal stage of an irreversibly fatal illness, disease or condition. A determination of a specific life expectancy is not required as a precondition for a diagnosis of a "terminal condition," but a prognosis of a life expectancy of six months or less, with or without the provision of life-sustaining treatment, based upon reasonable medical certainty, shall be deemed to constitute a terminal condition.

SUBCHAPTER 2. POLICIES AND PROCEDURES

10:8-2.1 Advance directives to make health care decisions

(a) The Divisions shall have written policies and procedures in accord with the New Jersey Advance Directives For Health Care Act (N.J.S.A. 26:2H-53 et seq.) which shall supplement and implement the provisions of this chapter and the statute.

(b) Upon admission to the facility and thereafter, as appropriate under the circumstances, such as after an emergency admission, the attending physician shall make an affirmative inquiry of each patient concerning the existence of an advance directive. If the patient is incapable to respond to this inquiry, the Division/facility shall have procedures to request the information from the patient's family or in the absence of family, another individual with the personal knowledge of the patient, if available and known to the facility. Inquiry shall be made of present patients, their family or others, as appropriate, within one year from the operative date of this rule.

(c) The attending physician shall note in the patient's medical records whether or not an advance directive exists, and the name of the patient's health care representative, if any, and shall attach a copy of the advance directive to the patient's medical records. The attending physician or other health care professional, as applicable, shall document in the same manner the reaffirmation, modification, or revocation of an advance directive, if he has knowledge of such action.

(d) The written statement of New Jersey State law approved by the Commissioner of the Department of Health (Appendix I) regarding patients' rights to make decisions concerning the right to accept, refuse, or choose from alternatives of medical and/or surgical treatment and the right to formulate an advance directive, shall be provided to each patient upon admission, or where the patient is unable to respond, to family or other representative. The written statement shall be made available in any language in which it is translated and made available by the Department of Health. The written statement shall be provided to present patients, their family or others, as appropriate, within one year from the operative date of this rule.

(e) The Divisions shall adopt such policies and procedures as are necessary to provide appropriate informational materials concerning advance directives to all interested patients and their families and health care representatives, and to assist patients interested in discussing and executing an advance directive.

(f) The Divisions/facilities shall have policies and procedures to assure the establishment of prognosis committees on a case-by-case basis consistent with this chapter and the New Jersey Advance

Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.). The membership of the prognosis committee shall include, but not be limited to, the facility medical director, attending physician, consulting physicians, involved nurses and social workers, and the patient's family or designated person(s) or friend(s).

(g) In the event of disagreement among the patient, health care representative, a health care professional involved in the patient's care, or the attending physician concerning the patient's decision making capacity or the appropriate interpretation and application of the terms of an advance directive to the patient's course of treatment, the parties may seek to resolve the disagreement by means of procedures and practices established by the Division/facility, including, but not limited to, consultation with the prognosis committee. If necessary, the parties may then seek resolution by a court of competent jurisdiction.

(h) The Divisions/facilities shall have policies and procedures to assure the timely transfer of the patient's medical records, including a copy of the patient's advance directive, if any, in situations in which a transfer of care is necessary.

(i) The Divisions/facilities shall provide education to staff, patients, and their families and health care representatives about the advisability, benefits, and burdens of rehabilitative treatment, therapy and services, including, but not limited to, family and social services, self-help and advocacy services, employment and community living, and use of assistive devices as appropriate to assist in the health care decision making process.

(j) The Divisions/facilities shall not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive.

(k) An advance directive does not imply that any other care or treatment may be withheld or withdrawn, and in all cases measures shall be taken to provide the patient with maximum comfort and freedom from pain consistent with an advance directive.

10:8-2.2 Do not resuscitate orders (DNR orders)

(a) Do not resuscitate (DNR orders) may be issued by the attending physician consistent with the terms of an advance directive, or as otherwise directed by a competent patient or the legal guardian on behalf of an incompetent patient.

(b) Do not resuscitate orders shall be regularly and frequently re-evaluated, at least every 14 calendar days, by the attending physician who shall enter the order and such periodic re-evaluations in the patient's medical record in the form of signed and dated written documentation.

(c) The Divisions/facilities shall not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has a do not resuscitate order.

(d) A do not resuscitate order does not imply that any other care or treatment may be withheld or withdrawn, and, in all cases, measures shall be taken to provide the patient with maximum comfort and freedom from pain.

10:8-2.3 Declaration of death

(a) The Divisions/facilities shall develop and implement policies and procedures for the declaration of death of patients, in instances where applicable, in accordance with the New Jersey Declaration of Death Act (N.J.S.A. 26:6A-1 et seq.) and the rules promulgated by the New Jersey Board of Medical Examiners (N.J.A.C. 13:35-6A) which address declaration of death based on neurological criteria (brain death).

(b) The Divisions/facilities policies and procedures shall provide, at a minimum, for the following, in the case of declarations of death based upon neurological criteria, in accord with N.J.A.C. 13:35-6A:

1. The attending physician at a facility and a corroborating physician may certify that an individual is brain dead.

2. The corroborating physician shall be a neurologist or a neurosurgeon.

3. The attending physician and corroborating physician shall both document in the patient record the results of all tests required by N.J.A.C. 13:35-6A.5.

4. A patient may be pronounced brain dead, if it is determined by the attending physician and confirmed independently by the corroborating physician, after an appropriate period of time, that brain death has occurred.

5. If the patient declared brain dead is, or may be, an organ donor, then neither the attending physician nor the corroborating physician shall have any responsibility for, or interest in, any contemplated recovery or transplant of that patient's organs.

6. Death shall not be declared on the basis of neurological criteria, if either the attending physician or corroborating physician has any reason to believe, based on available medical records or from information provided by the patient's family, that such a declaration would violate the patient's religious beliefs.

7. The attending physician and the corroborating physician shall both certify the patient's death in the patient's medical record, and the attending physician shall certify death on the death certificate.

8. The brain dead patient may be removed from any life-sustaining treatment.

Appendix I

New Jersey Department of Health

YOUR RIGHT TO MAKE HEALTH CARE DECISIONS IN NEW JERSEY

This document explains your rights to make decisions about your own health care under New Jersey law. It also tells you how to plan ahead for your health care if you become unable to decide for yourself because of an illness or accident. It contains a general statement of your rights and some common questions and answers.

Your Basic Rights

You have the right to receive an understandable explanation from your doctor of your complete medical condition, expected results, benefits and risks of the treatment recommended by your doctor, and reasonable medical alternatives. You have the right to accept or refuse any procedure or treatment used to diagnose or treat your physical or mental condition, including life-sustaining treatment.

You also have the right to control decisions about your health care in the event you become unable to make your own decisions in the future by completing an advance directive.

What happens if I'm unable to decide about my health care?

If you become unable to make treatment decisions, due to illness or an accident, those caring for you will need to know about your values and wishes in making decisions on your behalf. That's why it's important to write an advance directive.

What is an advance directive?

An advance directive is a document that allows you to direct who will make health care decisions for you and to state your wishes for medical treatment if you become unable to decide for yourself in the future. Your advance directive may be used to accept or refuse any procedure or treatment, including life-sustaining treatment.

What types of advance directives can I use?

There are three kinds of advance directives that you can use to say what you want and who you want your doctors to listen to:

A **PROXY DIRECTIVE** (also called a "durable power of attorney for health care") lets you name a "health care representative", such as a family member or friend, to make health care decisions on your behalf.

An **INSTRUCTION DIRECTIVE** (also called a "living will") lets you state what kinds of medical treatments you would accept or reject in certain situations.

A **COMBINED DIRECTIVE** lets you do both. It lets you name a health care representative and tells that person your treatment wishes.

Who can fill out these forms?

You can fill out an advance directive in New Jersey if you are 18 years or older and you are able to make your own decisions. You do not need a lawyer to fill it out.

Who should I talk to about advance directives?

You should talk to your doctor, family members, close friends, or others you trust to help you. Your doctor or a member of our staff can give you more information about how to fill out an advance directive.

What should I do with my advance directive?

You should talk to your doctor about it and give a copy to him or her. You should also give a copy to your health care representative, family member(s), or others close to you. Bring a copy with you when

you must receive care from a hospital, nursing home, or other health care agency. Your advance directive becomes part of your medical records.

What if I don't have an advance directive?

If you become unable to make treatment decisions and you do not have an advance directive, your close family members will talk to your doctor and in most cases, may then make decisions on your behalf. However, if your family members, doctor, or other caregivers disagree about your medical care, it may be necessary for a court to appoint someone as your legal guardian. (This also may be needed if you do not have a family member to make decisions on your behalf.) If you are age 60 or older, and you become unable to decide for yourself, it may also be necessary that the Ombudsman for the Institutionalized Elderly review a decision to forego life-sustaining treatment. That's why it's important to put your wishes in writing to make it clear who should decide for you and to help your family and doctor know what you want.

Will my advance directive be followed?

Yes. Everyone responsible for your care must respect your wishes that you have stated in your advance directive. However, if your doctor, nurse, or other professional has a sincere objection to respecting your wishes to refuse life-sustaining treatment, he or she may have your care transferred to another professional who will carry them out.

What if I change my mind?

You can change or revoke any of these documents at a later time.

Will I still be treated if I don't fill out an advance directive?

Yes. You don't have to fill out any forms if you don't want to and you will still get medical treatment. Your insurance company also cannot deny coverage based on whether or not you have an advance directive.

What other information and resources are available to me?

Your doctor or a member of our staff can provide you with more information about our policies on advance directives. You also may ask for written informational materials and help. If there is a question or disagreement about your health care wishes, we have an ethics committee or other individuals who can help.

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DIVISION OF MENTAL HEALTH AND HOSPITALS

Community Residences for Mentally Ill Adults

Proposed Repeals: N.J.A.C. 10:37-5.37 through 5.43 and 10:39

Proposed New Rules: N.J.A.C. 10:37A

Authorized By: William Waldman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:11B-1 et seq., specifically 30:11B-4.

Proposal Number: PRN 1993-292.

Submit comments by July 21, 1993 to:

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CN 727
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The agency proposal follows:

Summary

On April 24, 1987, amendments to N.J.S.A. 30:11B were enacted which granted authority to the Department of Human Services to license and regulate community residences for the mentally ill. N.J.A.C. 10:39, Community Residence Licensure Standards Policies and Procedures, applied to adults only and became effective on February 21, 1989. Subsequently, N.J.A.C. 10:39 was repealed and replaced with new rules effective May 7, 1990. Those rules are now being proposed for repeal and will be replaced by these proposed new rules.

Additionally, N.J.A.C. 10:37-5.37 through 5.43 contain program standards for community residences for the mentally ill receiving funding from the Division of Mental Health and Hospitals. These proposed new rules shall apply to these Division funded residences as well. Therefore, N.J.A.C. 10:37-5.37 through 5.43 are also being proposed for repeal and replaced by these proposed new rules.

As part of the public comment process, the Department is particularly interested in receiving comment whether the rules at N.J.A.C. 10:37A-9.3(a) and 9.5(a)3, 5 and 6 should and can be more specific in those instances when the words "highest professional standards," "reasonable," "substantial period time," and "unreasonable" are utilized in those subsections. If commenters believe the language should be more specific, the Department invites those commenters to suggest specific substitute language in their written comments. If commenters believe the proposed langugage is adequate, the Department invites those commenters to so state in their written comments.

Proposed rules for psychiatric community residences for youth were published in the June 7, 1993 issue of the New Jersey Register. The rules at N.J.A.C. 5:27, promulgated pursuant to the Rooming and Boarding Home Act (N.J.S.A. 55:13B-1 et seq.) shall continue to apply to certain facilities serving more than 15 persons and family care homes not affiliated with a provider agency under contract with the Division.

These proposed new rules were developed with considerable input from a group which included mental health providers and professionals, consumers of mental health services and their advocates and family members and county mental health representatives. The proposed new rules differ from the rules proposed for repeal in that they provide greater emphasis on consumer empowerment. For example, the provider agency will be required to consult consumers in the development and review of policies and procedures, and to clearly articulate the roles and responsibilities of the provider agency in client service agreements. The proposed new rules also protect clients during termination of services by requiring provider agencies to assist the client in making community living arrangements prior to termination and by requiring provider agencies to develop clear policies on maintaining the client's placement during hospitalizations and absences. In addition, the proposed new rules strengthen the requirements for provider agencies to maintain communication with other service providers.

Subchapter 1 establishes the scope and purpose for these State funded and licensed programs, as well as providing the definitions for the words and terms used in the subchapter. Subchapter 2 establishes the Division's licensing and site review process, standards for the availability of waivers to the rules and appeal and sanction procedures. Subchapter 3 establishes the requirements for written policies and procedures and confidentiality of client information. Subchapter 4 includes the services and settings available to clients, the content of client service agreements and recordkeeping requirements. Subchapter 5 establishes various staffing requirements, qualifications and duties. Subchapter 6 contains various requirements related to the operation of the residences as physical facilities, incorporate provisions of the Uniform Fire Code, N.J.A.C. 5:18, as applicable to these residences, and establishes some additional requirements related to fire safety. Subchapter 7 establishes requirements for administrative hearings and client complaint procedures. Subchapter 8 provides for quality assurance policies, procedures and activities. Subchapter 9 sets forth requirements regarding admission criteria for residences and the discharge of clients from residences.

Social Impact

There are approximately 45 provider agencies (PAs), which operate 425 residences serving 1,200 clients, throughout the State of New Jersey.

By establishing appropriate and specialized operational standards for these Division-funded programs, these proposed new rules promote the provision of high quality services to the clients of these programs, assist in preventing unnecessary hospitalizations and provide opportunities for shortened hospitalizations into less restrictive and less costly community based settings. To the extent that these proposed new rules promote effective treatment of the mentally ill, their families and the public at large also benefit from their healthier adjustment to society. The proposed new rules also benefit the Division by providing standards which enable the Division to more accurately monitor the adequacy of a provider agency's service delivery.

In addition, the proposed rules reflect input from a broader base of constituencies than the rules proposed for repeal. Since mental health services consumers, consumers' family members, and the mental health professional community participated in developing the proposed rules, the rules reflect their perspectives.

Economic Impact

Because the Department believes that provider agencies would be sufficiently funded to comply with these proposed new rules, no specific additional economic impact, including incurring additional costs, upon the State or local government budget, provider agencies or other entities

is anticipated from the proposed new rules. The added requirements, as delineated in the Summary, are performance requirements which are not expected to increase costs. Of course, the clients of these programs benefit economically from the standards by receiving quality services at no additional personal expense.

Additionally, the Department believes that taxpayers benefit from these standards to the extent to which they promote efficient and effective use of public funds and minimize the need for more costly hospital care.

Regulatory Flexibility Statement

Some agencies providing residential services to adults with mental illness may be small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14-16 et seq. The proposed new rules govern Division-funded residential services to adults with mental illness and set forth the reporting, recordkeeping and compliance requirements imposed on providers necessary for the efficient operation of the program. The proposed requirements involve the provision of a comprehensive range of program services, including the development of a policy and procedures manual, compliance with statutory confidentiality provisions, implementation of individual client services agreements, client recordkeeping requirements and criteria and procedures for the admission and termination of clients. The proposed new rules also set forth staffing requirements and responsibilities (see specifically N.J.A.C. 10:37A-5). These proposed new rules establish no need for operators of these programs to employ outside professional services to comply with provisions, nor is there any requirement for providers to expend capital costs to comply with the rules. The changes are performance-based, and focus on the empowerment of the client through requirements for client participation in planning and decision-making.

The reporting, recordkeeping and compliance requirements imposed upon provider agencies must be uniformly applied, regardless of the size of the provider agency to ensure that individuals with mental illness receiving these services throughout the State do so with an assurance of basic minimum standards of quality. These standards are important because individuals receiving them have been either hospitalized for psychiatric reasons or are at risk of such costly and restrictive hospitalization. Additionally, these provider agencies are individually funded by the Division to be able to meet these requirements, and should not experience any financial hardship as a result of the changed requirements.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 10:37-5.37 through 5.43 and 10:39.

Full text of the proposed new rules follows:

CHAPTER 37A
COMMUNITY RESIDENCES FOR MENTALLY ILL ADULTS

10:37A-1.1 Scope and purpose

(a) Provider agencies (PA) operating community residences for mentally ill adults shall comply with the physical and program standards contained within this subchapter. These residences include group homes serving a maximum of 15 persons, PA apartments, and family care homes serving five or fewer persons with a services agreement with the PA. These residences shall be approved for a purchase of service contract pursuant to this chapter and Department contract rules, including N.J.A.C. 10:4, and shall not be considered health care facilities within the meaning of N.J.S.A. 26:2H-1 et seq.

(b) The PAs shall provide a residential care program to all enrolled clients. Such a program shall consist of the services described in this chapter and shall be provided in facilities owned or leased by the PA, or through services agreements with private operators.

(c) The major goal of the community residence program for mentally ill adults shall be to support and encourage the development of life skills required to sustain successful living within the community. Residential housing and services shall be organized around the principle of client responsibility and participation.

(d) The residential care program shall have a rehabilitation focus designed to develop and improve skills necessary for successful community integration. Programming shall focus on empowering the client's use of generic community supports to meet physical, psychological and social needs as a means to promote an improved quality of life and emotional well-being. Clients shall live in the most normalized, least restrictive environment possible to promote individual growth and safety.

10:37A-1.2 Definitions

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

"Assessment and evaluation" means activities that will analyze an individual client's desires, functioning, strengths, needs and environment to determine appropriate interventions. An opportunity will be given for the client to provide a self assessment and for any family member or significant other of the client's choice to provide an assessment of the client as well.

"Client" means a person suffering from a mental illness who is a resident of a community residence for mentally ill adults.

"Client service agreement" means a written agreement between the PA and client which includes responsibilities of both the PA and the client.

"Community residence for the mentally ill" (residence) means any community residential facility approved by the Division which provides food, shelter, and personal guidance under such supervision as required, to not more than 15 mentally ill persons who require assistance, temporarily or permanently, in order to live independently in the community. Community residences for the mentally ill have an approved purchase of service contract pursuant to the Department's contract rules and this chapter. These residences do not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a crime by reason of insanity or unfit to be tried on a criminal charge. These residences are not considered health care facilities, within the meaning of the "Health Care Facilities Planning Act", P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and include, but are not limited to, group homes, supervised apartment living arrangements, family care homes and hostels.

"Comprehensive service plan" (CSP) means the periodic formulation of goals, objectives, and interventions for residential services based on a functional assessment which shall include treatment recommendations and may include: psychological, medical, developmental, family, educational, social, cultural, environmental, recreational and vocational components.

"Crisis intervention counseling" means an attempt to facilitate crisis stabilization through the use of specific, time-limited counseling techniques. Crisis intervention counseling focuses on the present, providing pragmatic solutions to identified problems.

"Crisis intervention services" means the implementation of the PA's written emergency policies and procedures focusing primarily on client and staff safety. Examples include provision of residential counseling, crisis intervention counseling, behavior management techniques, and request for outside assistance. Behavioral management techniques exclude physical and chemical restraint, aversive conditioning and punishment. Crisis intervention services can be documented via crisis reports, for example, and can be supported by such policies which reflect adequate responses to emergent situations.

"Department" means the Department of Human Services.

"Division" means the Division of Mental Health and Hospitals, within the Department of Human Services.

"Education" means instruction for clients in basic skills, including academics, and increasing learning capabilities, in the areas of psychoeducation and health.

"Family care home" means a private home or apartment in which an individual resides and provides services to as many as five clients who also reside in the home. The PA provides mental health services to the client and consultation to this individual, based on a services agreement.

"Group home" means any leased or owned single family residence or any structure containing three or more dwelling units, all of which are utilized for the provision of residential care services wherein staff reside or are stationed either on-site or in immediate close proximity and for which a contract exists with the Division. Group homes do

not include family care homes nor apartment facilities where individuals may receive regular or periodic staff supervision and/or training visits, except where such apartment facilities include those contained in a structure of two or more units and all units are operated under contract with the Division.

"Individual services coordination" means those staff activities which are aimed at linking the client to the mental health and social service system and the arranging of the provision of appropriate services. Coordination activities include intake and referral, admission and acceptance, placement, termination and follow-up, individual services planning and treatment reviews, advocacy with non-mental health systems, and documentation of services provided.

"Initial service plan" means the initial formulation of goal(s), objectives, and interventions, based on initial assessments, which serve as a focus for staff and client activities.

"Life experience" means functioning in non-employment roles, such as a homemaker, whose requirements are comparable to those of a residential counselor.

"Life support services" means services which include, at a minimum, providing living environments which are safe, secure, and clean and in compliance with this chapter.

"Other life support services" means activities that provide basic personal support which are provided to maintain successful community living whenever possible. These services include, but are not limited to, providing transportation, providing prepared meals and performing household tasks, providing clothing, relocating client belongings, and providing direct assistance in securing household furnishings, utilities and other needed building services.

"Provider agency" (PA) means a public or private organization which has a mental health contract with the Division and has been licensed to provide residential services to individuals 18 years of age and older.

"PA apartment" means an apartment owned or leased by the PA in which clients reside and receive the services described in this subchapter.

"Recreation" means social or recreational activities of a relaxing or entertaining nature designed to promote the ability to socialize and manage leisure time.

"Residential counseling" means verbal interventions provided to clients and families to assist the client in accessing and utilizing all planned or assigned services. It may include problem-solving, advice, encouragement and emotional support to enhance stability in the living arrangement.

"Services agreement" means an agreement between a PA and another agency or service provider which describes the program or service provided to clients in the community residence including responsibilities for both the PA and the provider of the program or service. Only the governing body (or its official designee) of the PA makes such agreements with service or program providers.

"Staff support services" means interventions provided by on-site staff, which may include verbal support or behavior management, in accordance with the needs of the client(s).

"Training in daily living skills" means activities designed to develop and maintain the knowledge, behaviors, skills and attitudes needed to improve or maintain quality of life, for example, budget management and housekeeping skills training.

SUBCHAPTER 2. LICENSING, SITE REVIEW AND WAIVERS

10:37A-2.1 Initial licensing process

(a) All inquiries related to licensure of community residences shall be made to:

New Jersey Division of Mental Health and Hospitals
CN 727
Trenton, NJ 08625

(b) To become a licensed PA, an agency shall:

1. Demonstrate intent and capability to operate a community residence in accordance with this chapter; and

2. Be a mental health services provider with a service contract with the Division. Such a service contract shall include provisions for the operation of community residences.

(c) The PA shall be in compliance with this chapter.

(d) The PA shall apply for licensure to the Division. Applications shall indicate the type or types of community residences intended, the specific geographical location in which residences would be located, and the number of residents to be served. Such application shall be made to the Division at the address in (a) above. There shall be no fee charged to the PA regarding licensing or application for licensing.

10:37A-2.2 Licensing of group homes

(a) The Division shall inspect any proposed group home site, utilizing the physical and fire safety standards of N.J.A.C. 5:18, and shall review all program operations or descriptions for compliance with the provisions of this chapter.

(b) The Division shall notify the PA in writing of any violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections are satisfactory and there is reasonable assurance that the residence shall be operated in a manner required by this chapter.

(e) The license shall be issued by the Department through the Division.

(f) The license shall be limited to a specifically identified facility, issued for a period of one year, and shall indicate the maximum number of persons to be served within that facility.

(g) The license shall be available on the agency's premises, for review by the Division, or any interested members of the public, during normal business hours.

10:37A-2.3 Licensing PA apartments

(a) The Division may inspect any proposed apartment site(s), based on physical and fire safety standards contained in N.J.A.C. 5:18, and review all program operations or descriptions for substantial compliance with the provisions of this subchapter.

(b) The Division shall notify the PA in writing of any and all violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the apartment(s) shall be operated in a manner required by this chapter.

(e) The license shall be issued by the Department through the Division.

(f) The license shall be issued to the PA for a specific number of apartment spaces within a defined geographic area for a period of one year. The PA shall have the right to relocate apartment spaces within the defined geographic area, as needed. The new facilities shall comply with all requirements of this chapter.

(g) The license shall be available on the agency's premises for review by the Division, and any members of the public, during normal business hours.

10:37A-2.4 Licensing family care homes

(a) The PA shall develop a written services agreement with the individual who operates the family care home.

(b) The content of the services agreement between the PA and the individual who operates the family care home shall have been approved by the Division, based upon individual client needs and this chapter.

(c) The Division may inspect any proposed family care home based on physical and fire safety rules at N.J.A.C. 5:18, and review all program operations for compliance with the provisions of this chapter.

(d) The Division shall notify the PA in writing of any violations.

(e) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(f) A license shall be issued once intent to comply with all program requirements is demonstrated, inspections, if any, are satisfac-

tory and there is reasonable assurance that the family care home(s) shall be operated in a manner required by this chapter.

(g) The license shall be issued by the Department through the Division.

(h) The license shall be issued to the PA for a period of one year and shall be limited to a defined number of family care homes within a defined geographic area and shall indicate the maximum number of persons to be served. No family care home shall serve more than five clients at any one time.

(i) The license shall be available on the PA's premises for review by the Division, and any members of the public, during normal business hours.

10:37A-2.5 Provisional license

(a) A provisional license may be issued by the Department to a prospective PA which expresses interest in operating a residence, indicates in writing an intent to comply with the guidelines contained in this chapter, and who applies to the Division for such provisional licensing. The application shall indicate the type or types of residences desired, the specific geographical areas in which residences would be located, and the number of residents to be served.

(b) The Division shall review the application of the prospective PA, assess the fiscal, programmatic, and administrative capabilities of the PA, and determine whether a provisional license shall be issued. There shall be no fee charged for the issuance of a provisional license.

(c) The provisional license shall authorize a PA to secure a facility or facilities in which to provide services.

(d) A provisional license shall not authorize a PA to provide services to clients.

(e) The provisional license shall be issued for a time period not to exceed six months, and may be renewed in six month intervals by the Division if, in its judgment, the PA consistently made good faith efforts to establish the proposed residence(s).

(f) A PA issued a provisional license shall immediately make application for an annual renewable license under provisions specified in N.J.A.C. 10:37A-2.1 when facility(s) have been secured and services to residents are ready to be initiated.

10:37A-2.6 Waiver of standards

(a) Requests for waivers shall be made to the Division, in writing, with supporting information justifying the request.

(b) Waivers of specific rules shall be considered, at the discretion of the Division, provided that one or more of the following conditions have been met:

1. Where strict enforcement of the rule would result in unreasonable hardship on the clients; or

2. The waiver addresses a particular need of a client(s) but does not adversely affect the health, safety, welfare, or rights of the client; or

3. There is a clear clinical or programmatic justification for such a waiver that will enhance a PA's effectiveness or efficiency without an adverse effect on any client's health, safety, welfare or rights.

10:37A-2.7 License renewal

(a) The license shall be subject to an annual renewal.

(b) Determination of license renewal shall be based on the annual evaluation conducted by the Division's Bureau of Licensing and Inspections (BLI).

(c) The Division Director (or designee) shall make the determination of renewal.

(d) In the event that a license expires prior to the determination of renewal, the license shall remain in effect until such a determination is made.

(e) There shall be no fee charged to the PA for license renewal.

10:37A-2.8 Evaluation and monitoring

(a) The PA shall ensure, through its quality assurance program, that group homes, PA apartments, and family care homes meet the program and facility's requirements for licensure under N.J.S.A. 30:11B-4. Quality assurance visits to ensure health, and/or safety, and welfare standards shall be conducted quarterly, at a minimum. The Division will audit the process annually.

(b) All PA and residences shall be subject to site reviews in accordance with N.J.A.C. 10:37-10.

(c) All group homes shall be evaluated on site annually by the BLI, and at the discretion of the Division, as needed.

(d) All PA apartments shall be evaluated on site annually by the BLI, and at the discretion of the Division, as needed.

(e) All PA family care homes shall be evaluated annually by the BLI, and at the discretion of the Division, as needed.

(f) A written report of program and facility evaluations, including all deficiencies and violations, shall be provided to the PA by the Division.

(g) No later than 40 days after receipt of the report, the PA shall provide written notice to the Division that specific violations have been corrected, or that actions have been taken to abate specific violations noted and that full correction is anticipated within the time frames noted in the report.

(h) For any violations cited by the Division as presenting an imminent threat to the health or safety of clients, the PA shall correct them or remove the threat created by such deficiencies immediately and shall provide written notice, within 48 hours, to the BLI that such action has been taken.

(i) If the Division report identifies violations other than those presenting an imminent threat to the health and/or safety of clients, representatives from the Division, as part of their ongoing monitoring responsibilities, shall visit the specified facility or program and provide a report to the Division on progress toward remediation of deficiencies every 60 days until compliance is achieved.

(j) When the PA is cited for a physical violation and the maintenance is the responsibility of another party, there must be documented evidence that the PA has informed the building owner and his or her agent of the need to correct any deficiencies. If such deficiencies are not corrected, the PA shall take further action as appropriate.

10:37A-2.9 Appeal of the Division's findings

(a) The PA may appeal findings of the Division, pursuant to N.J.A.C. 10:37A-2.12. In the case of life-threatening violations, such appeal shall be conducted pursuant to N.J.A.C. 10:37A-2.13.

(b) The appeal of findings shall be directed to the Division Director or designee within 20 days of receipt of the written report of findings.

(c) A response to the appeal shall be provided within 20 days of its receipt.

10:37A-2.10 Administrative sanction

(a) In the event that the PA does not submit the written notice specified in N.J.A.C. 10:37A-2.8(g) by the required date, or if violations have not been abated within time frames specified in the report, the Division shall have the option of suspension of payments to which the PA may be entitled under any agreements with the Division, imposition of a moratorium on admissions to the facility, revocation of the current license to operate the facility, or nonrenewal of the license to operate the facility.

(b) In the event that the Division requires the revocation or nonrenewal of the license and the relocation of the clients of the facility, a written order shall be directed to the PA's executive director or designee and to the President of the Board of Directors of the PA.

(c) Under the supervision of the Division, the PA shall be responsible for placement of clients when an order to vacate the premises and the revocation of a license has been issued by the Division.

10:37A-2.11 Review of administrative sanctions

Where an administrative sanction exists and the PA denies the basis of the sanction, the PA may apply to the Division Director or designee for a review, which shall be afforded and a decision rendered by the Division Director or designee within five working days of the receipt of the written request for a review.

10:37A-2.12 Administrative hearing of appeal

If the PA chooses to appeal a decision made pursuant to the provisions of N.J.A.C. 10:37A-2.11, the PA may request an administrative hearing, which shall be conducted pursuant to the Adminis-

trative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

10:37A-2.13 Emergency situation

The Division, when it determines that the health, safety or welfare of the clients warrant it, may immediately suspend the license of a PA, and take the necessary action to ensure the well-being of clients. Any hearing provided in such cases shall be on an expedited basis.

SUBCHAPTER 3. POLICIES AND PROCEDURES; CONFIDENTIALITY

10:37A-3.1 Written policies and procedures

(a) The PA shall develop and implement written policies and procedures to ensure that the service delivery system complies with applicable statutory and regulatory provisions governing community residences for the mentally ill.

1. The PA shall develop, maintain and revise, as is necessary, a program-oriented policy and procedures manual. Said manual shall be reviewed annually, as evidenced by dated signatures of the reviewer(s).

2. Policies and procedures shall promote the principles of normalization, age-appropriateness, client empowerment and least restriction, and shall be consistent with the PA's organizational structure and management philosophy.

3. The PA shall document that consumers and their families are consulted in the development and review of policies and procedures. Such documentation shall reflect that any suggestions so generated shall be seriously considered.

10:37A-3.2 Confidentiality

(a) N.J.S.A. 30:4-24.3 states:

"All certificates, applications, records, and reports made pursuant to the provisions of this Title and directly or indirectly identifying any individual presently or formerly receiving services in a noncorrectional institution under this Title, or for whom services in a noncorrectional institution shall be sought under this act shall be kept confidential and shall not be disclosed by any person, except insofar as:

(1) the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent; or

(2) disclosure may be necessary to carry out any of the provisions of this act or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes (Section 2A:82-41); or

(3) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to a patient's current medical condition to any relative or friend or to the patient's personal physician or attorney if it appears that the information is to be used directly or indirectly for the benefit of the patient.

Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health and Hospitals in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of P.L. 1987, c.116 (C.30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency."

(b) The PA shall maintain compliance with the provisions of N.J.S.A. 30:4-24.3 cited in (a) above and the provisions regarding information in client records in N.J.A.C. 10:37-6.79.

SUBCHAPTER 4. CLIENT SERVICES

10:37A-4.1 Population/admission priorities

(a) First priority for admissions into residences shall be given to persons with severe and persistent mental illness and in accordance with target populations, as defined in N.J.A.C. 10:37-5.2. However, persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried for criminal charges shall not be admitted.

1. The PA shall have a clear description of each level of service intensity provided, written inclusionary and exclusionary criteria for acceptance of clients into the residential program, and written criteria specifying client characteristics for determining the level of service to be provided to individual clients.

2. There shall be written procedures that describe how intakes and referrals are managed, to give priority to persons with severe and persistent mental illness, and in accordance with target populations, as defined in N.J.A.C. 10:37-5.2.

3. Pursuant to Title VI and VII of the Civil Rights Act of 1964 as amended and Section 504 of the Rehabilitation Act of 1973, discrimination in the provision of services, on the basis of race, sex, religion, national origin, age, or physical handicap in the provision of services is prohibited.

10:37A-4.2 Services to be provided

(a) Based upon the needs of the clients served, a range of services shall be offered, specifically addressing the maintenance or enhancement of client self-sufficiency. These services are intended to foster a sense of belonging, both within the residential setting and the greater community. They are designed to enhance the client's interest and participation in all spheres of community living (such as religious, social, political and cultural). The PA shall empower the client to use the full range of community services.

(b) The following services shall be directly provided by the PA to all enrolled clients and shall be documented in the clinical record:

1. Assessment and evaluation;
2. Individual services coordination;
3. Training in daily living skills;
4. Residential counseling;
5. Life support services; and
6. Crisis intervention services.

(c) Service agreements with local screening services shall be developed. These agreements shall address the timely sharing of information and procedures for follow-up on the care and disposition of the client.

(d) The PA shall document that it has the capability to provide or arrange the services listed below based on individual client need. This capability may be documented through such means as policies and procedures, schedules of services, and logs. In addition the PA shall document that such services were in fact provided. Provided services shall be documented in the clinical record, schedules, logs, or other means of documentation presented by the PA.

1. Staff support;
2. Other life support services;
3. Recreation; and
4. Education. Instruction shall minimally be provided or arranged in basic academics, learning techniques, formal academics, vocational and career development, physical and mental health maintenance, alcohol and drug abuse prevention, family planning, prevention of sexually transmitted diseases and education about self-help and recovery programs.

(e) The PA shall maintain ongoing communication with all other providers of needed treatment and generic human services, so that appropriate adjustments are made in the services provided to the client. Such services include, but are not limited to, partial care, hospitalization, out-patient treatment, vocational services, medical services, education programs, community activities (such as YMCA, church), clinical case management, substance abuse counseling, acute care services and entitlements.

1. Clinical records shall identify all relevant service providers serving the client.

2. The PA shall maintain policies for emergency and routine case conferences.

3. The PA shall document ongoing communication with other service providers in the clinical record.

4. The PA shall maintain service agreements as needed.

5. The PA shall participate in local systems planning activities as needed.

6. The PA shall have policies that describe the PA's actions on behalf of the client when needed services are unavailable in the community, or when the current level of functioning of the client temporarily precludes participation in more normalized activities. In these circumstances, the PA may elect to provide these services directly. The PA may also elect to provide these services directly when doing so best serves the client's clinical needs.

10:37A-4.3 Settings to provide residential programs

(a) Residential programs may be provided in a variety of settings which may include, but are not limited to, the following:

1. Group homes;
2. PA apartments; and
3. Family care homes.

10:37A-4.4 Client service agreements

(a) All clients enrolled in a residence shall have a written agreement which clearly articulates the roles and responsibilities of the PA and rules that apply to the client. This agreement shall provide acknowledgement by the client that he or she understands the following:

1. The services to be provided;
2. The expected duration of services;
3. The fees for services to be provided;
4. The client's rights (for example, civil) and responsibilities (including behavioral expectations of the program and an appeal or complaint process);
5. The rules which may apply to service provision; and
6. Service termination procedures, to include any behaviors that could lead to dismissal from the program.

(b) The agreement shall include the signature of the client and the PA representative, and in family care homes, the home owner or operator.

10:37A-4.5 Recordkeeping

(a) The PA shall maintain a record for each client enrolled in the program, marked with the individual's name.

(b) The PA shall maintain the confidentiality of all records and shall store such records in a manner as to provide access only to authorized persons.

(c) Each client record shall be maintained in an up-to-date, organized fashion containing all relevant information about the client.

1. An intake assessment shall be completed for each client. This assessment shall include: identifying information and presenting problem(s), social and family information, available medical and psychiatric history, and diagnosis, if such diagnosis can be obtained.
2. An initial service plan shall be developed from intake information and shall be completed by the tenth day of the client's enrollment in the program. The initial service plan is defined as a plan based on initial assessments, which serves as a focus for staff and client activities. This plan shall include the initial formulation of goals, objectives and interventions to guide services until a comprehensive service plan (CSP) is completed.
3. A comprehensive assessment shall be completed by the client's 45th day in the program. This assessment shall address the client's strengths and weaknesses in community living skills.
4. The CSP shall be formulated for each client by the 45th day in the program. This plan shall be based on the intake assessment, the comprehensive assessment, and all other relevant information.
5. The CSP shall include goals for the client's continued participation in the PA's services, measurable objectives, including short-term steps, to approach the goals, and specific motivational steps and interventions, such as methods and actions that the PA staff will employ to assist the client to achieve goals and objectives.
6. The CSP shall be developed with the client's active participation and input, and shall contain his or her signature indicating same.
7. The CSP shall be discharge oriented and shall include specific functional levels to be achieved for the reduction or termination of services, if possible.
8. The CSP shall be reviewed, and revised as necessary, by the 90th day of enrollment and then no less frequently than every 90 days thereafter during the first year of treatment and six months thereafter.
9. The PA staff shall document in progress notes the client's clinical course of treatment while enrolled in a residential program. Progress notes shall be written whenever services are provided. When services are provided more frequently than once a week, however, progress notes may be documented by a weekly summary. Such notes shall:

i. Describer interactive methods, clinical interventions and services provided;
ii. Describe no less frequently than monthly the progress, or the lack thereof, made towards identified goals and objectives;
iii. Record all significant clinical events;
iv. Reflect a discharge orientation as clinically appropriate;
v. Document reviews and revisions to the CSP;
vi. Provide justification for continued provision of services; and
vii. Be authenticated by staff signature, title and date.

(d) In addition to standard reporting to the Division, cited in N.J.A.C. 10:37-6.73 through 6.79, PAs who charge fees to clients shall keep appropriate financial records.

1. Financial records shall include, for each client, specific charges for all housing related items, including, but not limited to, rent, food, utilities and telephone, and payments for those expenses, including balances due.
2. Fees received from clients should be recorded separately for each housing facility for which the PA collects such fees.

SUBCHAPTER 5. STAFF

10:37A-5.1 Staffing requirements

(a) The PA shall employ a sufficient number of residential counselors and senior residential counselors to provide all needed residential services to all enrolled clients, based upon the numbers of clients served, the types of residences utilized, and the geographical distribution of residences. The staffing pattern approved by the Division shall be reflected in the purchase of service contracts with individual agencies. The staff requirements, qualifications and duties described within this subchapter shall only apply to PA staff hired after March 23, 1990.

(b) The PA shall employ at least one residential clinical specialist.

(c) The PA shall employ one residential program coordinator.

10:37A-5.2 Residential counselor requirements, qualifications and duties

(a) Residential counselors shall have one of the following:

1. A baccalaureate degree from an accredited college or university in a mental health related discipline;
2. A license as a registered nurse;
3. Two years of college plus two years of related work or life experience;
4. A license as a practical nurse plus two years of related work or life experience; or
5. A high school diploma or the equivalent, plus four years of related work or life experience.

(b) The duties of the residential counselor shall, at a minimum, include the following:

1. On-site client supervision;
2. Therapeutic training;
3. Functional assessment;
4. Supervising and organizing recreational and/or socialization activities;
5. Transportation;
6. Residential counseling; and
7. Crisis intervention services (but not including crisis intervention counseling).

10:37A-5.3 Senior residential counselor requirements, qualifications and duties

(a) A senior residential counselor shall have the qualifications as cited in N.J.A.C. 10:37A-5.2(a) plus one year of experience in a residential mental health setting.

(b) The duties of the senior residential counselor shall, at a minimum, include the following:

1. Any duty listed in N.J.A.C. 10:37A-5.2(b);

2. Development of initial and comprehensive service plans; and
3. Individual service coordination activities as defined in N.J.A.C. 10:37A-1.2.

10:37A-5.4 Residential clinical specialist requirements, qualifications and duties

(a) A residential clinical specialist shall have one of the following qualifications:

1. A master's degree from an accredited college or university in a mental health related discipline; or
2. A bachelor's degree, or be licensed as a registered nurse, plus two years of relevant experience in a mental health setting.

(b) The duties of the residential clinical specialist shall minimally include the following:

1. Any function cited in N.J.A.C. 10:37A-5.2(b) and 5.3(b);
2. Clinical assessment;
3. Individual group and family counseling;
4. Clinical supervision of staff;
5. Staff training; and
6. Crisis intervention counseling.

10:37A-5.5 Residential program coordinator requirements, qualifications and duties

(a) A residential program coordinator shall have the following:

1. A master's degree from an accredited college or university in a mental health related discipline; and
2. Three years relevant experience in a mental health setting.

(b) Previous supervisory and residential experience is desirable but not required.

(c) The duties of the residential program coordinator shall minimally include:

1. Program administration, supervision and direction;
2. Inter-agency coordination;
3. Program development and implementation;
4. Staff development and/or training and supervision;
5. Facility management; and
6. Quality assurance.

SUBCHAPTER 6. FACILITY

10:37A-6.1 Physical plant requirements

The provisions contained within this subchapter shall apply to all licensed community residences for mentally ill adults.

10:37A-6.2 Water supply

(a) Every residence shall be provided with a safe supply of potable water meeting the standards as set forth in the Safe Drinking Water Act rules at N.J.A.C. 7:10.

(b) The source of such water supply shall be approved by the New Jersey Department of Environmental Protection and Energy or the local health agency.

(c) The minimum rate of flow of hot or cold water issuing from a faucet or fixture shall not be less than one gallon per minute.

10:37A-6.3 Residences

(a) Every residence shall contain a kitchen sink of non-absorbent impervious material.

(b) Every residence shall be provided with a minimum of one flush type water toilet, bathroom sink and a bathtub or shower.

(c) There shall be at least one toilet, sink and one bath or shower for each six residents.

(d) The bathroom sink shall be located in or adjoining the toilet area.

(e) Every toilet, bathroom sink and bathtub or shower shall be:

1. Accessible from within the building without passing through any part of any other rooming unit; and
2. Contained in a room or rooms which are separated from all other rooms by walls, doors or partitions that afford privacy.

(f) No client shall be required to go farther than one floor above or below his or her rooming unit to the bathroom.

(g) No client shall be without ready access to a bathroom, bathtub or shower by reason of physical disability.

(h) Every plumbing fixuture shall be connected to water and sewer/septic systems approved by the New Jersey Department of Environmental Protection and/or the local health agency, and shall be maintained in good working condition. Plumbing systems shall be well maintained.

(i) Every kitchen sink, bathroom sink and bathtub or shower required by this section shall be connected to both hot and cold water lines.

(j) Every residence shall have water heating facilities which are installed and connected with the hot water lines.

(k) The water heating system must be capable of delivering water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature of not more than 140 degrees Fahrenheit at all times in accordance with anticipated needs.

10:37A-6.4 Garbage and rubbish disposal

Garbage, rubbish or other organic waste shall be stored in water-tight receptacles. A sufficient number of garbage or rubbish receptacles shall be available, and shall conform to all applicable State regulations and local ordinances.

10:37A-6.5 Electrical system

(a) Every residence shall be provided with electrical service, which shall be adequately maintained. The electrical system shall be in working order and sufficient for the appliances and equipment used. Every outlet and lamp shall be maintained in a good and safe condition and shall be connected to the source of electric power.

(b) No temporary wiring shall be used except extension cords which:

1. Run directly from portable electric fixtures to convenient outlets;
2. Do not lie under rugs or other floor coverings; and
3. Do not extend through doorways, transoms or other openings through structural elements.

10:37A-6.6 Lighting

(a) Every habitable room shall have at least one window or skylight facing directly to the outdoors.

(b) The minimum glazed area of the total windows or skylights shall be eight percent of the floor area of each room.

(c) Every habitable room shall contain sufficient wall-type electric outlets and lamps or light fixtures to enable clients to use the room for its intended function. Lighting in habitable rooms must be sufficient to read by.

(d) Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room and all similar non-habitable space shall have either natural or artificial light available at all times, with an illumination of at least two lumens per square foot (two foot-candles) in the darkest portions, and sufficient for safe use of the area for its intended purpose.

(e) Every portion of any interior or exterior passageway or staircase shall be illuminated naturally or artificially at all times with an illumination of at last two lumens per square foot (two foot-candles) in the darkest portion of the normally traveled stairs and passageways. Lighting must be sufficient to prevent accidents.

(f) Every bathroom and water closet compartment shall have either natural or artificial light available at all times, with an illumination of at least three lumens per square foot (three foot-candles). The light shall be measured 36 inches from the floor at the center of the room. Artificial lighting shall be controlled by a wall switch so located as to avoid danger of electrical hazard. There must be sufficient light to use the room and/or area for its intended purpose.

10:37A-6.7 Ventilation

(a) A means of ventilation shall be provided for every habitable room. The ventilation may be provided either by an easily operable window or skylight having an openable area of at least 50 percent of the minimum window area, or by other means acceptable to the Division, which will provide at least two air changes per hour.

(b) Means of ventilation shall be provided for every bathroom or water closet compartment. The ventilation may be provided either by an easily operable window or skylight having an operable area

of at least 50 percent of the minimum window, or by other means acceptable to the Division, which will provide at least six air changes per hour.

(c) Ventilation shall be sufficient to remove odors.

10:37A-6.8 Heating

(a) Every residence shall have heating facilities which are:

1. Properly installed;

2. Maintained in good and safe working condition; and

3. Capable of safely and adequately heating all habitable rooms and bathrooms located therein to a tempertaure of at least 68 degrees Fahrenheit when the outside temperature is zero degrees Fahrenheit.

(b) The temperature shall be read at a height of three feet above floor level at the center of the room.

(c) There shall be heat adequate to maintain a minimum inside temperature of 68 degrees Fahrenheit in all habitable rooms and bathrooms from October 1 of each year to the next May 1, and when the outside temperature is 57 degrees or less.

(d) Every space heater, except electrical, shall be properly vented to a chimney or duct leading to outdoors.

(e) Unvented portable space heaters, burning solid, liquid, or gaseous fuels, shall be prohibited.

10:37A-6.9 Structural safety and maintenance

(a) Every foundation, floor, wall, ceiling, door, window, roof, or other part of a residence shall be kept in good repair and capable of the use intended by its design, and any exterior part or parts thereof subject to corrosion or deterioration shall be kept well painted.

(b) Every inside and outside stairway, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(c) Every stairway having three or more steps shall be properly banistered and safely balustraded.

(d) Every porch, balcony, roof, and similar place higher than 30 inches above the ground, used for egress or for use by clients, shall be provided with adequate railings or parapets which are properly balustraded and be not less than three feet in height.

(e) Every roof, wall, window, exterior door and hatchway shall be free from holes or leaks that would permit entrance of water within or be a cause of dampness.

(f) Every foundation, floor and wall of each residence shall be free from chronic dampness.

(g) Every residence shall be free from rodents, vermin and insects. A PA of a residence located in an area found by the Division to be infested by rats, insects or other vermin shall carry out such rodent and insect control or other means of preventing infestations of said dwellings as may be required by the Division.

(h) Every openable window, exterior door, skylight, and other opening to the outdoors shall be supplied with properly fitting screens in good repair from May 1st until October 1st of each year. Screens shall have a mesh of not less than No. 16.

(i) Every residence, including all exterior areas of the premises, shall be clean and free from garbage or rubbish and hazards to safety.

(j) Lawns, hedges and bushes shall be kept trimmed and shall not be permitted to become overgrown and unsightly.

(k) Fences shall be kept in good repair.

(l) The ground maintenance shall be consistent with that of the neighborhood, unless the condition of the neighborhood does not generally meet the minimum standards for maintenance set forth at (j) above.

(m) The Division may require that the PA clean, repair, paint, whitewash or paper such walls or ceiling, when a wall or ceiling within a dwelling has deteriorated so as to provide a harborage for rodents or vermin, or when such a wall or ceiling has become stained or soiled, or the plaster, wallboard, or other covering has become loose or badly cracked or missing.

(n) Every water closet compartment floor and bathroom floor shall be so constructed and maintained as to be reasonably impervious to water and shall be kept in a clean condition.

(o) No PA shall cause or permit any services, facilities, equipment, or utilities which are required under this chapter to be removed from, shut off, or discontinued, in any residence or part thereof, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies, when discontinuance of service is authorized by the Division.

(p) In the event that any service or utility is discontinued, the PA shall take immediate steps to cause the restoration of such service or utility.

(q) All residences must be clean and sanitary prior to occupation by any resident, and shall be maintained in a clean and sanitary condition.

(r) The PA shall ensure the orderly maintenance of the premises. The storage of objects or materials shall be done in an orderly manner so as to not constitute a health, safety or fire hazard.

10:37A-6.10 Kitchen facilities

(a) Kitchen storage space shall be clean and well ventilated.

(b) Major kitchen appliances shall minimally include a refrigerator with freezer compartment and a permanently installed stove with oven and cooktop.

(c) Containers of food shall be covered and appropriately stored at least 12 inches above the floor on shelves or other clean surfaces.

(d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit. Freezer compartments shall operate at no more than zero degrees Fahrenheit and must be maintained in good condition and without excessive ice build-up.

(e) All food and drink shall be safe for human consumption, clean, wholesome, free of spoilage and prepared and served in a sanitary manner. There shall be at least a two-day supply of food and drink in the residence at all times.

(f) All equipment and utensils used for eating, drinking, preparation and keeping shall be:

1. Kept clean and in good condition;

2. Thoroughly washed after each use; and

3. In sufficient quantity for the number of occupants.

(g) Floors, walls and work surfaces of food preparation and food serving areas shall be kept clean and in good condition at all times.

10:37A-6.11 Occupancy and use of space

(a) Every rooming unit occupied for sleeping purposes by one client shall contain at least 80 square feet of floor space. Every room occupied for sleeping purposes by more than one client shall contain at least 60 square feet of floor space for each client. Doors for privacy shall be provided and maintained. Means of egress to the rest of the home shall be direct and not through any other bedroom.

(b) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(c) Sufficient closet space for storage shall be provided. The storage space shall be uncluttered and sufficient for clothing and supplies.

(d) Rooms shall be of adequate size for the number of people, types of activities and storage.

(e) A room located in whole or in part below the level of the ground may be used for sleeping, provided that the following requirements are met:

1. The walls and floor which are in contact with the earth shall be dampproofed, in accordance with a method approved by the Division; and

2. All requirements of this section and N.J.A.C. 10:37A-6.12 through 6.22 applicable to habitable rooms shall be satisfied.

(f) No client unable to walk without assistance shall occupy a rooming unit on other than the ground floor at any residence, unless

provisions have been made to assure evacuation of the premises within two minutes.

(g) In family care homes, clients shall be allowed to share sleeping rooms/accommodations only with other clients.

(h) Any matter or requirement essential for the structural safety of a residence or essential for the safety or health of the residents therein or of the public, and which is not covered by the provisions of this chapter, shall be the subject of determination by the Division Director (or designee) in specific cases.

10:37A-6.12 Uniform Fire Code

The provisions of N.J.A.C. 5:18, the Uniform Fire Code, are incorporated herein by reference.

10:37A-6.13 Group homes with five or less residents not in multiple unit dwellings

The provisions of N.J.A.C. 5:18 which apply to the R-3 use group shall apply to group homes with five or less residents.

10:37A-6.14 Group homes with six to 15 residents not in multiple unit dwellings

The provisions of N.J.A.C. 5:18 which apply to the R-2 use group shall apply to group homes with six to 15 residents.

10:37A-6.15 Group homes in multiple unit dwellings

The provisions of N.J.A.C. 5:18 which apply to the R-2 use group shall apply to group homes in multiple unit dwellings.

10:37A-6.16 Family care homes

The provisions of N.J.A.C. 5:18 which apply to the R-3 use group shall apply to family care homes.

10:37A-6.17 PA Apartments

The provisions of N.J.A.C. 5:18 which apply to apartments shall apply to PA apartments.

10:37A-6.18 Smoke detectors

(a) Single station smoke detectors shall be installed at locations as follows:

1. Living areas and bedroom;
2. Designated smoking areas;
3. The highest ceiling area in each stairwell; and
4. Basements, cellars and attics.

(b) Smoke detectors shall be tested monthly. The monthly tests shall be documented.

10:37A-6.19 Fire drills in group homes

(a) A minimum of one unscheduled fire drill shall be conducted per month.

(b) Fire drills shall be conducted at night or in the evening hours at least 50 percent of the time.

(c) Evacuation should be completed in less than two minutes.

(d) For each fire drill, the time, date, participants, problem areas, resolution of problems and timeliness of egress shall be documented.

(e) The Division's Bureau of Licensing and Inspections shall review agency compliance with this procedure annually during the onsite inspection.

10:37A-6.20 Kerosene heaters

The use of kerosene heaters is prohibited.

10:37A-6.21 Fireplaces

All operable fireplaces shall be cleaned and inspected annually.

10:37A-6.22 Variances

(a) Variances from N.J.A.C. 5:18 shall be permitted, in accordance with N.J.S.A. 52:27D-200.

(b) The PA shall provide the Division with a copy of all applications for variances and the action taken on them.

SUBCHAPTER 7. HEARINGS, APPEALS, COMPLAINTS

10:37A-7.1 Administrative hearing

Administrative hearings will be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

10:37A-7.2 Development of residential complaint procedures

All PAs shall establish internal complaint procedures which will be subject to the Division's review and approval at the time of the initial licensing and annual licensing renewal. Complaint procedures shall allow for a client of the PA or his or her designee to make known a grievance regarding services provided or which failed to be provided; to seek appropriate redress related thereto; and to have corrective action taken, as might be warranted. The policy and procedure for client complaints shall be posted in a public place at the PA office site and a copy given to each client upon beginning the program. Any implementation of the complaint procedure shall be documented in the client's clinical record.

10:37A-7.3 Appeal process; ombudsman

The provision of N.J.A.C. 10:37-4.6 regarding client complaint agency ombuds and review procedures are incorporated by reference.

10:37A-7.4 Client protection

No client shall be subject to retaliation of any form by the PA because of the filing of any complaint.

SUBCHAPTER 8. QUALITY ASSURANCE

10:37A-8.1 Quality assurance

(a) The PA shall develop and implement policies and procedures for an ongoing quality assurance (QA) program that meet the QA requirements for community agencies as articulated in N.J.A.C. 10:37-9.

(b) Areas to be monitored and evaluated include, but are not limited to, the following:

1. Appropriateness of admissions;
2. Accuracy and completeness of assessments;
3. Effectiveness of treatment to include, at a minimum:
   i. Individual service planning;
   ii. Coordination and integration with all service providers;
   iii. Duration and timeliness of services provided; and
   iv. Appropriateness and outcome of services provided;
4. Treatment complications including unusual incidents;
5. Therapeutic environment and life safety to minimally include quarterly documentation of physical and fire safety inspections of facilities;
6. Adequacy of planning for termination and reduction of service intensity;
7. Clinical documentation;
8. Staff performance; and
9. Adherence to and adequacy of all PA policies and procedures.

(c) The PA's QA program shall coordinate, at least, the following residential specific activities:

1. Provision of on-site staff training, which is reflective of the staff's training needs and of the population served. This shall be organized with input from the QA program, who shall be responsible for monitoring such staff development activities. Evidence of such training can be documented through staff sign-in sheets or by an alternative method designed by the PA;

2. On-going clinical supervision of all direct care staff for the purpose of enhancing the quality of staff performance and minimizing staff burn-out. Such should be documented by the existence of supervisory notes or another acceptable format developed by the PA; and

3. Participation of all direct care staff in routine staff meetings to maximize the inclusion of the residential staff into the programmatic process. The PA shall develop a mechanism to afford all staff such opportunities for dialogue and communication when they are unable to be present at such meetings.

SUBCHAPTER 9. ADMISSION AND DISCHARGE

10:37A-9.1 Criteria for admission

(a) All PAs shall establish written admission policies and procedures which shall include, but not be limited to, the following:

1. First priority for admissions into the residences shall be given to persons with severe and persistent mental illness and in accordance with target populations as defined at N.J.A.C. 10:37-5.2;

2. The PA shall fully describe the level of service intensity which it provides in each residence which it operates, and shall identify all client characteristics which are inappropriate for such residence. All admission criteria must comply with all applicable laws against discrimination on account of race, ethnic origin, sex, age, religion and handicap.

10:37A-9.2 Additional criteria for admissions

PAs may establish additional admission criteria with respect to client characteristics, provided such criteria comply with the applicable laws against discrimination on account of race, ethnic origin, sex, age, religion and handicap.

10:37A-9.3 Procedures for admission

(a) All PAs shall submit all proposed admission policies to the Division for review prior to implementation. The Division shall disapprove any such policy if it fails to comply with law or with the highest professional standards of residential service, consistent with available resources. The Division shall insure also that such policy provides for the development of client services agreements and/or other documents which are individualized according to the clinical needs and reading comprehension abilities of each client, and which gives attention to the means by which each client's individual clinical needs shall be met.

(b) All PA admission policies shall ensure that the PA will provide a copy of the following documents to each client, review them with the client, and answer the client's questions regarding them:

1. The Statement of Clients' Rights set forth in Appendix A, to this subchapter;

2. The applicable client services agreement and/or other documents; and

3. All rules governing the client's conduct.

(c) All disclosure referred to in (b) above shall be made in a language sufficiently well understood by the client to assure comprehension.

10:37A-9.4 General rule regarding the discharge of clients

(a) No client shall be prohibited from utilizing or residing in a residence unless:

1. Such action is justified by one of the conditions specified in N.J.A.C. 10:37A-9.5; and

2. The PA follows all of the procedures set forth in N.J.A.C. 10:37A-9.6. A client may be discharged voluntarily if the PA has complied with the procedures set forth at N.J.A.C. 10:37A-9.6(b).

10:37A-9.5 Conditions permitting discharge

(a) A client of the PA may be discharged pursuant to written PA policies which may include only the following conditions for discharge:

1. The PA reasonably concludes that, because of the client's clearly inappropriate behavior, the client's continued presence in a residence creates a substantial, continuing and immediate threat to the physical safety of other persons, or to the emotional or psychological health of other clients of the residence; provided, however, that the PA shall not discharge such client on this basis if the client has been civilly committed.

2. The PA reasonably concludes that the client's clearly inappropriate behavior renders the residence or the PA out of compliance with any agreements to which the PA is signatory as a lessee or with any applicable law or regulation.

3. The client repeatedly violates a reasonable rule governing client conduct after the PA delivers to him or her a written notice to cease violating such rule. No such rule shall be the basis for discharging a client unless it is reflected in a client services agreement and/or other documents in compliance with these rules.

4. The client has received the maximum clinical benefit of the services offered by the residence, an appropriate alternative living arrangement, other than a shelter or hospital, is available to him or her prior to discharge, and the PA reasonably determines that discharge would be in the client's best clinical interests.

5. The client absents himself or herself from the residence for a continuous period of 30 days without providing the PA with notice of intent to return within a reasonable time after the expiration of such 30 day period.

6. The client has, for a substantial period of time, refused an unreasonable number of necessary and appropriate services offered by the PA pursuant to a properly developed treatment plan, the client has refused to offer any reasonable alternative plan of daily activity, and an alternative living arrangement other than a hospital is available.

10:37A-9.6 Discharge procedures

(a) The PA may discharge and remove a client from the residence only after complying with all of the procedures set forth in this chapter.

(b) The PA shall comply with the following procedures in all cases prior to discharge, except when the client cannot be located, or, despite the PA's effort to comply, the client is unwilling to participate:

1. The PA's assigned clinical staff shall fully inform the client of and discuss with the client the factual and clinical basis for discharge, and, if the client does not agree, approve the discharge;

2. The PA shall offer to utilize the Client Complaint/Agency Ombuds Procedure, N.J.A.C. 10:37-4, to attempt to resolve any problems; and

3. The PA's assigned clinical staff shall formulate a written discharge plan and document all efforts to obtain appropriate alternate living arrangements and appropriate alternate treatment modalities.

(c) If, after the procedures set forth in (b)1 through 3 above are completed, the client disagrees with the PA decision to discharge, the PA may discharge and remove the client from the residence only after complying with the following procedures and obtaining the approval of the Division's review officer as set forth below:

1. If the client has declined to utilize the Client Complaint/Agency Ombuds Procedure, the PA shall submit its decision for review by the chief executive officer of the PA;

2. If the chief executive officer upholds the basis for the discharge and the client disagrees, the PA shall deliver to the client a written notice of intent to discharge the client from the residence, and read and explain such notice to the client in the same language utilized on admission to explain documents as set forth at N.J.A.C. 10:37A-9.3(c); and

3. The PA shall then schedule a meeting for administrative review by the Division as set forth at (d) below on a date at least 10 days after the date upon which it delivered, read and explained the notice referred to in (c)2 above, if an alternate residence is available. If an alternate residence is not available, the meeting shall be scheduled at least 20 days thereafter.

(d) The administrative review referred to in (c)3 above shall be conducted by the designee of the Director of the Division, and such designee shall be an employee of the Division. The reviewing officer shall schedule at least one meeting between the PA representatives, the client and the reviewing officer, at which meeting or meetings the reviewing officer shall insure the following:

1. That the PA has engaged in all of the procedural steps required by this chapter, prior to the meeting date;

2. That the client has had fair notice of the factual and clinical basis for the PA's decision to discharge;

3. That the client is given a reasonable time within which to obtain the services of an advocate or attorney, if the client so desires;

4. That the client is present during all meetings conducted by the reviewing officer, unless the client waives his or her right to be present;

5. That the client is assisted and/or represented by any available individual of his or her choice during the meeting, if the client so desires;

6. That the client has a full opportunity to respond to everything stated during the meeting; and

7. That the client has a full opportunity to present any relevant documents, objects or statements of third persons. The officer must permit such persons to make such statements in person during the

meeting, and may accept such statements in writing. The officer may base his or her decision in part upon written statements, if at least one person attends the meeting who has personal knowledge of the relevant facts.

(e) During or after the meeting or meetings described in (d) above, the reviewing officer shall make the following findings:

1. That the client has or has not been accorded the safeguards listed in (d) above;

2. That the factual basis for the PA's decision to discharge is or is not true, based upon a preponderance of the credible evidence; and

3. That one or more of the conditions justifying discharge, as specified in N.J.A.C. 10:37A-9.5, does or does not in fact exist at the time of the final review meeting, or that it is reasonable to believe that, if such condition does not exist at the time of the final review meeting, the condition will recur immediately upon disapproval of discharge.

(f) If the reviewing officer makes all of the findings set forth at (e) above in the affirmative, such officer may, in his or her discretion, approve the discharge and removal of the client from the residence in question, and set a reasonable date and reasonable conditions, if any, for discharge. If the reviewing officer does not approve such discharge, he or she shall make such recommendation as he or she may consider fair and appropriate.

(g) By letter, the reviewing officer shall notify the PA, the client and the client's representative, if any, of the officer's findings and decision. The PA staff shall read and explain such letter to the client in the same language utilized at admission to explain documents as set forth above at N.J.A.C. 10:37A-9.3(c).

(h) The decision of the reviewing officer shall be the final decision of the Department; the PA's noncompliance with such decision shall be grounds for revocation of licensure or other administrative sanction.

(i) If the reviewing officer approves the discharge, the PA may discharge and peaceably remove the client from the residence as directed by the reviewing officer, and in any event no sooner than seven days after the client receives the reviewing officer's written decision. Any such discharge must be to an appropriate form of living arrangement.

10:37A-9.7 Miscellaneous provisions regarding the discharge of clients

(a) A PA shall not discharge a client as a retaliation or reprisal for such client's attempt to assert his or her rights, desires or needs.

(b) Whenever a client's behavior presents a substantial, immediate and emergent threat to the physical safety of others, or to the emotional or psychological health of other clients, the PA may remove the client immediately and temporarily, if necessary, and may prevent the client from returning until the immediate threat has been obviated. The PA may not discharge such client, however, unless a condition for discharge listed above at N.J.A.C. 10:37A-9.5 exists, and unless the PA follows all procedures for discharge set forth in this chapter. If the PA prevents the client's return for more than 24 hours, it must comply with the following procedures:

1. The proposed decision shall be submitted to the chief executive officer of the PA for his or her approval;

2. If the chief executive officer approves, the PA shall schedule an administrative review of such exclusion within the next 48 hours, before a reviewing officer appointed as set forth in N.J.A.C. 10:37A-9.6(d), and such review shall determine the propriety of the continuation of such exclusion. Such review shall be conducted pursuant to the procedures set forth at N.J.A.C. 10:37A-9.6(d), to the extent that such procedures are feasible and applicable. The reviewing officer shall make such order as he or she shall consider fair and appropriate.

(c) The PA shall maintain the client's residential placement during brief hospitalizations and temporary absences for up to 30 days from the date of such client's admission to a hospital, or from the date of such client's leaving the residence.

(d) The PA must exercise reasonable care to safeguard the client's property for a reasonable period of time after the client is discharged, and in any event for at least 30 days.

(e) A shelter for the homeless shall not be considered an appropriate alternative residence as required pursuant to this subchapter.

APPENDIX A

STATEMENT OF CLIENTS' RIGHTS

As a client in a Community Residence licensed by the N.J. Division of Mental Health and Hospitals, you are protected from being discharged or excluded from the residence against your will and without sufficient cause. Also, specific procedures must be followed by the Agency before any discharge or exclusion can occur.

The reasons for discharge or exclusion and the procedures to be followed are as follows:

REASONS FOR DISCHARGE:

To be discharged or excluded from the residence, one of the following conditions must occur:

1. You have received the maximum clinical benefit offered by the program and another place (not a hospital or shelter) is available for you to live in, and discharge would be in your clinical best interests.
2. You behave in a manner which substantially threatens the physical safety or emotional or psychological health of others.
3. You repeatedly break a written rule of the residence after being giving a written warning to stop.
4. You behave in a manner which is inappropriate and which breaks the law or causes the residence to violate its lease or other agreements.
5. You leave the residence for thirty days without informing staff that you will return soon.
6. You refuse to participate in many of the services listed in your previously agreed upon treatment plan, have not offered a reasonable alternative plan of daily activities, and there is another place available for you to live, other than a hospital.

PROCEDURES FOR DISCHARGE OR EXCLUSION:

A. The following procedures must be followed in the case of all discharges or exclusions from a Community Residence:
   1. Your assigned clinical staff must fully explain the reasons.
   2. If you wish, you must be offered the opportunity to speak with the Agency Ombudsperson and to follow the Client Complaint Procedure. If you wish more information about this procedure, the Agency which operates this Community Residence will give you the full details.
   3. In the case of discharge, clinical staff must make a discharge plan for you and attempt to locate another place for you to live and other appropriate treatment services.

B. If you disagree with the decision to discharge or exclude you, the following procedures must be followed:
   1. The Agency's Chief Executive Officer must review the decision and approve it.
   2. A representative of the Division of Mental Health and Hospitals must review the decision and you must be given the opportunity to meet with that representative.
      —You will receive at least ten (10) days notice before a meeting is scheduled.
      —You must be given the opportunity to bring a lawyer or another person to the meeting if you desire and to have other persons present to tell what they know.
      —You must be given the opportunity to say or show anything that helps the Division representative understand why you disagree with the plan to discharge or exclude you. You must also be read any letters or written statements made by others and be allowed to respond to them.
   3. The Division's representative may make any decision he or she reasonably considers to be fair and send the decision to you in writing. If the decision is made to approve the discharge or exclusion, you must be given at least seven (7) days from the date you receive the letter to move out of the residence. If the decision does not approve the discharge or exclusion, the Agency which operates this Community Residence will comply with the terms of the decision or otherwise be subject to administrative sanction.

OTHER PROCEDURES

1. In the event you are hospitalized or leave the residence temporarily, your place in the residence must be held for you for thirty (30) days.
2. In the event you are discharged or excluded and you have not taken all of your personal property with you, the Agency must safeguard that property for a reasonable period of time, at least thirty (30) days.
3. In the event of an emergency where your behavior endangers others and there is no other effective way of dealing with the situation, you may be removed from the residence temporarily without prior review by the Division. If that occurs, you must be given the opportunity to meet within three (3) days with a representative of the Division of Mental Health and Hospitals. As much as possible, the procedures set forth above will be followed.
4. You may not be discharged or excluded from a community residence as a retaliation or reprisal for trying to state or obtain your rights or anything you may want or need.

WHERE TO CALL FOR HELP

If you need assistance regarding your rights in a licensed Community Residence, you may call any of the following:

Agency Ombudsperson: (Name, Address & Phone #)

County Mental Health Administrator
(Name, Address & Phone #)

Bureau of Licensing and Inspections
Division of Mental Health and Hospitals
50 East State Street
CN 727
Trenton, New Jersey 08625
(609) 777-0700

Division of Mental Health Advocacy
Department of the Public Advocate
(Add Name, Trenton Address and Phone Number)

This statement is a summary of your full discharge rights, which appear at N.J.A.C. 10:39-8.1 et seq., and which shall be available at your request at the Agency. Nothing in this statement is intended to alter or interpret the provisions of N.J.A.C. 10:39-8.1 et seq.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Independent Clinic Services
Ambulatory Care/Family Planning/Surgical Facilities
Proposed Amendments: N.J.A.C. 10:66-1.2, 1.6 and 1.7

Authorized By: William Waldman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(5), 6b(3); 30:4D-7, 7a, b, and c; 30:4D-12; 42 CFR 440.90; 42 CFR 440.250(c).

Proposal Number: PRN 1993-349.

Submit comments by July 21, 1993 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN 712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

Portions of the Independent Clinic Services chapter, N.J.A.C. 10:66, are proposed for amendment. The Independent Clinic Services chapter sets forth the policies and procedures of the New Jersey Medicaid program pertaining to the provision of, and reimbursement for, Medicaid-covered services in an independent clinic setting. A discussion of the proposed amendments follows:

N.J.A.C. 10:66-1.2: This proposed amendment adds a definition of "ambulatory care/family planning/surgical facility." This definition is necessary to reflect the licensure nomenclature of the New Jersey State Department of Health and to allow the Medicaid program to recognize this new type of clinic provider.

N.J.A.C. 10:66-1.6(j): This proposed amendment indicates that certain other approved surgical services may be reimbursed when performed in an appropriately licensed ambulatory care/family planning/surgical facility.

N.J.A.C. 10:66-1.6(p): This proposed amendment indicates that abortions may be reimbursed when performed in an ambulatory care/family planning/surgical facility when such facilities are licensed and authorized by the New Jersey State Department of Health to perform the approved procedures. Currently, these surgical services may be reimbursed when performed in ambulatory surgical centers. It should be further noted that the New Jersey Medicaid program is legally required to pay for abortions, pursuant to the decision of the New Jersey Supreme Court in the case of *Right to Choose v. Byrne,* 91 *N.J.* 287 (1982).

N.J.A.C. 10:66-1.7(d): This proposed amendment introduces the New Jersey Medicaid program's reimbursement methodology for the provision of services in an ambulatory care/family planning/surgical facility. The facility reimbursement rate equals 70 percent of the applicable ambulatory surgical center rate for the procedures, located at N.J.A.C. 10:66-1.6(c).

Social Impact

The social impact on both Medicaid recipients and Medicaid providers is minimal because the proposed amendments contain no substantive revisions in the Medicaid program's policies in the area of independent clinic services. Medicaid recipients can obtain surgical services from approved providers. This new provider type, identified as ambulatory care/family planning/surgical facility, will be able to render approved surgical services. The reimbursement methodology has been changed, however, to reflect the higher standards that must be met by facilities designated as ambulatory care/family planning/surgical facilities.

Independent clinics must continue to meet the standards specified by both Federal and State regulations in order to qualify as Medicaid-enrolled providers.

Economic Impact

There is no economic effect on Medicaid recipients as a result of the proposed amendments because there is no cost to Medicaid recipients for independent clinic services. Medicaid providers of independent clinic services continue to be reimbursed for providing Medicaid-covered services to Medicaid recipients.

The adoption of this new facility reimbursement methodology, payable as a percentage of the applicable ambulatory surgical center rate for the same procedures, is expected to result in up to $55,000 in additional State expenditures per year. This increase may be offset by a reduction in the use of outpatient hospital or ambulatory surgical centers, which have a substantially higher per-procedure cost.

Regulatory Flexibility Analysis

The proposed amendments impose some recordkeeping or other compliance requirements upon independent clinics, some of which may be considered small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Recordkeeping and compliance requirements are already specified in the New Jersey Medicaid statutes, N.J.S.A. 30:4D-12. These statutory requirements, which are an expression of existing Medicaid policy, require all independent clinic providers to keep sufficient records to fully disclose the name of the recipient to whom the service was rendered, date and nature of service, and any additional information as the agency may require by regulation.

The requirements apply equally to all independent clinic providers, regardless of size. All clinics must employ sufficient professional staff, including physicians.

There may be capital costs if an existing ambulatory care facility wishes to upgrade to become an ambulatory care/family planning/surgical facility and, therefore, be eligible for the enhanced reimbursement.

Providers are required to submit a claim form in order to be reimbursed on a fee-for-service basis. This paperwork requirement is designed to facilitate payment to clinic providers.

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

10:66-1.2 Definitions

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

...

"Ambulatory care/family planning/surgical facility" means a health care facility or a distinct part of a health care facility, licensed as such by the New Jersey State Department of Health to provide specified surgical procedures.

...

10:66-1.6 Scope of service

(a)-(i) (No change.)

(j) Surgical services rules for [both] minor surgery in an ambulatory care facility, [and for] surgery in an ambulatory surgical center, **and other approved surgical services in an ambulatory care/family planning/surgical facility** follow:

1.-7. (No change.)

8. Other approved surgical services may be reimbursed when performed in an appropriately licensed ambulatory care/family planning/surgical facility.

(k)-(o) (No change.)

(p) Other services rules are as follows.

1. Abortions may be reimbursed when performed in an appropriately licensed ambulatory care facility, **an ambulatory surgical center, or an ambulatory care/family planning/surgical facility licensed and authorized by the New Jersey State Department of Health to perform abortions** with specific approval of the New Jersey Medicaid [Program] **program**, subject to the following conditions:

i.-iii. (No change.)

2.-5. (No change.)

10:66-1.7 Basis for reimbursement

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

(d) Reimbursement for the services of an ambulatory care/family planning/surgical facility shall be made as follows:

1. Reimbursement shall be made for services rendered by both the facility and the physician.

2. The facility reimbursement rate shall equal 70 percent of the applicable ambulatory surgical center rate for the procedures, in accordance with reimbursement rates, N.J.A.C. 10:66-1.7(c)2iii.

3. Physician reimbursement shall be in accordance with the New Jersey Medicaid program's Physician Maximum Fee Allowance for specialist and non-specialist, N.J.A.C. 10:54, and the following:

i. When submitting a claim, the physician performing the surgical procedure shall use the applicable claim form, billing the New Jersey Medicaid program either as an individual provider or as a member of a physician's group.

ii. A physician on salary for administrative duties (such as a medical director) shall be permitted to submit claims for surgical/medical services performed if outside his or her administrative duties. Administrative duties shall be considered a direct cost of the facility and shall be included in the clinic payment.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Social Services Program for Individuals and Families Personal Needs Allowance: Residential Health Care Facilities and Boarding Homes Annual Adjustment

Reproposed Amendment: N.J.A.C. 10:123-3.4

Authorized By: William Waldman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 44:7-87.

Proposal Number: PRN 1993-336.

Submit comments by July 21, 1993, to:

Celia J. Rechtman, Supervisor
Office of Legal and Regulatory Liaison
Division of Youth and Family Services
CN 717
Trenton, New Jersey 08625-0717

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 10:123-3.4, Amount, sets forth the mechanism for the annual adjustment in the personal needs allowance (PNA) for certain residents of residential health care facilities and boarding houses. This mechanism is in use currently by the Division of Youth and Family Services. After the adoption of this proposed amendment, the personal needs allowance rate for each new year thereafter will be published as a public notice in the New Jersey Register and additionally, will be publicized by other appropriate means.

The Division had proposed a similar amendment in the September 8, 1992 issue of the New Jersey Register at 24 N.J.R. 3088(a). An error in the published formula for calculating the annual adjustment to the PNA was identified by the New Jersey Association of Health Care Facilities; the correction could not be reproposed with sufficient time to ensure its being effective by January 1, 1993. Therefore, the normal rulemaking process for proposal and adoption was used for the 1993 PNA. The proposal was published in the January 19, 1993 issue of the New Jersey Register at 25 N.J.R. 229(a); the adoption, in the April 5, 1993 issue at 25 N.J.R. 1515(a).

Presently, the Division of Youth and Family Services uses the normal rulemaking process of proposal and adoption to effectuate the annual adjustment in the personal needs allowance. This has resulted in the adjustment becoming effective no earlier than the fifth month of each year. To compensate, the Division has prorated the full yearly amount of the adjustment over the remaining months of the year, so as to assure the residents the full benefit of any increase. However, some residential health care facility and boarding house operators have raised the issue of whether this proration artificially increases the base amount for the next year's calculation. The Division does not agree with this concern, but to avoid this appearance, and to provide the personal needs allowance to the residents of the residential health care facilities and boarding houses as soon as possible, the formula currently in use for setting the personal needs allowance is being proposed as an amendment to the rules. This will allow the annual adjustment to take place through the publication of a notice in the New Jersey Register, and by other appropriate means of publication.

The amount of the personal needs allowance to be reserved by owners and operators of residential health care facilities and boarding houses, for the use of Supplemental Security Income (SSI) or General Public Assistance recipient residents, for the year 1993, is $66.50. Any future annual increases will be calculated based on the following formula: the Federal portion of the current total SSI rate multiplied by the Federal Cost of Living Adjustment (COLA) to be applied to the succeeding year equals the actual dollar increase (rounded to the nearest dollar); the actual dollar increase divided by the current total SSI rate equals the adjusted COLA for the succeeding year; the adjusted COLA multiplied by the current base PNA equals the monthly PNA increase for the succeeding year.

Social Impact

This mechanism for providing for the annual adjustment in the personal needs allowance will respond to the concern raised by William Abrams, Vice President of the New Jersey Association of Health Care Facilities (see the response to the comment of Mr. Abrams, in the adoption of the 1992 personal needs allowance increase, 24 N.J.R. 1503(a), April 20, 1992). Mr. Abrams expressed his Association's concern over the base that is used for the annual calculation of the PNA increase. The PNA increase usually goes into effect in May of the year, and the aggregate increase for the year is prorated over the remaining eight months of the year. The eight-month base is then used to calculate the increase for the next year, not the non-prorated 12 month base. The Association stated that this causes each annual increase to be inflated. The Association suggested that the 12 month base be used, and that the PNA be put into effect on January 1 of each year.

The Division of Youth and Family Services and the Department of Human Services, working with the Office of Administrative Law, has developed this method for putting the personal needs allowance increase into effect on January 1 of each year, the same date as the Federal cost of living increase in the SSI. This new procedure will be in place for the personal needs allowance increase for the year 1994, and will eliminate the concern identified by Mr. Abrams and the Association.

The annual personal needs allowance adjustment has a beneficial impact on certain residents of residential health care facilities and boarding houses in that it allows those residents who rely on Supplemental

Security Income or General Public Assistance to maintain their spending power in equilibrium with the cost of living. The personal needs allowance may be used at the resident's discretion to purchase clothing and incidentals that the residential health care facilities and boarding homes do not provide. The mechanism proposed in these amendments will assure that the residents receive any increase at the earliest possible date.

Economic Impact

The approximately 8,000 residents in over 500 New Jersey residential health care facilities and boarding houses who are eligible to receive a personal needs allowance will benefit by having their spending power adjusted annually, to keep pace with the cost of living. There will be no negative impacts on facility owners, since they also will benefit from the annual Federal cost of living adjustment in the Supplemental Security Income rate.

Regulatory Flexibility Statement

The proposed amendment will not result in any increase in the amount or type of reporting, recordkeeping or compliance requirements relating to personal needs allowances. The amendment provides a mechanism for the annual adjustment of the dollar amount of the personal needs allowance for certain residents of residential health care facilities and boarding houses. Fewer than 500 facilities Statewide serve Supplemental Security Income or General Public Assistance residents. Mr. William Abrams, on behalf of the New Jersey Association of Health Care Facilities, asked for these amendments following the proposal of the 1992 increase in the personal needs allowance. The proposed amendments are in response to Mr. Abrams' comments, and not expected to have any adverse or additional economic impact on these facilities or on any small businesses, as the term is defined in N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act.

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

10:123-3.4 Amount

(a) The owner or operator of each residential health care facility or boarding home shall reserve to each Supplemental Security Income **(SSI)** recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least $66.50 per month, **set according to (b) below, and noticed in the New Jersey Register and otherwise publicized, in accordance with (c) below.** No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

(b) The personal needs allowance shall be adjusted annually based on the following calculations: the Federal portion of the current total SSI rate multiplied by the Federal Cost of Living Adjustment (COLA) to be applied to the succeeding year equals the actual dollar increase (rounded to the nearest dollar); the actual dollar increase divided by the current total SSI rate equals the adjusted COLA for the succeeding year; the adjusted COLA multiplied by the current base PNA equals the monthly PNA increase for the succeeding year. For the purposes of this rule, the COLA means the cost of living adjustment published annually in the Federal Register, in accordance with 42 U.S.C. 415i and 1382f.

(c) The personal needs allowance for each calendar year shall be noticed in the New Jersey Register on or about January 1 of that year, and shall be considered the current personal needs allowance for that calendar year. Additional notice shall be provided in at least three newspapers of general circulation in the State of New Jersey before January 1 of that year, and by other means reasonably calculated to inform those persons most likely to be affected by or interested in the personal needs allowance increase for that calendar year.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Gypsy Moth Suppression Rules

Readoption with Amendments: N.J.A.C. 2:23

Proposed: April 19, 1993 at 25 N.J.R. 1627(a).
Adopted: May 27, 1993 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Filed: May 28, 1993 as R.1993 d.305 **with substantive changes** not requiring additional public notice and comments (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:7-36 through 4:7-40.

Effective Date: May 28, 1993, Readoption;
June 21, 1993, Amendments.
Expiration Date: May 28, 1998.

Summary of Public Comments and Agency Responses:

Comments on the proposed readoption with amendments were submitted by Mr. Thomas P. Thatcher (a hobbyist beekeeper), Mr. William J. Porter (New Jersey Shade Tree Federation) and Mrs. Jane Nogaki (New Jersey Environmental Federation), and Mr. Raymond Ferrarin (NJDEPE, Pesticide Control Program).

COMMENT: Mr. Thatcher applauded and endorsed the decision of the Department to stop recommending the use of chemical controls in favor of biological controls, that is *Bacillus thuringiensis*. He felt that reducing our dependence on chemical treatments is highly desirable and should be a goal of the Department. He also felt that since chemical controls often kill honeybees, the rule will have a beneficial financial impact upon agriculture and beekeepers.

RESPONSE: Since the comment was favorable and concurrent to the proposed rules, no change is necessary.

COMMENT: The New Jersey Shade Tree Federation is in complete accord with the changes.

RESPONSE: Since the comment was favorable and concurrent to the proposed rules, no change is necessary.

COMMENT: The New Jersey Environmental Federation (NJEF) commends the New Jersey Department of Agriculture (Department) for promoting a gypsy moth pest management philosophy utilizing non-chemical pest control strategies.

RESPONSE: Since the comment was favorable and concurrent to the proposed rules, no change is necessary.

COMMENT: The NJEF supports the rule language that designates the municipal governing body as mediator between school districts in selecting the best one hour shut-down time when multiple school districts are located in the proposed spray area. They are not sure, however, whether they could support the elimination of the one hour shut-down time when a biological pesticide is used, unless it can be demonstrated that non-chemical pesticides do not impose a health risk to school children duirng commuting times.

RESPONSE: The Department rule requires a one hour shut-down time during school commuting times. The Department had stated in the Social Impact statement of the proposal that it would request that the New Jersey Department of Environmental Protection and Energy (NJDEPE) consider changing their rule (N.J.A.C. 7:30-10.3(k)) in cases where non-chemical pesticides are used which do not impose a health risk to school children during commuting times. Since the proposed readoption of the Department of Agriculture rule requires the designation of a normal student commuting time, not to exceed one hour, no change is necessary. The Department agrees with the commenter, however, and will seek to have NJDEPE change their rule by eliminating the requirement that no spraying be performed during normal student commuting times if a non-chemical pesticide is used that does not impose a health risk to commuting school children.

COMMENT: The NJEF supports the language which describes the Department's responsibility for specifying the proper type of aircraft and timing of aerial application parameters including leaf expansion, larval size, and wind speed. They also support the addition of temperature range and precipitation outlook in those parameters.

RESPONSE: The Department agrees with the commenter and has added language in the final adoption to include temperature range and precipitation outlook. The proposed amendment included language which clarified "entomological and climatic conditions." Temperature range and precipitation outlook have traditionally been considered as "climatic conditions" and were inadvertently omitted from the proposed amendments. The addition of such language upon adoption provides needed technical specificity and is not so substantive as to require additional public notice and comment.

COMMENT: The NJEF also supports the inclusion of language for monitoring the mixing, loading and application of the pesticide when personnel are available.

RESPONSE: N.J.A.C. 2:23-1.4(b)6 already states that the NJDA agrees to "assist in the application of the recommended pesticide at the proper dosage rate with the appropriate application equipment, if personnel are available." The Department interprets this existing rule to include the supervision and monitoring of the mixing, loading, and application operations of the voluntary gypsy moth suppression program and, therefore, feels that no change to the existing language is necessary.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 2:23.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***).

2:23-1.2 Spray priorities

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

1.-4. (No change.)

5. Watershed areas defoliated once and expected heavy defoliation the following spring.

6. (No change.)

2:23-1.3 Local government participation

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

1. (No change.)

2. Arrange for financing the total cost of aerial treatments and make contractual agreement with the spray vendor, either provided by the State or obtained by local bidding.

3.-4. (No change.)

5. Notify the occupants by a properly served notification of the intent of the spray program. Spraying will only be done between the hours of 5:30 A.M. to 12:00 Noon, and 5:00 P.M. to 8:00 P.M. Notwithstanding any provisions of this subchapter, no community or area-wide pesticide application for gypsy moth control may take place during normal student commuting times. Each school district, within a participating municipality, shall designate a normal student commuting time, not to exceed one hour, during which no spraying will be performed within two miles of a school housing grades kindergarten through eighth grades or within 2½ miles of schools housing grades nine through 12. In the event that the proposed spray area(s) encompass more than one school district in the municipality, the municipal governing body shall designate the one hour spray shut-down, with the approval of affected school districts. Failure of the affected school districts to approve the designated shut-down time shall result in the ineligibility of the municipality to participate in the aerial spray program.

6. (No change.)

7. In addition to the resolution, a responsible municipal official shall certify to the Department of Agriculture that these notices have been served. No work will begin until certification is filed with the Department of Agriculture.

8. To give, on behalf of the Department of Agriculture, the notices required by N.J.A.C. 2:23-1.5.

2:23-1.4 The Department of Agriculture participation

(a) (No change.)

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

1. Conduct surveys to determine the size and location of areas requiring treatment. Biological evaluation of all proposed treatment areas will be performed before insecticide application is initiated.

2. Develop spray contracts and contact reputable applicators for competitive bidding.

3. Select the most efficacious non-chemical insecticide *(Bacillus thuringiensis),* specify types of application aircraft, and specify proper timing of aerial application depending on foliage size (about 30 percent of full leaf expansion of the majority of oak species found in the proposed spray block), larval size (about 1/2 inch)**, air temperatures greater than 54 and less than 81 degrees Fahrenheit, no precipitation forecast for four hours of adequate drying time immediately following spray application,*** and winds under 10 miles per hour.

4.-5. (No change.)

6. If personnel are available, monitor the aerial application of the specified insecticide, inspect mixing equipment and spray aircraft to ensure that the specified dosage rate is applied.

BANKING

(a)

DIVISION OF REGULATORY AFFAIRS

Mortgage Banker Net Worth

Adopted Amendments: N.J.A.C. 3:2-1.4; 3:38-1.1, 1.10 and 5.1

Proposed: March 15, 1993 at 25 N.J.R. 1035(a).

Adopted: May 21, 1993 by Jeff Connor, Commissioner, Department of Banking.

Filed: May 21, 1993 as R.1993 d.295, **with a substantive change** not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:11B-13.

Effective Date: June 21, 1993.

Operative Dates: N.J.A.C. 3:2-1.4, September 1, 1993.
N.J.A.C. 3:38-1.1, 1.10 and 5.1, August 1, 1993.

Expiration Dates: N.J.A.C. 3:2, April 12, 1995.
N.J.A.C. 3:38, September 8, 1997.

Summary of Public Comments and Agency Responses:

The Department received a comment from Frank T. Jencik, President, League of Mortgage Lenders.

COMMENT: When considering whether to suspend the license of a licensee which is unable to attain the net worth requirements, one factor to consider under the proposed rules is the history of consumer complaints received by the Department. The Department should consider in this regard the resolution of those complaints.

RESPONSE: The Department agrees that the number of consumer complaints is not the only determinant of a licensee's consumer complaint history. Rather, the Department intends to consider such factors as the seriousness of the complaints, the extent to which violations are alleged and proven by the complaints, and the resolution of those complaints. The Department does not view it necessary to make changes based on this comment.

COMMENT: N.J.A.C. 3:2-1.4 as proposed requires mortgage bankers non-servicing to include in their advertisements the following designation: "licensed mortgage banker non-servicing." The public may acquire a perception from this that a better loan may be available from other lenders. Accordingly, the Department should reconsider this advertisement.

RESPONSE: Based on this comment, the Department has delayed the operative date of the advertising requirements of this rule until September 1, 1993. During the interim period, the Department intends to propose for comment alternative advertising requirements. For example, it has been suggested that a mortgage banker non-servicing be designated a "mortgage banker n.s." in advertisements.

Summary of Agency-Initiated Changes:

On adoption, the Department has added a requirement to the definition of "mortgage banker non-servicing" that the licensee not service mortgage loans for more than 90 days in the regular course of business. This requirement was already included in the proposed amendment to N.J.A.C. 3:38-5.1(a), and is added in the definitions section merely for clarification.

The Department has delayed the operative date of the remainder of the rule until August 1, 1993 to allow time for implementation.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***).

3:2-1.4 Violations of Act

(a) (No change.)

(b) Without limiting (a) above, the following conduct shall be deemed deceptive or misleading:

1.-5. (No change.)

6. The advertisement of a mortgage loan or mortgage loan services by a mortgage banker or mortgage broker without including in the advertisement or broadcast announcement the words "licensed mortgage banker—N.J. Department of Banking", "licensed mortgage banker non-servicing—N.J. Department of Banking" or "licensed mortgage broker—N.J. Department of Banking," whichever the case may be; and

7. (No change.)

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

3:38-1.1 Definitions

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

. . .

"Mortgage banker non-servicing" means a mortgage banker which:

1. Does not hold mortgage loans in its portfolio for more than 90 days in the regular course of business ***or service mortgage loans for more than 90 days in the regular course of business***; and

2. Has shown to the Department's satisfaction an ability to fund loans through warehouse agreements, table funding agreements or otherwise.

. . .

"Table fund agreement" means an agreement between an investor and a licensee whereby the investor agrees to purchase specified mortgage loans from a licensee immediately after the closing of the mortgage loans, and which permits the licensee to close loans with funds of the investor.

"Warehouse agreement" means an agreement to provide credit to a licensee to enable the licensee to have funds to close mortgage loans and hold those mortgage loans pending sale to permanent investors.

3:38-1.10 Net Worth/Insolvency

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

(d) Each applicant for a license as a mortgage banker must demonstrate that it has tangible net worth of $250,000, except that an applicant for a mortgage banker non-servicing license must demonstrate that it has tangible net worth of at least $150,000. Each applicant for a license as a mortgage broker must demonstrate that it has tangible net worth of at least $50,000.

(e) Each licensed mortgage banker shall maintain at all times tangible net worth of at least $250,000, except that a mortgage banker non-servicing shall maintain at all times tangible net worth of at least $150,000. Each licensed mortgage broker shall maintain at all times tangible net worth of at least $50,000.

(f)-(h) (No change.)

(i) Mortgage bankers licensed on December 16, 1991 shall be exempt from the net worth requirements in (e) above until December 31, 1995. Prior to that date, each licensed mortgage banker shall maintain a tangible net worth equal to or greater than $50,000

on or after December 31, 1992, $100,000 on or after December 31, 1993, and $175,000 on or after December 31, 1994. The following are exceptions:

1. Mortgage bankers non-servicing licensed as mortgage bankers on December 16, 1991 shall be exempt from the net worth requirement in (e) above until December 31, 1997; and

2. Each such licensed mortgage banker non-servicing shall maintain a tangible net worth equal to or greater than $50,000 on or after December 31, 1992, $75,000 on or after December 31, 1994, $100,000 on or after December 31, 1995, $125,000 on or after December 31, 1996, and $150,000 on or after December 31, 1997.

(j) When considering whether to suspend the license of a licensee unable to attain the net worth standards set forth in this section, the Commissioner shall consider the following factors:

1. Whether a mortgage banker is less than $35,000 below the net worth requirement for that year, and whether a mortgage broker has $25,000 tangible net worth;

2. The size of any warehouse line or table funding agreement, the institution(s) providing this credit, and any correspondent relationship that a licensee may have with another financial institution;

3. The number and amount of loans typically made by the licensee;

4. The history of consumer complaints received by the Department concerning the licensee;

5. Whether the licensee has committed to make loans which it has been unable to fund; and

6. Any other factors reflecting on the licensee's ability and fitness to transact business as a mortgage banker or broker.

3:38-5.1 Necessity for license

(a) No person shall act as a mortgage banker or a mortgage broker without first obtaining a license therefor, but a person licensed as a mortgage banker may act as a mortgage broker. A mortgage banker non-servicing shall not service mortgage loans for more than 90 days in the regular course of business.

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

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Finance Board Rules

Readoption: N.J.A.C. 5:30

Proposed: April 19, 1993 at 25 N.J.R. 1630(a).
Adopted: May 25, 1993 by the Local Finance Board, Barry Skokowski, Sr., Chairman.
Filed: May 27, 1993 as R.1993 d.297, **without change.**

Authority: N.J.S.A. 52:27BB-10 and 32; 52:27D-18; 40A:4-83, 40A:5-38, and 40A:12.6.

Effective Date: May 27, 1993.
Expiration Date: May 27 1998.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:30.

LABOR

(b)

DIVISION OF WORKPLACE STANDARDS

Safety and Health Standards for Public Employees Occupational Exposure to Hazardous Chemicals in Laboratories

Adopted Amendments: N.J.A.C. 12:100-4.2

Proposed: February 1, 1993 at 25 N.J.R. 453(b).
Adopted: May 28, 1993 by Raymond L. Bramucci, Commissioner, Department of Labor.
Filed: May 28, 1993 as R.1993 d.308, **without change.**

Authority: N.J.S.A. 34:1-20, 31:1A-3(e), 34:6A-25 et seq., specifically 34:6A-30.

Effective Date: June 21, 1993.
Expiration Date: September 22, 1994.

On February 1, 1993 at 25 N.J.R. 453(b), the Department of Labor proposed to adopt by reference the Federal Occupational Safety and Health Administration's new standard on occupational exposure to hazardous chemicals in laboratories. The final standard provides for employee training and information, medical consultation and examination, hazard identification, respirator use and recordkeeping.

Comment on the proposal was received from only one commenter during the public comment period which ended on March 31, 1993. The full record of the opportunity to be heard can be inspected by contacting the Office of External and Regulatory Affairs, New Jersey Department of Labor, CN110, Trenton, New Jersey 08625.

Summary of Public Comment and Agency Response:

COMMENT: The New Jersey Association of Designated Persons suggested that the proposed regulation exempt all school districts with science laboratories since the chemical manipulations are on a very small scale and are performed by the students under the guidance of a trained teacher.

RESPONSE: The proposed regulation includes a requirement for a chemical hygiene plan, information and training, and hazard identification. The need for these requirements becomes even more apparent in school settings where the student population is significantly changed each year.

The influx of untrained personnel into the school setting affects the safety of school employees. The Federal standard is already in effect in the academic arena of the private sector, where there are approximately 5,600 laboratories in private secondary schools.

The Department agrees with the conclusion reached by Federal OSHA that a significant risk exists in laboratories that do not implement work practices and procedures which are at least as effective as those prescribed by this final laboratory standard.

Full text of the adoption follows.

(**Agency Note:** By amendment effective April 19, 1993, the reference date in N.J.A.C. 12:100-4.2(a) was changed to May 27, 1992. That date is retained in the rule as published below, with the Federal standards adopted herein effective January 31, 1991 included therein.)

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards with all amendments published in the Federal Register through May 27, 1992 with certain exceptions noted in (b) and (c) below are proposed as occupational safety and health standards and shall include:

1.-18. (No change.)

19. Subpart Z—Toxic and Hazardous Substances

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

COMMERCE AND ECONOMIC DEVELOPMENT

(a)

DIVISION OF DEVELOPMENT FOR SMALL BUSINESSES AND MINORITY BUSINESSES

Development of Small Businesses and Women and Minority Businesses

Readoption: N.J.A.C. 12A:9

Proposed: April 19, 1993 at 25 N.J.R. 1752(a).
Adopted: May 28, 1993 by Barbara McConnell, Commissioner, Department of Commerce and Economic Development.
Filed: May 28, 1993 as R.1993 d.309, **without change.**

Authority: N.J.S.A. 52:27H-6F, P.L. 1987, c.55, specifically section 9.

Effective Date: May 28, 1993.
Expiration Date: May 28, 1998.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 12A:9.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CONSUMER AFFAIRS LEGALIZED GAMES OF CHANCE CONTROL COMMISSION

Notice of Administrative Correction Amusement Games Control

N.J.A.C. 13:3

Take notice that the Notice of Adoption for the Amusement Games Control Rules, N.J.A.C. 13:3, published in the May 17, 1993 New Jersey Register at 25 N.J.R. 1987(a) incorrectly reflected the effective date of the readopted rules. The rules, filed with the Office of Administrative Law on April 26, 1993, as R.1993 d.233, without change, are effective upon filing with the Office of Administrative Law, pursuant to N.J.A.C. 1:30-4.4(e). The correct effective date of the rules is April 26, 1993; the correct expiration is April 26, 1998.

(c)

DIVISION OF CONSUMER AFFAIRS STATE BOARD OF MEDICAL EXAMINERS ACUPUNCTURE EXAMINING BOARD

Acupuncture

Adopted Amendment: N.J.A.C. 13:35-6.13
Adopted New Rules: N.J.A.C. 13:35-9

Proposed: November 2, 1992 at 24 N.J.R. 4013(a).
Adopted: March 31, 1993 by the Acupuncture Examining Board, Robert Lenahan, President, Acupuncture Examining Board, and May 12, 1993 by the Board of Medical Examiners, Sanford Lewis, President.
Filed: May 27, 1993 as R. 1993 d. 299, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 45:2C-3.

Effective Date: June 21, 1993.
Expiration Date: September 21, 1994.

The Acupuncture Examining Board afforded all interested parties an opportunity to comment on its initial set of regulations, as proposed in the New Jersey Register on November 2, 1992 at 24 N.J.R. 4013(a). The official comment period ended on February 3, 1993. Announcements of the opportunity to respond to the Board were also forwarded to the Star Ledger, the Trenton Times, the New Jersey Acupuncture Association, the New Jersey Hospital Association, the Department of Health and to other interested parties.

A full record of this opportunity to be heard can be inspected by contacting Morris W. Eugene, Assistant Executive Director, State Board of Medical Examiners, 28 West State Street, Trenton, New Jersey 08608.

Summary of Public Comments and Agency Response:

During the 30-day comment period, the Board received five written comments regarding the proposal as well as 36 form letters from individuals who identified themselves as practitioners of oriental bodywork residing and practicing in New Jersey. A list of the commenters follows:

Peter Kadar, O.M.D., C.A.
Larry Heisler, Director, New Jersey School of Massage
Vincent R. Iuppo, Director, Morris Institute of Natural Therapeutics
Peter J. Befano, Jr., CRMT SP, Massage Works Ltd.
Ruth Dalphin, Judah Roseman, Denise L. Shinn, New Jersey Chapter of the American Oriental Bodywork Therapy Association

Practitioners of Oriental Bodywork:

Name—Affiliation

Azaren, Judith Lee
Befano, Peter J. Jr.
Diana, Ronald—The Healing Tao Center
Fax, Sandra
Fischer, Eiko
Geybels, Paula S.
Greixer, Nancy
Growley, Maureen
Gummin, Carl
Hannay, Pamela
Inscani, Maria
Kennedy, Avy W.
Lewis, Glenn G.
Lindberg, Elisabeth
Loretta, James F.
Navano, Maryann B.
Nolin, Ellen F.
Opalenick, Joanne—AOBTA Member and Certified Practitioner
Onerhalt, Deborah R.
Putnam, Zoe Elva
Raica, Julie—Massage Therapy and Shiatsu
Rand, Martha
Rivera, Margie
Sandorato, James
Seale, Dennis
Sher, Paul—President, Kin Tatsu Kai, Inc. Asian Cultural Arts Society
Shiola, Ted
Shaetz, Debra R.
Smith, Edward
Stephanik, Ann Marie
Vazquez, Yolanda Marie
Viearri, Lucia
————, Barbara
————, Robert
Williams, Carin F.

The American Oriental Bodywork Therapy Association (AOBTA), two schools of oriental massage and the 36 individuals responding by form letter raised the concern that, because acupressure is included within the definition of acupuncture, the rules could be misinterpreted to mean that only a licensed acupuncturist can lawfully practice acupressure or oriental massage in this State. These commenters pointed out that they perform oriental massage consisting entirely of various non-invasive oriental bodywork techniques, all of which could be categorized as "acupressure" under the definition included in the rules. To avoid the possibility that the rules might be misinterpreted to prohibit the practice of oriental bodywork by trained practitioners, the commenters made the following suggestions:

1. Provide a specific exemption which recognizes the right of AOBTA registered oriental bodywork therapists to practice, such exemption being specific to the non-invasive techniques of acupressure, oriental massage and indirect moxibustion;
2. Drop the word "acupressure" from the definition section.
3. Include the following statement in the proposal:

"Any current or future proposals to regulations of the New Jersey Acupuncture Bill will not limit the teaching or practice of acupressure, Shiatsu or massage (including Oriental) to acupuncturists."

4. Extend the comment period to enable representatives of the AOBTA to appear before the Board.

The Board did not intend to prohibit the use of acupressure by anyone other than a licensed acupuncturist, nor does the statute contemplate such a limitation. It is important to note, however, that if the masseur/masseuse utilizes the method to diagnose or treat an acupuncture condition or a medical condition, as opposed to simply utilizing the method to determine the direction in which to perform the massage, that practitioner would be unlawfully practicing acupuncture or medicine. This would be the case particularly if the masseur/masseuse were to tell the client that the massage would be directed at relieving or curing the acupuncture or medical condition.

With regard to the commenters' suggestions outlined above, the Board responds as follows:

1. A specific exemption for AOBTA bodywork therapists is not authorized by statute and accordingly cannot be included in the rules. However, in order to avoid the possibility that the rules may be misinterpreted to limit the performance of acupressure to licensees of this Board, the term "acupressure" has been deleted from the definition of "acupuncture" in N.J.A.C. 13:35-9.1. Similarly, in N.J.A.C. 13:35-9.8, the term "acupressure" has been replaced by the broader term "oriental massage," which includes the use of accupressure.

The AOBTA also recommended an exemption for the performance of non-invasive indirect moxibustion. Moxibustion is a technique reserved to acupuncturists pursuant to N.J.S.A. 45:2C-2, and accordingly massage practitioners may not perform moxibustion, either direct or indirect.

2. The Board has determined to retain the separate definition of "acupressure," since it is a modality which may be used by a licensee within the licensee's scope of practice, but anticipates that deletion of this term from the definition of acupuncture will clarify that performance of acupressure is not limited to licensees of this Board.

3. The Board believes the recommended statement is unnecessary and that the amendments made upon adoption will clarify that oriental bodywork practitioners may practice acupressure, Shiatsu or massage provided such techniques are not used to diagnose or treat an acupuncture or medical condition.

4. The Board did not extend the comment period because the commenters' concerns about practice limitation are, as explained above, unfounded, and no other issues were raised which would warrant an extension.

Following is a summary of additional issues raised by Peter Kadar together with the Board's responses.

N.J.A.C. 13:35-9.3 Credentials required for certification

COMMENT: The commenter stated that paragraph (a)5 excludes from licensure graduates of a foreign school of acupuncture, whether they are foreign nationals or Americans who have studied in a private tutorial program in another state or country. The commenter argues that many institutions worldwide are matriculating students whose training is equal or superior to training standards established by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) (the Board approved accrediting agency.)

RESPONSE: In implementing the Acupuncture Act, the Legislature did not intend to preclude from licensure foreign educated or trained individuals and accordingly provided for an alternative pathway to licensure. See N.J.S.A. 45:2C-9. An individual who does not have a baccalaureate degree and at least two years of study at an acupuncture school approved by NACSCAOM (the primary pathway to licensure) may qualify for licensure under the alternative pathway: completion of a board-approved tutorial in New Jersey or documentation of three years of acupuncture experience within or without the United States (defined as 750 patient treatment hours for each of three years prior to January 18, 1986). Accordingly, an individual who graduated from a foreign school of acupuncture which is not NACSCAOM approved or who participated in a tutorial in another state or country may still qualify for licensure upon documentation of three years of acupuncture experience within or without the United States prior to January 18, 1986.

N.J.A.C. 13:35-9.13 Tutorial applications

COMMENT 1. The commenter suggests that students enrolled at an acupuncture school should be permitted to fulfill the requirements of a tutorial while observing and participating in a clinical setting at the school.

RESPONSE: By these rules, the Board is implementing strict standards for completion of tutorials. The rules provide that all tutorials must be Board approved and must be under the continuous direction and immediate supervision of a licensed acupuncturist, who may supervise no more than two trainees at one time. These requirements cannot be fulfilled in a school setting nor does the Board believe it is appropriate to do so.

COMMENT 2. The commenter asked whether the supervising acupuncturist is required to have a minimum of seven years of experience, as described in the Acupuncture Act.

RESPONSE: Yes. The Acupuncture Act establishes the standards and qualifications for licensure of acupuncturists; the rules merely set forth guidelines and procedures for implementing the provisions of the Act. For clarification purposes, the Board has amended N.J.A.C. 13:35-9.14 to include this requirement.

N.J.A.C. 13:35-9.16 Training required of a physician or dentist

COMMENT: The commenter asked whether the Board will require all physicians or dentists currently practicing acupuncture to submit proof that they meet the requirements of this section and, if not, whether the Board will require them to stop practicing acupuncture.

RESPONSE: The Acupuncture Act, which has been in effect since 1983, permits a physician or a dentist to practice acupuncture provided his or her course of study included acupuncture. The Board does not believe it is necessary to require proof of compliance with this section at this time. However, if a physician's or dentist's noncompliance with this section comes before the Board, the Board will require the individual to submit the necessary documentation as proof that the required hours of acupuncture experience have been obtained.

N.J.A.C. 13:35-9.17 Continuing Education

COMMENT: The commenter stated his opinion that 20 hours of continuing education during a two-year period is insufficient and recommended a minimum of 60 hours.

RESPONSE: The Board has carefully considered the number of hours of continuing education which should be required and believes that 20 hours within a two year period are adequate to protect the public health, safety and welfare.

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

13:35-6.13 Fee Schedule

(a) The following fees shall be charged by the Board of Medical Examiners:

1.-8. (No change.)

9. (No change in text.)

SUBCHAPTER 9. ACUPUNCTURE

13:35-9.1 Purpose and scope

(a) The rules of this subchapter are established pursuant to N.J.S.A. 45:2C-1 et seq. ("The Acupuncture Act") and set forth requirements for the practice of acupuncture in the State of New Jersey.

(b) These rules shall apply to all persons certified as acupuncturists by the State of New Jersey, applicants for such certification, and guest acupuncturists granted temporary permission by the Board to perform acupuncture pursuant to N.J.A.C. 13:35-9.12.

13:35-9.2 Definitions

For purposes of this subchapter, the following terms shall have the following meanings:

"Acupressure" means manual surface stimulation of a certain acupuncture point, combination of points, or meridians on the body.

"Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including for the purpose of pain control and for the treatment of certain diseases or dysfunctions of the body. *[Acupuncture includes the techniques of acupressure,]* ***The performance of*** electroacupuncture, mechanical stimulation and moxibustion ***constitute the practice of acupuncture***.

"Acupuncture tutorial" means an acupuncture tutorial program which has been approved by the Acupuncture Examining Board and which provides applicants who successfully complete the program with the requirements to sit for the examination for certification as an acupuncturist.

"Board" means the Acupuncture Examining Board, which is located at 28 West State Street, Trenton, New Jersey 08608.

"Certificate" (license) as used in N.J.S.A. 45:2C-6, 9 and 11 shall be deemed synonymous with the word "licensure" as used in the statutes of the Board of Medical Examiners. The words "certification" or "certified" in these sections of the Act shall mean that the licensee has been determined by the Acupuncture Examining Board to possess the qualifications required in New Jersey for the practice of acupuncture. Such certification does not expire and remains valid until suspended or revoked; for this reason, the document issued does not include an address or expiration date. However, this certification alone does not permit one to practice in New Jersey; the certified person must also hold a document denoting current practice registration, as set forth in N.J.A.C. 13:35-9.7.

"Certificate" as used in N.J.S.A. 45:2C-12 refers to a biennial registration. The right to practice commences and ends with the effective and expiration dates of this document and it is not valid for more than two years.

"Electroacupuncture" means the therapeutic use of weak electric currents at acupuncture loci.

"Experience" means proof to the satisfaction of the Board that the applicant has accrued full-time independent acupuncture practice experience consisting of at least 750 patient treatment sessions annually for three years prior to January 18, 1986.

"Guest acupuncturist" means an acupuncturist from another state or country who is not a certified acupuncturist in this State and is the invited guest of a professional acupuncture association, scientific acupuncture foundation, or an acupuncture training program approved by the Board.

"Mechanical stimulation" means stimulation of a certain acupuncture point or points on or near the surface of the body by means of apparatus or instrument.

"Moxibustion" means the therapeutic use of thermal stimulus at acupuncture loci by burning artemisia alone or artemisia formulations.

"Oriental massage" means a system of acupressure or massage movements following Oriental principles.

"Sterilization" means the use of a steam autoclave or equivalent dry heat or ethylene oxide gas in order to destroy all microbial life, including viruses, thereby creating sterility.

"Supervising acupuncturist" or "supervisor" means a certified acupuncturist who is approved by the Board to provide an acupuncture tutorial to a trainee.

"Surface stimulation" means the application of purposeful stimuli to the surface of the body.

"Trainee" means a person who is registered with the Board in order to participate in an acupuncture tutorial under a supervising acupuncturist.

"Training agreement" means the written tutorial agreement between the supervisor and the trainee.

"Training plan" means the written tutorial plan that is filed with and approved by the Board.

"Training program" means and encompasses the agreement and the plan.

13:35-9.3 Credentials required for certification

(a) At the time of application, an applicant shall provide the following credentials:

1. Proof of having attained the age of 21, in the form of a certified copy of birth record, required of all applicants;

2. Affidavits from two persons, unrelated to the applicant, attesting to the applicant's moral character, required of all applicants; the signatures on any affidavits emanating from foreign jurisdictions must be authenticated as required by (a)5i(2) below;

3. Proof of possession of a baccalaureate degree, unless the applicant is a New Jersey-plenary licensed physician or presents proof of sufficient experience or successful completion of a tutorial within New Jersey, so as to be exempted by the Board from the baccalaureate requirement;

i. If the candidate has been awarded a baccalaureate degree from a college or university within the United States, a certified transcript shall be forwarded directly to the Board from that institution, which shall have been accredited by a regional accreditation agency recognized by the Council on Post-Secondary Accreditation or the United States Department of Education;

ii. If the candidate has been awarded a baccalaureate degree from a school located outside the United States, the applicant shall submit to the board an original and one photocopy of the applicant's transcript showing that a degree was awarded, and an evaluation of credits earned as determined by a Board-approval credential evaluation service. A list of such credential evaluation services shall be provided by the Board;

4. Applicants presenting a baccalaureate degree shall also provide evidence of graduation from a Board-approved two-year course of study or program at a Board-approved school of acupuncture. If the applicant was enrolled in a course of study of duration greater than two years, completion of only two years shall not satisfy this requirement. Evidence shall consist of a certified transcript from that school confirming that a diploma was awarded to the applicant. A list of approved acupuncture schools shall be provided by the Board. Candidacy status or accredited status with the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine is required in order for a school to be on the Board's approved list;

5. As an alternative to the primary pathway of a baccalaureate degree plus two or more years of acupuncutre schooling as set forth in (a)3 and 4 above, an applicant shall provide evidence of either successful completion of a Board-approved tutorial program in acupuncture in New Jersey as set forth in N.J.A.C. 13:35-9.13 or experience acceptable to the Board, which experience shall be no less than 750 patient treatment sessions as a full-time acupuncturist during a 12-month period for each of three years prior to January 18, 1986. Such experience shall consist of the general practice of acupuncture.

i. Acceptable proof of experience shall include letters from past or present employers written to the Board on professional letterhead, which must be sent directly to the Board from the employer or the appropriate official at that office or institution. Such letters must clearly establish that the business existed and was offering acupuncture service during the period of time in question.

(1) When a letter from an employer, office or institution does not clearly and credibly indicate the required experience, the Board may at its discretion require that the applicant submit patient records of 750 treatment sessions or such other proof as the Board deems necessary.

(2) The signature(s) on letters of documentation emanating from foreign jurisdictions must be properly notarized and authenticated by an appropriate governmental official.

ii. If the applicant was self-employed, original patient records which clearly indicate the required 750 patient treatment sessions shall be submitted to the Board; such records shall be legible and well-organized. The Board may require records to be translated into English at the expense of the applicant; and

6. If the applicant is a physician and surgeon, the applicant must submit the following documentation in addition to that required by (a)1 and 2 above:

i. Proof that the applicant holds a current plenary license and registration to practice medicine in the State of New Jersey; and

ii. Proof that the applicant has completed the required specific training in acupuncture, pursuant to N.J.A.C. 13:35-9.16.

(b) Documents, other than patient records, written in a language other than English must be accompanied by an English translation done by a Board-approved translation service; a list of such translation services shall be provided by the Board. Translations by any other services or persons will not be accepted. The Board may, at its discretion, send such documents received from a source other than the applicant back to the applicant to be translated by an acceptable translation service at the applicant's expense.

13:35-9.4 Examination requirements

(a) An applicant shall successfully complete the comprehensive written examination developed by the National Commission for Certification of Acupuncturists ("NCCA"), provided that the examination is administered in the English language under conditions and circumstances approved by the Board. The Board at its discretion may reject a particular sitting of the examination if it receives evidence that the integrity of the examination was compromised. For the purposes of this subsection, "successful completion" means achieving a passing grade as established by NCCA for that sitting of the examination; nevertheless, the Board at its discretion may establish its own passing grade, which may be higher or lower than that of NCCA, for future exams.

(b) An applicant shall successfully complete an oral/practical examination administered annually by the Board.

13:35-9.5 Prohibited acts

A person, including a physician and surgeon or a dentist, who is not certified under the Acupuncture Act shall not hold himself or herself out as a practicing acupuncturist nor use a descriptive title such as "Certified Acupuncturist," "Acupuncturist," "C.A.," or any other letters or words denoting that the person is certified to practice acupuncture in this State.

13:35-9.6 Fee schedule

(a) The fee schedule for certification as an acupuncturist is as follows:

1. Application Fee	$ 50.00
2. Examination, Oral/Practical	$225.00
3. Examination, Written	$350.00
4. Initial Registration Fee:	
i. During the first year of a biennial renewal period	$170.00
ii. During the second year of a biennial renewal period	$ 85.00
5. Biennial Registration	$170.00
6. Duplicate or replacement of biennial registration certificate	$ 25.00
7. Delinquency Fee (biennial registration) (up to 60 days)	$ 50.00
8. Delinquency Fee (61 days or more)	$150.00
9. Reinstatement Fee	$150.00
10. Tutorials:	
i. Supervisor:	
(1) Application Fee	$ 50.00
(2) Initial Registration	$125.00
(3) Renewal, Annually	$125.00
(4) Delinquency Fee	$ 50.00
ii. Trainee:	
(1) Application Fee	$ 25.00
(2) Initial Registration	$ 60.00
11. Preparation of certification papers for applicants to other states:	$ 25.00

(b) If a license lapses due to nonpayment of the biennial registration fee, it may be reinstated within five years, provided that the pertinent deliquency fee and all past due registration fees are submitted with the application.

(c) The examination fee will be refunded only if the application is rejected by the Board or withdrawn by the candidate within 14 days of receipt of the application by the Board.

(d) After the 14-day period in (c) above, an applicant who fails to sit for an examination for which payment has been submitted may, one time only, have the fee credited toward the next scheduled examination. The fee will be entirely forfeited if the applicant fails to sit for the succeeding examination.

(e) The application fee is non-refundable.

13:35-9.7 Term of lawful practice; biennial registration

(a) Licensure as an acupuncturist is not effective until, pursuant to N.J.S.A. 45:2C-12, the applicant receives a biennial registration from the Board denoting completion of all requirements. This certificate shall confer the right to practice in the State of New Jersey during the period of its validity; the right to practice in this State commences with the effective date of this certificate and ends on its expiration date. The expiration date shall be June 30 of the next year ending with an odd number (that is, 1993, 1995, 1997, etc.) after the date of issue. The certificate shall be valid for not more than two years.

(b) It shall be an unlawful practice to engage in the practice of acupuncture prior to receipt of the biennial registration, after it has expired, or after the license certificate has been suspended or revoked by order of the Board.

(c) Registration shall be renewed biennially by the licensee on official forms supplied by the Board. Registration will be renewed only upon receipt by the Board of a properly completed renewal application form and payment of the required fee. A renewal application form submitted within 60 days after the biennial registration deadline must be accompanied by the late fee set forth in N.J.A.C. 13:35-9.6(a)8.

(d) The certificate shall be posted in a conspicuous location in the applicant's office. If an applicant has more than one office, he or she shall obtain from the Board a duplicate certificate for each location.

(e) If the certificate to practice acupuncture in New Jersey lapses for a period of five years or more, reinstatement may be requested by special application to the Board. Requirements for reinstatement are:

1. Submission of a statement giving the reasons for the lapse. The Board shall have the right to make further inquiry, as deemed necessary, into the applicant's activities during the pertinent period;

2. Submission of two new letters of good moral character as required by N.J.A.C. 13:35-9.3(a)2;

3. Payment of the initial registration fee;

4. Successful completion, within one year prior to the request for reinstatement, of the complete examination described in N.J.A.C. 13:35-9.4(a) and (b), unless the individual proves that he or she:

i. Has been engaged in full time continuing acupuncture practice in another jurisdiction throughout the period that the license was lapsed in New Jersey, and the license has been in good standing throughout that period; and

ii. Submits proof that he or she has attended continuing professional education courses in acupuncture and related topics (see N.J.A.C. 13:35-9.17(d)).

13:35-9.8 Standards of practice

(a) A certified acupuncturist may perform or prescribe the use of the following therapies only:

1. Acupuncture, as defined in N.J.A.C. 13:35-9.2;

2. *[Acupressure]* ***Oriental massage***, as defined in N.J.A.C. 13:35-9.2;

3. Breathing techniques; and

4. Exercise to promote health.

(b) A certified acupuncturist may perform initial acupuncture treatment only on presentation by the patient of a referral by or diagnosis from a licensed physician.

(c) Following an explanation by the acupuncturist of the definition of acupuncture, procedures, potential risks and potential benefits, the acupuncturist shall obtain informed written consent from each patient before performing acupuncture. See Appendix A, incorporated herein by reference, for an example of an informed consent form.

13:35-9.9 Accepted equipment and devices; procedures

(a) Licensees may use any of the following to effect the stimulation of acupuncture points and channels: needles, moxa, cupping, thermal methods, herbal applications, magnetic stimulation, gwa-sha scraping techniques, acupatches, acuform, teishin (pressure needles), manual acutotement (defined as stimulation by an instrument that does not pierce the skin), acupressure, electroacupuncture (whether utilizing electrodes on the surface of the skin or current applied to inserted needles), laser bio-stimulation in accordance with relevant Federal law including United States Food and Drug Administration rules and regulations, and ultrasonic stimulation of acupuncture points and channels.

(b) The needles used in acupuncture shall include, but not be limited to: solid filiform needles, dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets.

(c) The use of staples or hypodermic needles in the practice of acupuncture is prohibited.

13:35-9.10 Precautionary and sterilization procedures

(a) All non-disposable needles and acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, and equipment used to handle or store needles or other acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, shall be sterilized prior to each use. Prior to sterilization, all equipment to be sterilized shall be thoroughly cleaned with a disinfectant or cleansing solution.

(b) Sterilization shall be accomplished before use by one of the following methods:

1. Steam autoclave at 250 degrees Fahrenheit (120 degrees Celsius) and 15 pounds per square inch of pressure for 30 minutes;

2. Equivalent dry heat; or

3. Ethylene oxide gas sterilization.

(c) Sterilization equipment shall be used and maintained strictly in accordance with the guidelines of the manufacturer of the instrument, and shall be monitored regularly in accordance with the manufacturer's guidelines to determine whether the equipment is functioning properly.

(d) The following methods of sterilization are unacceptable: boiling acupuncture equipment or soaking acupuncture equipment in alcohol or other antiseptic solution. A glass bead sterilizer may not be used as a primary method of sterilization. Using a glass bead sterilizer is permissible only as a supplemental procedure following the use of the methods in (b) above.

(e) The acupuncturist may delegate disposal of needles to an approved agent; a list of approved agents shall be supplied, upon request, by the Acupuncture Examining Board. The needles shall be placed in a rigid, puncture-proof, sealed container for disposal. Disposal containers shall be labelled as such, and shall carry the warning "CONTAMINATED CONTENTS—USE PRECAUTIONS." Disposal containers shall be wiped with a suitable disinfectant if blood or other bodily fluids are spilled on the outside. Disposal containers shall be discarded appropriately. The acupuncturist shall comply with all requirements of the State Department of Environmental Protection and Energy and the Department of Health implementing the Comprehensive Regulated Medical Waste Management Act, P.L. 1989, c.34 (N.J.S.A. 13:1E-48.1 et seq.).

(f) If in the course of treatment of a patient, a licensee learns that the patient has a blood-borne highly infectious disease, the licensee shall use only disposable needles in treating the patient.

(g) It shall be the responsibility of the certified acupuncturist to ensure that personnel responsible for performing sterilization procedures pursuant to this rule are adequately trained and supplied with a written outline of sterilization procedures. A copy of the outline shall be maintained on the premises.

13:35-9.11 Patient records

(a) An acupuncturist shall maintain complete and accurate records on each patient who has been given acupuncture treatment. The record shall include, but not necessarily be limited to, the following: source of referral and/or diagnosis from a licensed physician; subjective complaints presented by the patient; dates of initial consultation and all treatment sessions; treatments given; and periodic reevaluation and progress notes made in the course of treatment.

(b) Complete and accurate billing records shall be prepared and maintained.

(c) The information required by (a) and (b) above shall be maintained in English.

(d) Patient and billing records shall be kept for a period of seven years from the date of the patient's last treatment.

13:35-9.12 Guest acupuncturist

(a) An acupuncturist from another state or country, who is not a certified acupuncturist in this State and is the invited guest of a professional acupuncture association, scientific acupuncture foundation, or an acupuncture training program approved by the Board, may engage solely in professional education through lectures, clinics or demonstrations, provided such acupuncturist has been granted temporary permission by the Board. The guest acupuncturist may then perform acupuncture in conjunction with these lectures, clinics or demonstrations for a maximum of 60 days in a calendar year or longer upon special permission of the Board. The guest acupuncturist shall not open an office or appoint a place to meet patients or receive calls from patients or otherwise engage in the practice of acupuncture.

(b) The sponsoring organization shall request permission from the Board, in writing, for the guest acupuncturist no later than 60 days prior to the guest acupuncturist's initial presentation in New Jersey. A resume or summary of the guest acupuncturist's credentials, written in English, shall accompany the request for approval.

13:35-9.13 Tutorial applications and design of tutorial program

(a) No person shall practice acupuncture in an approved tutorial program in acupuncture in this State without prior approval of the Board.

(b) Tutorial applications shall be filed with the Board as follows:

1. Application as an acupuncture trainee shall be filed on a form provided by the Board and accompanied by the tutorial trainee application fee. The information to be provided on the application form shall include personal biographical and educational information and current resident status.

2. Applications for approval to supervise an acupuncture trainee shall be filed on a form provided by the Board and accompanied by a copy of the written trainee agreement, the tutorial supervision application fee, and any other pertinent documents required by the Board. The information to be provided on the application shall include personal biographic, educational and experiential requirements.

(c) Evidence of prior training and experience shall be submitted to the Board for its review with the applications for registration of the supervising acupuncturist and trainee.

(d) The applicant shall document to the Board's satisfaction that any prior training and experience obtained by the trainee outside of the State of New Jersey was completed within a state or jurisdiction having conditions and requirements equivalent to or higher than those in effect pursuant to this subchapter and N.J.S.A. 45:2C-1 et seq.

(e) The trainee shall be at least 18 years of age and shall have a minimum of 60 credits at an institution of higher learning, which must be accredited by a regional accreditation agency recognized by the Council on Post-Secondary Accreditation or the United States Department of Education.

(f) Requirements for approval of an acupuncture tutorial are as follows:

1. An acupuncture tutorial shall be designed to be completed in no less than two nor more than four calendar years;

2. An acupuncture tutorial shall be designed to provide a trainee with a structured learning experience in all the basic skills and knowledge necessary for the independent practice of acupuncture, and shall prepare the trainee for the Board's examination for certification;

3. Acupuncture tutorials which are in the nature of internships may be full-time or part-time relationships; however, the training plan and proposed supervision shall be contained in a written agreement between the supervisor and trainee, pursuant to (i) below;

4. An acupuncture tutorial shall provide formal clinical training with supplemental theoretical and didactic instruction which may be obtained in a post-secondary educational institution which is either accredited by an accrediting body recognized by the Board or specifically approved by the Board;

5. The clinical training shall consist of a minimum of 1650 hours in the following areas:

i. Practice observation;

ii. Patient history and physical examination, including traditional Oriental medical diagnostic procedures;

iii. Therapeutic treatment planning;

iv. Preparation of the patient;

v. Sterilization, use and maintenance of equipment;

vi. Moxibustion;

viii. Electoracupuncture;

viii. Body and auricular acupuncture;

ix. Treatment of emergencies, including certification in cardiopulmonary resuscitation ("CPR");

x. Pre- and post-treatment and instructions to the patient;

xi. Contraindications and precautions; and

xii. Optional: Shiatsu, Acupressure, TaiChi-Chuan and Qi Gong; and

6. The theoretical and didactic training shall consist of a minimum of 600 hours in the following areas:

i. Traditional Oriental medicine;

ii. Acupuncture anatomy and physiology;

iii. Acupuncture techniques;

iv. Survey of clinical medicine;

v. History of Chinese medicine; and

vi. Study of general sciences in anatomy, physiology and pathology, which training may be obtained in a post secondary-educational setting approved by the Board, provided that each of the courses is for at least three academic credits.

(g) The acupuncture services assigned to the trainee shall be those which are unlikely to endanger the health and welfare of patients receiving such services.

(h) No trainee shall be authorized to render acupuncture services to any patient unless the patient has been informed that such services will be rendered by a trainee. The patient, on each occasion of treatment, shall be informed of the procedure to be performed by the trainee under the supervision of the supervising acupuncturist, and shall have consented in writing prior to the initial rendering of the acupuncture procedure by the trainee. The foregoing requirements do not apply to those instances wherein the trainee merely assists the supervisor in the rendering of acupuncture services.

(i) The acupuncture tutorial training program shall be set forth in a written agreement signed by the supervisor and the trainee which shall be submitted for approval to the Board, with the application. The agreement shall set forth, but is not limited to:

1. The training plan;

2. The length of training time;

3. The method of providing the theoretical and didactic training;

4. Guidelines for supervision of the acupuncture services rendered by the trainee; and

5. Tuition fees to be paid by the trainee for participation in the program.

(j) An acupuncture tutorial shall be made available regardless of the trainee's sex, race, religion, creed, or color and regardless of physical handicap which does not unduly interfere with the capacity of the trainee to safely master the program.

13:35-9.14 Responsibilities of supervising acupuncturist

(a) No acupuncturist shall supervise any person in an approved tutorial program in acupuncture in this State without prior approval of the Board. ***Board approval shall be contingent upon submission of proof satisfactory to the Board that the supervising acupuncturist is certified to practice in New Jersey and has at least seven years of experience practicing acupuncture.***

(b) The supervising acupuncturist shall have the following duties and responsibilities:

1. The supervisor shall obtain permission from the Board to supervise up to two trainees in an approved tutorial program;

2. The supervisor shall at all times be responsible for and provide supervision of the work performed by the trainee as required in this subchapter;

3. The supervisor shall assign only those patient treatments which can be safely and effectively performed by the trainee and which are consistent with the level of training received by the trainee. The supervisor shall provide continuous direction and immediate supervision of the trainee when patient services are being provided. For purposes of this subsection, "continuous direction and immediate supervision" means that the supervisor shall be in the same facility as, and in proximity to, the location where the trainee is rendering services, and shall be readily available at all times to provide advice, instruction and assistance to the trainee and the patient;

4. The supervisor shall assure that prior to the procedure an oral explanation is given and the patient's written informed consent to any procedure and its performance by the trainee is obtained;

5. The supervisor shall assure that the objectives of the training plan submitted to the Board are provided and met by the trainee;

6. The supervisor shall notify the Board in writing within 10 days of the termination of any training agreement for any reason. At the time of such notification, the registration of the trainee shall be cancelled;

7. If, at any time, the trainee plan of the acupuncture tutorial is substantially modified, the supervisor shall file with the Board a report of such modifications. There shall be no charge for the filing of such a report;

8. The supervisor shall assure that the trainee complies with accepted standards of practice, this subchapter, and applicable statutory requirements;

9. The supervisor shall file a progress report with the Board within 30 days of completion by each trainee of each year of an approved acupuncture tutorial. Information in the progress report shall follow guidelines provided by the Board. The supervisor shall file a final report within 30 days of completion of the training; and

10. The supervisor shall assure that when rendering services or otherwise engaging in professional activity, the trainee shall always identify himself or herself as an acupuncture trainee.

13:35-9.15 Responsibilities of the acupuncture trainee

(a) The acupuncture trainee shall have the following duties and responsibilities:

1. The trainee shall not provide acupuncture services independently or without the required supervision, and shall not provide any services for which he or she is not trained or being trained to competently perform;

2. The trainee shall satisfactorily meet the objectives of the training plan submitted to the Board including the necessary theoretical training;

3. The trainee shall comply with the standards of practice in these rules as well as all applicable statutory requirements;

4. The trainee shall always identify himself or herself as an acupuncture trainee when rendering services or otherwise engaging in professional activity;

5. The trainee shall report to the Board any delay, interruption or termination of the acupuncture tutorial not reported by the supervisor; and

6. At the completion of the tutorial, the trainee may file an application for examination.

13:35-9.16 Training required of a physician or dentist

(a) No physician holding a plenary license from the New Jersey Board of Medical Examiners or dentist licensed by the New Jersey Board of Dentistry shall be prevented from practicing acupuncture provided his or her course of training has included:

1. Graduation from a school approved by the National Accreditation Commission of Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM);

2. Acupuncture training in a United States or foreign medical school or a foreign acupuncture school; or

3. Courses of training acceptable to or approved by the Board.

(b) The course of training shall be for a minimum of 300 hours, which must include a clinical training program of at least 150 hours. Such United States or foreign training must include:

1. Traditional Oriental medicine (a survey of the theory and practice of traditional diagnostic and therapeutic procedures);

2. Acupuncture anatomy and physiology (fundamentals of acupuncture including point location, the meridian system, special and extra loci, and auriculotherapy); and

3. Acupuncture techniques (instruction in the use of needling techniques, moxibustion and electroacupuncture, including precautions such as sterilization of needles, contraindications and complications).

13:35-9.17 Continuing professional education requirements

(a) The provisions of this section shall apply to all applicants for biennial license renewal except those seeking renewal for the first time.

(b) Beginning with the biennial renewal period that starts on July 1, 1995, no license renewal shall be issued by the Board unless the applicant confirms on his or her renewal application that during the two calendar years preceding application for renewal the applicant participated in courses or activities of continuing education of the type and number of credits specified in this section. Evidence of 20 documented hours of continuing education is a mandatory requirement for license renewal, except for initial renewal.

1. "Documented" means that the applicant obtains:

i. A certificate of participation;

ii. A signed document by the instructor indicating attendance; or

iii. An official transcript from an accredited local, state or national organization or learning institution, as set forth in (d) below.

2. A licensee shall be solely responsible for obtaining and maintaining, for a period of three years, documentation on his or her completion of the required continuing education courses. Such documentation shall be submitted to the Board upon request, and will be surveyed from time to time.

(c) Credit for continuing professional education will be granted as follows for each two-year period:

1. Publication in a national professional journal of a copyrighted article on acupuncture: three hours per article to a maximum of six hours;

2. Attendance at seminars and conferences: one hour per contact hour; and

3. Successful completion of graduate course work taken beyond that required for professional license: one hour per credit hour.

(d) Acceptable continuing professional education courses or activities shall be in any subject area which will update and refresh the clinical skills or knowledge of an acupuncturist. However, courses must be accredited by NACSCAOM, the New Jersey Department of Higher Education, a regional accreditation agency recognized by the Council on Post-Secondary Accreditation, or the United States Department of Education. Seminars and conferences must be accredited or sponsored by a local, state, or national professional organization; a local, state or Federal education or health agency; or a local, state or national medical, psychological, dental or similar professional organization. Notwithstanding that the continuing education course or activity appears to meet these requirements, the Board at its discretion may at any time examine and review any course or activity claimed for credit. If such course or activity does not clearly meet the requirements of this section or is deemed by the Board to be not pertinent to the practice of acupuncture, the course or activity shall be disallowed for credit toward the required 20 continuing education credits.

(e) In the event that a candidate for license renewal shall complete in two years a number of hours in excess of the number required, the documented hours in excess of those required shall not be credited toward license renewal requirements for subsequent years.

(f) The Board may, at its discretion, waive any of the requirements of this section for good cause shown. An appearance before the Board may be required.

APPENDIX A

The following is an example of an informed consent form:

" 'Acupuncture' means the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body, and includes the techniques of electroacupuncture, mechanical stimulation and moxibustion.

The potential risks are: slight pain or discomfort at the site of needle insertion, infection, bruises, weakness, fainting, nausea and even aggravation of systems existing prior to acupuncture treatment.

The potential benefits: acupuncture may allow for painless and drugless relief of one's symptoms and improved balance of bodily energies leading to prevention or elimination of the presenting problem.

With this knowledge I voluntarily consent to the above procedures." (Signature of patient/guardian).

(a)

DIVISION OF CONSUMER AFFAIRS
OFFICE OF NURSING
Nurse Anesthetists
Adopted Amendments: N.J.A.C. 13:37-13.1 and 13.2

Proposed: November 2, 1992 at 24 N.J.R. 4020(a).
Adopted: May 18, 1993 by the Board of Nursing, Golden H. Bethune, President.
Filed: May 28, 1993 as R.1993 d.306, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 45:11-24.

Effective Date: June 21, 1993.
Expiration Date: January 23, 1995.

The Board of Nursing afforded all interested parties an opportunity to comment on its proposed amended rules. The official comment period ended on December 2, 1992. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on November 2, 1992 at 24 N.J.R. 4020(a). Announcements were also forwarded to additional publications. A committee of the Board of Nursing met with representatives of the New Jersey Association of Nurse Anesthestists to discuss the comments of that organization to the Board's proposed amended rules. Telephone comments were also made via the Board's president, executive director and deputy attorney general. Finally, public comment was accepted at the Board's meeting of April 20, 1993 in which the final adoption of the rules was discussed.

A full record of this opportunity to be heard can be inspected by contacting the Board of Nursing, Post Office Box 45031, Newark, New Jersey 07101.

Summary of Public Comments and Agency Responses:

Thirty-three letters were received during the 30 day comment period, 30 from nurse anesthetists and students, one from the New Jersey State Nurses Association, one on behalf of the New Jersey Association of Nurse Anesthetists, one on behalf of the Department of Health and one on behalf of the New Jersey Board of Medical Examiners. The names and affiliations or titles of the commenters follows:

Eleanor J. Siberski, CRNA
Priscilla L. Grigas, RN, BSN, MPA, Councilwoman, Clinton Township
Robert Mirynowski, CRNA, MS
Kevin Ducko, CRNA
Norma Rosado, GRNA, MSN
Barbara Kenney, CRNA
Ellen Oudmaijer, CRNA
Clare Golden, CRNA

Dean T. Mazurek, CRNA
Brian J. Flynn, CRNA
Barry M. Paper, CRNA, MPS
Scott March, GRNA, BSN, Captain, U.S. Army Nurse Reserves
Margaret D. Moore, CRNA
Laura Ho, CRNA
Angela Richman, CRNA
George B. Martin, CRNA
Linda J. Tisdale, CRNA
Donna F. Connor, CRNA, Member Board of Directors, NJANA
Mary Krupa, CRNA
Emily Johnson, CRNA
Anthony J. Smith, CRNA
Phyllis A. McGekean, CRNA, BSN
Rosalyn E. Steiner, CRNA
Art Blackshaw, CRNA, Marlton Anesthesia Services
F. David Rodden, CRNA, MSN, MS Program Director, James S. Armstrong, MD, Chairman, Department of Anesthesiology and William Mills, Assistant Vice President, Cardiac Services of Our Lady of Lourdes Medical Center
Eight students of the junior class of the Nurse Anesthesia Program, Our Lady of Lourdes Medical Center (names undecipherable)
Twelve students of the Nurse Anesthesia Program, Our Lady of Lourdes Medical Center (names undecipherable)
Carole Stapleton Rhodes, Chief Planning Officer, UMDNJ
Rosemary Maron, CRNA, Kevin McCafferty, CRNA, BSN and Margaret Bargogne, CRNA, MS of Cooper Hospital/University Medical Center
Richard A. Lustgarten, Esq. on behalf of the New Jersey Association of Nurse Anesthetists
Dorothy Fleming, MSN, RN, Executive Director, New Jersey State Nurses Association
Robert J. Fogg, Acting Director, Licensing, Certification, and Standards, New Jersey Department of Health
Charles A. Janousek, Executive Director, New Jersey Board of Medical Examiners.

N.J.A.C. 13:37-13.1 Nurse anesthetist practice

Subsection (a)

COMMENT: One commenter objected to the use of a phrase "... or such other certifying body as approved by the Board," because it implies that other professions may have input into CRNA certification.

RESPONSE: The Board did not intend that the use of the aforementioned phrase would permit other professions input into CRNA certification. The phrase merely gives the Board of Nursing some discretion and flexibility to recognize such other national certifying bodies of nurse anesthetists with equivalent standards to the Council on Certification of Nurse Anesthetists of the American Association of Nurse Anesthetists.

Subsection (b)

COMMENT: The New Jersey Department of Health requested that certain language be added to remind nurse anesthetists that they are required to comply with all applicable standards of the Departments of Health and Human Services. Numerous commenters argued that such language is unnecessary since the scope of nursing practice is determined by the Board of Nursing.

RESPONSE: The Board of Nursing believes that the standards, rules and laws enforced by the New Jersey Departments of Health and Human Services which impact nurse anesthesia practice speak for themselves and it is therefore unnecessary to incorporate them into the Board's rules. Thus, in subsection (b), the Board has deleted reference to "the applicable Department of Health and Human Services standards" and inserted a clarifying reference to "the standards of the American Association of Nurse Anesthetists."

COMMENT: Nineteen commenters objected to the requirement that there must be written policies on the "anesthetic agents which may be administered and under what conditions and/or supervision." It is argued that it is impossible to place in a policy manual a listing of all anesthetic agents and the conditions for their use since anesthesia needs differ from patient to patient.

RESPONSE: The Board believes that this requirement is fully consistent with the New Jersey Department of Health regulations, N.J.A.C. 8:43A-12.4 which governs all licensed ambulatory care Facilities and N.J.A.C. 8:43G-6.3(c) which governs all licensed hospitals. Both provisions require that there be existing policies and procedures in connection with the type of anesthetic agents administered in all licensed hospitals and ambulatory care facilities. For the protection of patients, clearly all other facilities where anesthesia is administered (for example, physicians' offices) should be held to the same standards.

Subsection (c)

COMMENT: Nine commenters objected to the use of the term, "chemical substance abuse/dependency." It is argued that the phrase is too broad and could cause confusion as to what type of prescription drug use needs to be reported to the Board.

RESPONSE: In view of the letters received, the Board believes the use of the term, "chemical substance abuse/dependency has the potential for being interpreted too broadly. For clarification purposes, the words will be replaced with the following: "Use of alcohol or drugs which adversely impairs or has adversely impaired his or her practice."

COMMENT: Five commenters objected to the reporting of all "involvement" in a lawsuit. It is argued that this language is too broad.

RESPONSE: The Board did not intend the use of the term "involvement" to be a burdensome requirement. For this reason, the Board will delete the word "involvement" and add the phrase, "Being a named defendant or respondent." The National Practitioners Data Bank has proven to be an insufficient method of gathering information about alleged malpractice. The data bank does not presently require reporting until sometimes many years after the incident of alleged malpractice has occurred. This has had an adverse impact upon the Board's ability to investigate alleged misconduct or malpractice in a timely manner.

COMMENT: Eight commenters objected to the reporting of criminal indictments. Six commenters stated that a crime should not have to be reported if it does not affect patient care or involve nursing practice.

RESPONSE: The Board disagrees with these comments. The reporting of criminal indictments of crime involving moral turpitude and/or a crime relating adversely to his or her practice is important because the underlying misconduct may place the public at risk or in jeopardy. With knowledge of a current indictment, the Board has the discretion to investigate the underlying facts of the matter further. For purposes of clarification as to which crimes are reportable, the words, "involving moral turpitude and/or a crime relating adversely to his or her practice" will be added. In addition, the word "current" will be added to clarify that if an indictment has been dismissed or there has been an acquittal, no reporting is necessary.

COMMENT: Three commenters objected to any self-reporting on the grounds that CRNAs should not be held to more stringent standards than other nurses.

RESPONSE: The Board disagrees that CRNAs are being held to a more stringent standard than other nurses. However, there is reasonable justification for close scrutiny of CRNAs in view of their increased level of access to controlled substances and potential for causing patient injury or death through independent decision-making. The Board anticipates that this will soon be a requirement for all advanced practitioners.

N.J.A.C. 13:37-1.2 Practice pending the results of the examination

COMMENT: Seven commenters objected to the requirement that graduate nurse anesthetists must work under the direct supervision within the room of qualified physician-anesthesiologist or CRNA. It is argued that this provision is unworkable and impractical.

RESPONSE: The Board did not intend to unduly restrict the use of graduate nurse anesthetists. For this reason, the Board will clarify its intent by deleting the word "room" and adding the words, "immediately accessible area, unit or suite."

COMMENT: The New Jersey Department of Health objected to the provision of the rule which permits graduate nurse anesthetists to work under the supervision of a CRNA. It stated that N.J.A.C. 8:43G-6.3 and 8:43A-12.3 governing licensed ambulatory care and hospital facilities require graduate nurse anesthetists to work only under the supervision of an anesthesiologist.

RESPONSE: For purposes of consistency, the words "unless otherwise prohibited by State law or regulation" will be added to subsection (a) to clarify that the Board's intent that the rules should be consistent with all existing State laws and regulations. Thus, the rule is not intended to negate any regulation of the New Jersey Department of Health requiring graduate nurse anesthetists to be supervised by an anesthesiologist. However, in settings where the regulations of the New Jersey Department of Health and New Jersey Department of Human Services are silent, the supervision of graduate nurse anesthetists by CRNAs is acceptable.

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

13:37-13.1 Nurse anesthetist practice

(a) The conditions for practice as a nurse anesthetist in this State shall be as follows:

1. Current licensure as a registered professional nurse in the State of New Jersey;

2. Graduation from a program in nurse anesthesia accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs of the American Association of Nurse Anesthetists or such other accrediting body as approved by the Board;

3. Passing the certifying examination administered by the Council on Certification of Nurse Anesthetists of the American Association of Nurse Anesthetists or such other certifying body as approved by the Board;

4. Maintenance of full recertification which shall be obtained on a biennial basis from the Council on Recertification of Nurse Anesthetists of the American Association of Nurse Anesthetists, and compliance with all of its current recertification requirements; and

5. Compliance with (b) and (c) below.

(b) A nurse anesthetist shall only practice at a location which has established written policies and procedures which meet minimum accepted standards of nurse anesthesia practice and *[the applicable Department of Health and Human Services standards]* ***the standards of the American Association of Nurse Anesthetists***. A nurse anesthetist shall comply with said policies and procedures and shall ensure that they are reviewed annually, revised as necessary and that they address at least the following areas: verification of qualifications; continuing education; delineation of the responsibilities of all personnel; anesthetic agents which may be administered and under what conditions and/or supervision; pre-anesthesia evaluation; patient preparation; intra-operative monitoring; post-operative monitoring; peri-operative documentation (pre/intra/post-operative); administration and documentation of medications; responsibilities of all personnel for assuring that anesthesia supplies and equipment are available and in working order; and patient emergencies.

(c) Each nurse anesthetist shall immediately notify the Board, in writing, upon the nurse anesthetist's:

1. Failure to renew or to maintain, on a biennial basis, full recertification as a nurse anesthetist;

2. *[Chemical substance abuse/dependency]* ***Use of alcohol or drugs which adversely impair or has adversely impaired his or her practice***;

3. *[Criminal indictment and/or conviction of a crime]* ***Current indictment and/or conviction of a crime involving moral turpitude and/or a crime relating adversely to his or her practice***; or

4. *[Involvement]* ***Being a named defendant or respondent*** in a civil, criminal or administrative investigation, complaint and/or judgment involving alleged malpractice, negligence or misconduct relating to his or her practice as a nurse or nurse anesthetist; or

5. Voluntary license surrender or any disciplinary action against the nurse anesthetist by any state or Federal board or agency, including any order of limitation or preclusion.

(d) A nurse anesthetist who violates any of the provisions of this subchapter or any provision of the Nurse Practice Act, N.J.S.A. 45:11-23 et seq., or N.J.S.A. 45:1-14 et seq. may be subject to disciplinary action by the Board, including a restriction on his or her practice as a nurse anesthetist.

13:37-13.2 Practice pending the results of the examination

(a) Pending the results of the first scheduled certifying examination following completion of an approved program in nurse anesthesia, a graduate nurse anesthetist who meets the requirements of N.J.A.C. 13:37-13.1(a)1 and 2 may practice as a nurse anesthetist under the direct supervision of a certified registered nurse anesthetist or qualified physican-anesthesiologist ***unless otherwise prohibited by State law or regulation***. For the purpose of this subsection direct supervision shall mean the physical presence of said supervisor within the *[room]* ***immediately accessible area, unit or suite*** in which anesthesia is being administered.

(b) (No change.)

(a)

DIVISION OF CONSUMER AFFAIRS STATE BOARD OF PHARMACY

Patient Profile Record System

Adopted Amendments: N.J.A.C. 13:39-7.14

Proposed: January 19, 1993 at 25 N.J.R. 266(a).

Adopted: May 19, 1993 by the State Board of Pharmacy, Edith Micale, President.

Filed: May 28, 1993 as R.1993 d.307, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 45:14-26.2.

Effective Date: June 21, 1993.

Expiration Date: June 19, 1994.

The State Board of Pharmacy afforded all interested parties an opportunity to comment on the amendments to N.J.A.C. 13:39-7.14, as proposed in the New Jersey Register on January 19, 1993 at 25 N.J.R. 266(a). The proposed amendments update the Board's patient profile record system requirements in compliance with the requirements of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-58, "OBRA 90"). The official comment period ended on February 18, 1993. Announcements of the opportunity to respond to the Board were also forwarded to the Star Ledger, the Trenton Times, the National Wholesale Druggists Association, the New Jersey Department of Health, Drug Store News, the Essex County Pharmaceutical Association, the Bergen County Pharmacy Society and to other interested parties.

A full record of this opportunity to be heard can be inspected by contacting the State Board of Pharmacy, Post Office Box 45013, Newark, New Jersey 07101.

Summary of Public Comments and Agency Responses:

During the 30-day comment period, the Board received eight responses to the proposal from the following individuals:

Henry T. Kozek, RP, Principal Field Representative, Pharmaceuticals, Department of Health
Louis Scibetta, President, New Jersey Hospital Association
George Piltz, Pharm.D., The Valley Hospital
Don Bradenbaugh, Director of Legislative Affairs, Rite Aid Corporation
Marc S. Klausner, R.Ph.
Donald L. Winters, Director of Pharmaceutical Services, Riverview Medical Center
Leon R. Langley, Director of Government Affairs, New Jersey Pharmaceutical Association
Robert D. Marotta, Esq., counsel for Medco Containment Services, Inc. and its subsidiary, National Pharmacies, Inc.

COMMENT: The New Jersey Hospital Association (NJHA) and Riverview Medical Center expressed the opinion that hospital pharmacists should be exempt from the proposed requirement to counsel patients because hospitals already have counseling mechanisms in place.

RESPONSE: The Board agrees and notes further that the intent of OBRA 90 was to provide counseling for those who would not otherwise receive it. The Board is amending the rule upon adoption to clarify that a pharmacist dispensing any drug to an in-patient at a hospital or a long term care facility is exempt from the provisions of this section.

COMMENT: Valley Hospital asked whether hospital pharmacists who dispense to patients upon discharge are required to provide medication counseling even if the prescription is filled by a community pharmacy.

RESPONSE: While the rule does not require a hospital pharmacist to provide discharge counseling, the Board encourages all pharmacists to provide any counseling which the pharmacist, in his or her professional judgment, deems necessary.

COMMENT: The Department of Health pointed out that the Social Security Act exempts health maintenance organizations and hospitals which dispense outpatient drugs from the requirement to counsel pa-

tients. The Department urged the Board not to create a double standard by permitting a similar exemption under Board rules and suggested that the regulation be amended to spell out the obligation of HMO's and hospitals which dispense outpatient drugs to comply with this requirement.

RESPONSE: The rule does not exempt HMO's and hospitals dispensing outpatient medications from the counseling requirement. The Board believes the rule is clear in that regard and that an amendment is not necessary at this juncture.

N.J.A.C. 13:39-7.14(b) Information to be recorded in the PPRS

COMMENT: The New Jersey Pharmaceutical Association (NJPHA) suggested that, since some patients do not have telephone numbers and others may refuse to provide unlisted numbers, use of the letters "NP" (no phone) in the PPRS should be sufficient to comply with this section. NJPHA also suggested that use of the letters "NC" (no comment) should be sufficient in circumstances where everything is in order with the patient and the drug prescribed.

RESPONSE: Using the designations NP and NC would be sufficient to comply with the requirements of this section.

COMMENT: Valley Hospital asked whether the pharmacist will be required, upon inspection, to provide proof of counseling.

RESPONSE: Yes. The pharmacist will be required to document in the PPRS the patient's failure to accept the offer to counsel. The Board is amending this subsection to clarify this point.

N.J.A.C. 13:39-7.14(c) Information required to be recorded in the PPRS regarding allergies or idiosyncracies

COMMENT: Rite Aid Corporation recommended that, to conserve time and space on the computer system, the pharmacist should be permitted to leave a space in the field reserved for patient allergies to indicate that the patient has no known allergies.

RESPONSE: The Board disagrees. Some indication, which may include an appropriate abbreviation, must be made to acknowledge that the pharmacist actually requested this information and did not overlook it.

N.J.A.C. 13:39-7.14(e) Obligation of pharmacist to counsel

COMMENT: Counsel for National Pharmacies requested the Board to clarify its position on the offer to counsel issue when prescription drugs are delivered to patients outside the pharmacy.

RESPONSE: The Board has amended this section upon adoption to clarify how the existing patient counseling requirement should be implemented if the patient or caregiver is not physically present when drugs are dispensed. The amendments are based upon existing Federal requirements for standards for counseling by pharmacists. See, 52 Fed. Reg. 49409, November 2, 1992; 57 C.F.R. 212, section 456.705(c)1.

COMMENT: Marc Klausner asked for clarification as to what is considered a prescription refill. Specifically, he asked whether dispensing a maintenance drug which has been prescribed without refill but which has been previously prescribed and dispensed on a regular basis may be considered to be a refill.

RESPONSE: If a new prescription number is issued, the prescription is considered new and counseling is required.

COMMENT: Rite Aid Corporation recommended that subsection (e) be amended to require the pharmacist to examine the PPRS before dispensing new medications only, since the patient requesting a refill has used the medication previously.

RESPONSE: The purpose of patient counseling is to actively resolve drug therapy problems through a comprehensive review of a patient's prescription order, other medications and pertinent medical data prior to dispensing. Since additional medications may have been dispensed to a patient since the last refill, the PPRS must be reviewed before dispensing refill medications to determine whether there are any potential drug therapy problems, such as drug/drug or drug/condition interactions.

COMMENT: Rite Aid Corporation suggested that paragraph (e)1 be amended to require the pharmacist to examine the PPRS before dispensing, rather than upon receipt of, the prescription.

RESPONSE: The Board agrees and is amending this section accordingly in order to clarify that the review of the PPRS does not necessarily take place immediately upon receipt of the prescription but rather may occur just before the pharmacist fills the prescription.

COMMENT: Rite Aid Corporation suggested that the regulation be amended to require that efforts to counsel be made "if deemed necessary in the professional judgment of the pharmacist."

RESPONSE: OBRA 90 amended the 1965 Medicaid law to condition Federal Medicaid payments for outpatient drugs on, among other things, the implementation of state requirements for pharmacist counseling of individuals receiving Medicaid benefits. In implementing this requirement, the Board determined that mandatory patient counseling is an important patient care service which should be extended to all patients. To do otherwise would create a two-tiered delivery of pharmaceutical care with significant numbers of patients denied the assistance and expertise of the pharmacist. Mandatory counseling for all patients will serve to protect the public health and safety.

COMMENT: Valley Hospital believes ancillary personnel should be permitted to counsel only if (1) they are formally trained; (2) they provide the option of further information; and (3) all patients are notified that a pharmacist is available to counsel.

RESPONSE: The regulation does not permit ancillary personnel to counsel. The Board is amending paragraph (e)2 in order to clarify this point. For further clarification, the Board is amending paragraph (e)1 to include the areas which must be addressed in patient counseling. These amendments mirror existing Federal requirements for matters to be included in patient counseling. See, 52 Fed. Reg. 49410, November 2, 1992; 57 C.F.R. 212, section 456.705(c)2.

COMMENT: The Department of Health suggested that one or two individuals involved in the practice of long term care consulting should be appointed to a Drug Utilization Review (DUR) Board. The DOH also stated that the success or failure of this regulation will depend on the individuals chosen to monitor DUR and urged the Board to use its resources to facilitate proper implementation.

RESPONSE: The Department's comments are not relevant to this proposal. OBRA 90 addresses both prospective DUR (active resolution of detected problems prior to dispensing and retrospective DUR (ongoing periodic examination of claims data and other records to identify patterns of fraud, abuse, overuse or medically unnecessary care among pharmacists, physicians and Medicaid recipients). The amendments to N.J.A.C. 13:39-7.14 implement Federal requirements for prospective DUR; procedures for implementing retrospective DUR are not within the Board's rulemaking authority.

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

13:39-7.14 Patient profile record system

(a) (No change.)

(b) The following information shall be recorded in the PPRS:

1. (No change.)

2. The address and telephone number of the patient;

3. Indication of the patient's age, birth date or age group (infant, child, adult) and gender;

4.-5. (No change.)

6. The prescriber's name;

7. The name, strength and quantity of the drug dispensed; and

8. Pharmacist***'s*** comments relevant to the patient's drug therapy***, including any failure of the patient to accept the pharmacist's offer to counsel*.**

(c) The pharmacist shall attempt to ascertain and shall record any allergies and idiosyncrasies of the patient and any medical conditions which may relate to drug utilization, as communicated to the pharmacist by the patient.

1. If there are no patient allergies, idiosyncrasies or medical conditions which may relate to drug utilization, the pharmacist shall so indicate on the patient profile record system.

(d) (No change.)

(e) Upon receipt of a new or refill prescription, a pharmacist shall examine the patient's profile record either in a manual or electronic data processing system before dispensing the medication, to determine the possibility of a harmful drug interaction, reaction or misutilization of the prescription. Upon determining a harmful drug interaction, reaction or misutilization, the pharmacist shall take the appropriate action to avoid or minimize the problem, which shall, if necessary, include consultation with the patient and/or the physician.

1. *[Upon receipt of]* ***Except as set forth in (e)5 below, before dispensing*** a new prescription, the pharmacist shall make rea-

sonable efforts to counsel the patient or caregiver. ***Counseling may, but need not, include the following:***

i. The name and description of the medication;

ii. The dosage form, dosage, route of administration, and duration of drug therapy;

iii. Special directions and precautions for preparation, administration and use by the patient;

iv. Common adverse or severe side effects or interactions and contraindications that may be encountered, including their avoidance, and the action required if they occur;

v. Techniques for self-monitoring drug therapy;

vi. Proper storage;

vii. Prescription refill information; and

viii. Action to be taken in the event of a missed dose.*

2. The offer to counsel may be made by ancillary personnel. However, *[the responsibility of counseling shall remain with the pharmacist]* ***counseling may be performed only by the pharmacist*.**

3. A pharmacist shall not be required to counsel a patient or caregiver when the patient or caregiver refuses such consultation.

4. If the patient or caregiver is not physically present, the offer to counsel shall be made by telephone or in writing on a separate document accompanying the prescription. A written offer to counsel shall be in bold print, easily read, and shall include the hours a pharmacist is available and a telephone number where a pharmacist may be reached. The telephone service must be available at no cost to the pharmacy's primary patient population.

5. The requirements to counsel the patient or caregiver upon receipt of a new prescription, as set forth in (e)1 through 4 above, shall not apply to a pharmacist who dispenses any drug to an inpatient at a hospital or a long term care facility in which the resident is provided with 24 hour nursing care.*

Recodify existing 2.-5. as ***6.-9.*** (No change in text.)

(f)-(j) (No change.)

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS

All Utilities
Offices
Location

Adopted Amendment: N.J.A.C. 14:3-5.1

Proposed: June 15, 1992 at 24 N.J.R. 2132(a).

Adopted: May 26, 1993 by the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman; Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.

Filed: May 27, 1993 as R.1993 d.298, **without change.**

Authority: N.J.S.A. 48:2-13.

BRC Docket Number: AX90060555.

Effective Date: June 21, 1993.

Expiration Date: May 6, 1996.

Summary of Public Comments and Agency Responses:

The list of commenters on the proposed amendment is as follows:

Frank X. Simpson, Vice President—Financial, on behalf of Garden State Water Company (Garden State).

Charles F. Morgan, Jr., Manager of Rates, on behalf of Atlantic Electric Company (AEC).

Jane F. Kelly, Esq., Executive Director, on behalf of the New Jersey Utilities Association (NJUA).

Maria D. Laurino, Esq., Associate Corporate Attorney, on behalf of Hackensack Water Company and the Mid-Atlantic Utilities Companies (HWC).

David A. Kindlick, Vice President—Revenue Requirements, on behalf of South Jersey Gas Company (SJG).

Roger P. Frye, Esq., Regional Counsel, on behalf of New Jersey-American Water Company, Inc. (NJ-Amer).

Eugene D. Ginley, Esq., on behalf of New Jersey Bell Telephone Company (NJB).

Thomas J. Kononowitz, Senior Vice President—Marketing and Consumer Services, on behalf of New Jersey Natural Gas Company (NJNG).

COMMENT (1): NJUA, NJB, NJNG and SJG comment that the notice provisions set out in the proposed amendment can be complied with if the term "office" is interpreted to apply only to offices which are utility managed and not to alternate payment centers. Alternate payment centers are typically non-utility managed offices such as chain stores and convenience stores over which the utility has no control over the management or business plans of the facility. NJUA and NJB are concerned that if the proposed amendment applies to alternate payment centers, a utility would have to demand certain commitments from private businesses which they might reasonably be unwilling to provide. This, it is argued, would be detrimental to the utility customers who are advantaged by easy access to alternate payment centers.

RESPONSE: The Board notes that the current rule requires a utility to maintain an office within reasonable proximity to its service area where applications for service, complaints, service inquiries, bill payments and so forth can be received. This provision has always been interpreted to refer to a required office that is under the direct management of the servicing utility. The Board sees no reason for additional clarification.

COMMENT (2): SJG and Garden State comment that the requirement in N.J.A.C. 14:3-5.1(c)2 that the utility notify the "affected" municipalities in addition to its customers could lead to potential debate and suggest that notification be given only to the municipality in which the office is to be closed and the municipality to which the office will be relocated, if applicable.

RESPONSE: The language proposed by the Board is similar to that set out in N.J.A.C. 14:18-5.1(c) regarding the location and closing of cable television offices. The proposed amendment has the same intent as does the existing cable television rule; that is, notice to the affected municipalities is restricted, as suggested by SJG, to the municipality in which the office to be closed is located and the municipality to which the office will be relocated, if possible. Accordingly, to keep the rules consistent, the Board does not believe an amendment to the proposal is necessary.

COMMENT (3): Garden State comments that the utility should be able to give notice in conjunction with its normal billing process, which for most water utilities is on a quarterly basis. Accordingly, notice to all customers could take up to 90 days. Garden State further comments that if the relocation is in the same municipality or within a 10 mile radius, notification or approval should not be necessary.

RESPONSE: The Board notes that the proposed amendment requires notice at least 60 days prior to the closing or relocation of an office. Accordingly, a utility may give notice whenever it chooses as long as that notice is provided at least 60 days prior to the proposed closing or relocation.

The Board further notes that the proposed amendment provides that the utility must demonstrate, after appropriate notice to its customers, that an office closure or relocation is not unreasonable and will not unduly prejudice the public interest. The amendment further provides that customers shall be informed of their right to present written objections to a planned closure or relocation. A relocation within a 10 mile radius or within a large municipality can have a major impact. It is the Board's position that as the public is affected by an office closure or relocation, adequate notice and an opportunity for input through the Board approval process is reasonable.

COMMENT (4): NJNG and Garden State suggest that a formal regulatory process is not necessary and, with its inherent delays, would impede a move that would only be made for economic, logistical or service reasons. In addition, NJ-American and AEC argue that the proposed amendment imposes a burden on the utility by instituting a substantive test, without guidelines, that the closure or relocation would not be unreasonable and not unduly prejudice the public interest. AEC and HWC also argue that the timing of the closure or relocation is sometimes not within the control of the utility and some moves may have to be made on an emergent basis while delays in others caused by the regulatory process may have economic consequences. Accordingly, several of the commenters have suggested that if the Board adopts the proposal, it should include language that the Board's decision must be made within a time certain.

RESPONSE: The purpose of the proposed amendment is to protect customers and municipalities which are not noticed. As the public is affected by an office closure or relocation, adequate notice and an opportunity to be heard within a regulatory process is fundamental to that goal. Most of the information that would be required by the proposed amendment is the same information as the Board has always required of a utility. By formalizing the requirement, little or no burden to the utilities is created. Therefore, little or no increased costs to the ratepayers are contemplated. The most costly element of a formal process, a public hearing, is not specifically required and would be held only at the discretion of the Board.

The Board cannot define every instance under which a utility may request closure or relocation. Therefore, rather than setting forth an absolute basis for approval or disapproval, the Board has proposed a mechanism to ensure appropriate notice to municipalities and customers while also considering the practical constraints on the utilities. The Board does not anticipate the proposed amendment to result in any general problems to the utilities in the conduct of their business. The Board notes that for many years, often after public hearings, it has required utilities contemplating office closings or relocations, to post signs, to give public notice and to provide various kinds of information, along with service alternatives and options, to customers. The Board recognizes, however, that there may be extreme cases where circumstances warrant the issuance of a waiver in the time requirements for Board approval of a closure or relocation.

COMMENT (5): Garden State suggests that a toll free number should not be required if the utility has an office within a 10 mile radius of the office to be closed or relocated.

RESPONSE: The proposed amendment requires toll free or local exchange telephone numbers for use by the general public affected by an office closing or relocation. As the main reason for the amendment is that affected municipalities and customers be given adequate and meaningful notice of a closure or relocation and a reasonable opportunity to be heard on the subject, the Board is of the opinion that the provision of a toll free or local exchange telephone number is an important tool in carrying out the intention of the proposed amendment.

Full text of the adoption follows:

14:3-5.1 Location, relocation and closing

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

(c) In the event that a utility desires to close or relocate an office, the utility shall comply with the following procedures:

1. At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, a utility shall apply for approval with the Board, demonstrating that such closure or relocation is not unreasonable and will not unduly prejudice the public interest, and setting forth the means, upon Board approval of the application, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office.

2. The utility shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of application, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area.

i. The notice shall inform customers of their right to present to the Board, in writing, any objections they may have to the office closure or relocation; and

ii. The notice shall specify a date certain for submission of comments which date shall not be less than 20 nor more than 30 days after publication and posting.

3. An office shall not be closed or relocated until the utility has been informed, in writing, that the Board has approved such request.

(d) Utilities shall maintain and provide toll free or local exchange telephone numbers for use by the general public and customers affected by an office closing or relocation for billing, service and sales inquiries. This toll free number or local exchange number shall be posted on any notice at the office location as well as in the notice placed in the newspaper(s), pursuant to (c) above, serving the affected area.

(a)

BOARD OF REGULATORY COMMISSIONERS OFFICE OF CABLE TELEVISION

Regulations of Cable Television
Testing of Service and Technical Standards for System Operation

Adopted Amendments: N.J.A.C. 14:18-9.2, 10.1 and 10.2
Adopted Repeal: N.J.A.C. 14:18-10.4
Adopted Repeal and New Rule: N.J.A.C. 14:18-10.3

Proposed: December 21, 1992 at 24 N.J.R. 4497(a).

Adopted: March 31, 1993 by Celeste M. Fasone, Director, Office of Cable Television, with the approval of the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman.

Filed: April 27, 1993 as R.1993 d.234, **without change, but with proposed amendments to N.J.A.C. 14:18-10.5 not adopted at this time.**

Effective Date: June 21, 1993.

Expiration Date: July 26, 1995.

Summary of Public Comments and Agency Responses:

No Comments received.

The Board of Regulatory Commissioners held a public hearing on January 5, 1993 in regard to this rulemaking. Celeste M. Fasone, Director of the Office of Cable Television, acted as hearing officer. Francis Perkins, representing the New Jersey Cable Association attended the hearing but chose not to make public comment at the time. Ms. Fasone's recommendations regarding this rulemaking are reflected below in the Summary of Agency-Initiated Change and were accepted by the Board. A transcript of the hearing is available by contacting the Board of Regulatory Commissioners, Office of Cable Television, Two Gateway Center, Newark, New Jersey 07102.

Summary of Agency-Initiated Change:

A change to the initial proposal has been made as a result of the Federal Communication Commission's (FCC) Memorandum Opinion and Order MM Docket No. 91-169 and 85-38. On November 24, 1992, prior to the closing of the Board's comment period, the FCC released a Memorandum Opinion and Order clarifying certain aspects of the Commission's new rules. In its clarification, the FCC indicated that franchise authorities could not require cable operators to conduct additional testing beyond the requirements of the FCC rules. Therefore, in order to implement rules which are consistent with FCC requirements, the Board is not adopting, at this time, the 60 days performance monitoring requirement as initially proposed at N.J.A.C. 14:18-10.5. Instead, the Board intends to propose the repeal of that section as a separate rulemaking in the near future.

Full text of the adoption follows:

14:18-9.2 Proof of performance

(a) Each cable television company shall be required to file with the Office copies of semiannual proof-of-performance tests conducted in accordance with Part 76 Subpart K of Title 47 CFR Section 76.601(c) to determine the extent of system compliance with technical standards 76.605(a).

(b) Copies of the semiannual proof-of-performance test results shall be filed with the Office during the months of March and September of each calendar year.

(c) Test results shall be accompanied by a statement indicating the extent to which the system complies with the applicable standards.

14:18-10.1 Scope

The following requirements shall apply to cable television system performance as measured at any subscriber terminal with a matched

terminating impedance, and to each National Television Systems Committee (NTSC) or similar video downstream cable television channel in the cable system.

14:18-10.2 Technical performance requirements

(a) Every cable television system providing cable television service shall be required to do so in accordance with the rules and regulations specified in Part 76, Subpart K of Title 47 CFR.

(b) Each system operator shall be prepared to show, on request by an authorized representative of the Office, that the system does, in fact, comply with the rules and regulations of Part 76, Subpart K of Title 47 CFR.

14:18-10.3 Requirements for specialized NTSC video and non-video signals

(a) Every cable television operator providing locally originated television programming received from any origination source, shall make reasonable efforts to use good engineering practices in the processing of each programming signal to guard against any unnecessary degradation in the signal received and delivered to the subscriber.

(b) Every cable television operator providing non-video signals or data transmission for testing, encoding, decoding or addressing purposes, shall use good engineering practices in transmitting the signal without material degradation or objectionable interference to any channel delivered to the subscriber.

14:18-10.4 (Reserved)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

Public Employees' Retirement System
School Year Members
Adopted Repeal and New Rule: N.J.A.C. 17:2-4.3

Proposed: March 1, 1993 at 25 N.J.R. 908(a).
Adopted: May 24, 1993, by Board of Trustees, Public Employees' Retirement System, Wendy Jamison, Secretary.
Filed: May 26, 1993 as R.1993 d.296, **without change.**

Authority: N.J.S.A. 43:15A-17.

Effective Date: June 21, 1993.
Expiration Date: November 8, 1994.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

17:2-4.3 School year members; 10 and 12 months

(a) Ten month members who are employed and are compensated for employment for the full normal school year by the board of education are entitled to receive 12 months of service credit. Members will not receive service credit for months during the normal school year when they are not actively employed and did not receive salary.

(b) A 12 month member is presumed to work each month of the fiscal year.

(c) Not more than one year's service credit will be given during any period of 12 consecutive months.

(b)

DIVISION OF STATE LOTTERY

Rules of the Lottery Commission
Readoption with Amendments: N.J.A.C. 17:20

Proposed: April 5, 1993 at 25 N.J.R. 1347(b).
Adopted: May 20, 1993 by the New Jersey Lottery Commission, Frank M. Pelly, Secretary.
Filed: June 1, 1993 as R.1993 d.310, **without change.**

Authority: N.J.S.A. 5:9-7.

Effective Date: June 1, 1993, Readoption;
June 21, 1993, Amendments.
Expiration Date: June 1, 1998.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 17:20.

Full text of the adopted amendments follows.

17:20-2.1 Definitions

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

...

17:20-6.4 Lost or stolen tickets

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

(c) Agents shall make prompt reports to the Lottery regarding any theft from or unauthorized entry upon, licensed premises, whether or not any lottery moneys or property appear to be missing at the time.

(d) (No change.)

OTHER AGENCIES

(c)

NEW JERSEY HIGHWAY AUTHORITY

Use and Administration of the Garden State Parkway
Readoption: N.J.A.C. 19:8

Proposed: April 5, 1993 at 25 N.J.R. 1500(b).
Adopted: May 12, 1993 by the New Jersey Highway Authority, David W. Davis, Executive Director.
Filed: May 17, 1993 as R.1993 d.290 **without change.**

Authority: N.J.S.A. 27:12B-5(j) and (s) and 27:12B-20a.

Effective Date: May 17, 1993.
Expiration Date: May 17, 1998.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 19:8.

(a)

CASINO CONTROL COMMISSION

General Provisions
Post-Employment Restrictions
Adopted New Rule: N.J.A.C. 19:40-2.6

Proposed: April 5, 1993 at 25 N.J.R. 1501(a).
Adopted: May 20, 1993 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: May 21, 1993 as R.1993 d.291, **without change.**

Authority: N.J.S.A. 5:12-59e(2), 60b, 63c and 69b.

Effective Date: June 21, 1993.
Expiration Date: August 24, 1994.

Summary of Public Comments and Agency Responses:
A comment was received from the Sands Hotel and Casino ("the Sands").

COMMENT: The Sands stated that it takes no position on the proposed rule.

RESPONSE: Accepted.

Full text of the adoption follows.

19:40-2.6 Post-employment restrictions

(a) No employee of the Commission or employee or agent of the Division shall solicit or accept employment with, or acquire any direct or indirect interest in, any person who is an applicant, licensee or registrant with the Commission for a period of four years from the date of termination of his or her employment with the Commission or Division, except as provided in subsection 60b of the Act and this section. Notwithstanding the foregoing, nothing in this section shall prohibit a former employee of the Commission or a former employee or agent of the Division from soliciting or accepting employment with, or acquiring an interest in, any person who is licensed as a casino service industry enterprise pursuant to subsection 92c of the Act or is an applicant for such licensure.

(b) Any person subject to the restrictions in (a) above may solicit employment with an applicant, licensee or registrant if:

1. Two years have elapsed since the date of termination of his or her employment with the Commission or Division; and

2. Such person has provided prior written notice of an intent to solicit such employment to the Commission's General Counsel.

(c) No person subject to the restrictions in (a) above shall accept or commence employment with, or acquire an interest in, an applicant, licensee or registrant unless a waiver of the post-employment restriction has been granted by the Commission for that particular employment or interest. A petition for waiver may be filed with the Commission at any time after two years have elapsed since the date of termination of employment with the Commission or Division. Such petition shall be in writing and shall identify the following:

1. The applicant, licensee or registrant that has made an offer of employment, or in which the petitioner will acquire an interest;

2. The position to be held and the specific nature of the duties to be performed for the applicant, licensee or registrant, or the nature of the interest to be acquired; and

3. Any positions held and the specific nature of the duties performed while employed by the Commission or Division.

(d) The Commission may grant a waiver upon a finding that the acceptance of the employment or the acquisition of the interest identified in the petition will not create the appearance of a conflict of interest or evidence a conflict of interest in fact, and that the petitioner holds any license, qualification or registration that may be required to accept the position or interest, or that an application for such license, qualification or registration has been filed with the Commission.

(e) The Commission's General Counsel shall review each petition for waiver and supporting documentation and shall make a recommendation to the Commission, with copies to the Division and the petitioner, within 10 days of the receipt of a completed petition.

(f) Any waiver granted pursuant to (d) above shall apply only to the applicant, licensee or registrant and the position or interest identified in the petition for waiver. No person subject to (a) above shall accept or commence employment in any other position or with any other applicant, licensee or registrant, or acquire any other interest that is otherwise prohibited unless a request for a waiver has been granted by the Commission for such employment or interest, or until four years have elapsed from the date of termination of employment with the Commission or Division.

(b)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Jackpot Payout Slips
Adopted Amendment: N.J.A.C. 19:45-1.40

Proposed: March 1, 1993 at 25 N.J.R. 917(a).
Adopted: May 20, 1993 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: May 21, 1993 as R.1993 d.292, **without change.**

Authority: N.J.S.A. 5:12-63(c), (d) and (e), 69, 70(l) and (m), 99(a)4 and 12.

Effective Date: June 21, 1993.
Expiration Date: August 15, 1997.

Summary of Public Comments and Agency Responses:
Comments on the proposal were received from the Division of Gaming Enforcement (Division) and TropWorld Casino and Entertainment Resort (TropWorld).

COMMENT: The Division objects to the proposed amendments. In its view, a casino licensee's accounting department maintains the "control" copy of jackpot payout slips which, for computer-generated slips, is maintained in stored-data. Thus, the Division argues that, if the serial number of casino checks issued incident to slot jackpots are to be recorded at all, they should be retained on the "control" copy of the slip, that is, in stored-data.

RESPONSE: The Commission agrees that the accounting copy of a jackpot payout slip serves as a "control" against which the original and the duplicate of the slip are compared. However, the Division does not explain what regulatory purposes are served by requiring a casino licensee's accounting department to ensure that the check serial number is identically recorded on all parts of the jackpot payout slip.

Prior to June 15, 1992, accounting departments never had a duty to make that comparison, even though winning slot machine patrons could be paid with casino checks since January 2, 1990. The Division does not cite any instance over that period where a regulatory incident occurred which could have been prevented had the accounting department made such a comparison.

When a casino licensee issues a casino check, the patron to whom it is issued could cash the check at a bank, in which event that item will be paid in the usual course. The patron also has the option of presenting the check at any Atlantic City casino and obtaining funds to enable him or her to gamble.

The casino at which such an item is presented may only accept the item after verifying the date of the check, the check number, the payee's name, the amount of the check and the purpose for which the check was issued by contacting the casino licensee that issued the check. The check issuer has a duty to disclose that information upon request and, consequently, it routinely maintains a log of all casino checks it issues because it does not know at the time of issuance whether a particular check will be cashed at a bank or presented at a casino. Thus, casino check serial numbers will continue to be recorded regardless of whether they appear on the "control" copy of jackpot payout slips.

Moreover, six other pieces of information are recorded on the jackpot payout slip in addition to the serial number of any casino check issued incident to the jackpot. Among other things, the name of the person preparing the slip, the amount paid, and the date and shift when the jackpot occurred are all recorded on the original and duplicate of the slip. At least daily, the accounting department compares all that information against the information recorded on the "control" copy. If the only variance that exists between the information on the original or duplicate

and that on the "control" copy is the serial number of the check, the additional information on the slip will be adequate to establish that a particular check was issued incident to a specific jackpot.

Furthermore, a corrupt casino employee is unlikely to perpetrate an offense successfully by merely misprinting the check's serial number on the jackpot payout slip. One or more of the other bits of required information would also have to be falsified but, in each instance, the accounting department will be obligated to ensure that all the other information is identically recorded on each part of the slip.

For the foregoing reasons, the Commission rejects the Division's comment that casino check serial numbers should be maintained in stored-data in order to preserve the "control" copy of jackpot payout slips.

COMMENT: The Division also objects to the proposed amendments because it would impede the Division's ability to conduct investigations "by requiring retrieval and review of the hard copies of the jackpot payout slips by Division agents."

RESPONSE: The Commission appreciates the Division's desire to ensure that it can operate in an efficient manner by retrieving information from stored-data. However, the logical conclusion to be drawn from the Division's position would require the Commission to insist that all casino licensees, regardless of cost, operate with computer-generated data to the exclusion of other records storage media. The Commission is unprepared to go that far at this time.

Moreover, it seems to the Commission that the Division will, at some point in its investigation, have to locate the hard copies of any suspect jackpot payout slips, along with any accompanying casino checks. Thus, the Commission does not take the Division's objection as suggesting that it is now prepared to do a less than thorough investigation by only relying on the computer-generated information.

COMMENT: The Division also suggests that having multi-part forms which are not required to have the identical information on each part of the form would "thwart" and "frustrate" the requirement for having multi-part forms in the first place.

RESPONSE: Based on the Commission's earlier responses, this comment is rejected. Furthermore, the current regulations, to which the Division has not objected, already recognize that certain information (the time at which the jackpot payout slip is prepared, for instance) is only required to appear on the original and duplicate of the slip, but not necessarily on the "control" copy. Thus, the "theory" behind multi-part forms to which the Division alludes already envisions that certain information may not appear on all parts of the form.

COMMENT: As a final comment, the Division notes that "there is not a significant cost" associated with maintaining casino check serial numbers in stored-data.

RESPONSE: Assuming, without deciding, that the associated costs are minimal, the Commission nevertheless rejects the Division's comment. Where, as here, the regulatory need for a requirement is not apparent, then any costs, however nominal, would generally be sufficient to warrant removal of the requirement.

COMMENT: TropWorld stated its support for the proposal.

RESPONSE: This comment is accepted, as evidenced by the Commission's adoption of the proposal.

Full text of the adoption follows.

19:45-1.40 Jackpot payouts of cash or slot tokens that are not paid directly from the slot machine

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

(d) For establishments in which jackpot payout slips are computer prepared, each series of jackpot payout slips shall be a two-part form, at a minimum, and shall be inserted in a printer that will: simultaneously print an original and a duplicate and store, in a machine-readable form, all information printed on the original and duplicate, other than the serial number of any casino check issued to the patron who won the jackpot for which the slip was prepared; and discharge the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a jackpot payout slip.

(e) On originals, duplicates, triplicates, or in stored data, the preparer shall record, at a minimum, the following information:

1.-2. (No change.)

3. The date on and the shift during which the jackpot occurred;

4. (No change.)

Recodify existing 6.-7. as 5.-6. (No change in text.)

(f) The time of preparation of the jackpot and the serial number of any casino check issued incident to the jackpot shall be recorded at a minimum, on the original and duplicate upon preparation of the jackpot payout slip.

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

(j) At the end of each gaming day, at a minimum, the original and duplicate of the jackpot payout slip shall be forwarded as follows:

1. The slot cashier shall forward the original to the master coin bank cashier in exchange for coin, currency or credit, after which the original shall be forwarded to the accounting department, which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees with the information required to appear on the triplicate or in stored data pursuant to (e) above; or, if prepared in the master coin bank, the master coin bank cashier shall forward the original directly to the accounting department, which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees with the information required to appear on the triplicate or in stored data pursuant to (e) above;

2. The general cashier shall forward the original to the main bank cashier in exchange for coin, currency or credit, after which the original shall be forwarded to the accounting department, which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees with the information required to appear on the triplicate or in stored data pursuant to (e) above; and

3. The duplicate jackpot payout slip shall be forwarded directly to the accounting department for recording on the Slot Win Sheet, agreement with the meter reading stored on the Slot Meter Sheet, and confirmation, as reasonably practicable after receipt of the duplicate, that the information required to appear on the duplicate pursuant to (e) above agrees with the information required to appear on the triplicate or in stored data pursuant to (e) above.

(a)

CASINO CONTROL COMMISSION

Rules of the Games
Wagers

Adopted Amendment: N.J.A.C. 19:47-2.3

Proposed: April 5, 1993 at 25 N.J.R. 1508(a).

Adopted: May 20, 1993 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: May 21, 1993 as R.1993 d.293, **without change.**

Authority: N.J.S.A. 5:12-69(a) and (c), 99(a) and 100(e).

Effective Date: June 21, 1993.

Expiration Date: April 15, 1996.

Summary of Public Comments and Agency Responses:

Comments on the proposal were received from the Division of Gaming Enforcement (Division), the Sands Hotel and Casino (Sands) and from Bally's Park Place, Inc. (Bally's).

COMMENT: The Division of Gaming Enforcement and Sands support the amendments as proposed.

RESPONSE: Accepted.

COMMENT: Bally's objects to the half hour notice requirement, contending that the mid-shoe blackjack options are implemented only after general agreement by all players at the table.

RESPONSE: Rejected. The half hour notice requirement is consistent with the current practice of implementing rule changes and options at the game of blackjack. A casino licensee may wish to solicit the opinions of the players before implementing an option, but it has no obligation to do so.

Full text of the adoption follows.

19:47-2.3 Wagers

(a)-(i) (No change.)

(j) A casino licensee may implement any of the following options at a blackjack table provided that the casino licensee complies with the notice requirements set forth in N.J.A.C. 19:47-8.3:

1. Persons who have not made a wager on the first round of play may not enter the game on a subsequent round of play until a reshuffle of the cards has occurred;

2. Persons who have not made a wager on the first round of play may be permitted to enter the game, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred;

3. Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be precluded from placing any further wagers until a reshuffle of the cards has occurred; and

4. Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be permitted to place further wagers, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred.

(k) If a casino licensee implements any of the options in (j) above, the option shall be uniformly applied to all persons at that table; provided, however, that if a casino licensee has implemented either of the options in (j)3 or 4 above, an exception may be made for a person who temporarily leaves the table if, at the time the person leaves, the casino licensee agrees to reserve the person's spot until his or her return.

(l) (No change.)

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

BUREAU OF FORESTRY

Bureau of Forestry Rules

Adopted New Rules: N.J.A.C. 7:3

Proposed: April 5, 1993 at 25 N.J.R. 1348(a).

Adopted: May 26, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Filed: May 28, 1993 as R.1993 d.304, **with substantive and technical changes** not requiring additional public notice and comment. (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1L-1 et seq. and 54:4-23 et seq., specifically 54:4-23.3.

DEPE Docket Number: 013-92-02.

Effective Date: June 21, 1993.

Expiration Date: June 21, 1998.

Summary of Public Comments and Agency Responses:

No comments received.

Summary of Agency-Initiated Changes:

N.J.A.C. 7:3-1.6(c) has been revised to clarify that the Department will furnish seedlings to third grade students on receipt of consolidated requests from their respective schools.

Full text of the adoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:3.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. REFORESTATION PROGRAM

7:3-1.4 Agreement

Every person ordering reforestation stock shall enter into an agreement to use the stock solely for reforestation purposes as described in N.J.A.C. 7:3-1.6(b). The agreement shall provide that reforestation stock must not be resold or removed from the property for ornamental use as living trees, or for use as Christmas trees, except trees severed from the stump in a thinning without reducing the initial acreage reforested. Any person violating this agreement will reimburse the Department for the cost of the seedlings removed and administrative costs incurred due to breach. The Department has the right to inspect the planting site after notifying the landowner as to time and date of the inspection.

7:3-1.5 Refusal

(a) No reforestation stock shall be sold to any landowner:

1. Whose total acreage is less than three acres of land;

2. Who has violated provisions of an agreement signed pursuant to N.J.A.C. 7:3-1.4; or

3. For a purpose other than those described in N.J.A.C. 7:3-1.6.

7:3-1.6 Distribution

(a) Reforestation stock shall be distributed in the urban, suburban and agricultural areas only after a recipient signs an agreement conforming to N.J.A.C. 7:3-1.4 and attests, as part of the seedling order form, to the ownership of a minimum of three acres of land.

(b) The use of State grown reforestation stock shall be restricted to legitimate reforestation projects, including planting for school, and youth conservation education projects; plantings for aesthetic screening and improvement; air and noise pollution abatement; wildlife habitat enhancement; erosion control; and lumber and cordwood production.

(c) *[Each]* ***Every*** New Jersey student attending third grade *[will be]* ***is*** eligible to receive a free forest tree seedling from the State Tree Seedling Nursery*[,]* if adequate supplies are available*[, by forwarding a consolidated request to the Department for each school.]* ***. The Department will furnish the seedlings to the students on receipt of consolidated requests from the students' respective schools.***

SUBCHAPTER 3. ADVERTISING BY CERTIFIED TREE EXPERTS

(b)

LAND USE REGULATION

Standards for Individual Subsurface Sewage Disposal Systems

Adopted Amendments: N.J.A.C. 7:9A-1.1, 1.2, 1.6, 1.7, 2.1, 3.3, 3.4, 3.5, 3.7, 3.9, 3.10, 3.12, 3.14, 3.15, 6.1, 8.2, 9.2, 9.3, 9.5, 9.6, 9.7, 10.2, Appendix A and Appendix B

Adopted Repeals: N.J.A.C. 7:9A-12.2, 12.3, 12.4, 12.5, 12.6

Adopted Repeal and New Rule: N.J.A.C. 7:9A-3.14 and Appendix A, Figure 16

Proposed: June 1, 1992 at 24 N.J.R. 1987(a).

Adopted: May 17, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Filed: May 21, 1993 as R.1993 d.294, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 58:11-23 et seq., 58:10A-1 et seq., including 58:10A-16 et seq., 13:1D-1 et seq., and 26:3A-21 et seq.

DEPE Docket Number: 019-92-05.

Effective Date: June 21, 1993.

Expiration Date: August 21, 1994.

Summary of Hearing Officer Recommendations and Agency Responses:

On June 1, 1992, the Department of Environmental Protection and Energy (Department) proposed amendments, repeals and new rules at N.J.A.C. 7:9A. The Department held a public hearing concerning these

amendments and new rules on June 24, 1992 in Trenton, New Jersey and received oral comments from three individuals. The Department accepted written comments through July 1, 1992 and received comments from 35 interested individuals.

Ernest Hahn, Administrator of the Department's Land Use Regulation Program, served as the hearing officer at the public hearing. Administrator Hahn recommended that the Department adopt the rule with the changes described in the responses to specific comments in the summary of public comments and agency responses below. The Department agrees with the recommendation.

Interested persons may inspect the public hearing record, or obtain a copy upon payment of the Department's normal copying charges, by contacting:

Janis Hoagland
Office of Legal Affairs
Department of Environmental Protection and Energy
401 E. State Street
CN 402
Trenton, New Jersey 08625-0402

Summary of Public Comments and Agency Responses:

The commenters, listed by name and affiliation, if any, are as follows:

1. Agovino, A. Vincent
2. Beckley, John—Hunterdon County Department of Health
3. Cahill, Thomas M.—Sparta Township Health Department
4. Casagrande, Jane—Township of Manalapan Health Department
5. Clader, Beverly—Central Jersey Builders Association
6. Deacon, Mary Ann
7. Deacon, Philip D.—Deacon Homes/Deacon Development Corp.
8. DeLozier, Gregory A.—New Jersey Association of Realtors
9. Epstein, Donald—New Jersey Builders Association
10. Fair, Abigail—Association of New Jersey Environmental Commissions
11. Fink, Michael R.—Castle Properties Company
12. Goldberg, Carl J.—Bertram Associates
13. Haber, Bradley N.—Tangent Builders Incorporated
14. Herzog, Deborah—Beth Herzog, Builder
15. Heumiller, Joe
16. Karen, Robert—New Jersey Builders Association
17. Koskinen, David A.—Builders Association of Northern New Jersey
18. Koskinen, David A.—Greenway Companies
19. Levinson, Steven C.—New Jersey Health Officers Association
20. Martin, Teresa H.—County of Hunterdon Solid Waste-Recycling Department
21. McMahon, Marlene—Community Builders Association of New Jersey
22. Montallano, Pat
23. Mroz, Marilyn J.—Cushetunk Technical Services, Inc.
24. Mutinsky, Joseph—Centex Real Estate Corporation, New Jersey Division
25. Osias, Gene S.—Township of Vernon Health Department
26. Ostroff, Manuel—County of Cumberland Office of Health and Human Services
27. Paparone, Bruce—Paparone Corporation
28. Przywara, Joseph J.—Ocean County Health Department
29. Redding, Mark A.—Redding Development Group, Inc.
30. Richardson, W. David—Township of Manalapan Health Department
31. Roman, Les J.—Soil Services, Ltd.
32. Smolenski, Frank J.—Benson, Ackermann and Associates, Inc.
33. Vitiello, Thomas H.—The Thomas Group, Inc.
34. Walko, Karl—Camden County Department of Health and Human Services
35. Wengrowski, Edward—Bergman Hatton Associates

The comments and the Department's responses are summarized below. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

General Comments

1. COMMENT: Overall, the commenters find these proposed changes to be largely beneficial and commend the Department for its efforts to balance the social and economic impacts of these standards with the need to protect the environment. (4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24, 27, 29, 30, 32, 33)

RESPONSE: The Department acknowledges the commenters' support of the Department's efforts to streamline the regulations without sacrificing the requirements to protect the environment and public health and safety.

2. COMMENT: The commenter believes that the Department should provide a grandfather clause in N.J.A.C. 7:9A-3.2 to exempt from the new standards any septic system design submitted to the local administrative authority prior to January 1, 1990, provided no significant changes were made to it after that time. (9, 16)

RESPONSE: The Department has not made the suggested change. The effect of the change would be to require administrative authorities to review and approve septic system designs after January 1, 1990, based on standards which had been included in regulations that were expired as of that date.

When the Department originally promulgated the new standards, it delayed the operative date for five months, to allow ample time for the submission and processing of applications that had been prepared pursuant to the repealed standards. Subsequently, the Department has made inquiries on this issue to several administrative authorities, all of whom stated that they had processed all complete applications filed before December 31, 1989, pursuant to the repealed standards. The Department also convened several meetings with the Realty Improvement Act Advisory Committee (which includes the commenter) preceding the subject rule proposal. No information was provided to the Department to suggest that the five-month delay was insufficient.

3. COMMENT: The Department needs to take into consideration the fact that there are many different types of systems which can be installed, and the installation of such systems is subjective. The Department must take into consideration the costs of these systems to the homeowners.

There are many different methods of installation for these systems and their costs vary greatly. A normal in-ground system has to be between one and three feet below the ground surface. I have yet to hear an argument on how this all affects the cost of installation of septic tanks and wells, and how much top soil you would allow to be placed next to these, for that greatly affects the costs. (15)

RESPONSE: The Department's goal with these amendments is to reduce costs associated with the construction of new individual subsurface sewage disposal systems without sacrificing the protection of public health and safety or environmental quality.

N.J.A.C. 7:9A-1.6 General prohibitions

4. COMMENT: The commenter supports the change to delete reference to the term "maintenance" from these sections since the mandatory operation and maintenance requirements are being repealed. (9, 16)

RESPONSE: The Department acknowledges the comment in support of the adopted rule to delete the term maintenance.

5. COMMENT: The commenter is opposed to the requirement that a septic tank must be installed prior to the point of discharge to an existing cesspool because its impact will be heaviest on the owners of older dwellings, who may, in many cases, be indigent or on a fixed income, and unable to afford the upgrade. The necessity to add this additional expense will likely deter the reporting of malfunctions to the health department and, thus, circumvent the intent and benefit of this proposed change. The commenter would prefer to see language included which would require the addition of a septic tank only if there was an immediate threat to the public's health or documented environmental contamination attributed to the cesspool. (1)

6. COMMENT: While the commenter supports the proposed requirement that a septic tank be placed before the point of discharge into the cesspool when alterations or repairs are necessary, the commenter cautions the Department that the cost of installing a septic tank for many of these homeowners may be beyond their ability to pay. For this reason, the Department should provide hardship exemptions or work toward securing monies that could be used for loans in these instances. (9, 16)

RESPONSE: The Department is sensitive to the financial hardships sometimes encountered with individual subsurface sewage disposal system upgrades, including repairs or alterations to cesspools, but malfunctioning systems pose an immediate threat to the environment, potable water supplies, and surface and groundwaters of the State. The Department has determined that requiring a cesspool but not including the installation of a septic tank will not eliminate the cause of the malfunctions. The one-time installation of a septic tank may prevent future malfunctions of existing cesspools and, in the long run, avoid the expense of repairing the cesspool in the future.

The Department realizes that in some cases such a requirement will be beyond the financial resources of the homeowner and that a financial assistance program would be beneficial; however, at this time, the Department does not have the means to provide such economic assistance.

N.J.A.C. 7:9A-1.7 Penalties

7. COMMENT: The commenter supports the Department's deletion of examples of violations that would result in civil administrative penalties under the Water Pollution Control Act but questions whether this statute was really meant to govern discharges of wastewater from septic systems in the first place. The commenter would prefer that the Department limit its penalties only to those authorized pursuant to the Realty Improvement Act, N.J.S.A. 58:11-39, and limit violations for administrative authorities to those instances where the authorities knowingly and purposely act with a willful or malicious intent, gross negligence or outside the scope of their authority. (9, 16)

RESPONSE: The Water Pollution Control Act (WPCA), N.J.S.A. 58:10A-1 et seq., was enacted to protect the ground and surface waters of the State. Regulation of individual subsurface sewage disposal systems clearly falls witin the authority of the WPCA. The Standards for Individual Subsurface Sewage Disposal Systems were promulgated pursuant to the WPCA, and therefore, must be enforced in accordance with it. The Legislature decided that the committing of a violation was all that was needed to trigger a penalty and that the violator's intent was irrelevant. This is true of the WPCA and the Realty Improvement Sewerage and Facilities Act (RISFA), N.J.S.A. 58:11-23 et seq. When imposing penalties pursuant to N.J.A.C. 7:14-8, the Department does take into account the seriousness of the violation and the conduct of the violator. Penalties are imposed pursuant to the WPCA because the statute has been updated regularly, whereas the penalty provisions of the RISFA have not been updated for approximately 40 years.

8. COMMENT: The commenter objects to the proposed deletion of the violation examples in this section. The commenter feels that the administrative authorities benefit from the examples given and that rewording the examples could alleviate concerns of health officers and administrative authorities. (10)

RESPONSE: The health officers and sanitarians who implement the Standards have stated through their representatives on the Realty Improvement Act Advisory Committee that the examples listed at N.J.A.C. 7:9A-1.7(c) overly scrutinize the actions of the administrative authorities, creating apprehension and mistrust that have hampered everyday decision-making in the implementation of these Standards. Deletion of the examples does not in any way change the penalty provisions of the Water Pollution Control Act. The purpose of the change is to indicate that the Department has discretion to implement the enforcement provisions of the Water Pollution Control Act. Simply rewording the examples will not alleviate the apprehension felt by the health officers and sanitarians charged with implementing these regulations.

N.J.A.C. 7:9A-2.1 Definitions

9. COMMENT: The commenters support the change that states that mottling is "usually" indicative of seasonal or periodic and recurrent saturation. (9, 16, 23)

RESPONSE: The Department acknowledges the comments in support of the proposed rule change; however, the Department has reassessed its position and has opted to leave the definition of mottling as previously worded. For the explanation of the Department's position, please refer to the responses to comments on N.J.A.C. 7:9A-5.8 below.

N.J.A.C. 7:9A-3.3 Existing systems

10. COMMENT: The commenters support the change that makes it clear that a professional engineer is not needed for alterations which do not constitute the practice of professional engineering pursuant to N.J.S.A. 45:8. (1, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 21, 22, 24, 27, 29, 30, 32, 33)

RESPONSE: The Department acknowledges the comments in support of the rule change which clarifies the circumstances under which an alteration to an existing individual subsurface sewage disposal system requires the involvement of a licensed professional engineer.

11. COMMENT: N.J.A.C. 7:9A-3.3(c)1 relates to the practice of professional engineering in accordance with N.J.S.A. 45:8 and the rules adopted pursuant thereto. Also N.J.A.C. 7:9A-3.5(c)2 relates to site plans prepared in accordance with N.J.A.C. 13:40-7. Both of these sections relate to engineering and, apparently, land surveying practices. Municipal and county health departments are not familiar with the extent and limitations of these rules, which puts an undue burden on the administrative authorities for enforcement. In addition, if an unfamiliar statute or code is cited, many local officials may be wary of making decisions. The commenters suggest that these rules clearly state what the engineer or the land surveyor can or cannot do. The local health department should not be responsible for developing its own interpretations, such as whether the installation of a septic tank in front of a cesspool constitutes the practice of engineering (25, 28)

RESPONSE: The Department agrees with these comments and has provided the requested clarification by including the definition of the "practice of engineering" at N.J.A.C. 7:9A-2.1 as set forth in N.J.S.A. 45:8-28. Installing a septic tank in front of a cesspool would be considered part of the practice of engineering since the original scope and design of the individual subsurface sewage disposal system is being changed. It would therefore require design plans prepared by a licensed professional engineer.

12. COMMENT: The commenter requests more flexibility be provided to homeowners interested in repairing or altering a septic system without involving an engineer. (26)

RESPONSE: The Department does not govern, through its rules, the practice of engineering, or what specifically requires the involvement of a licensed professional engineer. As discussed in the response to comment 11 above, the Department has inserted the statutory definition of "practice of engineering" into N.J.A.C. 7:9A-2.1 to clarify the circumstances under which the expertise of a professional engineer would be necessary pursuant to these rules.

N.J.A.C. 7:9A-3.5 Permit to construct or alter

13. COMMENT: The commenters support the change which deletes the requirements in N.J.A.C. 7:9A-3.5(c)2 for a site plan to be signed and sealed by a licensed land surveyor. (9, 16)

RESPONSE: The Department acknowledges the comment in support of the adopted rule.

14. COMMENT: The Department needs to clarify the requirements for N.J.A.C. 13:40-7 in preparing a site plan. Does the topography need to be performed by a licensed surveyor for the new construction of septics, or can a professional engineer perform this service. (25)

RESPONSE: N.J.A.C. 13:40-7 specifically states the requirements for preparing a site plan, including what needs to be done by a licensed surveyor, and as such, the Department does not believe that further clarification is necessary. In particular, N.J.A.C. 13:40-7.2 states that a survey, which includes such information as existing conditions, exact locations of physical features including metes and bounds, drainage, waterways, specific utility locations, and easements, must be performed by a licensed land surveyor. That rule would permit a licensed professional engineer to transpose the survey information to the site plan so long as the survey is referenced by the date of the survey, as well as by whom and for whom the survey was performed.

N.J.A.C. 7:9A-3.7 Modifications of plans

15. COMMENT: The Department should delete the provision in N.J.A.C. 7:9A-3.7(a) requiring that modifications must be made "in conformance with the requirements of this chapter," or, at least, the Department should add the word "substantially" prior to this clause. (9, 16)

RESPONSE: The Department disagrees with the suggested change, since the modification of plans or specifications after they have been approved by the administrative authority would have to conform to the requirements of this chapter in any case.

N.J.A.C. 7:9A-3.12 Holding tanks

16. COMMENT: Although the commenter supports the change to N.J.A.C. 7:9A-3.12(a) which allows the administrative authority to approve the temporary use of a holding tank for a period of 180 days, the commenter suggests that the phrase "where alteration or repair of an existing system is being implemented as approved by the administrative authority" be deleted. This suggested change will eliminate any lag time between the determination of a system failure and the commencement of an actual repair. (9, 16)

RESPONSE: The Department disagrees with the suggested change, since the administrative authority may approve the use of a temporary holding tank as soon as the malfunction is reported or discovered to facilitate proper site and system evaluation to be conducted in order to properly address the reasons for failure and correct them so that the malfunction will not recur.

17. COMMENT: The commenter believes there should be more flexible language concerning the approval of holding tanks by the adminis-

trative authority, since the administrative authority knows the local environmental conditions and knows when such conditions warrant the use of a holding tank as an acceptable solution to a malfunctioning septic system. (26)

RESPONSE: The Department disagrees with this comment because less restrictive approval requirements concerning holding tanks might lead to a proliferation of these facilities. The Department does not favor the use of holding tanks as a permanent means of sewage disposal since empirical data show that high pump-out costs result in improper maintenace and unacceptable environmental impacts. Since a holding tank is not technically an individual subsurface sewage disposal system, the use of such a tank is subject to the treatment works approval requirements under the New Jersey Pollutant Discharge Elimination System at N.J.A.C. 7:14A-12 and the Water Pollution Control Act at N.J.S.A. 58:10A-1 et seq. Accordingly, the approval of permanent holding tanks is beyond the jurisdiction of the administrative authority without prior Department approval.

N.J.A.C. 7:9A-3.14 Notification of proper operation and maintenance practices

18. COMMENT: The commenters support the proposed change to N.J.A.C. 7:9A-3.14 which deletes the requirement for a license to operate and replaces it with a mandatory notification program implemented by the administrative authority. The commenters believe that the increased responsibilities associated with such a licensing program are unnecessary and that the mandatory notification program, which would rely on the use of education to encourage homeowners to operate and maintain their septic systems properly, is the preferred approach. This is especially true considering that violations of these standards make the person liable for fines up to $50,000 per day. (8, 9, 16, 23)

19. COMMENT: The commenter supports the proposed changes but recommends that the Department give broader latitude to local health departments in meeting the objective of periodic notification (bulk mailing, newspaper inserts, bill inserts, etc.), since these methods might be more cost effective and have the added benefit of reaching all homeowners with septic systems. (2)

20. COMMENT: N.J.A.C. 7:9A-3.14 as proposed still places a burden on many local and county health departments. The Department should be applauded for removing the stricter requirements that were initially included in this section. Unfortunately, the triennial notification will still place an economic burden on the taxpayers by requiring specific notices to current homeowners. We suggest that N.J.A.C. 7:9A-3.14(b) be modified to read: "Written notification of the proper operation and maintenance practices shall initially be issued to the applicant with the approval for the work, design, construction, installation, alteration or repair of the individual subsurface sewage disposal system." A new paragraph number 8 should be added, stating that: "The health department shall annually thereafter provide notification either through direct mailing or through the public media as to the appropriate uses, maintenance, limitations, etc. that are identified in N.J.A.C. 7:9A-3.14(c)1 through 7." This modification would provide adequate notices to the users of septic systems and would not place an economic hardship on the administrative authority. (28)

RESPONSE: The Department acknowledges the administrative and enforcement consequences of implementing a licensing program. Accordingly, the amendment deleting this requirement has been adopted as proposed.

The new rule at N.J.A.C. 7:9A-3.14 does not state how the required written notifications are to be made. The Department would consider a mass mailing to be an acceptable method of providing the required written notification, but newspaper inserts or other public media would not be acceptable means of providing written notification, since use of the latter methods cannot be guaranteed, to the satisfaction of the Department, to reach all individual subsurface sewage disposal system owners required to be notified under these rules. As such, the Department has amended the rule on adoption to specifically allow for the use of mass mailings to provide the required notifications.

However, the Department does not believe that an attempt to educate individual system operators by mandatory notification will correct the current rate of system failures due to a lack of maintenance. Therefore, the Department has determined that a modified mandatory operation and maintenance requirement is still warranted, if adequate means of implementation can be found which will not create an undue burden upon the local and county health departments, boards of health, administrative authorities and their authorized agents, or the individual subsurface sewage disposal system owners. Accordingly, the Department will propose a mandatory operation and maintenance requirement in the future. The Department will work with the local and county health departments, the Realty Improvement Act Advisory Committee, as well as the Department's Land and Water Planning staff, to resolve any problems associated with the implementation of the license to operate requirements.

21. COMMENT: The amendments will likely do little to prevent future malfunctions related to abuse or neglect of septic systems. From 1983 to 1987, when revisions to the regulations were being deliberated, numerous health officers as well as Department officials concurred that licensing, with regular renewals and mandatory inspection and certification, was the only way to assure that septic systems would be monitored with the diligence necessary to detect potential problems. From many years of personal experience, utilization of informational methods as proposed and "finger crossing" is unrealistic, misleading and sidesteps the problem. Unfortunately, the typical homeowner cannot be relied upon to maintain a septic system when faced with more pressing expenses. The proposed revision deleting the licensing requirement is the result of two major problems inherent in the overall aspect of proper on-site sewage disposal: First, the health departments are too overworked and underfunded to provide this inspection and certification service. This is understandable, but not insurmountable, for the service could easily be provided by private sector consultants as intended and allowed by the original rule. Second, and more important, many health officers are unwilling, for whatever reason, to accept the responsibility and liability of certifying the functioning of a disposal system. These problems result in a loophole which must be addressed either by the Department or the New Jersey Health Officers Association or, preferably, both, if the issue of proper maintenance and long term functioning is to be resolved. (1)

RESPONSE: As discussed in the response to comment 20, the Department has decided to remove the mandatory licensing provisions from the rules because of implementation problems brought to its attention by the Realty Improvement Act Advisory Committee and through individual health departments. The Department will work with the local and county health departments, the Realty Improvement Act Advisory Committee, as well as the Department's Land and Water Planning staff to propose a modified licensing requirement in the future. The Department will be proposing an amended version of the license to operate requirements for mandatory operation and maintenance, once implementation problems are resolved.

22. COMMENT: The commenter strongly opposes deletion of the license to operate requirements. Without this provision, it will be almost impossible for local authorities to monitor and maintain septic systems in "Septic Management Districts." If this amendment is adopted, it should be made clear that local authorities can require licensing or registration of new and repaired systems. (10)

23. COMMENT: In the summary to the proposed amendments, the Department states that it is proposing to repeal the license to operate requirements because they do not cover all systems currently in operation and because the Department wishes to eliminate the need for additional costs and utilization of extra resources by the administrative authority.

That all systems are not covered by the licensing requirements is an insufficient reason for eliminating them. It would be better to have some systems operating correctly with proper maintenance, knowing that, through alterations to malfunctioning systems, every year more systems will be brought into the program. The license to operate requirement is the basis for septic management districts and should be imposed statewide, not just in those local jurisdictions which can gather enough political support for the adoption of municipal ordinances.

The proposition that these amendments will reduce costs and resource utilization by the administrative authorities is incorrect. The administrative authorities will still have to track repairs in addition to new installations and alterations, so that the three year cycle can be maintained. The administrative authorities will have to track every transfer of title so that the names and addresses of the new owners are on file. There will also be substantial costs in reproducing and mailing the operation and maintenance manuals. Also if an owner receives the manual without any requirement for a license, in all probability, he or she will discard the manual without reading it, adding to the State's solid waste problem.

Therefore, the Department should maintain the requirement for the license to operate but go to a five- or six-year inspection/pumpout cycle instead of the current three-year cycle. This will preserve the program

already in place while reducing the costs to homeowners and the administrative authorities. In lieu of adopting this suggestion, the entire section should be deleted.

If the Department does not accept either of these two suggestions, then a simple one-page information sheet needs to be developed instead of a voluminous manual in order to reduce copying costs and increase the probability of its being read. Also, notification to property owners whose systems were repaired should start with repair permits issued on or after the effective date of these amendments rather than be retroactive to January 1990, since many local health departments will have difficulty identifying these applications.

If the Department does not accept any of the above three suggestions, then it should directly fund every local health department which is implementing this section for costs incurred. Having local taxpayers fund a program which has tremendous costs associated with it and no documented benefits will be difficult to justify. (25)

RESPONSE: The Department acknowledges the comments in favor of the license to operate requirements. The Department would like to keep the license to operate requirements intact if it can develop a procedure which does not place an undue burden upon the administrative authorities or the individual system owners. The Department supports and encourages, and will provide any assistance possible, to municipalities that adopt ordinances which keep the license to operate requirements in place.

The Department will work with the local and county health departments, the Realty Improvement Act Advisory Committee, as well as the Department's Land and Water Planning staff to resolve the problems associated with the implementation of the license to operate requirements. The Department will be proposing a modified license to operate requirement in the future, once the implementation problems can be addressed to the satisfaction of those involved. Additionally, the Department is researching the possibility of requiring a system inspection and/or mandatory pumpout of septic systems during the sale of properties with individual subsurface sewage disposal systems.

The use of a five- or six-year inspection/pumpout cycle, in place of a three-year inspection/pumpout cycle, is something the Department is already considering.

The Department does not agree that if the license to operate requirements are deleted nothing should be proposed to replace them. The Department believes that the mandatory notification program will reach enough system owners to be beneficial until the Department can propose and adopt a revised license to operate program.

The Department will not object to a one-page information sheet as notification under the rule if all the required information is included.

The Department may provide funding to certified health agencies, through the County Environmental Health Act (CEHA), for implementation and enforcement of the standards if the certified health agency meets specific performance and administrative standards and has an approved work plan which addresses the implementation and enforcement of the standards. Local health departments may receive funding through subdelegation agreements with the certified health agencies.

N.J.A.C. 7:9A-5.8 Criteria for recognition of zones of saturation

24. COMMENT: The commenters strongly support the proposed changes to this section since they will allow the administrative authority and design engineer more discretion in determining estimated depth to seasonal high water table when the mottling present is not indicative of seasonal or periodic and recurrent saturation. (4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 21, 22, 24, 27, 29, 30, 32, 33)

25. COMMENT: This amendment is an insult to health officers, soil scientists, professional engineers and others who have spent time in the field performing and witnessing soil profile pits. Additionally, it undermines months of work, technical research and meetings during the rule revision process of the 1980s. The health department staff are not generally soil scientists and they must rely on the expertise of those in the field to provide sufficient credible evidence of the suitability of the soil, including whether color patterns are "indicative of seasonal or recurrent and periodic saturation" as opposed to animal burrows or similar easily mistakable features. The commenter strongly recommends that this section be amended to reflect realistic and scientific criteria for determining what constitutes such exempted coloration patterns. Additionally, the commenter vigorously recommends that the requirement for certification of site evaluators be reinstated in the regulations rather than the voluntary registration provided for in N.J.A.C. 7:9A-3.17. With the requirement for qualified site evaluators and enforcement personnel, the need for ludicrous and superfluous compromises to the regulations would be obviated. (1)

26. COMMENT: The proposed rule gives the administrative authorities and their authorized agents inadequate criteria for evaluating soil mottling and other soil color variegations to determine depth to, or to evaluate the estimated depth to, the seasonal high water table.

The rule should set forth a quantitative standard, such as one which is consistent with the soil matrix and mottle chroma standards used to differentiate hydric soils from nonhydric soils. A standard should be developed which provides guidance in the recognition and differentiation of soil color variegations caused by redoxomorphic and lithomorphic phenomena such as differential weathering or parent materials, grain and ped coatings, relict mottling, apparent water tables, perched water tables, hanging water tables and capillary fringe water.

Criteria might be established whereby "tri-colored" variegations would be considered to represent the variable oxidation, reduction and hydration states of metals present. The current and proposed rules fail to recognize the significance of non-mottled (and non-variegated) soils which are dominated by low chroma matrix colors. Such soils may be strongly influenced by recurrent saturation, and the resultant reduction and migration of the more soluble metallic compounds may leave behind a profile which is free of oxidized metals and associated high chroma colors in the form of mottles. Under the current and proposed standards such a condition could be easily overlooked simply because of the lack of contrasting colors.

The rule as proposed is likely to result in the widespread use of misnomers to describe soil color patterns which, if appropriately described as mottles, would result in unneeded design modifications. A regional analysis of soil color patterns is frequently useful in differentiating soil color variegations not associated with soil saturation from those color patterns which are the result of soil saturation. The plotting of site sections allows the rapid comparison of soil color features and is useful in obtaining an understanding of hydraulic trends versus soil color anomalies unique to a given profile description. Such practice, if codified, would provide a useful tool to those individuals engaged in evaluating soil data. All too frequently, seasonally high water table determinations are made solely on a lot-by-lot basis and the results are frequently skewed as a result of color patterns observed on one lot only. The elevation of the seasonally high water table would be expected to be relatively flat within soils of moderate permeability. In the commenter's experience, however, lot-by-lot determination often results in seasonally high water table elevations which differ markedly over very short horizontal distances and are thus not logical or accurate.

In summary, the proposed change to N.J.A.C. 7:9A-5.8 should be delayed until the Department formulates quantitative standards or guidelines for administrative authorities and their authorized agents to use in interpreting the complex soil color patterns frequently encountered. (35)

27. COMMENT: Mottling is a major area of concern and one which creates many problems in the field. The commenter has observed situations which were considered mottling only because of the all inclusive definition of mottling in the rules. Observations of mottling should be used to help determine where the seasonally high water table is, but where there is clear evidence to overrule the wet season observations of where it really is, that is what should be admissible in making determinations. Mottling is a useful tool in determining where the water table may be high in relation to the observation of stagnant water. A step in the right direction might be to change the wording to say that mottling might be an indication of a high water table. A little more leeway should be given to the site evaluators and health departments using both the soil maps and the observations. Some consideration should be given to the water table conditions that are not addressed, such as a hanging water table, which may cause mottling, or minerals which may be contained in the soil that may give a false indication of mottling. Considerations must also be given to differences in soil saturation which could be indicative of mottling. (15)

28. COMMENT: Builders face many delays because of this issue of mottling, soil discolorations, and the recognition requirements for saturated zones.

A few applications submitted in Manalapan Township must receive treatment works approvals for waivers where mottling is not indicative of the estimated depth to seasonal high water table. The commenters believe this is also common in surrounding areas.

The commenters do support most of the changes. However, the commenters' written comments to the Department will ask it to provide written interpretations to some of the guidelines that the Department has used in the past to determine if mottling is indicative of a zone of saturation.

One of the things the commenters would ask the Department to look at, though, is the 90-day timeframe the Department has in reference to treatment works approval applications. This 90-day timeframe is not workable for the builders and the local agencies. Since the Department does not perform a site inspection in all circumstances, what information does the Department require from the administrative authority and the applicant for projects that require a treatment works approval for when mottling is not indicative of a zone of saturation? (4, 30)

RESPONSE: The Department has considered all of the comments concerning the proposed changes to N.J.A.C. 7:9A-5.8, and has decided not to adopt the proposed amendments.

When these amendments were proposed on June 1, 1992, the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, were within the jurisdiction of the Wastewater Facilities Regulation Program. The Standards for Individual Subsurface Sewage Disposal System have since been moved to the Land Use Regulation Program, which has experienced soil scientists on staff who are available to make determinations concerning soil mottling.

The position of the Realty Improvement Act Advisory Committee, which recommended the proposed changes to the Standards, is that mottling within the soil profile may not always indicate prolonged seasonal or periodic and recurrent saturation and, therefore, should not be relied upon so heavily in the Standards.

The Standards place a strong emphasis on determining the presence and depth of soil limiting zones, which are horizons or substrata (or combinations thereof) that limit the ability of the soil to attenuate and dissipate applied wastewater. A soil limiting zone of major significance, which must be identified in septic system designs, is the seasonally high water table because it has a direct bearing on wastewater treatment and disposal. One of the most reliable criteria for determining the uppermost limit of the seasonally high water table is the presence of soil mottling, which simply is a variation in soil color which results from prolonged seasonal or periodic and recurrent saturation. N.J.A.C. 7:9A-5.8(b)1 states that when mottling is present, the seasonally high water table shall be taken as the highest level at which mottling occurs.

The formation of mottling is a highly complex and imperfectly understood phenomenon which varies in both appearance and degree of development. A rigorous scientific evaluation involves consideration of mottling in relation to a number of factors including, but not limited to, climate hydrology, soil chemistry, soil mineralogy, soil microbiology, soil texture and soil structure. As a result, generalizations cannot be made regarding mottling that will be true for all sites except that mottles are absent in well drained soils and that mottling of any type is related to prolonged and repeated periods of soil saturation or moisture contents close to saturation.

The Department also recognizes that there are cases where mottles of high chroma occur above mottles of low chroma, and, in such cases the low chroma mottles are more indicative of the average position of the seasonally high water table. In other cases, high chroma mottles are the only type of mottles present in soils which are known to be poorly drained. Because there are no accepted rules for interpreting the significance of different types of mottles, there is no basis for a provision in the rules that mottles with a chroma greater than two are to be evaluated on a case-by-case basis in determining the presence of a zone of saturation.

A zone of near saturation caused by a hanging water table or the capillary rise above the water table is no less a limitation than a zone of saturation resulting from any other cause. There is no basis for treating these conditions differently.

Relict mottling is a relatively uncommon condition and its recognition can involve complex technical considerations. Where relict mottling has been established, determination of the true seasonally high water table becomes a problem since the evidence of soil morphology can no longer be used. In some cases, the site's history may indicate that mottling is a relict condition, but the site history rarely includes detailed measurements of how the water table level has changed as a result of site drainage. Since standard criteria for the evaluation of relict water tables have not been developed, it is appropriate for such cases to be reviewed by the Department through the treatment works approval process.

Groundwater seepage into a soil profile pit during soil evaluation can only occur if a zone of saturation occurs in the soil. It is true that such a condition may be present in a well drained soil for short periods of time during or immediately following a heavy rainfall. It is a poor practice to conduct soil evaluation during such periods of time and can be avoided by waiting several days after a heavy rainfall before conducting site evaluations. Seepage which does not dissipate within a short period of time after a rain event is indicative of a soil limitation which must be addressed in the disposal field design.

The Department acknowleges that mottling may occur as a result of factors other than seasonal saturation, but it does not agree that such cases are widespread. Currently, the rules at N.J.A.C. 7:9A-5.8 provide a means for identifying zones of saturation which may limit the ability of the soil to provide adequate treatment for septic tank effluent. The standards for soil evaluation can be used for most sites and provide an objective basis for approval by health officers, sanitarians and professional engineers whose training in the principles of soil science may be limited. The rules do not require the use of highly complex procedures or analyses. The application of the criteria will result in estimations of seasonal high water table which are accurate in most cases and conservative in all cases. This approach yields standards that are simplified but conservative from the standpoint of public health and safety and environmental quality.

Deleting this standard on the basis that all mottling does not indicate a zone of saturation without providing some means for distinguishing when mottling does or does not indicate a zone of saturation can only lead to confusion and disputes which are not readily resolved. It would be irresponsible for the Department to allow conservative interpretations of mottling, which would require soil science expertise, unless it also required a qualified professional soil scientist to perform the evaluation. Such a requirement is inappropriate and impractical in the absence of established standards and procedures for certifying soil scientists and because there are not enough qualified professional soil scientists to perform these evaluations at the local level.

In special cases where these criteria are not valid and where wet season monitoring or other more elaborate procedures are necessary, or where scientific data can be provided to show that the seasonally high water table is lower in evaluation than the mottling or that the mottling is not caused by seasonal saturation, the Department can evaluate such information as part of the treatment works approval process, set forth in N.J.A.C. 7:9A-3.9(b)2. When submitted, this information will be reviewed by professional soil scientists working for the Land Use Regulation Program. Since the January 1, 1990, operative date of the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, the Department has processed approximately 25 treatment works approval applications where the mottling in the soil profile was a result of a phenomenon other than prolonged seasonal or periodic and recurrent saturation.

Once a treatment works approval application is submitted and deemed administratively complete, the Department has 90 days to render a decision, pursuant to N.J.A.C. 7:1C, the rules governing 90-day construction permits. The Department is aware of some of the time constraints that applicants face and will endeavor to review the applications as expeditiously as possible; however, due to limited staffing, the Department is sometimes unable to act upon such applications as quickly as it would like. The Department is working to make the treatment works approval review process more efficient and to provide quicker responses on such applications.

The Department acknowledges the comments concerning the certification of site evaluators. The Department, however, does not currently have in place the necessary standards or procedures to certify persons involved in site evaluation for individual subsurface sewage disposal systems, nor is it necessary in light of the objective criteria of N.J.A.C. 7:9A-5.8.

29. COMMENT: At the hearing, it was suggested that the Department provide site evaluators to determine the seasonally high water table. The commenter would encourage the Department to offer this service to local health agencies upon request, particularly for sites with unusual soil morphology.

Also, the commenter supports the suggestion that the Department provide continuing education regarding on-site evaluation and the recognition of mottling as an indicator of seasonal high water table in each county. The Soil Conservation Service in Monmouth County has been a valuable educational resource. (4)

RESPONSE: The Department will conduct a site evaluation in those instances where mottling is not indicative of a zone of saturation and when a treatment works approval application has been submitted to the Department.

The Rutgers University-Cook College Continuing Education Office offers a seminar every year entitled, "Soils and Site Evaluation," in which basic concepts of soil science are taught in classroom and field exercises. The Department and the Soil Conservation Service are usually involved as presenters each year.

N.J.A.C. 7:9A-6.1 General provisions for permeability testing

30. COMMENT: The commenters strongly support the proposed deletion of the 25 percent overdesign factor when using the percolation test as the basis for designing an individual subsurface sewage disposal system. (4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 21, 22, 23, 24, 27, 29, 30, 32, 33)

RESPONSE: The Department acknowledges the comments in support of the deletion of the 25 percent overdesign factor for disposal fields when based upon the results of a percolation test.

31. COMMENT: The commenter objects to the elimination of the 25 percent overdesign factor imposed for the use of the standard percolation test. The time to satisfactorily complete a percolation test on marginal soils can be extensive. Due to presoak requirements, a single test on poorly drained soils can take an entire work day. The local health official often does not witness the entire test, and when many lots are tested over many days, the health official can provide only limited inspection services. Although technically valid when performed properly, this test, because of the time it takes, discourages proper municipal or county oversight. The 25 percent overdesign is a disincentive to the use of this test and should be maintained. (31)

32. COMMENT: Complete repeal of the 25 percent overdesign safety factor for disposal field sizing based on percolation tests does not take into consideration the use of percolation tests performed under the standards existing prior to January 1, 1990. Percolation test results obtained in accordance with prior standards reflect the inherent inconsistency and the lack of reproducibility associated with the methodology allowed at that time. The 25 percent overdesign safety factor should be retained for tests performed in accordance with prior standards. (34)

RESPONSE: The Department disagrees with these comments. The Department believes that the conservative nature of the design flow criteria and the disposal field sizing criteria based upon the long term acceptance rate provide an adequate design safety factor for disposal fields sized on the basis of the results of a percolation test. Additionally, the administrative authority has the authority, pursuant to N.J.A.C. 7:9A-6.1(g), to require additional testing when the results of permeability or percolation tests are questionable.

N.J.A.C. 7:9A-8.2 Septic tanks

33. COMMENT: The commenters support the proposed change to this section that gives the design engineer the option of using different types of manhole covers. The commenters also suggest that, in addition to allowing the design engineer to approve these alternate manhole cover materials, the administrative authority also be given the ability to approve these materials. (4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 21, 22, 24, 27, 29, 30, 32, 33)

RESPONSE: The Department acknowledges the comments in support of the rule change. The administrative authority, at N.J.A.C. 7:9A-8.2(1)2, has been given the authority to approve other materials that may be specified by the professional engineer.

34. COMMENT: The commenter suggests that the Department incorporate structural standards for polyethylene septic tanks into the rule, as is done now for concrete and fiberglass septic tanks. (2)

RESPONSE: Structural requirements for polyethylene septic tanks are included by the reference to the Canadian Standards Association in CSA Standard CAN3-B66-M79 at N.J.A.C. 7:9A-8.2(e)7.

35. COMMENT: The commenter supports the proposed changes to N.J.A.C. 7:9A-8.2 and 9.2, and suggests that the proposed amendments allowing the concrete riser for septic and losing tanks to be brought to within six inches of finished grade and be composed of materials other than cast iron, as currently required, be extended to include seepage pits also. (3)

RESPONSE: The Department agrees with this comment to include seepage pits in the revised manhole requirements. Not extending these requirements to seepage pits in these proposed amendments, was an oversight by the Department. The Department will include this modification in the upcoming readoption of the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, which the Department plans to publish in early fall of 1993, one year before the rules are due to expire.

36. COMMENT: It is likely that many of the concrete manhole lids covered with six inches or less of soil will stay uncovered after the septic or dosing tanks are serviced. As a result, these unbolted, unlocked lids will be accessible to children. In addition, the lids will be subject to weathering and traffic that accelerate deterioration. Finally, due to the shallow cover requirement, it will be difficult for the administrative authority to determine compliance until the sewage system is back-filled, which will require an additional inspection (this additional inspection will also be necessary to confirm the presence of the permanent, non-corrosive three inch marker proposed in the amendments). Locating lids buried to a greater depth will not be difficult where septic and dosing tanks are provided with inspection ports or vents. Requiring that lids be covered with 12 to 18 inches of soil will encourage property owners to recover the lids after tank servicing. (34)

RESPONSE: Rather than amend the rule as suggested by the commenter, the Department will investigate whether the suggested change is appropriate and, if warranted, make it part of the upcoming readoption to amend these rules, which the Department plans to publish in early fall of 1993, one year before the rules are due to expire. The Department is not requiring that an additional inspection be performed as indicated in the comment. The administrative authority does not have to inspect the installation if the licensed professional engineer certifies by signature and seal that the installation has been located, constructed, installed, or altered in compliance with the requirements of the standards and the approved engineering plans.

37. COMMENT: The commenter suggests that the proposed requirement for the septic tank manhole marker be deleted since the location of the septic tank will be known because of the existing requirement for the inlet and outlet inspection ports to be above finished grade. (2)

RESPONSE: The Department disagrees with this comment. The purpose of these amendments was to reduce some avoidable costs associated with installing a septic system while maintaining the Department's original objective of enabling homeowners to know the location of and have easy access to their septic tank.

N.J.A.C. 7:9A-9.2 Dosing tanks

38. COMMENT: The commenters support the proposed change to this section that would give the design engineer the option of using different types of manhole covers. The commenters also suggest that, in addition to allowing the design engineer to approve these alternate manhole cover materials, the administrative authority also be given the ability to approve these materials. (4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 21, 22, 24, 27, 29, 30, 32, 33)

39. COMMENT: The commenter suggests that the Department incorporate structural standards for polyethylene dosing tanks into the rule, as is done now for concrete and fiberglass septic tanks. (2)

40. COMMENT: The commenter suggests that the proposed requirement for the manhole marker be deleted, since the location of the dosing tank will be known because of the existing requirement for the inlet and outlet inspection ports to be above finished grade. (2)

RESPONSE: The Department acknowledges the comments in support of the rule change. The administrative authority has been given the authority at N.J.A.C. 7:9A-9.2(d)7 to approve other materials as specified by the professional engineer.

Structural requirements for polyethylene septic tanks and dosing tanks are included by the reference to the Canadian Standards Association in CSA Standard CAN3-B66-M79 at N.J.A.C. 7:9A-8.2(e)7.

The purpose of these amendments was to reduce some avoidable costs associated with installing a septic system while maintaining the Department's original objective of enabling homeowners to know the location of and have easy access to their dosing tank.

N.J.A.C. 7:9A-9.5 Laterals; gravity distribution

41. COMMENT: The commenter supports and commends the Department for reducing the number of inspection ports required in a disposal field. (1)

RESPONSE: The Department acknowledges the comment in support of the adopted amendment, which requires inspection ports only in the corners of the disposal field.

42. COMMENT: An amendment that will reduce the required number of disposal field inspection ports to four deserves support; however, an additional inspection port should be required for all distribu-

tion boxes. This additional inspection port will facilitate inspection of the distribution box for solids carry-over and for evidence of hydraulic failure. In addition, this inspection port will permanently mark the location of the distribution box, making uncovering of the distribution box and inspection for equal distribution of the effluent much easier. It will also provide access for hydrogen peroxide treatment of the disposal field when that appears appropriate. (34)

RESPONSE: The Department disagrees with this comment since there are already access requirements in the standards concerning distribution boxes at N.J.A.C. 7:9A-9.4(a)5; therefore, there is no need to provide for an inspection port for the distribution box.

N.J.A.C. 7:9A-10.2 Disposal field sizing requirements

43. COMMENT: The commenter suggests that Table 10.2(c) be retitled as "Minimum Required Disposal Field and Bottom Lined Soil Replacement Trench Bottom Area Per Gallon of Daily Sewage Volume, L/Q (ft/gal per day)" to more clearly identify what it refers to. (2)

RESPONSE: The Department does not believe that the suggested change is warranted, since Table 10.2(a) at N.J.A.C. 7:9A-10.2 already shows which disposal field sizing criteria to use for each type of disposal trench and disposal bed installation.

N.J.A.C. 7:9A-12.2 System inspection requirements

N.J.A.C. 7:9A-12.3 Septic tank maintenance

N.J.A.C. 7:9A-12.4 Additional inspection and maintenance requirements for grease traps

N.J.A.C. 7:9A-12.5 Maintenance of dosing tanks

N.J.A.C. 7:9A-12.6 Disposal field maintenance

44. COMMENT: The commenters feel that N.J.A.C. 7:9A-12.2, 12.3, 12.4, 12.5 and 12.6 should be deleted since the license to operate requirements are being deleted. (9, 16)

RESPONSE: N.J.A.C. 7:9A-12.2, 12.3, 12.4, 12.5 and 12.6 are being repealed as proposed, since without the mandatory operation and maintenance requirements of the license to operate these sections have no place in the rule.

Comments Beyond the Scope of the Proposal

The following comments were beyond the scope of the June 1, 1992, proposal. These comments will be addressed in the upcoming readoption of these rules which the Department will publish in early fall of 1993.

45. COMMENT: Two townships in Hunterdon County are actively supporting alternative low/moderate income housing for seniors and disabled persons utilizing the ECHO (Elder Cottage Housing Opportunity) concept, in which a small (660 square feet) house is temporarily placed behind the existing dwelling.

In reviewing these new standards, it would seem that this would be an appropriate time where this situation could be addressed. The rules could allow for the temporary hookup of such a housing unit, subject to an application and proof that the existing system is functioning correctly and has sufficient design capacity. In addition, the Department should require a proof of pumpout every two years.

If N.J.A.C. 7:9A could be amended to reflect the legality of temporary connections for ECHO dwellings subject to the procedures described above, a housing alternative for persons with low/moderate incomes would become a reality. (20)

46. COMMENT: The Department should delete N.J.A.C. 7:9A-3.18, which subjects applications for certification of sewerage facilities serving subdivisions involving more than 10 realty improvements to additional requirements. The type of information required is excessive and rarely used. Additionally, some of this information is not available (for example, location of water supply wells within 500 feet), since local records may not be available. The commenter does not believe the Department has the authority under the Realty Improvement Act to impose this requirement. (9, 16)

47. COMMENT: Concerning the Soil Permeability Class Rating Test Method, the commenter would like to refer the Department to the article by N.N. Hantzsche et al., from which the code was adapted. In the adaptation of this article, the commenter found a significant omission and two misuses of the procedure cited, the result of which could be hydraulic failure of the septic system. Further, this method is inappropriate under certain circumstances because it may yield a passing permeability class, when field testing has yielded a failing rate.

The omission from the Hantzsche article is the adjustment for the compactness of soil. The Department should amend this test method to emphasize that the soil log be an intrinsic part of the test, since the laboratory results of percentages of sand, silt, and clay do not stand alone. The test method should include a provision to assess bulk density. This characteristic is not the same as consistence or structure. Relying so strongly upon the identification of massive or platy structures or very firm consistence should not be the substitute for the effects of bulk density. The potential damage of this omission is to allow for the design of a septic system when, in reality, the native soils do not have a passing permeability, or percolation rate, which could lead to hydraulic failure.

A similar danger exists due to the misuses of the article's procedures. The authors specifically state that the procedures are not intended for use in the sizing of soil absorption systems. (See page 59, On-Site Sewage Treatment, Proceedings of the Third National Symposium on Individual and Small Community Sewage Treatment, ASAE, 1982). The authors also state that, for Zone 3 soils, essentially the Department's K1 Class, permeability testing under saturated conditions needs to conducted to adequately assess their suitability. (See page 56, On-Site Sewage Treatment.)

The commenter strongly urges the Department to amend the Soil Permeability Class Rating Test Method to accommodate New Jersey's clay mineralogy and thereby avoid septic system failures. (23)

48. COMMENT: In keeping with the recommendations of the Statutory Advisory Committee, the commenter urges the Department to revise N.J.A.C. 7:9A-7.3 and 12.1 to permit "backwash from water softeners to be disposed of within the septic system." This change would require replacing the words "shall not" with "may." Review of current research does not support the current prohibition. (4, 9, 16, 30)

49. COMMENT: Nearly every contractor with whom the commenter has worked in placing select fill has, since January 1990, experienced substantial delays during construction in order to comply with existing code requirements on select fill. Specifically, the commenter cannot get assurances from the quarries that the material delivered on-site meets the stipulated gradation analysis. This, then, necessitates at least two trips to the site by the engineer. The first trip is to inspect and/or sample the select fill and assess the compaction method for that particular select fill. The second trip is to conduct the permeability testing of the compacted select fill in place.

It is becoming more common, in the commenter's experience, for the contractor to deliver only the first two or three truckloads, until the engineer informs him or her that the select fill is approved. This translates into a one- to four- (or more) day delay for the contractor. Given the level of accountability to which engineers, installers, and local health department personnel are held, it troubles the commenter to repeatedly encounter this situation with quarries. Are the quarries in some way exempt from the regulations?

Lastly on select fill, the commenter would like to see a provision which requires in situ testing of fill material by either a tube permeameter test, or percolation test, conducted on the fill material after it has been placed and compacted, for the purpose of quantifying the permeability rate, or percolation rate, of the compacted select fill. (23)

50. COMMENT: N.J.A.C. 7:9A-12.8 needs to be modified to provide that, where systems are abandoned due to the installation of public sewerage, that the Department of Community Affairs regulations must be enforced. In other situations, where systems are abandoned due to the replacement by new septic system, the administrative authority shall be responsible for ensuring appropriate pumping and backfilling. (28)

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

7:9A-1.1 Purpose

(a) The purpose of this chapter is to:

1. (No change.)

2. Provide standards for the proper location, design, construction, installation, alteration, repair and operation of individual subsurface sewage disposal systems;

3.-5. (No change.)

7:9A-1.2 Scope

(a) This chapter prescribes standards for the location, design, construction, installation, alteration, repair and operation of individual subsurface sewage disposal systems.

(b) (No change.)

7:9A-1.6 General prohibitions

(a) A person shall not install, construct, alter or repair an individual subsurface sewage disposal system without first obtaining the necessary permits, approvals or certifications as required by this chapter.

(b) An administrative authority shall not issue an approval, permit or certification for installation, construction, alteration or repair of an individual subsurface sewage disposal system where such installation, construction, alteration or repair will violate or otherwise not be in compliance with the requirements of this chapter.

(c) (No change.)

(d) Individual subsurface sewage disposal systems shall not be located, designed, constructed, installed, altered, repaired or operated in a manner that will allow the discharge of effluent onto the surface of the ground or into any water course.

(e)-(f) (No change.)

(g) The construction or installation of cesspools is prohibited. Alterations, repairs, and/or corrections to cesspools shall, at a minimum, include placement of a septic tank sized in conformance with N.J.A.C. 7:9A-8.2 before the point of discharge into the cesspool.

(h)-(j) (No change.)

7:9A-1.7 Penalties

Violation of any provision of this chapter shall be a violation of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the violator shall be subject to assessment of civil administrative penalties pursuant to the provisions of N.J.A.C. 7:14-8.

7:9A-2.1 Definitions

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

. . .

"Mottling" means a color pattern observed in soil consisting of blotches or spots of contrasting color. The term "mottle" refers to an individual blotch or spot. Mottling *[usually]* is an indication of seasonal or periodic and recurrent saturation.

. . .

"Practice of engineering" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design or general supervision of construction or operation for the purpose of assuring compliance with plans, specification and design in connection with any public or private engineering or industrial project.

. . .

7:9A-3.3 Existing systems

(a) (No change.)

(b) When an expansion or a change in use of a building or facility served by an individual subsurface sewage disposal system is proposed and this expansion or change will result in an increase in the volume of sanitary sewage (determined as prescribed at N.J.A.C. 7:9A-7.4) or a change in the type of wastes discharged, the administrative authority shall not approve such an expansion or change unless all aspects of the location, design, construction, installation and operation of the system are in conformance with the requirements of this chapter or are altered so that they will be in conformance with this chapter.

(c) Alterations made to a system for reasons other than a change of use or expansion as described in (b) above may be approved by the administrative authority provided that all of the following conditions are met:

1. If the scope of the alteration is such that it constitutes the practice of professional engineering according to N.J.S.A. 45:8 and the rules adopted pursuant to the same, then such alterations shall be made in conformance with plans and specifications signed and sealed by a licensed professional engineer.

2.-3. (No change.)

(d) Repairs may be made in the same manner as in the original system, with the exception of cesspools which shall be corrected as prescribed at N.J.A.C. 7:9A-1.6(g), provided that all repairs are approved by the administrative authority.

(e)-(f) (No change.)

7:9A-3.4 Malfunctioning systems

(a) (No change.)

(b) When an individual subsurface sewage disposal system has been determined to be malfunctioning, the owner shall take immediate steps to correct the malfunction. When it becomes necessary to repair or replace one or more system components or to make alterations to a system, all of the following requirements shall be met:

1. (No change.)

2. Alterations made to correct a malfunctioning system shall meet the requirements of N.J.A.C. 7:9A-3.3(c). In cases where the alteration does not involve the practice of engineering as defined by N.J.S.A. 45:8-28(b), the administrative authority or its authorized agent may approve plans and specifications prepared by a septic system installer rather than a licensed professional engineer.

3. (No change.)

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

7:9A-3.5 Permit to construct or alter

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

(c) The applicant shall submit a complete, accurate and properly executed application to the administrative authority. All soil logs, soil testing data, design data and calculations, plans and specifications, and other information submitted in connection with the subsurface sewage disposal system design shall be signed and sealed by a licensed professional engineer except where N.J.A.C. 7:9A-3.3(c)1 allows otherwise. The application shall include the following information:

1. (No change.)

2. A site plan, prepared in accordance with N.J.A.C. 13:40-7 and drawn at a scale adequate to depict clearly the following features within a 150 foot radius around the proposed system:

i.-xi. (No change.)

3.-8. (No change.)

(d) (No change.)

7:9A-3.7 Modification of plans

(a) Modification of plans or specifications for an individual subsurface sewage disposal system made subsequent to approval of the plans shall not be carried out unless the revisions are in conformance with the requirements of this chapter and noted on a revised set of plans which have been signed, sealed and dated by a licensed professional engineer and approved by the administrative authority or its authorized agent.

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

7:9A-3.9 Treatment works approval

(a) A treatment works approval issued by the Department is required for any subsurface sewage disposal system other than a system serving a single dwelling unit, building, commercial unit or other realty improvement, located on a single property, generating less than 2,000 gpd of sanitary sewage only, which is designed, constructed and operated in conformance with this chapter.

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

7:9A-3.10 NJPDES permits

(a) Individual subsurface sewage disposal systems which serve single family dwelling units and which are located, designed, constructed, installed, altered, repaired and operated in conformance with the requirements set forth in these standards are exempt from NJPDES permit requirements in accordance with N.J.A.C. 7:14-5.1(b)2ii.

(b) Subsurface sewage disposal systems which serve facilities other than single family dwelling units and which are located, designed, constructed, installed, altered, repaired and operated in conformance with the requirements set forth in this chapter, and N.J.S.A. 58:11-43 et seq. where these restrictions are applicable, are authorized by rule.

(c) (No change.)

7:9A-3.12 Holding tanks

(a) The administrative authority may approve the use of a sewage holding tank in lieu of an individual subsurface sewage disposal system, as a temporary means of waste disposal, for a period not to exceed 180 days, where alteration or repair of an existing system is being implemented as approved by the administrative authority.

(b) (No change.)

7:9A-3.14 Notification of proper operation and maintenance practices

(a) The administrative authority shall notify each property owner issued approval for the design, construction, installation, alteration or repair of an individual subsurface sewage disposal system after January 1, 1990 of the proper operation and maintenance practices.

(b) Written notification of the proper operation and maintenance practices shall initially be issued to the applicant with the approval for the location, design, construction, installation, alteration or repair of the individual subsurface sewage disposal system and reissued on a triennial basis to the present property owner. For approvals issued before *[the effective date of this amendment]* ***June 21, 1993***, the notification shall be accomplished *[within six months of the amendment's effective date]* ***by December 21, 1993*** and reissued on a triennial basis, thereafter.

(c) The written notification shall inform the present property owner how to properly operate and maintain an individual subsurface sewage disposal system***. A mass mailing to all property owners who have individual subsurface sewage disposal systems is an acceptable method of notice. The notice shall include,*** *[and include the following]* at a minimum:

1. A general outline of how an individual subsurface sewage disposal system works and the potential impact of improper operation and maintenance on system performance, ground and surface water quality, and public health;

2. The recommended frequency of septic tank and grease trap pumping to prevent over-accumulation of solids, and methodology for inspection to determine whether pumping is necessary;

3. A list of materials containing toxic substances which are prohibited from being disposed of into an individual subsurface sewage disposal system;

4. A list of inert or non-biodegradable substances which should not be disposed of within an individual subsurface sewage disposal system;

5. Proper practices for maintaining the area reserved for sewage disposal;

6. Impacts upon system performance resulting from excessive water use; and

7. Warning signs of poor system performance or malfunction and recommended or required corrective measures.

(d) The written notification may be developed by the administrative authority, or the administrative authority may distribute copies of an operation and maintenance manual made available by the Department.

7:9A-3.15 Records

(a) The administrative authority or its authorized agent shall maintain records and shall keep on file copies of the following documents:

1.-5. (No change.)

6. (No change in text.)

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

7:9A-5.8 Criteria for recognition of zones of saturation

(a) (No change.)

(b) The upper limit of the zone of saturation, which is the seasonally high water table, shall be determined by one of the following means:

1. Where mottling is observed, at any season of the year, the seasonally high water table shall be taken as the highest level at which mottling is observed, except*[:]* ***when the water table is observed at a level higher than the level of mottling.***

*[i. When the water table is observed at a level higher than the level of mottling; or

ii. When adequate information is provided to the satisfaction of the administrative authority demonstrating that such mottling is not indicative of seasonal or recurrent and periodic saturation but rather is a soil color feature related to concretions, cemented bodies, zones of weathered rock fragments, filled animal burrows and root channels or other soil morphological phenomena not associated with seasonal or recurrent and periodic saturation and the criteria in (d), (e) and (f) below does not apply. In such cases, the criteria in (b)2i and (b)2ii below, or other means as deemed acceptable by the administrative authority, may be used.]*

2.-3. (No change.)

(c)-(g) (No change.)

7:9A-6.1 General provisions for permeability testing

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

(c) The type of tests which may be used shall be determined based upon the purpose of the test and the soil conditions at the depth of the test as shown in Table 6.1 below.

Table 6.1 Type of Test

Test Options:
1—Tube Permeameter Test
2—Soil Permeability Class Rating Test[1]
3—Percolation Test
4—Basin Flooding Test
5—Pit-bailing Test
6—Piezometer Test

Purpose of Test and Soil Conditions at Depth of Test (No change in text.)	Acceptable Test Options (No change.)

[1]This test shall not be used in soil horizons or substrata containing coarse fragments in excess of 50 percent by volume or 75 percent by weight.

(d)-(k) (No change.)

7:9A-8.2 Septic Tanks

(a)-(k) (No change.)

(l) Access openings for septic tanks shall meet the following requirements:

1. (No change.)

2. All manholes at a minimum shall be extended to within six inches of finished grade by means of a riser fitted with a removable watertight cover. Where manholes are extended flush with finished grade, covers shall be bolted or locked to prevent access by children and shall be of cast iron when a concrete riser is used. When manholes are not extended to finished grade, covers shall be constructed of precast reinforced concrete, fiberglass, polyethylene or other materials as specified by a licensed professional engineer and approved by the administrative authority. The location of the manhole shall be marked on the ground surface by means of a permanent, non-corrosive marker a minimum of three inches in diameter.

3.-4. (No change.)

(m) (No change.)

7:9A-9.2 Dosing tanks

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

(d) All dosing tanks shall meet the following requirements regardless of whether a pump or siphon is used.

1.-6. (No change.)

7. Dosing tanks shall be readily accessible for service and repair. A removable watertight cover or a manhole with a removable watertight cover shall be provided. Manholes shall be a minimum of 24 inches in diameter or 24 inches square and shall be located directly over the pump or siphon. The top of the tank or manhole riser, at a minimum, shall be extended to within six inches of finished grade and be equipped with a watertight cover. Where manholes are extended flush with finished grade, the cover shall be bolted or locked to prevent access by children and shall be of cast iron when a concrete riser is used. When the top of the tank or manhole

is not extended to finished grade, covers shall be constructed of precast reinforced concrete, fiberglass, polyethylene or other materials as specified by a licensed professional engineer and approved by the administrative authority. The location of the manhole shall be marked on the ground surface by means of a permanent, non-corrosive marker a minimum of three inches in diameter.

8. (No change.)

(e)-(f) (No change.)

7:9A-9.3 Connecting and delivery pipes

(a) Connecting pipes between pretreatment units and dosing tanks, distribution boxes or distribution networks, and delivery pipes discharging effluent from dosing tanks shall be of such size as to serve the connected fixtures but in no case less than one and one half inches in diameter. Delivery pipes from dosing tanks using siphons shall be one nominal size larger than the siphon to facilitate venting.

(b)-(f) (No change.)

7:9A-9.5 Laterals; gravity distribution

(a) Gravity flow networks and gravity dosing networks may consist of a single distribution lateral, two or more laterals connected by means of elbows or tees, or two or more separate distribution laterals connected independently to a distribution box. Distribution laterals shall meet all the following requirements:

1.-5. (No change.)

6. An inspection port shall be provided in each corner of the disposal bed or at each end of a disposal trench. Inspection ports shall consist of a perforated pipe with a removable cap, extending from the level of infiltration to finished grade.

(b) (No change.)

7:9A-9.6 Pressure dosing networks

(a) Pipe networks for pressure dosing systems shall consist of two or more distribution laterals connected to a central or end manifold. The following requirements shall be met:

1.-6. (No change.)

7. An inspection port shall be provided in each corner of a disposal bed or at each end of a disposal trench. Inspection ports shall consist of a perforated pipe with a removable cap, extending from the level of infiltration to finished grade.

8. (No change.)

7:9A-9.7 Design procedure for pressure dosing systems

(a) The following procedure shall be used for disposal fields consisting of a disposal bed or disposal trenches which are at equal elevations.

1.-2. (No change.)

3. Step Three: Based upon the hole diameter and the hole spacing selected and the length of the laterals, determine the required diameter of laterals using Figure 14 of Appendix A. If the disposal field configuration is such that it is beyond the applicable limits of Figure 14, other methods of hydraulically evaluating adequate lateral diameter may be used subject to prior approval by the administrative authority.

4. (No change.)

5. Step Five: Based upon the number of laterals and the lateral spacing, determine the manifold length. Based upon the manifold length, the lateral discharge rate and the number of laterals, using Figure 15 of Appendix A, determine the required manifold diameter. If the disposal field configuration is such that it is beyond the applicable limits of Figure 15, other methods of hydraulically evaluating proper manifold diameter may be used subject to approval by the administrative authority.

6. (No change.)

7. Step Seven: For pump systems, select the proper pump as follows:

i. Using Figure 16 of Appendix A, determine the friction head based upon the system discharge rate and the diameter and length of the delivery pipe. If the system discharge rate is such that it is beyond the applicable limits of Figure 16, then other methods of determining friction head in the delivery pipe may be used subject to approval by the administrative authority.

ii.-iii. (No change.)

8. (No change.)

(b) (No change.)

7:9A-10.2 Disposal field sizing requirements

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

TABLE 10.2(b) MINIMUM REQUIRED DISPOSAL FIELD TRENCH LENGTH PER GALLON OF DAILY SEWAGE VOLUME, L/Q (ft/gal per day)

(No change in text.)

TABLE 10.2(c) MINIMUM REQUIRED DISPOSAL FIELD BOTTOM AREA PER GALLON OF DAILY SEWAGE VOLUME, A/Q (ft^2/gal per day)

(No change in text.)

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[1]Additional Requirements

a. Where garbage disposal units are installed or proposed, the value obtained from this table shall be increased by a factor of 25 percent for use in disposal field sizing.

7:9A Appendix A

Figures 1-14 (No change.)

Figure 15: Required manifold diameters for various manifold lengths, number of laterals and lateral discharge rates

(No change in table.)

Computed for plastic pipe only. The Hazen-Williams equation was used to compute headlosses through each segment (Hazen-Williams C = 150). The maximum manifold length for given lateral discharge rate and spacing was defined as that length at which the difference between the heads at the distal and supply ends of the manifold reached 10 percent of the head at the distal end.

Figure 16 (Agency Note: Current Figure 16 in the New Jersey Administrative Code is proposed for deletion and replacement with proposed Figure 16 as shown below)

FRICTION LOSS IN SCHEDULE 40 PLASTIC PIPE, C = 150
(ft/100 ft)

Flow (gpm)	Pipe Diameter (in) 1	1¼	1½	2	2½	3	4	6	8	10
2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
4	1.01	.....	.....	.....	.....	.....	.....	.....	.....	.....
6	2.14	0.55	.....	.....	.....	.....	.....	.....	.....	.....
8	3.63	0.97	0.46	.....	.....	.....	.....	.....	.....	.....
10	5.50	1.46	0.70	0.21	.....	.....	.....	.....	.....	.....
12	5.64	2.09	1.01	0.30	0.12	.....	.....	.....	.....	.....
15	11.75	3.06	1.45	0.44	0.18	0.07	.....	.....	.....	.....
18		4.37	2.07	0.62	0.25	0.10	.....	.....	.....	.....
20		5.23	2.46	0.73	0.31	0.12	.....	.....	.....	.....
25		7.89	3.72	1.10	0.46	0.16	.....	.....	.....	.....
30		11.10	5.22	1.55	0.65	0.23	.....	.....	.....	.....
35			6.95	2.06	0.87	0.30	0.07	.....	.....	.....
40			8.90	2.62	1.11	0.39	0.09	.....	.....	.....
45			11.06	3.29	1.38	0.48	0.12	.....	.....	.....
50			13.45	3.98	1.68	0.58	0.16	.....	.....	.....
55			16.04	4.75	2.00	0.70	0.18	.....	.....	.....
60			18.85	5.58	2.35	0.81	0.21	.....	.....	.....
65			21.86	6.47	2.72	0.95	0.25	.....	.....	.....
70				7.43	3.13	1.08	0.28	.....	.....	.....
75				8.44	3.55	1.12	0.33	.....	.....	.....
80				9.51	4.00	1.38	0.37	.....	.....	.....
85				10.64	4.49	1.55	0.41	.....	.....	.....
90				11.83	4.98	1.73	0.46	.....	.....	.....
95					5.50	1.91	0.49	.....	.....	.....
100					6.05	2.09	0.55	0.07	.....	.....
110					7.22	2.51	0.67	0.09	.....	.....
120					8.48	2.94	0.78	0.11	.....	.....
130						3.42	0.91	0.12	.....	.....
140						3.92	1.04	0.14	.....	.....
150						4.45	1.17	0.16	.....	.....
200							2.02	0.28	0.07	.....
250							3.05	0.41	0.11	.....
300								0.58	0.16	.....
350								0.78	0.20	0.07
400								0.99	0.26	0.09
450								1.22	0.32	0.11
500									0.38	0.14
600									0.54	0.18
700									0.72	0.24
800										0.32
900										0.38
1000										0.46

Figure 16. Friction Loss in Schedule 40 Pipe

Figures 17-26 (No change.)

7:9A Appendix B

STANDARD FORMS FOR
SUBMISSION OF SOILS/ENGINEERING DATA

COUNTY/MUNICIPALITY

...

(a)

ENVIRONMENTAL CLAIMS ADMINISTRATION

Processing of Damage Claims under the Sanitary Landfill Facility Contingency Fund Act

Readoption with Amendments: N.J.A.C. 7:1I

Proposed: March 1, 1993 at 25 N.J.R. 741(a).
Adopted: May 27, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: May 28, 1993 as R.1993 d.303, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1B-3, 13:1D-9 and 13E-106 and 13:1E-100 et seq., particularly 13:1E-106 and 13:1E-114.
DEPE Docket Number: 08-93-01.
Effective Date: May 28, 1993, Readoption;
June 21, 1993, Amendments.
Expiration Date: May 28, 1998.

Summary of Public Comments and Agency Responses:
No written comments received.

Summary of Hearing Officer Recommendations and Agency Responses:

Susan B. Boyle, the Administrator for the Environmental Claims Administration, served as hearing officer at the public hearing held on March 24, 1993. No comments were received at the hearing. Ms. Boyle recommended that the Department adopt the rule with technical changes as set forth in the rule text below. The hearing record may be reviewed by contacting Janis E. Hoagland, Esq., Department of Environmental Protection and Energy, Office of Legal Affairs, CN 402, Trenton, NJ 08625.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:1I.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

7:1I-1.5 Definitions

The following words and terms, when used in this chapter, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found at N.J.A.C. 7:26-1.4

...

"Discovery***"*** means the time at which the claimant discovers, or by the exercise of reasonable diligence and intelligence should have discovered, that he or she has incurred damages.

...

7:1I-1.9 Relaxation of procedural requirement

(a) Except as provided by (b) below, the Department may relax any of the procedural requirements of this chapter if the Department determines that strict adherence to such requirements would result in unfairness or injustice.

(b) Notwithstanding (a) above, the Department shall not relax procedural requirements of this chapter if such requirements of this chapter are imposed by the Act, by other applicable State or Federal statutes, or by applicable decision, order or decree of a court of competent jurisdiction.

7:1I-2.2 Filing of claims

(a) (No change.)

(b) The claim, once signed and certified under oath, shall be mailed by certified mail, return receipt requested, or delivered by hand to the Sanitary Landfill Facility Contingency Fund, Environmental Claim Administration, New Jersey Department of Environmental Protection and Energy, CN 028, Trenton, New Jersey 08625.

Recodify existing N.J.A.C. 7:1I-3.4 through 3.6 as 3.3 through 3.5 (No change in text.)

Recodify existing N.J.A.C. 7:1I-4.3 through 4.5 as 4.2 through 4.4 (No change in text.)

SUBCHAPTER 7. PROPERTY VALUE DIMINUTION CLAIMS

7:1I-7.1 Extent of eligibility

Claims for diminution of property value shall be eligible for compensation from the Fund only to the extent that such diminution *[ap]*proximately results from the operations or closure of a sanitary landfill. A diminution of property value may be deemed attributable to a sanitary landfill notwithstanding the lack of any physical intrusion of the sanitary landfill onto the subject property. A diminution in the claim of any improvements to the subject property made after the date of discovery of damages shall not be eligible for compensation from the Fund.

7:1I-7.2 Requirements for eligibility

(a) Except for claims settled under N.J.A.C. 7:1I-7.6 or 7.7, claims for diminution of property value are not eligible for compensation by the Fund unless the claimant has sold the subject property and the Fund determines that the claimant's sale of the subject property was in good faith, based upon the appraisals made pursuant to N.J.A.C. 7:1I-7.3 and the information submitted pursuant to N.J.A.C. 7:1I-7.5.

(b) Within 30 days after filing the claim, the claimant shall list the subject property for sale with one or more licensed real estate brokers who are members of a multiple listing service (or its commercial equivalent, for nonresidential property). The claimant shall so list the subject property for sale continuously, until entering into an agreement for the sale of the subject property; provided, however, that discontinuities made necessary by the claimant's good faith choice to list the subject property with another broker shall not be deemed to violate this requirement. One discontinuity of less than 14 days shall be presumed to be in good faith.

7:1I-7.3 Appraisal of subject property

(a) After the claimant has elected under N.J.A.C. 7:1I-7.9 to pursue the claim, or in the case of a new claim filed after the operative date of this chapter, the Fund shall obtain appraisals of the value of the subject property. The appraisals shall be as of the time of the sale of the subject property (or, for claims under N.J.A.C. 7:1I-7.6 or 7.7, as of the date the Fund makes the settlement offer). One such appraisal shall state the value of the subject property as affected by the sanitary landfill (unless the Fund elects not to obtain such appraisal, pursuant to (b) below), and one appraisal shall state the value of the subject property absent the effect of the sanitary landfill. The appraisals may, in the Fund's discretion, be based upon one or more of the following factors:

1. Sales of comparable properties in the immediate area;
2. Income generated by the subject property;
3. Replacement cost of the subject property; and/or
4. Such other factors as are ordinarily considered by real estate appraisers who are members of the Appraisal Institute or who are licensed or certified to perform real estate appraisals in New Jersey.

(b) The Fund may elect not to obtain an appraisal of the subject property as affected by the sanitary landfill if the Fund determines, in its discretion, that there is insufficient information to obtain a meaningful appraisal of the subject property reflecting the effect of the sanitary landfill. Without limiting the discretion of the Fund under this subsection, the Fund may determine that there is insufficient information if fewer than three comparable properties which have been affected by the sanitary landfill have been sold as of the date on which the claim is filed.

7:1I-7.4 Valuation of a claim

(a) If the Fund has obtained appraisals pursuant to N.J.A.C. 7:1I-7.3(a), the amount of the claim eligible for compensation from the Fund shall be equal to the difference between (a)1 and 2 below, adjusted in accordance with (c) below:

1. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), excluding the effect of the sanitary landfill on such value; and

2. The greater of:

i. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), reflecting the effect of the sanitary landfill on such value; or

ii. The price actually obtained by the claimant upon the sale of the subject property, without closing adjustments.

(b) If, pursuant to N.J.A.C. 7:1I-7.3(b), the Fund has elected not to obtain an appraisal of the subject property as affected by the sanitary landfill, the amount of the claim eligible for compensation from the Fund shall be equal to the difference between (b)1 and 2 below, adjusted in accordance with (c) below:

1. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), excluding the effect of the sanitary landfill on such value; and

2. The price actually obtained by the claimant upon the sale of the subject property, without closing adjustments.

(c) The Fund may, in its discretion, adjust the amount determined pursuant to (a) or (b) above by considering other information available to the Fund which supports a conclusion that the amount determined pursuant to (a) or (b) above does not accurately reflect the diminution in the value of the subject property resulting from the sanitary landfill. Such information may include, but is not limited to, any of the following:

1. Information concerning sales of comparable properties considered in establishing an appraisal pursuant to N.J.A.C. 7:1I-7.3(a), indicating that factors other than the sanitary landfill affected the sale prices of such properties. Such information may include, without limitation, the prices of comparable properties within and outside the area in which the sanitary landfill may have affected real property values; the time elapsed between listing for sale and execution of an agreement of sale for comparable properties within and outside the area in which the sanitary landfill may have affected real property values; and specific terms of the agreements of sale (such as financing terms, personal property included in the sale, and apportionments of closing costs);

2. Information concerning sales of comparable properties considered in establishing an appraisal pursuant to N.J.A.C. 7:1I-7.3(a), indicating that such properties have characteristics which distinguish them from the subject property, and which affect the values of such properties;

3. Information concerning the sale of the subject property, indicating that the difference between the sale price and the appraised value of the property reflected factors other than the sanitary landfill. Such information may include, but is not limited to, the time elapsed between listing of the subject property for sale and execution of an agreement of sale; the length of time the subject property was offered for sale, the nature and number of any offers to purchase the subject property; the difference between the initial listing price and the sale price; the number and extent of intermediate reductions in the listing price; specific terms of the agreement of sale for the subject property (such as financing terms, personal property included in the sale and apportionments of closing costs); data concerning the real estate market generally at the time of the sale of the subject property; and other evidence of the good faith nature of the sale required to be submitted under N.J.A.C. 7:1I-7.5; and

4. The effect of the completion of the construction phase of the sanitary landfill remediation or of other amelioration of the damages resulting from the sanitary landfill.

7:1I-7.5 Evidence of good faith sale

(a) Except as provided in N.J.A.C. 7:1I-7.7 and 7.8, within 10 days after the closing of a sale of the subject property, the claimant shall submit the following documents to the Department:

1. Copies of all listing agreements for the sale of the subject property;

2. Copies of all written offers to purchase the subject property;

3. A copy of the contract of sale of the subject property;

4. Copies of all settlement statements, including, without limitation, the HUD-1 Uniform Settlement Statement form if required by 24 CFR 3500.8;

5. A copy of the deed conveying the subject property together with a copy of the transmittal letter forwarding the deed to the county clerk or register of deeds and mortgages for recording;

6. An affidavit by the claimant, signed by the person required to sign the claim and certified in accordance with N.J.A.C. 7:1I-2.2, stating the following:

i. The sale price of the subject property without closing adjustments;

ii. That neither the claimant nor any person not listed on the settlement statements has received any money or other compensation from any party in connection with the subject property, except as set forth on the settlement statements; and

iii. That the documents submitted pursuant to (a)1 through 5 above are delivered in connection with the sale of the subject property; and

7. An affidavit by the claimant's realtor, stating the following:

i. That the realtor is a member of the multiple listing service, and listed the property for sale with the multiple listing service (unless the subject property is of a type not normally sold through a multiple listing service);

ii. The period of time the subject property was offered for sale, and the period of time the property was listed for sale with the multiple listing service;

iii. The initial listing price;

iv. All changes in the listing price, and the dates of such changes;

v. A record of all inquiries received from potential purchasers regarding the subject property, and of all showings or open houses held in the course of offering the subject property for sale, including the names and addresses of all persons who inquired about the subject property, were shown the subject property, or attended open houses at the subject property, and a description of the responses of these persons to the subject property; and

vi. A record of the amount and date of each offer made for the purchase of the subject property.

(b) A determination by the Fund that the claimant arrived at the sale price in good faith shall not preclude the Fund from determining that any other aspect of the sale of the subject property was not in good faith.

(c) The Fund may deny the claim or adjust the amount eligible for compensation, if based upon the evidence required under (a) above, the Fund determines that any aspects of the sale of the subject property was not in good faith.

7:1I-7.6 Settlement based upon legal inability to sell the subject property

(a) If, solely as a result of the sanitary landfill, the claimant is legally unable to sell the subject property (for example, if a certificate of occupancy cannot be issued for the subject property as a result of the sanitary landfill, and the subject property is located in a municipality in which a certificate of occupancy is required for the sale), the Fund may, in its discretion, offer to settle the claimant's claim against the Fund in accordance with this section.

(b) If the Fund elects to settle a claim pursuant to this section, the Fund shall determine the amount of the claim eligible for compensation pursuant to N.J.A.C. 7:1I-7.4. An offer by the Fund to settle the claim shall be in such amount.

(c) The making, acceptance or rejection of such settlement offer pursuant to (b) above shall be in accordance with N.J.A.C. 7:1I-5.3.

(d) As a condition of the settlement of the claim pursuant to this section, the claimant shall cause all persons having an ownership interest in the subject property (including, without limitation, any dower or courtesy interest preserved pursuant to the N.J.S.A. 3B:28-1) to execute, acknowledge and deliver to the Department a document, in recordable form, granting to the Fund a lien on the subject property securing repayment of the full amount of the settlement. The Department shall forward such document to the county clerk or register of deeds and mortgages of the county in which the subject property is located. Such document shall be prepared and recorded at the claimant's expense.

(e) The Fund shall execute, acknowledge and deliver to the claimant a discharge of the lien upon payment of the following amount (provided however, that if the payment amount calculated below is less than zero, the Fund shall execute, acknowledge and deliver the discharge of the lien upon the claimant's written request without the payment of any money; and provided further, that if the payment amount calculated below exceeds the amount of the settlement, the Fund shall execute, acknowledge and deliver the discharge of the lien upon repayment of the settlement amount by the claimant, plus interest at the rate for post-judgment interest established in the Rules Governing the Courts of the State of New Jersey, as such rate is in effect as of the date of the settlement):

Payment amount *[+]* *=* SP - (AV - S)

where

1. SP equals the sale price of the subject property, as adjusted pursuant to the criteria listed in N.J.A.C. 7:1I-7.4(c), if the Fund determines that the actual sale price does not accurately reflect the diminution in the value of the subject property resulting from the sanitary landfill;

2. AV equals the appraised value of the subject property, absent the effects of the sanitary landfill, as adjusted under N.J.A.C. 7:1I-7.4(c); and

3. S equals the amount of the settlement made pursuant to this section.

7:1I-7.7 Settlement when emergency relocation is necessary

If the Fund determines, in its discretion, that environmental conditions at the subject property which result from the sanitary landfill create a substantial risk of imminent harm to the health and safety of the occupants of the subject property, the Fund may suspend any or all of the requirements of N.J.A.C. 7:1I-7.2, 7.3, 7.4 and 7.5 and may immediately award compensation to enable the occupants of the property to relocate temporarily or permanently. Such an award may include all or part of the purchase price, relocation costs, and assumption of the costs of property encumbrances.

7:1I-7.8 Contract for sale of property entered into before filing of claims

(a) If a claimant has entered into a contract for the sale of property before filing a property value diminution claim with respect

to such property, the Fund may, in its discretion, settle such a claim in accordance with this section.

(b) Claims made pursuant to this section shall be eligible for compensation only to the extent provided in N.J.A.C. 7:1I-7.1, and only if the subject property satisfies the eligibility requirements set forth in N.J.A.C. 7:1I-7.2.

(c) Subject to the limitation in N.J.A.C. 7:1I-7.1, the Fund shall determine the amount of the settlement offer pursuant to N.J.A.C 7:1I-7.4.

(d) Together with the claim (or, if the claim is made before closing), the claimant shall submit to the Department all documents required pursuant to N.J.A.C. 7:1I-7.5; provided, however, that the Department may, in its discretion, refrain from requiring submission of the documents normally required under N.J.A.C. 7:1I-7.5(a)1 and (a)7.

7:1I-7.9 Suspension of claims

(a) The Department shall send notice of the requirements of this chapter to each claimant who filed a property value diminution claim before the effective date of this chapter. Within 60 days after receipt of such notice, each claimant shall notify the Department of his or her election to:

1. Pursue the claim;
2. Suspend the claim for the period provided in (c) below; or
3. Withdraw the claim.

(b) If a claimant fails to notify the Department of his or her election under (a) above, the claimant shall be deemed to have suspended the claim for the period provided in (c) below.

(c) All claims suspended to (a) or (b) above will remain in suspension until one of the following occurs:

1. The Department receives notice from the claimant, stating that the claimant desires to reinstate the claim; or

2. The claimant receives notice from the Department, stating that the construction phase of the sanitary landfill remediation has been completed to the satisfaction of the Department, and that the Fund is therefore denying the claim; provided, however, that if the Department has required as a condition of its satisfaction that a restriction running with the subject property be recorded with the applicable county clerk or register of deeds, the claimant may make a claim for diminution resulting from such restriction in accordance with the requirements of this chapter.

(d) At any time during the period of suspension under (c) above, a claimant may request reinstatement of the claim by notice to the Department.

(e) At the end of the suspension period provided in (c) above, the claim will be automatically reactivated, unless the claimant has previously withdrawn the claim.

(f) Upon reactivation of a suspended claim:

1. The Fund shall confirm the reactivation by written notice to the claimant;

2. The claim will be processed in accordance with this chapter; and

3. Within 30 days after receiving notice of the reactivation the claimant shall list the subject property for sale with one or more licensed brokers who are members of a multiple listing service (or its commercial equivalent, for claims involving commercial property or other properties not normally offered for sale through a multiple listing service).

(g) Upon the claimant's second suspension of the claim, the Fund shall dismiss the claim, without prejudice. If the claimant subsequently files a new claim for the same damages contained in the original dismissed claim, the new claim will be deemed to have been filed as of the date of filing of the original dismissed claim.

(a)

HAZARDOUS WASTE REGULATION PROGRAM

Handling of Substances Displaying the Toxicity Characteristic

Adopted Amendments: N.J.A.C. 7:14A-4.7, 7:26-8.8, 8.12 and 8.19

Proposed: March 1, 1993 at 25 N.J.R. 753(a).
Adopted: May 27, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: May 28, 1993 as R.1993 d.300, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1E-1 et seq., specifically 13:1E-6.
DEPE Docket Number: 05-93-1.

Effective Date: June 21, 1993.
Expiration Date: October 25, 1995, N.J.A.C. 7:26;
June 2, 1994, N.J.A.C. 7:14A.

Summary of Public Comments and Agency Responses:
The amendments were proposed March 1, 1993. **No comments were received.** The amendments at N.J.A.C. 7:14A-4.7, 7:26-8.8, 8.12 and 8.19 are being adopted with technical changes.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***).

7:14A-4.7 Standards for hazardous waste land treatment units

(a) (No change.)

(b) An owner or operator who has fully complied with the requirements for existing facilities as defined in N.J.A.C. 7:26-1.4 and N.J.A.C. 7:26-12 shall ***comply with the following***:

1.-2. (No change.)

*[1.]***3.*** Comply with N.J.A.C. 7:26-9.4(b)1; and

*[2.]***4.*** Before placing a hazardous waste in or on a land treatment facility:

i. Determine the concentrations in the waste of any substances which equal or exceed the maximum concentrations contained in Table I of N.J.A.C 7:26-8.12(b) that cause a waste to exhibit the Toxicity Characteristic;

ii. For any waste listed in N.J.A.C. 7:26-8.13, 8.14 or 8.15, determine the concentration of any substances which caused the waste to be listed as a hazardous waste;

iii. If food chain crops are grown, determine the concentrations in the waste of each of the following constituents: arsenic, cadmium, lead, and mercury, unless the owner or operator has written documented data that show that the constituent is not present; and

iv. Place results from each waste analysis, or the documented information, in the operating record of the facility.

(c)-(o) (No change.)

7:26-8.8 Criteria for listing hazardous waste by category, class or type

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

(d) The Department will indicate its basis for listing the classes or types of wastes listed in this section by employing one or more of the following Hazard Codes:

Ignitable Waste	(I)
Corrosive Waste	(C)
Reactive Waste	(R)
Toxicity Characteristic	(E)
Acute Hazardous Waste	(H)
Toxic Waste	(T)

The Department has incorporated the Federal 40 C.F.R. §261 Appendix VII at N.J.A.C. 7:26-8.19. Appendix VII identifies the constituent which caused the EPA Administrator to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in §261.31 and 261.32.

(e) (No change.)

7:26-8.12 Characteristics of toxicity

(a) A solid waste exhibits the characteristic of toxicity if, using test methods described in Appendix II of 40 CFR 261, Subpart D or equivalent methods approved by the Department under N.J.A.C. 7:1-1.2, the extract from a representative sample of the waste contains any of the contaminants listed in Table I, and any additional contaminants listed at Table 1 at 40 CFR 261.24 as amended, at a concentration equal to or greater than the respective value given in those tables. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Appendix II, is considered to be the extract for the purposes of this section.

(b) A solid waste that exhibits the characteristic of toxicity, but is not listed as a hazardous waste in this subchapter, has the EPA Hazardous Waste Number specified in Table I, or Table 1 at 40 CFR 261.24 as amended, which corresponds to the toxic contaminant causing it to be hazardous.

Table I

Maximum Concentration of Contaminants for Characteristic of Toxicity

EPA Hazardous Waste Number	Contaminant	Chemical Abstract Service (CAS) Number	Maximum Concentration (milligrams per liter)
	...		
D025	p-Cresol	106-44-5	200.0*
	...		
D038	Pyridine	110-86-1	5.0**
	...		
D042	2,4,6 Trichlorophenol	88-06-2	2.0

7:26-8.19 Incorporation by reference

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

(e) The Department incorporates by reference 40 C.F.R. Part 261, Appendix II, for use in complying with N.J.A.C. 7:26-8.12.

(a)

HAZARDOUS WASTE REGULATION ELEMENT
Annual Adjustment of Hazardous Waste Fees
Adopted New Rule: N.J.A.C. 7:26-4A.6

Proposed: June 1, 1992 at 24 N.J.R. 2001(a).
Adopted: May 27, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: May 28, 1993 as R.1993 d.302, **with substantive and technical changes** not requiring additional public notice and comment. (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1E-18.

DEPE Docket Number: 018-92-05.
Effective Date: June 21, 1993.
Expiration Date: October 25, 1995.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection and Energy (Department) proposed a new rule, N.J.A.C. 7:26-4A.6, providing for the annual adjustment of hazardous waste fees on June 1, 1992. The comment period closed on July 1, 1992. The following persons submitted written comments on the proposal:

Alfred A. Schmidt, Mt. Olive Auto Body

Tom Elder and Debbie Hart, Garden State Automotive Federation, Inc.

Joe Lubrano, J&E Auto Body

1. COMMENT: Mt. Olive Auto Body commented that the inspection fee of $1,300 was high, and would be difficult for a small business to pay. The commenter suggested that a free program, similar to the Federal Occupational Safety and Health Administration's (OSHA) consultation service, should be instituted instead of the inspection and fee. The commenter also stated that the proposed new rule would discourage business rather than protect the environment.

RESPONSE: The Department promulgated the hazardous waste fee schedule on February 3, 1992. See N.J.A.C. 7:26-4A.3; 24 N.J.R. 412(a). The purpose of the proposed new rule at N.J.A.C. 7:26-4A.6 is to provide for the annual review of that fee schedule to reflect changes in the costs of performing activities for which fees are charged. While the Department appreciates and is sympathetic to the commenter's financial concerns, it notes that it must impose fees to carry out its legislative mandate. The 1992 fee rule established fees based upon the duration and complexity of the Department's activities, as required by the Solid Waste Management Act at N.J.S.A. 13:1E-18. The purpose of this new rule is not to establish fees but to provide a mechanism for the review of the fees so that they will more accurately reflect the Department's costs. Due to the amount and range of the Department's activities, and the work hours which these activities require, a free consultation program is not feasible. The Department notes that its personnel are available to answer specific inquiries from the regulated public and that there is no charge for this service.

2. COMMENT: Garden State Automotive Federation, Inc., commented that the economic effects of the proposed new rule will be devastating for small businesses and that the Department's fees overall may cause some small businesses to discontinue operations. The commenter also noted that the establishment of graduated fees was commendable, and wanted to know when these fees would become effective. The commenter also was concerned with the statement in the Summary of the proposal that fees will be assessed based on "a level of staffing which is adequate to perform the amount of work which [the Department] is expected to perform" even when there is a "decrease of billable hours due to a shortage of staff." Last, the commenter stated that the regulations are difficult to understand, and that the fees and the proposed formulae for setting them constitute a burden to the automobile collision repair industry, which is required to bear a disproportionate amount of the costs. The commenter requested additional details in the economic impact statement.

RESPONSE: The Department incorporates its response to Comment 1 here, and notes that fees are based on full staffing levels so that staff members can be replaced as needed. The date that the graduated fees become effective depends upon the type of fee. Currently, the generator annual report fee and the major facility inspection fee are graduated. See N.J.A.C. 7:26-4A.3. Annual fee reviews should be completed by the end of fiscal year 1993. Depending upon the data which the Department receives for fiscal year 1993, other fees may be revised and set on a graduated basis. The Department is unaware of any data which would support the commenter's claim that the automobile collision repair industry would bear a disproportionate amount of the costs of the regulation, and the commenter has not submitted such data. The Department appreciates the commenter's concern about the complexity of the regulation. It has attempted to draft the regulations in as clear and understandable a manner as possible, and has attempted to provide an economic impact statement which is as comprehensive as possible, despite the lack of data available prior to the rule's taking effect.

3. COMMENT: J&E Auto Body commented that the proposed fees and fines should be made affordable for small businesses and should

not be so financially burdensome that a company must cease to operate. Moreover, the fees and fines imposed should reflect the size of a company.

RESPONSE: The Department incorporates its response to Comment 1 here, and notes that, pursuant to N.J.S.A. 13:1E-18, its fees must be based upon the nature of the service rendered rather than upon the size of the company.

Summary of Agency-Initiated Changes:

The Department has added new language at N.J.A.C. 7:26-4A.6(b)3 to clarify that those fees which are changed pursuant to the annual fee review take precedence over the fees set forth at N.J.A.C. 7:26-4A.3. For those fees which are not changed by the annual fee review, the fees set forth at N.J.A.C. 7:26-4A.3 will continue to apply.

The Department has modified subsection (d) of the adopted rule in order to provide a procedure for interested parties to comment upon the annual adjustment of fees contained in the Annual Hazardous Waste Fee Schedule Report.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***):

7:26-4A.6 Annual adjustment of fees

(a) The Department shall adjust the fees for each activity described in N.J.A.C. 7:26-4A.3 annually, based upon the following formula:

$$\text{Fee} = (\text{hours required}) \times (\text{hourly rate})$$

where "hours required" and "hourly rate" are as set forth in the Annual Hazardous Waste Fee Schedule Report as provided in (b) below.

(b) Each year, the Department shall prepare an Annual Hazardous Waste Fee Schedule Report. This report shall include the following:

1. The Department's estimate of the number of hours which will be required to perform each type of activity for which fees are assessed under N.J.A.C. 7:26-4A.3. In formulating the estimate, the Department shall consider the following factors:

i. The Department's timekeeping records for a period of at least nine months, ending no more than six months before the completion of the report;

ii. The Department's timekeeping records from previous years, if the Department determines that it does not have sufficient data to reliably determine the number of hours required to perform the activity;

iii. Any other factors relevant to the estimate, provided that the report explains any such other factors, and explains how such factors support the estimate;

iv. If the Department determines that the creation of additional classifications of regulated entities or activities would result in a substantially more equitable assessment of fees, the Department may establish such additional classifications, and will report them in the Annual Hazardous Waste Fee Schedule Report. The Department's determination shall be in its reasonable discretion, based upon its review of the data upon which the report is based. In the report, the Department shall set forth the hours required to perform an activity for such additional classes. This subparagraph provides only for the creation of additional classifications of types of facilities or activities for which fees are assessed under the Department's rules, and shall not be construed to provide for the assessment of fees for types of facilities or activities not already contained in the Department's rules; and

v. If the Department reports a decrease in the number of hours spent performing an activity, compared with the expected level of activity, and such decrease is due solely or in part to a lack of Department staff sufficient to perform the activity, the Department may set the fee at the level necessary to defray the cost of sufficient staff to perform the expected activity; and

2. A statement of the hourly rate for calculating fees. The hourly rate for an activity is the average cost of one hour of the Department's hazardous waste program's staff time needed to perform the activity, calculated according to the following formula:

$$\frac{(AS + FB + IC + OE + LS)}{BH}$$

where:

i. AS equals the average salary of a full-time Department employee working in the Department's hazardous waste program assigned to the activity;

ii. FB equals the fringe benefits of a full-time Department employee working in the Department's hazardous waste program assigned to the activity, calculated as a percentage of the average salary. The percentage is set by the New Jersey Department of the Treasury, and is based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. IC equals indirect costs attributable to a fulltime Department employee working in the Department's hazardous waste program assigned to the activity, calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the sum of AS and FB;

iv. OE equals operating expenses (including without limitation: postage, telephone, travel, supplies, clerical support, other support staff and data system management) attributable to a full-time Department employee working in the Department's hazardous waste program assigned to the activity;

v. LS equals the budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the Department's hazardous waste activities, divided by the total number of Department employee positions which the Department projects will be funded by the revised fee schedule; and

vi. BH equals the average number of hours which each Department employee working in the Department's hazardous waste program spends annually performing activities for which fees are imposed under N.J.A.C. 7:26-4A.3.

3. Those fees which are changed pursuant to the annual fee review process take precedence over the fees set forth at N.J.A.C. 7:26-4A.3. For those fees which remain unchanged by the annual review process, the fees set forth at N.J.A.C. 7:26-4A.3 will continue to apply.

(c) Promptly after completing the report described in (b) above, the Department shall provide a copy of the report to each person required to have paid a fee under N.J.A.C. 7:26-4A.3 above within the one-year period covered by the report.

(d) Promptly after making the adjustment to the fees pursuant to the report described in (b) above, the Department shall publish a notice of administrative change in the New Jersey Register pursuant to N.J.A.C. 1:30-2.7(c), setting forth adjusted fees, in N.J.A.C. 7:26-4A.3 and the operative date thereof. The notice shall state that the report is available, and shall direct interested persons to contact the Department for a copy of the report ***and to submit comments within 45 days of the date of publication of the notice***. The Department shall provide a copy of the report to each person requesting a copy. ***The Department will evaluate the comments submitted and publish its responses in the New Jersey Register prior to the operative date of the adjusted fees.***

(a)

OFFICE OF POLICY AND PLANNING

Notice of Extension of Operative Date

Control and Prohibition of Air Pollution by Vehicular Fuels

N.J.A.C. 7:27-25.9, Variance for Contemporaneous Averaging

Take notice that, after review and consideration of additional comment received, the Department of Environmental Protection and Energy has determined to repeal N.J.A.C. 7:27-25.9, Variance for Contemporaneous Averaging, and therefore hereby extends the operative date of N.J.A.C. 7:27-25.9 to the date upon which the Department's adoption repealing that section of the rule becomes effective, which shall be 60 days following the Commissioner's adoption of the repeal, pursuant to N.J.S.A. 26:2C-8. The Variance for Contemporaneous Averaging section

of the rule shall therefore continue to be inoperative as was previously announced in the Department's adoption of the oxygenated gasoline regulation at 24 N.J.R. 3539(a).

In the upcoming proposal seeking to repeal the contemporaneous averaging section of the oxygenated gasoline rule, the Department will respond to comments received during the additional comment period held between October 5, 1992, and January 30, 1993, to solicit comment on the variance for contemporaneous averaging provision. At that time, the Department will also propose several other amendments to the oxygenated gasoline program.

(a)

OFFICE OF NOISE CONTROL

Determination of Noise from Stationary Sources

Adopted New Rules: N.J.A.C. 7:29-2

Adopted Amendments: N.J.A.C. 7:29-1.1 and 1.5

Proposed: March 15, 1993 at 25 N.J.R. 1040(a).
Adopted: May 27, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: May 28, 1993 as R.1993 d.301, **without change.**

Authority: N.J.S.A. 13:1D-1 et seq., 13:1G-1 et seq., specifically 13:1G-4.

DEPE Docket Number: 011-93-02.
Effective Date: June 21, 1993.
Expiration Date: May 21, 1995.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows:

7:29-1.1 Definitions

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

...

"Continuous airborne sound" means sound that is measured by the slow response setting of a sound level meter in accordance with the provisions of N.J.A.C. 7:29-2.

...

"Sound level meter" means an instrument used in accordance with the provisions of N.J.A.C. 7:29-2 to measure sound pressure level, sound level, octave band sound pressure level, or peak sound pressure level, separately or in any combinations thereof.

...

7:29-1.5 Performance test principle

For the purposes of measuring sound in accordance with the applicable provisions of these regulations, test equipment methods and procedures shall conform to the provisions of N.J.A.C. 7:29-2.

SUBCHAPTER 2. PROCEDURES FOR THE DETERMINATION OF NOISE FROM STATIONARY SOURCES

7:29-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this section are intended to be used as defined in the New Jersey Noise Control Act, N.J.S.A. 13:1G, and in this chapter, or as used in their common engineering or scientific use.

...

"Department" means the Department of Environmental Protection and Energy.

...

"Noise" means, for purposes of this procedure, any sound which is not in conformance with the provisions of this chapter.

...

"Octave band" means a spectrum of sound frequencies between band edge frequencies an octave apart. For purposes of this procedure, octave band frequencies are as specified in Table 1, page 11, of ANSI S1.11-1966 (R-1976) "specifications for octave, half-octave and third-octave band filter sets" (see N.J.A.C. 7:29-2.12(a)1).

Recodify 7:29B-1.2 through 1.5 as 7:29-2.2 through 2.5 (No change in text.)

7:29-2.6 Equipment

(a) Requirements for equipment are as follows:

1. Sound level meters:

i. Measurements of continuous sound shall be made either with a Type 1 (Precision) or a Type 2 (General Purpose) sound level meter manufactured to the requirements of ANSI S1.4-1971 "specification for sound level meters" (see N.J.A.C. 7:29-2.12(a)2) or its successor. These meters shall have a range which includes 30-130 decibels.

ii. Measurements of impulse sound shall be made with a Type 1 (Precision) or with a Type 2 (General Purpose) sound level meter equipped for measuring peak values and manufactured to the requirements of IEC Publication 651 (1979) "Sound Level Meters" (See N.J.A.C. 7:29-2.12(a)3) or its successor.

iii. Measurements of sound by octave bands shall be made with a sound level meter with octave band frequency filter set that conforms to the requirements of Class II as specified in ANSI S1.11-1966 (R-1976) "specifications for octave, half-octave, and third-octave band filter sets" (see N.J.A.C. 7:29-2.12(a)1.)

2.-3. (No change.)

Recodify 7:29B-1.7 as 7:29-2.7 (No change in text.)

7:29-2.8 Preparation for testing

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

(d) Instrument selection: After determining the character of the sound to be measured, the investigator shall select the appropriate measuring equipment pursuant to the requirements of N.J.A.C. 7:29-2.6. If the sound is concentrated within a narrow band of frequencies, an instrument capable of octave band analysis shall be selected. If impulse sound is predominant, an instrument capable of impulse peak measurement shall be selected.

Recodify 7:29B-1.9 through 1.11 as 7:29-2.9 through 2.11 (No change in text.)

7:29-2.12 Incorporation by reference

(a) Wherever referenced in this subchapter, the following sources are incorporated by reference as part of this subchapter:

1.-3. (No change.)

HEALTH

(b)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

OFFICE OF EMERGENCY MEDICAL SERVICES

Mobile Intensive Care Programs

Adopted New Rules: N.J.A.C. 8:41-1 through 8:41-10

Proposed: September 21, 1992 at 24 N.J.R. 3255(b).
Adopted: April 14, 1993 by Bruce Siegel, M.D., M.P.H., Commissioner, Department of Health.
Filed: April 14, 1993 as R.1993 d.202, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:1A-15 and 26:2K-7 et seq.

Effective Date: June 21, 1993.
Expiration Date: June 21, 1998.

Summary of Public Comments and Agency Responses:
Comments were received from the following organizations and individuals:

Robert Bertollo, MICP; Robert McNally, MICP; Peter Miller, MICP; Daniel Berger, MICP; Anne Berger, MICP; Jennifer Hobeck, MICP; William Dougan, MICP; Laura Harper; Elizabeth Reiber, MICP; Anne Marie Biondo; Henry Wetzel, MICP; Russ Weinberg, MICP; John H. Kopf; Daniel Kabana, RN, MICP; Bruce Daire, MICP; Karen M. Leite; Steven Chait, MICP; Thomas Eiche, MICP; Christine Tighe; Brendan S. McCluskey, MICP; Chilton Memorial Hospital; Northern New Jersey Mobile Intensive Care Consortium; Saint Barnabas Medical Center; New Jersey Association of MICU Program Administrators; Overlook Hospital; Helene Fuld Medical Center; Daniel MacMahon, MICP; St. Joseph's Hospital and Medical Center; Passaic-Clifton MICU; HealthTec; the Valley Hospital; Pascack Valley Hospital; Dover General Hospital and Medical Center; Morristown Memorial Hospital; Robert Wood Johnson University Hospital; Jersey City Medical Center; West Jersey Health Systems; Community Medical Center; Memorial Hospital of Burlington County; University of Medicine and Dentistry of New Jersey; Douglas H. Earley; Elizabeth A. Reiber, MICP; Robert E. Meichsner, MICP; Gerald Behnke, MICP; Nick J. Pisciella, MICP; Michael Larteh, MICP; and the Medical Transportation Association of New Jersey. In addition, five comments were received with no name or illegible names.

1. COMMENT: Two commenters expressed concerns that the proposed rules are excessively restrictive in that they prohibit any organization other than a hospital from operating a MICU. The commenters stated that MICU services could be provided by private or volunteer ambulance services. One commenter stated the Department incorrectly restricts the operation of MICUs to hospitals, based on the enabling statutes, and quoted the definition of a MICU at N.J.S.A. 26:2K-7. The commenter further states that the present system results in a low quality, high cost system.

RESPONSE: The rules do not specifically require that only a hospital operate a MICU. These rules do require that the agency first obtain a certificate of need in accordance with N.J.S.A. 26:2H-2 et seq. Both the certificate of need rules and the statutes require that "(o)nly a hospital authorized by the (C)ommissioner with an accredited emergency service may develop and maintain a mobile intensive care unit, and provide advanced life support services utilizing licensed physicians, registered professional nurses trained in advanced life support nursing, and mobile intensive care paramedics." (N.J.S.A. 26:2K-12(a)). In addition, New Jersey is unique in its Statewide MICU system, which provides prehospital advanced life support to its entire population. Therefore, these arguments are without merit, and no change is made to these rules.

2. COMMENT: The Department has underestimated the cost to the programs which operate MICUs. Specifically cited was the need to carry items which are difficult to store, for example, a long backboard.

RESPONSE: The rules are not designed to be cumbersome with regard to the equipment carried. Those items which are listed as required have been deemed to represent the standard of care which should be provided by MICUs. The rules are flexible enough to allow a MICU program to determine which types of equipment best suit their needs. Certain types of equipment have been moved to the optional category (for example, the K.E.D.). Another example is that an MICU that utilizes a sedan type vehicle would be free to use a folding long backboard in lieu of the full length board found on ambulances. In addition, if a program does not carry a piece of equipment on the list (for example, an external cardiac pacemaker) its eventual acquisition would be anticipated in any event, as this listed item represents the current standard of care for certain types of cardiac emergencies.

3. COMMENT: Several commenters expressed concerns that these rules are overly burdensome on both the programs and on individuals certified as paramedics. Specifically, commenters complained that the requirement that a paramedic make physician contact each time he or she treats a patient is cumbersome.

COMMENT: The requirement that a paramedic make contact with the base station physician is found in the enabling law at N.J.S.A. 26:2K-10. This cannot be removed by the rulemaking process and is included by necessity. No change can be made.

4. COMMENT: Several commenters stated that these rules will unduly burden the programs and hospitals which run MICUs. One commenter stated that the operation of an MICU differs Statewide and, as such, rules cannot be effectively enforced.

RESPONSE: These rules represent the current standards for operation of an MICU program on a Statewide basis. The Department is dedicated to ensuring that the residents of one part of the State receive the same high level of care that another would receive in a separate part of the State. The Department has recognized that, in some instances, deviations may be necessary because of special circumstances. When this is necessary, there is a provision for a waiver to be issued after the situation has been thoroughly reviewed by the Department. No change is made to the rules based on this comment.

N.J.A.C. 8:41-1.3 Definitions

5. COMMENT: Several commenters stated that the definition of "unsafe vehicle" should be changed to mean a vehicle which has failed New Jersey Division of Motor Vehicles (NJDMV) inspection. Some of the commenters stated the Department lacks the technical expertise to determine if a vehicle is unsafe.

RESPONSE: NJDMV inspection occurs only once a year. The nature of the use of these vehicles is such that this is not an adequate test of safety. A vehicle that passes inspection in January may no longer meet standards in April. Therefore, this rule requires the programs to continuously assure the safety of their vehicles. There is no special expertise needed for the enforcement of this section, as the rules state "patently unsafe," which means obvious to the general public. These would include, for example, bad brakes, exhaust leaks, lack of emergency vehicle lighting and/or siren. A valid inspection sticker remains a component of the annual inspection process for the Department. Therefore, no change is made.

6. COMMENT: Several commenters stated that the definition of "radio failure" should be changed from "... due to technical difficulties" to "... due to technical or logistical difficulties."

RESPONSE: The intent of N.J.S.A. 26:2K-11 is that, in the event the radio equipment should not operate, radio failure protocols could be utilized, not if it is perceived by the prehospital advanced life support providers that it would not be convenient to do so. Therefore, no change can be made to this definition. However, it should be noted that there are certain limited standing orders authorized by the Commissioner in the event of certain life threatening emergencies. Further, there are additional standing orders proposed as new rules at N.J.A.C. 8:41-10.5 through 10.13, elsewhere in this issue of the New Jersey Register.

7. COMMENT: Several commenters requested that the definition of "medical record" be changed from "... physical or verbal contact" to "physical and verbal contact."

RESPONSE: The definition is more correct as published in the proposal, as an interview can occur with a patient without engaging in an examination of the patient. No change is made.

8. COMMENT: One commenter suggested changing the definitions of "medical command" and "medical control," as this would reflect what had traditionally been used in New Jersey.

RESPONSE: The definitions, as listed in the proposal, are reflective of the current terminology used in most national publications. For consistency, there is no change made to the proposal.

9. COMMENT: One commenter stated that the term "certified" should have the statement "... to the satisfaction of the certifying agency" removed, as it is too subjective.

RESPONSE: This is the standard definition of a certification. If one has not completed the requirements to the satisfaction of the agency issuing the certification, one is not certified by that agency. Although there is no change in this regard, a change has been made as an agency initiated change to the definition of "certified" to make the definition more grammatically correct. Please refer to that note later in this text.

10. COMMENT: One commenter requested that the definition of "mobile intensive care unit (MICU)" be changed to allow any vehicle to be utilized if it meets Department standards.

RESPONSE: The intent of the rule regarding the licensure of vehicles is that, prior to any vehicle being placed in service, it is inspected to determine safety of both the medical equipment, as well as storage of equipment. In addition, status of emergency lights and siren and overall mechanical condition are part of the standards for licensure, as specified by these rules. As such, no vehicle could be used unless it was licensed and inspected in accordance with subchapter 3. No change is made to this definition.

N.J.A.C. 8:41-2.1 Approvals required

11. COMMENT: One commenter stated that the research study requirement at N.J.A.C. 8:41-2.1(b) is vague and duplicates text in N.J.A.C. 8:41-2.10 and should be removed or reworded.

RESPONSE: The Department agrees that this is duplicative with N.J.A.C. 8:41-2.10. N.J.A.C. 8:41-2.1(b) will be deleted.

N.J.A.C. 8:41-2.4(b) Surveys and inspections

12. COMMENT: Several commenters objected to the mandatory ride along component of the inspection process. It was expressed that these offer no indicator of performance, as the staff know they are in the company of inspectors. In addition, the commenters questioned whether the liability issues would be covered by the Department.

RESPONSE: The Department has re-evaluated this requirement of the inspection process. In the past, the Department had utilized the MICU ride along for the purpose of orienting new staff to the service areas of the programs they cover, and not as part of the inspection process. The Department will continue to arrange for these ride along visits in a manner agreed upon with the program, but will not make it a required part of the inspection process. In addition, employees of the Department are covered as State employees in all visits to programs, provided the vist occurs as a part of the official duties of that employee. Therefore, N.J.A.C. 8:41-2.4(b) will be changed to eliminate the ride along portion of the visits.

13. COMMENT: Some of the commenters objected to the ability of the Department to conduct surveys and visits at any time. They further objected to the Department conducting patient interviews as part of these visits.

RESPONSE: The language of this rule is reflective of the standards for hospitals adopted at N.J.A.C. 8:43G and by law at N.J.S.A. 26:2H-5. Restricting the Department to specific hours for surveys and inspections would severely limit the effectiveness of program monitoring. This would not be in the interest of public health and safety; therefore, no change is made.

14. COMMENT: Several commenters stated that the hospital administrator or program director should be notified if a survey visit or inspection is made. One commenter stated such visits should be scheduled in advance.

RESPONSE: It shall be the continued policy of the Department to notify the program director and/or hospital administrator at the time of complete program inspections. The Department will not restrict inspections and visits for the reasons listed in Response 15, which follows. It is not practical for the Department to notify the program director for surveys that are conducted as "spot checks," as these are proactive and random system monitoring tools that do not necessarily occur at the base site of the MICU. Also, it is not in the interest of the surveyor to notify the administrator of their presence, if the surveyor is engaging in compliance enforcement activity. Also, this is the current practice in effect under N.J.A.C. 8:40. There is no change made in this regard.

N.J.A.C. 8:41-2.5

15. COMMENT: Several commenters stated that the reporting of every employee injury resulting in emergency department evaluation would result in a great deal of unnecessary information being reported to the Department. These commenters cited the fact that most hospitals use the emergency department as employee health monitors during off hours. It was suggested that this be modified to limit the reporting requirement to serious injuries.

RESPONSE: The Department agrees that this requirement would result in a significant amount of unneeded information being reported. This section has been modified at paragraph (a)1 to require reporting of injuries resulting in admission to the hospital or death of the employee.

16. COMMENT: Several commenters requested clarification regarding the reporting of destroyed records. Specifically, the commenters requested definition of what types of records are covered by this section.

RESPONSE: The intent of this section was that if any of the records required to be kept under this chapter were destroyed or damaged a report would be required. For example, if a fire were to destroy required employee records or student training records, a report to the Department would be required. For clarity, this section has been modified at paragraph (a)3 to reflect the damage of records required by this chapter.

17. COMMENT: Several commenters stated that the requirement for reporting the loss of controlled dangerous substances was duplicative with other regulations and should not be required.

RESPONSE: The Department is required by law to enforce the provisions of the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21). The Department recognizes the unique operating enviroment of the mobile intensive care unit (MICU) and that such direct reporting by the MICU program is the most efficient method of obtaining reliable, timely data on any loss of controlled dangerous substances (C.D.S.). It should be noted that this required reporting does not relieve any other hospital department or licensed professional from other reporting requirements. No change is made.

18. COMMENT: Several commenters stated that the requirement to report to the Department each time a vehicle is out of service is excessive, and that the rule should be changed to reflect when an interruption of service has occurred to the designated service area.

RESPONSE: This is the actual intent of this rule. The rule is changed at paragraph (a)5 to reflect that an interruption in service of greater than eight hours, as defined by the primary coverage area in the certificate of need granted to the program, is reportable to the Department.

19. COMMENT: The Department was requested to provide assurances that confidentiality issues would be addressed when information is provided when required by this chapter.

RESPONSE: The Department is committed to the protection of patient information. The rules for hospital inspection reporting address this issue well (N.J.A.C. 8:43G-2.10). This rule has been added to these rules at N.J.A.C. 8:41-2.5(d) to formalize the existing policy with regard to the confidentiality of records.

N.J.A.C. 8:41-2.7 Enforcement

20. COMMENT: Four commenters requested that the Department publish a fine schedule for various infractions. The comments stated the rules are ambiguous as to what fines will be assessed for various penalties.

RESPONSE: The statute which empowers the Department to issue a fine for infractions of the law or rules promulgated under it is specific. N.J.S.A. 26:2K-15 states that the fine shall be $200.00 for the first offense, and $500.00 for each subsequent offense. It allows the fine to be assessed on a "per day, per offense" basis, if the offense is of a continuing nature. The decision as to what action is to be taken after a violation shall be based on the totality of the circumstances. Therefore, no separate fine schedule can be issued.

21. COMMENT: Several objections were received regarding the provisions of N.J.A.C. 8:41-2.7(c). This section specifies that the Department may take action against individuals, as well as programs that operate MICU programs. The commenters felt this issue was a hospital disciplinary matter and not under the aegis of the Department. Commenters felt that only serious or gross violations should be handled by the Department.

RESPONSE: The issue of employment severs from the issue of performance of the prehospital advanced life support provider. As a prehospital advanced life support provider there are obligations which go beyond the hospital's policy. Violations of these rules represent a deviation from established standards of performance for prehospital advanced life support providers. Many prehospital advanced life support providers work for more than one approved program, and would continue providing care even if terminated from one program. The individual is responsible for his/her own actions as a provider and, as such, is individually held accountable for their actions. This is reflected in the statutes at N.J.S.A. 26:2K-9 and again at N.J.S.A. 26:2K-15. Therefore, no change is made to this rule.

22. COMMENT: Commenters objected to the provisions of N.J.A.C. 8:41-2.7(d) which permit the Chief Administrator of the Office of Emergency Medical Services (OEMS) to take action against a program for utilizing unsafe vehicles. The commenters stated that the successful completion of the inspection process by the New Jersey Division of Motor Vehicles is an adequate test for the safety of the vehicle, and that officers of the Department are not qualified to determine if a vehicle is unsafe.

RESPONSE: The Department has determined that the annual Division of Motor Vehicles inspection is required for the vehicle to be licensed. However, vehicle failures can occur during the course of the year that render a vehicle unsafe to operate. If this change were to be adopted, it would appear to grant consent to a program to operate an emergency vehicle which clearly did not meet safety standards. This is not in the interest of public health and safety. The safety standards which apply here are those which every licensed driver is required to meet before operating a vehicle on the roads of the State. These systems include, but are not limited to, the brakes, exhaust, required emergency lighting and sirens, and tires. The argument that the Department cannot evaluate these requirements is without merit, as the operator of every vehicle is responsible for evaluating these conditions. N.J.A.C. 8:41-3.3(b) prohibits the operation of a vehicle which is patently unsafe to drive. The term "patently" means obvious to the public. Further, the motor

vehicle code (Title 39 of the Revised Statutes) prohibits the operation of such vehicles. As such, this rule is not ambiguous with regard to its intent, and the argument regarding the Department's ability to assess these conditions is not valid. No change is made to this section, except a technical one to correct "Service" to "Services."

N.J.A.C. 8:41-2.8 Hearings

23. COMMENT: The issue of when an action could be taken before a hearing was held was questioned by several commenters. It was requested that the Department clarify what was meant by "the interest of public health and safety" and that the rule be changed to "In circumstances deemed by the Commissioner to be a hazard to public health and safety."

RESPONSE: The intent of this rule is to assure that when an incident has occurred which questions the safety of the provision of services by a program or the care that may be rendered by a prehospital advanced life support provider, there exists a mechanism to ensure the public is not exposed to a hazard during the review process. The decision to suspend service by a program or the authorization to provide care by a prehospital advanced life support provider rests, by law (N.J.S.A. 26:2K-9), with the Commissioner. The Department feels this change better clarifies the intent of the rule and is revised accordingly.

N.J.A.C. 8:41-2.10 Research proposals

24. COMMENT: Several commenters stated that the proposed rule is unnecessarily restrictive as it is written. Concern was expressed that the rule, as written, could effectively restrict or limit the ability to do valuable studies. It was suggested that the rule be changed to require only prospective study or those studies which deviate from an established standard of care require Department approval.

RESPONSE: The Department agrees that the proposed rule as written is not reflective of its intent. The intent of this rule is that studies which affect patient care by altering treatment modalities need to be reviewed to assure that the quality of care is not lowered. Retrospective study of care is done with no potential for harm to the patient, while certain prospective studies (for example, peak flow monitoring of patients after nebulized bronchodilators have been administered) do not interfere with care. As such, the rule is changed at subsection (b) to prohibit prospective studies which require invasive procedures or drug trials. The Department would reserve the right to order any study which is not approved under this rule halted, if established patient care standards were violated.

25. COMMENT: Comments were received the approval process is cumbersome, and would delay legitimate studies from being implemented, due to the quarterly schedule of the advisory board.

RESPONSE: The intent of the rule is to assure adequate medical oversight of these studies by practitioners who are familiar with the prehospital environment and the operations and limitations of MICUs. This intent would be served as well if the Chairman of the State Mobile Intensive Care Advisory Council were authorized to appoint a subcommittee for the purpose of reviewing these applications. This committee would have the ability to review and recommend approval of a study, or to refer the issue to the main body for review. This would provide the Department with the needed medical advice in a timely manner. The rule is changed at paragraph (c)7 to reflect this.

26. COMMENT: A comment was received which questioned if the MICU Advisory Council could "override" the recommendation of the sponsoring hospital's institutional review board (IRB) in the event the study is not recommended to the Commissioner for adoption.

RESPONSE: The MICU Advisory Council is a representative body comprised of MICU program medical directors who are aware of the unique operating environment with which prehospital advanced life support providers are presented. In addition to the medical knowledge they possess, these physicians are familiar with system needs and requirements. Their recommendation on approval or denial of a study is required to ensure patient care remains of the highest quality at all times. However, the decision to approve or deny the request remains with the Commissioner of Health. In effect, there is no override of an IRB, as the action of the Council is advisory and not absolute.

N.J.A.C. 8:41-3.1 Vehicle license required

27. COMMENT: Two commenters stated that the Department should perform the inspection for new vehicles within five days, to allow for the vehicle to be placed into service without delay. The rule currently requires the Department to acknowledge a request for inspection within five days of receipt.

RESPONSE: The Department finds this a reasonable change, and a change will be made to subsection (a) to require the inspection be performed within five business days of receipt of the request.

28. COMMENT: Comments were received with regard to the Department not inspecting vehicles. It was suggested that New Jersey Division of Motor Vehicle Inspection should suffice.

RESPONSE: These inspections also encompass medical equipment carried on the vehicle. New Jersey Division of Motor Vehicles Inspections do not cover these areas. It is in the interest of public health and safety that all approved MICU vehicles meet both motor vehicle and medical standards before licensure. See Response 22 for additional information. No change is made to this rule.

28. COMMENT: Several commenters stated that the assessment of additional licensing fees is unnecessary, as the hospitals which operate MICU programs are already licensed by the Department. Commenters felt this would be unduly burdensome on programs.

RESPONSE: The Department has re-evaluated the issue of licensing fees for mobile intensive care vehicles. Currently, State law restricts the operation of MICU vehicles to hospitals licensed and approved by the Department. There is an established fee structure as part of that licensing action. It would be burdensome for the programs and the Department to require separate fees for these programs. Therefore, the fee for licensing vehicles and programs proposed in subsection (b) will not be adopted as part of this rule. If a separate charge is to be assessed in the future, it will be made part of the overall licensure fee charged to the institution.

N.J.A.C. 8:41-3.2 Inspections

29. COMMENT: One commenter suggested that the requirement for vehicle inspection be changed from "... at least once every year" to once a year.

RESPONSE: The Department sees no benefit to the restriction on the number of inspections conducted on a vehicle. This would unduly limit the ability of the Department to conduct programmatic monitoring, complaint investigation and enforcement activities. No change is made to this section.

30. COMMENT: Several commenters stated there was no objection to unannounced surveys of the vehicles, but requested that the hospital administrator or program director be notified.

RESPONSE: See Response 32.

31. COMMENT: Three commenters stated surveys of vehicles should be limited to the place the vehicle is routinely stored and when administrative personnel were available.

RESPONSE: See Response 32.

32. COMMENT: One commenter was opposed to unannounced inspections and questioned the need to inspect facilities.

RESPONSE: The purpose of the surveys on vehicles is to determine compliance with applicable laws and rules. Proactive enforcement by the Department in a random, unannounced method will serve this end best. Consequently, no prior notification can be made. The method used to perform surveys is that an inspector arrives at a facility and checks vehicles as they arrive, assuring that patient care is not interrupted. As such, it is possible that a vehicle from a program may be checked at a facility other than one where it is housed. Notification to personnel not staffing the vehicle is impractical and would unnecessarily encumber the process delaying the vehicle's return to service. This is the current method used to survey vehicles licensed as emergency ambulances under N.J.A.C 8:40. Facilities need to be inspected to assure that sanitary conditions are maintained for the storage of medications and equipment and to assure a general sanitary environment. No change will be made regarding these surveys.

33. COMMENT: One commenter requested that the Department make an allowance for any equipment not found to be present or working, if it was used on a previous call.

RESPONSE: The Department will not seek to take action in those instances if the equipment is not present due to recent use on a call. This should be easily confirmed by the patient's medical record from the call(s) preceeding the survey. If the equipment is not present for any other reason, a cause for action would be present.

34. COMMENT: One commenter requested that the Department publish a pass/fail list for inspections.

RESPONSE: These rules contain the standards for passing an inspection. The items listed in this chapter are required unless they are listed as optional. While an inspection form may be developed to assist in the licensing process, these rules are the standards for licensure.

N.J.A.C. 8:41-3.3 Vehicles

35. COMMENT: Several commenters stated the requirement at N.J.A.C. 8:41-3.3(b), regarding patently unsafe vehicles, is unreasonable. It was suggested that the rule be changed to prohibit operation of any vehicle which has not passed New Jersey Division of Motor Vehicles inspection.

RESPONSE: New Jersey law prohibits the operation of any vehicle which is patently unsafe to drive. For additional information, see Response 22. No change is made to this section.

36. COMMENT: Several commenters expressed concern that the requirement for "sufficient" emergency warning devices was unclear and requested the term "sufficient" be removed from the rule.

RESPONSE: For clarity, the rule will be changed to remove the word "sufficient."

N.J.A.C. 8:41-3.4 Required vehicle markings

37. COMMENT: Several commenters requested that the Department remove the requirement for a "Star of Life" on these vehicles. The commenters cite the original intent of the "Star of Life" was to identify ambulances that met Federal guidelines, and that this application was not intended by the holders of the trademark registration.

RESPONSE: The intent of the "Star of Life" was to identify ambulances and personnel who met Federal guidelines for the provision of prehospital emergency care. While this application may meet that intent, the Department acknowledges that if the other requirements for markings on the vehicle are met the "Star of Life" would be an unnecessary duplication. Therefore, this requirement will be dropped from the adopted rules.

38. COMMENT: Several commenters stated that the requirement for a unique identification number on vehicles would cause confusion in many areas, as it would appear that a vehicle other than the one expected had responded if a back-up vehicle was in service.

RESPONSE: After review, the Department has determined that the public would be able to identify these units by name and location if necessary. Unlike ambulance fleets, which have several identical vehicles in service at any given time, most MICUs have less than two vehicles in service at any time. The Department acknowledges there would be some confusion if a single vehicle project were to place its back-up in service with a different number. As such, this requirement will be dropped from the adopted rules.

N.J.A.C. 8:41-3.5 Required equipment

39. COMMENT: Several commenters requested that the Department remove the requirement for turn-out trousers, as it would be a financial hardship to properly outfit all staff in these devices.

RESPONSE: The listing of turn-out trousers in this section was offered as an example only. The intent of this rule is that all prehospital advanced life support providers are afforded protection commensurate with their job-related exposure to hazards. This can be accomplished in any manner allowable under current O.S.H.A. and P.E.O.S.H.A. standards. It is the duty of prehospital advanced life support providers to access entrapped patients, provided there is no great threat to their own safety; protective garments are necessary to access these patients. The program may choose to issue uniforms that offer protection in themselves, or may choose to offer supplemental outer garments for this purpose. The penalties that can be levied by other State and Federal agencies for failure to comply with these requirements can be significant. For clarity, the example included as part of N.J.A.C. 8:41-3.5(a)13 is deleted from the adopted rule.

40. COMMENT: Several commenters requested that the requirement for a spinal immobilization device (for example, K.E.D.) found at N.J.A.C. 8:41-3.5(a)15 be made optional, as this device is applied only to stable patients and is carried on most ambulances.

RESPONSE: The Department agrees, and will list this as an optional item at N.J.A.C. 8:41-3.6.

41. COMMENT: Several commenters stated that the requirement to carry a long spine board is burdensome due to storage problems, and the devices are carried on most ambulances in the state.

RESPONSE: Unlike the spinal immobilization devices that are used to remove stable patients, the long spine board is essential for the removal of unstable patients in the event rapid extrication must be performed. These "rapid take-down" techniques utilize long spine boards as an essential part of the treatment regimen. Folding long spine boards are commercially available for programs that have a storage problem. No change will be made to this rule.

42. COMMENT: Several commenters stated that the use of pediatric pneumatic anti-shock garment (PASG) is controversial and should be listed as an optional piece of equipment, at the discretion of the medical director.

RESPONSE: The Department has investigated this issue with pediatric specialists and has determined that this is a controversial issue in pediatric management. The Department will continue to monitor this issue closely, but will move this item to the optional equipment list at this time.

43. COMMENT: One commenter stated that the use of nasogastric tubes is limited in the prehospital environment and should be optional, not mandatory.

RESPONSE: While the Department notes that the use of nasogastric tubes in the prehospital environment is rare, it remains a core portion of the standard national curriculum. The cost of these devices is minimal, so no change is made at this time.

44. COMMENT: Several commenters objected to the requirement that every MICU vehicle carry all authorized medications, stating that this should be left to the discretion of the program medical director.

RESPONSE: This portion of the proposed rule was submitted prior to the formation of a subcommittee of the MICU advisory council for the purpose of determining which medications should be listed as optional and which should be mandatory, as the standard of care requires. Their effort is not yet complete; therefore, this portion of the rule has been amended on adoption for the reasons specified in the response to Comment 45 below. The Department anticipates completion of the subcommittee's work in the near future and will readdress this issue at that time.

45. COMMENT: One commenter objected to the prohibition of additions to the MICU of any medication not listed in subchapter 8 of these rules as unnecessarily restricting the program's medical director.

RESPONSE: The enabling paramedic legislation requires the Commissioner of Health to approve all procedures and medications to be used by prehospital advanced life support providers (N.J.S.A. 26:2K-7(a)). As such, no change is made to this requirement.

46. COMMENT: One commenter stated that it was impractical to list specific equipment in a legal document. The commenter stated that to do so would be restrictive, economically flawed and prohibitive of progressive and innovative technology.

RESPONSE: The purpose of listing the required equipment in these rules is to establish a published listing of the equipment which is representative of the standard of care. Should this listing be removed from the rules, any enforcement action could seem arbitrary. These rules establish formal requirements which are readily identified for easy interpretation, yet are done in a generic method with regard to brand names. The Department does not endorse any specific brand of equipment. Previous experience with the MICU policy manual had demonstrated that, if no formal listing is established, a wide variety of interpretations arise. This does nothing to assure consistent quality of care from service area to service area. Therefore, no change is made to remove this section.

N.J.A.C. 8:41-3.8 Vehicle out-of-service logs

47. COMMENT: Several commenters stated that it would be more efficient if the out-of-service logs be kept in the administrative office or station at which the vehicle is assigned. The commenters stated the log could be damaged if kept in the vehicle.

RESPONSE: The intent of this rule is that there be a log kept which recorded instances when the program has an interruption of service to its designated primary service area. This would be inclusive of instances where a vehicle assigned to a service area breaks down, but a second unit from the same program covers both service areas. For clarity, the phrase "kept on it" will be changed to only "kept" to reflect the requirement that the log exists.

48. COMMENT: One commenter stated that this log is redundant with the requirement that the Office of Emergency Medical Services (OEMS) be notified when a vehicle is out-of-service for greater than eight hours. It was suggested that this rule be changed to record only those cases where the vehicle is out-of-service for less than eight hours.

RESPONSE: This log is designed to be a comprehensive listing of interruption of service to the primary service area. As stated before, this log does not reflect the vehicle, but the provision of service to the designated primary service area. All instances where the primary service area is left uncovered or is covered by a unit from an adjacent service area need to be documented. As such, no change is made to this rule.

49. COMMENT: One commenter requested clarification of preventive maintenance. The commenter questioned if the vehicle manufacturer's preventive maintenance plan would be acceptable.

RESPONSE: Preventive maintenance is a regular schedule of maintenance designed to reduce undue wear and tear on the vehicle. While the basic preventive maintenance plan issued by the vehicle manufacturer meets the intent of this rule, there is no prohibition that a program may exceed these plans. Generally, the preventive maintenance program should meet or exceed those approved by the manufacturer, in accordance with the guideline developed by the Society of Automotive Engineers at 400 Commonwealth Drive, Warrendale, PA 15096. Also, the term "preventative" has been changed to "preventive" for clarity.

N.J.A.C. 8:41-3.9 Safety of operation

50. COMMENT: Several commenters requested that the Department remove the requirement that MICU vehicles be operated within the scope of all applicable statutes. The commenters stated that this would expose the prehospital advanced life support providers to greater liability and could increase the number of lawsuits. It was further stated that this rule could slow the response of the MICUs.

RESPONSE: Nothing in the statutes regarding the operation of emergency vehicles relieves the operator of an emergency vehicle of any responsibility for adherence to all applicable statutes. In fact, when emergency vehicles are operated outside of the scope of the statutes the liability of the operator is increased. A review of case law indicates the single greatest risk to an action rests with improper operation of the emergency vehicle. Further, the operator of the emergency vehicle owes a duty to the general public to operate that vehicle with due regard for the safety of the public. If the MICU vehicle is involved in an accident on the way to a call, not only does the first call go unanswered, but additional resources are required to attend to the second call, that of the MICU vehicle's accident. A reasonable response with due regard to safety is the standard of care for the prehospital community. While the law does require non-emergency vehicles to yield the right-of-way, there is no other privilege issued to authorized emergency vehicles. These rules cannot ignore statutory law and, as a result, no change is made.

N.J.A.C. 8:41-3.10 Storage of equipment

51. COMMENT: Three commenters expressed concern that this section could be enforced in the face of a devastating accident which results in a failure of the cabinets or total destruction of the vehicle.

RESPONSE: The Department is experienced in the investigation of accidents where the superstructure of the vehicle is severely compromised. The Department will not seek an action against any program where a vehicle has sustained a catastrophic collision in which the vehicle's structure fails. This section refers to the storage of equipment in an unrestrained, haphazard manner that could cause an object to become a projectile in the event of sudden maneuvers of the vehicles. For example, a helmet left on the rear seat, a loose suction unit or cardiac monitor all have the potential to render a disabling or lethal head injury in an accident. As a result, each program should design its vehicles and store its equipment in the safest possible manner. The Department will examine each new vehicle for compliance with this rule. Provided the vehicle is approved and equipment storage is not changed, no violation would be present. Obvious violations to this section would be noted at spot checks and surveys. For example, if a loose oxygen bottle is found on the back seat during a survey, it would result in an action against the program. Therefore, no change to this section is made.

N.J.A.C. 8:41-3.12 Sanitation

52. COMMENT: Several commenters felt that the term "odors" is too broad for regulatory purposes.

RESPONSE: The Department agrees that the intent of this rule is to prohibit the presence of noxious odors. The rule is changed to clarify this intent.

53. COMMENT: Two commenters stated that subsection (c) was unclear as written. The commenters suggested that the rule be changed to reflect that equipment be kept in a sanitary condition.

RESPONSE: The portion of the rules which refers to odors has been changed to noxious odors (see Comment 52). This definition provides for a clear understanding of what is intended with regard to the sanitary condition of equipment which is used in patient care. It is important to note that these standards are provided as a general overview as to the sanitary condition of equipment. Under the Federal bloodborne pathogens rules (29 C.F.R. 1910.1030), there are substantial penalties levied when a provider fails to assure that the reusable patient care equipment is adequately sterilized, or if disposable equipment is improperly used. Nothing in these rules should be construed to lessen the Federal and State requirements for sanitation of equipment. As such, no change is made, other than to clarify the term "odors" as "noxious odors."

54. COMMENT: Two commenters asked if non-disposable equipment, such as blood pressure equipment, monitors, stethoscopes and scissors, need to be decontaminated after each patient use.

RESPONSE: If the equipment is contaminated with blood or bodily fluids, it would need to be decontaminated. See Comment 53 for more details.

N.J.A.C. 8:41-3.13 Director

55. COMMENT: Two commenters stated that the requirement that the program director be either a certified paramedic or a registered nurse with one year critical care experience is too broad and should be restricted to paramedics and mobile intensive care nurses.

RESPONSE: See Response 56.

56. COMMENT: Several commenters stated that the requirement that the director be a currently certified paramedic or a registered nurse with one year of critical care experience is unduly burdensome, in that management of health care organizations requires a broad base of knowledge which is not limited to the actual provision of care. It was noted that the program medical director is directly responsible for medical oversight of the program.

RESPONSE: The Department recognizes the fact that the prehospital environment is unique in the health care field. The experience in the prehospital advanced life support provider is a valuable tool in the management of these programs. However, the Department further acknowledges the fact that these are not exclusive qualifications for management of health care organizations. Individuals who have demonstrated, either through education or experience, that they are qualified to manage these programs must be given due consideration. Further, the Department notes there have been instances in the past where the program coordinator was not a certified paramedic at the time of his or her appointment. Therefore, this section is changed to include individuals who have a demonstrated ability to manage health care organizations.

N.J.A.C. 8:41-3.14 Minimum staffing

57. COMMENT: One commenter stated it would be more correct to change this section to require a minimum of two prehospital advanced life support providers. The section currently requires two prehospital providers.

RESPONSE: The Department agrees this is more clearly reflective of the intent, so the rule is changed to read a minimum of two prehospital advanced life support providers.

N.J.A.C. 8:41-3.15 Hours of operation

58. COMMENT: Several commenters stated that the requirement to report out-of-service hours was excessive, and suggested that the rule be changed to require notification to the Office of Emergency Medical Services (OEMS) should there be an interruption in service, as designated in the program's certificate of need.

RESPONSE: This is the intent of the rule. For clarity, paragraph (a)2 is changed to reflect interruption in coverage.

59. COMMENT: Two commenters stated this rule is inappropriate and unenforcible. The commenters stated there is no way to assure that the area is covered to the level required by the program's certificate of need should the program be unable to service its area (exclusive of instances when the unit is on another call). The commenters questioned if it would be expected that the program would arrange with another program to staff a vehicle and provide coverage to the service area, and also if the level of training had to match the level of training of the original program.

RESPONSE: The intent of this rule is that, should a program be unable to provide for coverage to its primary service area for a period of eight hours or greater (for example, vehicle failure and no available back-up unit or inadequate staffing for full time, part time and seasonal vehicles), the program must arrange with another program to staff a vehicle at that location to provide adequate coverage to the service area. Prolonged interruption in services have occurred in the past, with little or no coverage offered to the residents of those areas. To rely on the coverage of secondary response units from other areas is unrealistic in most areas of the state and places an undue burden on surrounding

programs. While interruption in service for less than eight hours does not require this type of coverage, programs are encouraged to coordinate these periods among themselves, without deviating from assigned service areas. For clarity, the eight-hour limit is reflected in N.J.A.C. 8:41-3.15(a)1 and 2.

N.J.A.C. 8:41-3.16 Addition of temporary MICU vehicles

60. COMMENT: One commenter suggested that the Department not require notification of additional MICU vehicles unless the total hours of service exceed five percent of that which would constitute a full-time unit per quarterly reporting period.

RESPONSE: This proposal would permit programs to circumvent the certificate of need process which is required by law to operate units outside the scope of the existing certificate of need. By requiring advanced approval in most instances, the Department can monitor the use of these units, as well as monitor encroachment of surrounding programs' service areas. No change is made to this section.

61. COMMENT: One commenter suggested that only units placed in service to respond to emergency calls in the service area should require notification to the Department. The commenter stated that if a second unit is placed in service due to other causes (for example, a social event) it should not require any notification.

RESPONSE: See Response 60. No change is made to this section.

62. COMMENT: Several commenters stated that the exclusion for prior approval at N.J.A.C. 8:41-3.16(a)3 could prevent a program from responding to certain emergencies that are not disasters in the usual sense of the word (for example, a hostage situation). It was suggested that the rule be changed to exclude emergency situations to allow for a timely response.

RESPONSE: The Department recognizes that the role of the prehospital advanced life support provider has expanded to include response to non-disaster emergency operations. As such, this rule is changed to clarify the intent of the rule, which is to permit response to emergency situations which preclude advanced notification.

63. COMMENT: Several commenters stated that the requirement that the program notify the Department if a vehicle is placed in service to respond to an emergency situation (for example, a hostage situation) by the next business day may not be practical, if the disaster or emergency is of an ongoing nature.

RESPONSE: While certain types of emergencies do become protracted, the notification procedure is permissible by telephone. While personnel directly involved may not be disposed to make these notifications, a dispatcher or administrator could do so. No change is made to this requirement.

N.J.A.C. 8:41-4.1 Paramedic student selection

65. COMMENT: One commenter requested the definition of moral turpitude.

RESPONSE: The term "moral turpitude" is a standard term which implies depravity or base acts. In addition to the crimes and offenses included in this section, this class of offense would include all offenses in Chapter 14 and Chapter 34 of Title 2C of the Revised Statutes. It should be noted that a conviction does not represent an absolute disqualification of an applicant. These individuals would need to apply to the Commissioner prior to obtaining sponsorship for admission to the program. The need for this review is evident in that the persons who engage in the practice of prehospital advanced life support are admitted to places that most others are not, and at times that are the least opportunistic for the sick or injured person to monitor the activities of these persons. Consequently, the public needs to be sure that the individuals who answer their call for help are of high moral character and ability.

66. COMMENT: One commenter suggested that the paramedic student candidate should have at least one year of basic life support experience prior to admission to any training program.

RESPONSE: While the Department acknowledges that a certain skill base is required for successful completion of the training and certification process, the number of years that an applicant may have had at the basic life support level is not an adequate meter of those skills. The diversity of the call volume of the various ambulance squads in New Jersey is such that it invalidates a given period of time as a measuring tool. The Department feels the programs will be best served through a thorough pre-screening process, interview and background check of all applicants. The rule does mandate a certain minimum training, however. The requirements that the individual be certified as an EMT-A and have a valid CPR certification remain in force, and have been clarified to indicate that the certificates must remain valid throughout the training period. No change is made in this regard.

67. COMMENT: One commenter stated that the requirement that an applicant be physically capable of performing all required skills of a paramedic student violates the provisions of the Americans with Disabilities Act (42 U.S.C. 12101). It was suggested that the wording be changed to state that the candidate should be able to perform all essential functions.

RESPONSE: This rule should not be construed to exclude any class of person from training. However, it is necessary to note that there is a national standard curriculum for the training of paramedics which reflects the current national standards of practice for paramedics. In addition, these rules serve to define the essential skills a paramedic must perform. In that essential skills are required for certification by the Commissioner as a paramedic, it is unnecessary to change the text. It should be noted that in its final rule regarding the act, the Department of Justice provides that "(a) public entity shall not impose or apply eligibility criteria that screens out or tend to screen out an individual or any class of individuals with disabilities from fully and equally enjoying any service, program or activity, unless such criteria can be shown to be necessary for the provision of the service, program or activity being offered (28 CFR 35.130(b)8)." As this criteria is the national standard which is required to be met for certification, it is not in conflict with this law.

68. COMMENT: One commenter stated that this section is in violation with the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A et seq.) in that it excludes individuals convicted of crimes from certification. The commenter felt the exclusions listed in the act were not applicable to this situation.

RESPONSE: The Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A, et seq.) is designed to provide that persons who have demonstrated that they have rehabilitated themselves are not unduly restricted from seeking licensure or certification by any State agency. The commenter errs, however, when the assertion is made that the exemptions in the act are not applicable to this situation. The act states that no agency may discriminate against an individual convicted of a crime or disorderly persons offense "... except that a licensing authority may disqualify or discriminate against an applicant for a license or certificate if N.J.S. 2C:51-2 [sic] is applicable or if a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought." (N.J.S.A. 2A:168A-2). The law goes on to define the conditions needed to deny a certificate or license in these circumstances. In *Sanders v. Division of Motor Vehicles,* 131 *N.J. Super.* 95 (App. Div. 1974.), it is demonstrated that such a review is within the scope of the act. It is essential that the public which receives these services has high confidence in the providers who provide them. The sick or injured patient has little choice of who will respond to the emergency call. Further, the intent of this rule is to allow for a prospective review of the applicant's history. Paramedic training can be costly and time consuming, as with any professional training. It should be noted that there is no automatic exclusion. This rule requires that the Commissioner review each case individually, so there is no automatic refusal. This rule would prevent a candidate from entering a course of training which would not lead to eligibility for certification. As such, this rule serves to effectuate the provisions of the act. No change is made.

N.J.A.C. 8:41-4.2 Didactic sites

69. COMMENT: Several commenters stated that the reporting of final didactic grades violates the provisions of the Family Rights and Privacy Act.

RESPONSE: The provisions of the Family Educational Rights and Privacy Act of 1974 (20 USC 1232) is intended to assure students and their families protection from release of certain records containing personal identification. However, there are certain legitimate reasons for the release of certain records which are mentioned both in the law (at 20 U.S.C. 1232g(b)) and by the Federal rules (34 CFR 99.31). Specifically, records are not covered by these sections if State and local officials or authorities to whom such information was specifically required to be reported or disclosed by State statute adopted prior to November 19, 1974 (20 USC 1232g(b)1(e)). P.L.1973, c.229 is the enabling statute which authorized paramedic training and service in New Jersey. This statute required paramedics to successfully complete a training program accredited by the Commissioner. This law was enacted on October 16, 1973.

The Federal law also provides that accrediting agencies are exempt when inquiries are required in the due course of accreditation functions. As no person may be certified unless he or she has successfully completed a didactic training program, it is necessary for these programs to document the student's successful completion. If this were not to occur, the student would not be permitted to take a certification examination. Further, the Department has been the accrediting agency for paramedic training in New Jersey since the inception of the program. While there are other accrediting agencies in existence, the prime and sole statutory authority lies with the Department. Absent accreditation by the Department, no training program can exist. Students would not be eligible for certification in this or any other State. The Department has determined that the scope of the information needed is simply the completion of a document which lists the students enrolled on the first night of class. This document would then be required to indicate whether a student has passed, failed or dropped from the program. This form would then be signed as the required report and submitted to the Department. Therefore, no change is made to this section.

70. COMMENT: One commenter stated that the paramedic training programs are subject to the regulation of the Board of Higher Education, not the Department.

RESPONSE: The commenter errs when asserting that the Department is not responsible for regulation of these programs. The statutes clearly state that paramedic candidates must successfully complete an education program approved by the Commissioner for mobile intensive care paramedics (N.J.S.A. 26:2K-9(b)). This has been true since the inception of these programs. The Department has recognized the benefit students receive when the training program is affiliated with an accredited college. However, the responsibility for the accreditation of these programs remains with the Department, by law.

71. COMMENT: One commenter expressed concern that these rules serve to prohibit an integrated didactic and clinical training program.

RESPONSE: It is not the intent of these rules to exclude integrated training programs. Provided the training program is approved by the Department, integrated programs will continue to be considered valid. Certain considerations will need to be met, however. Students' progression through these programs must occur in accordance with the standard curriculum; students' clinical experience should not surpass the didactic (or classroom) component as listed in Subchapter 11 (proposed). Reporting requirements, with regard to successfully completing all requirements before attending the certification exam, would remain in effect in that the required periodic examinations may be examined during inspections.

N.J.A.C. 8:41-4.3 Authorized clinical training sites

72. COMMENT: Several commenters wished to clarify the intent of this section with regard to existing training programs. It was questioned if a program has been approved would it be necessary for that program to reapply.

RESPONSE: If a program has received formal Department approval to conduct clinical training, no additional application or approval is required.

73. COMMENT: Several commenters requested clarification on the supervision of students and the orientation of preceptors when students are trained at a site that is part of a clinical training affiliation agreement. These students do not necessarily report to the program at which the training takes place.

RESPONSE: The responsibility for the students who are trained at a clinical affiliate site, as well as the orientation of preceptors, is that of the approved training agency. While these tasks may be delegated, the ultimate responsibility for these issues lies with the approved sponsor.

74. COMMENT: Some of the commenters requested clarification on the clinical training objectives referred to in this section.

RESPONSE: The clinical training objectives established for paramedic training reflect national standards for paramedics, with certain additional areas included that pertain to the scope of practice of paramedics in New Jersey. These objectives were developed by the Department, in conjunction with the State Mobile Intensive Care Advisory Council. Included in this development process was a representative group of the clinical training coordinators. For reference, the clinical training objectives are being introduced in this issue of the New Jersey Register as a proposal. They will become Subchapter 11 of this document.

75. COMMENT: One commenter stated that the requirement that students be approved by the Department prior to sponsorship to a didactic program is excessive and unnecessary.

RESPONSE: The intent of this rule is that no student shall be sponsored for training by a program unless the program is approved to conduct clinical or integrated training for paramedic students. This rules does not require individual Departmental approval of students, but does require the prior approval of the sponsoring clinical program. For clarity, the last sentence is changed to reflect the rule's intent.

76. COMMENT: One commenter suggested that the replacement of the phrase "on demand" with "on request" would improve the tone of the rules.

RESPONSE: At the time of an inspection or investigation, the production of required records is mandatory, not optional. The current language best conveys the intent of the rule. No change is made to this section.

N.J.A.C. 8:41-4.4 Emergency medical services (EMS) educator

77. COMMENT: One commenter requested that the rules for this position include a minimum educational level, as well as a required level of experience as a prehospital provider as a prerequisite for appointment.

RESPONSE: The Department recognizes the benefit that would be perceived from this proposal. However, the desired qualities of an educational resource cannot be limited solely to the experience or education of that individual. Each program that is approved for clinical sponsorship of paramedic students needs to review what qualities will best serve its purpose. This individual will ultimately be responsible for ensuring these rules are followed with regard to clinical training. If the program selects an individual who cannot perform these functions, the program will bear the responsibility to correct any deficiencies, as well as be subject to action for violation of these rules. Therefore, no change is made to this section.

N.J.A.C. 8:41-4.6 Timespan allowed

78. COMMENT: One commenter stated that this rule seems to discourage an integrated approach to paramedic training. The commenter notes that integrated paramedic training combines the didactic and clinical program in a continuous manner. The timespan in the rule refers to a maximum time for clinical training, commencing from the completion of the didactic portion of the program.

RESPONSE: It is not the intent of the Department to prevent approved programs from utilizing an approved integrated approach to paramedic training. Such programs would require specific approval from the Department to abandon the traditional training approach. In these instances, the program would concurrently run the didactic and clinical experiences. In traditional approaches to paramedic training, the didactic portion of the program lasts for two semesters, and students must complete all clinical requirements within 18 months of the end of the didactic portion. Applying this standard to an integrated program would result in a maximum time frame of 30 months. At the conclusion of the 30 month period of the integrated program, the student would be eligible for an extension of three months, as is indicated in this section. Also, no student, regardless of the type of training program, may exceed 36 months in the overall training period. This represents a reasonable timespan for both the traditional and integrated programs.

N.J.A.C. 8:41-4.7 Preceptor orientation

79. COMMENT: Several commenters questioned what is meant by a formal orientation for preceptors.

RESPONSE: A formal orientation is a program that contains sufficient material to introduce the preceptor to the goals of the training experience, expected performance criteria, rating mechanisms and the "scope of practice" for the paramedic student. As a formal program, it will exist in written form in either a policy type format or in a lesson plan format to allow for uniform repetition for new preceptors. It is necessary to have this program, as persons serving as clinical preceptors may be unaware of the scope of paramedic training. Licensure and experience do not necessarily provide insight into the goals of paramedic training programs.

80. COMMENT: Two commenters stated it would be unreasonable for the programs that sponsor students to "ensure" that preceptors are clinically competent and receive formal orientation. It was suggested that the EMS educator provide an overview and monitor preceptors.

RESPONSE: It is not a sound educational practice to assign students to clinical preceptors who are either unaware of the training program or who have not demonstrated a basic clinical competence. Any program which is approved to conduct clinical training is responsible for identifying competent clinical preceptors in the required areas. The past practice of relying on staff who happen to be assigned to a unit on the day a student is scheduled for training is unsafe and does not assure the student

an experience in line with the goals and objectives of paramedic training. Not all practitioners are capable of providing clinical oversight to students. Should a program send students to a clinical site other than its own for a portion of the required training, it is the responsibility of the approved sponsoring program to ensure the preceptors are orientated in accordance with this chapter. It may be a delegated function (for example, to the MICU program at that site), but it remains the responsibility of the sending EMS educator to see that the preceptor orientation has been done. See also Responses 73 and 80. No change is made in this regard.

N.J.A.C. 8:41-4.8 Certification examinations

81. COMMENT: One commenter stated that this section should be eliminated and the rules for testing be left to the National Registry of Emergency Medical Technicians, the current testing agency used by the Department for the purpose of administering the paramedic examination.

RESPONSE: While the Department currently utilizes the National Registry of Emergency Medical Technicians paramedic certification examination, it remains the responsibility of the Department for the overall exam process. As such, these rules serve as the basis for the examination process. The rules include by reference the testing policies of the National Registry of Emergency Medical Technicians as the testing agency used by the Department (N.J.A.C. 8:41-8(e)). These rules are more complete as proposed; no change is made to this section.

N.J.A.C. 8:41-4.9 Paramedic certification

82. COMMENT: One commenter stated that the requirement that paramedics supply the Department with information such as their address is unnecessary and unreliable, as people move. In addition, the commenter stated the phrase "... and other information as required by the Department" is too broad.

RESPONSE: Paramedics are required to have a current address on file with the Department by law (N.J.S.A. 26:2K-8(c)). Other information includes the program which recertifies the individual, training sites, and personal identifying information needed to provide periodic mailings to paramedics, as well as to gather information needed for system monitoring. No change is made to this section.

83. COMMENT: Several commenters stated that the issue of certification of paramedics should be handled by the Division of Consumer Affairs of the Department of Law and Public Safety and should be licensure, as opposed to certification.

RESPONSE: State law requires that the Commissioner of Health certify paramedics (N.J.S.A. 26:2K-8(a)). No change is made to this section.

N.J.A.C. 8:41-4.10 Paramedic recertification

84. COMMENT: Several commenters stated that the basic life support skills review should be on a biennial basis, as is the paramedic certification.

RESPONSE: The Department agrees that this would be more practical, in view of the recent changes in training for the basic life support providers. This section is changed to indicate that the basic life support skills review must be done biennially.

85. COMMENT: Three commenters stated that the need for an EMT-A instructor to conduct basic life support training sessions is unnecessary. It was suggested that the program director, medical director or EMS educator should be able to sign off the paramedic on basic life support skills.

RESPONSE: The Department notes that the program director or medical director may not be familiar with the proper application of the types of splints, devices and materials used at the basic life support level in the prehospital setting. Familiarity with a device is not to be construed as an adequate knowledge base to provide guided instruction in its application. An EMT-A instructor, certified by the Department, has demonstrated continuous expertise in these areas of instruction. In that the basic life support review is now biennial, this cannot be construed as excessive. No change is made in this requirement.

86. COMMENT: One commenter supported the use of EMT-A instructors in basic life support skills reviews.

RESPONSE: See Response 85.

87. COMMENT: One commenter requested the addition of Basic Trauma Life Support instructors to the example of qualified basic trauma skills instructors at N.J.A.C. 8:41-4.10(g).

RESPONSE: This is current practice by the Department and clarifies the intent of this rule. This section is changed to reflect the intent of the rule.

88. COMMENT: Several commenters stated that the inclusion of trauma assessment skills in the basic life support skills sessions is redundant with the advanced life support skills verification by the program medical director.

RESPONSE: The Department agrees and will remove the requirement from this section.

89. COMMENT: Several comments were received which stated that paramedic recertification should not be dependent on medical director or program director endorsement. The commenters note that no other medical program profession has this requirement. It was suggested that a notarized statement be submitted by the paramedic attesting to his/her continued clinical competence.

RESPONSE: The Department notes that a self-assessment of clinical skills is the least reliable method of determining the level of care provided by an individual. The program medical director serves as an agent of the Department for the purpose of monitoring the clinical competency of the paramedic. The Department notes that the MICU program serves as the custodian of the proof of continuing education. It is important to note that should a program's medical director recommend that recertification be withheld from a paramedic, the paramedic could appeal to the Department directly. In any case, the final determination would be made by the Department. The Department will continue to study this issue further, but no change is made at this time.

90. COMMENT: A commenter requested that the Department allow the use of other documentation for BLS skills or ALS recertification purposes.

RESPONSE: The Department utilizes a standard form for administrative ease, and as a means of obtaining all required information. This is not unduly excessive, and no change is made to this requirement.

N.J.A.C. 8:41-4.11 Mobile intensive care nurses

91. COMMENT: Several commenters stated that mobile intensive care nurses should be required to complete the same training requirements as paramedic students and to take the certification test.

RESPONSE: The advanced life support law in New Jersey permits "... registered professional nurses trained in advanced life support" to operate on MICUs (N.J.S.A. 26:2K-7(i)). The purpose of this section is to define the required training base for these individuals. The program medical director monitors this training, and endorses the nurse as meeting these requirements when the candidate has demonstrated competence in the prehospital area. As the nature of the prehospital environment is very dynamic, this training must occur on an ongoing basis, even after the initial endorsement. This section specifies the continuing education that is required every two years. The Department feels this protects the public health and safety, while remaining in compliance with the law. As such, no change is made to this section.

92. COMMENT: Several commenters stated that the requirement for 100 hours of field experience should be amended to include the statement "... and has demonstrated competency" to the medical director.

RESPONSE: The Department agrees that the intent of this rule is not a blind 100 hours minimum timeframe, but that after that time the candidate should have demonstrated competence in the prehospital advanced life support area. The rule has been modified to reflect the intent.

93. COMMENT: One commenter wanted to know why the candidate must have a current EMT-A certification.

RESPONSE: The certification as an EMT-A indicates that the individual has a basic competency in areas considered basic life support. Nothing in the training of the paramedic or nurse covers areas as they are included in this course of study. This is the "building block" upon which the advanced prehospital care techniques are built. Therefore, EMT-A certification remains a requirement for these candidates.

94. COMMENT: One commenter requested the definition of "physically capable of performing skills."

RESPONSE: This is self evident. An individual must be able to perform the skills covered by the national standard curriculum for paramedics in order to operate on a mobile intensive care unit. For example, if a person cannot perform CPR, he or she cannot render the standard of care necessary to do the job that is required. See Response 67.

N.J.A.C. 8:41-4.13 Recertification extensions

95. COMMENT: Several commenters questioned why medical causes for extensions of certifications are handled differently than other requests.

RESPONSE: Medical cases required less investigation by the Department, as the causative factors are identified by a physician who attests to the disability. Other causes for failure to complete the requirements are more labor intensive and will vary from individual to individual.

96. COMMENT: One commenter suggested that the length of the extension should be greater for those persons disabled in the line of duty.

RESPONSE: The Department has determined that requests for medical extensions of the certification of paramedics are best handled in a standard, uniform manner. Longer medical extensions may lead to a skill deterioration. Should special circumstances arise that the paramedic feels should be considered by the Department, it is permissible to submit those circumstances at the time of the request. The timespan for the extension shall remain at one year.

N.J.A.C. 8:41-4.14 Paramedics with expired certifications

97. COMMENT: Several commenters stated that it is unreasonable for the Department to require a paramedic who allows his or her certification to expire be required to complete a full paramedic training program. The commenters stated that many other professionals are permitted to reenter the field after only a limited retraining period imposed by the employer.

RESPONSE: The commenters err when they state the rules require a paramedic to complete the entire training program to regain certification. The proposed rule requires these individuals to seek sponsorship at an approved clinical training program, complete 48 hours of didactic refresher training matching the United States Department of Transportation's curriculum for paramedic refresher courses, and complete 200 hours of clinical retraining tailored to the needs of the reentering paramedic. This is approximately one-fourth the time of the initial training program. This represents the minimum entry requirements for testing by the National Registry of Emergency Medical Technicians. The final step in this process is to complete the certification exam. This process is significantly less cumbersome than past practice regarding paramedics with expired certification. As such, no change is made to this requirement.

98. COMMENT: One commenter stated that, if a person cannot retain his or her paramedic certification, it is unlikely that he or she will retain EMT-A certification. The commenter suggested it is unnecessary to require a valid certification as an EMT-A as a prerequisite to reenter to the paramedic program.

RESPONSE: See Response 93. No change is made.

N.J.A.C. 8:41-4.15 Reciprocity

99. COMMENT: Two commenters requested publication of the clinical training objectives referenced in this section with regard to reciprocal certifications.

RESPONSE: See Response 74.

N.J.A.C. 8:41-4.16 Probationary periods

100. COMMENT: Two commenters stated that it would be more practical if probationary reports were issued at the end of the probationary period, not on the monthly schedule which was proposed.

RESPONSE: The Department agrees that this will satisfy the intent of the rule, while reducing paperwork. This rule is changed at subsection (c) to reflect a requirement for the report at the end of the probationary period.

N.J.A.C. 8:41-4.17 Scope of practice; limitations

101. COMMENT: Three commenters stated that this rule prevents a paramedic from acting in an advanced life support capacity in the event he or she is confronted with an emergency when not operating as a member of a mobile intensive care unit team. The commenters questioned how this would be viewed upon with regard to liability and the "duty to act."

RESPONSE: These rules are reflective of the enabling statute with regard to when and how a paramedic may operate. The statute specifically states that a "mobile intensive care paramedic means a person trained in advanced life support services and [is] certified by the commissioner to render advanced life support services as part of a mobile intensive care unit" (N.J.S.A. 26:2K-7(h)). Further, the law provides that, unless radio failure should occur, "a mobile intensive care paramedic may perform advanced life support services, provided maintain direct voice communication with and are taking orders from a licensed physician or physician directed registered professional nurse . . ." (N.J.S.A. 26:2K-10). Finally, the law provides that nothing in the law ". . . shall be interpreted to permit a mobile intensive care paramedic to perform the duties or fill the position of another health care professional employed by the hospital, except that the paramedic may perform those functions that are necessary to assure the orderly transfer of advanced life support care from the mobile intensive care unit to hospital staff upon arrival at an emergency room . . ." (N.J.S.A. 26:2K-18). There can be no "duty to act" implied or imposed if it is prohibited by statute. As such, these rules cannot be relaxed. No change is made.

N.J.A.C. 8:41-4.18 Disciplinary action; suspensions, revocation and penalties for prehospital ALS providers

102. COMMENT: Several commenters felt that these issues are best handled by the employing institution and not the Department. They consider these issues to be employee-employer issues.

RESPONSE: The issue of certification by the Commissioner severs from the employee-employer issue. This is no different than the standards imposed by other licensing and certifying bodies. There is a direct public safety concern in the performance of individuals certified by the Commissioner. Further, if a certified provider is terminated by one employer for misconduct, there is no guarantee that he or she will not simply seek employment with another program. See Response 21 for further clarification. There is no change made to this section.

103. COMMENT: Additional comments were received that the Department should restrict action against an individual's certificate to actions which constitute willful and gross negligence in practice.

RESPONSE: The Department will take action against providers who engage in willful or negligent practice beyond the scope of the paramedic. It will base any action on the totality of the circumstances of the event. However, each paramedic is required to know what the scope of practice is. As such, any deviation from protocols or standards of practice (for example, exceeding the scope of standing orders) cannot be overlooked as inconsequential. No change is made to this section.

104. COMMENT: Several commenters felt that conviction of a crime was too broad, and feared action based on traffic offenses or minimal infractions (for example, jaywalking). The commenters suggested the term "felony" be used in place of "crime."

RESPONSE: The Department uses the term "crime" for consistency with state criminal justice statutes. For the purposes of this chapter, the definition of crime is the same as used in the Code of Criminal Justice, found at N.J.S.A. 2C:1.4(a). Specifically, this law states that a crime is an offense for which a sentence of imprisonment in excess of six months is authorized, and, therefore, constitutes a crime within the meaning of the Constitution. These crimes are graded from crimes of the first degree to crimes of the fourth degree. All other infractions are offenses and are not applicable to this section unless they meet the tests for certain offenses listed in paragraph (a)14. As the Legislature has determined this to be an appropriate definition, no change is made.

105. COMMENT: One commenter questioned if paragraph (a)10 violated the provisions of the Rehabilitated Convicted Offenders Act (at N.J.S.A. 2A:168A).

RESPONSE: As was addressed in Response 68, there are certain public safety concerns to which the legislature has given consideration. In the area of licensure and certification, any action for violation of statutes which do not directly attach to the performance of advanced life support services will be judged based on the totality of the circumstances. In instances where a question of judgment or public safety arises, the Department is required to conduct these reviews. No change is made to this section.

106. COMMENT: One commenter stated the Department should be required to solicit complaints against an individual in writing in order to proceed with an action.

RESPONSE: The issue is not how a complaint is received, but if the infraction has actually occurred. The Department has a responsibility to conduct a thorough investigation before taking any permanent action against the certification or endorsement of a prehospital advanced life support provider. There is no perceivable benefit to restricting the avenues of access of redress by the public. This change is not made.

107. COMMENT: Several commenters stated that disciplinary action against an individual for infraction of these rules, as listed at paragraph (a)11, is vague and should be removed.

RESPONSE: The rules in N.J.A.C. 8:41 are a complete listing of the program requirements. Compliance with the requirement is mandatory. Any failure to comply with the requirements may result in the imposition of a penalty. Since the requirements are specified in N.J.A.C. 8:41, the Department does not believe this provision is vague. No change is made.

108. COMMENT: One commenter requested clarification as to what constitutes a threat to public health and safety, as referenced in paragraph (a)18.

RESPONSE: This is any situation that, after investigation and evidence review, indicates that there exists a potential for harm if the situation is not immediately abated, or represents a direct threat to the health and safety of the citizens of New Jersey.

109. COMMENT: Several commenters requested a definition of "moral turpitude."

RESPONSE: See Response 65.

N.J.A.C. 8:41-4.19 Report of unlawful or prohibited conduct

110. COMMENT: Several commenters objected to the requirement that unlawful or prohibited conduct be reported. One commenter suggested that this type of reporting is only appropriate in instances where the professional is licensed. Others felt that only felonies should be reported. One individual stated that the report should be made to the program director.

RESPONSE: This section serves to protect both the programs and the general public from exposure to prohibited acts that may be detrimental to the public health and safety. As such, all prohibited conduct needs to be reported to the Department for assessment and investigation. The program director is not the appropriate party to notify, as this person represents the entity which may be involved in the infraction. This section is not changed.

N.J.A.C. 8:41-5.2 Dispatch centers; criteria

111. COMMENT: Three commenters requested that the Department develop specific regulations for dispatch centers for the purpose of ensuring compliance with certificate of need designations, etc.

RESPONSE: This is not possible on a Statewide basis. Many mobile intensive care units are dispatched by agencies outside the jurisdiction of the Department (for example, county sheriffs departments or communications centers) which are under the control of other agencies (for example, the Office of Emergency Telecommunications in the Division of State Police). If a designated dispatch center does not comply with the provisions of this chapter, it could be stripped of its designation.

112. COMMENT: One commenter felt that if all proposed dispatch agreements are subject to Department approval, it could result in the Department financially punishing a program.

RESPONSE: This comment is without basis. The Department has a legitimate responsibility to assure that any agreement reflects the certificate of need requirements with regard to primary service areas. It also will prevent a program from encroaching into the assigned primary service area of another program. If the Department finds the need to take action against a program, it will be done in accordance with these rules and with State law. The Department will not use a dispatch agreement to "punish" a program.

N.J.A.C. 8:41-5.3 Communication equipment required

113. COMMENT: Several commenters stated that the use of approved MED channels is cumbersome, in light of newer technology available for medical command purposes. The commenters cite overcrowding of frequencies, inadequate coverage areas, the need to replace outdated equipment and the cost of participation in coordination of the use of these frequencies as factors which necessitate alternative communications.

RESPONSE: The Department acknowledges that there are certain deficiencies in the current communications systems. However, the Department notes that these types of deficiencies also exist in alternate communications systems which have been approved. The area of communication technology is under evolution. The metropolitan New York-Philadelphia area is a victim of frequency overcrowding which pervades to all areas of communications. The Department is constantly evaluating the technology available and will continue to do so. In the interim, it would be unwise to abandon the current technology until more information is available. It should be noted that individual programs have received waivers for alternate communications systems, but no program has been permitted to withdraw from frequency coordination centers. This type of waiver will still be available when these rules become operative. No change is made to this section at this time, except for changing "by" to "via" in paragraph (a)4 and correcting the reference to Federal Communications Commission.

114. COMMENT: One commenter requested the Department not drop the requirement for coordinated use of the MED channels, due to recent changes in available technology.

RESPONSE: See Response 113.

N.J.A.C. 8:41-5.4 Biomedical telemetry; communications

115. COMMENT: Three commenters stated that the requirement to tape every call which receives medical command is excessive. They questioned where the standard of 90 percent tape availability originated. Further, it was stated that only those calls which are directed through the primary means of communication should have to be taped.

RESPONSE: The standard listed in these rules requires that every call which receives medical command be taped, regardless of how medical command is accessed. If a program uses a HEAR radio for providing medical command, it would need to be recorded in a manner that would produce a tape which is available for quality assurance and inspection purposes. The 90 percent tape availability is not the standard; it represents an enforcement threshold. The standard is 100 percent; all calls must be taped.

N.J.A.C. 8:41-5.6 Alternative communications

116. COMMENT: One commenter stated that the process for obtaining a waiver to use an alternative communication system is cumbersome.

RESPONSE: Part of the process for approving alternative communications involves mandatory field trials of the proposed equipment. In addition, there must be time for adequate review of any proposal to ensure that adequate coverage is afforded to the MICU. As such, public safety mandates a thorough review of these requests. No change is made to this process.

N.J.A.C. 8:41-5.8 Radio failure protocols

117. COMMENT: Several commenters expressed concern that the requirement that prehospital advanced life support providers contact the base by any means available before utilizing radio failure protocols could interfere with emergent care in life threatening situations.

RESPONSE: This rule does require the MICU team to continue to make attempts to contact medical command, if their equipment should fail; however, it does not preclude treatment from commencing while attempts are made to contact the base station physician via secondary means. For example, it would not be permissible to continue management of a cardiac arrest patient on radio failure if a telephone were available in the house. If the radio should fail and a patient required airway management (for example, congestive heart failure patients) the treatment can occur while the second paramedic attempts to contact base by phone. The radio failure protocols should not be confused for standing orders. These radio failure protocols are operative only when the radio fails and no communication can be made due to technical difficulties (N.J.S.A. 26:2K-11). Standing orders, which exist under subchapter 10 of these rules, differ in that they may be used before contacting the physician. No change can be made in the scope of this rule.

N.J.A.C. 8:41-6.1 Medical director required

118. COMMENT: Two commenters stated that this rule is in conflict with State law, which requires the program medical director to be a cardiologist.

RESPONSE: The commenters refer to the previous law, which was repealed by P.L.1984, c.146 (effective December 8, 1984). The current law does not make any reference to the qualifications of the medical director. The certificate of need rules (N.J.A.C. 8:33N) only refer to the medical director in terms of these rules. As such, there is no conflict and no change is made.

119. COMMENT: One commenter requested clarification as to what is meant by "experienced in the provision of emergency care."

RESPONSE: This refers to an individual who has either worked as an emergency physician or previously acted as a medical director of an advanced life support program for prehospital providers.

120. COMMENT: One commenter stated that the notification timeframe for a change in medical director was vague and needed to be specific.

RESPONSE: The Department agrees a more specific timeframe is required. The rule is changed to reflect a 30 day timeframe for reporting a change in medical director, and lists what information must be reported.

N.J.A.C. 8:41-6.2 Medical command of advanced life support personnel

121. COMMENT: Several commenters noted that this rule requires prehospital advanced life support providers to perform all treatments and procedures ordered by the physician, even in the event that the treatment or procedure could be deleterious to the patient's health. It was noted that an order borne from miscommunication between the prehospital advanced life support provider and the directing physician could lead to catastrophic results.

RESPONSE: The Department has determined that this rule does appear to obligate a prehospital advanced life support provider to perform procedures and administer treatments that may not be appropriate to the patient's condition. It is the intent of the rule to require the administration of treatments that are appropriate. The prehospital advanced life support provider has an obligation to question any order which appears to be inappropriate, based upon the patient's presentation. There should be dialogue between the physician directing the call and the provider treating the patient. It has been determined that the last sentence of this rule conflicts with the goals of good prehospital care. If a physician orders a treatment and it is inappropriately withheld, the prehospital advanced life support provider could be disciplined in accordance with subchapter 4. There should be no obligation to perform any treatment which is contraindicated, based on the patient's condition. Therefore, the last sentence of subsection (c) is omitted from the adoption.

122. COMMENT: One commenter stated that the obligation to notify the receiving facility should not be imposed upon the medical command physician. The commenter stated that this responsibility could be delegated to ancillary staff.

RESPONSE: While the physician may delegate the reporting requirement to a qualified staff member (for example, another physician or a registered nurse), this remains a physician-to-physician transfer of a patient. It is inappropriate for any non-qualified person to make a medical notification (for example, the unit clerk or medical communicator), as these individuals lack the proper training to ensure an accurate report is given to the receiving facility. Therefore, no change is made to this section.

123. COMMENT: Two commenters stated that the requirement that a prehospital advanced life support provider give a detailed report to the physician when contact is made could be harmful to a patient suffering a life threatening condition. It is suggested that the rule reflect that an appropriate report be given to the physician.

RESPONSE: The Department agrees that certain instances do arise where it is necessary to obtain orders to correct a life threatening situation before a complete history can be relayed. This rule is changed to reflect that an appropriate report shall be given to the physician, and the physician shall determine if an adequate amount of information has been provided.

N.J.A.C. 8:41-6.3 Base station physicians

124. COMMENT: One commenter requested clarification as to what a formal orientation to the base station consists of. The commenter also recommended that the base station course offered by the American College of Emergency Physicians (ACEP) be considered as the standard.

RESPONSE: The program is required under subchapter 9 to have a formal policy for the orientation of physicians and registered nurses to operation of the base station. The program developed in accordance with this policy would be acceptable. Although the Department recognizes the value of the course conducted by ACEP, the course has limited availability. Therefore, it cannot be adopted at this time as the sole method of learning about base station operations.

125. COMMENT: One commenter noted that there is an American Osteopathic Board of Emergency Medicine which should also meet the requirements of this chapter.

RESPONSE: The intent of the rule is such that the term "board" should mean any recognized group for the certification of emergency physicians. Under N.J.A.C. 8:43G, an emergency physician is required to be board eligible. These physicians will most often be the base station operator. N.J.A.C. 8:41-6.1(d) is changed to reflect this intent, but requiring board certification.

126. COMMENT: One commenter stated that base station physicians need to be trained in advanced cardiac life support, advanced trauma life support, pediatric advanced life support or be residency prepared. The commenter stated board certification is not sufficient, in light of the varied types of patients the base station physician must manage.

RESPONSE: While the Department recognizes the goals of this type of proposed requirement, it is inconsistent with current rules for emergency room physicians in this New Jersey (N.J.A.C. 8:43G-12). Further, it could become difficult to find a physician to provide medical command to the MICU team. As such, no change is made to the requirements in this regard.

127. COMMENT: One commenter stated that a hospital should be required to provide medical command to an outside program only if that program cannot provide medical command due to technical difficulties.

RESPONSE: In the case of a MICU team seeking medical command from a site other than its primary command site, the issue is not why the MICU called, but the fact that requested physician assistance. This does not differ from a patient coming into the emergency room. It does not matter how they arrived; it only matters that they are there and are requesting treatment. As such, the rule is correct as published.

N.J.A.C. 8:41-7.2 Approved skills and procedures

128. COMMENT: Several commenters noted that pleural chest decompression was omitted from the list of approved skills. This skill is currently authorized by the Commissioner.

RESPONSE: This skill should have been included in the list at N.J.A.C. 8:41-7.2(a)9. It was inadvertently deleted in the final editing process. This skill remains authorized by the Commissioner for use by prehospital advanced life support providers.

129. COMMENT: One commenter wanted to know why the pneumatic anti-shock garment (PASG) is not listed in this area as an authorized skill.

RESPONSE: The application of the PASG has been determined to be a basic life support skill and is currently approved for application by EMT-A's operating on basic life support ambulances. N.J.A.C. 8:41-7.1 provides that basic life support skills may be performed without physician medical command. Therefore, it is not necessary to include PASG in this section.

N.J.A.C. 8:41-7.4 Paramedics in the emergency department

130. COMMENT: One commenter stated that this section should be eliminated, as the Office of Emergency Medical Services (OEMS) cannot regulate emergency departments.

RESPONSE: The rules are promulgated by the New Jersey State Department of Health and are authorized by the State Commissioner of Health. There is direct statutory authority for these rules at N.J.S.A. 26:2K-17. In addition, these rules serve to clarify the intent of the enabling legislation found at N.J.S.A. 26:2K-18, which prohibit the utilization of paramedics in the position of or performing the duties of any other health care professional. Subsection (a) of this rule is permissive, in that it enables the paramedic to perform certain patient care functions. It requires that the paramedic be assigned to the vehicle, and shall not be called in primarily to staff the emergency room. Subsection (b) prohibits the utilization of paramedics in violation of the law, or in any manner which would delay their response to a prehospital emergency. Finally, subsection (c) states that paramedics cannot be utilized to meet any staffing requirements listed in the hospital licensing standards found at N.J.A.C. 8:43G. While enforcement and monitoring functions for mobile intensive care programs have been assigned to the Division of Health Facilities Evaluation and Licensing, Office of Emergency Medical Services, the authority comes from the Commissioner. Thus, the Department has jurisdiction over this area. No change is made to this section.

N.J.A.C. 8:41-7.5 Pronouncement of death

131. COMMENT: Several commenters stated that this section should be deleted and delegated to the Board of Medical Examiners, who could permit paramedics to make arrangements with a medical examiner or attending physician to perform pronouncements.

RESPONSE: Currently, State law authorizes only licensed physicians or, in certain instances, registered professional nurses to make the actual determination and pronouncement of death (N.J.S.A. 26:6-7 and 26:6-8.1). Therefore, when prehospital advanced life support providers are confronted with an obviously dead body, the physician who received the report is the pronouncing physician. The prehospital advanced life support provider acts as a facilitator for this pronouncement, but does not perform the actual pronouncement and determination of death. As such, these rules must remain in force.

132. COMMENT: Several commenters stated that the requirement to send a telemetered electrocardiogram in each instance a patient is to be pronounced may be impractical. In cases where decomposition is

present, it may be difficult to properly monitor the patient. Also, it may be possible to monitor a patient, but only be able to access a telephone which does not permit the sending of telemetry. The base station physician should determine the need for a telemetered electrocardiogram.

RESPONSE: This policy has been in effect since 1982. In 1984, the enabling statute was changed to permit the receiving physician to determine if it was necessary to receive telemetry at the time the report is called in (N.J.S.A. 26:2K-10). This change is in keeping with the legislative intent for medical direction of prehospital advanced life support providers. It is reasonable that the physician performing the pronouncement make the decision regarding the need for telemetry. Therefore, this section is changed to require telemetry to be sent at the request of the physician. Also, subsection (d) is modified to remove the reference to the inability of the prehospital advanced life support provider to send a telemetered electrocardiogram as a prohibition for the pronouncement of death.

133. COMMENT: Several commenters stated that there should be no prohibition of standing orders for the pronouncement of death. It would seem to obligate resuscitation of an obviously dead body if no phone were available.

RESPONSE: The law requires that a physician must make the formal, actual determination and pronouncement of death. Therefore, no standing orders for pronouncement can be authorized. Because the requirement for a telemetered electrocardiogram has been changed to require it be sent only when requested by the physician, any means of communication can be used to contact the physician, including VHF radio. A pronouncement of death is a formal, legal declaration of death which is required by law. If a patient were decapitated or decomposed the standard of care would allow the prehospital ALS provider to withhold resuscitation efforts. These guidelines are found in the Textbook of Advanced Cardiac Life Support published by the American Heart Association. In cases where death is not obvious, resuscitation should commence until a physician is contacted.

134. COMMENT: Several commenters stated that subsection (e) seems to require the MICU to be placed out-of-service to perform pronouncements.

RESPONSE: The intent of this rule is the MICUs shall not be placed out of service for the sole purpose of the pronouncement of death. To clarify this intent, the wording of subsection (e) is changed to reflect that MICUs should not be placed out of service to perform pronouncements.

135. COMMENT: Three commenters stated these rules seem to obligate MICU teams to perform pronouncements in cases where resuscitation is not indicated.

RESPONSE: Nothing in these rules should be construed to require a base station physician to pronounce any patient. This decision lies solely within the clinical judgment of the individual physician. Nothing in any law or statute assigns the responsibility for the pronouncement of death to the MICU team. In cases of unattended death, either the attending physician or medical examiner has this responsibility. The primary purpose of MICU units is service to the seriously ill or injured patient; they should be utilized for this purpose.

N.J.A.C. 8:41-7.6 Patient triaged to basic life support

136. COMMENT: One commenter requested clarification that it is permissible for each program to allow triage to basic life support without physician contact.

RESPONSE: Nothing in these rules obligates a prehospital advanced life support provider to make contact with the base station physician on patients who are clearly not requiring advanced life support. It should be noted that each program should have a formal policy, developed by the medical director, indicating what conditions or symptoms require a physician consultation prior to release to basic life support providers. This would provide for a uniform application of triage standards throughout the program.

N.J.A.C. 8:41-7.7 Blood alcohol levels for legal purposes

137. COMMENT: Two commenters stated that this section interferes with the enforcement of certain statutes regarding driving while intoxicated, which are essential to public safety.

RESPONSE: Prehospital advanced life support providers intervene in cases of serious, potentially life threatening injuries. The scope and focus of this intervention is to treat and transport the patient as rapidly as possible to the appropriate trauma center. Blood alcohol levels for legal purposes require a special procedure, which is not always practical and may serve to delay care and transportation. There is no statutory obligation for prehospital providers to draw blood alcohol levels for the purposes of enforcement. Hospitals have developed specific procedures which ensure that all parties are aware of the legal requirements, and have developed specific chain-of-custody rules which could not be followed in the prehospital area. Blood which is improperly obtained could hinder a prosecution. The Department does not wish to see the prehospital advanced life support provider transformed from patient advocate to adversary.

N.J.A.C. 8:41-8.1 Approved drug list for mobile intensive care units

138. COMMENT: One commenter suggested a required and optional drug list. In addition, it was requested that there be an alternate way for these medications to be approved and added to this list to allow for more timely additions and changes.

RESPONSE: See Response 44.

139. COMMENT: Two commenters questioned whether the rules permitted the use of lidocaine jelly.

RESPONSE: There is no prohibition from carrying lidocaine in the viscous form. Lidocaine is an approved medication, regardless of form.

140. COMMENT: Two commenters questioned why dextrose in water is listed in a generic fashion. The commenters state the list appears to prohibit carrying pediatric doses of dextrose in water.

RESPONSE: The list appears as it does to allow for the use of pediatric concentrations of dextrose in water. As published, the list requires each unit to carry five percent dextrose in water and 50 percent dextrose in water, but allows the medical director to determine which concentration is appropriate for the pediatric patient (for example, 10 percent dextrose in water). It should be noted that this change was approved previously on March 16, 1992.

N.J.A.C. 8:41-8.3 Medication controls, inventory and recordkeeping required

141. COMMENT: Several commenters stated that these rules are duplicative with those of the Board of Pharmacy. The commenters stated that these rules would become burdensome if implemented, and should be deleted.

RESPONSE: Again, the prehospital environment is unique in the health care industry. As such, special considerations need to be given to the storage, control and inventory of these items. See also Response 17 for further clarification. It is important to note these rules have been operative and enforceable for several years, and do not represent a change in intent. No change is made to delete this section.

142. COMMENT: One commenter questioned the need to track medications not considered hazardous (non-schedule drugs according to the Controlled Dangerous Substances Act (Title 24 of the Revised Statutes)).

RESPONSE: The Department agrees that the tracking requirement is intended to apply to those medications listed in Schedules I-V, inclusive, as defined by the Controlled Dangerous Substances Act. The rule is changed to reflect this intent.

143. COMMENT: Two commenters stated the inclusion of Schedule I drugs in this rule is unnecessary, as these drugs have no recognized medical value.

RESPONSE: While the Department acknowledges that there is no current application for Schedule I drugs in the prehospital environment, it is included for completeness. It is possible that a current Schedule I drug could be introduced for experimental use. Therefore, no change is made to eliminate this item.

144. COMMENT: One commenter stated that the rule which requires the reporting of any loss of medications appears excessive. There are several medications which may be broken or lost that should not require notification (for example, lost bottle of nitroglycerin).

RESPONSE: The Department agrees that the intent of this rule is to require the reporting of Schedule I-V medications, inclusive, and syringes that cannot be accounted for. This rule will be reworded to more clearly express the intent.

N.J.A.C. 8:41-9.1 Personnel records

145. COMMENT: Two commenters stated that this section should be amended to include a copy of a valid driver's license.

RESPONSE: The Department has determined that this is best determined by the individual employer. There are programs which may determine that this is unnecessary, as adequate personnel may be available to drive the vehicle.

N.J.A.C. 8:41-9.2 Policy and procedure manual

146. COMMENT: One commenter asked if it would be permissible to maintain the policy manual on computer disk(s).

RESPONSE: Policies must be accessible by the entire staff 24 hours a day, regardless of form or medium. Thus, a computer locked in an administrative office would not meet the intent of this rule. As a result, any alternative manual would need to be immediately accessible.

147. COMMENT: Several commenters stated that paragraph (b)15 is too vague and broad, and, therefore, should be deleted.

RESPONSE: This item is designed to allow for the development of policies that benefit a small portion of the MICU programs. For example, if a program would routinely respond to a nuclear or correctional facility, it may be necessary for that program to develop special policies for those responses. No program would be cited as out of compliance with this chapter unless the program had previous notification that it is required. Thus, the wording of this section is correct as published.

148. COMMENT: One commenter stated that the phrase "... shall contain policies that include, but are not limited to ..." is too broad. The commenter stated that the rule should be specific as to what must be present.

RESPONSE: The commenter's interpretation would restrict programs from developing policies needed for the management of the program. See Response 147 for additional information.

N.J.A.C. 8:41-9.4 Student/candidate clinical training records

149. COMMENT: One commenter stated that it would be inappropriate and possibly in violation of the Family Educational Rights and Privacy Act to release some of the information listed in this section.

RESPONSE: This section does not compel a release of information. It compels the training program to open these records for inspection as part of the inspection and complaint investigation processes which are authorized by law. Further, the Family Educational Rights and Privacy Act permits the accrediting agency access to these records. The Department would strip reference to an individual's identity in any report issued as a result of these investigations or inspections. Failure to submit to these inspections could result in the removal of authorization to conduct training. For additional information, see Response 69.

N.J.A.C. 8:41-9.5 Medical records

150. COMMENT: Several commenters stated that these rules should be modified to require ECG documentation only when medically appropriate, such as cardiac calls.

RESPONSE: The standard for documentation is that if a cardiac rhythm is monitored, a copy of the ECG tracing must be attached to both the copy left at the hospital and the copy retained by the program. If the patient does not require cardiac monitoring, then no ECG tracing need be attached (for example, a sprained ankle). It is the responsibility of the program medical director to monitor their program for proper cardiac rhythm monitoring. It should be noted that this does not differ from standard hospital documentation practices. No change is made to this requirement.

151. COMMENT: Several commenters stated that there should not be a mandated Statewide run report. It was suggested that there be a Statewide minimum data set, but not a specific form.

RESPONSE: Several states have transitioned to standardized run forms with central reporting requirements. To remove this requirement may prohibit the Department from gathering and evaluating data regarding the prehospital environment. No change will be made to this section.

152. COMMENT: Several commenters stated that the requirement that the provider in attendance with the patient must complete the report is unduly restrictive, in that the providers act as a team and could complete the report equally as well.

RESPONSE: The intent of this section is that one member of the crew who answered the call complete the report, not a member of the administrative staff or a relieving shift. The language of this section is revised to clarify the intent of this rule.

153. COMMENT: Several commenters stated that the requirement that the prehospital advanced life support provider give a copy of the report to the receiving physician or nurse appears to conflict with the standard that an MICU should become available for a new assignment upon transfer of the patient with a verbal report.

RESPONSE: The unit should be considered available for assignment after transferring the patient to appropriate hospital staff with a verbal report given to the receiving physician or nurse. While it is preferable to leave the written report with the receiving facility when the patient is transferred, a copy of the written report can be delivered at a later time, if delay is necessitated by a second call. This is consistent with current standards.

154. COMMENT: Several commenters requested clarification as to which additions to patient records required initials and date of change if changes or additions were made to the chart after it is distributed.

RESPONSE: Only those changes which pertain to patient care issues need to be initialed and dated, if changed. Only these changes are required to be reported to the receiving facility. Changes involving non-patient care issues, for example, physician signature, disposition and diagnosis information, insurance information and quality assurance, billing or other extraneous information, is not covered by this section. Any information regarding the patient care, for example history, physical exam, medications, allergies, treatments and treatment times, is covered by this section.

155. COMMENT: Two commenters stated that reporting of any treatment rendered prior to the arrival of the MICU should not be included in the patient reports, as it is akin to hearsay.

RESPONSE: Treatment rendered prior to the arrival of the MICU is part of the history of the event and not hearsay. It is the duty of the prehospital advanced life support provider to ascertain what treatments have been provided, as this information may guide the subsequent treatment regimen. For example, it would be a dangerous practice not to include information on a patient chart that indicates cervical spinal precautions were taken prior to the arrival of the MICU. In instances where the MICU team is unsure of information, it could be documented as "BLS reports that." Therefore, the rule is correct as published.

156. COMMENT: Several commenters stated it may not be possible to document BLS vehicle numbers, as some ambulances are not clearly marked.

RESPONSE: If this were to be the case, that item should be marked with "N/A," or some other indication that the information is not available.

157. COMMENT: One commenter stated that the requirement that MICU programs track cancelled calls and calls where the unit is not available is cumbersome and would create a burden on already overtaxed paramedics.

RESPONSE: This requirement has been in place for several years. The tracking of cancelled calls can be accomplished in a log or on a simple form developed by the program. Information concerning calls in which the primary unit was not dispatched due to the unit being not available should be available from the dispatch center. These items have been required as part of the quarterly reporting requirement since 1983. No program has ever reported to the Department that this was a burdensome requirement. In addition, this information may be required as part of a certificate of need application process to document the need for an additional MICU vehicle in an area. Therefore, no change is made.

N.J.A.C. 8:41-9.7 Quality assurance; roles and responsibilities

158. COMMENT: Two commenters stated that the requirement for a 10 percent review of all calls which were evaluated by the MICU team is arbitrary. The commenters state that the rules interfere with current quality assurance techniques.

RESPONSE: The 10 percent review exists as a threshold for program monitoring. The Department has utilized this standard in the past. Nothing in these rules require a random audit. In fact, N.J.A.C. 8:41-9.8 defines areas to be covered by the quality assurance program. The method and manner of the review is at the discretion of the program medical director. While no change will be made to the 10 percent requirement at this time, the Department will continue to monitor this issue in the future.

159. COMMENT: One commenter stated that the standards for quality assurance are too vague and that a formal quality assurance standard should be published as a regulation.

RESPONSE: The Department feels that accepting the commenter's approach could limit quality assurance methods and would unduly restrict the medical director from monitoring the efficacy of the program. No change will be to this extent.

160. COMMENT: One commenter stated that this section should be removed, as hospitals have quality assurance programs in effect.

RESPONSE: These quality assurance standards have been adopted from the rules which cover licensed hospitals (N.J.A.C. 8:43G). General hospitals do not generally engage in quality assurance of an individual program. These standards will serve to define the quality assurance goals of the Department. No change will be made to the rule in this respect.

161. COMMENT: Several commenters noted that 25 minutes on scene can range from appropriate (if a patient requires special treatment (for example, cardiac arrest)) to inappropriate (in instances where the patient should be enroute to the hospital much sooner (for example, a pedestrian struck by a motor vehicle)).

RESPONSE: The Department agrees with this comment. The intent of the rule is that the medical director should review scene times on calls to determine that patients are not unduly delayed from transportation to the hospital. In addition, when delays do occur, the cause of the delay should be appropriately documented on the patient's medical record. This section will be reworded to indicate that excessive scene times, based on the nature of the call, need to be reviewed if not sufficiently documented on the patient's medical record.

N.J.A.C. 8:41-9.9 Additional reports

162. COMMENT: Several commenters stated that the requirement for a fatal accident report was abandoned in the past, as it was impossible to report all the needed data. In addition, it was noted that there are instances where the MICU is not dispatched to these calls, giving unreliable data.

RESPONSE: The Department agrees that there is no reliable method of gathering this information at this time. This matter will be examined further; subsection (b) of this rule will be deleted upon adoption.

N.J.A.C. 8:41-10 Standing Orders

163. COMMENT: Several commenters stated that standing orders should not be published as part of the regulations. It was suggested that the publication of new or changed rules is cumbersome and slow. It was felt that this could unduly delay new lifesaving treatments from reaching the prehospital community. It was suggested that each medical director develop standing orders, subject to the guidelines and approval of the MICU Advisory Council.

RESPONSE: See Response 164.

164. COMMENT: One commenter stated that there is no statutory authority for standing orders to exist. The commenter further stated that standing orders allow for a cookbook approach to emergency medicine that is not necessarily in the best interest of the patient. Further, the commenter states that the Office of Emergency Medical Services (OEMS) lacks the medical expertise to effectively pass such protocols.

RESPONSE: The concept of standing orders are reflective of current trends in prehospital emergency medicine. The intent is to allow certain mitigating treatment to commence immediately and that physician contact be established as soon as practical. The standing orders direct at which point physician contact must be made in order for advanced level treatments to continue. There is no direct statutory authority for a program medical director to establish, approve or issue standing orders. The sole authority for these rules rests with the Commissioner of Health through the regulatory process. These protocols are reflective of the current trends in the management of the acutely ill patient, and are developed with the advise of the State Mobile Intensive Care Advisory Council. This council is comprised of the physician medical directors of each approved MICU program in the state, and is directed by statute to advise the Commissioner on matters pertaining to prehospital advanced life support (N.J.S.A. 26:2K-16). These physicians represent a compendium of expertise in prehospital emergency care. In addition, the Commissioner of Health is also a licensed physician experienced in public health (N.J.S.A. 26:1A-3). Medical protocols for prehospital providers receive expert review and approval through this mechanism. It is in the direct interest of public health and safety that such protocols exist. As the Administrative Procedure Act requires adequate public comment and notice, these protocols are developed as rules and are published in the New Jersey Register. Should a lifesaving treatment be developed that would greatly affect patient care, the advisory board would recommend approval of the procedure and an emergency adoption could be sought, which would reduce the timespan required for the rule to take force. Although there is adequate legal basis for these standing orders, the only way they can exist under current law is through this regulatory process.

165. COMMENT: Several commenters stated that the medical director of the program should be allowed to modify the scope of the standing orders.

RESPONSE: For the reasons local modifications cannot occur, please refer to Response 164.

N.J.A.C. 8:41-10.1 Standing orders for cardiac arrest

167. COMMENT: Two commenters stated that the requirement for 100 percent review of all cases that involve standing orders is excessive. While this may have been indicated at the inception of standing orders, it is not necessary at this time. It is suggested that the rule be changed to require 100 percent review by the program director (or designee) and mandatory medical director review in instances where deviations occur from the standing orders or when contact with medical command is never made.

RESPONSE: The Department agrees that the recommended change is more reflective of the intent of the quality assurance goals which are listed in subchapter 9 of these rules. These cases also fall under the targeted group for review, as listed at N.J.A.C. 8:41-9.8. This change will be applied to this rule, as well as to the provisions for review at N.J.A.C. 8:41-10.2 through 10.4, inclusive.

N.J.A.C. 8:41-10.2 Standing orders for multiple trauma

168. COMMENT: Two commenters stated that this rule should be changed to eliminate the specific size of the intravenous catheter, as this will vary from patient to patient. It was recommended that the phrase "large bore" be used in place of the specific size.

RESPONSE: This suggestion is more correct with regards to management of the severely traumatized patient and is in keeping with standards published by various trauma management programs. The rule will be changed to reflect that an intravenous catheter shall be large bore, and will not refer to the actual size of the catheter.

N.J.A.C. 8:41-10.4 Standing orders for the establishment of intravenous therapy

169. COMMENT: Several commenters noted that the reference to radio failure and radio failure reports are no longer in effect and will not be required by the proposed rules.

RESPONSE: The Department agrees that this portion of the policy is no longer valid and, therefore, should be removed from the rule.

170. COMMENT: One commenter requested that saline plugs be included in the standing orders.

RESPONSE: Saline plugs may be utilized in lieu of an intravenous line as part of this protocol. A change is made to reflect the intent of the rule.

Summary of Agency-Initiated Changes:

At N.J.A.C. 8:41-1.3 the definition of "certified" has been changed to reflect a more grammatically correct description. Commas have been added to the definition of "emergency medical services educator" to make the definition more grammatically correct and the definition of "Mobile intensive care advisory council" has been added, as it is referenced in several of the rules. In the definition of "medical command," the term MICUs has an apostrophe added for correctness. The definition of patient had an "and" replaced with an "or," which is the correct term when viewed in context of these rules.

At N.J.A.C. 8:41-2.3, commas have been added to (b) for correctness and the term "license" is added to make the section correct.

At N.J.A.C. 8:41-2.7(d), the phrase "Office of Emergency Medical Service" was changed to "Office of Emergency Medical Services" to reflect the correct title of the office.

At N.J.A.C. 8:41-2.8, the word "of" is added between "event" and "action" to make the sentence read correctly.

At N.J.A.C 8:41-3.4, a comma was incorrectly transposed with the word "and" in subsection (b) and is corrected.

At N.J.A.C. 8:41-3.5, at subparagraph (a)6iii the spelling of "valve" is corrected, and at subparagraph (a)7ii the rate of cycling of the infant bag-valve-mask was omitted from printing and is restored. The Department intended to duplicate the standards of the American Heart Association, which it has incorporated in its rules at N.J.A.C. 8:40-6.14(e)2, as this is current standard of care. Also, at paragraph (a)8, the spelling of "capable" and "addition" is corrected, and an apostrophe is added to the word "patient's" for correctness.

At N.J.A.C. 8:41-4.6, a hyphen is added to the term "three-month" and the term paramedic in subsection (c) is made plural for correctness.

At N.J.A.C. 8:41-4.9(a), a reference to the reciprocity provisions at N.J.A.C. 8:41-4.15 has been added for clarity.

At N.J.A.C. 8:41-4.10, a hyphen is removed from the term "prehospital," and the term "form" is made plural for correctness.

At N.J.A.C. 8:41-4.11, an "a" is added in subsection (a) before the term "prehospital ALS provider" and the "a" before the term "MICU" is change to an "an" for correctness.

At N.J.A.C. 8:41-4.15(g), the term "expired" is replaced with "expire" for correctness.

At N.J.A.C. 8:41-5.3(a)4, the term "by" is replaced with "via" to make the sentence more correct. At subsection (b), the term "Communication" is made plural to reflect the proper name of the agency.

At N.J.A.C. 8:41-6.2(c), the term "dosage" is made plural to be more correct.

At N.J.A.C. 8:41-6.2(h), the reference to standing orders is removed from the authority of the medical director, as this conflicts with current law. (See also comment and response 164, above).

At N.J.A.C. 8:41-7.2(a)8, the term "Federal Communication Commission" is changed to "Federal Communications Commission," which is the correct title of the agency.

At N.J.A.C. 8:41-7.2(b), a parenthesis is removed from before the word procedures.

At N.J.A.C. 8:41-7.5(c), the word "and" is added before the phrase "who appear dead" for clarity.

At N.J.A.C. 8:41-8.3, the Department has added clarification that carries out its intent to include all classified drugs, not just those with the highest potential for abuse.

At N.J.A.C. 8:41-8.3(d), the term "prehospital care" is replaced with "prehospital advanced life support provider" to keep with the terms used in this chapter.

At N.J.A.C. 8:41-9.1, the term "department" is replaced with "program" to avoid confusing the hospital MICU program with the Department of Health.

At N.J.A.C. 8:41-9.2(a)13, hyphens are added to the phrase "out-of-service" for consistency with other usage in this chapter.

At N.J.A.C. 8:41-9.3(c), an extra comma has been replaced with an apostrophe.

At N.J.A.C. 8:41-9.5(a), an extra comma is removed after the phrase "Statewide report form" for clarity.

At N.J.A.C. 8:41-9.8(f)4, the term "incidents" is added to make the rule more correct.

At N.J.A.C. 8:41-10.1(a)2i, the term "VF" is replaced with the term "ventricular fibrillation" to clarify the intent of the rule, as the abbreviation "VF" had not been previously defined.

At N.J.A.C. 8:41-10.1(b)1 the phrase "your patient" is changed to "the patient."

At N.J.A.C. 8:41-10.1(b)2, the word "the" before the phrase "medical command" is added to make the sentence read correctly.

At N.J.A.C. 8:41-10.2(a)3, the abbreviation "O_2" is replaced with "oxygen" for simplicity and clarity.

At N.J.A.C 8:41-10.2(a)6, the period at the end of the paragraph is changed to a semicolon.

At N.J.A.C. 8:41-10.2 paragraph (b) has been removed, as this conflicts with the enacting law. See Response 164 for additional information.

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

CHAPTER 41
MOBILE INTENSIVE CARE PROGRAMS

SUBCHAPTER 1. AUTHORITY, SCOPE AND DEFINITIONS

8:41-1.1 Authority; delegation

These rules are promulgated pursuant to N.J.S.A. 26:1A-15 and 26:2K-17, which authorize the Commissioner of the State Department of Health to enact rules pertaining to the operation of mobile intensive care units, and the provision of prehospital advanced life support in general.

8:41-1.2 Scope and purpose

These rules shall apply to all hospitals, agencies, persons and authorized programs that operate mobile intensive care programs, or which are seeking authorization to do so. These rules serve to define the operational requirements of these programs, to provide for a uniform application of standards, and to specify the personnel, equipment, organization and other resources required to operate a mobile intensive care program.

8:41-1.3 Definitions

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

"Advanced life support (ALS)" means an advanced level of prehospital, inter-hospital and emergency medical service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the Commissioner.

"Advanced life support ambulance" means a vehicle which is utilized for the delivery of advanced life support and for the purpose of emergency patient transportation, which serves as a mobile intensive care unit as defined by this chapter, and which serves as an emergency ambulance as defined by N.J.A.C. 8:40, Manual of Standards for Licensure of Invalid Coach and Ambulance Services.

"Authorized mobile intensive care unit" means a mobile intensive care unit authorized by the Department to provide advanced life support services to a specific population, geographic region, or political subdivision.

"Authorized" means approved by the Commissioner of the New Jersey State Department of Health, or his or her designee, in accordance with the provisions of this chapter.

"Available" means ready for immediate use (pertaining to equipment, vehicles and personnel); or, immediately accessible (pertaining to records).

"Base station physician" means any physician licensed by the Board of Medical Examiners of New Jersey who provides medical command to advanced life support personnel by radio, telephone or other direct means, as part of an authorized intensive care program.

"Basic life support (BLS)" means a basic level of prehospital care which includes patient stabilization, airway maintenance, cardiopulmonary resuscitation (to the standards of the American Heart Association), control of hemorrhage, initial wound care, fracture stabilization, victim extrication, and other techniques and procedures as defined in the United States Department of Transportation (U.S.D.O.T.) curriculum for Emergency Medical Technician-Ambulance (obtainable from the Superintendent of Government Documents, Washington, D.C. 20402) incorporated herein by reference and as promulgated by the Commissioner.

"Certified" means ***official confirmation that*** an individual *[who]* has completed the requirements of an approved program and has demonstrated a competence in the subject matter to the satisfaction of the certifying agency.

"Chief Administrator" means the Chief Administrator of the Office of Emergency Medical Services of the New Jersey State Department of Health.

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

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

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

"Didactic coordinator" means the person responsible for the didactic training, offered in conjunction with a college, in accordance with this chapter.

"Didactic training" means the classroom portion of the paramedic training program, as authorized by the Commissioner, and which meets, at a minimum, the requirements as outlined by the U.S. Department of Transportation curriculum for EMT-paramedic (obtainable from the Superintendent of Government Documents, Washington, D.C. 20402), incorporated herein by reference.

"Director" means the individual responsible for the general operation of a mobile intensive care program.

"Dispatch center" means a facility that provides coordinated dispatching of emergency services for a given area.

"Emergency medical services (EMS)" means a system for the provision of emergency care and transportation of individuals who are sick or injured.

"Emergency medical services (EMS) educator" means the individual responsible for the clinical training of paramedics, paramedic students, EMTs, nurses and physicians*,* as defined by*,* and required in*,* this chapter.

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

"Governing body" means the organization or persons holding legal responsibility for the operation of a hospital, health care facility, business or other agency.

"Health care facility" means a facility so defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1.1 et seq.

"JEMS (Jersey Emergency Medical Services) Communication Plan" means the authorized communication plan for emergency medical services, as issued by the Department.

"Licensed vehicle" means a vehicle that has been licensed in accordance with this chapter for the purpose of providing prehospital advanced life support as a mobile intensive care unit.

"MED channels" means those specific radio frequencies designated by the Federal Communications Commission for the exclusive use in providing medical command to MICUs, as defined in 47 CFR 90.53(15)(i).

"Medical command" means medical supervision provided to prehospital advanced life support providers by a licensed physician via radio, telephone or other direct means of communication.

"Medical control" means the medical oversight provided to the operations of a mobile intensive care unit (MICU), including written protocols, quality assurance and other medical supervision of the MICUs operations.

"Medical director" means a physician who meets the requirements of this chapter and is responsible to provide medical oversight to the operations of the MICU.

"Medical record" means the documentation completed each time the MICU makes physical or verbal contact with a patient, in accordance with the requirements of this chapter.

"Mobile intensive care nurse (MICN)" means a registered professional nurse licensed by the New Jersey State Board of Nursing who has at least one year of emergency or critical care nursing experience, is currently certified in advanced cardiac life support and basic cardiac life support to the standards of the American Heart Association, is currently certified by the Commissioner as an EMT-A, is endorsed by the program's medical director, and is staffing an authorized mobile intensive care unit.

"Mobile Intensive Care Advisory Council" means the advisory council charged with advising the Commissioner on matters regarding the provision of prehospital advanced life support, as defined at N.J.S.A. 26:2K-16.

"National Registry (NREMT)" means the National Registry of Emergency Medical Technicians, P.O. Box 29233, Columbus, OH 43229.

"Office of Emergency Management (OEM)" means the Office of Emergency Management of the New Jersey State Police.

"Office of Emergency Medical Services (OEMS)" means the Office of Emergency Medical Services in the New Jersey State Department of Health, Division of Health Facilities Evaluation and Licensing.

"Paramedic" means a person who has completed a training program authorized by the Department and who is certified by the Commissioner pursuant to N.J.A.C. 8:41-4.

"Patient" means any person who is ill or injured, living or deceased and with whom the mobile intensive care unit has established physical *[and]* ***or*** verbal contact.

"Prehospital ALS provider" means a mobile intensive care paramedic as defined by N.J.S.A. 26:2K-7 et seq., who is certified in accordance with the provisions of this chapter, or a mobile intensive care nurse as defined by this chapter.

"Physician" means a person who has earned the degree of M.D. or D.O. and who is licensed to practice medicine and surgery by the New Jersey State Board of Medical Examiners.

"Provide" means furnishing, conducting, maintaining, advertising, or in any way engaging in or professing to engage in any activity regulated by this chapter.

"Provider" means any person, agency or institution, public or private, that provides authorized mobile intensive care unit services.

"Radio failure," when applied to medical command, means circumstances that prevent prehospital advanced life support providers from communicating with their base station physician for medical command due to technical difficulties.

"Radio failure protocols" means the specific course of treatment to be followed by the prehospital advanced life support provider in the event contact with the base station cannot be made, and which is authorized by the Commissioner.

"Receiving hospital" means any hospital to which a patient is transferred following the provision of advanced life support services, including those patients evaluated but not treated by the MICU.

"Regional communications center" means a facility designated by the Department to coordinate communications of mobile intensive care units, including biomedical telemetry, radio and telephone services essential to dispatch and medical command.

"Revocation" and "revoked" mean the permanent removal of a license, certificate or endorsement, and shall have the effect of permanent debarment.

"Specific order" means an order by a licensed base station physician or other medical command physician with regard to the treatment of a patient, whether directly transmitted by the physician or relayed through a licensed registered professional nurse in accordance with this chapter.

"Standing orders" means specific treatment protocols that are authorized by the Commissioner, that relate to immediate life saving treatment of a patient and that occur without any communications with the base station physician.

"Suspended" means the temporary cancellation of any license, certificate, endorsement or privilege.

"Therapeutic agent" means any drug or agent which is used in the treatment of the sick or injured, including those authorized in accordance with N.J.A.C. 8:41-8.

"Unsafe vehicle" means, but is not limited to, any vehicle used as an MICU with any defect of the vehicle's exhaust, brakes, suspension, tires, and/or engine systems and any defect or fault in any required patient care equipment that poses a risk of harm, injury or death to patients, employees or passengers.

"Valid" means current, up-to-date, not expired, and in effect.

SUBCHAPTER 2. APPROVAL; LICENSING; PENALTIES

8:41-2.1 Approvals required

[(a)] No person, institution or agency, public or private, shall provide mobile intensive care services in any form or manner unless the provider is approved by the Department to do so.

[(b) No research or study shall be conducted unless the approval of the Commissioner has been granted, in accordance with the provisions of N.J.A.C. 8:41-2.10.]

8:41-2.2 Certificate of need required

(a) No applicant shall be approved to provide mobile intensive care unit services unless approval is granted under the Department's Certificate of Need Program, pursuant to N.J.A.C. 8:33N and N.J.S.A. 26:2H-1.1 et seq.

(b) The terms and conditions set forth in the certificate of need and any subsequent conditions shall be binding upon the program. Failure to comply with any such condition shall be deemed cause for action against the program, in accordance with N.J.A.C. 8:41-2.7, 2.8 and 4.12.

8:41-2.3 Approval procedures

(a) Following their approval by the Certificate of Need program, any qualified applicant desiring to provide mobile intensive care services shall make application in accordance with the requirements of this chapter.

(b) No authorization*,* *[or]* certificate ***or license*** issued by the Department shall be transferred or otherwise assigned to any other party. Any proposed change to the operations of the program as specified in the approval or Certificate of Need shall not occur prior to Department approval.

8:41-2.4 Surveys and inspections

(a) Authorized representatives of the Department shall conduct surveys and inspections to determine compliance with this chapter.

(b) Survey visits may be made by any authorized representative of the Department at any time to any location used or occupied by the program or its agents. The survey may also take place at any place where the vehicle is located. Such visits may include, but are not limited to, the review of all documents and patient records, *[riding along with the crew of the MICU]* and/or conferences with patients.

(c) The program and its employees shall permit authorized representatives of the Department to make such surveys as required by the Department.

8:41-2.5 Report of unusual occurrences

(a) The program shall notify the Department by telephone by the next business day, followed by written confirmation, of:

1. Any death or injury requiring hospitalization *[or emergency department evaluation]* of an employee due to an on-the-job incident;

2. Any police reported motor vehicle accident in which the mobile intensive care unit was involved, regardless of injuries. The written report shall include a copy of the police report and shall be forwarded within 14 days of the accident;

3. Any event occurring on or within the licensee's vehicle(s) or place of business that results in damage to records ***as required by this chapter***;

4. The loss of any controlled dangerous substance of Schedule I-V inclusive, as defined by N.J.S.A. 24:21-1 et seq. This does not relieve the provider of any responsibility for reporting as required by N.J.A.C. 8:65; or

5. Any instance when *[a licensed MICU vehicle is out of service]* ***an interruption in service, as defined by the program's certificate of need, occurs*** for more than eight consecutive hours.

(b) All telephone reports of unusual occurrences shall be made to the Office of Emergency Medical Services on or before the next business day during regular business hours.

(c) The required written confirmation shall include any additional information known to the licensee, copies of any official reports and licensee's estimate of the degree of disruption of services. This confirmation shall be received by the Department no later than 14 days after the incident.

(d) Information received by the Department of Health through the inspection process authorized by N.J.S.A. 25:2H-1 et seq. shall not be disclosed to the public in such a way as to indicate the names of specific patients or hospital employees to whom the information pertains. The Department shall forward inspection reports to the MICU program hospital at least 30 days prior to public disclosure. In all cases where the hospital comments on the inspection report, the hospital comments and the inspection report shall be released simultaneously by the Department. In cases in which the Commissioner determines that the protection of public health and safety necessitates immediate public disclosure of information, inspection reports may be disclosed immediately.

(e) Notwithstanding (d) above, these rules shall not be construed to interfere with existing legislation or the established rights and privileges of the public prosecutor and litigants having access to hospital records, nor shall determinations herein be construed to interfere in any way with the orderly legal process of obtaining access to such records.*

8:41-2.6 Policy and personnel files

No approval shall be issued unless the applicant has a policy and procedure manual that meets the requirements of N.J.A.C. 8:41-9 and has personnel files on each employee that consist of the employee's name, home address and documentation of current required certifications and continuing education units on personnel recertified by the program. No program shall develop policies that are contrary to public law or rule.

8:41-2.7 Enforcement

(a) The Office of Emergency Medical Services of the Department is empowered to act for the Commissioner and the Department to enforce the provisions of this chapter.

(b) Violation of any portion of this chapter by a program may be cause for action against the program, including, but not limited to, reprimand, suspension of approval or licensure, revocation of approval or licensure, fines, placing of conditions for continued operation of a program, the reassignment of medical command or any combination of these penalties. In addition to any action taken under this chapter, all matters of a criminal nature shall be forwarded to the appropriate authorities for disposition.

(c) Violation of any portion of this chapter by an individual may be cause for action against the individual, including, but not limited to, reprimand, probation, suspension of certification or privileges, revocation of certification or privileges, fines, or any combination of these. In addition to any action taken under this chapter, all matters of professional misconduct shall be referred to the appropriate licensing board(s). Matters of a criminal nature shall be forwarded to the appropriate authorities for disposition.

(d) The Chief Administrator of the Office of Emergency Medical Service***s*** may authorize action against a program which is utilizing an unsafe vehicle, as defined by this chapter, including:

1. Immediately placing the unsafe vehicle out of service;

2. Instituting a Departmental action against the program and/or provider responsible for the violation; and

3. Instituting other actions as allowed by law or rule.

8:41-2.8 Hearings

[Except when required in the interest of public health and safety] ***Except in circumstances deemed by the Commissioner to be a hazard to public health and safety***, no penalty shall be assessed nor approval suspended or revoked without affording the program or accused individual an opportunity for a hearing. In the event ***of*** action which results in the suspension of a certificate, approval, license or endorsement, the hearing shall be held within 30 days unless an adjournment is requested by the program or accused individual. Unless otherwise required by this chapter, the procedures governing all hearings shall be in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and N.J.S.A. 26:2H-1 et seq., as well as the Uniform Administrative Rules of Practice N.J.A.C. 1:1.

8:41-2.9 Waiver

(a) The Commissioner or his or her designee may grant a waiver of parts of this chapter if, in his or her opinion, such a waiver would not:

1. Endanger the life, safety or health of any person who utilizes the services; or

2. Adversely affect the provision of the service.

(b) A program seeking a waiver of part(s) of this chapter shall apply in writing to:

Office of Emergency Medical Services
New Jersey State Department of Health
CN 364
Trenton, NJ 08625-0364

8:41-2.10 Research proposals

(a) As used in this section, the following terms are defined as follows:

"Research" means a scientific investigation designed to establish facts and to analyze their significance, including:

i. Any study directed at systemizing data related to the causes, mechanisms, diagnosis and treatment of injuries;

ii. Data collection for purposes other than EMS management or evaluation; and

iii. Any other use of EMS client data, unless specifically authorized by this chapter;

2. "Principal investigator" means the person responsible for proposing and coordinating the research project;

3. "Human subject" means the person under consideration who is affected with a disease or condition which is being treated or observed with medical and surgical procedures and about whom the researcher obtains:

i. Historical data (for example, initial symptoms, circumstances surrounding the event, associated medical conditions) through intervention or interaction with the individuals or their family; and

ii. Identifiable private client data as recorded in the ED record, the hospital chart or the EMS prehospital run report;

4. "The Institutional Review Board (IRB)" means the board established by a licensed hospital to review biomedical and/or behavioral research using human subjects that is conducted at or supported by the hospital, in order to protect the rights of the human subject, and to approve said research; and

5. "Participating organizations" means volunteer, municipal or proprietary ambulance companies, licensed MICU programs, a receiving hospital and/or other specific EMS-related organization.

(b) No licensee shall engage in any *[research activity, including drug trials]* ***prospective research activity involving drug trials or invasive procedures***, unless first authorized to do so by the Commissioner.

(c) The procedure to request approval to conduct research projects shall be as follows:

1. The principal investigator shall first meet all requirements of the Federal regulations, including those in 42 U.S.C. 6a, III, G289;

2. The principal investigator shall obtain the approval of the IRB at the hospital sponsoring or endorsing the study;

i. If the principal investigator is not a member of the sponsoring institution's medical staff, the proposal shall include the name of the institution's principal investigator responsible for the conduct of the study;

3. The principal investigator shall obtain approval of the MICU's medical director. The MICU medical director has ultimate authority and responsibility for the conduct of the research project;

4. The application shall also include specification of any procedure or drug that is proposed that is not manifestly approved by this chapter;

5. If the proposal is directed to operational systems and is not directly related to human subjects, the principal investigator shall submit documentation that IRB approval is not necessary;

6. Forty copies of the proposal shall be submitted to the Department through the Office of Emergency Medical Services (OEMS) no later than 30 days before the scheduled meeting of the MICU Advisory Council at which the principal investigator wishes to present the proposal;

7. The proposal shall be reviewed at the MICU Advisory Council meeting ***or by a research subcommittee as appointed by the chair of the MICU Advisory Council***. The Council ***or committee*** shall review the proposal, make any comments it deems necessary, and make a recommendation with regard to approval or disapproval of the proposal. The recommendation, comments and proposal shall be forwarded to the Commissioner by OEMS; and

8. The Commissioner shall have final authority in the approval or disapproval of all research studies. The Department shall notify the principal investigator of its determination via mail. The study shall not be started until approval is obtained from the Commissioner.

(d) The format of the proposal shall include:

1. Background information, including rationale and relevant literature;

2. Specific aims and objectives, which shall be clearly stated, including the hypothesis and data to be gathered or tested;

3. Significance, relevance, benefits of and justification of the research;

4. Details of the methods utilized, including research design, how results will be analyzed, number and type of clients, research tools utilized, amount of time necessary and any risks involved;

5. If patient procedures or drugs are needed, an explanation of the procedures, risks, frequency, duration and precautions in detail, and a summary of the competence of personnel performing the procedure and the time frames of the study;

6. A detailed description of the mechanisms of patient protection, including:

i. How confidentiality of client data will be maintained, including methods of safeguarding client-identifiable data; and

ii. If the research directly involves human subjects, how consent will be obtained and documented; and

7. Administrative details, including budget, facilities used, and personnel issues.

(e) The Commissioner retains the right to revoke or suspend approval for any research project, regardless of stage of the research, for violations of the terms of the approval, violations of any part of this chapter or applicable statute, violations of patient's rights or confidentiality or for reasons of patient safety.

(f) The principal investigator shall submit interim reports as required by the approval notice to the MICU Advisory Council. These reports shall include:

1. A brief summary of the project with the methodology of the study;

2. Objectives of the study;

3. Results of the study, to date;

4. Amount and type of work remaining; and

5. Any conclusions reached to date.

(g) The principal investigator shall submit a final report to the Commissioner, OEMS and the MICU Advisory Council, including a one page abstract.

(h) If the proposal involves a therapeutic agent not approved in accordance with N.J.A.C. 8:41-8, the Commissioner may authorize the use of said agent in his or her approval of the study. The Commissioner's approval shall specify the length of time the agent may be used, and shall be subject to the terms and conditions imposed in the approval notice. Thereafter, if the medication is to be continued, it must be added to N.J.A.C. 8:41-8 in accordance with the provisions of the Administrative Procedure Act. Only programs officially designated by the principal investigator and authorized by the Commissioner shall utilize any medication under study.

SUBCHAPTER 3. VEHICLES AND PERSONNEL

8:41-3.1 Vehicle license required

(a) No program shall utilize any vehicle as a primary or back-up MICU unless the vehicle is first inspected and licensed by the Department in accordance with this chapter. The Department shall *[acknowledge all requests for inspection of]* ***make an inspection of*** new vehicles within five business days of the request.

[(b) The Department shall charge an application fee of $100.00 per vehicle, which shall include the license fee and an initial survey. If a resurvey is required, a fee of $25.00 shall be charged for each resurvey required per license period.]

*[(c)]***(b)*** The vehicle license issued in accordance with this chapter shall be valid from July 1 through June 30 of the following year. All new vehicle licenses issued shall expire on June 30. The vehicle thereafter would be subject to the annual license period.

8:41-3.2 Inspections

(a) The Department shall conduct inspections on each vehicle approved under this chapter at least once every year. In addition, the Department shall conduct unannounced surveys and program inspections *[of]* ***for*** compliance with this chapter.

(b) Unannounced surveys may be conducted by the Department at any time and at any place the vehicle is located, provided that patient care is not compromised. The scope of the survey shall be determined by the authorized representative of the Department

conducting the survey, and may include, but not be limited to: an examination of patient records, equipment, personnel and staffing, vehicles and facility.

8:41-3.3 Vehicles

(a) Each program shall secure a sufficient number of vehicles in order to comply with the provisions of N.J.A.C. 8:33N with regard to back-up vehicles.

(b) No program shall allow the operation of any vehicle that is patently unsafe to drive, presents a hazard to personnel and/or bystanders, or has not passed New Jersey Division of Motor Vehicles (N.J.D.M.V.) inspection and does not display a valid inspection sticker.

(c) Each vehicle approved in accordance with this chapter shall be equipped with *[sufficient]* emergency warning devices, including red lights and a siren, so that it meets the definition of an emergency vehicle as defined by N.J.S.A. 39:1-1 et seq. and N.J.A.C. 13:24.

(d) Each vehicle approved in accordance with this chapter shall be registered and insured in accordance with applicable State law and rule.

(e) MICUs which provide transportation to patients shall meet the standards set forth for emergency ambulances in N.J.A.C. 8:40 as a condition of licensure as a MICU. These vehicles are subject to licensure only as MICU vehicles, in accordance with this chapter. In the event of a conflict between N.J.A.C. 8:40 and this chapter, the MICU shall meet the higher of the two standards.

8:41-3.4 Required vehicle markings

(a) Each vehicle licensed in accordance with this chapter shall bear the following markings:

1. The name of the program approved to provide the MICU service*[,]* and*,* in the event the vehicle is operated by several hospitals, all participating hospitals named in the certificate of need shall be listed; ***and***

*[2. A "Star of Life®," which shall be prominently displayed on each side of the vehicle;

3. A unique vehicle identification number; and]*

*[4.]***2.*** The term "paramedics," "mobile intensive care unit," or "Advanced Life Support."

8:41-3.5 Required equipment

(a) Every vehicle licensed in accordance with this chapter as an MICU shall be equipped with the following items:

1. All communications equipment as required by this chapter;

2. A cardiac monitor that shall have a DC defibrillator that can provide both defibrillation and synchronized cardioversion, and shall have the capability of producing a paper recording of cardiac rhythms;

3. An external pacemaker;

4. Assorted needles, syringes and intravenous supplies to include:

i. Blood tubes for laboratory specimens;

ii. Intravenous (IV) tubing and catheters;

iii. Phlebotomy equipment; and

iv. Needle and syringe disposal containers;

5. Pediatric equipment to include:

i. Pediatric airway management materials including:

(1) Airways, endotracheal tubes and stylets;

(2) Pediatric and infant laryngoscope blades; and

(3) Pediatric and infant sized oxygen masks and bag-valve-masks;

ii. Pediatric-sized electrodes and paddles for the monitor/defibrillator;

iii. Pediatric and infant-sized IV catheters and/or winged infusion sets;

iv. Intraosseous infusion sets; ***and***

[v. Pediatric-sized pneumatic anti-shock garment (PASG); and]

*[vi.]***v.*** Pediatric and infant sized blood pressure cuffs;

6. Adult airway management equipment to include:

i. Oropharyngeal and nasopharyngeal airways of various sizes;

ii. Laryngoscope blades, handles, endotracheal tubes, and stylets; and

iii. Oxygen masks, cannulas and bag-*[vale]***valve*-masks;

7. Oxygen in a United States Department of Transportation (U.S.D.O.T.) approved cylinder that has a current hydrostatic testing date on it, in accordance with U.S.D.O.T. Regulations;

i. Each oxygen system shall have a flowmeter. Each flowmeter shall have a gauge or dial with a range of at least zero to 15 liters per minute (lpm) in calibrated increments. The flowmeter on portable systems shall be non-gravity dependent. Flowmeters shall be accurate to within one lpm when at a setting equal to or less than five lpm, 1.5 lpm when at a setting between six and 10 lpm and within two lpm when at a setting equal to or greater than 11 lpm. Non-dial type flowmeters must take at least one full turn to go from zero to 15 lpm. Indicators on dial-type flowmeters must be securely seated at each flow rate position;

ii. All bag-valve-masks shall be free from leaks, and shall be clean and free of contamination. The bags shall recycle at a rate of 20 times a minute for an adult ***unit,*** *[and]* 30 times a minute for pediatric ***units*** and ***40 times a minute for*** infant units, shall have an oxygen supply (reservoir) system and shall be capable of providing adequate resuscitation pressures. Any bag that has a "pop off valve" shall have a device to easily defeat the valve;

8. A portable suction unit that is *[capbable]* ***capable*** of providing adequate suction to clear a *[patients]* ***patient's*** airway. In *[addiiton]* ***addition***, each transport MICU shall be equipped with an on-board suction unit. All suction units shall meet the following standards:

i. All installed suction units on transporting MICUs shall be powered by the vehicle's electrical system and shall be securely mounted in a location to allow easy access to the patient on the stretcher, shall provide a flow rate of at least 30 liters per minute and a vacuum pressure of at least 300 mmHg within four seconds and a maximum vacuum pressure of at least 400 mmHg;

ii. Each portable suction unit shall be powered by an integral battery or by gas. Each portable suction unit shall meet the requirements of the vehicle suction unit for flow and vacuum pressure as described above. It shall meet the standard both initially and after 20 minutes of continuous operation;

iii. Each suction unit shall be equipped with a non-breakable collection bottle, at least three feet of non-collapsible suction tubing and an assortment of adult and pediatric-sized suction catheters;

9. A sterile obstetrical delivery/emergency childbirth kit that contains four towels, 12 sterile gauze compresses (four inches by four inches), four sterile umbilical cord clamps, one sterile bulb syringe (aspirator), one receiving blanket, four pairs of sterile surgeons gloves, one pair of sterile scissors or a sterile scalpel and one set of eye protection. If these items are in a sealed sterile pack, the packet shall have a list of contents affixed to it. Items needed for this requirement may also be readily available on the vehicle if not included in the package;

10. Trauma supplies to allow adequate treatment of trauma and burn patients, to include:

i. Adult sized pneumatic anti-shock garment (PASG);

ii. Material for bandaging;

iii. Sterile dressings;

iv. Occlusive dressings;

v. Burn sheets or burn dressings;

vi. Blood pressure cuffs; and

vii. Equipment to perform needle chest decompression;

11. *[All medications listed in N.J.A.C. 8:41-8 and no others]* ***Only those medications listed in N.J.A.C. 8:41-8.1, and no others***;

12. Nasogastric tubes and irrigation syringes;

13. Personnel protective gear to include helmets, goggles and gloves, protective outer garments to include at least two sets of full protective outer garments *[(for example, "turn-out" coats and trousers)]*, disposable exam gloves, and personal protective isolation garments;

14. A current copy of the U.S. Department of Transportation (D.O.T.) Emergency Response Guidebook (obtainable from the Superintendent of Documents, Washington, D.C. 20402, or U.S.D.O.T., National Highway Traffic Safety Administration, 7th St.

SW, Washington, D.C. 20590) and a copy of the program's approved radio failure protocols that is to be kept in each licensed vehicle;

15. *[A spinal immobilization device (for example, K.E.D.) and assorted]* ***Assorted*** sizes of rigid cervical collars;

16. A long spine board;

17. Back-up medications and other equipment needed to provide for uninterrupted service; and

18. A set of binoculars.

8:41-3.6 Optional equipment

(a) Each program may carry additional equipment it deems necessary for the provision of prehospital ALS, provided that equipment does not permit staff to render care beyond that allowed under this chapter. These may include:

1. An Esophageal Gastric Tube Airway, and other commercial airways;

2. A time-cycled resuscitator, provided the device meets ventilatory requirements of the American Heart Association;

3. Pulse-oximeters; *[and]*

4. Positive pressure resuscitators ("demand valve" resuscitators). Each device shall provide 100 percent oxygen, have an instantaneous flow rate between 35 and 45 liters per minute, deliver an inspiratory pressure between 55 and 65 cm water and have a standard 15/22mm fitting*[.]**;

5. A spinal immobilization device (for example, K.E.D.); and

6. Pediatric-sized pneumatic anti-shock garment (PASG).*

8:41-3.7 Back-up vehicles

Back-up vehicles need not have the required equipment as listed in this subchapter at all times, provided that, when the vehicle is utilized as an MICU, all required equipment shall be in place and operational.

8:41-3.8 Vehicle out of service logs

Each vehicle approved under this chapter shall have a log kept *[on it,]* which specifies out of service time, the cause of the problem and its resolution. Additionally, each program shall develop and maintain a program of *[preventative]* ***preventive*** maintenance for each licensed vehicle.

8:41-3.9 Safety of operation

The responsibility for safe operation of each vehicle licensed under this chapter shall rest with the advanced life support personnel staffing that unit. No provider shall operate any vehicle licensed under this chapter without due regard for the safety of the general public or without adhering to all applicable statutes.

8:41-3.10 Storage of equipment

All equipment carried by a licensed MICU shall be stored in a manner not presenting a hazard to any vehicle occupant in the event of an accident or sudden change in vehicle speed or direction.

8:41-3.11 Biomedical equipment maintenance

(a) Each program shall develop and maintain a program of maintenance for its biomedical equipment in accordance with institutional policy, including, but not limited to, a maintenance program for cardiac monitor/defibrillators and external pacemakers.

(b) Each item of biomedical equipment shall be checked in accordance with institutional policy by a qualified biomedical engineer or service technician to determine accuracy and safety. The program shall maintain a record of the service of its biomedical equipment.

8:41-3.12 Sanitation

(a) Each vehicle licensed under this chapter shall be kept in a neat, clean, orderly fashion so as to permit easy access to equipment and supplies.

(b) Each vehicle shall be free from blood or other bodily fluids and ***noxious*** odors.

(c) All patient care equipment shall be kept in a clean, sanitary condition free from ***noxious*** odors, bodily fluids or other contaminants.

(d) Non-disposable patient care equipment shall be decontaminated after each patient use in a manner consistent with the hospital's requirements for equipment decontamination. No airway, tube, catheter or other similar device shall be used on more than one patient unless sterilized in accordance with manufacturer's recommendations.

(e) No vehicle shall carry any medication, solution or other equipment beyond the expiration date posted on it.

(f) Each vehicle and cabinet or other storage place for medications shall be sufficiently climate controlled so that the medications and solutions are kept within the temperature range recommended by the manufacturer.

8:41-3.13 Director

(a) Every program approved under this chapter shall have a director who shall be responsible for all activities of the mobile intensive care program.

(b) No person shall be appointed as the director unless that person is either a certified paramedic or a currently licensed registered nurse with at least one year of critical care experience ***or who has demonstrated by education or experience the ability to manage health care organizations***.

(c) Each program shall notify the Department in writing of any change of director within 14 days after the change.

8:41-3.14 Minimum staffing

No program shall operate a mobile intensive care unit unless that unit is staffed by ***a minimum of*** two prehospital ALS providers as defined in this chapter.

8:41-3.15 Hours of operations

(a) Each MICU authorized under this chapter shall operate 24 hours a day, seven days a week, unless otherwise restricted by the program's certificate of need. In the event the program is unable to meet this requirement and coverage is interrupted, the program shall:

1. Assure that the service area is covered by another approved mobile intensive care program to the level of service that would normally be provided***; when there is an interruption in service of greater than eight hours***; and

2. Notify the Office of Emergency Medical Services by telephone on the next business day during regular business hours, followed by written confirmation if *[the vehicle is out of]* ***there is an interruption in*** service ***of*** greater than eight hours.

8:41-3.16 Addition of temporary MICU vehicles

(a) A program approved in accordance with this chapter may place a temporary MICU vehicle in service if public safety concerns necessitate additional coverage for a limited period of time. This shall include:

1. Events where a large number of people are expected to gather;

2. A temporary change in the accessibility of the service area (for example, bridge or road closures);

3. A mass casualty incident (MCI), disaster, ***an emergency situation,*** as a part of an organized emergency preparedness action or drill; and/or

4. Other situations that are not covered by this section, but which have been approved in advance by the Office of Emergency Medical Services (OEMS) of the Department.

(b) No program shall operate a temporary MICU without obtaining prior approval from OEMS, excluding the situations listed (a)3 above. The procedure for obtaining approval shall be as follows:

1. The program shall make application to OEMS in writing. Each application shall include:

i. Details of the special event, including the reason for an additional MICU(s);

ii. Documentation that the program's primary service area coverage will not be affected; and

iii. If the site of the proposed vehicle is not within the program's primary service area, an agreement signed by the program that is the primary provider for MICU services at that location;

2. If circumstances arise that leave insufficient time for the program to apply in writing, the program may apply by telephone during regular business hours, Monday through Friday (9:00 A.M. to 5:00 P.M.), provided that written application is made as soon as is practical; and

3. If additional units are placed into service due to the situations listed under (a)3 above, the program shall notify OEMS by phone on or before the next business day during regular business hours (Monday through Friday, 9:00 A.M. to 5:00 P.M.).

(c) OEMS will review all applications and, when appropriate, issue approvals in consideration of specific circumstances and in the interest of public health and safety. These approvals shall set forth the number of additional vehicles approved, hours of operation and the duration of the approval. Each program operating the additional units shall adhere to the terms and conditions of the approval.

(d) Nothing in this section shall be construed to permit the operation of part-time or seasonal vehicles. Such units are subject to the certificate of need process as set forth in the Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq.).

SUBCHAPTER 4. TRAINING AND CERTIFICATION OF ADVANCED LIFE SUPPORT PERSONNEL

8:41-4.1 Paramedic student selection

(a) No person shall be enrolled as a paramedic student in any program, nor shall any person be eligible to be certified as a paramedic, unless that person:

1. Has reached his or her 18th birthday;

2. Has a high school diploma or its equivalent;

3. Is currently certified by the Commissioner as an Emergency Medical Technician—Ambulance (EMT-A) or Intermediate (EMT-I) and maintains certification as at least an EMT-A throughout the training ***and until either certification as a paramedic or termination from the training program***;

4. Maintains current certification in cardiopulmonary resuscitation to the level of professional rescuer, in accordance with the standards of the American Heart Association, and maintains the certification throughout the training ***and until either certification as a paramedic or termination from the training program***;

5. Is physically capable of performing all required skills of a paramedic student; and

6. Has not been convicted of any crime, or an offense involving moral turpitude or drugs.

i. An applicant may apply for a waiver of this requirement from the Commissioner or designee, in accordance with N.J.A.C. 8:41-2.9.

8:41-4.2 Didactic sites

(a) No person, group, program or agency, whether public or private, shall offer, or claim to offer, paramedic didactic or clinical training unless authorized by the Department to do so.

(b) Any New Jersey college accredited by the Department of Higher Education may seek to sponsor a didactic program through application to the Office of Emergency Medical Services of the Department. Applications shall include proposed lesson plans, affiliated clinical sites and other information as deemed necessary by the Department, including, but not limited to, instructional staff, physical plant and course content. Approval of new sites shall be based on system needs as determined by the Department. No classes shall be offered until approval is granted by the Department, subsequent to the Department's evaluation of the current supply of trained personnel, as it relates to need for such personnel.

(c) All paramedic didactic programs shall include, as a minimum, the curriculum as set forth in the United States Department of Transportation Emergency Medical Technician-Paramedic National Standard Curriculum, incorporated herein by reference. While additional material may be presented, all topics of the curriculum shall be covered.

(d) The Department, through the Office of Emergency Medical Services, shall conduct audits and inspections to insure compliance with the provisions of this subchapter. Authorized didactic sites shall submit reports to the Department as required, including, but not limited to, course schedules, students registered and attending on the first night of class and final grade reports of students enrolled.

8:41-4.3 Authorized clinical training sites

(a) Any hospital approved to provide mobile intensive care unit services may seek to offer a paramedic clinical training program. The hospital shall make application to the Department's Office of Emergency Medical Services. Applications shall include clinical resources, training objectives, didactic affiliations, the name of the medical director responsible for overseeing the training, and other such information as required by the Department of a specific applicant. No students may be sponsored for didactic training *[until Department approval is obtained]* ***unless the sponsoring program is approved by the Department to provide clinical training in accordance with this chapter***.

(b) The Department, through the Office of Emergency Medical Services, shall conduct such audits and inspections as required to insure compliance with the provisions of this subchapter. Authorized clinical training sites shall submit student rosters to the Department as needed to monitor the programs for compliance with this chapter.

(c) All paramedic clinical sites shall conduct their programs in compliance with the clinical training objectives of the Office of Emergency Medical Services ***as delineated at N.J.A.C. 8:41-11***. All clinical training sites shall maintain accurate records of the students' progress, documenting satisfactory completion of all completed clinical objectives. These records shall be presented to the Department for inspection upon demand.

8:41-4.4 Emergency medical services (EMS) educator

Every clinical training program offered under this chapter shall employ a qualified individual who shall be an advanced life support provider, as defined by this chapter, to coordinate the training activities. The EMS educator shall also ensure that the records required by this subchapter are maintained. The EMS educator shall insure that the trainee performs and demonstrates competence in all skills authorized to be performed in accordance with this chapter, prior to endorsing the candidate for certification by exam.

8:41-4.5 Evaluations

The EMS educator shall provide each student at least four periodic written and verbal assessments. These evaluations shall be signed by both the EMS educator and the student.

8:41-4.6 Timespan allowed

(a) All clinical training requirements shall be completed within 18 calendar months of the completion of the didactic program. Candidates are eligible to request a three*-*month extension to complete the clinical training requirements. The requests shall be made to the Department and shall:

1. Be made in writing by the EMS educator responsible for the student and received no later than 30 days before the expiration of the clinical training period;

2. Include the candidate's name, didactic training site, didactic completion date, and clinical sponsor;

3. Include an explanation of the need for the extension; and

4. Contain an endorsement of the request by the EMS educator and a statement reaffirming clinical sponsorship.

(b) Candidates shall be advised, through their EMS educator, of the outcome of their request within 30 days of receipt by the Department. Only one clinical training extension will be granted per candidate. Candidates who receive an extension shall enter the examination process as defined by this subchapter by the first certification examination offered after the extension expires.

(c) Any student failing to complete clinical training within the time span allowed by *[this chapter]* ***(a) above*** shall be required to complete a didactic course of study equivalent to the U.S.D.O.T. refresher curriculum for *[paramedic]* ***paramedics***, the balance of the clinical time required and any additional time the EMS educator deems necessary to demonstrate competence in the required clinical training objectives. In no instance shall the total training period exceed 36 months from the beginning of the didactic training program.

(d) Paramedic students shall not transfer clinical sponsorship during the course of the training unless the change is endorsed by both the original sponsor and the intended sponsor.

8:41-4.7 Preceptor orientation

(a) The EMS educator shall insure that all personnel providing clinical preceptorship to students who are being trained in accordance with this chapter:

1. Are clinically competent to provide the necessary training; and
2. Have received formal orientation to the training program.

8:41-4.8 Certification examinations

(a) Certification examinations for paramedics shall be scheduled a minimum of four times per calendar year.

(b) No person, except as otherwise permitted by this chapter, shall be permitted to take the paramedic certification examination unless the person shall have first completed the approved training program specified in this chapter.

(c) Application for the certification examination shall be made on forms prescribed by the Department, which shall bear the endorsement of both the EMS educator and medical director of the clinical training site. All signatures shall be original.

(d) All applications shall be received by the Department by the announced closing date to be considered for the examination. If the application is received after the closing date, it shall be returned to the candidate with an explanation of his or her ineligibility for that examination.

(e) All examinations shall be conducted in accordance with the rules established by the Department, as well as any procedural requirements set forth by any testing agency utilized by the Department for the purpose of paramedic certification.

(f) Upon successful completion of the certification examination, candidates shall be certified by the Department for a period of two years. Expiration dates shall be either on June 30 or December 31, as determined by the Department with regard to the examination date.

(g) Only the Department shall be permitted to administer the examination or any parts thereof. Evaluators shall administer the examination in a manner consistent with the rules and policies of the Department and any agency authorized to administer the examination. Failure to do so shall be cause for revocation of evaluator status, as well as any other action permitted by this chapter.

8:41-4.9 Paramedic certification

(a) Any person who has successfully completed the examination process or has been granted full reciprocity by the Department ***in accordance with N.J.A.C. 8:41-4.15*** shall be deemed certified as a mobile intensive care paramedic by the Commissioner for a period of two years. Expirations of all permanent certifications shall be on June 30 or December 31, dependent on the date of initial certification. All certifications shall remain valid and in force unless suspended, revoked or otherwise cancelled in accordance with this chapter.

(b) Each paramedic certified by the Department under this chapter shall provide to the Department his or her full name, permanent mailing address and other information as required by the Department and law. This information shall be maintained by the Department permanently and shall be used to meet the requirements of N.J.S.A. 26:2K-7 et seq. Any paramedic certified in accordance with this chapter shall notify the Department of any change of address or name and shall provide appropriate documentation as required by the Department.

8:41-4.10 Paramedic recertification

(a) Every paramedic certified in accordance with this chapter shall document successful completion of continuing education requirements as listed in this chapter, on a form to be submitted to the Department. These continuing education hours shall be accumulated over a two-year period. In the case of a paramedic, these credits shall be accumulated during the period of certification as issued by the Department.

(b) All paramedics shall maintain current certification in:

1. Advanced Cardiac Life Support (ACLS) to the standards of the American Heart Association; and
2. Cardiopulmonary Resuscitation (CPR) to the professional rescuer level to the standards of the American Heart Association.

(c) No person shall be recertified unless documentation of the required certifications, as specified in (b) above, accompanies the recertification application.

(d) Paramedics shall practice ALS only when in compliance with the certification requirements of this chapter.

(e) A minimum of 48 hours of advanced level continuing education shall be accrued by prehospital advanced life support personnel over the two year period specified by (a) above, in accordance with the following:

1. The continuing education hours shall cover a minimum of three of the six divisions of the United States Department of Transportation National Standard Curriculum for Paramedics;
2. A minimum of 36 hours shall cover divisions two through six. No more than 12 hours shall be applied to division one; and
3. The Department may evaluate standard courses (for example, New Jersey State Police HAZ-MAT courses) and college and professional (for credit) courses to determine applicability to paramedic recertification. The Department shall provide information on approvals to interested parties.

(f) In addition to required continuing education, paramedics shall demonstrate to their medical director proficiency in all skills approved for prehospital care, as specified by N.J.A.C. 8:41-7.2. Proficiency may be demonstrated based on actual observation, field performance, or other methods as deemed necessary by the medical director. The medical director shall complete the form***s*** required by this section and submit them to the Department attesting to the level of proficiency of each paramedic seeking recertification. Such forms shall reflect whether the skill level is satisfactory and shall bear the original signature of the medical director. The director or EMS educator shall keep records to allow the completion of such forms that may be required for recertification.

(g) Each paramedic shall perform a basic life support skills review on *[an annual]* ***a biennial*** basis. These reviews shall be under the direction of a New Jersey State Certified EMT-A instructor for those skills which are a component of the U.S.D.O.T. curriculum for Emergency Medical Technicians including, but not limited to, KED, HARE, MAST. In addition, the EMS educator shall designate qualified persons (for example, a Pre*[-]*hospital Trauma Life Support (PHTLS) ***or Basic Trauma Life Support (BTLS)*** instructor or ***an*** EMT-A instructor with proficiency in the area) to oversee the review of *[trauma assessment skills,]* rapid takedown and standing long backboard skills and other advanced concepts that are considered to be basic life support skills. Each EMS educator shall maintain a record of the required BLS review on a form prescribed by the Department in this section.

(h) Each paramedic seeking recertification shall have the endorsement of an approved program, prior to application for recertification. The Director or EMS educator of the program endorsing the paramedic shall verify that all portions of these requirements have been met and that the paramedic is physically capable of performing his or her duties and shall forward all required documentation to the Department. The director or EMS educator shall sign the endorsement.

8:41-4.11 Mobile intensive care nurses

(a) No licensee shall utilize a nurse in the capacity of ***a*** prehospital ALS provider unless:

1. The nurse is currently licensed as a registered nurse by the New Jersey Board of Nursing;
2. The nurse has completed at least one year in the provision of nursing care in hospital critical care units or emergency departments, as defined in N.J.A.C. 8:43G-9 and 8:43G-12;
3. The nurse is currently certified in advanced cardiac life support to the standards of the American Heart Association;
4. The nurse is currently certified as an Emergency Medical Technician—Ambulance (or greater) by the Commissioner;
5. The nurse is currently certified in cardiopulmonary resuscitation to the level of professional rescuer to the standards of the American Heart Association;
6. The nurse has successfully completed at least a 100-hour field internship on an approved mobile intensive care program's vehicle ***and has demonstrated proficiency in prehospital advanced life support to the satisfaction of the program's medical director***;
7. The nurse is sponsored by an approved mobile intensive care program; and
8. The nurse is physically capable of performing the duties of a mobile intensive care nurse.

(b) Once the mobile intensive care nurse candidate has successfully met the qualifications as required by this section the physician medical director shall endorse the nurse as a mobile intensive care nurse. This endorsement shall include a statement attesting to the competency to perform all skills allowed for prehospital advanced life support personnel as defined by this chapter. This endorsement shall be forwarded to the Department as soon as practical after completion of all requirements. If the candidate is not endorsed after training, the candidate shall be entitled to a hearing as defined in N.J.A.C. 8:41-2.

(c) Each mobile intensive care nurse endorsed to act as a prehospital ALS provider shall be required to renew the endorsement every two years. Each mobile intensive care nurse shall meet the requirements listed in N.J.A.C. 8:41-4.10 in order to have the endorsement renewed. A copy of verification of compliance with N.J.A.C. 8:41-4.10 shall accompany the medical director's endorsement.

(d) Mobile intensive care nurses shall practice on *[a]* **an** MICU only when in compliance with the certification requirements of this chapter.

(e) Notwithstanding the provisions of N.J.A.C. 8:41-4.1, a mobile intensive care nurse endorsed in accordance with this chapter shall be eligible to sit for certification as a paramedic upon meeting other requirements needed to enter the examination process as required by the National Registry of EMTs.

(f) Provided that the requirements for recertification as a prehospital ALS provider are met in accordance with N.J.A.C. 8:41-4.10, the EMT-A certification of the mobile intensive care nurse shall be renewed for a period of two years from the date of the expiration of the previous EMT-A card.

8:41-4.12 Denial of recertification or renewal of endorsement

(a) If a program or medical director does not recommend recertification or a renewal of an endorsement of any prehospital ALS provider, an accompanying statement shall be forwarded to the Department documenting why such action is being taken. Such documentation shall include a plan for remediation, if applicable. The Department shall review this information and will notify the prehospital ALS provider of the recommendation of the program's medical director. Individuals denied recertification or renewal of endorsement shall be entitled to a hearing in accordance with N.J.A.C. 8:41-2. No certification or endorsement shall be suspended, revoked or denied, except for just cause.

(b) If a program determines that a prehospital advanced life support provider, as defined by this chapter, may not be eligible to be recertified or re-endorsed, the program shall notify the Department and the prehospital ALS provider by certified mail at least 60 days prior to the expiration of the certification or endorsement.

8:41-4.13 Recertification extensions

(a) Any advanced life support provider who has not been able to meet recertification or endorsement renewal requirements due to personal illness or injury may request a one-year extension of his or her certification or endorsement. Such request shall be made to the Department and shall contain:

1. The reasons for the extension;
2. Medical documentation from a licensed physician; and
3. A letter of endorsement from an approved MICU program.

(b) The length of the extension shall equal the period of disability, but shall not exceed one year.

(c) The Department shall notify the applicant of its decision within 30 days of receipt of the request.

(d) Causes other than medical reasons will be reviewed on a case by case basis by the Commissioner or his or her designee.

8:41-4.14 Paramedics with expired certifications

(a) A paramedic formerly certified by the Department whose certification has expired is eligible to enter the retraining process provided:

1. He or she is currently certified by the Commissioner as an EMT-A, EMT-D or EMT-I; and
2. He or she is currently certified in cardiopulmonary resuscitation to the standards of the American Heart Association (AHA), National Center, 7320 Greenville Ave., Dallas, TX 75231.

(b) A paramedic with an expired certification who seeks to obtain a valid certification shall obtain the sponsorship of an approved clinical training site, in accordance with the provisions of this chapter.

(c) Candidates for retraining shall forward an application to the Department through their EMS educator. This application shall contain such information as required by the Department, including but not limited to, name, address, demographic information and sponsoring hospital.

(d) Each candidate shall complete a didactic training program equivalent to the U.S.D.O.T. refresher curriculum for paramedics. Prior to the completion of the didactic training program, the candidate shall become certified in advanced cardiac life support to the standards of the American Heart Association and in prehospital trauma life support to the standards of the National Association of EMTs, and shall complete any other training required to enter the examination process as determined by the testing agency, such as the National Registry of EMTs.

(e) Following the completion of the requirements listed in (d) above, each candidate shall enter into a period of clinical training that shall consist of 200 hours. These hours shall be completed within one calendar year of entering into the program. No hours may be completed until the candidate is notified by the Department that he or she has been admitted into the program.

(f) The areas covered by the training shall be determined by the educator, based on the needs of the candidate, and shall be scheduled at the discretion of the EMS educator.

(g) In addition to the 200 hours of clinical training, the candidate shall submit documentation as required by the designated testing agency, including but not limited to, certification and medical director endorsement.

(h) During retraining, the candidate shall have the same status as a paramedic student, and shall not act independently to provide prehospital advanced life support.

(i) Once the candidate has met the requirements of this chapter, he or she shall be permitted to take the certification examination as provided for in this section.

(j) Once the candidate has successfully completed the examination process, he or she shall be issued a certification, bearing the candidate's previous certification number, valid for a period of two years.

(k) A paramedic who has his or her certification expire shall be issued an EMT-A certification card valid for one year from the date of the expiration of the paramedic certification.

8:41-4.15 Reciprocity

(a) Individuals who are currently certified by another jurisdiction as a paramedic, and who have completed a course of study equivalent to or greater than that required of New Jersey paramedics, which adheres to the U.S.D.O.T. curriculum for paramedics, shall be deemed eligible for reciprocity. If training hours are below what is required, the sponsoring site may provide any additional clinical experience needed to complete this requirement.

(b) A paramedic currently certified by another jurisdiction seeking New Jersey certification shall seek affiliation with an approved MICU program. The candidate and MICU program shall jointly apply for reciprocity for the candidate. All requests shall be made in writing, and shall be in a form and manner specified by the Department, including, but not limited to, certifications currently held and demographic and identifying information.

(c) The Department shall verify all requests for reciprocity in a timely manner. The Department shall obtain written verification as to the candidate's status from the certifying agency under which he or she is certified.

(d) Only currently certified paramedics in other jurisdictions shall be eligible for reciprocity, provided the certification period is less than two years from the date it was issued (for example, the certificate is not in the third year of a four-year certification period).

(e) Once all information is verified, and the Department determines the candidate is eligible for reciprocity, a temporary

certification shall be issued. This certificate shall be valid for a one-year period or the duration of the current certification, whichever is the lesser amount of time, which shall be deemed a probationary period, in accordance with this chapter.

(f) Individuals who are not currently registered by the National Registry of EMTs as a paramedic shall enter the first New Jersey advanced level certification examination after the issuance of a temporary certification, and successfully complete the certifying examination process as specified in this section prior to the expiration of their temporary certification.

(g) Any person who has taken the test, but has not passed, and has his or her certification expire*[d]*, may seek to have his or her temporary certification extended until the next available examination. Only one extension shall be granted.

(h) If a candidate fails to gain full certification at the expiration of the temporary certification, he or she shall be ineligible for certification in New Jersey, unless he or she successfully completes the training program as specified in this chapter for paramedics with expired certifications.

(i) Upon successfully completing the certification exam, or at the end of the probationary period (as applicable), the candidate shall be certified in accordance with this chapter.

(j) Any reciprocity candidate who is currently registered as a paramedic by the National Registry of EMTs shall be eligible for full certification, after at least six months of temporary certification, upon endorsement of the sponsoring MICU program.

8:41-4.16 Probationary periods

(a) Any prehospital ALS provider who is placed on probationary status by the Department shall be monitored for performance by the program's medical director and the Department.

(b) Probationary providers shall operate only when under the supervision of an approved prehospital life support provider or physician. Under no circumstances may a probationary provider act independently or in conjunction with another probationary provider on the same MICU vehicle.

(c) The EMS educator or director of the approved MICU program shall monitor the progress of the probationer, and shall forward to the Department *[monthly progress reports]* ***a progress report at the end of the probationary period, or*** as required by the Department.

(d) The Department shall have the right to restrict or otherwise limit the scope of practice of the probationer. Failure to meet such conditions or any terms of the probationary period shall be deemed cause for revocation of certification or endorsement and/or other such action the Department deems appropriate.

8:41-4.17 Scope of practice; limitations

(a) No paramedic shall engage in any activity independent of an approved mobile intensive care program that would require him or her to perform as a prehospital ALS provider as defined by law or rule, unless otherwise authorized by law or this chapter.

(b) All prehospital ALS providers operating on a licensed mobile intensive care unit shall operate within the scope of practice as defined by this chapter. This requirement shall not apply to physicians licensed in New Jersey by the State Board of Medical Examiners.

8:41-4.18 Disciplinary action; suspensions, revocation and penalties for prehospital ALS providers

(a) The Department may suspend, revoke or refuse to issue or reissue the certification or cancel an endorsement of any prehospital ALS provider upon receipt of a complaint and subsequent investigation for the following:

1. Demonstrated incompetence or inability to provide adequate services as required by this chapter;
2. Deceptive or fraudulent procurement of certification or endorsement credentials;
3. Willful or negligent practice beyond that which is specifically authorized by this chapter;
4. Abuse or abandonment of a patient;
5. Rendering of services while under the influence of alcohol or drugs;
6. Operation of an emergency vehicle in a reckless manner or while under the influence of alcohol or drugs;
7. Unauthorized disclosure of medical or other confidential information;
8. Willful preparation or filing of false medical reports, or the inducement of others to do so;
9. Destruction of medical or other records required to be maintained by this chapter;
10. Refusal to respond to a call or to render emergency medical care because of a patient's race, sex, creed, national origin, sexual preference, age, disability, medical condition or ability to pay;
11. Failure to comply with any part of these rules;
12. Failure to comply with the patient reporting requirements of this chapter;
13. Failure to complete continuing education and performance standards as required by this chapter;
14. Conviction of a crime, including any crime involving moral turpitude, or conviction of any offense resulting from action as a prehospital ALS or BLS provider. Conviction shall mean a finding of guilt by a judge or jury, a guilty plea, a plea of nolo contendere or non-vult or entry into a pre-trial intervention program;
15. Misuse or misappropriation of drugs, medications or controlled equipment;
16. Willful obstruction of any official of the Department or other agency empowered to enforce the provisions of this chapter or New Jersey law;
17. The authority to engage in prehospital care has been suspended or revoked or had action taken by any other state, agency or authority for reasons consistent with this chapter; and
18. Any other action deemed by the Department to pose a threat to public health and safety.

(b) Suspension of certification or endorsement shall have the effect of prohibiting the prehospital ALS provider from operating in that capacity on any MICU licensed in the State. The suspension shall last for a specified period, and may be followed by a probationary period. No person shall serve on any MICU while suspended by the Commissioner.

(c) No person shall serve on any licensed MICU, once his or her certification or endorsement is revoked. No person shall be enrolled as a student, nor shall he or she seek endorsement as a MICN if his or her paramedic certification or MICN endorsement has been revoked, without specific authorization by the Commissioner.

(d) A prehospital ALS provider may be suspended by the Department during the course of an investigation of allegations, if the Department demonstrates that public safety and health require such an interim suspension. All persons who are suspended in such a manner shall be afforded the right to an immediate hearing in accordance with this chapter and New Jersey law.

(e) No provider shall have any action taken against his or her certification or endorsement, excluding an emergent situation as described by (d) above, unless that person shall have been afforded a hearing in accordance with this chapter.

(f) The Department may seek to impose a probationary period, a fine or both in lieu of any suspension or revocation. Action taken against an individual does not preclude any action that may be taken against a program for the same infraction. Any action taken under this section shall be separate from any civil, criminal or other judicial proceeding, including actions against licenses of health care professionals issued by other Departments or Boards.

(g) The Department shall notify all programs by mail of any disciplinary actions taken under this section.

8:41-4.19 Report of unlawful or prohibited conduct

Every prehospital ALS provider authorized to operate under this chapter shall report in a timely manner to the Department's Office of Emergency Medical Services (OEMS) any and all incidents or series of incidents which, upon objective evaluation, leads to the good faith belief that the conduct is in violation of any law or rule. The Department shall investigate all reports in a timely manner.

SUBCHAPTER 5. COMMUNICATIONS

8:41-5.1 Dispatch of mobile intensive care units

Each program operating mobile intensive care units, as defined by this chapter, shall be dispatched by a regional dispatch center approved by the Department, in accordance with this chapter.

8:41-5.2 Dispatch centers; criteria

(a) Approved dispatch centers shall be capable of providing:

1. Coordinated dispatch activity among various mobile intensive care units, basic life support units and first responders;

2. Dispatching of mobile intensive care units that is in compliance with the service area designations as determined by the certificate of need;

3. Adequate radio coverage to the mobile intensive care units the dispatch center serves;

4. Other emergency services that may be required, including coordination of mass casualty incidents and disasters; and

5. Record retention, including a log of all requests received for service, times as recorded by the dispatch center, the unit assigned to the request, requests not assigned to the primary unit for that area due to the vehicle being unavailable, and tape recording, either digital or analog, of required frequencies as determined by the dispatch center and the Department.

(b) Dispatch centers may be consortium-based or by county.

(c) Each mobile intensive care program shall furnish documentation to the Department that it has secured the services of an approved dispatch center prior to the issuance of an approval, in accordance with this chapter. The Department shall be informed of any proposed change in the dispatch arrangement prior to any such changes. All proposed dispatch agreements shall be subject to approval by the Department.

8:41-5.3 Communication equipment required

(a) Every mobile intensive care vehicle licensed under this chapter shall have communication equipment that will allow the prehospital advanced life support personnel to:

1. Directly contact the approved dispatch agency;

2. Directly contact any hospital emergency room via use of the HEAR system (155.340 mHz);

3. Directly contact the mobile intensive care units that operate in the area immediately bordering the vehicle's territory;

4. Directly contact the base hospital's medical command physician while away from the vehicle and to send telemetered electrocardiograms when required *[by]* ***via*** the approved MED channels;

5. Interface with appropriate disaster control agencies in accordance with local and county emergency plans; and

6. Directly contact the dispatch agency while away from the vehicle.

(b) Each program and dispatch center approved under this chapter shall not operate on any frequency in violation of any law, regulation or rule, including those of the Federal Communication***s*** Commission.

(c) Each approved program operating under this chapter shall develop and maintain a communications plan. This plan shall be consistent with the JEMS Communication Plan or other plans promulgated by either the Federal Communications Commission or the Department. The Department shall review each plan, and if appropriate, will approve the plan in accordance with this subsection or with N.J.A.C. 8:41-2.9 (Waiver).

8:41-5.4 Biomedical telemetry; communications

(a) Each program approved by the Department shall insure that each mobile intensive care vehicle has operational biomedical telemetry and other such communications as may be required to meet the requirements of N.J.S.A. 26:2K-10 and this chapter.

(b) Each program approved in accordance with this chapter shall assure that there is a working communications base station at each approved medical command site that will permit the receiving of voice communications as well as telemetered electrocardiograms. Such base station shall be positioned in the emergency department and shall be readily accessible to the medical command physician.

(c) Each approved program shall have the capability of providing a recording of both transmitted and received voice communications, as well as any telemetered electrocardiograms. Tape recordings shall be maintained in accordance with the provisions of this chapter and shall be produced upon the demand of an authorized member of the Department.

(d) Each time the mobile intensive care unit calls the base station for medical command, a tape recording of the call shall be made. This shall be done regardless of whether the means of communication is radio (including HEAR), telephone or any other approved means.

(e) Each program shall be able to retrieve an auditable tape recording for at least 90 percent of the calls where medical command is contacted.

8:41-5.5 MED channels

(a) Each mobile intensive care unit and each base station shall be capable of utilizing any of the 10 MED Channels, as defined by 47 CFR 90.53, and shall engage in coordinated usage of these channels by use of a regional coordinating center. These regional coordinating centers shall be as currently designated by the Department, in accordance with the certificate of need application process.

(b) MED Channels 1 through 8 are to be utilized only for the purpose of medical command, as defined in N.J.A.C. 8:41-1.

(c) MED Channels 9 and 10 shall be utilized for frequency coordination and other administrative types of communication as may be needed and as assigned by the JEMS Communication Plan.

(d) No person, agency or program shall engage in any activity that could interfere with the legitimate medical command functions outlined by this chapter.

8:41-5.6 Alternative communications

(a) Any program seeking to provide medical command by means other than the MED Channels described in this chapter shall make application to the Department prior to utilizing any alternative device or means. No change shall be effected until approval is obtained from the Department nor shall any program cease to participate in regional coordination of MED channels.

(b) The Department shall review each application to determine compliance with this chapter and shall approve or deny the application.

(c) The Department may impose any conditions on the approval deemed necessary to insure the requirements of this chapter are met, including trial periods, restrictions and/or other actions.

(d) The program shall provide the Department with such reports, as required by any waiver(s) granted, to monitor the progress of alternative communications systems.

(e) Any alternative communication system shall meet the 90 percent requirement for the production of an auditable tape of the event, including a recording of both voice and telemetered ECG.

8:41-5.7 Performance standards

(a) All communications equipment authorized under this chapter for the purpose of medical command shall:

1. Provide for clear, concise voice communication between the base physician and the advanced life support personnel and shall produce an auditable tape of conversation and ECG at least 90 percent of the time; and

2. Provide adequate coverage, as in (a)1 above, to the service area of the mobile intensive care program.

(b) All back-up equipment used for obtaining medical command shall meet the standards of N.J.A.C. 8:41-5.4 in regard to the production of tapes and the ability to send telemetered ECG.

(c) Each program shall provide for the repair and maintenance of all communications equipment. In the event that medical communication or dispatch equipment fails, the program shall:

1. Immediately provide alternate communications equipment to allow contact with medical command or arrange for another authorized medical command site to provide medical command to the unit; and

2. Notify the Department if the outage lasts longer than eight hours.

8:41-5.8 Radio failure; protocols

(a) Radio failure exists only when:

1. Standard biotelemetry communications equipment fails;

2. Back-up biotelemetry equipment fails, including cellular telephones;

3. The MICU cannot access any approved medical command site by these means;

4. The advanced life support personnel cannot access any approved medical command site by the HEAR system; and

5. Telephone service is not available or is inoperative.

(b) Each program shall develop and maintain radio failure protocols that are to be followed in the event of radio failure. These protocols shall bear the approval signature of the program's medical director and shall be approved by the Department prior to implementation, in accordance with the requirements of this chapter and those of the U.S.D.O.T. and the American College of Emergency Physicians.

(c) In the event that radio failure protocols are utilized, the prehospital advanced life support provider who utilized the protocols shall prepare a report indicating the call on which the protocols were utilized, treatment rendered, a description of the radio problems, a list of alternate means attempted, problems encountered, and attempts to remedy the problem. This report shall be forwarded to the program's director within 24 hours of the incident.

(d) The director shall maintain a file of all radio failure reports, and shall present the file to an authorized representative of the Department upon demand.

SUBCHAPTER 6. MEDICAL CONTROL; ADMINISTRATION

8:41-6.1 Medical director required

(a) Every approved mobile intensive care program shall have a medical director who shall be responsible for all medical matters that affect the program.

(b) No person shall serve in the capacity of medical director unless he or she first:

1. Is licensed as a physician by the New Jersey Board of Medical Examiners;

2. Is currently certified in Advanced Cardiac Life Support to the standards of the American Heart Association;

3. Has successfully completed the Advanced Trauma Life Support course to the standards of the American College of Surgeons; and

4. Is experienced in provision of emergency care.

(c) Any licensed physician who is serving in the capacity of program medical director on the *[effective date of this rule]* ***June 21, 1993*** shall continue in that capacity, regardless of compliance with (b)2 through 4 above.

(d) Individuals who are board certified *[by the American Board of Emergency Medicine]* ***in emergency medicine*** need not be certified in Advanced Trauma Life Support or Advanced Cardiac Life Support.

(e) The medical director shall oversee the general medical direction provided to the prehospital advanced life support providers by base station physicians. The medical director shall be responsible for overseeing the quality control activities of the program as required by this chapter, as well as overseeing both medical control and medical command activities.

(f) The medical director is responsible for determining the competence of all prehospital advanced life support providers who are performing under the program's authority and shall submit such reports attesting to the individual's competency as required by the Department, in accordance with N.J.A.C. 8:41-4.

(g) Upon any change of the medical director, the program shall notify the Department *[as soon as practical after the change]* ***within 30 days of the change, stating that the designated individual meets the requirements for a medical director as defined in this chapter***.

8:41-6.2 Medical command of advanced life support personnel

(a) The provision of prehospital advanced life support by advanced life support personnel on licensed mobile intensive care vehicles is deemed a delegated medical practice. The physician providing medical command provides the authority for such personnel to act.

(b) Except as provided for in the event of radio failure or standing orders authorized by this chapter, no prehospital advanced life support provider shall perform any skill or procedure, administer any pharmaceutical agent or engage in any other activity patently within the scope of practice of a prehospital advanced life support provider, unless that person has received the direct and specific order of a physician.

(c) All orders given to advanced life support personnel shall be specific with regard to treatments ordered or medications and dosage***s*** to be given and the sequence in which the treatment is to be performed. *[All prehospital advanced life support providers shall perform all treatments as ordered by the base station physician.]*

(d) Each prehospital advanced life support provider shall provide the base station physician with *[a detailed]* ***an appropriate*** report of patient assessment, patient condition and any other information required by the physician.

(e) Communication with the prehospital advanced life support personnel shall be done directly by the physician controlling the call unless prevented by emergent patient care duties in the emergency department. In that case, a licensed registered nurse may relay the report and orders if:

1. The nurse is currently certified in advanced cardiac life support to the standards of the American Heart Association;

2. The nurse has been trained in proper operation of the base station; and

3. The nurse personally relays the report to the physician and any orders or direction to the prehospital advanced life support personnel. All orders shall be prefaced with the name of the base station physician ordering the treatment.

(f) No physician shall order a prehospital ALS provider to perform any treatment or administer any medication not specifically authorized by this chapter.

(g) The physician providing medical control shall review the medical record form and affix his or her signature to it, in accordance with established institutional policies, but not later than 30 days after providing the medical direction. The physician shall inform the medical director of any discrepancies in the medical record.

(h) In an instance where patient care is provided in accordance with approved radio failure protocols *[or authorized standing orders,]* as defined by this chapter, the authority for such treatment shall be deemed to emanate from the medical director.

(i) In every instance that a mobile intensive care unit has treated a patient, the medical command physician who provided the medical direction to the MICU shall ensure that the receiving facility is notified as soon as possible after providing medical command. The report shall be relayed to either a physician or licensed registered nurse at the facility, and shall contain:

1. The patient's chief complaint and presenting signs and symptoms;

2. Treatment ordered for the patient; and

3. The estimated time of arrival of the patient.

8:41-6.3 Base station physicians

(a) No person shall provide medical command to any prehospital advanced life support provider unless that person:

1. Is currently licensed as a physician by the New Jersey Board of Medical Examiners or is a permit holder as defined in N.J.A.C. 8:43G-16.2(f);

2. Is currently certified in Advanced Cardiac Life Support to the standards of the American Heart Association unless board certified as described in this subchapter; and

3. Has received instruction in the proper use of the base station and the provision of medical command to prehospital advanced life support providers.

(b) Each base station physician shall provide medical command to mobile intensive care units in a timely fashion, without undue delay.

(c) In the event that a mobile intensive care unit not affiliated with the program should seek medical command from the base

station physician, the physician shall provide medical control as if the unit was one of the program's own.

8:41-6.4 Protocols

Each program approved by the Department in accordance with this chapter shall develop and maintain written medical protocols that cover most common emergencies. These treatment protocols shall be kept at the base station immediately accessible to all physicians and shall be reviewed at least yearly. These protocols shall serve as a guide to the physicians, but shall not be deemed to restrict the treatment ordered in the best judgment of the physicians and within the scope of the practice of a prehospital ALS provider.

SUBSECTION 7. PROCEDURES; TREATMENTS; MODALITIES

8:41-7.1 Basic life support functions

Nothing in this chapter shall be construed to prohibit any prehospital advanced life support provider*[s]* from providing any care or treatment that is construed to be a basic life support function. This shall include all skills and procedures incorporated in the U.S. D.O.T. Curriculum for Emergency Medical Technician-Ambulance or Emergency Medical Technician-Defibrillator as adopted by the Department ***as part of this chapter***. These functions may be performed prior to and without the order of a physician.

8:41-7.2 Approved skills and procedures

(a) The following skills and procedures are approved to be performed by prehospital advanced life support personnel, paramedic students and MICN candidates operating under this chapter:

1. Venipuncture for the purpose of obtaining blood samples (excluding blood alcohol levels drawn solely for legal purposes);
2. Institution of intravenous therapy, either by direct infusion or by intravenous catheter plug;
3. Administration of any medication authorized by N.J.A.C. 8:41-8;
4. Endotracheal intubation (oral and nasal) and nasogastric tube insertion and aspiration;
5. Administration of oxygen therapy, including nebulizer treatments in accordance with N.J.A.C. 8:41-8, and the provision of ventilatory support, using approved equipment as specified in this chapter;
6. ECG monitoring, including taking of 12-lead ECG;
7. Cardiac defibrillation, synchronized cardioversion and transthoracic cardiac pacing;
8. Use of telemetry and proper radio procedures in the field, as defined by the Federal Communication***s*** Commission and good professional practice;
9. Intraosseous infusion ***and pleural chest decompression (needle thoracentesis)***; and
10. Any other procedure approved and promulgated by the Commissioner, provided that such procedure is published within six months of the approval date as part of these rules.

(b) In addition to the *[(]*procedures in (a) above, a program's medical director may elect to have the following procedures performed on that program's MICUs, subject to approval by the Department:

1. The insertion of esophageal airways;
2. Access of established central venous catheters; and
3. Access of AV fistulas or shunts.

8:41-7.3 Supervision of students, candidates and probationary personnel

(a) All students and candidates operating on a mobile intensive care vehicle licensed in accordance with this chapter may perform any of the skills permitted by this chapter, provided they are directly supervised by an approved preceptor in accordance with these rules (see N.J.A.C. 8:41-4.7). Student paramedics or MICN candidates shall not be utilized to meet the minimum staffing requirements specified in this chapter.

(b) Probationary prehospital advanced life support providers may perform any of the skills permitted by this chapter, provided they are under the direct supervision of a prehospital advanced life support provider authorized by this chapter.

8:41-7.4 Paramedics in the emergency department

(a) Currently certified paramedics who are operating on a licensed MICU vehicle may perform any of the approved skills authorized by N.J.A.C. 8:41-7, in the emergency department of any licensed hospital provided that:

1. The paramedic is performing under the direct order of a physician;
2. The paramedic records the treatment on the patient's chart and signs the chart in compliance with institutional policy; and
3. The skills provided do not exceed what is allowable for a paramedic to perform, in accordance with the provisions of this chapter.

(b) No hospital shall utilize a paramedic to perform duties routinely assigned to any other health care professionals, nor shall any hospital utilize any prehospital advanced life support provider in any manner regardless of capacity if such utilization would delay that provider's response to a dispatch.

(c) Notwithstanding any portion of these rules, a paramedic shall not be considered to meet any staffing requirement for in-hospital purposes as required by N.J.A.C. 8:43G.

8:41-7.5 Pronouncement of death

(a) All pronouncements of death shall be made in accordance with rules promulgated by the State Board of Medical Examiners and with the physician's medical judgment.

(b) No paramedic shall act as an independent agent for the purpose of making pronouncements of death.

(c) All patients who are presented to the mobile intensive care unit ***and*** who appear dead shall be monitored for electrocardiac activity and given an examination, and then the advanced life support provider shall contact the base physician and relay all findings. These findings shall include a telemetered electrocardiogram sent *[to the physician]* ***when requested by the base station physician*** unless the condition of the patient precludes the application of ECG leads.

(d) No standing orders for the pronouncement of death shall be authorized. In the event of radio failure *[or the inability to send telemetry]*, no pronouncement shall be made.

(e) *[The mobile intensive care unit shall return to service as soon as possible after the pronouncement.]* ***No mobile intensive care unit shall be taken out of service or be deemed unavailable for response to an emergency call for the purpose of performing a pronouncement of death.***

8:41-7.6 Patient triaged to basic life support

(a) Patients with whom the prehospital advanced life support providers make physical or verbal contact shall be evaluated by the prehospital advanced life support staff to determine the nature of their illness and/or injury. This exam shall be detailed enough to provide:

1. At least one complete set of vital signs;
2. Documentation of chief complaint, past history and medications;
3. A clinical picture of the patient's status; and
4. Information enough to provide a brief narrative on the patient.

(b) For every patient who presents to the mobile intensive care unit staff, there shall be a medical record completed. This chart shall contain the same information that an advanced life support completed call would contain, including any basic life support treatment rendered by the unit or other responders.

(c) In the event the physician should order the patient released to BLS, the staff shall indicate that the physician had released the patient on the patient's medical record, and the physician shall affix his or her signature to that medical record.

(d) The program medical director shall review at least 10 percent of the calls triaged to BLS to ensure compliance with this chapter and to achieve quality assurance goals.

8:41-7.7 Blood alcohol levels for legal purposes

(a) No prehospital advanced life support provider operating on a licensed MICU shall draw a patient's blood for the purpose of

determining blood alcohol levels to be solely used for legal purposes. No blood drawn by the MICU shall be provided to any law enforcement agency, except under the order of a court of competent jurisdiction.

(b) No prehospital ALS provider shall perform phlebotomy for the purpose of collecting a blood specimen to determine the alcohol content solely for legal purposes in the emergency department, nor shall any prehospital ALS provider draw any blood sample to be utilized for law enforcement purposes.

SUBCHAPTER 8. ADMINISTRATION OF MEDICATIONS

8:41-8.1 Approved drug list for mobile intensive care units

(a) The following is an alphabetical list of generic therapeutic agents authorized for administration by prehospital advanced life support providers:

...

Flumazenil

...

Magnesium sulfate (with Commissioner's approval only)

...

Nitroglycerin (excluding intravenous administration)

...

8:41-8.2 Applicability of laws and regulations

(a) Mobile intensive care programs and prehospital advanced life support providers shall be subject to all applicable laws, rules and regulations regarding the control and administration of medications, controlled dangerous substances, syringes, needles and medical waste.

(b) Policies and procedures regarding the storage, use, and disposition of hypodermic needles and syringes shall be in accordance with the New Jersey State Board of Pharmacy rules, N.J.A.C. 8:43G, N.J.A.C. 8:65 and the Controlled Dangerous Substances Act and amendments thereto.

8:41-8.3 Medication controls, inventory, and recordkeeping required

(a) Each designated mobile intensive care program shall devise a plan for maintaining inventory control over medications, including all substances in Schedule II ***and III*** of the Controlled Dangerous Substances Act and amendments thereto, and syringes used in the program. The following information shall be recorded:

1.-3. (No change.)

4. Date the mobile intensive care unit received the *[drugs]* ***drug for each Schedule I through V (inclusive) drug received by the MICU program***;

5.-7. (No change.)

8. Signature of the paramedic or mobile intensive care nurse administering the drug;

9. Amount of medication wasted, if any; and

10. The co-signature of the prehospital ALS provider witnessing the waste.

(b) A verifiable record system shall be maintained of the acquisition, storage, and disposal of hypodermic needles and syringes in accordance with the rules of the New Jersey Board of Pharmacy, N.J.A.C. 8:43G and institutional policy.

(c) Medical records on the administration of any therapeutic agent shall be maintained by the paramedic or mobile intensive care nurse on a written log, setting forth the date, time, drugs or therapeutic agents administered, directions for administering, quantity and strengths to be indicated where appropriate. All entries shall be typewritten or written in ink, legible, dated and signed by the paramedic or mobile intensive care nurse. All orders are to be countersigned and dated by the physician who directed the call in accordance with institutional policy, but no later than 30 days after providing medical command, as specified in N.J.A.C. 8:41-6.2.

(d) All medications, syringes and needles are to be kept in a locked storage box or compartment when not under the direct control of a prehospital advanced life support provider as defined by this chapter. All substances in Schedules I through *[III]* ***V***, inclusive, of the Controlled Dangerous Substances Act, and amendments thereto, shall be kept under a double lock system that requires two separate keys for access, except when under the direct control of a prehospital *[care]* ***advanced life support*** provider responsible for their custody. Medications for external use are to be kept in a separate section from medications for internal use. Keys to the medications box or compartment shall be available only to authorized prehospital advanced life support providers or as allowed by law.

(e) Student paramedics and MICN candidates shall have access to any narcotic or drug listed in Schedule I through V, inclusive, only while in the presence of an authorized prehospital advanced life support provider. All student/candidate signatures shall be countersigned by an authorized prehospital advanced life support provider.

(f) In the event that *[the medication]* ***controlled dangerous substances, as defined by N.J.A.C. 8:65*** and syringe inventories to a particular mobile intensive care unit cannot be verified or drugs are lost, contaminated or destroyed, a report of such incident is to be written and signed by the paramedics or mobile intensive care nurses involved and any witnesses present. This report is in addition to any other reports required by law, rule or regulation. Copies of the report shall be sent for review to the director and medical director of the program. Copies of the report shall be forwarded to the Office of Emergency Medical Services (OEMS) in the event of loss of medications ***of Schedule I through V, inclusive.*** *[or controlled substances.]*

(g) If any employee, student or other person affiliated with the approved MICU program is relieved of duty due to improper handling of any medication or CDS, the MICU program shall notify the Office of Emergency Medical Services (OEMS). The notification shall be made by telephone during regular business hours on or before the next business day, followed by written confirmation within 14 days of the action.

(h) All voice or telemetered orders between the hospital and mobile intensive care units shall be monitored by recording tape and retained by the hospital for a period of at least three years.

SUBCHAPTER 9. POLICIES; RECORDS; QUALITY ASSURANCE

8:41-9.1 Personnel records

(a) Each program operating a mobile intensive care unit shall maintain a personnel file on every advanced life support provider who operates on that unit. Such file shall contain, at a minimum:

1. The name and address of the provider;

2. Copies of the provider's current paramedic certification and/or a verification of a valid nursing license by the program director;

3. Copies of the individual's current certification in CPR and Advanced Cardiac Life Support as required by this chapter;

4. Documentation of continuing education hours and skills for the previous recertification period as required by this chapter provided the individual is recertified by the program; and

5. Any official correspondence received by the *[department]* ***program*** with regard to the provider's status (for example, notice of completion of probationary period).

(b) The program shall maintain personnel files at the place of business as specified on the license in a readily accessible manner. Personnel files shall be produced upon demand of an authorized representative of the Department.

(c) No person shall file any record that is falsified, fraudulent or untrue. No person shall knowingly verify a falsified, fraudulent or untrue document that is submitted or maintained in compliance with this chapter.

8:41-9.2 Policy and procedure manual

(a) Every program operating a mobile intensive care unit in accordance with this chapter shall develop and maintain a policy and procedure manual. The policy and procedure manual shall reflect the methods of daily operation, and shall not be inconsistent with the provisions of this chapter.

(b) The policy and procedure manual shall contain policies that include, but are not limited to:

1. Staff functions in the emergency department;
2. Narcotic control, storage and procurement;
3. Drug, needle and syringe storage (both vehicle and station);
4. Pronouncement of death;
5. Aeromedical utilization;
6. Triage to specialty centers, including trauma triage policies;
7. Hospital diversion;
8. HAZMAT incidents;
9. Mass Casualty Incidents, which shall include a copy of the Emergency Operating Plan (EMS Annex);
10. Physician and nurse orientation to the base station curriculum;
11. A current copy of this chapter;
12. The quality assurance plan developed in accordance with this chapter;
13. Vehicle maintenance, including vehicle out*-*of*-*service procedures;
14. The required reporting of certain events, including child abuse or neglect; and
15. Any other information that is required by the Department to assist the program staff in the performance of their duties, given the unique situation of each program.

(c) This policy manual shall be immediately available to all members of the MICU staff, and shall be presented upon demand to an authorized representative of the Department.

8:41-9.3 Didactic records

(a) Each approved didactic site shall maintain such records on its students as required by the college and the Department. These records shall include, but not be limited to:

1. Identifying data on each student including, but not limited to, name, address, phone number, date of birth and social security number;
2. Records of progress, including grades on examinations and skill performance;
3. Anecdotal records, as needed; and
4. Clinical site affiliation.

(b) The didactic coordinator shall provide periodic reports to the clinical coordinator at the sponsoring site reporting the student's progress.

(c) The didactic program shall present *[students,]* ***a student's*** records to an authorized representative of the Department upon demand.

8:41-9.4 Student/candidate clinical training records

(a) Each approved MICU clinical training program sponsoring paramedic students and/or MICN candidates shall maintain records of the training and progress of the students. These records shall include:

1. Copies of current certifications in CPR, EMT-A and ACLS and as required by this chapter;
2. Documentation of successful completion of didactic training;
3. Copy of the didactic training schedule;
4. Original documentation of completion of clinical training objectives, including sign-off sheets;
5. Clinical training schedules;
6. Anecdotal records, as needed;
7. Copies of the required evaluations; and
8. Copies of the endorsement to take the certification exam, if appropriate.

(b) Paragraphs (a)2, 3 and 8 above do not apply to MICN candidates.

(c) The program shall produce the files in (a) above upon demand of an authorized representative of the Department.

8:41-9.5 Medical records

(a) Every program operating a mobile intensive care unit in accordance with this chapter shall develop a medical record form to be utilized to document each instance when physical or verbal contact is made with a patient. This record shall be completed for each patient with whom the pre-hospital ALS providers make physical or verbal contact. At such time as the Department promulgates a standardized, Statewide report form*[,]* that form shall be used.

(b) Every program shall develop and maintain a means for recording cancelled or recalled calls, missed calls, and other activity that does not result in patient contact, but did result in a dispatch.

(c) Each medical record form shall contain the following:

1. The name of the patient (if known);
2. The home address of the patient;
3. The location of the call;
4. Statistical information to include sex, age and weight;
5. Information as to patient's chief complaint, prior medical history, medications and allergies, findings obtained during the physical exam, treatment rendered, time the treatment was rendered and any response to treatment;
6. ECG documentation attached by the provider;
7. Any other information the program deems necessary, including insurance information;
8. Tape recording number, if applicable;
9. Date*[,]* and times as follows:
   i. Time of dispatch;
   ii. Time the vehicle is en route;
   iii. Time vehicle arrives at the scene;
   iv. Time patient is enroute to the hospital; and
   v. Time patient arrives at the hospital;
10. Crew information including certification number(s);
11. Any treatment rendered to the patient prior to the arrival of the MICU;
12. Unit identifying information to include the vehicle number, BLS squad name and vehicle number, type of communications used for medical command and printed name of medical command physician;
13. The printed name and signature of the medical command physician;
14. The receiving hospital or facility;
15. The receiving hospital's disposition of the patient to include admitting or discharge diagnosis and type of admission (for example, critical care floor);
16. A section to record the medication dosage, route and time of administration (flow sheet); and
17. The signature of the preparer of the record.

(d) The prehospital ALS provider***s*** in attendance with the patient shall prepare the medical record.

(e) A copy of the medical record shall be given to the physician or licensed registered nurse accepting the patient at the receiving facility. No additions to the chart shall be made once it is given, unless such changes are initialed and dated by the person making the change, and the receiving facility is notified.

(f) A copy of the medical record that has been signed by the medical command physician shall be retained by the program at the place of business and shall be available for inspection. Reports shall be presented to an authorized representative of the Department upon demand.

(g) If a patient should present to the MICU staff and should refuse care, the prehospital ALS providers shall complete a medical record for that patient and shall attempt to obtain the signature of the patient (or guardian) on a refusal of care statement.

(h) The program shall keep a record of all calls answered by the unit and shall track the destination, diagnosis and disposition of each patient evaluated by the unit. The emergency department of a licensed hospital receiving a patient evaluated by an approved MICU shall provide the information needed to comply with this section.

8:41-9.6 Quarterly reports

(a) Each program shall file a report with the Department stating the activity of the unit for that quarter. These reports shall be made on a form and in the manner specified by the Department (see Appendix A, incorporated herein by reference) and shall be received in the Office of Emergency Medical Services (OEMS) on or before the due date. The reporting period and due dates are:

Period	Due
Jan. 1-Mar. 31	Apr. 30
Apr. 1-June 30	July 31
July 1-Sept. 30	Oct. 31
Oct. 1-Dec. 31	Jan. 31

(b) The Department shall keep the data on file and shall generate a yearly report reflecting the activities of the MICU programs. Yearly reports shall be made available to the programs and general public for inspection at OEMS.

8:41-9.7 Quality assurance; roles and responsibilities

(a) The program medical director shall review at least 10 percent of all calls that were evaluated by the MICU, excluding cancelled calls. The method of determining which 10 percent of the calls will be reviewed shall be at the discretion of the medical director. The review shall determine:

1. Consistency with accepted treatment and triage protocols;
2. Consistency of the record with the tape recording of the call-in by the MICU;
3. Appropriateness of orders received by the MICU from the physician; and
4. Completeness of the medical record.

(b) The program director shall ensure that all medical records produced by the program meet standards, with regard to:

1. Completeness of the medical record;
2. Adherence to policies regarding treatment and triage of patients;
3. Compliance with the requirements of this chapter;
4. Documentation of *[scene times in excess of twenty five minutes]* ***excessive scene times based on the nature of the call***, deviations from established protocols, unsuccessful procedures, radio failure, and other unusual incidents; and
5. The conditions set forth in (a) above.

8:41-9.8 Quality assurance; compliance with standards

(a) Each program approved under this chapter shall develop and maintain a quality assurance plan in accordance with N.J.A.C. 8:43G-27.1 and 27.2.

(b) Each program shall identify an individual responsible for the coordination of all aspects of the quality assurance program.

(c) There shall be an ongoing process of monitoring patient care. Evaluation of patient care on the MICU shall be criteria-based, so that certain review actions are taken or triggered when specific quantified, predetermined levels of outcomes or potential problems are identified.

(d) The quality assurance individual shall be available to provide ongoing consultation to the program, including assistance with the development of specific indicators used to evaluate service outcomes on the MICU.

(e) The program shall follow up on its findings to assure that effective corrective action is taken, including, at a minimum, policy revisions, procedural changes, educational activities and follow-up on recommendations, or shall establish that additional actions are no longer indicated or needed.

(f) The quality assurance program shall identify and establish indicators of quality care specific to the MICU that are monitored and evaluated which encompass:

1. Medical calls;
2. Trauma calls;
3. Pediatric calls;
4. Cardiac/respiratory arrest ***incidents***;
5. Patients triaged to BLS;
6. Use of radio failure protocols;
7. Use of standing orders;
8. On-scene times;
9. Use of special procedures;
10. Triage to specialty care facilities; and
11. Other areas the medical director finds necessary to track in this manner.

(g) The quality assurance review must encompass at least 10 percent of all calls the *[units]* ***mobile intensive care unit(s)*** handle, excluding cancelled calls.

(h) The program shall keep written records of medical director reviews and shall produce them on demand to an authorized member of the Department. Medical director reviews shall include the comments of the medical director.

8:41-9.9 Additional reports

[(a)] Nothing in this chapter shall be deemed to prevent a program from gathering other information it deems necessary, providing such information is not otherwise restricted by law or rule. Other information gathered may include that which is necessary to process billing claims and insurance information. A receiving emergency department of a licensed hospital shall make such billing information available to the MICU staff.

[(b) Each program shall submit a quarterly report of fatal motor vehicle accidents that were covered by the program. This report may be incorporated with the quarterly report required by this chapter.]

SUBCHAPTER 10. STANDING ORDERS

8:41-10.1 Standing orders for cardiac arrest

(a) The following cardiac dysrhythmias and treatment protocols shall be considered standing orders in cardiac arrest:

1. For ventricular fibrillation or ventricular tachycardia (without pulse):
   i. Defibrillate 200 Joules;
   ii. Defibrillate 300 Joules;
   iii. Defibrillate 360 Joules;
   iv. Establish IV access with Dextrose 5 percent in water or normal saline; keep vein open;
   v. Intubate, if possible; and
   vi. Administer Epinephrine 1.0 mg, either intravenously or endotracheally.
2. For asystole:
   i. If rhythm is unclear and possibly ventricular fibrillation, defibrillate as for *[VF]* ***ventricular fibrillation*** as in (a)1 above;
   ii. Continue CPR;
   iii. Establish IV access with Dextrose 5 percent in water or normal saline; keep vein open;
   iv. Intubate if possible; and
   v. Administer Epinephrine 1.0 mg, either intravenously or endotracheally.
3. For Electromechanical Dissociation (EMD):
   i. Continue CPR;
   ii. Establish IV access with Dextrose 5 percent in water or normal saline; keep vein open;
   iii. Intubate, if possible; and
   iv. Administer Epinephrine 1.0 mg, either intravenously or endotracheally.

(b) General guidelines are as follows:

1. Check pulse and rhythm after each shock. If Ventricular Fibrillation recurs after transiently converting to another rhythm, use whatever energy level was previously successful on *[your]* ***the*** patient and defibrillate again.
2. Paramedics shall initiate radio communication with their base station physician as soon as the above treatments have been completed. At no time should initial communication with ***the*** medical control physician be delayed due to difficulty in intubating the patient and/or initiating an intravenous line.
3. The program medical director shall determine if Dextrose *[5]* ***five*** percent in water or normal saline will be used.
4. Each case utilizing these standing orders shall be documented on the run form and reviewed by *[both the mobile intensive care program coordinator and the medical director]* ***the program director or EMS educator. Cases which do not follow these protocols as promulgated or where contact is never made with the base station physician shall be forwarded to the program medical director for a mandatory review***.

5. Initial standing orders shall not replace communication with a base station physician and should not be considered as instructions for total treatment of the patient.

8:41-10.2 Standing orders for multiple trauma patients

(a) The following treatment protocols shall be considered standing orders, to be used when treating multiple trauma patients.

1. Provide Basic Life Support as necessary;

2. Provide airway management with cervical spine precautions;

3. Assist ventilation, providing highflow *[O_2]* ***oxygen*** at 100 percent by non rebreather mask and/or performing intubation utilizing cervical spine precautions when indicated;

4. Apply pneumatic anti-shock garment and inflate if applicable;

5. Transport as soon as possible;

6. Enroute to the hospital establish two large bore intravenous lines of Ringer's lactate *[with a 14 or 16 gauge angiocath. (For pediatric patients under 12, consider smaller gauge angiocath.)]*.* Attempt to draw blood. In adult patients obtain two full red top tubes. If patient is less than five years old, use two pediatric red top tubes*[.]*;*

7. Paramedics shall initiate radio communication with their base physician as soon as the above treatments have been completed. Transportation shall not be delayed due to difficulty in intubating the patient and/or initiating an intravenous line, except at the specific direction of the medical control physician; and

8. Each case utilizing these standing orders shall be documented on the run form and monitored *[by the mobile intensive care coordinator and the medical director for appropriateness]* ***in accordance with the standard in N.J.A.C. 8:41-10.1(b)4*.**

[(b) Each individual MICU program may adopt the protocols in (a) above, or any part of these protocols, as standing orders for multiple trauma patients. However, there shall be no additions to these protocols.]

8:41-10.3 Standing orders for endotracheal intubation

(a) The protocols contained in this section shall be considered standing orders for endotracheal intubation.

(b) Endotracheal intubation may be performed prior to contacting medical control if the patient presents:

1. In respiratory arrest;

2. In respiratory failure with associated inadequate spontaneous ventilatory volume; and/or

3. Unconscious with absent protective gag reflex.

(c) Advanced interventions should only be attempted after all basic life support interventions have been instituted. The patient may be intubated either by the orotracheal or nasotracheal route; however, nasotracheal intubation shall be withheld in children less than 12 years old.

(d) It is imperative that the MICU staff initiate contact with their base station physician as soon as possible after the above treatment has been rendered. These procedures should not delay the transportation of a patient in the event of a difficult intubation; nor should contact with the base physician be delayed by a difficult intubation.

(e) Each case utilizing these standing orders shall be documented on the run form and shall be monitored *[by the program medical director and coordinator for appropriateness]* ***in accordance with the standards established in N.J.A.C. 8:41-10.1(b)4*.**

8:41-10.4 Standing orders for the establishment of intravenous therapy

(a) The protocols contained in this section shall be considered standing orders for the initiation of intravenous therapy prior to contacting the base physician, without existing radio failure.

(b) In cases where an emergent or potentially emergent condition exists and current advanced life support treatment protocols require the initiation of intravenous therapy, mobile intensive care unit staff may begin an intravenous line at keep vein open rate ***or establish intravenous access with a saline port*** prior to contacting a base physician.

(c) Mobile intensive care unit staff shall contact the base physician as soon as possible after the initiation of the intravenous line. Contact with the base physician shall not be delayed by, or as a result of, unsuccessful intravenous attempts in the field.

(d) The time of the initiation of intravenous therapy and the time of base station contact shall be recorded on the patient run form.

[(e) It is the policy of OEMS that the initiation of intravenous therapy by MICU staff, without base station contact, shall not be considered the total management of the prehospital patient. Base station physician contact shall be initiated in all advanced life support calls, unless a radio failure situation exists. In the incidence of radio failure, every attempt shall be made to contact the base physician, and shall be documented on the patient run report. A radio failure report shall be sent to OEMS, within 48 hours.]

APPENDIX A
NEW JERSEY DEPARTMENT OF HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES

MICU Quarterly Report Quarter Ending_____

(Quarterly reports are due by the 30th of April, July, October, January)

Program Name

ADDRESS Telephone Number ( )

Person Completing Report Cost Per Completed ALS Call

Coordinator Medical Director

SECTION ONE—SYSTEM WIDE MICU INFORMATION

1. MICU dispatches _____
2. MICU calls cancelled (patient not seen) _____
3. MICU requested and unable to respond _____
4. Patients evaluated by MICU (total) _____
5. Patients triaged to BLS (total) _____
6. Patients triaged to BLS and admitted to critical care (total) _____
7. Patients refusing ALS _____
8. Patients treated by MICU as completed ALS calls _____

Age Ranges

9. 0 to 1 year _____
10. 2 to 8 year _____
11. 9 to 20 year _____
12. 21 to 45 year _____
13. 46 to 65 year _____
14. > 65 year _____
15. ALS Field pronouncements (by Medical control physician) _____
16. Total ALS patients admitted to a hospital _____
17. Total ALS patients treated and released from emergency department _____
18. ALS patients transported by volunteer ambulances _____
19. ALS patients transported by licensed ambulances _____
20. ALS patients transported by aeromedical service _____
21. ALS patients transported by transport MICU _____
22. ALS patients transported by other means (explain each situation below) _____
23. ALS patients treated and left at the scene _____
24. Transport delayed due to lack of available BLS transport vehicle _____

MATCHING TOTALS

15, 16 17 must = Item 8
9, 10, 11, 12, 13, 14 must = Item 8
18, 19, 20, 21, 22, 23 must = Item 8

Comments:

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION TWO—INDIVIDUAL VEHICLE SITE DISPATCH INFORMATION

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

25. MICU dispatches _____
26. MICU calls cancelled (patient not seen) _____
27. MICU requested and unable to respond _____
28. Patients treated by MICU as completed ALS calls _____
29. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

30. MICU dispatches _____
31. MICU calls cancelled (patient not seen) _____
32. MICU requested and unable to respond _____
33. Patients treated by MICU as completed ALS calls _____
34. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

35. MICU dispatches _____
36. MICU calls cancelled (patient not seen) _____
37. MICU requested and unable to respond _____
38. Patients treated by MICU as completed ALS calls _____
39. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

40. MICU dispatches _____
41. MICU calls cancelled (patient not seen) _____
42. MICU requested and unable to respond _____
43. Patients treated by MICU as completed ALS calls _____
44. Number of out-of-service hours (explain) _____

Comments:

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION TWO CONTINUED—INDIVIDUAL VEHICLE SITE DISPATCH INFORMATION

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

45. MICU dispatches _____
46. MICU calls cancelled (patient not seen) _____
47. MICU requested and unable to respond _____
48. Patients treated by MICU as completed ALS calls _____
49. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

50. MICU dispatches _____
51. MICU calls cancelled (patient not seen) _____
52. MICU requested and unable to respond _____
53. Patients treated by MICU as completed ALS calls _____
54. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

55. MICU dispatches _____
56. MICU calls cancelled (patient not seen) _____
57. MICU requested and unable to respond _____
58. Patients treated by MICU as completed ALS calls _____
59. Number of out-of-service hours (explain) _____

Comments:

VEHICLE SITE_____ VEHICLE RECOGNITION NUMBER/NAME_____

60. MICU dispatches _____
61. MICU calls cancelled (patient not seen) _____
62. MICU requested and unable to respond _____
63. Patients treated by MICU as completed ALS calls _____
64. Number of out-of-service hours (explain) _____

Comments:

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION THREE—PATIENT CLASSIFICATION

Place each ALS patient in only one of the categories below

Cardiac

65. General Cardiac _____
66. Cardiopulmonary arrest (resuscitation attempted) _____
67. Cardiac Cases Total _____

Trauma

68. Blunt trauma _____
69. Burns/Electric Shock _____
70. Head injury _____
71. Penetrating injury _____
72. Spinal cord injury _____
73. Trauma codes _____
74. Other (explain) _____
75. Trauma Total _____

Mechanism of injury _____

76. MVA _____
77. Stab/gunshot _____
78. Falls _____
79. Assault _____
80. Other (explain) _____
81. Trauma patient admitted to Level I trauma center _____
82. Trauma patient admitted to Level II trauma center _____

General Medical

83. Alcohol/Drug abuse _____
84. Anaphylaxis _____
85. CVA/Vascular _____
86. Dehydration/Sepsis _____
87. Diabetic _____
88. Drowning/Near drowning _____
89. Gastrointestinal problems _____
90. Heat/Cold exposure _____
91. OB/GYN problems _____
92. Poisoning _____
93. Pronouncements not resuscitated _____
94. Psychiatric problems _____
95. Respiratory problems _____
96. Seizures _____
97. Syncope _____
98. Unconscious (etiology unknown) _____
99. Weakness/Malaise _____
100. Other (explain) _____
101. Medical Total _____

MATCHING TOTALS

67, 75, 101 must = Item 8
76, 77, 78, 79, 80 must = Item 75
68, 69, 70, 71, 72, 73 74 must = Item 75

Comments:

(OEMS 9/91)

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION FOUR—PROCEDURES

102. AV fistula/shunt access	_____	110. MAST inflation	_____
103. Central venous access	_____	111. Nasogastric tube insertion	_____
104. Chest decompression	_____	112. Patients cardioverted	_____
105. Esophageal obturator airway insertion	_____	113. Patients defibrillated	_____
106. Ext. cardiac pacing	_____	114. Patients participated in a prehospital research project	_____
107. Intraosseous infusion	_____	115. Tracheal intubation	_____
108. Intravenous catheter plug	_____	116. 12 lead EKG	_____
109. IV therapy initiated (number of patients)	_____		

Comments:

SECTION FIVE—PRIMARY COMMUNICATIONS WITH MEDICAL CONTROL

Enter each patient only once

117. UHF (telemetry)	_____	121. Radio failure	_____
118. VHF (HEAR)	_____	122. Other communications (explain)	_____
119. Cellular Phone	_____		
120. Telephone	_____	MATCHING TOTALS Section Five totals must = Item 8	

Comments:

SECTION SIX—PAYMENT SOURCE

Enter each patient only once

123. Medicare	_____	127. Other commercial insurance	_____
124. Medicaid	_____	128. No fault	_____
125. Blue Cross/Blue Shield	_____	129. Workman's Compensation	_____
126. Self pay	_____	130. Other (list)	_____
		MATCHING TOTALS Section Six totals must = Item 8	

Comments:

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION SEVEN—DESTINATIONS

Record the number of ALS patients taken to each hospital

131. Hospital name and code #	Number of patients	Hospital name and code #	Number of patients

MATCHING TOTALS
Item 131 Total must = Item 8

Comments:

MICU QUARTERLY REPORT—Continued

PROGRAM_____

QUARTER ENDING_____

SECTION EIGHT—ORIGINATION OF CALL

List incorporated municipalities and municipality codes.
Do not use subdivision names.

Record in 133 the number of dispatches (by municipality) for your program vehicles. In 134 record the number of completed ALS calls originating in each town.

132. Town	Municipality Code	133. Dispatches	134. Completed ALS calls

MATCHING TOTALS

Total of 133 must = Item 1
Total of 134 must = Item 8

Comments:

PUBLIC NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Notice of Publication of Municipal Tax Collection Practices

Take notice that, pursuant to N.J.A.C. 5:33-1.8, the Director of the Division of Local Government Services herewith publishes the required Survey of Municipal Tax Collection Practices. The publication of this survey is intended to provide property tax processing organizations and mortgage servicing organizations information regarding the practices of New Jersey tax collection offices.

Information for each municipality in the survey includes the following:

(1) The name and county of each municipal tax collection office;

(2) Office, and if available, facsimile machine telephone numbers;

(3) The fee charged for the first and subsequent copies of duplicate tax bills (N.J.A.C. 5:33-4.8);

(4) Local practices concerning the use of printouts or electronic transmission for tax payment information (N.J.A.C. 5:33-1.6); and

(5) The installments (other than third) for which replacement bills generated by a servicer or tax processor are accepted, and if printouts or electronic listings of replacement bills may be used in making a tax payment (N.J.A.C. 5:33-1.7).

Tax processers and escrow servicers intending to use printouts or electronic transmission as permitted are urged to consult the relevant N.J.A.C. section for the contents of the printouts. Those intending to use electronic means for submitting information must contact the individual tax office to ensure compatibility.

Users of this information should retain this listing for future years as subsequent notices will include only information that has changed.

The Division of Local Government Services will provide a bound copy of this notice plus annual updates until a complete list is republished for a one time charge of $25.00. To receive this service, checks made out to "Treasurer, State of New Jersey," and a request for "Tax Collection Practice Survey" should be sent to:

Mortgage Escrow Transaction Program
Division of Local Government Services
CN 803
Trenton, NJ 08625-0803

Additional information may be obtained from the above address, or by calling (609) 633-6347.

Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
Aberdeen Township	Monmouth	(908) 583-4200	(908)290-3171	$0.00	$0.00	X		X	X	X	X	
Absecon City	Atlantic	(609) 641-2762	(609)484-7467	$5.00	$25.00	X		X	X	X		
Alexandria Township	Hunterdon	(908) 996-2624	()-	$5.00	$25.00			X	X	X		
Allamuchy Township	Warren	(908) 852-5189	(908)852-0129	$5.00	$25.00							
Allendale Borough	Bergen	(201) 818-4409	(201)825-1913	$3.00	$3.00	X	X	X	X	X	X	X
Allenhurst Borough	Monmouth	(908) 531-2757	()-	$0.00	$0.00			X	X	X		
Allentown Borough	Monmouth	(609) 259-3151	(609)259-7530	$3.00	$0.00						X	
Alloway Township	Salem	(609) 935-4666	()-	$0.00	$0.00	X		X	X	X		
Alpha Borough	Warren	(908) 454-9529	(908)454-0076	$0.00	$0.00	X		X	X	X	X	
Alpine Borough	Bergen	(201) 784-2903	(201)784-1407	$0.25	$0.25	X		X	X	X	X	
Andover Borough	Sussex	(201) 786-6688	(201)786-7231	$5.00	$25.00			X	X	X		
Andover Township	Sussex	(201) 383-2144	(201)383-9977	$5.00	$25.00			X	X	X		
Asbury Park City	Monmouth	(908) 775-2100	(908)775-0441									
Atlantic City	Atlantic	(609) 347-5300	()-	$1.50	$1.50		X	X	X	X	X	
Atlantic Highlands Borough	Monmouth	(908) 291-3297	(908)291-2996	$0.00	$0.00			X	X	X		
Audubon Borough	Camden	(609) 547-0710	(609)546-4749	$0.00	$0.00							
Audubon Park Borough	Camden	(609) 547-5236	(609)547-1824	$0.00	$0.00			X	X	X		
Avalon Borough	Cape May	(609) 967-4045	(609)967-3404	$0.00	$0.00							
Avon-by-the-Sea Borough	Monmouth	(908) 502-4512	(908)775-8618	$5.00	$25.00	X		X	X	X	X	
Barnegat Light Borough	Ocean	(609) 494-2343	(609)494-4827	$0.00	$0.00			x	x	x		
Barnegat Township	Ocean	(609) 597-2381	(609)698-8616	$2.00	$25.00	X		X	X	X	X	
Barrington Borough	Camden	(609) 547-0706	(609)547-8061	$0.50	$0.50			X	X	X		
Bass River Township	Burlington	(609) 296-1666	(609)296-4270	$0.00	$0.00	x		x	x	x		
Bay Head Borough	Ocean	(908) 892-8920	(908)899-6494	$0.00	$0.00	X	X	X	X	X	X	X
Bayonne City	Hudson	(201) 858-6955	(201)858-6092	$5.00	$5.00		X	X	X	X		X
Beach Haven Borough	Ocean	(609) 492-1515	(609)492-6262	$0.00	$0.00			X	X	X		
Beachwood Borough	Ocean	(908) 286-6505	(908)349-8391	$0.00	$0.00	X					X	
Bedminster Township	Somerset	(908) 234-1336	(908)234-1640	$5.00	$5.00			X	X	X		
Belleville Township	Essex	(201) 450-3339	(201)759-9418	$2.00	$2.00		X	X	X	X		X
Bellmawr Borough	Camden	(609) 933-1314	()-	$0.00	$0.00	X		X	X	X	X	
Belmar Borough	Monmouth	(908) 681-1176	(908)681-7470	$0.00	$0.00	X	X	X	X	X	X	X
Belvidere Town	Warren	(908) 475-8086	()-	$0.00	$0.00		X				X	
Bergenfield Borough	Bergen	(201) 387-4066	(201)387-6737	$5.00	$0.00	X					X	
Berkeley Heights Township	Union	(908) 665-0746	(908)464-8150	$1.00	$0.00	X		X	X	X	X	
Berkeley Township	Ocean	(908) 244-7400	(908)341-8968	$1.00	$0.00	X		X	X	X	X	
Berlin Borough	Camden	(609) 767-0022	(609)753-9122	$5.00	$25.00		X					X
Berlin Township	Camden	(609) 767-4380	(609)767-6657	$5.00	$25.00			X				
Bernards Township	Somerset	(908) 204-3080	(908)204-3089	$5.00	$25.00	X		X	X	X		
Bernardsville Borough	Somerset	(908) 766-3000	(908)766-2788	$5.00	$5.00			X	X	X	X	
Bethlehem Township	Hunterdon	(908) 735-0593	(908)735-0485	$0.00	$0.00							
Beverly City	Burlington	(609) 387-1610	(609)387-5550	$0.00	$0.00	X		X	X	X		
Blairstown Township	Warren	(908) 362-6663	(908)362-9635	$0.00	$0.00	X					X	
Bloomfield Township	Essex	(201) 680-4049	()-	$0.00	$00.00	X	X	X	X	X		X
Bloomingdale Borough	Passaic	(201) 838-0330	(201)838-5115	$1.00	$0.00	X			X			
Bloomsbury Borough	Hunterdon	(908) 479-4200	(908)479-1418	$0.00	$0.00			X	X	X		
Bogota Borough	Bergen	(201) 342-1737	(201)342-0574	$0.00	$0.00	X	X	X	X	X	X	
Boonton Town	Morris	(201) 299-7724	(201)316-8498	$5.00	$5.00	X		X	X	X	X	
Boonton Township	Morris	(201) 402-4004	(201)402-4013	$0.00	$0.00							
Bordentown City	Burlington	(609) 298-0073	()-	$0.00	$0.00							
Bordentown Township	Burlington	(609) 298-5479	(609)291-0788	$2.00	$5.00	X		X	X	X	X	
Bound Brook Borough	Somerset	(908) 356-0802	(908)356-3662	$0.00	$0.00	X		X	X	X	X	
Bradley Beach Borough	Monmouth	(908) 776-2986	(908)775-1782	$1.00	$1.00			X	X	X		
Branchburg Township	Somerset	(908) 526-1300	(908)526-2452	$0.00	$0.00	X		X	X	X	X	
Branchville Borough	Sussex	(201) 948-4626	(201)948-1899	$4.00	$4.00	X		X	X	X	X	

BP = Printed list of tax bills BE = Electronic list of bills
PP = Printed list of tax payments PE = Electronic list of tax payments
Q1,Q2,Q4 = Quarters when replacement bills are accepted per NJAC 5:33-1.7

Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
Brick Township	Ocean	(908) 262-1023	(908)920-4850	$1.00	$1.00		X	X	X	X		X
Bridgeton City	Cumberland	(609) 455-3230	(609)455-6690	$0.00	$0.00	X		X	X	X	X	
Bridgewater Township	Somerset	(908) 725-6300	(908)707-1235	$0.00	$0.00			X	X	X		
Brielle Borough	Monmouth	(908) 528-6600	(908)528-7168	$0.00	$0.00	X		X	X	X	X	
Brigantine City	Atlantic	(609) 266-0220	(609)266-4841	$0.00	$0.00	X		X	X	X	X	
Brooklawn Borough	Camden	(609) 456-0750	(609)456-1874	$0.00	$0.00	X		X	X	X	X	
Buena Borough	Atlantic	(609) 697-1783	(609)697-0832	$0.00	$0.00	X						
Buena Vista Township	Atlantic	(609) 679-2100	(609)697-8651	$0.00	$0.00			X	X	X		
Burlington City	Burlington	(609) 386-0790	(609)386-0214	$5.00	$5.00	X						
Burlington Township	Burlington	(609) 239-5805	()-	$5.00	$25.00			X	X	X		
Butler Borough	Morris	(201) 838-7207	(201)838-3762	$0.00	$0.00	X		X	X	X	X	
Byram Township	Sussex	(201) 347-7217	(201)347-0502	$1.00	$1.00	X		X	X	X	X	
Caldwell Township	Essex	(201) 226-6347	(201)403-1355	$2.50	$2.50	X		X	X	X	X	
Califon Borough	Hunterdon	(908) 832-7150	(908)832-6085	$0.00	$0.00	x					x	
Camden City	Camden	(609) 757-7003	()-	$2.00	$2.00		X					
Cape May City	Cape May	(609) 884-9540	(609)884-9581	$0.00	$0.00	X		X	X	X		X
Cape May Point Borough	Cape May	(609) 884-7441	()-	$0.00	$0.00	X		X	X	X	X	
Carlstadt Borough	Bergen	(201) 939-2304	(201)939-4522	$1.00	$2.50	X		X	X	X	X	
Carneys Point Township	Salem	(609) 299-1052	()-	$0.00	$0.00	X		X	X	X	X	
Carteret Borough	Middlesex	(908) 541-3820	(908)541-2884	$0.00	$0.00	X		X	X	X	X	
Cedar Grove Township	Essex	(201) 239-1410	(201)239-7541	$5.00	$5.00			X	X	X		
Chatham Borough	Morris	(201) 635-1778	(201)635-1779	$2.00	$2.00	X		X	X	X	X	
Chatham Township	Morris	(201) 635-3686	(201)635-2644	$2.00	$2.00	X	X	X	X	X	X	X
Cherry Hill Township	Camden	(609) 488-7880	(609)488-7893	$1.00	$0.00			X				
Chesilhurst Borough	Camden	(609) 767-4221	(609)753-1696	$0.00	$0.00	X		X	X		X	
Chester Borough	Morris	(908) 879-5361	(908)879-5812	$5.00	$25.00	X		X	X	X	X	
Chester Township	Morris	(908) 879-5274	(908)879-8281	$0.00	$0.00	X	X	X	X	X	X	X
Chesterfield Township	Burlington	(609) 298-2311	(609)298-0469	$2.00	$2.00				X			
Cinnaminson Township	Burlington	(609) 829-6000	(609)829-3361	$0.00	$0.00	X		X	X	X	X	
Clark Township	Union	(908) 388-3100	(908)388-1241	$0.00	$0.00			X	X	X		
Clayton Borough	Gloucester	(609) 881-1878	()-	$0.00	$0.00	X		X	X	X	X	
Clementon Borough	Camden	(609) 783-0284	(609)784-3825	$5.00	$25.00	X	X	X	X	X	X	X
Cliffside Park Borough	Bergen	(201) 945-3456	(201)941-0416	$2.00	$2.00	X		X	X	X	X	X
Clifton City	Passaic	(201) 470-5837	(201)470-9456	$0.00	$0.00			X	X	X		
Clinton Town	Hunterdon	(908) 735-2275	(908)735-8082	$5.00	$0.00							
Clinton Township	Hunterdon	(908) 735-5242	(908)735-8156	$5.00	$25.00							
Closter Borough	Bergen	(201) 784-0755	(201)768-7413	$2.00	$0.00							
Collingswood Borough	Camden	(609) 854-0720	(609)854-0632	$0.00	$0.00			X	X	X		
Colts Neck Township	Monmouth	(908) 462-5470	(908)431-3173	$1.00	$5.00	X					X	
Commercial Township	Cumberland	(609) 785-1111	(609)785-1632	$1.00	$1.00	X					X	
Corbin City	Atlantic	(609) 628-2673	()-	$2.00	$5.00	X		X	X	X	X	
Cranbury Township	Middlesex	(609) 395-0760	(609)395-8861	$0.00	$0.00	X		X	X	X	X	
Cranford Township	Union	(908) 709-7200	(908)276-7664	$2.00	$2.00			X	X	X		
Cresskill Borough	Bergen	(201) 569-5840	(201)569-3714	$0.00	$0.00			X	X	X		
Deal Borough	Monmouth	(908) 531-0319	(908)531-1455	$0.00	$0.00	X		X	X	X	X	
Deerfield Township	Cumberland	(609) 455-3200	(609)455-0025	$0.00	$0.00	X	X				X	X
Delanco Township	Burlington	(609) 461-1589	(609)461-0348	$0.00	$0.00	X		X	X	X	X	
Delaware Township	Hunterdon	(609) 397-3240	(609)397-4893	$5.00	$25.00	X		X	X	X	X	
Delran Township	Burlington	(609) 461-7736	(609)764-7364	$0.00	$0.00	X		X	X	X		
Demarest Borough	Bergen	(201) 768-3611	(201)768-2581	$5.00	$25.00				X			
Dennis Township	Cape May	(609) 861-5814	(609)861-5286	$2.00	$2.00	X		X	X	X	X	
Denville Township	Morris	(609) 625-8310	(609)625-2491	$5.00	$5.00		X	X	X	X		X
Deptford Township	Gloucester	(609) 845-5300	(609)848-8227	$1.00	$1.00	X		X	X	X	X	
Dover Town	Morris	(201) 366-2200	(201)328-6604	$5.00	$5.00							

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Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
Dover Township	Ocean	(908) 341-1000	(908)341-3586	$1.00	$1.00		X					X
Downe Township	Cumberland	(609) 447-3100	(609)447-3533	$0.00	$0.00			X	X	X		
Dumont Borough	Bergen	(201) 387-5025	(201)387-5065	$5.00	$25.00	X		X	X	X	X	
Dunellen Borough	Middlesex	(908) 968-1226	(908)968-8078	$5.00	$5.00	X		X	X	X	X	
Eagleswood Township	Ocean	(609) 296-3054	(609)296-4649	$1.00	$0.00	X		X	X	X	X	
East Amwell Township	Hunterdon	(908) 782-5209	(908)782-1967	$0.00	$0.00							
East Brunswick Township	Middlesex	(908) 390-6835	(908)390-6880	$5.00	$5.00		X	X	X	X		
East Greenwich Township	Gloucester	(609) 423-0606	()-	$0.00	$0.00							
East Hanover Township	Morris	(201) 887-5666	(201)877-7210	$0.00	$0.00	X		X	X	X		
East Newark Borough	Hudson	(201) 481-2902	()-	$2.00	$2.00	X		X	X	X	X	
East Orange City	Essex	(201) 266-5130	(201)266-5158	$0.00	$0.00		X	X	X	X		X
East Rutherford Borough	Bergen	(201) 933-3446	(201)933-6111	$0.00	$0.00			X	X	X		
East Windsor Township	Mercer	(609) 443-4000	()-	$1.00	$0.00			X	X	X		
Eastampton Township	Burlington	(609) 267-5380	(609)265-1714	$3.00	$0.00							
Eatontown Borough	Monmouth	(908) 389-7604	()-	$0.00	$0.00			X	X	X		
Edgewater Borough	Bergen	(201) 943-2413	(201)943-9240	$1.00	$0.00	X		X	X	X	X	
Edgewater Park Township	Burlington	(609) 877-877	()-	$0.00	$0.00	X		X	X	X	X	
Edison Township	Middlesex	(908) 248-7228	()-	$0.00	$0.00			X	X	X		
Egg Harbor City	Atlantic	(609) 965-0123	(609)965-0715	$5.00	$10.00	X	X	X			X	
Egg Harbor Township	Atlantic	(609) 926-4079	(609)926-4002	$5.00	$25.00							
Elizabeth City	Union	(908) 820-4115	(908)820-0112	$1.00	$1.00		X	X	X	X		X
Elk Township	Gloucester	(609) 881-6223	(609)881-5750	$0.00	$0.00	X		X	X	X		
Elmer Borough	Salem	(609) 358-4010	()-	$0.00	$0.00	X		X	X	X	X	
Elmwood Park Borough	Bergen	(201) 796-3900	()-	$1.00	$5.00	X		X	X	X	X	
Elsinboro Township	Salem	(609) 935-7346	()-	$2.00	$0.00	X		X	X	X	X	
Emerson Borough	Bergen	(201) 262-2807	(201)262-0938	$1.00	$5.00	X		X	X	X	X	
Englewood City	Bergen	(201) 871-6607	(201)567-3653	$2.00	$2.00			X	X	X		
Englewood Cliffs Borough	Bergen	(201) 569-5271	(201)569-4356	$0.50	$0.50	X		X	X	X	X	
Englishtown Borough	Monmouth	(908) 446-9235	(908)446-4979	$0.00	$0.00			X	X	X		
Essex Fells Township	Essex	(201) 226-3400	(201)228-4439	$1.00	$1.00	X					X	
Estell Manor City	Atlantic	(609) 476-2384	(609)476-4588	$5.00	$10.00	X	X				X	X
Evesham Township	Burlington	(609) 983-2900	(609)985-3695	$3.00	$3.00			X	X	X		
Ewing Township	Mercer	(609) 883-2900	(609)538-0729	$3.00	$3.00	X		X	X	X		
Fair Haven Borough	Monmouth	(908) 741-0891	()-	$0.00	$0.00	X					X	
Fair Lawn Borough	Bergen	(201) 794-5337	(201)703-4268	$0.25	$0.00	X		X	X	X		
Fairfield Borough	Cumberland	(609) 453-3154	(609)455-3056	$5.00	$0.00	X						
Fairfield Borough	Essex	(201) 882-2708	(201)882-0365	$2.00	$2.00	X		X	X	X	X	X
Fairview Borough	Bergen	(201) 943-3750	(201)943-3534	$5.00	$25.00			X	X	X		
Fanwood Borough	Union	(908) 322-8236	(908)322-2200	$0.00	$0.00	X					X	
Far Hills Borough	Somerset	(908) 234-0611	(908)234-0918	$5.00	$5.00							
Farmingdale Borough	Monmouth	(908) 938-4077	()-	$0.00	$0.00	X		X	X	X	X	
Fieldsboro Borough	Burlington	(609) 298-6344	()-	$2.00	$2.00				X			
Flemington Borough	Hunterdon	(908) 782-8840	()-	$0.00	$0.00	X		X	X	X	X	
Florence Township	Burlington	(609) 499-2525	(609)499-1186	$5.00	$25.00			X	X	X		
Florham Park Borough	Morris	(201) 377-1923	(201)377-5749	$1.00	$1.00	X		X	X	X	X	
Folsom Borough	Atlantic	(609) 561-4374	(609)561-5821	$1.00	$1.00	X		X	X	X	X	
Fort Lee Borough	Bergen	(201) 592-3538	(201)585-0966	$2.00	$2.00	x		x	x	x	x	
Frankford Township	Sussex	(201) 948-4621	(201)948-2612	$0.00	$0.00	X		X	X	X	X	
Franklin Borough	Sussex	(201) 827-6585	(201)827-9279	$5.00	$25.00			X	X	X		
Franklin Lakes Borough	Bergen	(201) 891-0048	(201)848-9453	$2.00	$2.00	X		X	X	X	X	
Franklin Township	Gloucester	(609) 694-1234	(609)694-2749	$2.00	$2.00			X	X	X		
Franklin Township	Hunterdon	(908) 735-6609	(908)735-2990	$0.00	$0.00	X		X	X	X	X	
Franklin Township	Somerset	(908) 873-2500	(908)873-1059	$5.00	$5.00							
Franklin Township	Warren	(908) 689-6346	()-	$0.00	$0.00	X		X	X	X	X	

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Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
Fredon Township	Sussex	(201) 383-7025	(201)383-8711	$0.00	$0.00			X	X	X		
Freehold Borough	Monmouth	(908) 462-1410	(908)409-1453	$5.00	$5.00							
Freehold Township	Monmouth	(908) 294-2000	(908)462-7910	$5.00	$10.00							
Frelinghuysen Township	Warren	(908) 852-4121	(908)852-7621	$0.00	$0.00	X		X	X	X	X	
Frenchtown Borough	Hunterdon	(908) 996-4524	()-	$0.00	$0.00	X		X	X	X		
Galloway Township	Atlantic	(609) 652-3747	(609)652-8737	$5.00	$25.00							
Garfield City	Bergen	(201) 340-2000	(201)340-5183	$1.00	$1.00			X	X	X		
Garwood Borough	Union	(908) 789-0475	(908)789-7978	$5.00	$0.00							
Gibbsboro Borough	Camden	(609) 783-8925	()-	$2.00	$25.00	X					X	
Glassboro Borough	Gloucester	(609) 881-9230	(609)881-0901	$2.00	$5.00	X		X	X	X	X	
Glen Gardner Borough	908terdon	(908) 537-4748	(908)537-7026	$5.00	$0.00							
Glen Ridge Borough	Essex	(201) 748-8400	(201)748-3926	$5.00	$5.00	X		X	X	X	X	
Glen Rock Borough	Bergen	(201) 670-3963	(201)670-3959	$1.00	$1.00			X	X	X		
Gloucester City City	Camden	(609) 456-1250	(609)456-8030	$0.00	$0.00			X	X	X		
Gloucester Township	Camden	(609) 228-4000	(609)228-9584	$0.00	$0.00	X	X	X	X	X	X	
Green Brook Township	Somerset	(908) 968-2002	(908)968-4088	$0.00	$1.00	X		X	X	X	X	
Green Township	Sussex	(908) 852-2974	(908)852-1972	$0.00	$0.00					x		
Greenwich Township	Cumberland	(609) 451-2314	()-	$0.00	$0.00	X	X	X	X	X		
Greenwich Township	Gloucester	(609) 423-1004	(609)423-2989	$0.00	$0.00	X	X	X	X	X	X	X
Greenwich Township	Warren	(908) 859-0249	()-	$0.00	$0.00	X		X	X	X	X	
Guttenberg Town	Hudson	(201) 868-3304	(201)868-9332	$0.00	$0.00	X		X	X	X	X	X
Hackensack City	Bergen	(201) 646-3928	(201)646-8059	$5.00	$5.00	X		X	X	X	X	
Hackettstown Town	Warren	(908) 852-3130	(908)852-5728	$0.00	$0.00							
Haddon Heights Borough	Camden	(609) 547-7164	(609)547-5259	$0.00	$0.00			X	X	X		
Haddon Township	Camden	(609) 854-2727	()-	$5.00	$25.00							
Haddonfield Borough	Camden	(609) 429-4700	()-	$0.00	$0.00	X		X	X	X		
Hainesport Township	Burlington	(609) 267-6470	(609)261-4762	$5.00	$0.00	X					X	
Haledon Borough	Passaic	(201) 942-6538	(201)790-4781	$5.00	$25.00							
Hamburg Borough	Sussex	(201) 827-9230	(201)827-0466	$1.00	$0.00	X		X			X	
Hamilton Township	Atlantic	(609) 625-2151	(609)625-0133	$0.00	$0.00	X		X	X	X	X	
Hamilton Township	Mercer	(609) 890-3890	(609)890-3632	$5.00	$25.00			X	X	X		
Hammonton Township	Atlantic	(609) 625-2151	(609)625-0133	$0.00	$0.00	X		X	X	X	X	
Hampton Borough	Hunterdon	(908) 537-2329	()-	$0.00	$0.00	X		X	X	X	X	
Hampton Township	Sussex	(201) 382-1692	(201)383-8969	$0.00	$0.00	X		X	X	X	X	
Hanover Township	Morris	(201) 428-2480	(201)428-4374	$0.00	$0.00	X		X	X	X	X	
Harding Township	Morris	(201) 455-7106	(201)455-1135	$5.00	$0.00			X	X	X		
Hardwick Township	Warren	(908) 362-8315	()-	$0.00	$0.00			X	X	X		
Hardyston Township	Sussex	(201) 697-1434	(201)827-2859	$2.00	$2.00	X		X	X	X	X	
Harmony Township	Warren	(908) 859-3308	()-	$2.00	$2.00	X		X	X	X		
Harrington Park Borough	Bergen	(201) 768-1588	(201)768-8042	$5.00	$5.00			X	X	X		
Harrison Town	Hudson	(201) 268-2438	()-	$5.00	$0.00	X					X	
Harrison Township	Gloucester	(609) 478-6454	(609)478-2498	$0.00	$0.00	X		X	X	X	X	
Harvey Cedars Borough	Ocean	(609) 361-6000	(609)494-2335	$1.00	$1.00	X		X	X	X	X	
Hasbrouck Heights Borough	Bergen	(201) 288-2144	(201)288-4006	$0.50	$0.50	X		X	X	X	X	
Haworth Borough	Bergen	(201) 384-0450	(201)384-9643	$5.00	$5.00							
Hawthorne Borough	Passaic	(201) 427-1242	(201)427-2276	$2.00	$2.00	X		X	X	X		
Hazlet Township	Monmouth	(908) 264-1700	(908)264-1785	$0.00	$0.00	X					X	
Helmetta Borough	Middlesex	(908) 521-0386	(908)521-1263	$0.00	$0.00	X	X	X	X	X	X	X
Hi-nella Borough	Camden	(609) 784-6237	()-	$0.00	$0.00			X	X	X		
High Bridge Borough	Hunterdon	(908) 788-2663	()-	$0.00	$0.00			X	X	X		
Highland Park Borough	Middlesex	(908) 819-3786	(908)819-4573	$0.00	$0.00	X		X	X	X	X	
Highlands Borough	Monmouth	(908) 832-1224	(908)832-0670	$1.00	$0.00	X		X	X	X	X	
Hightstown Borough	Mercer	(609) 490-5108	(609)443-0310	$5.00	$25.00			X	X	X		
Hillsborough Township	Somerset	(908) 369-4313	(908)369-8565	$0.00	$0.00			X	X	X		

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Hillsdale Borough	Bergen	(201) 358-5000	(201)666-3702	$2.00	$0.00		X	X	X	X	X	X
Hillside Township	Union	(201) 926-5502	(201)926-9232	$1.00	$1.00	X					X	
Ho-Ho-Kus Borough	Bergen	(201) 652-4400	(201)612-8734	$1.00	$1.00	X		X	X	X	X	
Hoboken City	Hudson	(201) 420-2081	()-	$5.00	$5.00							
Holland Township	Hunterdon	(908) 995-2047	()-	$0.00	$0.00	X		X	X	X	X	
Holmdel Township	Monmouth	(908) 946-4455	(908)946-0116	$5.00	$25.00	X		X	X	X		
Hopatcong Borough	Sussex	(201) 770-1200	(201)770-0301	$2.00	$2.00	X					X	
Hope Township	Warren	(908) 459-5011	(908)459-5336	$0.00	$0.00	X		X	X	X	X	
Hopewell Borough	Mercer	(609) 466-0965	(609)466-8511	$0.00	$0.00			X	X	X		
Hopewell Township	Cumberland	(609) 455-1230	(609)455-3080	$5.00	$5.00	X		X	X	X		
Hopewell Township	Mercer	(609) 737-0630	(609)737-1022	$0.00	$0.00	X		X	X	X	X	
Howell Township	Monmouth	(908) 938-4090	(908)938-9386	$5.00	$25.00							
Independence Township	Warren	(908) 637-4133	(908)637-8844	$0.00	$0.00			X	X	X		
Interlaken Borough	Monmouth	(908) 531-7405	(908)531-0150	$0.00	$0.00	X	X	X	X	X	X	
Irvington Township	Essex	(201) 399-6612	(201)399-4860	$3.00	$10.00							
Island Heights Borough	Ocean	(908) 270-6414	(908)506-9078	$0.00	$0.00	X	X	X	X	X	X	X
Jackson Township	Ocean	(908) 928-1200	(908)928-5287	$0.00	$0.00			X	X	X		
Jamesburg Borough	Middlesex	(908) 521-2222	(908)521-3455	$0.00	$0.00			X	X	X		
Jefferson Township	Morris	(201) 697-1500	(201)697-8090	$1.00	$1.00			X	X	X		
Jersey City City	Hudson	(201) 547-5125	(201)547-4254	$5.00	$5.00			X	X	X		X
Keansburg Borough	Monmouth	(908) 787-0215	(908)787-0787	$5.00	$0.00	X		X	X	X	X	
Kearny Town	Hudson	(201) 991-2700	(201)991-0608	$0.00	$0.00			X	X	X		
Kenilworth Borough	Union	(908) 276-5800	(908)276-7688	$1.00	$0.00	X		X	X	X	X	
Keyport Borough	Monmouth	(908) 739-3902	(908)739-8738	$0.00	$0.00	X		X	X	X	X	
Kingwood Township	Hunterdon	(908) 966-3886	(908)996-7753	$5.00	$25.00			X	X	X		
Kinnelon Borough	Morris	(201) 838-5405	(201)838-1862	$1.00	$0.00			X	X	X		
Knowlton Township	Warren	(908) 496-4076	(908)496-8144	$0.00	$0.00	X		X	X	X		
Lacey Township	Ocean	(609) 693-1100	(609)971-5953	$5.00	$25.00		X	X	X	X	X	X
Lafayette Township	Sussex	(201) 383-1817	(201)383-0566	$3.00	$3.00							
Lakehurst Borough	Ocean	(908) 657-4161	()-	$0.00	$0.00			X	X	X		
Lakewood Township	Ocean	(908) 364-2500	(908)905-5991	$1.00	$1.00	X	X	X	X	X		X
Lambertville City	Hunterdon	(609) 397-0110	(609)397-2203	$0.00	$0.20		X				X	
Laurel Springs Borough	Camden	(609) 784-1026	(609)784-2129	$2.00	$2.00							
Lavallette Borough	Ocean	(908) 793-7477	(908)830-8248	$1.00	$1.00	X		X	X	X	X	
Lawnside Borough	Camden	(609) 573-6203	()-	$1.00	$0.00	X					X	
Lawrence Township	Cumberland	(609) 447-3223	(609)447-3055	$0.00	$0.00	X		X	X	X	X	
Lawrence Township	Mercer	(609) 844-7041	(609)895-1668	$0.00	$0.00	X		X	X	X	X	
Lebanon Borough	Hunterdon	(908) 236-0620	()-	$5.00	$25.00	X		X	X	X	X	
Lebanon Township	Hunterdon	(908) 638-8525	(908)638-5957	$0.00	$0.00	X		X	X	X	X	
Leonia Borough	Bergen	(201) 592-5734	(201)592-5746	$0.50	$0.50			X	X	X		
Liberty Township	Warren	(908) 637-8226	(908)637-6916	$0.00	$0.00	X		X	X	X		
Lincoln Park Borough	Morris	(201) 694-6100	(201)628-9512	$2.00	$2.00			X	X	X		
Linden City	Union	(908) 474-8430	(908)474-8028	$2.00	$2.00						X	
Lindenwold Borough	Camden	(609) 781-2121	(609)782-9446	$5.00	$5.00	X		X	X	X		X
Linwood City	Atlantic	(609) 926-7975	(609)026-8216	$2.00	$2.00							
Little Egg Harbor Township	Ocean	(609) 296-7243	(609)296-5352	$0.00	$0.00	X					X	
Little Falls Township	Passaic	(201) 256-0994	()-	$2.00	$2.00	X		X	X	X	X	
Little Ferry Borough	Bergen	(201) 641-4833	(201)641-1957	$0.00	$0.00	X		X	X	X	X	
Little Silver Borough	Monmouth	(908) 842-2400	(908)741-5218	$0.00	$0.00			x	x	x		
Livingston Township	Essex	(201) 535-7985	()-	$5.00	$5.00	X		X	X	X	X	
Loch Arbour Village	Monmouth	(908) 531-4740	()-	$5.00	$5.00	X		X	X	X	X	
Lodi Borough	Bergen	(201) 365-4005	(201)365-1723	$1.00	$1.00	X		X	X	X		
Logan Township	Gloucester	(609) 467-3606	(609)467-1061	$5.00	$25.00	X		X	X	X	X	
Long Beach Township	Ocean	(609) 361-1000	(609)494-5421	$0.00	$0.00	X		X	X	X	X	

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Long Branch City	Monmouth	(908) 222-7000	(908)222-1516	$0.00	$0.00			X	X	X		
Long Valley Township	Morris	(908) 647-8000	(908)647-4150	$1.50	$1.50			X	X			
Longport City	Atlantic	(609) 823-2731	(609)823-1781	$1.00	$1.00	X	X	X	X	X	X	X
Lopatcong Township	Warren	(908) 859-1057	(908)213-1037	$0.00	$0.00	X		X	X	X	X	
Lower Alloways Creek Township	Salem	(609) 935-0355	(609)935-9176	$0.00	$0.00	X		X	X	X	X	
Lower Township	Cape May	(609) 886-5880	(609)886-9488	$5.00	$5.00	X		X	X	X	X	
Lumberton Township	Burlington	(609) 267-5961	()-	$3.00	$25.00							
Lyndhurst Township	Bergen	(201) 804-2463	(201)939-9383	$0.00	$0.00	X		X	X	X	X	
Madison Borough	Morris	(201) 593-3050	(201)593-0125	$3.00	$3.00	X		X	X	X	X	
Magnolia Borough	Camden	(609) 783-1520	()-	$5.00	$5.00	X	X	X	X	X	X	
Mahwah Township	Bergen	(201) 529-2850	(201)529-0061	$5.00	$5.00							
Manalapan Township	Monmouth	(908) 446-8360	()-	$5.00	$10.00	X		X	X	X	X	
Manasquan Borough	Monmouth	(908) 223-4360	(908)223-0587	$1.00	$1.00	X		X	X	X	X	
Manchester Township	Ocean	(908) 657-6623	(908)657-7237	$0.50	$0.00	X		X	X	X	X	
Mannington Township	Salem	(609) 935-0421	()-	$0.00	$0.00	X					X	
Mansfield Township	Burlington	(609) 289-4455	(609)289-1863	$1.00	$5.00						X	X
Mansfield Township	Warren	(908) 689-7946	(908)689-5624	$5.00	$25.00		X				X	
Mantoloking Borough	Ocean	(908) 899-6600	(908)899-9643	$0.00	$0.00	X		X	X	X	X	
Mantua Township	Gloucester	(609) 468-5892	(609)464-1022	$0.00	$0.00	X		X	X	X	X	
Manville Borough	Somerset	(908) 725-5025	(908)231-8620	$0.00	$0.00	X		X	X	X	X	
Maple Shade Borough	Burlington	(609) 482-0302	(609)779-2524	$2.00	$2.00		X					X
Maplewood Township	Essex	(201) 762-8120	(201)762-1934	$5.00	$5.00			X				
Margate City	Atlantic	(609) 822-2508	(609)487-1142	$1.00	$1.00						X	
Marlboro Township	Monmouth	(908) 536-0200	(908)972-7697	$0.50	$0.50	X		X	X	X	X	
Matawan Borough	Monmouth	(908) 290-2005	(908)566-4038	$1.00	$0.00	X		X	X	X	X	
Maurice River Township	Cumberland	(609) 785-1120	(609)785-1974	$1.00	$1.00	X		X	X	X	X	
Maywood Borough	Bergen	(201) 845-2910	(201)909-0673	$1.00	$1.00			X	X	X		
Medford Lakes Borough	Burlington	(609) 654-8898	(609)654-1816	$3.00	$3.00	X		X	X	X	X	X
Medford Township	Burlington	(609) 654-2608	(609)953-4087	$0.00	$0.00	X		X	X	X	X	
Mendham Borough	Morris	(201) 543-7152	(201)543-2290	$1.00	$1.00			X	X	X		
Mendham Township	Morris	(201) 543-4570	(201)543-6630	$2.00	$2.00	X	X	X	X	X	X	X
Merchantville Borough	Camden	(609) 662-2474	(609)662-0896	$0.00	$0.00			X	X	X		
Metuchen Borough	Middlesex	(908) 632-8511	(908)632-8573	$1.00	$1.00	X		X	X	X		
Middle Township	Cape May	(609) 465-8724	(609)465-7201	$0.00	$0.00		X	X	X	X		X
Middlesex Borough	Middlesex	(908) 356-7400	(908)356-7954	$5.00	$0.00							
Middletown Township	Monmouth	(908) 615-2007	(908)671-2576	$0.00	$0.00			X	X	X		
Midland Park Borough	Bergen	(201) 444-1388	(201)652-6348	$5.00	$5.00	X		X	X	X		
Milford Borough	Hunterdon	(908) 995-2760	(609)995-2343	$0.00	$0.00	X		X	X	X	X	
Millburn Township	Essex	(201) 564-7077	(201)564-7468	$0.00	$0.00			X	X	X		
Millstone Borough	Somerset	(908) 745-4210	()-	$0.00	$0.00			X	X	X		
Millstone Township	Monmouth	(908) 446-3980	()-	$5.00	$0.00	X	X	X	X	X	X	X
Milltown Borough	Middlesex	(908) 828-2100	(908)249-4568	$5.00	$10.00			X	X	X		
Millville City	Cumberland	(609) 825-7000	(609)825-3686	$2.00	$2.00							
Mine Hill Township	Morris	(201) 366-9002	()-	$3.00	$0.00	X					X	
Monmouth Beach Borough	Monmouth	(908) 229-2204	(908)870-8245	$5.00	$25.00	X		X	X	X	X	
Monroe Township	Gloucester	(609) 728-9810	(609)875-7260	$5.00	$25.00	X		X	X	X	X	
Monroe Township	Middlesex	(908) 521-4400	()-	$0.00	$0.00			X	X	X		
Montague Township	Sussex	(201) 293-7027	(201)293-7467	$0.00	$0.00	X		X	X	X	X	
Montclair Township	Essex	(201) 509-4921	(201)509-1030	$3.00	$3.00	X		X	X	X	X	
Montgomery Township	Somerset	(908) 359-8211	(908)359-0970	$0.50	$0.00			X	X	X		
Montvale Borough	Bergen	(201) 391-5700	()-	$2.00	$2.00				X			
Montville Township	Morris	(201) 334-1320	(201)334-4880	$0.00	$0.00							
Moonachie Borough	Bergen	(201) 641-1813	(201)641-9542	$0.25	$0.25	X		X			X	
Moorestown Township	Burlington	(609) 235-0912	(609)235-7833	$4.00	$4.00							

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Morris Plains Borough	Morris	(201) 538-2444	(201)538-8837	$5.00	$25.00	X		X	X	X	X	
Morris Township	Morris	(201) 326-7400	()-	$3.00	$3.00			X	X	X		
Morristown Town	Morris	(201) 292-6669	(201)292-6663	$2.00	$2.00			X	X	X		
Mount Arlington Borough	Morris	(201) 398-6832	(201)398-8662	$3.00	$3.00	X		X	X	X	X	
Mount Ephrain Borough	Camden	(609) 931-1546	(609)931-5167	$0.00	$0.00	X		X	X	X		
Mount Holly Township	Burlington	(609) 267-0170	(609)267-8155	$2.00	$2.00			X	X	X		
Mount Laurel Township	Burlington	(609) 778-9596	(609)234-1172	$2.00	$2.00		X	X	X	X		X
Mount Olive Township	Morris	(201) 691-0900	(201)691-1326	$0.00	$1.00	X	X	X	X	X	X	X
Mountain Lakes Borough	Morris	(201) 334-3131	(201)402-5595	$0.00	$0.00			X	X	X		
Mountainside Borough	Union	(908) 232-2400	(908)232-6831	$5.00	$25.00	X		X	X	X	X	
Mullica City	Atlantic	(609) 561-4499	(609)561-4854	$1.00	$1.00	X		X	X	X	X	
National Park Borough	Gloucester	(609) 845-3891	()-	$2.00	$2.00	X		X	X	X	X	
Neptune City Borough	Monmouth	(908) 776-7224	(908)776-8906	$5.00	$0.00	X		X	X	X	X	
Neptune Township	Monmouth	(908) 988-5200	()-	$5.00	$20.00							
Netcong Borough	Morris	(201) 347-3395	(201)347-3020	$0.00	$0.00	X	X	X	X	X	X	X
New Brunsick City	Middlesex	(908) 745-5030	(908)745-5235	$2.00	$2.00	X		X	X	X	X	
New Hanover Township	Burlington	(609) 758-2172	()-	$0.50	$0.50	X		X	X	X	X	
New Milford Borough	Bergen	(201) 967-7360	(201)262-7967	$1.00	$1.00	X		X	X	X	X	
New Providence Borough	Union	(908) 665-1400	(908)665-9272	$2.00	$2.00	X					X	
Newark City	Essex	(201) 733-3978	(201)733-5363	$5.00	$8.00					X		
Newfield Borough	Gloucester	(609) 697-1100	(609)697-2645	$0.00	$0.00	X		X	X	X	X	
Newton Town	Sussex	(201) 383-3524	(201)383-8961	$0.00	$0.00	X		X	X	X		
North Arlington Borough	Bergen	(201) 955-5660	(201)991-0140	$0.00	$0.00	X		X	X	X	X	
North Bergen Township	Hudson	(201) 392-2000	(201)392-8551	$0.00	$0.00							X
North Brunswick Township	Middlesex	(908) 247-0922	(908)214-8812	$0.00	$0.00			X	X	X		
North Caldwell Borough	Essex	(201) 228-6418	(201)228-2914	$0.00	$0.00			X	X	X	X	
North Haledon Borough	Passaic	(201) 427-5810	(201)427-1846	$2.00	$0.00			X	X	X		
North Hanover Township	Burlington	(609) 758-2185	(609)758-3016	$0.00	$0.00	X		X	X	X	X	
North Plainfield Borough	Somerset	(908) 769-2908	(908)769-6499	$0.00	$0.00			X	X	X		
North Wildwood City	Cape May	(609) 522-2049	(609)523-8502	$1.00	$0.00			X				
Northfield City	Atlantic	(609) 641-2832	()-	$0.00	$0.00			X	X	X		
Northvale Borough	Bergen	(201) 767-3330	(201)767-9631	$0.00	$0.00			X	X	X		
Norwood Borough	Bergen	(201) 767-7200	(201)784-8663	$1.00	$1.00	X			X		X	
Nutley Township	Essex	(201) 284-4963	(201)284-4901	$0.50	$0.50	X		X	X	X	X	
Oakland Borough	Bergen	(201) 337-0353	(201)337-1520	$2.00	$2.00							
Oaklyn Borough	Camden	(609) 858-2457	()-	$5.00	$5.00			X	X	X		
Ocean City City	Cape May	(609) 399-6111	(609)399-6366	$5.00	$5.00	X		X	X	X		
Ocean Gate Borough	Ocean	(908) 269-3166	(908)269-2472	$0.00	$0.00	X					X	
Ocean Township	Monmouth	(908) 531-5000	(908)531-5286	$0.00	$0.00	X		X	X	X	X	
Ocean Township	Ocean	(609) 693-3179	(609)693-9026	$1.00	$0.00	X		X	X	X	X	
Oceanport Borough	Monmouth	(908) 222-8179	(908)222-0945	$0.00	$0.00	X		X	X	X	X	
Ogdensburg Borough	Sussex	(201) 827-5934	(201)827-9602	$4.00	$4.00	X		X	X	X	X	
Old Bridge Township	Middlesex	(908) 721-5600	()-	$5.00	$5.00	X		X	X	X	X	
Old Tappan Borough	Bergen	(201) 664-1849	(201)664-3543	$0.00	$0.00			X	X	X		
Oldmans Township	Salem	(609) 299-2794	()-	$0.00	$0.00	X		X	X	X	X	
Oradell Borough	Bergen	(201) 261-8101	(201)261-6906	$5.00	$25.00			X	X	X		
Orange City	Essex	(201) 266-4106	(201)667-1593	$2.00	$2.00		X	X	X	X		X
Oxford Township	Warren	(908) 453-3529	(908)453-3787	$0.00	$0.00	X		X	X	X		
Pahaquarry Township	Warren	(908) 362-8315	()-	$0.00	$0.00	X		X	X	X	X	
Palisades Park Borough	Bergen	(201) 585-4112	(201)944-6333	$0.00	$0.00	X		X	X	X		
Palmyra Borough	Burlington	(609) 829-6100	()-	$0.50	$0.00	X	X	X	X	X	X	X
Paramus Borough	Bergen	(201) 265-2100	()-	$0.75	$0.75							
Park Ridge Borough	Bergen	(201) 391-6161	(201)391-7130	$1.00	$1.00	X		X	X	X	X	
Parsippany-Troy Hills Township	Morris	(201) 263-4252	(201)263-2051	$0.00	$0.00	X	X	X	X	X	X	X

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Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
Passaic City	Passaic	(201) 365-5500	(201)365-5582	$0.00	$0.00							
Paterson City	Passaic	(201) 881-3400	(201)523-6237	$1.00	$1.00		X	X	X	X		X
Paulsboro Borough	Gloucester	(609) 423-1500	(609)423-3319	$0.00	$0.00	X		X	X	X	X	
Peapack-Gladstone Borough	Somerset	(908) 234-2251	(908)781-0042	$0.00	$0.00	X		X	X	X	X	
Pemberton Borough	Burlington	(609) 894-8222	()-	$0.00	$0.00		X	X	X	X	X	X
Pemberton Township	Burlington	(609) 894-7917	(609)894-0755	$0.00	$0.00			x	x	x		
Pennington Borough	Mercer	(609) 737-0276	(609)737-9780	$5.00	$5.00	X	X	X	X	X	X	X
Penns Grove Borough	Salem	(609) 299-4640	(609)299-3411	$0.00	$0.00			X	X	X		
Pennsauken Township	Camden	(609) 665-1000	(609)665-2749	$2.00	$2.00			X	X	X		
Pennsville Township	Salem	(609) 678-4041	()-	$1.00	$0.00			X	X	X		
Pequannock Township	Morris	(201) 835-5700	(201)835-2472	$1.00	$1.00	X	X	X	X	X		X
Perth Amboy City	Middlesex	(908) 826-2956	(908)826-1160	$0.00	$0.00			X	X	X		
Phillipsburg Town	Warren	(908) 454-5500	(908)454-6511	$2.00	$2.00	X		X	X	X		
Pilesgrove Township	Salem	(609) 769-4186	(609)769-5490	$2.00	$2.00	X		X	X	X	X	
Pine Beach Borough	Ocean	(908) 349-6425	()-	$0.00	$0.00	X		X	X	X	X	
Pine Hill Borough	Camden	(609) 783-7400	(609)783-5388	$0.00	$0.00	X					X	
Pine Valley Borough	Camden	(609) 783-7078	(609)784-0179	$0.00	$0.00							
Piscataway Township	Middlesex	(908) 562-2331	(908)981-1284	$0.00	$0.00	X						
Pitman Borough	Gloucester	(609) 589-3522	(609)589-6833	$0.00	$0.00	X	X	X	X	X	X	X
Pittsgrove Township	Salem	(609) 358-3723	(609)358-3055	$0.00	$0.00	X		X	X	X	X	
Plainfield City	Union	(908) 753-3214	(908)753-3500	$2.00	$2.00	X	X	X	X	X	X	X
Plainsboro Township	Middlesex	(609) 799-0909	()-	$0.00	$0.00	X		X	X	X		
Pleasantville City	Atlantic	(609) 484-3631	(609)641-8642	$0.00	$0.00			X	X	X		
Plumsted Township	Ocean	(609) 758-2266	(609)758-1702	$0.00	$0.00	X		X	X	X		
Pohatcong Township	Warren	(908) 454-0054	(908)454-5911	0.00	$0.00	X		X	X	X	X	
Point Pleasant Beach Borough	Ocean	(908) 892-9435	(908)892-8819	$1.00	$1.00			X	X	X		
Point Pleasant Borough	Ocean	(908) 892-3434	(908)899-2655	$1.00	$0.50	X		X	X	X	X	
Pompton Lakes Borough	Passaic	(201) 835-0143	()-	$1.00	$1.00							
Port Republic City	Atlantic	(609) 652-9334	(609)652-8270	$0.00	$0.00	X		X		X	X	
Princeton Borough	Mercer	(609) 924-3118	(609)924-9714	$2.00	$2.00	X				X	X	
Princeton Township	Mercer	(609) 924-5704	(609)497-9101	$3.00	$3.00	X		X	X	X	X	
Prospect Park Borough	Passaic	(201) 790-7902	(201)790-6632	$1.50	$1.50	X					X	
Quinton Township	Salem	(609) 935-4529	(609)935-6817	$2.00	$2.00	X					X	
Rahway City	Union	(908) 827-2000	(908)815-1417	$1.00	$0.00		X	X	X	X		X
Ramsey Borough	Bergen	(201) 825-3400	(201)825-1745	$1.00	$1.00	X						
Randolph Township	Morris	(201) 989-7047	(201)989-7076	$5.00	$0.00							X
Raritan Borough	Somerset	(908) 231-1300	(908)231-0810	$0.00	$0.00	X		X	X	X	X	
Raritan Township	Hunterdon	(908) 806-6100	(908)806-8221	$5.00	$25.00	X		X	X	X		
Readington Township	Hunterdon	(908) 534-9761	(908)534-5909	$0.00	$0.00	X						X
Red Bank Borough	Monmouth	(908) 530-2747	(908)758-1995	$0.00	$0.00	X		X	X	X		
Ridgefield Borough	Bergen	(201) 943-7676	(201)943-1112	$2.00	$2.00	X		X	X	X	X	
Ridgefield Park Village	Bergen	(201) 641-4950	(201)641-1248	$0.50	$0.00	X		X	X	X	X	
Ridgewood Village	Bergen	(201) 670-5529	(201)652-3692	$2.00	$2.00		X	X	X	X		X
Ringwood Borough	Passaic	(201) 962-7078	(201)962-6028	$1.00	$1.00			X	X	X	X	
River Edge Borough	Bergen	(201) 599-6311	(201)599-0997	$0.00	$0.00			X	X	X		
River Vale Township	Bergen	(201) 358-7756	(201)358-7754	$1.00	$0.00	X		X	X	X	X	
Riverdale Borough	Morris	(201) 835-2565	(201)835-0783	$1.00	$0.00		X				X	
Riverside Township	Burlington	(609) 461-1460	(609)461-5878	$0.00	$0.00			X	X	X	X	
Riverton Borough	Burlington	(609) 829-0120	(609)829-1413	$1.00	$1.00	X		X	X	X	X	
Rochelle Park Township	Bergen	(201) 587-7727	()-	$1.00	$2.00	X					X	
Rockaway Borough	Morris	(201) 627-2000	(201)627-8294	$0.00	$0.00	X		X	X	X	X	
Rockaway Township	Morris	(201) 983-2831	(201)627-1081	$3.00	$3.00	X		X	X	X		
Rockleigh Borough	Bergen	(201) 358-7756	(201)358-7754	$1.00	$0.00	X		X	X	X		
Rocky Hill Borough	Somerset	(609) 924-7445	()-	$0.00	$5.00	X		X	X	X	X	

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Roosevelt Borough	Monmouth	(609) 448-0539	()-	$0.00	$0.00	X		X	X	X		
Roseland Borough	Essex	(201) 226-8080	()-	$1.00	$0.00							
Roselle Borough	Union	(908) 245-9000	(908)241-9543	$0.00	$0.00	X		X	X	X	X	
Roselle Park Borough	Union	(908) 245-0819	(908)245-5598	$0.00	$0.00			X	X	X		
Roxbury Township	Morris	(201) 927-2066	(201)927-4323	$1.00	$1.00	X	X	X	X	X	X	X
Rumson Borough	Monmouth	(908) 842-1170	(908)219-0714	$0.00	$0.00	X		X	X	X	X	
Runnemede Borough	Camden	(609) 939-4437	(609)939-6778	$1.00	$0.00	X		X	X	X	X	
Rutherford Borough	Bergen	(201) 438-1033	(201)939-2024	$5.00	$5.00	X		X	X	X	X	
Saddle Brook Township	Bergen	(201) 587-2914	(201)368-2401	$0.00	$0.00							
Saddle River Borough	Bergen	(201) 327-4949	(201)327-0168	$1.00	$1.00	X		X	X	X	X	
Salem City	Salem	(609) 935-0372	(609)935-4095	$0.00	$0.00	X		X	X	X	X	
Sandyston Township	Sussex	(201) 948-3520	(201)948-0899	$4.00	$4.00	X	X	X	X	X	X	
Sayreville Borough	Middlesex	(908) 390-7040	(908)390-0509	$5.00	$25.00			X	X	X		
Scotch Plains Township	Union	(908) 322-6700	(908)322-8678	$0.00	$0.00			X	X			
Sea Bright Borough	Monmouth	(908) 842-0099	(908)741-3116	$0.00	$0.00	X	X	X	X	X	X	X
Sea Girt Borough	Monmouth	(908) 449-9433	(908)974-8684	$0.00	$0.00			X	X	X	X	
Sea Isle City	Cape May	(609) 263-4461	(609)263-6139	$5.00	$5.00	X		X	X	X		X
Seaside Heights Borough	Ocean	(908) 793-9100	(908)793-0319	$0.00	$0.00			X	X	X		
Seaside Park Borough	Ocean	(908) 793-6787	(908)793-2195	$0.50	$0.50			X	X	X	X	
Secaucus Town	Hudson	(201) 330-2021	(201)330-8352	$0.00	$0.00	X		X	X	X	X	
Shamong Township	Burlington	(609) 268-2377	()-	$5.00	$5.00			X	X	X	X	
Shiloh Borough	Cumberland	(609) 451-7724	()-	$0.00	$0.00	X		X	X	X	X	
Ship Bottom Borough	Ocean	(609) 494-1613	(609)361-8484	$0.00	$0.00	X		X	X	X	X	
Shrewsbury Borough	Monmouth	(908) 741-3322	(908)530-4599	$0.00	$0.00	X					X	
Shrewsbury Township	Monmouth	(908) 842-2400	()-	$0.00	$0.00			X	X	X		
Somerdale Borough	Camden	(609) 783-6320	(609)784-9377	$5.00	$25.00			X	X	X		
Somers Point City	Atlantic	(609) 927-2660	()-	$0.00	$0.00			X	X	X		
Somerville Borough	Somerset	(908) 322-6954	(908)231-0608	$0.00	$0.00	X		X	X	X	X	
South Amboy City	Middlesex	(908) 525-5924	(908)727-6139	$1.00	$5.00	X	X	X			X	
South Belmar Borough	Monmouth	(908) 681-4965	(908)681-8981	$1.00	$1.00	X		X	X	X	X	
South Bound Brook Borough	Somerset	(908) 356-0258	(908)356-5054	$0.00	$0.00			X	X	X		
South Brunswick Township	Middlesex	(908) 329-4000	(908)329-0627	$5.00	$25.00							
South Hackensack Township	Bergen	(201) 641-7185	(201)440-0719	$0.00	$0.00							
South Harrison Township	Gloucester	(609) 769-4433	()-	$0.00	$0.00	X		X	X	X	X	
South Orange Village	Essex	(201) 378-7731	(201)761-4357	$0.00	$0.00	X		X	X	X		
South Plainfield Borough	Middlesex	(908) 754-9000	(908)754-9091	$5.00	$25.00			X	X	X		
South River Borough	Middlesex	(908) 238-3930	()-	$0.00	$0.00	X		X	X	X	X	
South Toms River Borough	Ocean	(908) 349-0339	(908)349-5266	$0.00	$0.00	X		X	X	X	X	
Southampton Township	Burlington	(609) 859-3232	(609)859-1465	$5.00	$5.00			X	X	X		
Sparta Township	Sussex	(201) 729-4903	(201)729-0063	$0.50	$1.00	X		X		X	X	
Spotswood Borough	Middlesex	(908) 251-2346	(908)251-1359	$0.00	$0.00	X		X	X	X	X	
Spring Lake Borough	Monmouth	(908) 449-3888	(908)449-8797	$0.00	$0.00			X	X	X		
Spring Lake Heights Borough	Monmouth	(908) 449-3501	(908)449-8264	$0.00	$0.00		X	X	X	X		X
Springfield Township	Burlington	(609) 723-4848	(609)723-6591	$0.00	$0.00	X		X	X	X	X	
Springfield Township	Union	(201) 912-2204	(201)912-2277	$2.00	$0.00							
Stafford Township	Ocean	(609) 597-1067	(609)597-4911	$1.00	$0.00			X	X	X		
Stanhope Borough	Sussex	(201) 347-0174	(201)691-4952	$5.00	$25.00				X			
Stillwater Township	Sussex	(201) 383-9484	(201)383-8059	$0.00	$0.00	X		X	X	X	X	
Stockton Borough	Hunterdon	(609) 397-0070	()-	$0.00	$0.00	X	X				X	X
Stone Harbor Borough	Cape May	(609) 368-4223	(609)368-2619	$2.00	$2.00	X		X	X	X	X	
Stow Creek Township	Cumberland	(609) 451-7544	()-	$0.00	$0.00	X		X	X	X	X	
Stratford Borough	Camden	(609) 783-0600	()-	$0.00	$0.00	X		X	X	X	X	
Summit City	Union	(908) 273-6403	(908)273-2977	$1.00	$1.00	X						
Surf City Borough	Ocean	(609) 494-2400	(609)361-9746	$0.00	$0.00	X		X	X	X	X	

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Sussex Borough	Sussex	(201) 875-4831	(201)875-6261	$0.00	$0.00	X		X	X	X	X	
Swedesboro Borough	Gloucester	(609) 467-0202	()-	$0.00	$0.00	X		X	X	X	X	
Tabernacle Township	Burlington	(609) 268-0447	(609)268-7430	$3.00	$3.00	X		X	X	X	X	
Tavistock Borough	Camden	(609) 547-2389	(609)547-2389	$0.00	$0.00	X	X	X	X	X		
Teaneck Township	Bergen	(201) 837-4819	(201)837-1222	$1.00	$1.00	X		X	X	X	X	
Tenafly Borough	Bergen	(201) 568-6100	(201)568-5567	$1.00	$1.00			X	X	X		
Teterboro Borough	Bergen	(201) 288-1200	()-	$0.00	$0.00	X		X	X	X	X	
Tewksbury Township	Hunterdon	(908) 832-5511	(908)832-5480	$0.00	$0.00			X	X	X		
Tinton Falls Borough	Monmouth	(908) 542-3400	(908)542-2079	$5.00	$25.00			X	X	X	X	
Totowa Borough	Passaic	(201) 956-1003	(201)956-8414	$3.00	$3.00	X		X	X	X	X	
Trenton City	Mercer	(609) 989-3070	(609)989-4260	$3.00	$3.00			X	X	X		
Tuckerton Borough	Ocean	(609) 296-4900	(609)296-4708	$0.00	$0.00							
Union Beach Borough	Monmouth	(908) 264-5662	(908)264-1267	$0.00	$0.00			X	X	X		
Union City City	Hudson	(201) 348-5719	(201)348-6916	$1.00	$1.00	X		X	X	X	X	
Union Township	Hunterdon	(908) 735-6980	(908)735-0591	$5.00	$5.00	X		X	X	X	X	
Union Township	Union	(908) 688-2800	(908)686-1633	$5.00	$5.00	X	X	X	X	X	X	X
Upper Deerfield Township	Cumberland	(609) 451-3148	(609)451-1379	$0.00	$0.00	X		X	X	X	X	
Upper Freehold Township	Monmouth	(609) 758-7738	()-	$0.00	$0.00							
Upper Pittsgrove Township	Salem	(609) 358-8500	(609)358-1160	$0.00	$0.00	X				X	X	
Upper Saddle River Borough	Bergen	(201) 934-3965	(201)934-5127	$1.00	$1.00	X		X	X	X	X	
Upper Township	Cape May	(609) 628-2021	(609)628-3092	$0.00	$0.00			X	X	X		
Ventnor City	Atlantic	(609) 823-7971	()-	$2.50	$2.50	X	X	X	X	X		
Vernon Township	Sussex	(201) 764-2202	(201)764-3273	$0.00	$0.00	X		X	X	X	X	
Verona Township	Essex	(201) 857-4775	(201)857-4270	$3.00	$3.00	X		X	X	X	X	
Victory Gardens Borough	Morris	(201) 361-8121	()-	$2.00	$2.00	X	X	X	X	X	X	X
Vineland City	Cumberland	(609) 794-4054	(609)794-4327	$1.00	$0.00	X	X	X	X	X	X	X
Voorhees Township	Camden	(609) 429-7766	(609)795-2335	$0.00	$2.00			X	X	X		
Waldwick Borough	Bergen	(201) 652-5858	(201)652-652	$3.00	$3.00	X		X	X	X	X	
Wall Township	Monmouth	(908) 449-8444	(908)449-8996	$0.00	$0.00			X	X	X	X	
Wallington Borough	Bergen	(201) 777-1031	(201)779-4879	$1.00	$1.00	X					X	
Walpack Township	Sussex	(908) 841-9582	()-	$2.00	$0.00	X						
Wanaque Borough	Passaic	(201) 831-3000	(609)839-4959	$5.00	$10.00			X	X	X		
Wantage Township	Sussex	(201) 875-7194	(201)875-0801	$2.00	$0.00	X		X	X	X	X	
Warren Township	Somerset	(908) 753-8000	(908)757-9173	$0.00	$0.00			X	X	X		
Washington Borough	Warren	(908) 689-3601	(908)689-8463	$4.00	$8.00	X		X	X	X	X	
Washington Township	Bergen	(201) 666-8797	(201)664-8281	$1.00	$0.00	X		X	X	X	X	
Washington Township	Burlington	(609) 965-3062	()-	$0.00	$0.00	X		X	X	X		
Washington Township	Gloucester	(609) 589-0520	(609)589-9177	$0.00	$0.00			X	X	X		
Washington Township	Mercer	(609) 259-9498	(609)259-6032	$0.00	$0.00	X		X	X	X		
Washington Township	Morris	(908) 876-3845	()-	$1.00	$1.00							
Washington Township	Warren	(908) 689-1975	(908)689-9234	$0.00	$0.00	X				X	X	
Watchung Borough	Somerset	(908) 756-8333	()-	$5.00	$25.00	X						
Waterford Township	Camden	(609) 767-0295	(609)768-1703	$5.00	$25.00							
Wayne Township	Passaic	(201) 694-1800	(201)694-9385	$2.00	$2.00	X		X	X	X	X	
Weehawken Township	Hudson	(201) 319-6014	()-	$5.00	$5.00	X		X	X	X	X	
Wenonah Borough	Gloucester	(609) 468-5228	()-	$0.00	$0.00							
West Amwell Township	Hunterdon	(609) 397-2058	(609)397-8634	$0.00	$0.00	X		X	X	X	X	
West Caldwell Township	Essex	(201) 226-2300	(201)226-2396	$2.50	$0.00							
West Cape May Borough	Cape May	(609) 884-0780	(609)898-0888	$1.00	$1.00	X					X	
West Deptford Township	Gloucester	(609) 853-853	()-	$3.00	$3.00	X		X	X	X	X	
West Long Branch Borough	Monmouth	(908) 571-5984	(908)571-9185	$0.00	$0.00			X	X	X		
West Milford Township	Passaic	(201) 728-2781	(201)728-2704	$1.00	$0.00	X					X	
West New York Town	Hudson	(201) 295-5200	(201)861-2797	$0.00	$0.00			X	X	X		
West Orange Township	Essex	(201) 325-4075	(201)736-8380	$1.00	$1.00		X	X	X	X		X

BP = Printed list of tax bills BE = Electronic list of bills
PP = Printed list of tax payments PE = Electronic list of tax payments
Q1,Q2,Q4 = Quarters when replacement bills are accepted per NJAC 5:33-1.7

Municipality	County	Office Phone	Fax Phone	Dup. Fee	Other Fee	BP	BE	Q1	Q2	Q4	PP	PE
West Paterson Borough	Passaic	(201) 345-8102	(201)345-8195	$2.00	$2.00							
West Wildwood Borough	Cape May	(609) 522-4845	(609)522-7350	$2.00	$2.00	X	X	X	X	X	X	X
West Windsor Township	Mercer	(609) 799-2400	(609)799-2044	$0.00	$0.00	X		X	X	X		
Westampton Township	Burlington	(609) 261-5419	(609)261-7551	$5.00	$5.00	X				X	X	
Westfield Town	Union	(908) 789-4050	()-	$0.00	$0.00						X	
Westville Borough	Gloucester	(609) 456-0030	(609)456-5258	$0.00	$0.00	X		X	X	X	X	
Westwood Borough	Bergen	(201) 664-7100	(201)664-2766	$0.75	$0.75	X		X	X	X		
Weymouth Township	Atlantic	(609) 476-4917	()-	$2.00	$2.00	X		X	X	X	X	
Wharton Borough	Morris	(201) 361-8444	(201)361-5281	$0.00	$0.00	X		X	X	X		
White Township	Warren	(908) 475-3586	(908)475-1177	$5.00	$15.00	X					X	
Wildwood City	Cape May	(609) 522-2444	(609)522-9239	$5.00	$25.00	X		X	X	X	X	
Wildwood Crest Borough	Cape May	(609) 522-7788	(609)522-6692	$0.00	$0.00	X		X	X	X	X	
Willingboro Township	Burlington	(609) 877-2200	(609)853-0938	$5.00	$5.00			X	X	X		
Winfield Township	Union	(908) 925-3850	(908)925-4526	$0.00	$0.00							
Winslow Township	Camden	(609) 567-0700	(609)567-3730	$5.00	$25.00							
Wood-Ridge Borough	Bergen	(201) 939-0254	(201)939-1215	$0.50	$0.50	X		X	X	X	X	
Woodbine Borough	Cape May	(609) 861-2153	(609)861-2529	$1.00	$5.00	X	X	X	X	X	X	X
Woodbridge Township	Middlesex	(908) 602-6010	(908)634-4556	$0.00	$0.00		X	X	X	X		X
Woodbury City	Gloucester	(609) 845-1300	(609)845-1309	$0.00	$0.00	X		X	X	X	X	
Woodbury Heights Borough	Gloucester	(609) 848-8085	(609)848-2381	$0.00	$0.00	X						
Woodcliff Lake Borough	Bergen	(201) 391-3426	(201)391-8830	$3.00	$0.00	X		X	X	X	X	
Woodland Township	Burlington	(609) 726-1552	(609)726-1996	$3.00	$0.00	X		X	X	X	X	
Woodlynne Borough	Camden	(609) 962-8300	()-	$3.00	$3.00	X					X	
Woodstown Borough	Salem	(609) 769-2200	(609)769-4297	$5.00	$25.00							
Woolwich Township	Gloucester	(609) 467-2205	(609)467-5487	$0.00	$0.00	X		X	X	X	X	
Wrightstown Borough	Burlington	(609) 723-4450	()-	$0.00	$0.00			X	X	X		
Wyckoff Township	Bergen	(201) 891-7000	(201)891-9359	$3.00	$3.00			X	X	X		

BP = Printed list of tax bills BE = Electronic list of bills
PP = Printed list of tax payments PE = Electronic list of tax payments
Q1,Q2,Q4 = Quarters when replacement bills are accepted per NJAC 5:33-1.7

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Atlantic County Water Quality Management (WQM) Plan. This amendment proposal was submitted by the Atlantic County Utilities Authority (ACUA). The amendment would allow 10,000 gallons per day of treated wastewater from the ACUA City Island Sewage Treatment Plant to be trucked and land applied to the Vegetative Composting Facility at ACUA's Environmental Park in Egg Harbor Township. The land application of treated wastewater will be to an existing unlined compost pile and used to moisten the compost to encourage the biological decomposition process. The compost site is located in the ACUA Environmental Park which is designated as a Limited Use Landfill. Since the site is not lined, a discharge to ground water will result. This discharge will be regulated by the New Jersey Pollution Discharge Elimination System Permit program.

This notice is being given to inform the public that a plan amendment has been proposed for the Atlantic County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the NJDEPE, Office of Land and Water Planning, CN423, 401 East State Street, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling the Office of Land and Water Planning at (609) 633-1179.

Interested persons may submit written comments on the proposed amendment to Dr. Daniel J. Van Abs, at the NJDEPE address cited above with a copy sent to Elizabeth Terinik, Atlantic County Utilities Authority, 6700 Delilah Road, Pleasantville, N.J. 08232. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEPE with respect to the amendment request.

Any interested persons may request in writing that NJDEPE hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Dr. Van Abs at the NJDEPE address cited above. If a public hearing for the amendment is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

(b)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on April 20, 1993, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment adopts the Bordentown Sewerage Authority Wastewater Management Plan (WMP). This WMP specifies a future wastewater planning flow to the Blacks Creek sewage treatment plant (STP) of 4.127 million gallons per day (MGD). The WMP also proposes to correct errors and omissions in the 1986 201 Facilities Plan service area mapping and to expand the service area boundaries for the Blacks Creek STP to coincide with the municipal boundaries of the Township of Bordentown and the City of Bordentown. In addition, the WMP identifies the sewer service area of the E.R. Johnstone Center STP, which has a NJPDES permitted flow limit of 0.08 MGD. Environmentally Critical Areas have been mapped on the Future Sewer Service Area Map for informational purposes. Development proposed in these areas will have to meet additional State and Federal requirements.

(c)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on April 20, 1993, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment, which was proposed by Scarborough Corporation, expands the sewer service area of the Bordentown Sewerage Authority (BSA) Blacks Creek Sewage Treatment Plant (STP) to include a portion of the proposed Clifton Mills development (Phase I) located at Block 93, Lot 1.01 in Bordentown Township. This area was specifically excluded from the sewer service area of the Blacks Creek STP by the Environmental Assessment (EA) prepared for the 201 Facilities Plan, adopted August 26, 1986, which was developed in accordance with Federal requirements for wastewater treatment plants receiving grant or loan monies. The area of the amendment must demonstrate that no sewage generating structures will be placed in any environmentally sensitive areas prohibited by grant conditions placed on the Blacks Creek STP unless a waiver from the United States Environmental Protection Agency (EPA) is obtained.

This amendment was noticed in the New Jersey Register on June 18, 1990 at 22 N.J.R. 1949(a), and renoticed on January 7, 1991 at 23 N.J.R. 128(c). Comments on this amendment were received during the public comment period and are summarized below with the Department's responses.

1. COMMENT: The area of the amendment was originally excluded from the sewer service area [of the Blacks Creek STP] for environmental reasons—wetlands, flood plains and steep slopes. The engineer for the developer knew of this condition in November of 1987, but never admitted to this during the public hearing period. Repeated attempts to advise the planning board that the area was excluded from sewer service because of its environmentally sensitive nature went unheeded.

RESPONSE: The Department has no knowledge of statements concerning the environmental sensitivity of the subject amendment site which were made at the local level during the preamendment process and can not comment on the actions or inactions of the project engineer, developer, or the Bordentown Township Planning Board at that time.

However, the Department does agree with the first part of the commenter's statement because it has been and remains the Department's position that a portion of the amendment area was originally excluded from the sewer service area of the Blacks Creek STP because the area was believed to be environmentally sensitive. This designation was made during the EA process which was required as part of the BSAs request for Federal funding to upgrade and expand the Blacks Creek STP in 1986. Because this area was intentionally not included within the sewer service area of the Blacks Creek STP, this Water Quality Management Plan amendment was required to put the Clifton Mills development into the Blacks Creek STP sewer service area.

2. COMMENT: The Environmental Impact Statement (EIS) prepared [by the consultant] for the project [amendment] site stated that (1) there were no environmental problems with the land, (2) steep slopes would be preserved, (3) ground water run off would be equal or less than present, and (4) all wetlands impacts would be minor. Letters and plans concerning the project site contradict these statements. Regarding issue one, some statements claim the land is entirely within the sewer service area of the Blacks Creek STP while others claim the land is only partially within the sewer service area of this STP. On issue two, some plans called for construction on steep slopes rather than preservation. On issue three, flooding is now a problem on Georgetown Road. How can additional construction cause no increase in flooding? On issue four, the project was divided into two phases because of wetlands impacts. The original wetlands delineation submitted to the Army Corps of Engineers was too conservative and had to be expanded.

RESPONSE: Regarding issue one, the original EIS prepared by the consultants for the amendment site did not explain the environmental constraints which exist on the project site. However, during the amendment process, this issue was explained to the applicant(s) and their agents and subsequent plans under Department review required the applicants agents to properly acknowledge and identify environmentally sensitive areas and constraints on these areas on the amendment site. Additional information concerning the environmental sensitivity of the project site is contained in response five.

The Department also agrees there was some confusion at the local level regarding whether or not the amendment site was within the sewer service area of the Blacks Creek STP. Some of the confusion regarding the issue of the amendment areas exclusion from the sewer service area may have stemmed from a U.S.G.S. quadrangle (quad) mapping error in the area of the amendment. This mapping error incorrectly delineated the municipal boundary between Bordentown and Chesterfield Townships. The Department has maintained that the sewer service area boundary in Bordentown Township was incorrectly based on the municipal boundary error in the quad mapping. A formal Water Quality Management Planning revision, based on the mapping error, could have been done to add a portion of the amendment site to the sewer service area of the Blacks Creek STP. The Department has informally considered this area in question to be sewer service area for quite some time; however, a formal request to change **only** this error in the BSA 201 Facilities Plan has never been made to the Department.

Regarding issue two, the Department considers steep slopes to be an environmentally sensitive area; however, N.J.A.C. 7:15 does not prohibit development on steep slopes. In addition, the BSA 201 Facilities Plan, while it excluded steep slopes from the wastewater flow calculations of the Blacks Creek STP, did not specifically contain a grant condition prohibiting development on steep slopes. The issue of added sewer service area from a steep slope area must be addressed by a "constraints analysis." (See response to comment five for more information about the constraints analysis.)

Please be aware, conditions within the Bordentown Township Land Development Ordinance, Section 25:401D, regulate development on slopes greater than 25 percent and these conditions must be met for any development proposed in these steep slope areas. Also, the Burlington County Soil Conservation District has approved a soil erosion control plan for the project area. This plan requires, during construction in the steep slope area, sediment barriers and other soil erosion control measures to minimize erosion. In addition the plans identified, after seeding, mulching to prevent soil erosion.

Regarding issue three, the Department believes the commenter was referring to surface water run off rather than ground water run off as there are no proposals to recharge ground water on or from the project site. The Department will therefore address surface water run off concerns.

The Burlington County Engineers Office (Land Development Section) placed conditions concerning surface water run off and potential flooding in their preliminary site plan approval. These conditions do not allow any changes to be made to the contour of the land which would direct additional surface drainage to any county roads, unless proper and adequate additional drainage facilities are provided by the developer. Furthermore, no changes can be made in the contour of the land which would arrest or impede existing drainage from a county road, or undermine or flood a county facility. As a result of these conditions, existing stormwater run off and flooding problems should be reduced or eliminated as stormwater detention basins decrease the speed of stormwater run off from this area and diminish the potential for flooding.

With regards to issue four, the Department did not review the original wetlands delineation submitted to the Army Corps of Engineers (ACOE); therefore, the Department can not comment on the validity of this application. However, the applicant was required to demonstrate, as part of this amendment proposal, that impacts to freshwater wetlands would not violate State or Federal laws regarding wetlands protection. On March 7, 1989, the applicant was issued a Freshwater Wetlands Exemption Letter. This letter indicated that the project site was exempt from the requirements of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B et seq. and N.J.A.C. 7:7A-2.7(d)1) based on prior approvals the site had received. This meant that the ACOE January 4, 1989 jurisdictional letter was valid. The ACOE jurisdictional letter verified, based on a site inspection, that the wetlands line delineated on the project site plans was correct, and approved nationwide permits for a minor road crossing through wetlands and discharge of fill material into less than one acre of isolated or headwater wetlands.

When the entire project site (Phases 1 and 2) received preliminary township approval, some units were proposed to be located in the one acre of fill area allowed by the ACOE permit. However, the EPA had placed a grant condition on the sewer service area of the Blacks Creek STP. This grant condition prohibited development from any sewage generating structures placed within wetlands which existed at the time funds were given to the Blacks Creek STP to upgrade and expand. A waiver from the EPA would be required to connect any homes within the acre of fill area allowed by the ACOE permit to the Blacks Creek STP.

Because of the grant condition placed on the Blacks Creek STP and the EPA waiver requirement for any sewage generating development in wetlands, the applicant decided to proceed with final township approval for Phase 1 only of the project site, which contained 311 of the total 525 units planned, and had no direct impacts on wetlands. When Phase 2 plans are prepared for final township approval, the applicant will have to obtain either a mapping revision from the Department's Wastewater Assistance Element or an EPA waiver, if development in the wetlands areas is still proposed. In either case, it is possible that the applicant will be required to obtain a freshwater wetlands permit for Phase 2 of the development, since the original site plan approval of the project site will no longer be valid.

3. COMMENT: The original traffic study advised that no decline in the level of service of Georgetown Road would occur. A second study was prepared which identified that road widenings would need to occur and a new traffic signal would be necessary at the intersection of Georgetown Road and State Route 206. The developer placed an insufficient amount of money in a fund for the intersection improvement.

RESPONSE: N.J.A.C. 7:15 does not address traffic issues or financial obligations of developers to the municipality, county or State regarding the development of roadways or intersections. Therefore, the Department can not comment on the sufficiency of funds for traffic improvements required by local municipalities.

The developer has informed the Department that as part of their final subdivision and site plan approvals for Phase 1 of the proposed development the Bordentown Township Planning Board has required the applicant to contribute a "fair share" in the amount of $45,000 to the Township for off-site traffic improvements.

4. COMMENT: What will the impact of stormwater run off be for the areas neighboring the amendment site? This area (the valley of Laurel Run) currently floods during storms. This fact was denied in a letter from the project engineer to the planning board.

RESPONSE: The Department has no knowledge of statements made between the developer and the planning board concerning whether or not the area adjacent to the project site is subject to flooding and can not comment on the actions of the project engineer. However, as discussed in the response to comment two, issue three, stormwater run off in areas neighboring the amendment site should not be reduced based on the soil erosion control plan developed for the amendment site.

5. COMMENT: The project engineer states in a letter, dated May 8, 1988, to the Bordentown Sewerage Authority that there are no EPA grant conditions with wetland prohibitions on the Blacks Creek STP. However, the Environmental Assessment prepared for the Blacks Creek STP dated August 29, 1986 states on page 5 that environmentally sensitive areas are excluded from the sewer service area and on page 16, places a grant restriction on development in wetlands.

RESPONSE: Again, the Department has no knowledge of and can not comment on statements made by the project engineer to the BSA. Nevertheless, as stated in the response to comment one above, a portion of the project site was believed to have environmentally sensitive areas and was excluded from the sewer service area of the Blacks Creek STP when the EA for the BSA 201 Facilities Plan was developed. This EA was based on topographic mapping and U.S. Fish and Wildlife Service Wetlands mapping (which was based on aerial photography). A constraints analysis was prepared for the Blacks Creek STP which excluded the environmentally sensitive areas identified on the broad scale mapping from the sewer service area of this STP.

On site field investigations of the amendment area revealed that the area of environmental sensitivity was smaller than that area originally identified in the EA.

As part of the amendment process, a new constraints analysis was prepared which demonstrated that no wastewater flows to be generated by the amendment site would usurp wastewater flows which the Blacks

Creek STP was given grant monies from the EPA to serve. In addition, the amendment site had to demonstrate that no sewage generating structures would be placed in wetlands, the only environmentally sensitive area for which a specific grant condition was placed on the Blacks Creek STP.

6. COMMENT: The Bordentown Township Master Plan was amended to allow the development of one piece of property in this area. This amendment was the result of discussions between the landowner and the Township regarding the number of units required to make the development economically feasible instead of basing the decision on the carrying capacity of land with known environmental constraints. The local government gave final site plan approval without placing any environmental constraints on the developer regarding the proposed construction in flood plains, steep slopes and wetlands.

RESPONSE: The Department can not require local governments to prepare Township Master Plans based on land carrying capacity or environmental constraints and does not get involved in local economic decisions. Rather, the Department seeks to guide municipalities in the least environmentally destructive means to implement development plans devised at the local level. On site investigations of parcels proposed for development reveal environmental constraints which must be addressed as part of Department review and approval of many aspects of each development.

7. COMMENT: All public records have recognized that a portion of this land is environmentally sensitive, including an April 18, 1990 letter from [then] DEP[E] Commissioner Yaskin which stated "the applicant has chosen to pursue development on an area that had already been identified as environmentally constrained for several different reasons." Review of the project files brought no new information which indicated that the land had changed. This development ignores the environmental "history" of the project site and pursues only a desire for economic gain. The Water Quality Management Plan should not be changed for this development.

RESPONSE: The Department agrees that a portion of the project site is environmentally sensitive or constrained but has no authority to deny amendments based on this. The applicant has demonstrated by qualifying for an ACOE nationwide permit and an EPA mapping revision, and by preparing a new constraints analysis for the Blacks Creek STP, that no regualted environmental impacts will be adversely affected by approval of this amendment.

(a)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that on May 17, 1993, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Mercer County Water Quality Management Plan was adopted by the Department. This amendment amends the East Windsor Township Wastewater Management Plan to expand the sewer service area of the East Windsor Municipal Utilities Authority in East Windsor Township, Mercer County. The sewer service area has been expanded to include an additional 179 acres including the Garden State Land, Locke Parcel, DeAngelis Parcel, PAL Athletic Fields, and numerous properties of lesser size. A satellite sewage treatment plant is being built in phases and until the completion of the satellite sewage treatment plant portions of the flow will be diverted to the Millstone Road sewage treatment plant. Once both phases of the satellite sewage treatment plant are completed, the diversion between the satellite plant and the Millstone Road plant will be eliminated.

This amendment proposal was noticed in the New Jersey Register on January 19, 1993 at 25 N.J.R. 372(d). A comment on this amendment was received during the public comment period and is summarized below with the DEPE's response.

COMMENT: The sewer service area as depicted in the Amendment to the East Windsor Township Wastewater Management Plan, dated November, 1992, should be modified to include Block 47, Lot 15, owned by East Windsor Fairgrounds, Inc.

RESPONSE: The East Windsor Township Council did not feel it was appropriate to include the East Windsor Fairgrounds property in its endorsement of the Amendment due to concern that such a change could result in delaying the approval process of the amendment.

(b)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that on May 18, 1993, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Mercer County Water Quality Management Plan was adopted by the Department. This amendment amends the West Windsor Township Wastewater Management Plan and will significantly expand the sewer service area of the Stony Brook Regional Sewerage Authority within West Windsor Township. The majority of the expansion will be in the Big Bear Brook watershed.

This amendment proposal was noticed in the New Jersey Register on January 19, 1993 at 25 N.J.R. 372(c). A comment on this amendment was received during the public comment period and is summarized below with the DEPE's response.

COMMENT: The sewer service area as depicted in the Amendment to the West Windsor Township Wastewater Management Plan, dated November 1992, should be modified to include the Chamberlin tract, Block 27, Lots 5 and 8.

RESPONSE: The request was considered by West Windsor Township, Mercer County and the Stony Brook Regional Sewerage Authority (SBRSA). The DEPE acknowledges that West Windsor Township, Mercer County and the SBRSA support this inclusion into the sewer service area and agrees that this is an acceptable request.

(c)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on May 17, 1993, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment updates the Wanaque Borough Wastewater Management Plan (WMP). The amendment allows for expansion of the sewer service area of the Wanaque Valley Regional Sewerage Authority (WVRSA) Sewage Treatment Plant (STP) to serve (1) existing and proposed development within the "Bird Sanctuary" area of Wanaque Borough (94 homes) and (2) the Elks Camp Moore (140 campers and counselors). The total projected wastewater flow to the WVRSA STP as specified in the Wanaque Borough WMP is amended to 1.522 million gallons per day.

(d)

OFFICE OF LAND AND WATER PLANNING

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Northeast Water Quality Management (WQM) Plan. This amendment proposal was submitted on behalf of Bergen County. The amendment proposes transfer of Wastewater Management Plan (WMP) responsibility for the WMP area consisting of the existing Bergen

County Utilities Authority (BCUA) district (excluding those portions also within the Passaic Valley Sewerage Commissioners District), and Rochelle Park Township. WMP responsibility for this area is proposed to be transferred to Bergen County if and when the BCUA is dissolved and Bergen County as a result of that dissolution becomes owner and operator of the wastewater treatment plant located at the foot of Mehrhof Road in Little Ferry, Bergen County.

This notice is being given to inform the public that a plan amendment has been proposed for the Northeast WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the NJDEPE, Office of Land and Water Planning, CN423, 401 East State Street, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling the Office of Land and Water Planning at (609) 633-1179.

Interested persons may submit written comments on the proposed amendment to Dr. Daniel J. Van Abs, at the NJDEPE address cited above with a copy sent to Ms. Leslie G. London, McManimon & Scotland, One Gateway Center, Newark, NJ 07102. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEPE with respect to the amendment request.

Any interested persons may request in writing that NJDEPE hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Dr. Van Abs at the NJDEPE address cited above. If a public hearing for the amendment is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

HEALTH

(a)

HEALTH PROMOTION DISEASE PREVENTION

Notice of Public Meeting
Preventive Health and Health Services Block Grant

Take notice that the State Preventive Health Advisory Committee to the New Jersey Department of Health will hold a **public hearing** on the proposed use of the Preventive Health and Health Services Block Grant Funds for Federal Fiscal Year (FFY) 1994. The hearing will be held on Monday, July 12, 1993 at the Health and Agriculture Building Auditorium, John Fitch Plaza, Trenton, New Jersey at 1:00 P.M.

Spending proposals for these funds are available for public review, at the Trenton, Atlantic City, Newark and Jersey City public libraries, the Camden County Library, and the State Library in Trenton. Copies will also be forwarded to local health departments throughout New Jersey.

Those interested in providing verbal testimony should contact Doreleena Sammons-Posey at (609) 984-1302 between the hours of 9 A.M. to 5 P.M., no later than Wednesday, July 7, 1993, for further information. Individuals not able to attend this hearing may submit written comments by the close of business on Friday, July 9, 1993 to the Department of Health, Division of Family Health Services, CN 364, Trenton, New Jersey 08625-0364.

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Notice of Tax Rate
Petroleum Products Gross Receipts Tax
July 1, 1993-December 31, 1993

This notice is to advise petroleum products gross receipts taxpayers that for the period July 1, 1993 through December 31, 1993 the applicable tax rate for fuel oils, aviation fuels, and motor fuels, as converted to a cents per gallon rate pursuant to N.J.S.A. 54:15B-3 will be $0.04 per gallon. The rate is effective for tax due for months ending during that period and this rate remains unchanged from the per gallon rate effective during the prior six month period.

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

Notice of Hourly Fee Rates

Take notice that, in accordance with N.J.A.C. 19:41-9.4(e), the Casino Control Commission has determined that the following hourly fee rates shall apply for the efforts of the Commission and the Division of Gaming Enforcement on matters directly related to each casino applicant or licensee and on matters directly related to the issuance or renewal of a casino hotel alcoholic beverage license (N.J.A.C. 19:41-9.7(b)), effective July 1, 1993: $71.00 per hour for professional staff members of the Commission; $38.00 per hour for inspection staff members of the Commission; and $72.00 per hour for professional staff members of the Division.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the May 3, 1993 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of promulgation of the rule and its chronological ranking in the Registry. As an example, R.1993 d.1 means the first rule filed for 1993.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT APRIL 19, 1993

NEXT UPDATE: SUPPLEMENT MAY 17, 1993

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

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
24 N.J.R. 2103 and 2314	June 15, 1992	25 N.J.R. 1 and 218	January 4, 1993
24 N.J.R. 2315 and 2486	July 6, 1992	25 N.J.R. 219 and 388	January 19, 1993
24 N.J.R. 2487 and 2650	July 20, 1992	25 N.J.R. 389 and 616	February 1, 1993
24 N.J.R. 2651 and 2752	August 3, 1992	25 N.J.R. 619 and 736	February 16, 1993
24 N.J.R. 2753 and 2970	August 17, 1992	25 N.J.R. 737 and 1030	March 1, 1993
24 N.J.R. 2971 and 3202	September 8, 1992	25 N.J.R. 1031 and 1308	March 15, 1993
24 N.J.R. 3203 and 3454	September 21, 1992	25 N.J.R. 1309 and 1620	April 5, 1993
24 N.J.R. 3455 and 3578	October 5, 1992	25 N.J.R. 1621 and 1796	April 19, 1993
24 N.J.R. 3579 and 3784	October 19, 1992	25 N.J.R. 1797 and 1912	May 3, 1993
24 N.J.R. 3785 and 4144	November 2, 1992	25 N.J.R. 1913 and 2150	May 17, 1993
24 N.J.R. 4145 and 4306	November 16, 1992	25 N.J.R. 2151 and 2620	June 7, 1993
24 N.J.R. 4307 and 4454	December 7, 1992	25 N.J.R. 2621 and 2790	June 21, 1993
24 N.J.R. 4455 and 4606	December 21, 1992		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:13A-1.2, 18.1, 18.2	Lemon Law hearings: exceptions to initial decision	24 N.J.R. 1843(a)	R.1993 d.289	25 N.J.R. 2247(a)
	Most recent update to Title 1: TRANSMITTAL 1992-5 (supplement November 16, 1992)			
AGRICULTURE—TITLE 2				
2:1-4	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1314(a)	R.1993 d.274	25 N.J.R. 2247(b)
2:6	Animal health: biological products for diagnostic or therapeutic purposes	24 N.J.R. 2974(a)		
2:6	Animal health: extension of comment period regarding biological products for diagnostic or therapeutic purposes	24 N.J.R. 3981(a)		
2:23	Gypsy moth suppression program	25 N.J.R. 1627(a)	R.1993 d.305	25 N.J.R. 2686(a)
2:34-2.1, 2.2	Equine Advisory Board rules	25 N.J.R. 740(a)	R.1993 d.252	25 N.J.R. 2247(c)
2:71	Grades and standards	25 N.J.R. 1801(a)		
2:72	Bonding requirement of commission merchants, dealers, brokers, agents	25 N.J.R. 1802(a)		
2:74	Controlled atmosphere storage apples	25 N.J.R. 1803(a)		
2:76-2.1, 2.2, 2.3, 2.4	Recommendation of agricultural management practices	25 N.J.R. 622(a)	R.1993 d.223	25 N.J.R. 1963(a)
2:76-3.12, 4.11	Farmland preservation programs: deed restrictions on enrolled lands	25 N.J.R. 222(a)	R.1993 d.181	25 N.J.R. 1866(a)
2:76-6.2-6.11, 6.13, 6.16, 6.17	Farmland Preservation Program: acquisition of development easements	25 N.J.R. 1804(a)		
2:76-6.15	Agriculture Retention and Development Program: lands permanently deed restricted	25 N.J.R. 223(a)	R.1993 d.182	25 N.J.R. 1867(a)
2:76-10	Farmland Appraisal Handbook Standards	25 N.J.R. 1811(a)		
	Most recent update to Title 2: TRANSMITTAL 1993-2 (supplement February 16, 1993)			
BANKING—TITLE 3				
3:1-2.3, 2.5, 2.21	Depository charter applications and branch applications	25 N.J.R. 1033(a)	R.1993 d.258	25 N.J.R. 2248(a)
3:1-14.5	Revolving credit equity loans	25 N.J.R. 1033(b)	R.1993 d.218	25 N.J.R. 1965(a)
3:2-1.4	Mortgage banker non-servicing	25 N.J.R. 1035(a)	R.1993 d.295	25 N.J.R. 2687(a)
3:3-3	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1314(b)		
3:18-3.2, 5.1, 5.3, 8.1	Secondary mortgage loans	25 N.J.R. 1033(b)	R.1993 d.218	25 N.J.R. 1965(a)
3:38-1.1, 1.10, 5.1	Mortgage banker non-servicing	25 N.J.R. 1035(a)		
3:41-2.1, 11	Cemetery Board: location of interment spaces and path access	25 N.J.R. 623(a)		
	Most recent update to Title 3: TRANSMITTAL 1993-3 (supplement April 19, 1993)			
CIVIL SERVICE—TITLE 4				
	Most recent update to Title 4: TRANSMITTAL 1992-1 (supplement September 21, 1992)			
PERSONNEL—TITLE 4A				
4A:1-5	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1314(c)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4A:3	Classification, services and compensation	25 N.J.R. 1916(a)		
4A:4	Selection and appointment	25 N.J.R. 1085(b)	R.1993 d.270	25 N.J.R. 2509(a)
	Most recent update to Title 4A: TRANSMITTAL 1993-3 (supplement April 19, 1993)			
COMMUNITY AFFAIRS—TITLE 5				
5:3	Department records	25 N.J.R. 2157(a)		
5:5	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA))	25 N.J.R. 1315(a)		
5:18-1.5, 2.4, 2.5, 2.7, 3.1–3.5, 3.7, 3.13, 3.17, 3.20, 3.30, App. 3A, 4.7, 4.9, 4.11, 4.12, 4.19	Uniform Fire Code	25 N.J.R. 393(a)	R.1993 d.197	25 N.J.R. 1868(a)
5:18-2.9, 2.12, 2.14, 2.16, 2.17	Uniform Fire Code: enforcement and penalties for violations	25 N.J.R. 397(a)	R.1993 d.195	25 N.J.R. 1872(a)
5:18-3.2, 3.3, 3.13, 3.19, App. 3A	Fire Prevention Code: junk yards, recycling centers, and other exterior storage sites	25 N.J.R. 1315(b)		
5:18-3.3	Uniform Fire Code: administrative correction regarding general precautions in rooming and boarding houses	————	————	25 N.J.R. 2519(a)
5:18-4.3, 4.7	Fire Safety Code: fire suppression systems in hospitals and nursing homes	25 N.J.R. 1316(a)		
5:18A-4.6	Fire Code enforcement: review of proposed action against certified fire official	25 N.J.R. 399(a)	R.1993 d.196	25 N.J.R. 1874(a)
5:18C-4.2, 5.2, 5.3, 5.4	Fire service training and certification	25 N.J.R. 1846(a)		
5:23-1.4, 2.16, 2.17	Uniform Construction Code: prior approvals; abandoned wells	25 N.J.R. 2158(a)		
5:23-1.6, 2.15, 4.18	Uniform Construction Code: prototype plan review	25 N.J.R. 1629(a)		
5:23-2.7, 9.3	Uniform Construction Code: ordinary repairs; interpretation	25 N.J.R. 2159(a)		
5:23-2.17, 8	Asbestos Hazard Abatement Subcode	24 N.J.R. 1422(a)	R.1993 d.198	25 N.J.R. 2519(b)
5:23-2.23	Uniform Construction Code: ventilation system requirements in Class I and II business and education buildings	25 N.J.R. 2161(a)		
5:23-3.4, 4.4, 4.18, 4.20, 5.3, 5.5, 5.19A, 5.21, 5.22, 5.23, 5.25	Uniform Construction Code: mechanical inspector license and mechanical inspections	25 N.J.R. 624(a)	R.1993 d.187	25 N.J.R. 1875(a)
5:23-4.4, 4.5, 4.5A, 4.12, 4.14, 4.18, 4.20	Uniform Construction Code: private on-site inspection agencies	25 N.J.R. 2162(a)		
5:25-2.5, 5.4	New home warranties and builders' registration: administrative corrections	————	————	25 N.J.R. 2545(a)
5:30	Local Finance Board rules	25 N.J.R. 1630(a)	R.1993 d.297	25 N.J.R. 2688(a)
5:80-23	Housing and Mortgage Finance Agency: Housing Incentive Note Purchase Program	25 N.J.R. 1847(a)		
5:80-32	Housing and Mortgage Finance Agency: project cost certification	24 N.J.R. 2208(a)		
5:91-14	Council on Affordable Housing: interim procedures	25 N.J.R. 1118(a)		
5:92-1.1	Council on Affordable Housing: substantive rules	25 N.J.R. 1118(a)		
5:93	Council on Affordable Housing: substantive rules	25 N.J.R. 1118(a)		
	Most recent update to Title 5: TRANSMITTAL 1993-4 (supplement April 19, 1993)			
MILITARY AND VETERANS' AFFAIRS—TITLE 5A				
5A:7-1	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1317(a)		
	Most recent update to Title 5A: TRANSMITTAL 1992-2 (supplement September 21, 1992)			
EDUCATION—TITLE 6				
6:3	School districts	25 N.J.R. 1095(a)	R.1993 d.272	25 N.J.R. 2249(a)
6:3-9	School Ethics Commission	25 N.J.R. 1924(a)		
6:9	Educational programs for pupils in State facilities	25 N.J.R. 400(a)	R.1993 d.194	25 N.J.R. 1889(b)
6:11-3.2	Professional licensure and standards: fees	25 N.J.R. 1111(a)	R.1993 d.266	25 N.J.R. 2263(a)
6:21-12	Use of school buses	25 N.J.R. 1095(a)	R.1993 d.272	25 N.J.R. 2249(a)
6:28-1.1, 1.3, 2.3, 2.6, 2.7, 3.2, 3.7, 4.1–4.4, 7.5, 8.4, 9.2, 10.1, 10.2, 11.2, 11.4, 11.9	Special education	25 N.J.R. 1318(a)		
6:28-8.1, 8.3, 8.4	Educational programs for pupils in State facilities	25 N.J.R. 400(a)	R.1993 d.194	25 N.J.R. 1889(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:29-1.7, 9, 10	Eye protection in schools; reporting of child abuse allegations; safe and drug free schools	25 N.J.R. 1095(a)	R.1993 d.272	25 N.J.R. 2249(a)
6:30	Adult education programs	25 N.J.R. 1112(a)	R.1993 d.267	25 N.J.R. 2264(a)
	Most recent update to Title 6: TRANSMITTAL 1993-3 (supplement March 15, 1993)			
ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7				
7:0	Well construction and sealing: request for public comment regarding comprehensive rules	24 N.J.R. 3286(a)		
7:0	Green glass marketing and recycling: request for public input on feasibility study	25 N.J.R. 1654(a)		
7:0	Regulated Medical Waste Management Plan: public hearing and opportunity for comment	25 N.J.R. 1654(b)		
7:1F-2.2, App. A	Environmental Hazardous Substances and Industrial Survey lists: copper phthalocyanine compounds; confidentiality	25 N.J.R. 2166(a)		
7:1G-1–5, 7	Worker and Community Right to Know	25 N.J.R. 1631(a)		
7:1G-1.2, 6.1–6.11, 6.13-6.16	Worker and Community Right to Know Act: trade secrets and definitions	25 N.J.R. 858(a)		
7:1G-2.1, 6.4	Environmental Hazardous Substances and Industrial Survey lists: copper phthalocyanine compounds; confidentiality	25 N.J.R. 2166(a)		
7:1I	Processing of damage claims under Sanitary Landfill Facility Contingency Fund Act	25 N.J.R. 741(a)	R.1993 d.303	25 N.J.R. 2715(a)
7:1K-1.5, 3.1, 3.4, 3.9-3.11, 4.3, 4.5, 4.7, 5.1, 5.2, 6.1, 6.2, 7.2, 7.3, 9.2-9.5, 9.7, 12.6-12.9	Pollution Prevention Program requirements	25 N.J.R. 1849(a)		
7:1K-7.2	Priority industrial facilities and facility-wide permitting: administrative correction	———	———	25 N.J.R. 1876(a)
7:3	Bureau of Forestry rules	25 N.J.R. 1348(a)	R.1993 d.304	25 N.J.R. 2704(a)
7:4B	Historic Preservation Revolving Loan Program	25 N.J.R. 748(a)		
7:5A	Natural Areas System	25 N.J.R. 1350(a)		
7:5B	Open lands management	25 N.J.R. 1354(a)		
7:7A-1.4, 2.7	Freshwater Wetlands Protection Act rules: definition of project	25 N.J.R. 1642(a)		
7:7E-7.4	Coastal zone management: Outer Continental Shelf oil and gas exploration and development	25 N.J.R. 5(a)		
7:9-4	Surface water quality standards: request for public comment on draft Practical Quantitation Levels	24 N.J.R. 4008(a)		
7:9-4 (7:9B)	Surface water quality standards; draft Practical Quantitation Levels; total phosphorus limitations and criteria: extension of comment periods and notice of roundtable discussion	25 N.J.R. 404(a)		
7:9-4 (7:9B-1), 6.3	Surface water quality standards	24 N.J.R. 3983(a)		
7:9-4.5, 4.14, 4.15	Surface water quality standards	25 N.J.R. 405(a)		
7:9-4.14 (7:9B-1.14)	NJPDES program and surface water quality standards: request for public comment regarding total phosphorous limitations and criteria	24 N.J.R. 4008(b)		
7:9-4.14, 4.15 (7:9B-1.14, 1.15)	Surface water quality standards: administrative corrections to proposal	24 N.J.R. 4471(a)		
7:9A-1.1, 1.2, 1.6, 1.7, 2.1, 3.3, 3.4, 3.5, 3.7, 3.9, 3.10, 3.12, 3.14, 3.15, 5.8, 6.1, 8.2, 9.2, 9.3, 9.5, 9.6, 9.7, 10.2, 12.2–12.6, App. A, B	Individual subsurface sewage disposal systems	24 N.J.R. 1987(a)	R.1993 d.294	25 N.J.R. 2704(b)
7:11	New Jersey Water Supply Authority: policies and procedures	25 N.J.R. 1036(a)	R.1993 d.239	25 N.J.R. 2267(a)
7:11-2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: rates for sale of water	24 N.J.R. 4472(a)	R.1993 d.240	25 N.J.R. 2267(b)
7:11-4.3, 4.4, 4.9	Manasquan Reservoir Water Supply System: rates for sale of water	24 N.J.R. 4474(a)	R.1993 d.241	25 N.J.R. 2269(a)
7:14A	NJPDES Program: opportunity for interested party review of permitting system	25 N.J.R. 411(a)		
7:14A	NJPDES Program: extension of comment period for interested party review of permitting system	25 N.J.R. 1863(a)		
7:14A-1.8	NJPDES Program fees	25 N.J.R. 1358(a)		
7:14A-1.9, 3.14	Surface water quality standards	24 N.J.R. 3983(a)		
7:14A-4.7	Handling of substances displaying the Toxicity Characteristic	25 N.J.R. 753(a)	R.1993 d.300	25 N.J.R. 2718(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:14B-1.6, 2.2, 2.6, 2.7, 2.8, 3.1–3.8	Underground Storage Tanks Program fees	25 N.J.R. 1363(a)		
7:22-3.4, 3.7, 3.8, 3.9, 3.11, 3.17, 3.20, 3.26, 3.27, 3.32, 3.34, 3.37, 4.4, 4.7, 4.8, 4.9, 4.11, 4.13, 4.17, 4.20, 4.26, 4.29, 4.32, 4.34, 4.37, 4.46, 5.4, 5.11, 5.12, 6.17, 6.27, 10.2, 10.3, 10.8, 10.9, 10.11, 10.12	Financial assistance programs for wastewater treatment facilities	24 N.J.R. 4310(b)	R.1993 d.242	25 N.J.R. 2271(a)
7:22-9.1, 9.2, 9.4, 9.11–9.15, 10.1, 10.2, 10.4, 10.5, 10.6	Sewage Infrastructure Improvement Act grants: interconnection and cross-connection abatement	25 N.J.R. 1643(a)		
7:22A-1.4, 1.5, 1.7, 1.12, 1.15, 1.16, 2.4, 2.5, 2.6, 2.8, 3.4, 4.2, 4.5, 4.8, 4.11, 6.1–6.9, 6.11, 6.12, 6.14, 6.15, 7	Sewage Infrastructure Improvement Act grants: interconnection and cross-connection abatement	25 N.J.R. 1643(a)		
7:25-1.5	Fish and Game Council: license, permit and stamp fees	25 N.J.R. 1928(a)		
7:25-5	1993-94 Game Code	25 N.J.R. 1930(a)		
7:25-5.13	1992-93 Game Code: administrative correction regarding migratory birds	———	———	25 N.J.R. 2001(c)
7:25-7.13, 14.1, 14.2, 14.4, 14.6, 14.7, 14.8, 14.11, 14.12, 14.13	Crab management	25 N.J.R. 1371(a)		
7:25-11	Introduction of imported or non-native shellfish or finfish into State's marine waters	24 N.J.R. 3660(a)		
7:25-18.1, 18.14	Summer flounder permit conditions	25 N.J.R. 2167(a)		
7:25-18.12	Weakfish management: administrative changes	———	———	25 N.J.R. 2001(d)
7:25-18.12	Weakfish management: administrative correction	———	———	25 N.J.R. 2281(a)
7:25-18.16	Taking of horseshoe crabs	24 N.J.R. 2978(a)	R.1993 d.185	25 N.J.R. 1876(b)
7:25A-1.2, 1.4, 1.9, 4.3	Oyster management	25 N.J.R. 754(a)		
7:26-1.4, 9.3	Hazardous waste management: satellite accumulation areas	25 N.J.R. 1864(a)		
7:26-2.11, 2.13, 2B.9, 2B.10, 6.2, 6.8	Solid waste flow through transfer stations and materials recovery facilities	24 N.J.R. 3286(c)		
7:26-4A.6	Hazardous waste program fees: annual adjustment	24 N.J.R. 2001(a)	R.1993 d.302	25 N.J.R. 2719(a)
7:26-6.6	Procedure for modification of waste flows	25 N.J.R. 991(a)		
7:26-8.8, 8.12, 8.19	Handling of substances displaying the Toxicity Characteristic	25 N.J.R. 753(a)		
7:26-8.13, 8.16, 8.19	Hazardous waste listings: F024 and F025	25 N.J.R. 755(a)		
7:26-8.20	Used motor oil recycling	24 N.J.R. 2383(a)		
7:26-12.3	Hazardous waste management: interim status facilities	24 N.J.R. 4253(a)		
7:26A-6	Used motor oil recycling	24 N.J.R. 2383(a)		
7:26B-1.3, 1.10, 1.11, 1.12	Environmental Cleanup Responsibility Act Program fees	25 N.J.R. 1375(a)		
7:26B-7, 9.3	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)	R.1993 d.186	25 N.J.R. 2002(a)
7:26C	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)	R.1993 d.186	25 N.J.R. 2002(a)
7:26E	Technical requirements for contaminated site remediation	24 N.J.R. 1695(a)	R.1993 d.245	25 N.J.R. 2281(b)
7:27-8.1, 8.3, 8.27	Air pollution control: requirements and exemptions under facility-wide permits	24 N.J.R. 4323(a)		
7:27-19	Control and prohibition of air pollution from oxides of nitrogen	25 N.J.R. 631(a)		
7:27-25.9	Oxygenated fuels program: variance for contemporaneous averaging provision	———	———	25 N.J.R. 2720(a)
7:27-26	Low Emissions Vehicle Program	25 N.J.R. 1381(a)		
7:27A-3.5, 3.10	Control and prohibition of air pollution from oxides of nitrogen: civil administrative penalties	25 N.J.R. 631(a)		
7:28-15, 16.2, 16.8	Medical diagnostic x-ray installations; dental radiographic installations	25 N.J.R. 7(a)		
7:28-15, 16.2, 16.8	Medical diagnostic x-ray installations; dental radiographic installations; extension of comment period	25 N.J.R. 1039(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:29-1.1, 1.2, 2	Determination of noise from stationary sources: extension of comment period	25 N.J.R. 1425(a)		
7:29-1.1, 1.5, 2	Determination of noise from stationary sources	25 N.J.R. 1040(a)	R.1993 d.301	25 N.J.R. 2721(a)
7:31	Toxic Catastrophe Prevention Act Program	25 N.J.R. 1425(b)		
7:32	Energy conservation in State buildings	25 N.J.R. 1655(a)		
7:36	Green Acres Program: opportunity to review draft rule revisions	25 N.J.R. 1473(a)		
7:36-9	Green Acres Program: nonprofit land acquisition	24 N.J.R. 2405(a)	R.1993 d.265	25 N.J.R. 2472(a)
7:50-4.1, 4.70	Pinelands Comprehensive Management Plan: expiration of development approvals and waivers	25 N.J.R. 225(a)	R.1993 d.211	25 N.J.R. 2119(a)
7:61	Commissioners of Pilotage: licensure of Sandy Hook pilots	24 N.J.R. 3477(a)		
7:61-3	Board of Commissioners of Pilotage: Drug Free Workplace Program	25 N.J.R. 625(a)	R.1993 d.212	25 N.J.R. 2123(a)
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8:2	Creation of birth record	24 N.J.R. 4325(a)		
8:2	Creation of birth record: reopening of comment period	25 N.J.R. 660(a)		
8:18	Catastrophic Illness in Children Relief Fund Program	25 N.J.R. 2169(a)		
8:21-3.13	Repeal (see 8:21-3A)	24 N.J.R. 3100(a)		
8:21-3A	Registration of manufacturers and wholesale distributors of non-prescription drugs, and manufacturers and wholesale distributors of devices	24 N.J.R. 3100(a)		
8:24	Packing of refrigerated foods in reduced oxygen packages by retail establishments: preproposal	25 N.J.R. 660(b)		
8:24	Retail food establishments and food and beverage vending machines	25 N.J.R. 662(a)	R.1993 d.201	25 N.J.R. 1965(b)
8:24-8, 9	Temporary and mobile retail food establishments and agricultural markets	25 N.J.R. 1965(b)		
8:25	Youth Camp Safety Act standards	25 N.J.R. 756(a)	R.1993 d.264	25 N.J.R. 2546(b)
8:31B-2, 3.70	Hospital reimbursement: bill-patient data submissions; revenue cap monitoring	25 N.J.R. 1660(a)		
8:33	Certificate of Need: application and review process	25 N.J.R. 2171(a)		
8:33-3.11	Certificate of Need process for demonstration and research projects	24 N.J.R. 3104(a)		
8:33A-1.2, 1.16	Hospital Policy Manual: applicant preference; equity requirement	24 N.J.R. 4476(a)		
8:35A-1.2, 3.4, 3.6, 4.1, 5.3	Maternal and child health consortia: fiscal management and staffing	25 N.J.R. 1116(a)	R.1993 d.285	25 N.J.R. 2546(c)
8:39	Long-term care facilities: licensing standards	25 N.J.R. 1474(a)		
8:39-13.4, 27.1, 27.8, 29.4, 33.2, 45, 46	Long-term care facilities: use of restraints and psychoactive drugs; pharmacy supplies; Alzheimer's and dementia care services	24 N.J.R. 4228(a)	R.1993 d.230	25 N.J.R. 2548(a)
8:41	Mobile intensive care programs	24 N.J.R. 3255(b)	R.1993 d.202	25 N.J.R. 2721(b)
8:42B	Drug treatment facilities: standards for licensure	25 N.J.R. 1476(a)		
8:43	Licensure of residential health care facilities	25 N.J.R. 25(a)		
8:43	Licensure of residential health care facilities: public hearing	25 N.J.R. 757(a)		
8:43A	Ambulatory care facilities: public meeting and request for comments regarding Manual of Standards for Licensure	24 N.J.R. 3603(a)		
8:43A	Licensure of ambulatory care facilities	25 N.J.R. 757(b)		
8:43G-5.10	Acute care hospital participation in New Jersey Poison Control Information and Education System	25 N.J.R. 792(a)	R.1993 d.229	25 N.J.R. 1969(a)
8:43G-5.10	Hospital payments to maternal and child health consortia	25 N.J.R. 1295(a)	R.1993 d.236	25 N.J.R. 2555(a)
8:43G-5.10, 19.1, 19.20	Hospital licensing standards: funding for regionalized services; obstetric services structural organization	25 N.J.R. 1117(a)	R.1993 d.286	25 N.J.R. 2554(a)
8:44-2.1, 2.14	Clinical laboratory licensure: HIV testing	25 N.J.R. 2184(a)		
8:44-2.2, 3	Limited purpose laboratories	25 N.J.R. 668(a)	R.1993 d.200	25 N.J.R. 1969(b)
8:57-3.2	Physician reporting of occupational and environmental diseases and injuries	25 N.J.R. 2186(a)		
8:59-1, 2, 5, 6, 9, 11, 12	Worker and Community Right to Know Act rules	25 N.J.R. 864(a)		
8:59-3.1, 3.2, 3.3, 3.5-3.9, 3.11, 3.13-3.17	Worker and Community Right to Know Act: trade secrets and definitions	25 N.J.R. 858(a)		
8:59-App. A, B	Worker and Community Right to Know Act: preproposal concerning Hazardous Substance List and Special Health Hazard Substance List	25 N.J.R. 792(a)		
8:70	List of Interchangeable Drug Products: evaluation and acceptance criteria	25 N.J.R. 1814(a)		

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8:71	Interchangeable drug products (see 24 N.J.R. 2557(b), 3173(a), 4260(b); 25 N.J.R. 582(a))	24 N.J.R. 1674(a)	R.1993 d.226	25 N.J.R. 1970(b)
8:71	Interchangeable drug products (see 24 N.J.R. 3174(c), 3728(a), 4262(a))	24 N.J.R. 2414(b)	R.1993 d.67	25 N.J.R. 583(a)
8:71	Interchangeable drug products (see 24 N.J.R. 4261(a); 25 N.J.R. 582(b))	24 N.J.R. 2997(a)	R.1993 d.225	25 N.J.R. 1970(a)
8:71	Interchangeable drug products	24 N.J.R. 4009(a)	R.1993 d.64	25 N.J.R. 580(b)
8:71	Interchangeable drug products (see 25 N.J.R. 1221(a))	25 N.J.R. 55(a)	R.1993 d.228	25 N.J.R. 1969(c)
8:71	Interchangeable drug products	25 N.J.R. 875(a)	R.1993 d.227	25 N.J.R. 1970(c)
8:71	Interchangeable drug products	25 N.J.R. 1814(b)		
8:71	Interchangeable drug products	25 N.J.R. 1815(a)		
8:100	State Health Planning Board: public hearings on draft chapters of State Health Plan	24 N.J.R. 3788(a)		
8:100	State Health Plan: draft chapters	24 N.J.R. 3789(a)		
8:100	State Health Plan: draft chapters on AIDS, and preventive and primary care	24 N.J.R. 4151(a)		
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9:1-5.11	Regional accreditation of degree-granting proprietary institutions	24 N.J.R. 3207(a)		
9:2-11	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1323(a)		
9:4-1.12	County college construction projects	25 N.J.R. 668(b)	R.1993 d.224	25 N.J.R. 1971(a)
9:7-2.6	Student assistance programs: independent student status	25 N.J.R. 1945(a)		
9:9	NJHEAA student loan programs	25 N.J.R. 2187(a)		
9:11-1.1, 1.2, 1.4, 1.6, 1.10, 1.22, 1.23	Educational Opportunity Fund: student eligibility for undergraduate grants	25 N.J.R. 1663(a)		
9:11-1.5	Educational Opportunity Fund Program: financial eligibility for undergraduate grants	25 N.J.R. 1946(a)		
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HUMAN SERVICES—TITLE 10				
10:1-2	Public comments and petitions regarding Department rules (recodify as 10:1A)	25 N.J.R. 1042(a)	R.1993 d.271	25 N.J.R. 2557(a)
10:4	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1323(b)		
10:14	Statewide Respite Care Program Manual	25 N.J.R. 876(a)	R.1993 d.256	25 N.J.R. 2557(b)
10:15-1.2	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:15A-1.2	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:15B-1.2, 2.1	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:15C-1.1	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:31-1.4, 2.1, 2.2, 2.3, 8.1, 9.1	Screening and Screening Outreach Programs: mental health services	25 N.J.R. 1324(a)		
10:37-5.46–5.50, 12	Community mental health services: children's partial care programs	25 N.J.R. 669(a)		
10:37-6.62–6.72, 6.92–6.98, 9, 10	Community mental health programs: quality assurance standards, site review and certification	25 N.J.R. 2193(a)		
10:37B	Psychiatric community residences for youth	25 N.J.R. 2197(a)		
10:38A	Pre-Placement Program for patients at State psychiatric facilities	24 N.J.R. 4326(a)		
10:41-2.3, 2.8, 2.9	Division of Developmental Disabilities: access to client records and record confidentiality	25 N.J.R. 432(a)		
10:51	Pharmaceutical Services Manual	24 N.J.R. 3053(a)		
10:52-1.1	Hospital services reimbursement methodology	25 N.J.R. 1582(a)	R.1993 d.263	25 N.J.R. 2560(a)
10:52-1.9, 1.13	Reimbursement methodology for distinct units in acute care hospitals and for private psychiatric hospitals	24 N.J.R. 4477(a)		
10:52-1.23	Inpatient hospital services: adjustments to Medicaid payer factors	24 N.J.R. 4478(a)		
10:52-5, 6, 7, 8, 9	Hospital services reimbursement methodology	25 N.J.R. 1582(a)	R.1993 d.263	25 N.J.R. 2560(a)
10:53-1.1	Reimbursement methodology for special hospitals	24 N.J.R. 4477(a)		
10:63-3.3, 3.8	Long-term care services: elimination of salary regions	25 N.J.R 433(a)		
10:69	Hearing Aid Assistance to the Aged and Disabled Eligibility Manual	25 N.J.R. 228(a)	R.1993 d.281	25 N.J.R. 2589(a)
10:69-5.8; 69A-5.4, 5.6, 6.12, 7.2; 69B-4.13	HAAAD, PAAD, and Lifeline programs: fair hearing requests, prescription reimbursement, benefits recovery	24 N.J.R. 4329(a)		
10:71-4.8, 5.4, 5.5, 5.6, 5.9	Medicaid Only: eligibility computation amounts	25 N.J.R. 1818(a)		
10:72-1.1, 4.1, 4.5	New Jersey Care—Special Medicaid Manual: specified low-income Medicare beneficiaries	25 N.J.R. 1042(b)		

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10:81-11.4, 11.16A, 11.20	Public Assistance Manual: closing criteria for IV-D cases; application fee for non-AFDC applicants	25 N.J.R. 881(a)		
10:81-11.5, 11.7, 11.9, 11.20, 11.21	Public Assistance Manual: child support and paternity services	24 N.J.R. 2328(a)	R.1993 d.282	25 N.J.R. 2589(b)
10:81-14.18A	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:82-5.3	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:84	Administration of public assistance programs: agency action on public hearing	24 N.J.R. 4480(a)		
10:84-1	Administration of public assistance programs	24 N.J.R. 4480(b)		
10:85-1.1, 3.1, 3.2, 4.2, 7.2	Eligibility for employable GA recipients	25 N.J.R. 1714(a)		
10:86-10.2, 10.6	Child care services: payment rates and co-payment fees	25 N.J.R. 1692(a)		
10:121A-1.5, 2.7	Manual of Requirements for Adoption Agencies: administrative correction and changes	————	————	25 N.J.R. 2591(a)
10:123-3.4	Personal needs allowance for eligible residents of residential health care facilities and boarding houses	24 N.J.R. 3088(a)		
10:127	Residential child care facilities: manual of requirements	25 N.J.R. 1716(a)		
10:133C-4	Division of Youth and Family Services: case goals	25 N.J.R. 1947(a)		
10:133D-2	DYFS case management: case plan	25 N.J.R. 2209(a)		
10:133D-4	DYFS case management: in-person visits with clients and substitute care providers	25 N.J.R. 2210(a)		
10:140	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1326(a)		
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10A:1-2.2	"Division of Operations", "indigent inmate" defined	25 N.J.R. 1043(a)	R.1993 d.246	25 N.J.R. 2591(b)
10A:1-3	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1326(b)		
10A:3-3.7	Use of chemical agents	25 N.J.R. 1044(a)	R.1993 d.219	25 N.J.R. 1971(b)
10A:31-5.1, 5.2, 5.3	Adult county correctional facilities: staff training	25 N.J.R. 1817(a)		
10A:71-3.2, 3.21	State Parole Board: calculation of parole eligibility terms	25 N.J.R. 1665(a)		
10A:71-3.47	Inmate parole hearings: victim testimony process	24 N.J.R. 4483(a)		
10A:71-6.4, 7.3	State Parole Board: conditions of parole	25 N.J.R. 435(a)		
	Most recent update to Title 10A: TRANSMITTAL 1992-7 (supplement December 21, 1992)			
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11:1-3	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1327(a)		
11:1-7	New Jersey Property-Liability Insurance Guaranty Association: plan of operation	25 N.J.R. 1045(a)		
11:1-31	Surplus lines insurer eligibility	25 N.J.R. 1819(a)		
11:1-32.4	Automobile insurance: limited assignment distribution servicing carriers	24 N.J.R. 519(a)	R.1992 d.371	24 N.J.R. 3414(a)
11:1-32.4	Workers' compensation self-insurance: extension of comment period	24 N.J.R. 2708(b)		
11:1-34	Surplus lines: exportable list procedures	24 N.J.R. 4331(a)		
11:2-33.3, 33.4	Workers' compensation self-insurance: administrative corrections	————	————	25 N.J.R. 1877(a)
11:2-34	Surplus lines: allocation of premium tax and surcharge	25 N.J.R. 1827(a)		
11:3-2.2, 2.4, 2.5, 2.6, 2.11, 2.12	Personal Automobile Insurance Plan	25 N.J.R. 2212(a)		
11:3-2.8, 33.2, 34.4, 44	Automobile insurance: provision of coverage to all applicants who qualify as eligible persons	25 N.J.R. 1290(a)	R.1993 d.238	25 N.J.R. 2479(a)
11:3-3	Limited assignment distribution servicing carriers	25 N.J.R. 1327(b)		
11:3-16.7	Automobile insurance: rating programs for physical damage coverages	24 N.J.R. 3604(a)		
11:3-19.3, 34.3	Automobile insurance eligibility rating plans: incorporation of merit rating surcharge	24 N.J.R. 2332(a)		
11:3-20.5, 20A.1	Automobile insurers: reporting apportioned share of MTF losses in excess profits reports; ratio limiting the effect of negative excess investment income	25 N.J.R. 1829(a)		
11:3-29.2, 29.4, 29.6	Automobile insurance PIP coverage: medical fee schedules	25 N.J.R. 229(b)		
11:3-29.6	Automobile PIP coverage: physical therapy services	24 N.J.R. 2998(a)		
11:3-33.2	Appeals from denial of automobile insurance: failure to act timely on written application for coverage	24 N.J.R. 2128(b)		
11:3-35.5	Automobile insurance rating: eligibility points of principal driver	24 N.J.R. 2331(a)		
11:3-42.2, 42.9	Producer Assignment Program: request for exemption	25 N.J.R. 2215(a)		

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11:5-1.9	Real Estate Commission: transmittal of funds to lenders	24 N.J.R. 4268(a)		
11:5-1.23	Real Estate Commission: transmittal by licensees of written offers on property	24 N.J.R. 3486(a)		
11:5-1.38	Real Estate Commission: pre-proposal regarding buyer-brokers	24 N.J.R. 3488(b)		
11:5-1.43	Real Estate Commission: licensee provision of Agency Information Statement	25 N.J.R. 1948(a)		
11:6-2	Workers' compensation managed care organizations	25 N.J.R. 1330(a)		
11:13-7.4, 7.5	Commercial lines: exclusions from coverage; refiling policy forms	25 N.J.R. 1053(a)		
11:13-8	Commercial lines: prospective loss costs filing procedures	25 N.J.R. 1047(a)		
11:15-3	Joint insurance funds for local government units providing group health and term life benefits	25 N.J.R. 436(a)		
11:17	Producer licensing	25 N.J.R. 883(a)	R.1993 d.206	25 N.J.R. 1972(a)
11:17-1.2, 2.3–2.15, 5.1–5.6	Insurance producer licensing	24 N.J.R. 3216(a)		
11:17A-1.2, 1.3, 1.4, 1.5, 4.6	Insurance producers and limited insurance representatives: licensure and registration	25 N.J.R. 446(a)	R.1993 d.199	25 N.J.R. 1878(a)
11:17A-1.2, 1.7	Appeals from denial of automobile insurance: failure to act timely on written application for coverage; premium quotation	24 N.J.R. 2128(b)		
11:17A-1.2, 1.7	Automobile insurance: provision of coverage to all applicants who qualify as eligible persons	25 N.J.R. 1290(a)	R.1993 d.238	25 N.J.R. 2479(a)
11:19-3	Financial Examination Monitoring System: data submission by surplus lines producers and insurers	24 N.J.R. 3003(a)	R.1993 d.232	25 N.J.R. 1972(b)
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12:7	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1334(a)		
12:7	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA): extension of comment period	25 N.J.R. 2216(a)		
12:18-1.1, 2.4, 2.27, 2.40, 2.43, 2.48, 3.1, 3.2, 3.3	Temporary Disability Benefits Program	25 N.J.R. 1515(c)		
12:23	Workforce Development Partnership Program: application and review process for customized training services	25 N.J.R. 449(a)		
12:23-3	Workforce Development Partnership Program: application and review process for individual training grants	25 N.J.R. 884(a)		
12:23-4	Workforce Development Partnership Program: application and review process for approved training	25 N.J.R. 886(a)		
12:23-5	Workforce Development Partnership Program: application and review process for additional unemployment benefits during training	25 N.J.R. 887(a)		
12:23-6	Workforce Development Partnership Program: application and review process for employment and training grants for services to disadvantaged workers	25 N.J.R. 1054(a)		
12:45	Vocational Rehabilitation Services: waiver of sunset provision of Executive Order No. 66(1978)	25 N.J.R. 2216(b)		
12:58-1.2	Child labor: student learner in cooperative vocational education program	25 N.J.R. 889(a)	R.1993 d.183	25 N.J.R. 1881(a)
12:60-3.2, 4.2	Prevailing wages on public works contracts: telecommunications worker	24 N.J.R. 2689(a)		
12:60-3.2, 4.2	Prevailing wages on public works contracts: extension of comment period	24 N.J.R. 3015(b)		
12:60-3.2, 4.2	Prevailing wages for public works: extension of comment period	24 N.J.R. 3607(a)		
12:100-4.1, 4.2	Public employee safety and health: Process Safety Management of Highly Hazardous Chemicals; employer defined	25 N.J.R. 890(a)	R.1993 d.184	25 N.J.R. 1882(a)
12:100-4.2	Public employee safety and health: occupational exposure to bloodborne pathogens	24 N.J.R. 3607(b)		
12:100-4.2	Public employee safety and health: exposure to hazardous chemicals in laboratories	25 N.J.R. 453(b)	R.1993 d.308	25 N.J.R. 2688(b)
12:195	Carnival-amusement rides safety	25 N.J.R. 1832(a)		
12:195-2.1, 3.22, 6.1, 7	Carnival and amusement rides: bungee jumping	Emergency (expires 7-2-93)	R.1993 d.244	25 N.J.R. 2128(a)
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12A:1	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1335(b)		
12A:9	Development of small businesses and women and minority businesses: waiver of sunset provision of Executive Order No. 66(1978)	25 N.J.R. 1335(c)		
12A:9	Development of small businesses and women and minority businesses	25 N.J.R. 1752(a)	R.1993 d.309	25 N.J.R. 2689(a)
12A:11	Certification of women-owned and minority-owned businesses	25 N.J.R. 1056(a)	R.1993 d.237	25 N.J.R. 2484(a)
12A:11-1.2, 1.3, 1.4, 1.7	Certification of women-owned and minority-owned businesses: extension of comment period	25 N.J.R. 2216(c)		
12A:11-1.2, 1.3, 1.4, 1.7	Certification of women-owned and minority-owned businesses	25 N.J.R. 2484(a)		
12A:31-1.4	New Jersey Development Authority: interest rate on direct loans	25 N.J.R. 891(a)	R.1993 d.243	25 N.J.R. 2484(b)
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LAW AND PUBLIC SAFETY—TITLE 13				
13:1	Police Training Commission rules	25 N.J.R. 1336(a)		
13:1C	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1338(a)		
13:2-14.2, 14.7, 20.6, 21.4	Alcoholic beverage control: permits, insignia, and fees	25 N.J.R. 1340(a)	R.1993 d.288	25 N.J.R. 2485(a)
13:3	Amusement games control	25 N.J.R. 891(b)	R.1993 d.233	25 N.J.R. 1987(a)
13:3	Amusement games control: effective date of readopted rules	————	————	25 N.J.R. 2689(b)
13:19-1.1, 1.7	Driver Control Service: administrative hearings applicability	25 N.J.R. 893(a)		
13:20-37	Motor vehicles with modified chassis height	24 N.J.R. 3662(a)		
13:20-37	Motor vehicles with modified chassis height: extension of comment period	24 N.J.R. 4333(b)		
13:20-38	Dimensional standards for automobile transporters	25 N.J.R. 1342(a)		
13:26	Transportation of bulk commodities	25 N.J.R. 1343(a)		
13:28	Board of Cosmetology and Hairstyling rules	25 N.J.R. 893(b)	R.1993 d.287	25 N.J.R. 2485(b)
13:29-1.13	Board of Accountancy: biennial renewal fee for inactive or retired licensees	25 N.J.R. 1665(b)		
13:30-1.1	Board of Dentistry: qualifications of applicants for licensure to practice	25 N.J.R. 2216(d)		
13:30-8.5	Board of Dentistry: complaint review procedures	24 N.J.R. 2800(a)		
13:30-8.6	Board of Dentistry: professional advertising	24 N.J.R. 2801(a)		
13:30-8.7	Board of Dentistry: patient records	25 N.J.R. 1833(a)		
13:30-8.18	Continuing dental education	25 N.J.R. 1344(a)		
13:33-1.35, 1.36	Ophthalmic dispensers and technicians: referrals; space rental agreements	24 N.JR. 4010(a)		
13:35-6.13, 9	Acupuncture Examining Board: practice of acupuncture	24 N.J.R. 4013(a)	R.1993 d.299	25 N.J.R. 2689(c)
13:35-6.13, 10.9	Board of Medical Examiners: fee schedule; athletic trainer registration fee	25 N.J.R. 1058(a)	R.1993 d.260	25 N.J.R. 2487(a)
13:35-6.18	Board of Medical Examiners: control of anabolic steroids	24 N.J.R. 4012(a)		
13:35-10	Practice of athletic trainers	25 N.J.R. 265(a)		
13:37	Board of Nursing rules	25 N.J.R. 455(b)		
13:37-12.1, 14	Board of Nursing: certification of homemaker-home health aides	25 N.J.R. 1950(a)		
13:37-13.1, 13.2	Nurse anesthetist: conditions for practice	24 N.J.R. 4020(a)	R.1993 d.306	25 N.J.R. 2695(a)
13:38-1.2, 1.3, 2.5	Practice of optometry: permissible advertising	24 N.J.R. 4237(a)		
13:39-1.3	Board of Pharmacy: fee schedule	25 N.J.R. 1666(a)		
13:39-5.2	Board of Pharmacy: information on prescription labels	25 N.J.R. 1667(a)		
13:39-7.14	Board of Pharmacy: patient profile record system and patient counseling by pharmacist	25 N.J.R. 266(a)	R.1993 d.307	25 N.J.R. 2697(a)
13:41-2.1	Board of Professional Planners: professional misconduct	24 N.J.R. 3221(a)		
13:44C	Audio and Speech-Language Pathology Advisory Committee rules	25 N.J.R. 1668(a)		
13:45A-24	Toy and bicycle safety	24 N.J.R. 3019(b)		
13:45A-24	Toy and bicycle safety: extension of comment period	24 N.J.R. 3666(a)		
13:46-23.5, 23A	State Athletic Control Board: standards of ethical conduct	24 N.J.R. 4489(a)		
13:70-12.4	Thoroughbred racing: claimed horse	25 N.J.R. 1059(a)		
13:70-14A.8	Thoroughbred racing: possession of drugs or drug instruments	25 N.J.R. 1060(a)	R.1993 d.262	25 N.J.R. 2488(a)
13:70-29.50	Thoroughbred racing: daily triple payoff in dead heat for win	25 N.J.R. 1671(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:71-23.9	Harness racing: possession of drugs or drug instruments	25 N.J.R. 1061(a)	R.1993 d.261	25 N.J.R. 2488(b)
13:75-1.7	Violent Crimes Compensation Board: reimbursement for funeral expenses	25 N.J.R. 674(a)	R.1993 d.250	25 N.J.R. 2488(c)
13:75-1.12	Violent Crimes Compensation Board: attorney's fees requiring affidavit of service	25 N.J.R. 674(b)	R.1993 d.251	25 N.J.R. 2489(a)
13:76	Arson investigators: training and certification	25 N.J.R. 896(a)	R.1993 d.208	25 N.J.R. 1987(b)
13:81-1.2, 2.1	Statewide 9-1-1 emergency telecommunications system	24 N.J.R. 4493(a)	R.1993 d.209	25 N.J.R. 1987(c)
	Most recent update to Title 13: TRANSMITTAL 1993-4 (supplement April 19, 1993)			
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14:3-3.6	Discontinuance of service to multi-family dwellings	25 N.J.R. 1346(a)		
14:3-5.1	Relocation or closing of utility office	24 N.J.R. 2132(a)	R.1993 d.298	25 N.J.R. 2699(a)
14:3-6.5	Public records	24 N.J.R. 1966(a)	R.1993 d.273	25 N.J.R. 2489(b)
14:3-7.15	Discontinuance of services to customers: notification of municipalities and others	24 N.J.R. 3023(a)		
14:3-10.15	Solid waste collection: customer lists	24 N.J.R. 3286(c)		
14:6-5	Natural gas service: inspection and operation of master meter systems	24 N.J.R. 4494(a)	R.1993 d.247	25 N.J.R. 2490(a)
14:10-5	Competitive telecommunications services	24 N.J.R. 1868(a)	R.1993 d.248	25 N.J.R. 2492(a)
14:10-7	Telephone access to adult-oriented information	24 N.J.R. 1238(a)	R.1993 d.180	25 N.J.R. 1882(b)
14:11-7.10	Solid waste disposal facilities: initial tariff for special in lieu payment	24 N.J.R. 3286(c)		
14:11-8	Natural gas pipelines	25 N.J.R. 897(a)		
14:18-2.11	Cable television: pre-proposal regarding disposition of on-premises wiring	24 N.J.R. 4496(a)		
14:18-2.11	Cable television: change in hearing date and comment period for pre-proposal regarding disposition of on-premises wiring	25 N.J.R. 270(a)		
14:18-9.2, 10.1–10.5	Cable television: testing of service and technical standards for system operation	24 N.J.R. 4497(a)	R.1993 d.234	25 N.J.R. 2700(a)
	Most recent update to Title 14: TRANSMITTAL 1993-3 (supplement March 15, 1993)			
ENERGY—TITLE 14A				
	Most recent update to Title 14A: TRANSMITTAL 1993-1 (supplement February 16, 1993)			
STATE—TITLE 15				
15:1	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1347(a)		
15:2	Commercial recording filing and expedited service	25 N.J.R. 901(a)	R.1993 d.193	25 N.J.R. 1884(a)
	Most recent update to Title 15: TRANSMITTAL 1993-1 (supplement January 19, 1993)			
PUBLIC ADVOCATE—TITLE 15A				
	Most recent update to Title 15A: TRANSMITTAL 1990-3 (supplement August 20, 1990)			
TRANSPORTATION—TITLE 16				
16:1B	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1478(a)		
16:25	Utility accommodation	25 N.J.R. 2217(a)		
16:25A	Soil erosion and sediment control standards	25 N.J.R. 1479(a)	R.1993 d.276	25 N.J.R. 2496(a)
16:28	Speed limits for State highways	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)
16:28-1.41	Speed limit zones along U.S. 9 in Berkeley Township and Pine Beach Borough	25 N.J.R. 1834(a)		
16:28-1.48, 1.93	Speed rates along Route 167 in Port Republic and Route 44 in Greenwich and West Deptford	25 N.J.R. 2225(a)		
16:28-1.108	School zone along Route 82 in Union Township	25 N.J.R. 1061(b)	R.1993 d.214	25 N.J.R. 1988(a)
16:28A-1.1, 1.7, 1.17, 1.23, 1.32, 1.36	Restricted parking and stopping along U.S. 1 Business in Mercer County, U.S. 9 in Ocean and Monmouth counties, Routes 26 and 33 in Middlesex County, U.S. 46 in Warren and Morris counties, and Route 57 in Warren County	25 N.J.R. 2226(a)		
16:28A	Restricted parking and stopping	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)
16:28A-1.6, 1.9, 1.38	Restricted parking along Route 7 in Belleville, Route 17 in North Arlington, and Route 71 in Bradley Beach	25 N.J.R. 1062(a)	R.1993 d.213	25 N.J.R. 1988(b)
16:28A-1.19, 1.98	Parking restrictions along Route 28 in Somerville and Route 56 in Pittsgrove Township	25 N.J.R. 1836(a)		
16:28A-1.36, 1.41	Parking restrictions along Route 57 in Warren County and Route 77 in Bridgeton	25 N.J.R. 1835(a)		
16:28A-1.41	No stopping or standing zones along Route 77 in Bridgeton	25 N.J.R. 1063(a)	R.1993 d.216	25 N.J.R. 1989(a)
16:29	No passing	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)
16:30	Miscellaneous traffic rules	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
16:30-6.3	Weight limit restriction for trucks using Route 173 in Bloomsbury, Hunterdon County	25 N.J.R. 1838(a)		
16:30-10.1	Midblock crosswalk on Route 28 in Somerville	25 N.J.R. 1838(b)		
16:31	Turns	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)
16:31-1.31	Turning restrictions along U.S. 1 Business in Lawrence Township	25 N.J.R. 1064(a)	R.1993 d.215	25 N.J.R. 1989(b)
16:31A	Prohibited right turns on red	25 N.J.R. 1479(b)	R.1993 d.257	25 N.J.R. 2496(b)
16:44	Construction services	25 N.J.R. 1954(a)		
16:44	Construction Services: waiver of sunset provision of Executive Order No. 66(1978)	25 N.J.R. 2227(a)		
16:47-3.8, 3.16, 4.3, 4.6, 4.7, 4.13–4.16, 4.19, 4.27, 4.30, 4.33, 4.41, 5.2, App. B, C, D, E, N, N-1, N-2	State Highway Access Management Code: access standards; permits	25 N.J.R. 903(a)	R.1993 d.210	25 N.J.R. 1990(a)
16:49-1.3, 1.5, 2.1, App.	Transportation of hazardous materials	25 N.J.R. 1065(a)	R.1993 d.235	25 N.J.R. 2497(a)
16:53-3.2	Autobus dimensions	25 N.J.R. 459(a)	R.1993 d.190	25 N.J.R. 1885(a)
16:53-7.25, 7.26, 7.27	Autobus trolleys: safety standards	24 N.J.R. 4500(a)	R.1993 d.191	25 N.J.R. 1885(b)
16:53C	Rail freight program	25 N.J.R. 1481(a)	R.1993 d.277	25 N.J.R. 2503(a)
16:54	Licensing of aeronautical and aerospace facilities	24 N.J.R. 2542(a)		
16:54	Licensing of aeronautical and aerospace facilities: extension of comment period	24 N.J.R. 3026(a)		
16:54	Licensing of aeronautical and aerospace facilities: extension of comment period	24 N.J.R. 4025(a)		
16:55	Licensing of aeronautical activities	25 N.J.R. 1483(a)	R.1993 d.278	25 N.J.R. 2505(a)
16:60	Office of Aviation: issuance of summons and designation of law enforcement officer	25 N.J.R. 1484(a)	R.1993 d.279	25 N.J.R. 2505(b)
16:61	Aircraft accidents	25 N.J..R 1485(a)	R.1993 d.280	25 N.J.R. 2505(c)
	Most recent update to Title 16: TRANSMITTAL 1993-4 (supplement April 19, 1993)			
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17:1	Division of Pensions and Benefits: administration of public employee retirement systems and benefit programs	25 N.J.R. 1955(a)		
17:1-10, 11	State Prescription Drug Program; Dental Expenses Program (recodify to 17:9-8, 9)	25 N.J.R. 675(b)		
17:2-4.3	Public Employees' Retirement System: school year members	25 N.J.R. 908(a)	R.1993 d.296	25 N.J.R. 2701(a)
17:9-1.5	State Health Benefits Program: local employer reentry	25 N.J.R. 460(a)	R.1993 d.269	25 N.J.R. 2505(d)
17:9-2.3	State Health Benefits Program: annual enrollment periods	24 N.J.R. 4025(b)	R.1993 d.259	25 N.J.R. 2506(a)
17:9-2.4	State Health Benefits Program: retirement or COBRA enrollment	24 N.J.R. 4025(c)	R.1993 d.249	25 N.J.R. 2506(b)
17:9-2.4	State Health Benefits Program: reinstatement of prior coverage after return from approved leave of absence	25 N.J.R. 1671(b)		
17:9-4.1, 4.5	State Health Benefits Program: "appointive officer" eligibility	24 N.J.R. 3493(a)		
17:10	Judicial Retirement System	25 N.J.R. 1956(a)		
17:16-33.1	State Investment Council: repurchase agreement of securities broker	25 N.J.R. 909(a)	R.1993 d.188	25 N.J.R. 1886(a)
17:16-42.2	State Investment Council: dividend requirement for eligible stock issuers	25 N.J.R. 909(b)	R.1993 d.189	25 N.J.R. 1886(b)
17:20	Lottery Commission rules	25 N.J.R. 1347(b)	R.1993 d.310	25 N.J.R. 2701(b)
17:32	State Planning Rules	25 N.J.R. 461(a)	R.1993 d.165	25 N.J.R. 1886(c)
17:32-7	State Development and Redevelopment Plan: voluntary submission of municipal and county plans for consistency review	25 N.J.R. 1839(a)		
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18:7-1.16	Corporation Business Tax: financial businesses	25 N.J.R. 1841(a)		
18:7-13.8	Corporation Business Tax: claims for refund	25 N.J.R. 1842(a)		
18:9	Business Personal Property Tax	25 N.J.R. 1485(a)		
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18:24	Sales and Use Tax	25 N.J..R 1486(a)		
18:26	Transfer Inheritance Tax and Estate Tax	25 N.J.R. 1498(a)		
18:35	Gross Income Tax; setoff of individual liability	25 N.J.R. 1500(a)		
18:35-1.14, 1.25	Gross Income Tax: partnerships; net profits from business	25 N.J.R. 677(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
18:35-1.17	Gross income tax: Health Care Subsidy Fund withholding	25 N.J.R. 1957(a)		
18:35-1.27	Gross Income Tax: interest on overpayments	24 N.J.R. 2419(a)		
	Most recent update to Title 18: TRANSMITTAL 1993-3 (supplement April 19, 1993)			
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19:3, 3B, 4, 4A	Hackensack Meadowlands District rules	24 N.J.R. 4503(a)	R.1993 d.176	25 N.J.R. 1887(a)
19:8	Use and administration of Garden State Parkway	25 N.J..R 1500(b)	R.1993 d.290	25 N.J.R. 2701(c)
19:9-1.9	Turnpike Authority: double bottom trailer permits	25 N.J.R. 684(a)		
19:9-2.7	Turnpike Authority construction contracts: withdrawal of bid for unilateral mistake	25 N.J.R. 62(b)		
19:17	Appeal Board rules	25 N.J.R. 1842(b)		
19:25-15.3–15.6, 15.10, 15.11, 15.12, 15.14, 15.16, 15.17, 15.21, 15.22, 15.24, 15.27-15.32, 15.35, 15.43, 15.45, 15.48, 15.49, 15.50, 15.54, 15.64, 15.65	ELEC: public financing of general election candidates for Governor	25 N.J.R. 910(a)	R.1993 d.207	25 N.J.R. 1994(a)
19:25-15.17, 15.48	Public financing of general election candidates for Governor	25 N.J.R. 1957(b)		
19:30-6.4	Economic Development Authority: fee for modifying or restructuring loan payment terms	25 N.J.R. 916(a)	R.1993 d.217	25 N.J.R. 1998(a)
	Most recent update to Title 19: TRANSMITTAL 1993-4 (supplement April 19, 1993)			
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19:40-2.5	Delegation of Commission authority	24 N.J.R. 2348(a)		
19:40-2.6	Post-employment restrictions on former Commission and Division of Gaming Enforcement employees	25 N.J.R. 1501(a)	R.1993 d.291	25 N.J.R. 2702(a)
19:40-5.2	Practice of law before Commission	25 N.J.R. 1672(a)		
19:40-6	Disability discrimination grievance procedure regarding compliance with Americans with Disabilities Act (ADA)	25 N.J.R. 1503(a)		
19:41	Applications	25 N.J.R. 916(b)	R.1993 d.205	25 N.J.R. 1999(a)
19:41-9.1, 9.4	Fee policy	25 N.J.R. 1080(a)	R.1993 d.253	25 N.J.R. 2506(c)
19:42	Hearings	25 N.J.R. 1082(a)	R.1993 d.222	25 N.J.R. 1999(b)
19:42-5.3	Professional practice: multiple party representation	25 N.J.R. 1082(b)		
19:43-4.1	Casino bankroll	25 N.J.R. 1672(b)		
19:44-8.3	Dealer instruction: administrative correction	———	———	25 N.J.R. 2507(a)
19:44-8.3	Poker	25 N.J.R. 2236(a)		
19:45-1.1, 1.2, 1.11, 1.12, 1.14, 1.15, 1.16, 1.20, 1.24, 1.24A, 1.24B, 1.25, 1.25A–1.25I, 1.26, 1.27, 1.27A, 1.28, 1.29, 1.33, 1.34	Authorized financial statements: acceptance and processing	24 N.J.R. 3232(a)		
19:45-1.1, 1.2, 1.11, 1.12, 1.20	Poker	25 N.J.R. 2236(a)		
19:45-1.1, 1.10, 1.32, 1.36, 1.37, 1.38, 1.42, 1.43, 1.44	Use and operation of drop buckets in slot machines	25 N.J.R. 1503(b)		
19:45-1.1, 1.40	Jackpot payouts not paid directly from slot machine	25 N.J.R. 2227(b)		
19:45-1.12	Pai gow poker personnel: administrative correction	———	———	25 N.J.R. 2507(a)
19:45-1.12, 1.14, 1.15, 1.46	Currency and coupon exchange on casino floor	25 N.J.R. 1673(a)		
19:45-1.12A	Minimum and maximum gaming wagers	25 N.J.R. 1958(a)		
19:45-1.19	Acceptance of tips by dealers and pari-mutuel cashiers	25 N.J.R. 1674(a)		
19:45-1.19	Card-o-lette	25 N.J.R. 2230(a)		
19:45-1.40	Jackpot payout slips	25 N.J.R. 917(a)	R.1993 d.292	25 N.J.R. 2702(b)
19:46	Gaming equipment	25 N.J.R. 918(a)	R.1993 d.204	25 N.J.R. 1999(c)
19:46-1.1, 1.8, 1.9, 1.13F, 1.20	Card-o-lette	25 N.J.R. 2230(a)		
19:46-1.5	Gaming chips not in active use	25 N.J.R. 2233(a)		
19:46-1.6	Storage of gaming chips and plaques	25 N.J.R. 1083(a)	R.1993 d.254	25 N.J.R. 2508(a)
19:46-1.10	Multiple action blackjack	25 N.J.R. 2234(a)		
19:46-1.13E, 1.17, 1.18	Poker	25 N.J.R. 2236(a)		
19:46-1.18, 1.19	Pai gow poker: dealing from the hand	24 N.J.R. 4247(a)	R.1993 d.192	25 N.J.R. 1887(b)
19:46-1.20	Gaming equipment: administrative correction	———	———	25 N.J.R. 2507(a)
19:46-1.25, 1.26, 1.33	Use and operation of drop buckets in slot machines	25 N.J.R. 1503(b)		
19:46-1.33	Slot machine tokens	25 N.J.R. 1961(a)		
19:47	Rules of the games	25 N.J.R. 919(a)	R.1993 d.203	25 N.J.R. 1999(d)
19:47	Poker: temporary adoption of new rules	25 N.J.R. 2001(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
19:47	Card-o-lette: temporary adoption of new rules	25 N.J.R. 2001(b)		
19:47-1.3, 2.3, 2.6, 3.2, 4.2, 5.1, 5.6, 6.6, 7.2, 8.2, 8.3, 9.3, 10.10, 11.12, 12.10	Minimum and maximum gaming wagers	25 N.J.R. 1958(a)		
19:47-2	Progressive 21 wager in blackjack: temporary adoption	_____	_____	25 N.J.R. 1889(a)
19:47-2.3	Implementation of mid-shoe options in blackjack	25 N.J.R. 1508(a)	R.1993 d.293	25 N.J.R. 2703(a)
19:47-2.8, 2.11, 2.15, 2.18	Multiple action blackjack	25 N.J.R. 2234(a)		
19:47-2.17	Over/Under 13 wagers in blackjack	25 N.J.R. 1084(a)	R.1993 d.255	25 N.J.R. 2508(b)
19:47-8.2, 15	Card-o-lette	25 N.J.R. 2230(a)		
19:47-11.2, 11.5-11.8A, 11.10, 11.11	Pai gow poker: dealing from the hand	24 N.J.R. 4247(a)	R.1993 d.192	25 N.J.R. 1887(b)
19:47-12.6	Pokette payout odds	25 N.J.R. 1962(a)		
19:47-14	Poker	25 N.J.R. 2236(a)		
19:50	Casino hotel alcoholic beverage control	25 N.J.R. 1085(a)	R.1993 d.220	25 N.J.R. 1999(e)
19:53	Equal employment opportunity	25 N.J.R. 684(b)	R.1993 d.221	25 N.J.R. 2000(a)
19:53	Equal employment opportunity: public hearing	25 N.J.R. 1509(a)		
19:53	Equal employment and business opportunity	25 N.J.R. 1675(a)		

Most recent update to Title 19K: TRANSMITTAL 1993-4 (supplement April 19, 1993)

RULEMAKING IN THIS ISSUE—Continued

Filing Deadlines

July 19 issue:
- **Adoptions** ..... June 25

August 2 issue:
- **Proposals** ..... July 2
- **Adoptions** ..... July 12

August 16 issue:
- **Proposals** ..... July 19
- **Adoptions** ..... July 26

September 7 issue:
- **Proposals** ..... August 9
- **Adoptions** ..... August 16

ADDITIONAL PROPOSAL

HEALTH

(a)

DIVISION OF HEALTH PLANNING, FINANCING AND INFORMATION SERVICES

Certificate of Need: Surgical Facilities

Proposed New Rules: N.J.A.C. 8:33S

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5 and 2H-7.

Proposal Number: PRN 1993-314.

Submit comments by July 21, 1993 to:

John J. Gontarski, Acting Director
Health Plan Implementation and Community Initiatives
New Jersey Department of Health
CN 360, Room 401
Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

The new rules being proposed by the Department at N.J.A.C. 8:33S, which contain certificate of need requirements for surgical facilities, are a replacement of previous rules (formerly at N.J.A.C. 8:33A) which expired on February 20, 1992, pursuant to Executive Order No. 66(1978). The new rules establish Statewide policies for the provision of surgical services pursuant to the New Jersey Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq., as amended). The proposed new rules provide minimum standards and criteria, as well as a revised and greatly simplified surgical need methodology, for the replacement, reduction, initiation or addition of inpatient and ambulatory or same-day surgery resources in the State. The rules, furthermore, facilitate greater availability of ambulatory or same-day surgery, which is becoming an increasingly larger percentage of all surgeries performed nationally as well as in New Jersey. These rules do not apply to minor or "outpatient surgery" as defined in this chapter. This type of surgery is largely performed in private practice or hospital settings in outpatient procedure rooms.

These proposed new rules also retain many of the policies contained in the previous rules, particularly with respect to provision for a waiver to the surgical need methodology where the applicant facility chooses to close inpatient operating rooms (OR) in exchange for an equal number of ambulatory operating rooms. The prior waiver section has served to promote an increase in dedicated ambulatory surgical operating rooms in hospitals Statewide.

The proposed new rules include the following major criteria:

1. A section, similar to that contained in the previous surgical rule, which defines the terms that are used within the subchapter at N.J.A.C. 8:33S-1.2.

2. A section containing minimum information to be supplied by potential applicants which includes a revised and simplified surgical need methodology at N.J.A.C. 8:33S-1.4.

3. Need methodology waiver criteria, similar to previous criteria, which allows waivers for hospitals that are converting inpatient ORs to dedicated ambulatory ORs, N.J.A.C. 8:33S-1.6(b). Added to the previous provision are additional criteria for exceptions to the need methodology to permit the expansion of successful surgical programs in areas where additional capacity exists under specific conditions stated in the rule at N.J.A.C. 8:33S-1.6(c) and (d).

4. A section at N.J.A.C. 8:33S-1.6, similar to criteria included in the previous surgical facility subchapter, which assures that community need, physical plant requirements, access, cost and self-referral issues will be included as essential elements of the public certificate of need review process.

Social Impact

The proposed new rules recognize the advances in surgical and non-surgical clinical techniques (for example, laser surgery, minimally invasive surgery, and lithotripsy) that have permitted greater numbers of what were formerly inpatient surgical procedures to be performed on an ambulatory basis. This chapter also facilitates the greater availability of alternatives to inpatient surgery.

Current estimates by payers of surgical data indicate that as much as 60 percent of all surgical procedures performed may be performed on an ambulatory or outpatient basis. Nationwide figures for 1991 indicated that for the first time the majority of surgical cases performed in community hospitals were performed on an ambulatory basis. Technological advances in the areas of anesthesiology, endoscopy and laser equipment have augmented the initial benefits recognized from ambulatory surgery, leading to greater increases in the proportion of surgery being performed on an ambulatory basis. As the figures below indicate, the trend toward ambulatory as opposed to inpatient surgery continues to take place in New Jersey. An examination of New Jersey surgical utilization data from 1985 and 1988 indicate that the trend toward increased same day surgery and declining inpatient surgery continues. The rate of same day surgery per thousand residents during that three year period increased from 20 per thousand in 1985 to 25 per thousand in 1988. Statewide inpatient surgery, on the other hand, declined from 39 per thousand to 36 per thousand. The rate of overall surgery increased form 59 to 61 per thousand over this period.

The updating of surgical data necessitated by the surgical rule methodology contained in these new rules should serve to increase the accuracy with which the Department will be able to estimate the needs of the citizens of New Jersey for surgical services, based on demographic changes, variations in the surgical needs from county to county, and the increased percentage of surgery that is performed on a same day or ambulatory basis.

Economic Impact

The proposed new methodology will simplify the need determination process and expedite the ability of potential applicants to assess need. At the same time, the simplification of the need methodology will clarify Statewide need for additional surgical capacity without the need to engage in an elaborate process of calculating service area patient origin factors, a requirement of the previous rules which greatly complicated the need determination process. In effect, the need for surgical services will be evident in advance of the certificate of need submission dates for the first time since the Department has regulated this type of service (1985). The fact that these rules will prevent the unneeded duplication of costly surgical resources will represent an economic benefit to the overall health care system and to the citizens of New Jersey requiring surgery.

These proposed new rules permit appropriate expansion of ambulatory surgical services to meet community need and accommodate the transition of hospital inpatient operating rooms to dedicated ambulatory surgery operating rooms. Quality of care is stressed while the increased cost effectiveness of ambulatory surgery is enhanced. Statistical analysis by third party payors has demonstrated a cost savings from ambulatory surgery from 38 percent to 57 percent compared to inpatient surgery. Provision for care to the medically indigent continues to be included in the rules as well as provisions which promote participation in the cost effective managed care plans on the part of providers. The rules continue to seek to minimize systemic increases in health care costs due to an overabundance of surgical resources.

Regulatory Flexibility Analysis

Facilities affected by these rules consist largely of hospitals with more than 100 beds. These hospitals, approximately 80 in number, typically employ well over 100 full-time employees. It is possible, however, that approximately eight smaller entities that are not specifically affiliated with hospitals will be considered as surgical facilities under these rules, and therefore qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirements contained in this chapter, in particular, at N.J.A.C. 8:33S-1.6 and 1.7, do require personnel to perform a limited number of recordkeeping and reporting functions,

such as demographic, statistical and utilization data maintenance. Such requirements do not necessitate the dedication of staff and should not be considered overly burdensome to the applicants that might be considered small businesses. It is possible that the applicant would need to produce an additional report, for the purpose of the application, and that consultation with a computer programmer or data base manager might be required to do so. However, the applicant would usually maintain such data for other business purposes than required by this chapter.

In proposing these new rules, the Department has had to balance the economic impact of added personnel costs with the need to provide a safe and effective health care service. The Department has determined that to minimize the economic impact of these rules would endanger public health and safety and, therefore, no exception from coverage is provided.

Full text of the proposed new rules follows:

CHAPTER 33S
CERTIFICATE OF NEED: SURGICAL FACILITIES

SUBCHAPTER 1. REQUIREMENTS

8:33S-1.1 Scope and Purpose

This chapter encompasses both hospital-based and free-standing surgical facilities and services and identifies standards and criteria for the planning and certificate of need review for surgical resources. These rules do not apply to the provision of cardiac surgical services or any other special surgical service which is the subject of separate Department of Health Planning rules. The chapter is intended to support a standard of quality in the performance of surgery in the State of New Jersey, through the provision of state-of-the-art surgical facilities which are accessible to all who are in need of these services. The purpose of the rules is to minimize the costly duplication of surgical services and to promote needed services that maintain and improve the health status of the population.

8:33S-1.2 Definitions

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

"Ambulatory surgical cases" and "same day surgical cases" are synonymous terms for surgical procedures performed on patients who have these procedures performed in a licensed health care facility without the requirement of an overnight stay and generally requiring some form of anesthesia and a facility-based post surgery period of at least one hour.

"Ambulatory surgery facilities" means a surgical facility that is licensed as an ambulatory surgery facility, separate and apart from any other facility license. It may be physically connected to another licensed facility, such as a hospital, but must be corporately and administratively distinct. The ambulatory surgical facilities shall comply with Chapter 9, Sections 9.1 and 9.2, and with Chapter 9, Section 9.5, Outpatient Surgical Facility, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, incorporated herein by reference, which is available from the U.S. Government Printing Office, Washington, D.C., or from the Department.

"Operating room" means a room specifically dedicated to the performance of surgical cases. It must meet the requirements established by the U.S. Department of Health and Human Services as cited in the Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities, U.S. Department of Health and Human Services 1987, Sections 7.7 Surgical Facilities and 9.5 Outpatient Surgical facilities, as amended, incorporated herein by reference and available from the U.S. Government Printing Office, Washington, D.C. and the Department. For purposes of this definition, rooms specifically dedicated to endoscopic and cystoscopic procedures are considered operating rooms.

"Outpatient surgery" means a very minor surgery appropriately performed in private settings, or in hospital outpatient departments, on patients who do not require a licensed free-standing ambulatory surgery facility or same-day surgery (SDS) status in a hospital. In a hospital setting, outpatient surgery is counted as an outpatient visit.

"Postanesthesia care unit" means a room, or area, used for post-anesthesia recovery of patients. It must meet the minimum requirements established by the U.S. Department of Health and Human Services as cited in the Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities, U.S. Department of Health and Human Services 1987, Sections 7.0 and 9.5 as amended, incorporated herein by reference and available from the U.S. Government Printing Office, Washington, D.C., and the Department.

"Surgical facility" means a structure or suite of rooms which has the following characteristics:

1. At least one room dedicated for use as an operating room which is specifically equipped to perform surgery. These rooms are designed and constructed to accommodate invasive diagnostic and surgical procedures; and
2. One or more postanesthesia care units as defined below and in hospital licensure standards (N.J.A.C. 8:35) or a dedicated recovery area where the patient may be closely monitored and observed until discharged; and
3. A surgical facility may be either a surgical suite within a hospital or a licensed ambulatory surgical facility as described below.

8:33S-1.3 Dates of submission of certificate of need applications

(a) A certificate of need shall be required for any new surgical facility as well as for additional operating rooms to be added to an existing surgical facility. A certificate of need shall also be required for the deletion of one or more operating rooms from an existing licensed facility or the replacement of existing operating rooms.

(b) Applications for additions, deletions, or alteration of surgical facilities will be accepted for processing in accordance with policies and procedures set forth in N.J.A.C. 8:33.

8:33S-1.4 Information to be submitted in the certificate of need application

(a) Information that must be provided by all applicants includes, but is not limited to, the following: (Note: The Department will determine prior to the initiation of each call for surgical applications the most recent Statewide and county-specific surgical data from licensed surgical facilities to be used in implementing the surgical need methodology outlined in this section, as well as identifying the population data and operating room inventory that are to be used to satisfy the surgical need methodology in this section. Non-licensed surgical facilities are not included in this surgical need methodology. Copies of this information can be obtained by contacting the Certificate of Need Program.)

1. The potential need or demand for the proposed surgical facility or proposed change in the number of operating rooms (OR), based on the surgical need methodology specified in this section.

i. The total capacity of the surgical OR's located within the county(ies) proposed to be served by the surgical facility. The capacity of each type of licensed OR shall be calculated as follows:

(1) Inpatient OR = 1,000 surgical cases annually;
(2) Mixed (inpatient/outpatient) OR = 1,090 surgical cases;
(3) Dedicated SDS OR = 1,500 surgical cases annually;

ii. The number of surgical cases performed within licensed OR's located in the county to be served by the proposed additional OR capacity for the most recent year of data available to the Department;

iii. The surgical use rate, both Statewide and countywide, shall be calculated for the most recent annual surgical data reported to the Department (derived from the Uniform Billing Patient Summary form) and using the most recent annual State and county population estimates available from the State Department of Labor. The surgical use rate is determined by dividing the number of surgical patients originating from each county by the estimated population of that county;

iv. The projected surgical caseload is calculated for five years in the future, using the latest available population projection for the county(ies) to be served by the proposed surgical applicant (and assuming the surgical use rate derived in (a)1iii above). The surgical rate is multiplied by the five year population projection to derive projected surgical caseload for the proposed service area;

v. Projected surgical demand for a service area is calculated by dividing the projected surgical caseload (see (a)1iv above) by the target surgical utilization level of 90 percent (.90). The projected utilization rate in the service area is calculated by dividing the projected surgical demand by the projected operating room capacity of the service area; and

vi. If the projected service area OR utilization rate is equal to or greater than 90 percent, then the proposed OR capacity can be expected to be sufficiently utilized to meet projected surgical demand in the proposed service area. If the projected utilization rate is less than 90 percent, then the number of proposed operating room(s) is/are in excess of service area need.

NEED METHODOLOGY FORMULA (as example):

Where: Total licensed service area surgical capacity = C

and:

Total Number of Existing Service Area Mixed ORs = M
Total Number of Existing Service Area Ambulatory/SDS ORs = A
Total Number of Existing Service Area Inpatient ORs = I
Total Number of Proposed Service Area Mixed ORs = M′
Total Number of Proposed Service Area Ambulatory/SDS ORs = A′
Total Number of Proposed Service Area Inpatient ORs = I′

Existing Inpatient OR Surgical Capacity = I × 1,000
Existing Mixed OR Surgical Capacity = M × 1,090
Existing Ambulatory/SDS OR Capacity = A × 1,500

Proposed Inpatient OR Surgical Capacity = I′ × 1,000
Proposed Mixed OR Surgical Capacity = M′ × 1,090
Proposed Ambulatory/SDS OR Capacity = A′ × 1,500

(i) Existing Service Area Surgical Capacity (C) = (I × 1,000) + (M × 1,090) + (A × 1,500)
Proposed Additional Service Area Surgical Capacity (C′) = (I′ × 1,000) + (M′ × 1,090) + (A′ × 1,500)
Projected Service Area Surgical Capacity = (C + C′)

(ii) Number of Surgical Cases Performed in the Proposed Service Area = S

(iii) Proposed Service Area Surgical Use Rate = S/P; where P = Latest Available Labor Department Population Estimate.

(iv) Projected Surgical Caseload = L = (S/P) × (P+5); where, P+5 = Service Area Population Five Years in Advance (Latest Department of Labor Estimate)

(v) Projected Surgical Demand = D = L/(.90); Projected Utilization Rate = U = D/(C + C′)

(vi) If U is > or = (.90); Then Need Exists; If U is < (.90); Then Excess OR Capacity Exists;

2. The proposed number and type (that is, inpatient, mixed, ambulatory/SDS) of operating rooms;

3. Pro forma showing all capital and operating costs and revenues to one year beyond break even; and

4. Information to indicate that licensure standards will be met.

(b) Additional information to be provided by applicants for surgical facilities shall include:

1. The expected number of recovery beds and/or recliners;

2. The total expected number of surgical cases, by each type of surgery, as determined by the surgical need methodology described in this section.

3. The expected payor percentages;

4. The procedures performed and the change per procedure, where applicable;

5. Documentation as to whether the physician(s) associated with the surgical facility accepts Medicare and Medicaid assignment; and

6. The proposed service area is to be described in detail and accompanied by a legible map which includes a distance scale and physical relationship to other existing surgical facilities within the proposed service area and immediately bordering the area. The methodology/rationale justifying the delineation of the service area chosen by the applicant will be included with supporting quantifiable evidence. The Department of Health shall determine the reasonableness of the defined service area, in accordance with N.J.A.C. 8:33 and this chapter.

8:33S-1.5 Exemption

A physician or professional association seeking to establish a single operating room surgical practice limited to his or her or their private practice is exempted from certificate of need requirements. However, in no case shall a surgical practice with more than a single operating room be permitted this physician practice exemption.

8:33S-1.6 Criteria for review

(a) No application for a new surgical facility, or increase in the number of operating rooms in an existing surgical facility, will be approved unless all of the following conditions are met:

1. The number of operating rooms proposed is needed when assessed according to the surgical need methodology described in N.J.A.C. 8:33S-1.4;

2. The utilization of the existing and proposed operating rooms (defined in the surgical need methodology as "projected OR utilization rate") available in the applicant's service area is expected to be in excess of 90 percent of service area OR capacity according to the surgical need methodology;

3. The applicant provides sufficient assurance that both licensure standards and Medicare certification standards will be met;

4. The applicant shall document in its application the proportion of Medicaid-eligible and medically indigent persons residing in the proposed service area. In addition, the applicant shall, in delivering the proposed service, provide care on a free or partial-pay basis to Medicaid-eligible and medically indigent persons at least in proportion to their representation in the approved service area;

5. The applicant indicates a willingness to seek contracts with health maintenance organizations and other managed care providers;

6. The proposal minimizes increases in systemic health care costs;

7. The applicant indicates and documents that contacts with community organizations which serve low income populations have been initiated; and

8. The applicant documents compliance with State and Federal requirements regarding self-referral.

(b) Waivers of (a)1 and 2, above, may be considered where the State Health Planning Board (SHPB) has petitioned for a waiver identifying specific and quantifiable evidence that the methodology is inappropriate because of circumstances unique to a given application. The waiver, if approved, would apply only to the application for which the waiver is petitioned and the waiver request must give substantial evidence that in the absence of a waiver serious problems of access to a needed service would result.

(c) Exceptions to (a)1 and 2 above may be made as follows:

1. Where an applicant or a facility which is a subsidiary of an organization which has control over the applicant:

i. Has agreed, as part of the application, to close at least one existing inpatient operating room for each dedicated ambulatory surgical operating room proposed; and

ii. Has agreed, as part of the application, to reduce a sufficient number of its inpatient operating rooms to ensure a minimum utilization rate of 80 percent of its operating room capacity at the conclusion of the project; or

2. Where an applicant or a facility which is a subsidiary of an organization which has control over the applicant:

i. Has documented that its existing surgical caseload exceeds the capacity of its licensed operating rooms (in accordance with N.J.A.C. 8:33S-1.4(a)) for the past 12 months prior to the submission of this certificate of need application;

ii. Has agreed, as part of the application, to limit the proposed addition of operating room capacity to that number of operating rooms necessary to reduce its surgical case utilization level to 80 percent of its operating room capacity at the time that the application is submitted;

iii. Has documented that sufficient access to alternative surgical providers that share the service area is not readily available; and

iv. Has documented that the addition of operating room capacity in a service area where there is existing capacity will not add significant capital or operating costs to the system.

8:33S-1.7 Statistical data to be maintained and reported

(a) At a minimum, the following information shall be reported by the applicant on an annual basis to the Department of Health:

1. Characteristics of patients: age, sex, residence (county/municipality), insurance coverage, diagnosis and procedures (including primary procedure and all secondary procedures). The applicant shall also request information regarding race and ethnicity which shall also be reported to the Department of Health. This information, however, is voluntary on the part of the patient;

2. Whether anesthesia was used; if so, what type, that is, general or local;

3. The duration (in minutes) per case in which the operating room(s) was/were in use; and

4. The number of cases performed per operating room using the following categorization:

i. Dedicated inpatient operating room;

ii. Mixed same day surgery and inpatient operating room;

iii. Dedicated same day surgery operating room;

iv. Endoscopy rooms; and

v. Cystoscopy rooms.

NOTES

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