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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 2151.

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

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **October 3, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

ADMINISTRATIVE LAW

OFFICE OF ADMINISTRATIVE LAW

The following pre-proposal and proposal are authorized by Ronald I. Parker, Acting Director, Office of Administrative Law.

Submit comments by October 3, 1985 to:
 Steven L. Lefelt, Deputy Director
 Office of Administrative Law
 Quakerbridge Plaza, Building 9
 Quakerbridge Road, CN 049
 Trenton, New Jersey 08625

(a)

Uniform Administrative Procedure Rules of Practice Conference Hearings

Notice of Pre-Proposal to Amend N.J.A.C. 1:2-2.1

Authority: N.J.S.A. 52:14F-5(e), (f) and (g); pre-proposed pursuant to N.J.A.C. 1:30-3.2.

After the comment period, the Office of Administrative Law may propose a rule on this subject in the New Jersey Register.

NOTICE OF INTENT TO CONSIDER AMENDING N.J.A.C. 1:2-2.1

INVITATION TO SUBMIT COMMENTS

Since 1983, the Office of Administrative Law has been conducting conference hearings in certain Civil Service contested cases, under N.J.A.C. 1:2-2, in an effort to streamline such proceedings. The rule provides a speedier, simpler and less formal procedure by eliminating pre-hearing conferences and post-hearing briefs, minimizing motion practice, making the hearing rules more flexible and allowing oral decisions. The conference hearing procedure has several benefits in Civil Service matters. By speeding up the resolution of employee/employer disputes, it shortens the time of potential hardship, anxiety and on-the-job conflict. The less formal hearing rules make the process less onerous for employees, especially those who are not represented by an attorney. In addition, streamlined proceedings save the parties and the OAL considerable time and money.

Presently, under N.J.A.C. 1:2-2.1, conference hearings are held in Civil Service matters involving layoffs, termination after the probationary work period and disciplinary actions other than termination from employment. In termination from employment cases, the summary hearing is used only when requested by the employee. The American Federation of State, County and Municipal Employees (AFSCME) has requested that OAL amend N.J.A.C. 1:2-2.1 to provide for conference hearings in all termination from employment cases, whether or not the employee requests the procedure.

OAL believes that termination cases can be handled fairly by conference hearing and that the benefits of summary

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proceedings could be extended to these types of cases. If a particular termination case appears to be inappropriate for conference hearing, our rules provide for conversion to more formal proceedings. Under N.J.A.C. 1:2-2.4, on motion of a party or on his or her own motion, a judge may convert a conference hearing to a plenary proceeding or adopt plenary hearing procedures "in the interests of providing a full and fair hearing in the circumstances of the case."

The suggested rule change will potentially affect unions other than AFSCME, as well as the Civil Service Commission and all public employees and agencies. For that reason, OAL has elected to pre-propose the change and invite comment from all interested parties before proposing to amend N.J.A.C. 1:2-2.1. Your participation in this inquiry will be appreciated.

(a)

**Uniform Administrative Procedure
Rules of Practice
Settlement Conference by Department
of Education**

Proposed Amendment: N.J.A.C. 1:6A-3.2

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).
Proposal Number: PRN 1985-458.

The agency proposal follows:

Summary

N.J.A.C. 1:6A-3.2 provides that parents may obtain an adjournment of up to 15 days of a settlement conference by the Department of Education in certain special education matters. In applying this rule, settlement officers have been calculating the 15-day adjournment differently. The purpose of the amendment being proposed is to clarify that the adjournment period is to be calculated from the date of the originally scheduled conference, rather than from the date of the request. This is the method that was intended when the rule was adopted.

Social Impact

The proposed amendment will eliminate any confusion regarding calculation of the 15-day adjournment permitted for settlement conferences, and will bring current practice into compliance with the procedure that was originally intended by the rule.

Economic Impact

Since the proposed amendment simply clarifies current practice regarding adjournments, no economic impact is expected.

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

1:6A-3.2 Settlement conference by the Department of Education

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

(e) Where the hearing has been requested by a board of education or public agency, the parent or guardian may re-

quest and shall receive an adjournment of the settlement conference for up to 15 days, to be calculated from the originally scheduled settlement conference date. For good cause, the Department of Education may otherwise adjourn a settlement conference or schedule another settlement conference. Any adjournment of the settlement conference or scheduling of another conference shall extend the deadline for decision on the matter, as established in N.J.A.C. 1:6A-5.1 (Deadline for decision), by an amount of time equal to the adjournment or rescheduling.

(f) (No change.)

BANKING

(b)

DIVISION OF BANKING

**Restrictions on Loans involving Affiliated
Persons
Savings Banks: Officers and Managers
Permitted Loans**

**Proposed Amendments: N.J.A.C. 3:1-11.1
Proposed New Rule: N.J.A.C. 3:6-15**

Authorized By: Mary Little Parell, Commissioner,
Department of Banking.

Authority: N.J.S.A. 17:1-8.1, 17:9A-24b.1 and
17:9A-195.

Proposal Number: PRN 1985-459.

Submit comments by October 3, 1985 to:

Roger F. Wagner
Deputy Commissioner
Department of Banking
Division of Banking
CN 040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.S.A. 17:9A-195 was recently amended by P.L. 1985, c. 257 to permit savings banks to grant loans to officers, managers and affiliated interests within guidelines as established by the Commissioner of Banking. The proposed new rule stipulates that savings banks may grant loans to such individuals under the same terms and conditions as presently apply to State chartered commercial banks. Prior to the enactment of this legislation, State savings banks were the only financial entity among State and/or federally chartered savings and loans, State and/or federally chartered commercial banks, and federally chartered savings banks which were prohibited from making loans to officers and/or manager/directors. The legislative amendment recognized this inequity and provides for the granting of loans within limitations which are to be prescribed by regulations of the Commissioner of Banking.

The proposed amendment to N.J.A.C. 3:1-11.1 adds the term "savings bank" to the definition of "Institution", thereby

extending to savings banks the restriction on loans to affiliated persons. The proposed new rule, N.J.A.C. 3:6-15, prescribes the terms and conditions, and degree of liability that the officers and managers, their families and affiliates may become liable to the savings bank.

Social Impact

The proposed new rule will put savings banks on an equal basis with other financial institutions. All of the other institutions, whether State or federally chartered, may grant loans to officers and director/managers within controlled and supervised limits. The new rule will create a parity position for savings banks.

The new rule will allow a savings bank to grant a home mortgage loan or educational loan to an officer, manager or other member of their family. Car loans, home improvement loans and other loans will be available to executive officers, managers and their affiliates within prescribed limits. The rule provides that loans to such individuals must be made under the same terms and conditions as loans to the general public. Granting of such loans, within these prescribed limits, will allow savings banks to provide services to qualified individuals rather than having to defer such quality loans to their competitors.

The addition of savings banks to N.J.A.C. 3:1-11 will assure the public of equal treatment in their loan dealings with savings banks.

Economic Impact

The immediate economic impact on savings institutions will be nominal since the granting of allowable loans will no doubt be phased in over a period of years. However, the long range affect should be beneficial. With the capacity to make limited loans to potential managers and their affiliates, a savings bank may now be able to attract the services of qualified individuals who might otherwise be tapped by another institution. Such high caliber individuals will normally bring their business to the bank along with the business of their associates. Earnings from such loans should enhance the profits of these institutions. With the constraints in place, such activities can generate positive economic gains to the savings bank. Savings banks will be assured of an equal return on loans to affiliated persons and, therefore, result in an economic benefit to the institutions. The Department will not incur additional costs as a result of this proposal.

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

3:1-11.1 Definitions

"Institution" means a bank or a savings bank as defined in N.J.S.A. 17:9A-1[(1)] and a State association as defined in N.J.S.A. 17:12B-5(1).

SUBCHAPTER 15. SAVINGS BANKS: OFFICERS AND MANAGERS PERMITTED LOANS

3:6-15.1 Definitions

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

"Board of Managers" of a savings bank includes the board of trustees or board of directors of a savings bank and where reference is made to the board of directors of a bank it shall

be deemed to refer to the board of managers of a savings bank.

"Capital funds" of a savings bank are deemed to include capital notes of the savings bank for purposes of computing lending limitations.

"Manager" of a savings bank includes a trustee or director of a savings bank and where reference is made to a director of a bank it shall be deemed to refer to the manager of a savings bank.

3:6-15.2 Terms and conditions

(a) A savings bank may permit its officers and managers and their families and affiliates to become liable to the savings bank only under the same terms and conditions and to the same degree of liability as a bank permits its directors, officers or the corporations or partnerships of the officers or directors of a bank to become liable to a bank under the provisions of Article 15 of The Banking Act of 1948 (N.J.S.A. 17:9A-71 et seq.) and the regulations issued pursuant thereto.

(b) A savings bank may not permit its officers and managers and their families and affiliates to become liable to the savings bank pursuant to the authority of N.J.A.C. 3:6-1.1.

(c) The authority of a savings bank to permit its officers and managers and their families and affiliates to become liable to the savings bank under the same terms and conditions and to the same degree of liability as a bank is not to be construed as granting to the savings bank the authority to grant any form or type of loan it is not otherwise authorized to make.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineation Redelineation of Pine Brook in Washington Township, Bergen County

Proposed Amendment: N.J.A.C. 7:13-7.1 (Plate No. 21.)

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

Authority: N.J.S.A. 58:16A-50 et seq. and 13:1D-1 et seq.

DEP Docket No. 044-85-08.

Proposal Number: PRN 1985-467.

A public hearing concerning this proposal will be held on:
September 23, 1985 at 1:00 P.M.
Washington Township Municipal Building
350 Hudson Avenue
Washington Township
Bergen County, N.J.

Submit comments by October 3, 1985 to:
John Scordato
Division of Water Resources

CN 029
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed revision provides for a change in the application of rules and regulations concerning the development and use of land in the designated floodway and flood hazard areas of Pine Brook, between Pascack Avenue and Ridgewood Avenue located in Washington Township, Bergen County. The proposed redelineation is based on the stream encroachment application, file number R-1687, Pine Hill, prepared by Conklin Associates. The project consists of relocating Pine Brook to a 355 foot enclosed culvert, filling in one pond and creating a new pond, to allow construction of 42 residential units. The amended floodway and flood hazard areas are identified by the plate specifically entitled: State of New Jersey, Department of Environmental Protection, Division of Water Resources "Delineation of Floodway and Flood Hazard Area, Pine Brook," Plate No. 21. The delineation of Pine Brook is listed at N.J.A.C. 7:13-7.1(d)47.

Social Impact

Regulations of delineated flood hazard areas are designed to preserve the flood carrying capacity and to minimize the threat to the public safety, health and general welfare. The proposed delineation indicates a floodway and flood hazard areas where added flood protection measures will apply along Pine Brook, Washington Township, Bergen County. The public health, safety and general welfare shall continue to be adequately protected if the amended flood delineation should be adopted by the department.

Economic Impact

The proposed amendment will have only a minor economic impact. The delineation clearly defines the flood hazard areas, thus reductions in property value could result by restricting future development in the floodway and requiring elevated construction in flood fringe areas. However, minor property diminution would be offset by the savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from damage in the delineated areas.

All relevant information and documents are available for inspection during normal working hours at the following location:

Office of the Bureau of Flood Plain
Management
1911 Princeton Avenue
Trenton, New Jersey

In addition, maps of the proposed delineations have been sent to Clerk of the affected municipality listed above and to the Planning Board of the affected County. Review of the maps prior to the hearing is invited.

OFFICE OF ADMINISTRATIVE LAW NOTE: The Floodway and Flood Hazard Area Delineation Map and corresponding flood profile plates, which depict the proposed redelineation of Pine Brook (see N.J.A.C. 7:13-7.1(d)47), are available for review at the Office of Administrative Law at Quakerbridge Plaza, Building Number 9, Quakerbridge Road.

HUMAN SERVICES

(a)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Long Term Care Services Manual
Certification, Recertification and Plan of Care**

**Proposed Amendments: N.J.A.C. 10:63-1.5,
1.6, 1.8, 1.13, 2.5 and 2.7.**

Authorized By: Geoffrey S. Perselay, Esq., Acting
Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4D-6a(4)(a)b(14), 7, 7a, 7b;
1902(a) (31), 1903 (g)(1) of the Social Security Act and
42 CFR 456.

Proposal Number: PRN 1985-456.

Submit comments by October 3, 1985 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and
Health Services
CN 712
Trenton, N.J. 08625

The agency proposal follows:

Summary

This proposal concerns certification, recertification and plan of care in long term care facilities (LTCFs). The New Jersey Medicaid Program provides for both skilled and intermediate nursing level care in LTCFs. The Division of Medical Assistance and Health Services identified skilled nursing care as level III; intermediate nursing care has categories, level IV-A and level IV-B. Medicaid patients residing in an LTCF are classified according to the level of care they require. A patient who is classified as level III will require more nursing care than a patient who is classified as level IV-A or level IV-B. These levels of care impact on the time frames established for review of the patient's need for nursing home care.

Certification is the process whereby a physician attests to a patient's need for a specific type or level of care. The certification must occur on the date of admission to the LTCF, or not more than 30 days prior to admission. If the individual is already a patient in an LTCF, the certification must be signed not more than 30 days prior to the authorization date for Medicaid payment.

Recertification is the process by which a physician attests to a patient's continued need for a specific level of care. Recertification must be completed within the time frames specified in the text of the proposal (see N.J.A.C. 10:63-1.5(c)2i,ii). These time frames are exactly the same as contained in federal law (Section 1903(g)(1)(B)(C) of the Social Security Act). There is also a provision for a 10-day grace period in accordance with federal law.

A written plan of care completed by a physician must be established not more than 30 days prior to admission or the date of authorization of Medicaid payment. For patients

already covered by Medicaid, the written plan of care must be completed at least every 30 days for level III, once every 60 days for level IV-A, and once every 90 days for level IV-B.

In the event the LTCF does not comply with the time frames for certification, recertification, and written plan of care, then the LTCF will be required to report these non-certified days to the Division on a "Per Diem Deduction Request Form" (MCNH-108). The Division will not make reimbursement for those non-certified days.

The time frames for certification, recertification and the written plan of care have been established in accordance with federal requirements, including the federal laws and regulations cited above.

Social Impact

The proposal impacts primarily on LTCFs, who are responsible for insuring that the certification, recertification, and written plan of care are completed within the prescribed time frames. LTCFs are required to report any days that are non-certified on the appropriate form (MCNH-108).

The proposal also impacts on Medicaid patients in LTCFs, whose care and treatment for skilled or intermediate nursing level care must be established and reviewed periodically by a physician.

The proposal might have an indirect impact on acute care general hospitals, who might be required to supply certain medical information to the LTCF whenever a Medicaid patient is being discharged from the hospital to an LTCF.

Economic Impact

Medicaid patients are required to contribute towards the cost of nursing home care from their available income.

This proposal does not directly affect the per diem rate of reimbursement to long term care facilities, who are currently required to document that each patient is examined by a physician at periodic intervals. However, LTCFs will not be reimbursed for non-certified days, which must be reported on the per diem deduction request form. The division plans to use existing administrative mechanisms to monitor compliance with these federal requirements. The new form MCNH-108 will become part of the existing Medicaid claims processing system within the Bureau of Claims and Accounts. The Department of Human Services could be subject to fiscal sanctions if the State cannot make a satisfactory showing during a given quarter that these time frames have been complied with.

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

10:63-1.5 Utilization control

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

(c) **Certification and recertification: Certification is the process by which a physician who has knowledge of the case attests to an individual's need for a specific type or level of care; recertification is the processing by which a physician who has knowledge of the case attests to an individual's continued need for a specific type or level of care.**

[(c)] **1. Certification:** A physician must certify in the patient's medical record the need for SNF, ICF-A or ICF-B level of care services in a LTCF. This certification must occur [at] on the [time] date of admission or not more than 30 days prior to admission to a LTCF. [, if later, at the time the patient applies for Medicaid.] **If the individual is already a patient in**

a LTCF, the certification must be signed not more than 30 days prior to the authorization date for Medicaid payment.

i. **Periodicity**, or the start of a cycle, begins at the date of admission or readmission. The cycle must be started again should a discharge and subsequent readmission occur, or a change in the level of care within the same facility, or a transfer to a new facility at either the same or different level of care.

2. **Recertification:** The need for care at a given level must be recertified as follows:

[1.]i. **Recertification for Skilled Nursing Facility Services, Level III shall be conducted at least:** [and Intermediate Care Facility Act Level IV-A—Every 30 days.]

- (1) 30 days after the date of initial certification;
- (2) 60 days after the date of initial certification;
- (3) 90 days after the date of initial certification, and
- (4) every 60 days thereafter.

[2.]ii. **Recertification for Intermediate Care Facility Services, Level IV-A or Level IV-B, [Level IV-B—Every 60 days.] shall be conducted at least:**

- (1) 60 days after the date of initial certification;
- (2) 180 days after the date of initial certification;
- (3) 12 months after the date of initial certification;
- (4) 18 months after the date of initial certification;
- (5) 24 months after the date of initial certification; and
- (6) every 12 months thereafter.

iii. A recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required. When the patient's level of care is scheduled for recertification during a therapeutic leave, the physician must recertify before the patient leaves the facility.

(1) The long-term care facility must document "good cause" why such recertification did not meet the required schedule. Good cause shall include but not be limited to those situations beyond the long term care facility's control e.g., employee strike, severe weather conditions, flood, quarantine of the facility, isolation of the patient, illness of the attending physician.

3. **Additional conditions for certification/recertification:** The following conditions must be met in order for a certification/recertification to be considered valid:

- i. The certification/recertification is in writing and identifies a specific level of care;
- ii. The certification/recertification is signed or initialed by the Medical Director, staff physician or attending physician, using his/her signature or initials. The signature or initials are not acceptable if they are rubber stamped unless the physician has initialed the stamped signature. The physician must date the certification/recertification on the same day he signs it;
- iii. The certification/recertification must demonstrate the need for the level of care that the individual will receive or is receiving.

iv. The facility must be approved to provide the level of care that the individual is certified/recertified as needing.

4. The certification/recertification for all Medicaid patients must be maintained in the patient's medical record.

5. Any days billed by the long-term care facility that are not in compliance with the specific time frames and conditions for certification, recertification and plan of care will be considered non-certified days. The per diem reimbursement for the these non-certified days will not be made to the long-term care facility.

(d)-(h) (No change.)

10:63-1.6 Authorization process

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

(g) Authorization procedure rules are:

1. Following notification from a LTCF of admission of a Medicaid eligible patient or the change in patient status from private/Medicare to Medicaid or a request for assessment by receipt of a form PA-4 (Certification of Need for Patient Care in Facility Other Than Public or Private General Hospital)—(Exhibit No. 28), from the County Welfare Agency, a referral is made to the Regional Staff Nurse in order to initiate a nursing assessment. If the referral involves a patient residing in the community, a referral is also made to the Medicaid Social Worker for a social assessment.

2. When the assessment of the patient is completed, the Local Administrator schedules a conference of the MET.

3. The MET will render a decision either to authorize or deny, in the following fashion:

- i. (No change.)
- ii. Deny long term care:
 - (1) (No change.)

(2) If the Medicaid patient has been currently authorized for long term care [or has been newly admitted under an assured Level IV-B, 30 day authorization period], an additional 20 day period of authorization from the date the written notice or denial is sent will be permitted in order to permit alternate placement. An MCNH-7 (Exhibit No. 3) covering this period is prepared and distributed in accordance with subsection (g)3i of this section.

(3) If, however, extenuating circumstances exists whereby placement cannot be made within the time frame defined in the Medicaid letter of denial, the facility may submit a request for a review of the situation in writing to the Chief, Bureau of Local Administration, Division of Medical Assistance and Health Services, [P.O. Box 2486,] CN 712, Trenton, N.J. 08625.

- (4) (No change.)
- (h)-(k) (No change.)

10:63-1.8 Medical services and clinical records

- (a) Medical services are:
 - 1. (No change.)
 - 2. Standards for physicians in long term care facilities:
 - i.-iii. (No change.)
 - iv. Required documentation in patient's plan of care and treatment: The LTCF shall require that the health care of every patient is under the supervision of a New Jersey licensed physician who, based on the evaluation of the patient's immediate and long term needs, prescribes on a designated form a planned regimen of medical care.

(1) Each patient or an individual responsible for [him] the patient shall designate a personal physician. If either is unable or unwilling to designate a personal physician, the Medical Director/Administrator of the facility shall designate one.

(2) [The initial medical evaluation of the patient shall be based on a history and physical examination done within 48 hours of admission and shall be placed on the chart within that time period. An alternative method permits the acceptance of an examination if performed by the attending physician within 5 days prior to admission and if placed on the facility chart within 48 hours of admission. See Procedure Codes—9010 or 9011 under Appendix B, Procedures Codes—Long Term Care Facility Visits in the New Jersey Medicaid Physician's Manual.] **A physician involved in the care of the patient must establish the Plan of Care. A Plan of Care must be established and signed on the date of or not more than 30 days prior to an individual's admission to a long-term care facility. The signature or initials are not acceptable if they are rubber stamped unless the physician has initialed and dated the**

stamped signature.

(3) For an individual who makes application for assistance while in a long-term care facility, the Plan of Care must be established on or not more than 30 days prior to the date of authorization of Medicaid payment.

[(3)](4) The Medical Plan of Care and Treatment shall be reviewed by the attending physician with documentation by date and signature as often as appropriate to the Medicaid patient's needs as specified, but documentation with date and signature confirming this must be done at least every [30 days for Levels III and IV-A patients, and every 60 days for Level IV-B patients.] **30 days for Level III patients; 60 days for Level IV-A patients, and every 90 days for Level IV-B patients.**

[(4)](5) The charge nurse and other appropriate personnel involved in the care of the patient shall assist in planning the total program of care.

[(5)](6) Orders concerning medications and treatment are in effect for the specified number of days indicated by the physician but in no case exceed a period of [30 days for level III and IV-A or 60 days for Level IV-B.] **30 days for Level III; 60 days for Level IV-A or 90 days for Level IV-B.** Vague and blanket orders are not acceptable and within the above time frame it shall be incumbent upon the physician to review all orders and re-confirm in writing with signature and date.

Recodify (6)-(8) as (7)-(9) (No change in text.)

[(9)](10) Patients are to be examined by a physician at least once every 30 days for Level III [and], **at least once every 60 days for Level IV-A and at least once every [60] 90 days for Level IV-B.** The physician will record and sign in the clinical record:

- (A)-(C) (No change.)
- Recodify (10) and (11) as (11) and (12) (No change in text.)
- v. (No change.)
- (b) (No change.)

10:63-1.13 Absence from facility (bed hold)

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

3. The absence of a Medicaid patient from the facility for this purpose must be authorized in writing by the patient's attending physician and included in the patient's plan of care. **When the patient's level of care is scheduled for recertification during a therapeutic leave, the physician must recertify before the patient leaves the facility.**

- 4.-6. (No change.)

10:63-2.5 Forms other than billing transactions

(a) In addition to the billing transaction forms described in section 4 of this subchapter, **one [two] other form[s] must be submitted before payment can or will be made. [Those] This form[s] is [are]:**

- 1. MCNH-30, Certification Statement;
- 2. MCNH-37, Report of Patients Not Visited By Physicians.]
- (b) The content[s] and completion procedure[s] for [each] the MCNH-30 form [are] is described below.
- (c) (No change.)

[(d)] The Medicaid Program requires that the administrator of the skilled nursing facility report each month the names of those Medicaid patients who have not been examined by an attending physician within the preceding 30-day period. Exhibit XI depicts a properly completed Report of Patients Not Visited By Physicians. The circled numerals on the Exhibit are cross referenced to the list below.

1. Item 1, Long Term Care Facility: Enter the full name of the facility.
2. Item 2, Provider Number: Enter the unique four digit number assigned to the facility by the Bureau of Claims and Accounts.
3. Item 3, Address: Enter the complete mailing address.
4. Item 4, Administrator, Individual Completing This Form: Print or type the name of the individual completing this form.
5. Item 5, Month and Year: Enter the four digits which are the numeric representation for the current billing month (e.g. 07/78 is the numerical representation for the billing month of July 1978).
6. Item 6, Patient Name and HSP Number: Enter the patient's name and the complete ten digit case number and two digit person number assigned to the Medicaid recipient who has not been visited by a physician during the last thirty days. If all patients have been visited by their attending physician within the preceding thirty-day period, write the word "none" in this portion of the form.
7. Item 7, Attending Physician Name and Address, Phone Number: Enter the attending physician's name, address, and phone number.
8. Item 8, Date of Last Visit: Enter the date on which the attending physician last visited the Medicaid patient.
9. Item 9, Physician Contacted: If the attending physician was contacted regarding his failure to visit the Medicaid patient during the last thirty days, enter a yes in this field. If not, enter no.
10. Item 10, If So: Date: If the answer to physician contacted (No. 9 above) was yes; enter the date on which the physician was contacted.
11. Item 11, Remarks: Enter the patient's diagnosis and any pertinent remarks.]

EDITOR'S NOTE: Exhibit[s] X [and XI were] was adopted with these rules but [are] is not reproduced herein. Further information on [these] this Exhibit[s] may be obtained from the Department of Human Services, Division of Medical Assistance and Health Services, [P.O. 2486,] CN 712, Trenton, New Jersey 08625.

(d) The Medicaid Program requires that the long-term care facility report on a timely basis, any days billed by the long-term care facility that are not in compliance with the specified time frames and conditions for certification, recertification and plan of care as outlined in N.J.A.C. 10:63-1.5. These days will be considered non-certified days and the per diem reimbursement for these non-certified days will not be made to the long-term care facility. Exhibit XIV depicts a properly completed "Per Diem Deduction Request Form", MCNH-108 (6/85). The circled numerals on the Exhibit are cross referenced to the list below.

1. Item 1. Long-Term Care Facility: Enter the full name of the facility.
2. Item 2. Provider Number: Enter the unique four digit number assigned to the facility by the Bureau of Claims and Accounts.
3. Item 3. Date: Enter the date the form was completed.
4. Item 4 and 5. Address and Telephone No.: Enter the complete mailing address, including the telephone number.
5. Item 6. Reason for Per Diem Deduction: The reasons for a per diem deduction request are coded, (a) Certification; (b) Recertification and (c) Plan of Care. The appropriate code is to be entered in Item 9.
6. Items 7 and 8. Patient's Name and HSP (Medicaid) Case

Number: Enter the patient's name and the complete ten digit case number and two digit person number assigned to the Medicaid recipient.

7. Item 9. Enter the appropriate code necessitating the request for a per diem deduction, see Item 6.
8. Items 10 and 11. Level of Care and Rate: Enter the level of care the Medicaid patient received and the appropriate per diem rate for the time period noted.
9. Items 12, 13 and 14. No. of Days: From: To: Enter the number of days and the dates of the non-compliance period.
10. Item 15. Signature: The signature of the individual completing the form.

EDITOR'S NOTE: Exhibit XIV was adopted with these rules but is not reproduced herein. Further information on this Exhibit may be obtained from the Department of Human Services, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.

- 10:63-2.6 Timing of submission of billing transactions
- (a) Transaction Forms should be completed and may be submitted during the course of the billing month as billing activities occur. This procedure will provide an even workload for the facilities' administrative staffs and will permit the facility to make timely submission of the form[s] as outlined below and on Exhibit I.
- Due Date—Period Covered
1. 20th of the current billing month:
first day through 15th day of the current billing month
 2. 5th of the month following the billing month:
the 16th through the last day of the billing month

NOTE: If no billing transactions need to be submitted for the billing month because there was no billing activity, providers must still submit Form MCNH-30 Certification Statement[, and Form MCNH-37 Report Of Patients Not Visited by Physicians] described in section 2.5.

(b) (No change.)

- 10:63-2.7 Submission procedures
- All applicable billing transaction forms must be submitted at least twice during the billing month (as described above) to the address below. In addition, the Form MCNH-30 Certification Statement [and Form MCNH-37 Report of Patients Not Visited By Physicians] must be submitted once each month to:

Department of Human Services
Division of Medical Assistance and Health Services
Bureau of Claims and Accounts
[P.O. Box 2486] CN 712
Trenton, New Jersey 08625

LABOR

THE COMMISSIONER

Proposals numbered PRN 1985-460, 461, 462, 463, 464, 465 and 466 are authorized by Charles Serraino, Commissioner, Department of Labor.
For proposals numbered PRN 1985-461, 462, 464, 465 and 466, submit comments by October 3, 1985 to:

Arthur J. O'Neal, Jr., Director
 Division of Planning and Research
 CN 056
 Department of Labor
 Trenton, New Jersey 08625

For proposals numbered PRN 1985-460 and 463, submit comments to the person indicated in the proposal notice.

(a)

1986 Maximum Weekly Benefit Rates for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.3

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-3(c), 43:21-40.

Proposal Number: PRN 1985-461.

The agency proposal follows:

Summary

The proposed amendment establishes the 1986 maximum weekly benefit rate for benefits under the Unemployment Compensation Law and for State Plan benefits under the Temporary Disability Benefits Law.

Social Impact

The proposed amendment will increase the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate under the Unemployment Compensation Law and under the Temporary Disability Benefits Law beginning January 1, 1986, in compliance with statutory provisions which automatically adjust these benefit rates each year in accordance with changes in the Statewide average weekly wage.

Economic Impact

The proposed amendment will ensure that payments to unemployment and disability insurance recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits. The maximum weekly benefit for Unemployment Compensation is computed as 56 2/3 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 1986, the maximum weekly benefit will increase from \$203.00 to \$214.00.

The maximum weekly benefit for State Plan Temporary Disability is computed as 53 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 1986, the maximum weekly benefit will increase from \$189.00 to \$200.00.

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

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the Unemployment Compensation Law, the maximum weekly benefit rate for benefits under the Unemployment Compensation Law is hereby promulgated as being [\$203.00] **\$214.00** per week.

(b) The maximum weekly benefit rate for State Plan benefits under the Temporary Disability Benefits Law is hereby promulgated as being [\$189.00] **\$200.00** per week.

(c) These maximum benefits shall be effective for the calendar year [1985] **1986** on benefit years and periods of disability commencing on or after January 1, [1985] **1986**.

(b)

1986 Taxable Wage Base Under the Unemployment Compensation Law

Proposed Amendment: N.J.A.C. 12:15-1.4

Authority: N.J.S.A. 34:1-5, 34:1-20 and 43:21-7(b)(3).
 Proposal Number: PRN 1985-462.

The agency proposal follows:

Summary

The proposed amendment establishes the 1986 taxable wage base for the purpose of contributions under the Unemployment Compensation Law in accordance with N.J.S.A. 43:21-7(b)(3).

Social Impact

The proposed amendment will increase from \$10,100 to \$10,700 the wages of an individual employee of an employer that are subject to employer and worker contributions under the Unemployment Compensation Law, beginning January 1, 1986.

Economic Impact

The amendment will generate increased revenues for the Unemployment Insurance and Disability Insurance Trust Funds needed to offset the increased level of benefits for these programs which are statutorily indexed to the upward trend of wages in the State's economy. The taxable wage base is computed as 28 times the Statewide average weekly wage in the second preceding calendar year.

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

12:15-1.4 Taxable wage base under the Unemployment Compensation Law

[(a)] In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first [\$10,100] **\$10,700** during the calendar year [1985] **1986**.

(c)

Unemployment Compensation Contribution Rate of Governmental Entities for 1986

Proposed Amendment: N.J.A.C. 12:15-1.5

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-7.3(e).
Proposal Number: PRN 1985-463.

Submit comments by October 3, 1985 to:
George M. Krause, Acting Deputy
Commissioner and Controller
Department of Labor
CN 078
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment establishes the 1986 contribution rate for governmental entities that elect to pay contributions under the Unemployment Compensation Law.

Social Impact

The reduction of the contribution rate for governmental entities for 1986 from the level that prevailed in 1985 will create no significant social impact.

Economic Impact

The proposed amendment will lower the contribution rate for governmental entities in 1986 to 1.3 percent from the 1.5 percent rate that prevailed in 1985. This will result in reduced costs to those State and local governmental units that elect to make contributions in lieu of reimbursing the Unemployment Insurance Trust Fund for the benefits paid to their former employees.

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

12:15-1.5 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provision of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby promulgated as being one and **three-tenths percent (1.3 percent)** [one-half percent (1.5 percent),] for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [1985] **1986**.

(a)

Base Week for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.6

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-19(t), 43:21-27.

Proposal Number: PRN 1985-464.

The agency proposal follows:

Summary

The proposed amendment raises the amount of earnings required in 1986 to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability benefits.

Social Impact

The proposed amendment will increase the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws. The amount is computed as 20 percent of the Statewide average weekly wage in the second preceding calendar year and will increase from \$72.00 to \$76.00 for benefit years and periods of disability commencing January 1, 1986.

Economic Impact

The amendment provides for the base week amount to be indexed to wage increases, as benefit payment has been indexed since 1969. Some claimants who work temporarily or intermittently may not qualify for benefits under these tightened eligibility standards.

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

12:15-1.6 Base week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being [~~\$72.00~~] **\$76.00** per week for benefit years and periods of disability commencing on or after [October 1, 1985] **January 1, 1986**. [and periods of disability commencing October 1, 1985.]

OFFICE OF ADMINISTRATIVE LAW NOTE: See the August 19, 1985 issue of the New Jersey Register for a companion proposal where the current base week amount of \$51.00 is being increased to \$72.00 for the period of October 1, 1985 to December 31, 1985. The current amendment proposes to increase the base week from \$72.00 to \$76.00 beginning January 1, 1986.

(b)

Alternative Earnings Test for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.7

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-4(e), 43:21-41.

Proposal Number: PRN 1985-465.

The agency proposal follows:

Summary

The proposed amendment raises the amount of base year earnings required to establish an individual's eligibility for unemployment compensation and State Plan temporary disability benefits.

Social Impact

The proposed amendment increases the alternative earnings eligibility standard under the law in those situations where the individual has not established 20 base weeks in the base year period. The amount will increase from \$4,300 in 1985 to \$4,600 in 1986. The alternative earnings test is indexed each year at 12 times the Statewide average weekly wage in the second preceding calendar year.

Economic Impact

The amendment provides for the amount of earnings to establish eligibility to be indexed to wage increases, as benefit payments have been indexed since 1969. Some claimants who work only temporarily or intermittently may not qualify for benefits under the tightened standards.

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

12:15-1.7 Alternative earnings test

In accordance with the provisions of N.J.S.A. 43:21-4(e) and 43:21-41 in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being [\$4,100] **\$4,600** for benefit years [commencing on or after September 30, 1984] and periods of disability commencing on or after [October 1, 1984] **January 1, 1986.** [and \$4,300 for benefit years and periods of disability commencing on or after January 1, 1985.]

(a)

DIVISION OF WORKERS' COMPENSATION

Practice and Procedure before the Division of Workers' Compensation

Proposed Repeal and New Rules: N.J.A.C. 12:235.

Authority: N.J.S.A. 34:1A-3(e), 34:1A-12(b) and (c), and 34:15-64.

Proposal Number: PRN 1985-460.

A public hearing concerning the proposed new rules will be held on September 26, 1985, 9:00 A.M. to 4:00 P.M., at:
Richard J. Hughes Justice Complex
Rooms A1, 2, 3 and 4
25 Market Street
Trenton, New Jersey 08625

Submit comments by October 3, 1985 to:
Glenn R. Paulsen, Director
Division of Workers' Compensation
New Jersey Department of Labor
CN 381
Trenton, N.J. 08625-0381

The agency proposal follows:

Summary

The proposed new rules are essentially an editorial treatment of the existing rules proposed for repeal. The proposed rules have deleted excessive verbage and specific statutory provisions in the existing rules.

There are no substantive departures from the existing procedures for the conduct of hearings except in two areas:

1. Motions for orders to compel the respondent to furnish the injured worker with case benefits for temporary disability and medical or hospital care are sustained upon documentary

evidence in the form of affidavits and medical reports which will constitute a prima facie basis for the relief sought and unless rebutted an appropriate order will be issued; and

2. In second injury fund cases the carrier/employer responsible for the last compensable accident will now be compelled to make payment based on total disability, subject to a second hearing to determine fund eligibility.

The new chapter consists of twelve subchapters. Subchapter 1 is rules relating to purpose, scope and general provisions. Subchapter 2 covers definitions. Subchapter 3 addresses conduct of judges of compensation. Subchapter 4 contains the duties of supervising judges of compensation. Subchapter 5 contains the various procedures for formal claims. Subchapter 6 contains procedures in an informal hearing. Subchapter 7 covers the conditions and procedure of a second injury fund case. Subchapter 8 covers application for a commutation of an award. Subchapter 9 contains the procedures for handling discrimination complaints. Subchapter 10 covers reporting of accidental injuries and occupational diseases. Subchapter 11 contains the list and samples of standard forms used in workers' compensation cases. Subchapter 12 lists the documents referenced in this chapter.

Social Impact

The reorganization of the current rules and additions to the new rules is intended to provide the public with a less cumbersome and a more understandable set of rules.

Economic Impact

The adoption of these rules will not result in any significant financial impact in administrative or benefit costs either to the State, industry, workers or the general public.

Full text of the rules proposed for repeal appears in the New Jersey Administrative Code at N.J.A.C. 12:235.

Full text of the proposed new rules follows.

SUBCHAPTER 1. GENERAL PROVISIONS

12:235-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:235, Workers' Compensation Procedures.

12:235-1.2 Authority

These rules are promulgated pursuant to the authority of Workers' Compensation Law, N.J.S.A. 34:15-1 et seq.

12:235-1.3 Purpose

The purpose of this chapter is to establish rules to carry out the responsibilities of the Division of Workers' Compensation under the Act.

12:235-1.4 Scope

This chapter shall apply to all persons subject to Workers' Compensation Law, N.J.S.A. 34:15-1 et seq.

12:235-1.5 Workers' compensation benefit rates

(a) In accordance with the provision of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being \$269.00 per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year of 1985.

12:235-1.6 Documents referred to by reference

The availability of documents referred to in this chapter is

explained in N.J.A.C. 12:235-11.

12:235-1.7 Validity

Should any section, paragraph, sentence or word of this chapter be declared invalid, it shall not affect the remaining portions of this chapter.

SUBCHAPTER 2. DEFINITIONS

12:235-2.1 Definitions

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

"Act" means Workers' Compensation Law, N.J.S.A. 34:15-1 et seq., 43:21-30 and 43:21-41.

"Division" means the Division of Workers' Compensation, CN 381, Trenton, New Jersey 08625-0381.

"Commissioner" means Commissioner of Labor.

"Director" means director of the division.

"N.J.A.C." means New Jersey Administrative Code.

"N.J.S.A." means New Jersey Statutes Annotated.

"Office of Safety Compliance" means the Office of Safety Compliance, in the Division of Workplace Standards, New Jersey Department of Labor, CN 386, Trenton, New Jersey 08625-0386.

"Respondent," "employer" or "insurance carrier" are used interchangeably.

"Shall" means a mandatory requirement.

SUBCHAPTER 3. CONDUCT OF JUDGES OF COMPENSATION

12:235-3.1 Promptness

(a) A judge of compensation shall be prompt in the performance of all his duties, including:

1. Convening hearings at the time scheduled by the director;
2. Completing final disposition of cases; and
3. Completing and forwarding to the director at regular intervals a performance record in a manner established by the director.

12:235-3.2 Courtesy and civility

(a) A judge of compensation shall be impartial and courteous to parties, counsel, and all others appearing or concerned with the administration of justice in the court.

(b) The judge of compensation shall require, so far as his power extends, that those individuals assisting him in the administration of the function of the court extend the same civility and courtesy to counsel and all others having business in the court.

(c) The conduct of a judge of compensation shall be free from impropriety and the appearance of impropriety. His personal demeanor, not only on the bench and in the performance of his judicial duties, but also in his everyday life, shall be beyond reproach. He shall be temperate, attentive, patient, and impartial.

12:235-3.3 Conduct of attorneys

(a) A judge of compensation shall require professional conduct by attorneys.

(b) A judge of compensation shall report all instances of unethical or illegal practices by attorneys to the supervising judge and the director.

12:235-3.4 Conduct of witnesses and others having business with the court

A judge of compensation shall have the duty to report all

instances of unethical or illegal practices by any law, professional or expert witness, interpreter, court reporter, or party before him to the supervising judge and the director.

12:235-3.5 Kinship or influence

(a) A judge of compensation shall not act upon or hear a controversy, or a portion thereof where a relative is a party before him.

(b) If a relative, former partner, business associate, or personal friend is scheduled to appear before a judge of compensation, the judge shall conditionally disqualify himself to hear the matter and promptly notify his supervising judge and the director for rescheduling of the matter.

12:235-3.6 Conflict of interest

(a) A judge of compensation shall not:

1. Engage in any activity which requires the performance of duties inconsistent with his position of authority; or
2. Incur any obligations, pecuniary or otherwise, which would in any way interfere or appear to interfere with his duty to effectuate the proper administration of his official functions.

12:235-3.7 Partisan politics

(a) A judge of compensation shall be entitled to entertain his personal views of political questions, and, while he is not required to surrender his rights or opinions as a citizen, it is inevitable that suspicions of being influenced by political bias will attach to an individual who becomes an active promoter of the interests of a political party.

(b) A judge of compensation shall not:

1. Hold any elective office;
2. Be a candidate for any elective office;
3. Make political speeches on behalf of any candidate seeking political office;
4. Solicit contributions for party funds;
5. Make public endorsements of candidates for political office;
6. Participate in party conventions of any level; or
7. Accept or retain any position on a party committee, or subdivision.

12:235-3.8 Self interest

A judge of compensation shall abstain from performing or taking part in an official act by which his personal interests would be affected.

12:235-3.9 Gifts and favors

A judge of compensation shall not solicit or accept any gifts, favors, or gratuities of any form or pecuniary value from:

1. Litigants, attorneys, physicians, or witnesses regularly appearing before the division; or
2. Insurance carriers, self-insureds, or their agents, servants, or employees.

12:235-3.10 Medical reports

Any judge of compensation who has reason to believe that a medical report, medical bill for services, or medical finding has been altered, falsified, or withheld by a licensed physician, dentist, chiropractor, osteopath, optometrist, physical therapist, medical technician, attorney, or a representative of an insurance carrier or self-insured shall notify the director.

12:235-3.11 Physical capacity to preside

(a) A judge of compensation shall necessarily be in good health to execute the rigorous duties of his office.

(b) When a judge of compensation is unable to carry out

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the duties of his office for an indefinite period because of a severe, incapacitating disease; or a severe, incapacitating injury; then the commissioner may grant an indefinite leave, with or without pay, until the individual is capable of resuming his duties.

12:235-3.12 Mental competency to preside

(a) A judge of compensation shall be of sound mind in order to execute the duties of his office.

(b) In the event that a complaint made in an affidavit is filed with the division alleging mental incompetency to perform the duties of the office, the director upon finding good cause, shall have the power to order the judge in question to submit to an examination.

(c) The examination shall be by two psychiatrists selected by the commissioner.

(d) The psychiatric examination shall be to determine whether or not the judge is afflicted with any severe neuroses or mental illness that would significantly impair that individual from performing the duties of his office.

12:235-3.13 Removal from office

(a) A judge of compensation shall be removed from office if it is found beyond a reasonable doubt that:

1. He has violated any provision of this subchapter;
2. He has been convicted for the commission of a crime;

or

3. He has been found to be incompetent to execute the duties of his office.

12:235-3.14 Institution of removal proceedings

A proceeding for removal for cause may be instituted by the filing of a misconduct complaint with the commissioner by the director.

12:235-3.15 Prosecution of removal proceeding

An attorney designated by the commissioner shall prosecute the complaint.

12:235-3.16 Suspension pending determination

(a) The commissioner may suspend a judge of compensation from office, with or without pay upon receipt of a misconduct complaint, pending the determination of the proceeding.

(b) If the judge is reinstated to the position, and had been denied salary during suspension, then full restitution for the period of the suspension shall be made.

12:235-3.17 Right to counsel, production of witnesses and evidence

(a) The accused in a hearing for removal shall be given a reasonable time to prepare his defense and he shall be entitled to counsel retained and paid for by the accused.

(b) The prosecuting attorney and the accused shall have the right to compulsory process to compel the attendance of witnesses and the production of evidence deemed necessary for the hearing.

12:235-3.18 Formal hearing for suspension or removal

(a) A formal hearing shall be conducted before the commissioner or a representative designated by the commissioner.

(b) The hearing shall commence within 30 days of the filing of such a complaint and shall be tried on a continuous basis to a conclusion.

SUBCHAPTER 4. SUPERVISION OF JUDGES OF COMPENSATION

12:235-4.1 Assignment to supervisory positions

(a) It shall be within the power of the director to ascertain the need to assign judges to supervisory positions and exercise the administrative duties as set forth in this chapter for the districts he may designate.

(b) The director in his discretion may:

1. Determine the number of judges needed to provide the necessary supervision; and

2. Appoint judges of compensation to supervisory positions in which the judges shall serve at the pleasure of the director.

12:235-4.2 Personnel functions

(a) The supervising judge of a particular district shall be directly responsible for the general conduct and performance of each judge of compensation in his district. The supervising judge shall be prepared to give a periodic performance evaluation of each judge at the request of the director.

(b) The supervising judge of a particular district shall be responsible for the orderly and prompt flow of work in his district.

(c) Subject to the approval of the director, the supervising judge shall determine the composition of the daily calendar and shall designate the judge of compensation to be responsible for each calendar list. The supervising judge shall be responsible for all daily changes of scheduling for all hearing personnel within his district and be available to discuss particular scheduling problems with attorneys.

(d) Each supervising judge shall furnish statistical reports as required by the director.

SUBCHAPTER 5. FORMAL CLAIMS

12:235-5.1 Initial pleadings

(a) Claim petitions shall be subject to the following:

1. The formal hearing process shall be initiated by the filing of a claim petition in duplicate with the central office of the division within the time prescribed by law on a form prescribed by the division.

2. If an attorney for the petitioner knowingly files an incomplete or inaccurate petition, there shall be a reduction of 15 percent of any fee that may be awarded, except as provided in N.J.A.C. 12:235-5.2(c).

3. If the petition is returned to the attorney more than once for additional information, there shall be a reduction of 25 percent of any fee that may be awarded.

(b) Answers to a claim petition shall be subject to the following:

1. The answer of the respondent to a claim petition shall be on a form prescribed by the division. It shall be filed with the assignment clerk at the office to which the claim is assigned within 30 days of the date of service of the petition. A copy of the answer shall be served on the petitioner's attorney simultaneously. The filing and service of the answer may be made by first-class mail or its equivalent. The answer may be prepared by the attorney for the respondent based upon knowledge, information or belief and shall be regarded as his certification of its contents without the necessity of an affidavit.

2. If the answer is not filed as specified in (b)1 above, the judge of compensation to whom the case is assigned may, on motion, either suppress the defenses and permit petitioner to prove his case, or permit the filing of the answer on such terms as may be fixed in the discretion of the judge of compensation.

3. If the respondent knowingly files an incomplete or inaccurate answer or unnecessarily delays filing an answer, such circumstances shall be considered in the apportionment of any counsel fee awarded.

12:235-5.2 Motions for temporary disability or medical benefits

(a) In all motions by the petitioner for temporary disability or medical benefits, the original notice of motion shall be filed with the district office to which the case is assigned, and a copy of the notice of motion and claim petition served on all other parties.

(b) The notice of motion for temporary disability or medical benefits shall be on a form prescribed by the division and shall contain:

1. A detailed account of compensable lost time claimed by the petitioner, indicating any period paid by the respondent;

2. A certification by petitioner or attorney describing the medical diagnosis and the specific type of treatment for which payment is sought, and if available an itemized bill and report of the treating physicians, or institutions or both for whose services past, present and future, petitioner is seeking payment and such other evidence as shall relate to petitioner's claim for temporary disability or medical treatment.

(c) If an attorney for the petitioner knowingly files an incomplete, inaccurate or misleading notice of motion for temporary or medical benefits, he shall be assessed a penalty of \$50.00 which shall be deducted from any fee he may be awarded for his services.

(d) When the division has received a notice of motion for temporary disability or medical benefits filed in accordance with (a), (b) and (c) above, it shall list the motion for a hearing before a judge of compensation peremptorily within 30 days.

(e) Certification and medical reports in support of the motion shall constitute a prima facie case, and unless rebutted by reports or testimony or a certificate by the respondent or his attorney setting forth the factual or legal basis of the denial, shall be sufficient basis for the issuance of an order compelling the respondent to provide the relief sought.

(f) Examination, if required by respondent, shall be completed within 30 days of receipt of the motion and shall not delay the start of the hearing of the motion.

(g) On conclusion of the hearing on the motion for temporary or medical benefits, the judge of compensation shall, within 15 days, render his final decision on the motion and notify the respective counsel of his decision via first class mail. In computing the 15 days time, the 15 days shall be from the last day of hearing or from the date of filing of briefs as ordered by the judge, whichever is later. Under no circumstances shall briefs be filed later than 15 days after the hearing.

12:235-5.3 Other motions

(a) All other motions shall be in the form of a notice of motion, the original of which shall be filed with the district office to which the case is assigned with copies served on all parties. Every notice of motion shall include the factual and legal basis for the relief requested and a proposed form of order.

(b) The form of order shall have appended to the foot of the order, a check list, to be completed by the judge of compensation, indicating whether, and by what party, answering or reply papers have been filed.

(c) If the motion or response relies on facts not of record, it shall be supported by affidavit made on personal knowledge setting forth facts which are admissible in evidence, to which the affiant is competent to testify. The notice of motion shall be considered uncontested unless responsive papers are filed and served within 14 days of the service of the notice of motion.

(d) Motions to dismiss for lack of prosecution pursuant to

N.J.S.A. 34:15-54 shall be listed for hearing. All other motions shall be disposed of on the papers, unless a judge of compensation directs oral argument or further proceedings, in which event a hearing shall be scheduled within 30 days from the filing of the last papers contemplated by this section. At the conclusion of any such hearing the judge of compensation shall render his decision and enter an appropriate order.

12:235-5.4 Third party joinder by respondent

(a) A respondent who alleges that another employer or insurance carrier may be liable for all or part of the benefits claimed by the petitioner may move to join such employer or insurance carrier as a responding party to the original claim petition by notice of motion which shall be supported by a definitive statement setting forth the factual and legal basis for the relief sought.

(b) A copy of the motion and supporting statement with a copy of the original claim petition shall be served upon the party sought to be joined and all other parties.

(c) Such motion shall be granted only where the moving party has satisfied the judge of compensation that there exists a substantial likelihood that the party to be joined may be liable for compensation benefits.

(d) If the order sought is granted, the order shall be served upon the party joined forthwith who shall file an answer within 30 days of the date of service of the order.

(e) In cases where it appears that the only issue involved is which carrier or employer is liable to the petitioner for the benefits sought, the judge of compensation may order the moving party to pay the benefits in whole or in part as a condition of joinder subject to an order for reimbursement, if another party is held to be liable for such benefits.

(f) If a respondent knowingly files an incomplete inaccurate or frivolous motion for third party joinder, such circumstances shall be considered in the apportionment of any counsel fee awarded, in addition to a counsel fee not to exceed \$100.00 to opposing counsel.

12:235-5.5 Conditions allowable for discovery

(a) Discovery, except a deposition for preservation of testimony, may be allowed in those contested cases where there are issues in dispute in addition to the nature and extent of petitioner's temporary or permanent disability.

(b) All discovery shall be concluded not less than 10 days prior to the first listed date for plenary trial.

12:235-5.6 Interrogatories

(a) Interrogatories shall be allowed without motion in fatal cases.

(b) Interrogatories shall be allowed without motion where the injured worker is treated by the employer's physician and where the medical information is not available to the worker. The employer shall be required to furnish or make available for inspection and copying all records of medical treatment, examinations and diagnostic studies in its possession. The respondent shall have the same right when the worker is treated by his or her own physician.

(c) Interrogatories shall be allowed without motion in cases of review or modification of a prior award on the grounds of increase or decrease of disability. The party seeking such review or modification shall furnish his adversary with a chronology of the pertinent events from the date of the last award or judgment to the filing of the petition for the increase or decrease of disability indicating the essential facts upon which the petition is grounded.

(d) Interrogatories shall be allowed without motion in oc-

cupational disease cases on standard form interrogatories as set forth in N.J.A.C. 12:235-11.2.

(e) Interrogatories in those cases allowed without motion shall be served by the petitioner not later than 30 days after service of the answer to the petition and by the respondent not later than 15 days after the service of its answer. Answers to the interrogatories shall be served within 45 days after service of the interrogatories. A judge of compensation upon motion for good cause may enlarge the time provided for service of answers. Supplemental interrogatories may be allowed on motion for good cause shown.

(f) Interrogatories may be allowed in other cases upon motion in extraordinary circumstances.

12:235-5.7 Testimony of injured or ill employee by depositions

(a) An employee seeking compensation who is in such a physical condition that it is imperative that his or her testimony be taken by deposition, in order to preserve the person's rights or those of his or her estate or dependents, may give a deposition.

(b) The deposition may be ordered by a judge of compensation upon notice to the adverse party and taken before a certified shorthand reporter.

(c) The appearance by an attorney for the respondent shall not constitute a waiver of any of the rights of the respondent or its insurance carrier. A deposition for this purpose may also be taken by consent of all the parties.

(d) A report from a physician shall be attached to the application to take depositions stating the medical basis upon which the deposition is sought.

12:235-5.8 Certification of pre-existing conditions

(a) In all cases in which the petitioner claims total and permanent disability, the petitioner or his attorney shall prior to the first hearing date, furnish to all other parties a written certification as to the existence or non-existence of any condition pre-existing the last claimed compensable episode.

(b) The certification shall include the names and addresses of physicians and institutions furnishing treatment or examinations for any such pre-existing conditions.

(c) The petitioner may in lieu of furnishing actual records or reports, furnish executed authorizations for the records and reports of each such physician and institution.

(d) Copies of all records and reports so obtained by respondent shall be furnished to the petitioner or his attorney within 10 days of receipt.

12:235-5.9 Pre-trial conference

(a) In any formal proceeding, the division shall where practicable, direct the parties or their attorneys to appear at a specific time and place for a pre-trial conference where the following must be accomplished:

1. Disposition by judgment, order approving settlement or discontinuance; dismissal, order approving settlement and dismissal under N.J.S.A. 34:15-20.

2. A pre-trial memorandum on a form prescribed by the division shall be executed or;

3. Adjournment upon good cause shown.

(b) Any case set down for pre-trial on more than one occasion, if not ready because of failure of respondent to comply with this section, shall be placed on the trial list, and in the event an award is made, such failure shall be considered in the apportionment of the counsel fee. This provision shall not apply in any case in which the failure to have medical examinations is due to petitioner's neglect or refusal to appear for

the examinations, in which event the case shall be marked, "not moved."

(c) Any case listed pre-emptorily, in which no appearance is made on behalf of petitioner and which is not adjourned for good cause, shall be marked "not moved" and administratively discontinued. The case shall not be restored to the calendar except on notice of motion, provided however, the judge of compensation may for good cause and on his own motion restore a case marked "not moved" to the trial or pre-trial calendar. The counsel fee normally allowed shall be reduced within the discretion of the official presiding for each time a case has been marked "not moved" when the attorney for the petitioner is responsible for such marking. When a case has been marked "not moved" because of the petitioner's failure without good cause to submit himself for a physical examination at the request of the respondent, the petitioner may be penalized in the apportionment of fees at the discretion of the official presiding.

12:235-5.10 Conduct of formal hearings

(a) Attorneys representing both petitioners and respondents shall provide sufficient personnel to handle all lists expeditiously.

(b) Only an attorney at law licensed to practice in the State of New Jersey shall act as attorney of record, or appear and prosecute or defend any action in any formal hearing. No person convicted of a crime involving moral turpitude shall be permitted to appear in a representative capacity.

(c) Hearings shall be scheduled by the director or his designated representative.

(d) The judge of compensation shall, at the commencement of the day, call the list of cases in open court. No adjournments shall be granted unless there is found to be good cause. No adjournment shall be granted for medical examination unless the name of the examining physician and date of examination are supplied.

(e) Trials shall continue, without interruption or adjournment, except where the judge of compensation, upon his own motion, or upon application of either party, shall for good cause continue the hearing to an adjourned date. All formal hearings or applications shall be conducted in open court, except when the supervising judge of the district deems the matter to be so delicate that the hearing of a party or witness in camera is warranted. When this occurs, a full stenographic record shall be made.

1. Bifurcation of any trial may be permitted by the judge of compensation. The order of proof shall be determined by the judge of compensation to whom the case is assigned.

(f) All formal hearings, including motions where a record is required, shall be recorded stenographically by a certified shorthand reporter subject to such limitation as provided by statute.

1. Upon a determination reached at the conclusion of all hearings, including motions, the cost for the attendance of the certified shorthand reporter may be assessed at the discretion of the judge of compensation. Transcripts of the testimony may be obtained from the certified shorthand reporter at the official scheduled rates.

(g) When two or more formal proceedings, involving a common question of law or fact, arising out of employment by the same employer or different employers, or out of the same accident or series of accidents, or out of the same exposure or series of exposures to causes of occupational disease, are pending in the division, the judge of compensation or the director may, on motion, or on his own initiative, order a joint

hearing of any or all matters in issue in the proceedings. He may order all such proceedings consolidated, and he may make such orders concerning proceedings as may tend to avoid unnecessary costs or delay. The order shall state the county in which the consolidated proceedings are to be heard.

(h) Upon the commencement of a formal hearing, counsel for the parties may make opening statements on behalf of their respective clients. All matters agreed upon shall be stipulated upon the record. However, this shall not bar the parties from making further stipulations as the trial proceeds, until the close of the formal hearings.

(i) Counsel may make both closing statements or file trial briefs. Trial briefs, if required or volunteered, shall be submitted within 15 days after the conclusion of the hearing. Each party thereafter may have seven days to file a reply brief, if so desired or directed.

(j) Prior to the testimony of an expert witness, the producing party shall provide the judge of compensation and opposing counsel a written curriculum vitae, of the witness.

(k) Questions calling for the opinion of an expert witness need not be hypothetical in form, unless the judge of compensation in his discretion so requires. If the hypothetical question is submitted in written form, counsel shall provide sufficient copies for the judge of compensation, opposing counsel, the witness and the stenographer, and may be marked as an exhibit in the proceedings in lieu of reading it to the witness.

(l) When a medical expert is on vacation or extended absence for more than 30 days during a period other than when the division is closed for the trial of former cases, it shall be the duty of the party for whom such medical expert witness is to appear to arrange for the examination of the petitioner by another medical expert and the appearance of such medical expert at the trial of the case.

1. The absence of the original examining physician shall not constitute a good and valid reason for adjournment.

(m) All exhibits shall be marked with an identifying number, the date of submission and initials of the stenographer. Exhibits other than medical reports may be returned to respective counsel at the close of the hearing for retention during passage of time for appeal.

1. All medical reports submitted into evidence are to be forwarded to the division for microfilming and storage. All other exhibits not claimed by respective counsel within thirty days following the expiration of the appeal period shall be destroyed.

(n) When a deposition has been taken to preserve the testimony of an injured or ill petitioner the introduction into evidence of such deposition shall be limited to those cases where the deponent cannot appear because of medical inability to appear or death or where all parties consent to the introduction of the deposition into evidence.

(o) Judges of compensation may refer petitioner to the Division of Vocational Rehabilitation when warranted.

(p) Prior to testifying, witness shall be administered the oath by the judge of compensation or by a certified shorthand reporter qualified to administer oaths. Because of religious belief, a witness may affirm in place of an oath.

(q) Forms of subpoena, bearing the seal of the department, shall be made available at all district offices. An attorney-at-law of New Jersey may prepare a subpoena and authorize its service, in accordance with the Rules of Civil Practice of New Jersey, in the name of the judge of compensation assigned to the case, to compel the attendance of witnesses and the production of books and papers and such other items as shall

be subject to production.

(r) All reserved decisions shall be rendered by the judge of compensation within 15 days from completion of the last day of hearing, or within 15 days from the date of filing of briefs. Additional time to render reserved decision may be allowed only on approval of a written application to the director.

(s) The judge of compensation shall notify all parties by letter of his decision, detailing its terms and the name of the reporter and the certified shorthand reporting firm to whom it has been dictated.

SUBCHAPTER 6. INFORMAL HEARINGS

12:235-6.1 Purpose of informal hearing

(a) The informal hearing process is a service provided by the division to effectuate the amicable adjustment of controversies between injured or disabled workers and their employers involving their respective rights under the Act.

(b) The informal hearing procedure is not expressly contained within the provisions of the Act.

(c) The filing of an application for an informal hearing will not toll the time limitation periods for the filing of a formal claim petition or a dependency claim petition as provided by the Act.

12:235-6.2 Filing of an application of an informal hearing

(a) The informal process is initiated by the filing of an application in duplicate with the division.

(b) The filing for informal hearing may be made by any party of interest including the injured or disabled worker, his attorney, the employer, the employer's representative or insurance carrier, or the division.

(c) The application shall be filed within the time periods prescribed for the filing of a formal claim petition.

12:235-6.3 Contents of the application

(a) The application for an informal hearing shall contain:

1. The worker's name, address, age, and social security number;

2. The employer's name and address;

3. The name of the employer's insurance carrier, if any;

4. The date of the accident;

5. A brief description of how the accident occurred;

6. A brief description of the injury.

12:235-6.4 Scheduling of informal hearings

(a) Upon receipt of the completed application the division shall schedule the matter as soon as practicable.

(b) The division shall give written notice of the time, place and name of the assigned judge of compensation to all parties involved in the controversy.

12:235-6.5 Attendance at hearing

The worker's attorney, employer, insurance carrier, or self-insured shall provide sufficient personnel to insure prompt attendance at the scheduled time and place of the hearing to expeditiously handle all listed cases.

12:235-6.6 Representative of employer or carrier

An employer or carrier shall be represented by an individual expressly empowered with authority to act on its behalf to agree or disagree with the recommendations made by the judge of compensation at the time of the hearing.

12:235-6.7 Registration of representatives for employers or carriers

(a) Each employer, carrier, or self-insured shall submit to

the director for distribution to all judges of compensation a list of each individual who will represent them at informal hearings.

(b) Each employer, carrier, or self-insured shall indicate that such individuals shall have the authority to represent and agree to settle on behalf of the respondent at informal proceedings.

12:235-6.8 Representation of claimant

(a) Only an attorney at law licensed to practice in the State of New Jersey shall act as attorney for a worker in any informal hearing.

(b) Deviation from (a) above shall only be permitted by consent of the director.

12:235-6.9 Solicitation of compensation claims

No attorney nor any other person at the instance of an attorney shall solicit or cause to be solicited any compensation, nor shall he pay any referral fee to anyone not an attorney.

12:235-6.10 Appearance by persons convicted of crime

No person convicted of a crime involving moral turpitude shall be permitted to appear in a representative capacity at an informal hearing.

12:235-6.11 Procedure where employer has no insurance

Where it is brought to the attention of the judge of compensation that the employer has failed to comply with N.J.S.A. 34:15-71, written notice of such violation shall be given to the director for appropriate action.

12:235-6.12 Allowance of attorney fees

(a) A judge of compensation conducting informal hearings may allow counsel a fee, where warranted, for services rendered on behalf of the worker, in an amount not to exceed 10 percent of the worker's award.

(b) The fee in (a) above shall be payable by the worker.

12:235-6.13 Commencement of informal hearings

(a) Hearings shall be conducted by a judge of compensation designated by the director.

(b) Hearings shall commence promptly at the time and place designated in the notice of informal hearing by a call of the daily court to ascertain the presence of all parties to the controversy and to identify those cases ready for disposition.

(c) Upon completion of the daily call, the judge of compensation shall inform all parties present of the order for hearing the ready cases and commence hearings, excusing those persons whose presence will not be required and granting those adjournments he feels are warranted.

12:235-6.14 Determination of issues

(a) Upon a review of the application for the informal hearing and any supporting documents, the judge of compensation shall ascertain the areas of dispute and make recommendations to the parties to resolve any controversy as to unpaid temporary disability benefits or medical expenses.

(b) After a review of medical records or evaluation reports or both submitted by the parties and having personally inquired of the worker as to his present complaints, the judge of compensation shall make recommendations regarding permanent disability.

(c) In cases where there is insufficient factual or medical information upon which a recommendation can be made, the judge of compensation shall require either party to provide such information and shall adjourn the hearing until such time

as the information is available.

12:235-6.15 Acceptance of settlement recommendations and entry of informal award

(a) When agreement has been reached by all parties and approved by the judge of compensation, the terms of such settlement shall be entered in the "Statement of Award," on a form prescribed by the division.

(b) The claimant shall be fully advised of his rights under the Act.

(c) The "Statement of Award" shall be signed by the claimant, the employer or his representative, and by the judge of compensation.

12:235-6.16 Fee for services of physician

A judge of compensation conducting an informal hearing may allow a fee to a physician for medical services rendered to a claimant for the term of a compensable injury, unless such treatment was not ordered or authorized by the employer or carrier.

12:235-6.17 Denial of compensability or refusal to accept findings of informal hearings

In cases where the employer or the representative denies compensability under the Act or where either party refuses to accept the recommendations made by the judge of compensation, the claimant shall be made aware of his statutory rights, including his right to obtain counsel to file a formal claim petition, and the applicable time periods within which he must file.

12:235-6.18 Failure of employer or carrier to appear

(a) If a worker is present and the employer or its carrier fails to appear, the judge of compensation shall inform the worker of:

1. The procedure and time limit relating to rescheduling for a rehearing;
2. The approximate date of rescheduling; and
3. The worker's statutory rights as stated above.

12:235-6.19 Adjournment

When it appears that certain cases cannot be resolved at the first hearing, due to lack of notice or knowledge of any injury, incomplete reports, or for any good cause, the judge of compensation shall be promptly informed so that he may have an opportunity to notify the parties and arrange for rescheduling.

SUBCHAPTER 7. SECOND INJURY FUND CASES

12:235-7.1 General procedure

(a) No hearing upon an application for benefits payable from the Second Injury Fund pursuant to N.J.S.A. 34:15-95 shall be conducted until the claim petitions for benefits under this chapter from the previous employers have been adjudicated and the petitioner is determined to be totally disabled and the Judge of Compensation making such determination shall be satisfied that there is a reason basis to believe that the disabled worker is a person who has suffered from a prior existing disability permanent in quality and partial in character and is now totally disabled as a result of experiencing a subsequent permanent injury under conditions entitling such person to compensation therefor each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability.

(b) Where a verified petition for fund benefits has been filed prior to the commencement of the hearing for workers' com-

pensation benefits there shall be one settlement conference before a Judge of Compensation where representatives of the employee, employer(s) and the fund are noticed to attend.

12:235-7.2 Hearing

The hearing upon the application for second injury fund benefits shall be upon the transcript of the hearing for benefits from the previous employer supplemented by oral and documentary evidence presented on behalf of the second injury fund and by such cross-examination by the second injury fund, as may be required in the discretion of the Judge of Compensation for a full and true disclosure of the facts.

12:235-7.3 Payment of benefits

(a) The employer in the workers' compensation award shall continue to make payments at the applicable rate for permanent total disability.

(b) Upon approval of an application for benefits, the judge of compensation shall enter an order compelling payment from the fund from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled. No payment from such fund shall be made for any period prior to the date of filing of application for benefits.

(c) The payment from the fund may be made to the employer as reimbursement for a period where the payments have been made by the employer to the employee beyond the time period for which the employer is determined to be liable.

(d) Such payments shall be made from the fund directly to the employee for such periods to which the employee may be entitled subject to the provisions of N.J.S.A. 34:15-12(b).

(e) When the application for benefits from the fund is denied by a judge of compensation, the employer shall continue to make payments as provided in N.J.S.A. 34:15-12.

12:235-7.4 Filing

(a) The verified petition for benefits shall be filed in accordance with N.J.S.A. 34:15-95.1 and shall include a succinct and accurate description of all medical, legal and factual basis upon which petitioner alleges his eligibility for second injury fund benefits pursuant to N.J.S.A. 34:15-95. The verified petition shall be under oath or affirmation and be accompanied by all physician's reports in possession of the applicant or his attorney.

(b) The verified petition shall also include the following:

1. Name and address of petitioner;
2. Social security number of petitioner;
3. Age and date of birth of petitioner;
4. Marital status and educational background of petitioner;
5. A summary of petitioner's employment history;
6. A description of disabilities which existed prior to the date of the last compensable injury, and the date of onset of each;
7. The last compensable injury, indicating the date and a description of the occurrence; a description of the injury; brief description of the medical treatment for the injury; a description of permanent injury; name and address of employer and its insurance carrier; petitioner's wages and compensation rate; and a listing of all compensation paid to date for this injury;
8. An indication as to whether a third party tort claim has been made as to the last compensable injury, stating the name and address of the third party and the status of the claim;
9. A copy of all reports which are in the possession or control of the party filing the applications from all proposed

expert witnesses and all treating physicians;

10. A description of all wage replacements presently being received by the petitioner;

11. References to all prior allowances and awards in workers' compensation matters concerning the petitioner, including the date of the accident and the extent of the allowance or award.

SUBCHAPTER 8. COMMUTATION OF AWARD

12:235-8.1 Application for commutation

(a) All applications for commutation of compensation payments pursuant to N.J.S.A. 34:15-25 shall be filed with the director.

(b) Applications for commutation of compensation shall be made only after the entry of an award.

12:235-8.2 Application form for commutation

(a) The application for commutation shall be made on a form prescribed by the division which shall include:

1. The applicant's name, address, and social security number;
2. The name and address of the employer;
3. The name, address, and file number of the employer's insurance carrier;
4. The date of award;
5. The judge of compensation and the place wherein the award was rendered;
6. The amount of the award;
7. The amount of balance due on the award;
8. The amount requested for commutation; applicant's marital, employment, and economic status; and
9. Such other information as prescribed by the director.

(b) The application for commutation shall be under oath or affirmation of the applicant.

(c) The application for commutation shall include, or have attached thereto, all documents upon which the applicant is relying in his application.

12:235-8.3 Approval or disapproval of application for commutation

(a) Upon receipt of the application for commutation, the division shall conduct an investigation and, if it is determined by the director that commutation is advisable and for the best interest of the petitioner, the director shall enter an order approving the commutation.

(b) The disbursement of all funds commuted shall be under the supervision of the director.

SUBCHAPTER 9. DISCRIMINATION COMPLAINTS

12:235-9.1 Filing discrimination complaints

All complaints alleging discrimination pursuant to N.J.S.A. 34:15-39.1 shall be filed with the director.

12:235-9.2 Contents of discrimination complaints

(a) The complaint alleging discrimination shall be under the oath or affirmation of the complainant, and shall be on a form prescribed by the division.

(b) The complaint alleging discrimination shall include the following:

1. Complainant's name, address, social security number, and claim petition number, if he has filed a claim for formal hearing;
2. The name and address of the insurance carrier for the employer;

3. The date of complainant's accident;
4. Complainant's occupation and wages;
5. Complainant's current employment and wages;
6. Complainant's occupational duties and indication as to whether he or she is able to perform those duties;
7. The date and reason for complainant's termination of employment;
8. The factual and legal reasons for alleging discrimination;
9. Such other information as requested by the director.

12:235-9.3 Attachments to discrimination complaint

The complaint for discrimination shall include, or have attached thereto, all documents upon which the complainant is relying on in his application.

12:235-9.4 Investigation of discrimination complaint

Upon receipt of a complaint for discrimination the division shall conduct an investigation and forward the complaint and results of investigation to the commissioner within 30 days.

12:235-9.5 Action by the commissioner

Upon receipt of the complaint and results of investigation from the division, the commissioner may take such action pursuant to N.J.S.A. 34:15-39.1 as he deems appropriate.

SUBCHAPTER 10. ACCIDENT REPORTS

12:235-10.1 Employer's first report of accidental injury or occupational disease

(a) The employer's first report of accidental injury or occupational disease shall be filed by all employers no later than the start of the second work day after the injury occurred when:

1. The injury causes a loss of time from regular duties beyond the working day or shift on which the accident occurred; or
2. Medical treatment beyond ordinary first aid is required; or
3. Occupational disease exists whether or not time is lost.

(b) The form for the first report of accidental injury or occupational disease shall be Form L&I 1 and its amendments.

(c) The first report of accidental injury or occupational disease shall be filed with the Division of Workers' Compensation of the Department of Labor, with the first copy being forwarded to the insurance carrier and the second copy being retained by the employer.

(d) In the event of a serious injury which requires hospitalization or the event of a fatality, the form shall be filed immediately with the Office of Safety Compliance and notice of the injury shall be given immediately to the Office of Safety Compliance by telephone or telegram.

12:235-10.2 Employer's report of accidental injury or occupational disease

(a) The employer shall report to the division all accidental injuries causing disability beyond seven days or permanent injury or occupational disease. The form for this report shall be as contained in Form WC-1, Employer's First Report of Accidental Injury or Occupational Illness.

(b) The employer's report to the division of an accidental injury or occupational disease shall be filed with the division, with a copy being forwarded to the insurance carrier and a copy retained by the employer, as soon as it is reasonably known or expected that such disability, permanent injury, or occupational disease has occurred.

12:235-10.3 Insurer's initial notice of accident

(a) The insurance carrier of self-insured shall, within 21 days after the happening of an accidental injury or knowledge of an occupational disease, file an initial notice of accident, statement of wages, and agreement to care for case.

(b) The notice shall be as contained in Form WC-2 Insurer's Initial Notice of Accident and Insurer's and Self-Insurer's Statement of Wages and Agreement to Care for Case. The original of the insurer's initial notice of accident shall be filed via regular mail with the division, with a copy retained by the carrier.

12:235-10.4 Insurer's final report of accident

(a) A final report of accident shall be filed by the insurance carrier or the self-insured at the close of the temporary disability, or as soon thereafter as the extent of permanent injury can be determined, whichever is later.

(b) The final report of accident shall be as in:

1. Form WC-3, Final Report of Accident;
2. Form WC-4, Final Report of Accident;
3. Form WC-5, Final Report of Accident;
4. Form WC-6, Final Report of Accident.

(c) The final report of accident shall be filed with the division, with a copy to be sent to the employer, employee, and insurance carrier or self-insured.

12:235-10.5 Report of death

In the event that death results due to an accidental injury subsequent to the filing of a final report of accident, a report of death, as contained in Form WC-3A, Report of Death, shall be filed with the division and a copy sent to those recipients as named in N.J.A.C. 12:235-10.4

12:235-10.6 Compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102

The filing of the reports as required by this subchapter shall constitute compliance with N.J.S.A. 34:15-96 through N.J.S.A. 34:15-102.

SUBCHAPTER 11. STANDARD FORMS

12:235-11.1 Listing of forms

(a) Listed below are the titles and numerical designations of the standard forms utilized for workers' compensation:

1. Employee Claim Petition, WC4-1;
2. Dependency Claim Petition, WC4-2;
3. Application for Review or Modification of Formal Award, WC4-14;
4. Notice of Motion for Temporary and Medical Benefits;
5. Respondent's Answer to Claim Petition, WCC-70;
6. Respondent's Answer to Dependency Claim Petition, WCS-4-4;
7. Answer to Application for Review or Modification of Formal Award, WCC-77;
8. Answering Statement to Motion for Temporary and Medical Benefits, WCS-4-12;
9. Standard Respondent's Interrogatories: Occupational Diseases;
10. Standard Respondent's Interrogatories: Occupational Diseases;
11. Pre-Trial Memorandum, WCS-4-13;
12. Order Approving Settlement, WC(DO)-370;
13. No Insurance Case, WC(DO)-399;
14. Bench Referral from Division of Workers' Compensation to New Jersey Division of Vocational Rehabilitation Services;

15. Application for Informal Hearing, WC(CF)-66;
16. Central Office Record of Informal Proceedings, WC(CF)-11;
17. Second Injury Fund Application and Verified Petition;
18. Decision of Eligibility, WC-48;
19. Application for Commutation, WC(1)-60;
20. Decision of Dismissal, WC-47;
21. Discrimination Complaint, WCS-9;
22. Employer's First Report of Accidental Injury or Occupational Illness, WC-1;
23. Employer's First Report to Division of Workers' Compensation of Accidental Injury or Occupational Disease, WC-1;
24. Insurer's Initial Notice of Accident and Insurer's and Self-Insurer's Statement of Wages and Agreement to Care for Case, WC-2;
25. Report of Death, WC-3A;
26. Final Report of Accident, WC-5;
27. Final Report of Accident, WC-3;
28. Final Report of Accident, WC-6;
29. Final Report of Accident, WC-4.

12:235-11.2 Sample forms

Samples of the standard forms listed in N.J.A.C. 12:235-11.1 follow:

OFFICE OF ADMINISTRATIVE LAW NOTE: The Division of Workers' Compensation submitted 29 sample forms as part of this proposal. These forms are not reproduced herein but may be inspected at the Office of Administrative Law, Building 9, Quakerbridge Plaza, Quakerbridge Road, Trenton, New Jersey 08625, and the Department of Labor, Division of Workers' Compensation, Room 1203, John Fitch Plaza, Trenton, New Jersey 08625.

SUBCHAPTER 12. DOCUMENTS REFERRED TO IN THIS CHAPTER

12:235-12.1 Documents referred to by reference

(a) The titles of the documents, except forms, referred to in this chapter, are as follows:

1. N.J.S.A. 34:1A et seq., Department of Labor.
2. N.J.S.A. 34:15-1 et seq., Workers' Compensation Law.
3. N.J.S.A. 43:21-30, Nonduplication of benefits.
4. N.J.S.A. 43:21-41, Requirements for entitlement.

12:235-12.2 Availability of documents for inspection

A copy of each of the documents referred to in this chapter is on file and can be inspected at the following office of the Division of Workers' Compensation between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor
Division of Workers' Compensation
Labor and Industry Building
Room 1203
John Fitch Plaza
Trenton, New Jersey

12:235-12.3 Availability of documents from issuing agency

Copies of the documents referred to in this chapter may be obtained from the agency listed below. The abbreviation preceding these documents has the following meaning and is the organization issuing the documents listed in N.J.A.C.12:235-12.1.

NJSA—
New Jersey Statues Annotated
Copies available from:

Division of Workers' Compensation
New Jersey Department of Labor
CN 381
Trenton, N.J. 08625-0381

(a)

1986 Maximum Weekly Benefit Rate for Workers' Compensation

Proposed Amendment: N.J.A.C. 12:235-1.5

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:15-12.
Proposal Number: PRN 1985-466.

The agency proposal follows:

Summary

The proposed amendment establishes the 1986 maximum workers' compensation rates for temporary disability, permanent total disability, permanent partial disability, and dependency.

Social Impact

The proposed amendment will increase from \$269.00 to \$284.00 the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency under the Workers' Compensation Law.

Economic Impact

The amendment will ensure that payments to Workers' Compensation recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

The effect of this change, other things being equal, will be to raise employers' workers' compensation insurance costs.

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

12:235-1.5 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being [\$269.00] **\$284.00** per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year of [1985] **1986**.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

**Licensing Service
Statutory Language Interpretation**

**Proposed Readoption with Amendments:
N.J.A.C. 13:21-2.1 through 13:21-2.4**

Authorized By: Robert S. Kline, Acting Director,
Division of Motor Vehicles.
Authority: 39:2-3, 39:3-13 and 39:10-4.
Proposal Number: PRN 1985-473.

Submit comments by October 3, 1985 to:
Robert S. Kline, Acting Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:21-2.1 through 13:21-2.4 concerning statutory language interpretation. These rules were filed and became effective prior to September 1, 1969. These rules were subsequently amended on December 12, 1972 and November 6, 1980. The rules will expire on November 6, 1985. The rules are now to be readopted in accordance with Executive Order 66 (1978).

The rules implement the provision of the "Motor Vehicle Certificate of Ownership Law" (N.J.S.A. 39:10-2) pertaining to the definition of the term "nonconventional type motor vehicle" and the provision of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-13) pertaining to examination permits. N.J.A.C. 13:21-2.1 (Basis for interpretation) sets forth the general proposition that an administrative agency may interpret statutory language in effectuating the practical administration of a statute. This section is being amended to reflect the current statutory language—"while in the company of and under the control of a driver licensed by this State to operate such designated class of motor vehicles"—contained in N.J.S.A. 39:3-13. This amendment is necessary in view of the classified driver licensing system now in effect in New Jersey.

N.J.A.C. 13:21-2.2 ("Accompanied" in motor vehicles defined) defines the term "accompanied" to mean that the licensed driver will occupy a seat next to the learner and be in a position to assume control of the vehicle if the need arises. This section is being amended to provide that a person learning to drive must be accompanied by a driver licensed to operate the designated class of motor vehicle.

N.J.A.C. 13:21-2.3 ("Accompanied" in motorcycles defined) defines the term "accompanied" to mean that the licensed driver shall assume a position where he can visually supervise and render immediate assistance to the learner if the need arises. This section is being amended to provide that a person learning to operate a motorcycle shall be accompanied by a driver licensed to operate motorcycles.

N.J.A.C. 13:21-2.4 (Nonconventional type motor vehicles) specifies that motorcycles having 90 cubic centimeters of engine displacement or less shall be considered nonconventional motor vehicles within the meaning of N.J.S.A. 39:10-2 for title purposes.

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were

promulgated." The rules provide interpretation of statutory language which is necessary in the administration of the "Motor Vehicle Certificate of Ownership Law" and the Motor Vehicle and Traffic Law. The rules protect the public interest in an area relating to the regulation and control of practice driving by holders of examination permits. The rules promote highway safety by clearly defining the word "accompanied" for purposes of practice driving.

Social Impact

The rules proposed for readoption will continue to promote and protect the public interest by regulating and controlling practice driving by holders of examination permits. The rules interpret and further define the statutory meaning of being accompanied when preparing for a driving test.

Economic Impact

The proposed readoption will not impose any economic impact on the State or its citizens since the rules simply reflect an interpretation of statutory language.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:21-2.

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

13:21-2.1 Basis for interpretation

Pursuant to the authority granted to administrative agencies to interpret statutory language, the phrase "while in the company of and under the control of a [licensed motor vehicle driver of this State] **driver licensed by this State to operate such designated class of motor vehicles** in N.J.S.A. 39:3-13 is interpreted as provided in [Sections 2.2] **N.J.A.C. 13:21-2.2** ("Accompanied" in motor vehicles defined) and [2.3] **N.J.A.C. 13:21-2.3** ("Accompanied" in motorcycles defined) [of this Chapter].

13:21-2.2 "Accompanied" in motor vehicles defined

A person learning to drive a motor vehicle in preparation for a driving test shall be accompanied by a [New Jersey licensed motor vehicle driver] **driver licensed by this State to operate such designated class of motor vehicles**. The term "accompanied" shall mean that the licensed driver will occupy a seat next to the learner and be in a position to assume control of the vehicle if the need should arise. Operating controls shall be within easy reach of the accompanying driver.

13:21-2.3 "Accompanied" in motorcycles defined

A person learning to operate a motorcycle in preparation for a driving test shall be accompanied by a [New Jersey licensed motor vehicle driver] **driver licensed by this State to operate motorcycles and who is qualified to handle the type of vehicle being used by the learner**. The term "accompanied" shall mean that the licensed driver shall assume a position where he can visually supervise and render immediate assistance to the learner if the need should arise.

13:21-2.4 Nonconventional type motor vehicles
(No change.)

BOARD OF ACCOUNTANCY

Proposals numbered PRN 1985-474 and 475 are authorized by Paul Kurisko, C.P.A., President, State Board of Accountancy.

Submit comments by October 3, 1985 to:
John J. Meade, Executive Secretary
State Board of Accountancy
Room 507-A
1100 Raymond Boulevard
Newark, N.J. 07102

(a)**Successful Applicants****Proposed Amendment: N.J.A.C. 13:29-1.11**

Authority: N.J.S.A. 45:2B-6(g).
Proposal Number: PRN 1985-474.

The agency proposal follows:

Summary

The Board of Accountancy has determined that to meet its estimated expenses for the cost of investigation by the New Jersey State Police to determine whether applicants are acceptable for licensure as certified public accountants, the establishment of a \$14.00 fee is necessary.

Social Impact

The proposed new fee will benefit the public as it will help to insure the integrity of certified public accountants.

Economic Impact

The proposed new fee will impose an economic burden on prospective licensees and applicants. No economic burden on consumers is anticipated.

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

13:29-1.11(a) Successful applicants

(a) Applicants who satisfy the requirements of this subchapter shall [be issued a certified public accountant's certificate upon the payment of a fee of \$6.00] **pay a fee of \$14.00 which reflects the cost of the issuance of a certified public accountant's certificate and of a character investigation by the State Police.**

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

(b)**Registered Municipal Accountants
Application; Requirements****Proposed Repeal and New Rule: N.J.A.C.
13:29-2.1**

Authority: N.J.S.A. 45:2B-34.
Proposal Number: PRN 1985-475.

The agency proposal follows:

Summary

The Board of Accountancy has determined that in order to sit for examination as a registered municipal accountant, an applicant must hold a valid New Jersey license as a certified public accountant.

Social Impact

The proposed requirement that all registered municipal accountants be certified public accountants will bring the licensing standards of New Jersey into conformance with generally accepted government auditing standards (G.A.G.A.S.) promulgated by the Comptroller General of the United States wherein professional qualifications and proficiency are measured by the uniform CPA examination adopted by all of the states. This requirement is also in conformance with the recommendation of the Division of Local Governmental Services of the New Jersey Department of Community Affairs.

Economic Impact

No economic impact on prospective licensees or consumers is expected as a result of the new requirement.

Full text of the current rule proposed for repeal may be found at 17 N.J.R. 1426(a).

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

13:29-2.1 Applications; requirements

[(a) Every applicant for a license as registered municipal accountant shall present to the Board a written application on a form to be provided by the Board, a photograph (two-inch by two-inch in size, bust picture, front view without a hat, taken within 30 days prior to application) and satisfactory proof of the following:

1. Good moral character, evidenced by affidavits from three persons.
2. Bona fide residence in the State, or maintenance of an office for the practice of public accounting in the State, or employment in the State by a Registered Municipal Accountant, Public School Accountant, Certified Public Accountant, or a firm of Certified Public Accountants, having an established office and performing services within the State.
3. Baccalaureate degree or its equivalent as determined by the New Jersey Department of Higher Education including 60 semester hours in liberal arts and 60 semester hours in professional courses as follows:
 - i. At least 24 semester hours credit in accounting;
 - ii. At least six semester hours credit in business law;
 - iii. At least six semester hours credit in finance;
 - iv. At least six semester hours credit in economics;
 - v. At least 18 semester hours in business electives.
4. Two years' experience in municipal accounting and auditing acceptable to the Board with a public accounting firm engaged in New Jersey municipal accounting and auditing, as evidenced by employer affidavit(s).

(b) In lieu of the experience requirements of (a) above, the Board may accept proof of licensure as a Certified Public Accountant in New Jersey.

(c) In lieu of the experience requirements of (a) above, the Board may in its discretion consider experience of an applicant who has had two years' experience in accounting and auditing as an employee of the Division of Local Government of the State of New Jersey.

(d) Any applicant being reexamined shall be qualified under

the provisions of this chapter in effect at the time his or her supplemental application is filed.]

Every applicant for the registered municipal accountant's examination shall submit to the Board a written application on a form to be provided by the Board and a photograph (two inches by two inches in size, bust picture, front view, without a hat, taken within 30 days prior to application), provided that the applicant must hold in good standing a New Jersey license as a certified public accountant.

TREASURY-GENERAL

STATE INVESTMENT COUNCIL

Proposals numbered PRN 1985-468, 469, 470 and 471 are authorized by the State Investment Council, Roland M. Machold, Director, Division of Investment.

Submit comments by October 3, 1985 to:
Roland M. Machold, Director
Division of Investment
349 West State Street
Trenton, New Jersey 08625

(a)

United States Treasury and Government Agency Obligations

Proposed Amendments: N.J.A.C. 17:16-6.1

Authority: N.J.S.A. 52:18A-91.
Proposal Number: PRN 1985-468.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 17:16-6.1 will permit the Director to purchase for the funds under his investment control, in addition to United States Treasury obligations and United States Government Agency obligations, Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of Treasury and Agency obligations as certified by the Director and a Division staff member to be substantially identical to the securities which secure it.

Social Impact

Persons selling the securities which have been added to the rule by this amendment would benefit if additional sales were made by them. The benefit to the Division would be the wider selection available for investment.

Economic Impact

With additional avenues of investment available as a result of the proposed amendment, more profitable return may be possible for the funds under the Director's control.

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

17:16-6.1 Purchases subject to regulations; United States

Treasury and related obligations

(a) Notwithstanding the provisions of any law pertaining to legal investments, the Director shall not make any commitment to purchase securities for any fund unless such securities are of the class of securities in which such fund may be invested pursuant to these regulations; except that the Director may purchase for [United States Treasury obligations and United States Government Agency obligations may be purchased for] any pension and annuity, static, trust, demand or temporary reserve [group] fund without regard to any limitation: [from a list approved by the State Investment Council.]

1. United States Treasury Obligation;

2. United States Government Agency Obligations from a list approved by the State Investment Council; and

3. Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of securities eligible under 1. and 2. above, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the Government securities which secure or otherwise support it.

(b)

Corporate Obligations

Proposed Amendments: N.J.A.C. 17:16-7.1, 7.2 and 7.4

Proposed Repeals: N.J.A.C. 17:16-7.3 and 17:16-8

Authority: N.J.S.A. 52:18A-91.
Proposal Number: PRN 1985-469.

The agency proposal follows:

Summary

The proposed amendments are intended to clarify the meaning of the rules and integrate the text of proposed repeal N.J.A.C. 17:16-8 into the text of 17:16-7.

The amendments raise the debt issue ceiling from 10 percent to 25 percent on long-term debt of corporation issues purchased or acquired, as defined by standard accounting practice. The limitation of 10 percent that may be purchased of any one issue at the time of issue is raised to 25 percent.

Registration with the Securities and Exchange Commission of corporate issues may now be waived by the State Investment Council and certain provisos regarding standards of the corporate obligor are included. The number of credit rating publications are expanded and issues already held and purchased privately now require approval of the State Investment Council.

Social Impact

The proposed amendments will permit greater latitude in investing by the Division in long-term debt.

Economic Impact

With a higher limitation on investment in long-term debt, more profitable return may be possible.

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

SUBCHAPTER 7. CORPORATE OBLIGATIONS
[—LEGAL FOR SAVINGS BANKS]

17:16-7.1 Permissible investments

[Subject to the limitations contained in this subchapter, t] The Director may invest and reinvest the moneys of any fund [described in sections 2 and 3 of this subchapter] in any corporate obligations [which are legal investments for savings banks in this State], provided the total amount of debt issues purchased or acquired of any one corporation shall not exceed [10%] **25 percent** of the outstanding long-term debt of the company, (defined by standard accounting practice) and not more than [the greater of \$10 million or 10%] **25 percent** of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

17:16-7.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of [purchase any of the obligations described in section 1 of this subchapter] any pension and annuity [, static,] or trust group fund[.] in corporate obligations provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

3. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

4. The obligor has a stockholders' equity, (consisting of the sum of equity accounts, capital surplus and earned surplus) of at least \$50 million; and furthermore the long term debt ratio (defined as the ratio of long term debt to the sum of stockholders' equity and long term debt) of the obligor shall be less than 50 percent, except that in the case of telephone utilities the debt ratio shall be less than 55 percent;

5. The obligor has a credit rating of Baa/BBB or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, except that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a Baa/BBB rating or higher. Subsequent to purchase, if ratings fall below Baa/BBB for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than Baa/BBB if the credits received in exchange are, on balance, similarly rated.

[17:16-7.3 Temporary reserve group; demand group]

[The Director may purchase any of the obligations described in section 1 of this subchapter for any temporary reserve group fund with the exception of the New Jersey Educational Facilities Authority and New Jersey Housing Finance Agency, and for any demand group fund provided that any such obligations shall have a maturity of not more than 5 years from date of delivery; provided, however, the Director may purchase public utility and industrial obligations having a maturity of not more than 10 years from date of delivery for the Workmen's Compensation Security Fund—Mutual and the Workmen's Compensation Security Fund—Stock.]

[17:16-7.4]17:16-7.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, [or in the opinion of Standard & Poor's as contained in the Bond Guide,] the security under consideration qualifies [as a legal investment for savings banks in the State,] **under the requisites of this subchapter**; and

1. With respect to issues registered with the Securities and Exchange Commission:

i. On new issues, a prospectus describing the issue;

ii. On existing issues, a copy of the description of the issue as contained in Moody's Manuals or in the Standard & Poor's [Manuals] or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;

2. With respect to issues not registered with the Securities and Exchange Commission:

[i. On new issues, in the case of public offerings, a prospectus or offering circular describing the terms of the issue and the business and operation of the issuer]

[ii.]i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;

(3) At the closing for the purchase of the private placement legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

[iii.]ii. On existing issues, in the case of issues which were originally offered to the public:

(1) A copy of the description of the issue as contained in Moody's Manuals or Standard & Poor's [Manuals] Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

[iv.]iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file form 10-K reports, then the most recent audited financial statement;

[(4) Copies of interim quarterly reports of the issuer and any offering prospectus issued since the date of the most recent form 10-K or audited financial statement;]

[(5)](4) Representation[s], in writing, from the seller to the Division to the effect that there are no restrictions on the sale of the bonds to **funds managed by** the Division; no registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to **funds managed by** the Division; and the seller purchased the bonds directly from the issuer when the issue was originally [placed] sold. In the event other owners have intervened between the issuer and the seller, the seller must substitute for the last requirement mentioned in the first sentence above, the representation that no such intervening transaction required registration of the securities with the Securities and Exchange Commission. The seller may

substitute for these representations a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds

[(6)](5) A written approving opinion from the Attorney General [to the effect] that the representations or no-action letter [in the item 5 above] required by (4) above are satisfactory[.]; and

(6) Approval of the State Investment Council.

Full text of the proposed repeal of N.J.A.C. 17:16-8 appears in the New Jersey Administrative Code.

(a)

State of New Jersey Cash Management Fund

Proposed Amendments: N.J.A.C. 17:16-31.3 and 31.11

Proposed Repeal: N.J.A.C. 17:16-31.10

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1985-471.

The agency proposal follows:

Summary

The proposed amendment changes the method of accounting for the Cash Management Fund from mark-to-market to accrual. Changes in market values are no longer considered as part of the unit value of the Cash Management Fund. All transactions and realized gain and/or loss are accounted for on the settlement date. Earned income is distributed directly to the participant. Therefore, N.J.A.C. 17:16-31.10 is being repealed since it is no longer necessary. This amendment was recommended by independent records auditors of the Division.

Social Impact

The proposed amendments will affect the participants of the Cash Management Fund in that they will be credited with units purchased without any delay previously encountered through the former valuation of securities process of accounting.

Economic Impact

The crediting of units purchased in the Cash Management Fund to a participant's account on a timely basis could result in gain for the participant available in his account for future investment.

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

17:16-31.3 Distribution of income

All income, as calculated under [section 9 of this subchapter] N.J.A.C. 17:16-31.9 of the State of New Jersey Cash Management Fund shall be invested in units of participation in accordance with [section 11 of this subchapter] N.J.A.C. 17:16-31.10 and such units may be withdrawn in accordance with [section 12 of this subchapter] N.J.A.C. 17:16-31.11.

[17:16-31.10 Guidelines for valuation of securities]

[(a) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an accounts payable.

(b) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

(c) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this regulation, brokers' commission or other expenses which would be incurred on a sale thereof.]

[17:16-31.11]17:16-31.10 Reinvestment of daily income per participating unit

The aggregate of daily income per participating unit on total units owned by each participant will be reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of net income available for distribution. In the reinvestment of aggregate daily income as described above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted. Participating funds may obtain cash by redemption of units in accordance with [section 12 of this subchapter] N.J.A.C. 17:16-31.11.

[17:16-31.12]17:16-31.11 Admission and withdrawal of participating units

(No change in text.)

[17:16-31.13]17:16-31.12 Amendments

(No change in text.)

[17:16-31.14]17:16-31.13 Liquidation

(No change in text.)

[17:16-31.15]17:16-31.14 Guidelines on error correction

(No change in text.)

(b)

Bankers Acceptance

Proposed Amendments: N.J.A.C. 17:16-39.1

Proposed Repeal and New Rule: N.J.A.C. 17:16-39.3

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1985-470.

The agency proposal follows:

Summary

The proposed amendments would eliminate the present capital requirements of at least \$40 million for banks to be eligible for bankers acceptances as an appropriate credit standard. The limit was imposed in prior years by savings banks investment laws. This standard was reviewed by the banking commissioner who no longer believes the standard is an appropriate credit test.

Size, delivery and procedure standards which reflect actual purchasing, practices have been added by the amendments and

new rule: (1) total investment in bankers acceptances of any one issuer, combined with the total investment in Certificates of Deposit of any one bank, shall not exceed 10 percent of the issuer's primary capital; (2) the accepting institution shall deliver to a third-party bank designated by the Division of Investment; (3) the accepting institution shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for 10 minutes; (4) the bankers acceptance is in an amount of at least \$1 million.

Social Impact

Neither the proposed new rule nor the amendments will have a direct affect upon the public. The amendments would simply eliminate a standard imposed by savings banks investment laws which are no longer appropriate.

Economic Impact

No costs are involved in the implementations of the new rule or amendments. The proposal is intended to maximize efficient management of funds under the jurisdiction of the Division of Investment.

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

17:16-39.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in bankers acceptances of [commercial] banks provided that:

- 1. The investment in the bankers acceptance is limited to a term of one year or less;
- 2. The accepting institution is a bank or trust company which:

- i. Is headquartered in the United States;
- ii. Is not controlled by a foreign entity; and
- iii. Is a member of the Federal Reserve [Board] System, [and] the Federal Deposit Insurance Corporation of the Federal Savings & Loan Insurance Corporation;

[3. The issuer, at the date of its last published balance sheet preceding the date of the investment:

- i. Had a combined total of capital stock, surplus, reserve for contingencies and undivided profits equal to at least \$40,000,000; and
- ii. Had consolidated assets exceeding \$15 billion, or, if consolidated assets were less than \$15 billion, had the following minimum ratio of primary capital to total assets (as defined by the Federal Reserve Board):]

Assets	Minimum Primary Capital Ratio
\$1 billion to \$15 billion	5%
Less than \$1 billion	6%

3. The accepting institution, at the date of its last published balance sheet preceding the date of investment, had a primary capital ratio (as defined by the Federal Reserve Board) of at least 5.5 percent.

4. The total investment in the bankers acceptances of any one issuer, combined with the total investment in the certificates of deposit of any one issuer, shall not exceed 10 percent of the issuer's primary capital.

17:16-39.3 Other limitations

[The total investment in the bankers acceptances of any one

bank, combined with the total investment in the certificates of deposit of any one bank shall not exceed 25% of the bank's net worth designated as capital, surplus and undivided profits. In making this calculation bankers acceptances and certificates of deposit purchased for the following State agencies will be taken into account:]

- [New Jersey Building Authority
- New Jersey Economic Development Authority
- New Jersey Educational Facilities Financing Authority
- New Jersey Health Care Facilities
- New Jersey Housing Finance Agency
- New Jersey Mortgage Finance Agency
- New Jersey Sports and Exposition Authority]

(a) The accepting institution shall deliver the acceptance to a third party bank designated by the Division of Investment.

(b) The accepting institution shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for ten minutes.

(c) The bankers acceptance is in an amount of at least \$1,000,000.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Corporation Business Tax Net Operating Loss Carryover

Proposed New Rules: N.J.A.C. 18:7-5.12, 5.13, 5.14, 5.15 and 5.16

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 554:10A-1, et seq., specifically 54:10A-27 and P.L. 1985, c. 143.

Proposal Number: PRN1985-472.

Submit comments by October 3, 1985 to:

John R. Baldwin, Director
Division of Taxation
50 Barrack Street, CN 240
Trenton, N.J. 08646

The agency proposal follows:

Summary

This proposal contains five new rules dealing with the entire net income base of the corporation business tax. The proposal deals with the net operating loss carryover and indicates the period when it is available to taxpayer. The Corporation Business Tax Act, N.J.S.A. 54:10A-1 et seq., prior to Chapter 143, Laws of 1985, did not contain any provision for a net operating loss carryover. However, Chapter 143, Laws of 1985, approved April 22, 1985, provided for a net operating loss carryover to be carried forward for seven years but contains no provision for a net operating loss carryback. Chapter 143 applies to accounting periods ending on or after July 31, 1984. If there is a change in 50 percent or more of the ownership

of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition, where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the Division of Taxation will disallow the carryover.

Social Impact

The Division of Taxation has been advised that many new businesses and small businesses having difficult times incur losses and in order to grow and earn income to pay taxes they need a net operating loss carryover to "get on their feet" and to offset a corporation business tax on profits earned in a successful year. P.L. 1985, c. 143 amended N.J.S.A. 54:10A-4(k) to provide such relief. Businesses will be happier to pay taxes that take into account their losses. The carryforward provision was instituted also to promote new investment in New Jersey which would lead to more jobs.

Economic Impact

The Division understands that businesses are ongoing entities and their ability to grow and invest depends on profitability over an extended period of years. Not having a carryover provision hampers the growth of cyclical businesses, particularly in hard economic times such as a recession or worse or overproduction and high inventories and supplies. Successful businesses mean better State tax revenue. It is estimated that there will be a revenue loss of approximately \$38 million in the first three years of carryover use.

Full text of the proposed new rules follows.

18:7-5.12 Net operating loss deduction

A taxpayer may deduct a net operating loss carryover as defined in N.J.A.C. 18:7-5.13 in computing its entire net income before exclusions and before the net operating loss de-

duction.

18:7-5.13 Net operating loss carryover

(a) A net operating loss as defined in N.J.A.C. 18:7-5.15 for any year ending after June 30, 1984 becomes a net operating loss carryover. The net operating loss carryover is carried to each of the succeeding taxable years and is reduced in each such succeeding year by the amount of entire net income before net operating loss deduction and before exclusions, and is further reduced to zero seven years following the year of the loss, taking into account the normal or extended due date for filing the return for the seventh year succeeding the year of the loss. The net operating loss carryover may not be carried back to any year preceding the year of the loss. For this purpose, taxable year shall mean the accounting period covered by and reflected by taxpayer's return. In no event may a net operating loss carryover form the basis for a net operating loss deduction on the eighth return succeeding the loss year.

(b) The net operating loss may only be carried over by the actual corporation that sustained the loss. The net operating loss may, however, be carried over by the corporation that sustained the loss and which is the surviving corporation of a statutory merger. The net operating loss may not be carried over by a taxpayer that changes its state of incorporation or is a part of a statutory consolidation.

Example 1: A domestic corporation dissolves pursuant to laws of the State of New Jersey and incorporates in another state. This newly formed corporation of another state is a new legal entity for corporation business tax purposes and the net operating loss carryover of the domestic corporation is not available to the new entity.

Example 2: The example below illustrates the net operating loss carryover for the full term of seven years and demonstrates the application of net operating loss deductions in the proper sequence. The year 1984 was the year in which a net operating loss was incurred and any unused portion of the carryover is carried forward until 1991 after which any unused carryover would expire because it had gone the full term of seven years.

TREASURY-TAXATION

PROPOSALS

Amounts From Returns Return Year	1984	1985	1986	1987	1988	1989	1990	1991	1992
Fiscal Year Ended	31-Dec-84	31-Dec-85	31-Dec-86	31-Dec-87	31-Dec-88	31-Dec-89	31-Dec-90	31-Dec-91	31-Dec-92
Line 28	(\$100,000)	(6,000)	(8,000)	(10,000)	50,000	8,000	(5,000)	2,000	10,000
NJ Adjustments	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
ENI before NOL ded. or exclusions	(95,000)	(1,000)	(3,000)	(5,000)	55,000	13,000	0	7,000	15,000
NOL Deduction	NA	0	0	0	55,000	13,000	0	7,000	9,000
ENI before exclusions	0	0	0	0	0	0	0	0	6,000
Dividend exclusion & IBF exclusion	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Entire Net Income	0	0	0	0	0	0	0	0	4,000

NOL Carryovers Applied

1985	0								
1986	0	0							
1987	0	0	0						
1988	55,000	0	0	0					
1989	13,000	0	0	0	0				
1990	0	0	0	0	0	0			
1991	7,000	0	0	0	0	0	0		
1992		1,000	3,000	5,000	0	0	0	0	
1993			0	0	0	0	0	0	0
1994				0	0	0	0	0	0
1995					0	0	0	0	0
1996						0	0	0	0
1997							0	0	0
1998								0	0
1999									0
Unused	20,000	0	0	0	0	0	0	0	0
Total	95,000	1,000	3,000	5,000	0	0	0	0	0

18:7-5.14 Limitations to right of net operating loss carryover

The net operating loss carryover automatically becomes zero when the cumulative effect of all its capital stock redemptions and sales after June 30, 1984 is a 50 percentage point change in the ownership of its voting stock and the corporation changes the business giving rise to the loss. For this purpose the exchange of stock is a sale. The sequence in change of ownership and change in the business and the taxability of an exchange for Federal income tax purposes are irrelevant. The economic substance of the transaction is, however, paramount and may indicate forfeiture of a net operating loss carryover without respect to the bright line test.

Example 1: B Corporation is wholly owned by a single stockholder. It operated a notably unsuccessful restaurant and built up significant net operating loss carryovers. The stockholder transfers 49 percent of his stock to an investor who has access to a recognized and uniformly profitable fast food franchise. B Corporation releases substantially all its existing employees, disposes of its equipment and undertakes the fast food franchised business at a new location. Notwithstanding that B Corporation's sole stockholder sold less than 50 percent of his stock and the corporation still sells food in a heated state, the net operating loss carryovers to B Corporation become zero. The economic substance of the transaction is to transfer the loss carryovers to a new business.

Example 2: C Corporation was a manufacturer of buggy whips and button hooks. Due to a declining demand for its products it has built up significant net operating loss carryovers. C Corporation has only one stockholder who sells 50 percent of his capital stock to a woman who has invented a cheap and well-styled perpetual motion machine for which

there is a clamorous demand. C Corporation changes its name to D Corporation, retools and hires additional employees. It expands its plant, closes out its old product lines and realizes huge profits in its rejuvenation. D Corporation's net operating loss carryovers from its buggy whip days are unaffected by any of the above circumstances and may be claimed as a net operating loss deduction. The economic substance of the transaction is a mere restructuring of its manufacturing product line.

18:7-5.15 Net operating loss

(a) A net operating loss is the excess of allowable deductions over gross income used in computing entire net income.

(b) Neither a net operating loss deduction nor any exclusions from entire net income are allowable deductions in computing a net operating loss.

(c) There is no net operating loss for any year that a Corporation Business Tax Return (CBT-100) is not filed that reports entire net income as a positive or negative amount.

18:7-5.16 Effect of audit adjustments

An audit adjustment to entire net income shall serve to revise the amount of any net operating loss for the year of the change and the net operating loss carryover to which it relates.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Rules of Practice Rules of Special Applicability Department of Environmental Protection Emergency Water Supply Allocation Plan Cases

Adopted New Rule: N.J.A.C. 1:7

Proposed: July 1, 1985 at 17 N.J.R. 1674(q).
Adopted: August 7, 1985 by Ronald I. Parker, Acting
Director, Office of Administrative Law.
Filed: August 9, 1985 as R.1985 d.446, **without change**.

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: August 9, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): August 9, 1990.

Summary of Public Comments and Agency Responses:

On July 1, 1985, the Office of Administrative Law adopted on an emergency basis and concurrently proposed for re-adoption rules for cases arising under the Emergency Water Supply Allocation Plan Regulations, N.J.A.C. 7:19A-1.1 et seq.

The OAL received one comment from the Division of Water Resources of the Department of Environmental Protection which approved of the regulation as proposed. Therefore, the OAL has determined to adopt the rules as proposed without change.

Full text of the adoption follows.

CHAPTER 7 DEPARTMENT OF ENVIRONMENTAL PROTECTION EMERGENCY WATER SUPPLY ALLOCATION PLAN CASES

SUBCHAPTER 1. APPLICABILITY

1:7-1.1 Applicability

(a) The rules in this chapter shall apply to hearings arising under N.J.A.C. 7:19A-1.1 et seq. concerning the denial of an application for a hardship exemption from water rationing or the ban on adjustable water uses. To the extent that these Rules of Special Applicability are inconsistent with the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1-1 et seq., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS

1:7-2.1 Definitions

(a) "Applicant" is an individual or entity who is aggrieved

by a decision of the Water Emergency Task Force, established by N.J.A.C. 7:19A-4.2.

(b) A "hearing on the papers" is a summary proceeding conducted without any personal appearance or confrontation of the parties before the judge. The hearing is conducted through the submission of pleadings, affidavits, records and other documents to the Office of Administrative Law (OAL), for a decision by an administrative law judge.

SUBCHAPTER 3. SETTLEMENT/PREHEARING CONFERENCE

1:7-3.1 Settlement/Prehearing conference

(a) In a case dealing with an application for a hardship exemption from water rationing or the ban on adjustable water uses, the Department of Environmental Protection (DEP) shall attempt to settle the dispute through appropriate conferences within 30 days of receiving a hearing request.

(b) If settlement is not reached at the conference, the applicant shall choose whether to submit his or her case on the papers or to appear at an in-person hearing.

1. If the applicant chooses to proceed on the papers, at the settlement conference the applicant shall complete a certification explaining why the exemption is necessary to avoid extraordinary hardship and why no reasonable alternative exists other than to grant the exemption. The applicant may also submit any additional documentation supporting the claim.

2. At or immediately after the conference, the DEP shall supply the applicant with any materials requested pursuant to N.J.A.C. 1:7A-5.1(a) (Discovery).

(c) The DEP shall transmit the case to the OAL including each document upon which the Water Emergency Task Force based its decision to deny the hardship exemption, and, if a hearing on the papers has been requested, the applicant's certification and any other documents provided by the applicant.

SUBCHAPTER 4. NOTICE OF FILING AND HEARING

1:7-4.1 Notice of filing and hearing

(a) The notice for a hearing on the papers or an in-person hearing will be mailed to the applicant by OAL after receiving the case from the DEP. The notice for hearing shall constitute both the notice of filing and notice of hearing.

1:7-4.2 Notice of filing and in-person hearing

(a) The notice scheduling an in-person hearing shall permit the applicant to submit a certification or other documents prior to the hearing in lieu of making a personal appearance at the hearing. If the applicant does not appear at the in-person hearing and fails to forward the certification form and any accompanying documents within the time specified in the notice, the judge shall in an initial decision deem the applicant to have abandoned the hearing request and return the matter to the DEP.

1:7-4.3 Notice of Filing and on the Papers Hearing

(a) If the applicant elects to proceed on the papers but does not complete the written certification at the prehearing conference or wishes to submit other written documents, the applicant may submit these documents within 10 days of receipt of the Notice of Filing and on the Papers Hearing.

(b) If the applicant fails to forward the documents within the 10 days, the judge shall decide the case based upon the documents which have been submitted by the applicant. If the applicant fails to submit any documentation, the judge shall in an initial decision deem the applicant to have abandoned the hearing request, and return the matter to the DEP.

SUBCHAPTER 5. DISCOVERY

1:7-5.1 Discovery

(a) Discovery shall be limited to the records of the Department, including all documents relied upon by the Water Emergency Task Force, with respect to the case.

(b) The Department shall supply the applicant with a copy of all discovery at or forthwith after the settlement conference.

SUBCHAPTER 6. CONDUCT OF HEARING

1:7-6.1 Conversion of on the papers hearing to conference hearing or plenary hearing

(a) In the interest of providing a full and fair hearing, considering the circumstances of the case, the judge may, on his or her own or on the request of the DEP official conducting the settlement/prehearing conference, convert a case scheduled as a hearing on the papers into a conference hearing or plenary hearing.

(b) Reasons for such conversion include:

1. Discovery disputes or genuine need for more extensive discovery;
2. Inability of a party to communicate adequately in writing;
3. Proofs on a disputed material fact which require oral presentation by a party or a party's witness;
4. Other genuine need for personal appearance or more extensive procedure.

1:7-6.2 Conduct of hearing on the papers

(a) At the conclusion of any time allotted for the submission of supplemental documents, the record in the case shall be closed.

(b) Upon closing the record, the OAL shall assign the record for review and determination by an administrative law judge. The judge shall issue an initial decision no later than 45 days after he or she receives the record of the case.

1:7-6.3 Plenary and conference hearings in Emergency Water Supply Allocation Plan cases

(a) Plenary hearings in Water Emergency cases shall be conducted pursuant to the Uniform Administrative Procedure Rules at N.J.A.C. 1:1-1 et seq.

(b) Conference hearings in Water Emergency cases shall be conducted pursuant to the conference hearing procedures at N.J.A.C. 1:2-2.1 et seq.

AGRICULTURE

(a)

DIVISION OF ADMINISTRATION

**Organization
Rules of Practice**

Adopted Amendments: N.J.A.C. 2:1-2.3, 3.1, 3.2, 3.4, 3.7 and 3.8

Proposed: July 1, 1985 at 17 N.J.R. 1614(a).
 Adopted: August 8, 1985 by Arthur R. Brown, Jr.,
 Secretary, Department of Agriculture.
 Filed: August 9, 1985 as R.1985 d.447, with **technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14B-3(1) and (2) and 52:14B-4(b).

Effective Date: September 3, 1985.

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

**Summary of Public Comments and Agency Responses:
No comments received.**

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

2:1-2.3 Functions of departmental units

(a) (No change.)

1. (No change.)

2. (No change.)

3. Office of the Secretary is responsible for the executive management policy, public information programs, regulations and public hearings for the Department and the State Board of Agriculture.

4. The Division of Administration provides personnel, budget, accounting, training, and administrative support services to the Divisions.

5. The Division of Animal Health is responsible for programs for the prevention, control and eradication of livestock and poultry diseases.

6. The Division of Dairy Industry is responsible for fostering a stable and competitive dairy industry, including the regulation and enforcement of the production and distribution of dairy products.

7. The Division of Markets provides market development services, support for agricultural cooperatives, equine programs, product promotion and distributes Federal food to schools, institutions and individuals.

8. The Division of Plant Industry is responsible for programs to prevent, control and eradicate pests and diseases of plants, beneficial insect development and production, seed certification and control.

9. The Division of Regulatory Services is responsible for the quality assurance of animal feeds, fertilizers, agricultural liming materials, agricultural product grading and inspection, and the regulation or credit buyers of perishable agricultural products.

10. The Division of Rural Resources provides services to support farming, agricultural development, fisheries development and implements programs to enhance agriculture through:

- Soil and Water Conservation Programs,
- Rural Studies,
- Agricultural Statistics,
- Farmland Preservation and Agricultural Development.

2:1-3.1 Purpose of rules of practice

The State Board of Agriculture and the New Jersey Depart-

ment of Agriculture, in order to more fully represent and carry-out their duties and functions, adopts this subchapter as its rules of practice.

2:1-3.2 State Board of Agriculture

(a) The State Board of Agriculture is the head of the Department and consists of eight citizens of the State engaged in the production of farm crops or livestock. It is referred to herein as the Board.

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

2:1-3.4 Rules and regulations

(a) The Board believes that regulations should be clear and concise to encourage the maximum amount of voluntary compliance by those who are regulated.

(b) Regulations may be established by the Board for its own proceedings, for the governing and control of the Department, and the officers and employees of the Department, and for the enhancement of agriculture in New Jersey.

2:1-3.7 Public comment upon Department regulations

(a) The Department, in carrying out its duties, shall provide the maximum amount of public participation possible in the review of existing or proposed regulations, and to help determine the need for new regulations, as well as request any information or clarification on any existing regulation.

(b) Any person may request of the Department, directly or through the Board, any question or suggestion concerning the regulations, or need for regulations. The request shall be in writing, intelligible and signed by the person making the request. The request shall contain the following information as far as is possible.

1. The full name of the person making the request;
2. The reason and nature of the request;
3. The rulemaking requested;
4. The interest, if any, of the petitioner in the request, including any relevant organizational affiliation or economic

interest;

5. Any statutory authority under which the Department may take the requested action; and

6. Any existing State or Federal Law or regulation which may be pertinent.

Requests shall be addressed to:

Secretary of Agriculture
 New Jersey Department of Agriculture
 CN 330
 Trenton, New Jersey 08625

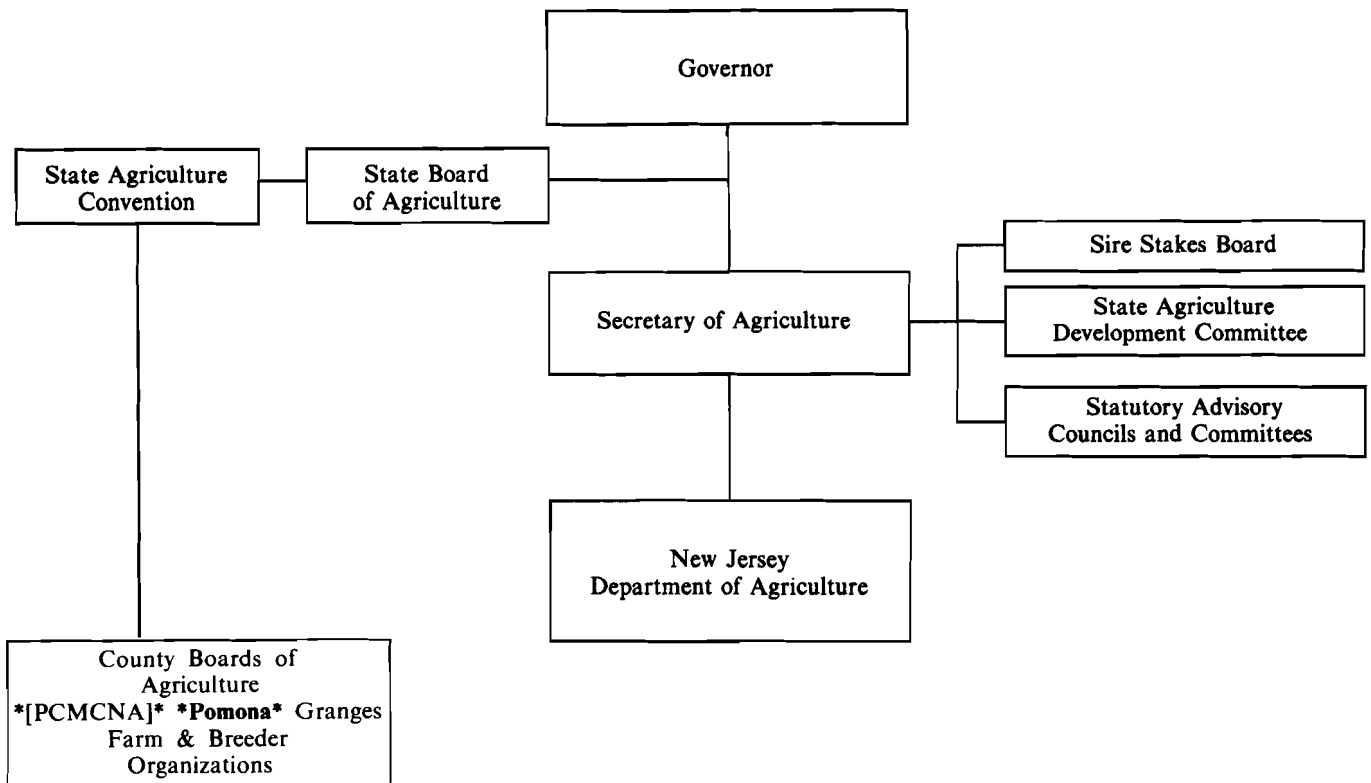
(c) Upon receipt of a request, the Department shall transfer the matter to the relevant Division Director, who shall transmit to the State Board of Agriculture at its next regularly scheduled meeting falling 30 days after the receipt of the request and the Division comments thereto. The State Board of Agriculture shall take action to either study, deny or endorse the request. The Board shall direct the Division Director to respond in writing to the petitioner, with an explanation as to the reasons for the action taken.

(d) If a petition is endorsed, it shall be treated in accordance with N.J.A.C. 1:30-1 et seq. for the promulgation of rules.

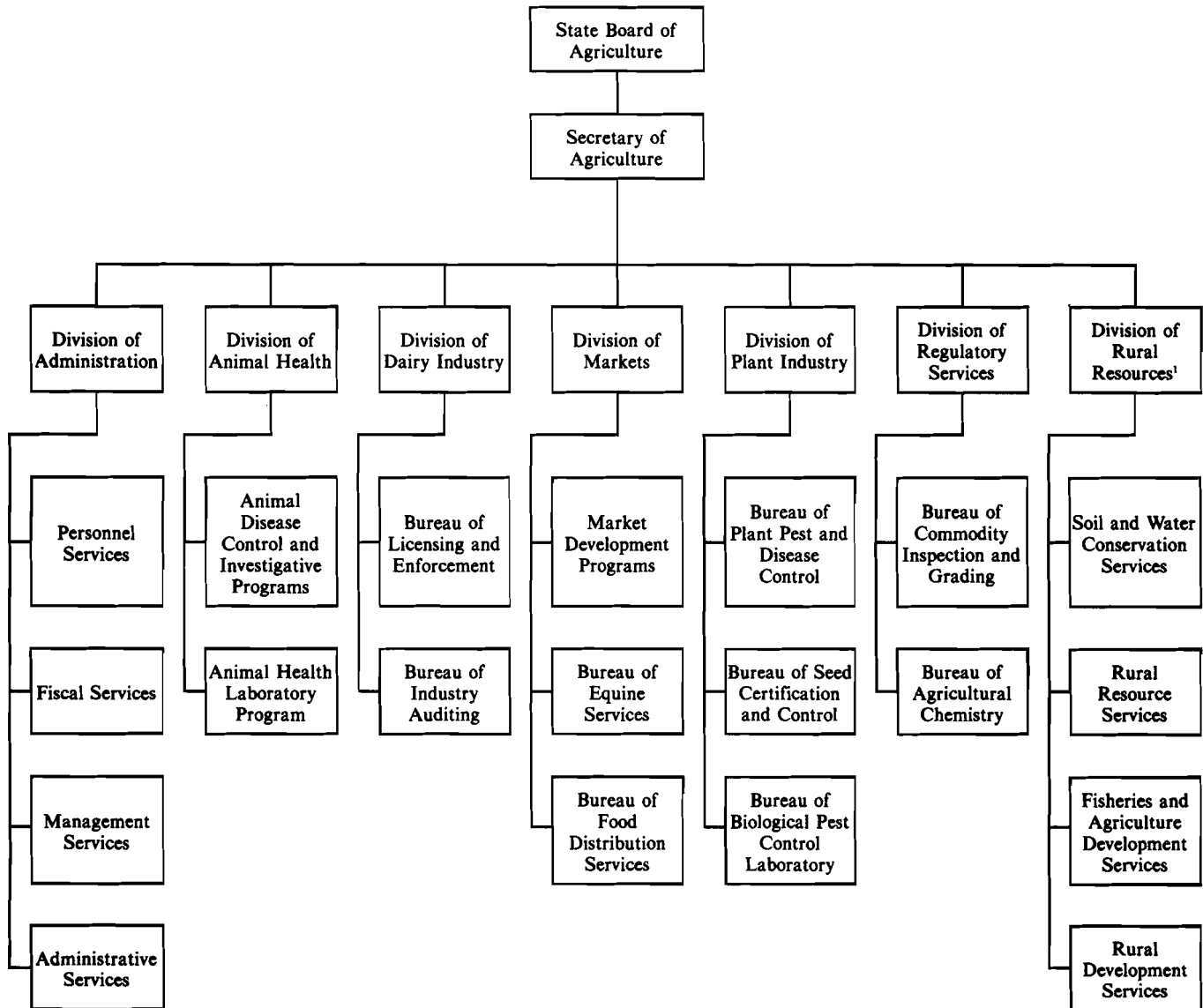
2:1-3.8 Hearings

(a) Any person who feels aggrieved by any action or inaction of the Department may request an informal meeting with the Department to settle any dispute, or seek clarification of the Department's rules and regulations. The Department shall respond, in writing, to any such request stating the reasons for its determination.

(b) If any dispute is required by law or regulation to be handled formally, or if a party is dissatisfied with an informal determination, or if the Department determines the matter a contested one, the matter shall be treated in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1, et seq.) and the Reform Administrative Rules of Practice, N.J.A.C. 1:1.



New Jersey Department of Agriculture



¹ The State Agriculture Development Committee is in, but not of, the Department of Agriculture. Its support services are provided through the Division of Rural Resources.

(a)

DIVISION OF ANIMAL HEALTH

Animal Vaccines
Biological Products for Diagnostic or Therapeutic Purposes

Adopted Repeal: N.J.A.C. 2:6-1

Adopted New Rule: N.J.A.C. 2:6-1

Proposed: July 1, 1985 at 17 N.J.R. 1617(a).

Adopted: August 8, 1985 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Filed: August 9, 1985 as R.1985 d.448, **without changes.**

Authority: N.J.S.A. 4:5-107 et seq.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

2:6-1.1 Definitions

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

"Accredited veterinarian" means any licensed Doctor of Veterinary Medicine who has fulfilled the requirements for Federal accreditation, pursuant to 9 C.F.R. §160.1 et seq. in the State of New Jersey.

"Biological," "biological product," and "biological drug" means any product utilizing virus (whether active or inactive) or any molecular part thereof, bacteria or any genetic equivalent thereof, or toxin as its basic component, or any product derived from the serum of any other animal, in the diagnosis or therapy of animal disease. This includes any and all products covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq.

"Director" means the Director, Division of Animal Health, New Jersey Department of Agriculture.

"Domestic animal" means any and all animals other than humans.

"Licensed veterinarian" means a Doctor of Veterinary Medicine, or its equivalent, who is currently licensed by the Board of Veterinary Medical Examiners, pursuant to N.J.S.A. 45:16-1 et seq., and the regulations issued pursuant thereto, N.J.A.C. 13:44-1.1 et seq., to practice veterinary medicine, surgery, and dentistry in the State of New Jersey.

"Person" means any individual, corporation, institution or partnership.

"Prophylactic biological" means any and all vaccines or toxoids used to initiate or maintain active or passive immunity against disease in domestic animals.

2:6-1.2 Scope

This subchapter applies to any person who either manufactures, sells, gives away, or distributes, or intends to manufacture, sell, give away or distribute within the State of New Jersey of any biological, biological product, or biological drug.

2:6-1.3 Application

(a) These regulations shall apply whenever:

1. Any person who meets the requirements as defined in N.J.A.C. 2:6-1.1, has failed to meet the requirements of the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq. and the Federal regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq., or;

2. Any person who is engaged in the manufacture, sale, or distribution of a biological, biological product, or biological drug that is not covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. §§151 et seq.

2:6-1.4 Prerequisites for licensure; application

Whenever this subchapter applies as specified in N.J.A.C. 2:6-1.2, application for a State license to manufacture, sell, give away, or distribute any biological, biological product, or biological drug must be made to the Director on forms provided by the Division.

2:6-1.5 Biologicals for State use only

Any and all antigens made available by commercial laboratories for distribution, sale, or the like thereof, to be used in the in vitro diagnosis of Equine Infectious Anemia, Brucellosis, or Paratuberculosis (Johne's Disease), or any other disease of domestic animals designated by the Director,

shall be so used only by the Animal Health Laboratory, Division of Animal Health, New Jersey Department of Agriculture. Any and all distribution, sale, or the like, of Brucella bacterin or contagious ecthyma of sheep vaccine shall be only to the Division of Animal Health.

2:6-1.6 Use of diagnostic biologicals

Products covered by this subchapter shall be used for the diagnosis or therapy of animal disease (including rabies) only by a licensed veterinarian, provided that the use of any biological for the purpose of diagnosis and control of any reportable animal disease, as enumerated N.J.S.A. 4:5-4 et seq., and the regulations issued pursuant thereto, N.J.A.C. 2:2-1.1 et seq., including Brucellosis, shall only be performed by an accredited veterinarian.

2:6-1.7 Use of prophylactic biologicals

Any and all vaccines made for the immunization of animals against Brucella contagious ecthyma of sheep and any other disease designated by the Director, shall be administered to any animal only by an accredited veterinarian. Any and all other biologicals, including rabies vaccines, may be administered only by or on the order of a licensed veterinarian. This section does not apply to the immunization of poultry.

2:6-1.8 Revocation of license

(a) All licenses issued under this subchapter shall be subject to revocation at any time when the Director has a belief that there has been a violation of these or the appropriate Federal law or regulation, or where the public health, welfare or safety shall warrant such revocation.

(b) Any hearing to be conducted under this section shall be so conducted pursuant to the governing provisions of N.J.A.C. 2:1-3.8.

2:6-1.9 Distribution of biologicals

No person shall distribute, sell, or give away any biological product exempt from these regulations by compliance under the Animal Virus, Toxin, and Serum Act, 21 U.S.C. §§151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. §101.1 et seq., except to any person that is licensed to sell, distribute, or prescribe the same.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Separations and Demotions

Suspension, Fine and Demotion for Disciplinary Purposes

Adopted Amendment: N.J.A.C. 4:1-16.7

Proposed: June 3, 1985 at 17 N.J.R. 1360(a).

Adopted: July 30, 1985 by the Civil Service

Commission, Eugene J. McCaffrey, Sr., President.

Filed: August 12, 1985 as R.1985 d.456, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 11:2A-1, 11:5-1, 11:26-1, 11:15-6.

Effective Date: September 3, 1985.

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

Summary of Public Comments and Agency Responses:

Peter Calderone, Assistant Commissioner, Department of Civil Service, indicated that a fine as a disciplinary penalty was increasingly being used, particularly for police and fire fighters at the local government level. Currently, N.J.S.A. 11:2A-1 provides for fines as a form of discipline and the Department of Civil Service is proposing a procedure for payment so that the employee will not find such payment to unduly burdensome. Accordingly, the employee will have the option of making a lump sum payment or making such payment on a scheduled basis, predicated on the amount of the fine and on the percentage of the fined employee's salary.

Sherryl Gordon, representing AFSCME, agreed with the fine schedule concept, but wanted to lower the percentage from the 10 percent limit to 5 to 7 percent and the 15 percent limit to 10 to 12 percent. She maintained that employees in her unit cannot afford large payments and this factor must be considered by the Commission.

Don Philippi, representing IFPTE, maintained that it was a form of slavery to have people work for a salary and receive wages and then have to return these wages in the form of a fine. Further, he disagreed with fines for unauthorized absences, absence from scheduled work shift without permission and refusal to work overtime. Regarding the scheduled percentage of overtime, he opined that the percentage should not be more than 10 percent of an employee's wages. He also suggested the use of leave balances in lieu of fines.

Thomas Murphy, representing the Police Benevolent Association, supported the restrictions on fine payments except he desired to base the fine on a percentage of net pay rather than gross pay. He noted the expansive use of fines in local government and the need to put limits on the installment amounts.

John DeVaney, representing the NJ State Personnel Council, agreed with the proposal, but proposed that if an employee owing a fine terminates his services that the remaining owed amount be deducted from the employee's last pay check.

Robert Pursell, representing the Communications Workers of America, disagreed with the fine concept. However, if it is to be used, he maintained that it should be only employed where reimbursement for actual damages incurred, payment of tangible costs (telephone calls) and for the conditions dangerous to the health and welfare if the employee was not at work. Further, he agreed with Mr. Murphy that net rather than gross salary should be as the basis for deduction.

John Leonardis, representing the NJ Fireman Mutual Benevolent Association, agreed with the proposal, but also wanted the net basis of computation.

Olga Sachenski indicated that the Civil Service Association supports the proposed amendment.

Frederic M. Knapp, Esq., representing the NJ Civil Service Association offered support for the proposal as it stands, but indicated that fines in general should no longer be included as a form of discipline because they are cruel and unfair.

Jack Stinsman, representing PBA, Local 35, proposed the idea of allowing the employee the option of choosing either a fine or suspension. He also opined that fines be paid at a rate of 10 percent per month with the upper limit amount to be negotiated.

Jack Gold, representing the East Orange PBA, recommended that a fine be stayed until the Commission makes a determination on the appropriateness of such a fine, if the employee appeals.

Abby Demel, representing CWA, Local 1031, proposed a rule that would totally abolish fines as a form of discipline.

N.J.S.A. 11:2A-1 expressly provides for fines as a form of disciplinary action. Accordingly, the Civil Service Commission should consider proposed N.J.A.C. 4:1-16.7(a)6 only in the context of its existing legislative authorization.

In this regard, several comments sought a change from a calculation of gross pay to net pay. However, such a change would cause undue confusion and administrative difficulties because of the different variables in considering such a calculation, including social security taxes, federal and state income taxes, workers compensation taxes, temporary disability taxes, health insurances, pension deductions, loans, etc.

The testimony generally sought to lower the percentage gradients of fines so as not to be unduly burdensome to the employee involved. Such a lowering could be accomplished with the integrity of the proposal kept intact. Accordingly, the Commission adopted that the percentages be 5 percent of the gross salary per pay period for a fine under \$500.00; 10 percent of gross salary per pay period for a fine between \$500 and \$1,000; and 15 percent of gross salary per pay period for a fine over \$1,000 as well as keeping the option of a lump sum payment.

Another comment, voiced by the New Jersey Personnel Council, requested that, upon separation from employment, the separated employee pay the balance of any outstanding fines. While this suggestion has merit, an outstanding fine would be similar to any other debt (that is, overdrawn vacation and sick leave) and would be collected in a similar manner. Thus, no specific provision in this area is necessary.

In addition, as a clarification to the proposal, the installment fine provisions will be applied only to major disciplinary actions of more than five days because all of the testimony focused on personal hardship resulting from large fines which generally result from major disciplinary actions.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

4:1-16.7 Suspension, fine and demotion for disciplinary purposes

(a) An appointing authority may suspend without pay or with reduced pay, fine or demote an employee due to inefficiency, incompetency, misconduct, negligence, insubordination or for other sufficient cause; however:

1. An employee who shall be suspended, fined or demoted more than five days at one time shall be served with written charges and have the right to appeal to the Civil Service Commission;

2. An employee who shall be suspended, fined or demoted more than three times in any one year (one year being from the date of the first suspension, fine or demotion to one year therefrom) or for a period of more than fifteen days in the aggregate in any one year shall be served with written charges and have the right to appeal the latest disciplinary action to the Civil Service Commission;

3. The Commission shall have the power to revoke or modify that action of the appointing authority, except that removal from service shall not be substituted for a lesser penalty;

4. The appointing authority shall notify the employee and

the Department of Civil Service of the reasons for the suspension, fine or demotion regardless of the extent or duration of the disciplinary action;

5. No suspension shall exceed six months;

6. ***For actions covered in 1 and 2 above, an** *[An]* employee may pay a fine in a lump sum or through installments. Unless otherwise agreed to by the employee, an installment may not be more than *[10]* ***5*** percent of the gross salary per pay period for a fine under \$500.00; *[15]* ***10*** percent of gross salary per pay period for a fine between \$500.00 and \$1,000; or *[20]* ***15*** percent of gross salary per pay period for a fine over \$1,000.

(b) In State service any disciplinary suspension, fine or demotion of less severity than those from which appeal may be made to the Commission may be the subject of a grievance within the departmental grievance procedures as provided in accordance with N.J.A.C. 4:1-23.

COMMUNITY AFFAIRS

(a)

DIVISION OF COMMUNITY RESOURCES

**Management Assistant Program
Handicapped Person's Recreational
Opportunities Act**

**Adopted Amendments: N.J.A.C. 5:51-1.4 and
1.5**

Proposed: June 17, 1985 at 17 N.J.R. 1463(a).
Adopted: August 5, 1985 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: August 7, 1985 as R.1985 d.444, **without change**.
Authority: N.J.S.A. 52:27D-173.
Effective Date: September 3, 1985.
Expiration Date pursuant to Executive Order No. 66
(1978): September 1, 1988.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the adoption follows.

5:51-1.4 Application procedure
(a)-(d) (No change.)
(e) A non-profit agency serving handicapped persons will be eligible to participate in the program through a formal agreement with a local government. The name and address of the non-profit agency and a brief summary of the terms of the agreement shall be submitted as attachments to the proposal application.
(f) The Chief Executive of the local government must affix his signature to the formal application.
(g) The proposed third party agreement between the local government and the non-profit agency serving handicapped persons must be completed in compliance with the Local

Public Contracts Law as determined by the Divisions.
(h) The Department reserves the right to require the non-profit agency to sign any contract offered to the local government, and/or to specify the manner of contractual relationship between the two parties.

5:51-1.5 Application processing and review procedure
(a)-(c) (No change.)
(d) Prior to any payment being made, a local government shall submit a copy of the resolution providing for the insertion of a special item of revenue in the current years' budget pursuant to N.J.S.A. 40A:4-87 as approved by the Director, Division of Local Government Services which also indicates that the match requirement of N.J.A.C. 5:51-1.3(c)3 has been met.

EDUCATION

(b)

STATE BOARD OF EDUCATION

**Bookkeeping and Accounting in Local School
Districts**

Readoption with Amendments: N.J.A.C. 6:20-2

Proposed: June 3, 1985 at 17 N.J.R. 1361(a).
Adopted: August 7, 1985 by State Board of Education,
Saul Cooperman, Secretary.
Filed: August 9, 1985 as R.1985 d.452, **with technical
changes** not requiring additional public notice and
comment (N.J.A.C. 1:30-3.5).
Authority: N.J.S.A. 18A:4-14, 18A:4-15, 18A:7A-19,
18A:7A-26, 18A:18A-5, 18A:19-13, 18A:22-8,
18A:29-3, 18A:33-3, and 52:14-15.9(e).
Effective Date for Readoption: August 9, 1985.
Effective Date for Amendments: September 3, 1985.
Expiration Date pursuant to Executive Order No. 66
(1978): August 9, 1990.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the readoption and adopted amendments follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

6:20-2.1 Prescribed system of bookkeeping
(a) It shall be the purpose of the bookkeeping and accounting system prescribed herein to provide a sound plan of general accounts that will serve to safeguard the expenditure of public funds; effect proper budgetary control; establish uniformity in the classification of expenditures; and furnish adequate financial information for use of the public, the district board of education administration and the ***[commissioner]*
*Commissioner of Education***.
(b) It shall be comprised of three major parts: records of

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receipt and expenditure accounts in accordance with recognized governmental accounting procedures; detailed budget and cost distribution records; and a schedule of physical property.

6:20-2.2 Records of receipt and expenditure accounts

(a) The records of receipt and expenditure accounts shall be set forth in sufficient detail to determine the financial condition of the district board of education at any time.

(b) The major accounts shall be designated as follows:

1. Current expenses;
2. Capital outlay (sites, buildings and equipment).

(c) The necessary supplementary accounts shall be provided for non-revenue receipts and expenditures as follows:

1. Reserve for unpaid orders;
2. Sale of permanent bonds to redeem temporary loan bonds;
3. Temporary loans;
4. Sinking funds to pay term bonds;
5. Clearing accounts.

(d) The forms to be prepared by the commissioner for use in district boards of education shall include but not be limited to the following classifications:

1. Appropriations;
2. Cash receipts;
3. Cash expenditures;
4. Contractual order;
5. Tuition ledger;
6. Bond register;
7. Extra-curricular activities;
8. Food services.

6:20-2.3 Budget and cost distribution records

(a) Detailed budget and cost distribution records shall be kept in the form prescribed by the commissioner to insure uniformity in the preparation of budgets and in the classification of costs in district boards of education.

(b) The budget and cost distribution records shall include but not be limited to the following classifications and such other classifications and sub-items as the commissioner may prescribe:

1. Administration;
2. Instruction;
3. Attendance and health services;
4. Pupil transportation services;
5. Operation of plant;
6. Maintenance of plant;
7. Fixed charges;
8. Sundry accounts:
 - i. Food services;
 - ii. Student-body activities;
 - iii. Community services;
 - iv. Special projects.
9. Capital outlay (sites, buildings and equipment);
10. Debt service (bonds, authorized notes and interest on same).

(c) The commissioner shall prepare directions to be used by school officials in the preparation of a program-oriented budget which will relate appropriations to the goals and objectives of the district board of education as established pursuant to N.J.S.A. 18A:7A-1 et seq.

(d) District boards of education may adopt, by district board of education resolution, the approved program-oriented budget format.

(e) The budget and cost distribution records of all district boards of education which adopt a program-oriented system

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of budget preparation shall include, but not be limited to, the following classifications:

1. Regular instruction;
2. Special instruction;
3. Adult/continuing instruction;
4. Other instruction;
5. Support services pupil;
6. Instructional staff;
7. General administration;
8. School administration;
9. Business/administrative;
10. Central;
11. Other support services;
12. Community services.

6:20-2.4 Physical property records

(a) A record of the physical property of a district board of education shall be kept in the form prescribed by the commissioner.

(b) The physical property records shall include but not be limited to the following classifications:

1. Property records;
2. Inventory record*[s]*;
3. Register of insurance.

6:20-2.5 Accounting directions

The commissioner shall prepare directions to be used by school officials in keeping the bookkeeping and accounting system provided for in these rules and shall from time to time prepare, publish and distribute handbooks, materials or circulars for the guidance of school officials.

6:20-2.6 Supplies and equipment

(a) The commissioner shall prescribe a list of articles to be regarded as supplies and equipment for accounting purposes.

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

(c) Public notification of method of purchase:

1. Whenever any district board of education elects to purchase food supplies pursuant to these rules, it shall adopt a policy stating what food supplies will be purchased without advertising for bids, designating a person or persons authorized to purchase food supplies, describing the procedure by which interested vendors may become eligible to submit quotations, and outlining the method by which the district board of education will solicit and accept quotations.

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

(d) Specifications and quotations shall be as follows:

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

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

3. The food supplies on which quotations are obtained shall be purchased from the vendor giving the lowest quotation unless the person or persons designated by the district board of education to purchase food supplies can justify the purchase

from one of the other vendors submitting a quotation; such justification, together with all quotations received, shall be in permanent record form, available to school officials, the district board of education and the Department of Education for review and for audit for a minimum of three years.

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

(e) Subsection (d)1, 2 and 3 above shall not apply to food supplies purchased by advertising for bids.

6:20-2.7 Bookkeeping and accounting forms

The commissioner shall prepare and distribute the necessary forms for the bookkeeping and accounting system except to those districts boards of education which have received approval for mechanical or electronic data processing bookkeeping systems.

6:20-2.8 Mechanical bookkeeping systems

(a) All mechanical or electronic data processing bookkeeping systems to be used by district boards of education shall be approved by the commissioner prior to usage.

(b) District boards of education which contract for electronic data processing bookkeeping services shall annually have an audit prepared of the internal controls of the service company or agency and maintain a copy of such audit on file or obtain a copy of an audit of the internal controls of the service company or agency and maintain a copy of such audit on file.

6:20-2.9 Employee organizational dues

(a) Pursuant to provisions of N.J.S.A. 52:14-15.9(e), any person holding employment with a district board of education in this State may have deductions made from this compensation for the purpose of paying dues to a bona fide employee organization.

(b) Employees desiring payroll deductions of organizational dues should indicate, in writing, their choice of employee organization. Any such written authorization may be withdrawn at any time by filing a notice with the secretary of the district board of education, according to directions promulgated by the commissioner.

(c) Any secretary of a district board of education making organizational payroll deductions shall submit to the designated employee organization all deductions made for such purposes.

6:20-2.10 Petty cash fund

(a) Pursuant to the provisions of N.J.S.A. 18A:19-13, a district board of education may establish on July 1 of each year, or as needed, an imprest petty cash fund or funds for the purpose of making immediate payments of comparatively small amounts.

(b) A district board of education establishing an imprest petty cash fund shall:

1. Indicate the amount or amounts authorized for each fund;
2. Set the maximum expenditure which may be made from each fund;
3. Designate an individual who will be responsible for the

proper disposition of each fund;

4. Establish the minimum time period in which the designated person shall report to the district board of education on amounts disbursed from each fund; and

5. Approve a voucher prepared by the board secretary to replenish each fund.

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

6:20-2.11 Summer payment plan

Funds withheld from employees' salaries for the summer payment plan prescribed by N.J.S.A. 18A:29-3 shall be deposited in a separate account in a depository designated by the district board of education, said account to be known as Board of Education of _____ Summer Payment Plan Account. Withdrawals from this account shall be made by individual checks payable to the order of employees for the amount withheld from their salaries during the school year. A payment list shall be certified by the president and secretary of the district board of education and delivered to the treasurer of school moneys of the district board of education.

6:20-2.12 Debt service State support

In the budget year following the final payment of all school debt service if all or any part of the debt service funds which are to be made available to a district board of education for that budget year pursuant to N.J.S.A. 18A:7A-19 and 18A:7A-26 are not necessary for debt service purposes in that budget year, the district board of education shall record such funds as capital outlay revenue to the district board of education.

(a)

Pupil Transportation Standards

Readoption with Amendments: N.J.A.C. 6:21-1

Proposed: June 3, 1985 at 17 N.J.R. 1365(a).

Adopted: August 7, 1985 by State Board of Education, Saul Cooperman, Secretary.

Filed: August 9, 1985 as R.1985 d.451, **without change**.

Authority: N.J.S.A. 18A:4-15 and 18A:39-21.

Effective Date for Readoption: August 9, 1985.

Effective Date for Amendments: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 9, 1990.

Summary of Public Comments and Agency Responses:

One letter was received and addressed the readoption of N.J.A.C. 6:21-1.4. It suggested that:

The code does not cover every vehicle transporting pupils.

The reactions of the Department of Education to this suggestion was that:

The department agrees that federal statutes, state statutes and the National Minimum Standards have some differing definitions for school buses and the smaller school transportation vehicles which influence any department code attempting to supplement and carry out the legislative intent of law, which is part of other jurisdictions.

The department will continue to attempt to help resolve the

issues of the federal and other state agencies involved with the definition of a school transportation vehicle.

Full text of the readoption and adopted amendments follows.

6:21-1.1 Rules

(a) Under the provisions of the New Jersey Statutes, the State Board of Education shall adopt and enforce rules consistent with law to cover the design and operation of all public school buses used in the transportation of pupils to and from school.

(b) The first standards adopted by the State Board of Education were published in 1932 and revised in 1935, 1937, 1939, 1948, 1953, 1959, 1962, and 1967. This edition is revised in keeping with New Jersey law in an effort to provide standards to insure adequate and safe pupil transportation.

(c) The rules as herein prescribed and adopted by the State Board of Education are effective as of September 1, 1985.

(d) Specifications for school buses and rules for transportation of public school pupils adopted by the State Board of Education, except as hereinafter provided, shall apply to all buses operated under contracts with district boards of education and to all district-owned buses.

6:21-1.2 Accident reporting

(a) Every school bus driver must immediately inform the principal of the receiving school following an accident which involves an injury, death or property damage. He or she must also complete the prescribed accident report in quadruplicate and deliver it by the conclusion of the next working day to the principal of the receiving school. The principal shall retain one copy (white) and shall forthwith transmit one copy (blue) to the district board of education providing the transportation, one copy (yellow) to the county superintendent of schools and one copy (pink) to the State Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625. The necessary forms are available at the office of the school principal or the county superintendent of schools.

(b) In addition to the above, the driver of a school bus involved in an accident resulting in injury or death of any person, or damage to property of any one person in excess of \$500.00 shall within 10 days after such accident forward a written report of the accident to the Bureau of Security Responsibility, Division of Motor Vehicles, 25 South Montgomery Street, Trenton, New Jersey 08625.

(c) Each district board of education shall establish procedures to be followed by the school bus driver in the event of an emergency involving to and from school transportation and all extra curricular trips.

6:21-1.3 Remote defined

(a) The words "remote from the schoolhouse" shall mean beyond 2½ miles for high school pupils (grades 9 through 12) and beyond two miles for elementary pupils (grades kindergarten through eight, except for pupils suffering from physical or organic defects. State aid for shorter distances for the sole reasons of traffic hazards should not be given, inasmuch as traffic hazards are a local responsibility.

(b) For the purpose of determining remoteness in connection with pupil transportation, measurement shall be made by the shortest route along public roadways or walkways from the entrance of the pupil's residence nearest such public roadway or walkway to the nearest public entrance of the assigned school.

6:21-1.4 Retirement of school buses

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

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

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

(a)

High School Equivalency (State Issued Diploma for Adults)

Fees

Adopted Amendments: N.J.A.C. 6:30-1.4

Proposed: June 3, 1985, at 17 N.J.R. 1367(a).
 Adopted: August 7, 1985 by State Board of Education, Saul Cooperman, Secretary.
 Filed: August 9, 1985 as R.1985 d.450, with substantive changes not requiring additional public notice and comment (N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15, 18A:7C-8, 18A:48-1 and 18A:50-12, 13 and 14.

Effective Date: September 3, 1985.
 Operative Date: September 16, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): January 1, 1987.

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

The Department did not receive any public comment on the proposal. However, changes were made in the proposed rule on the recommendation of the Office of Administrative Law. In order to conform with the requirements of the Administrative Procedure Act (APA), the General Educational Development (GED) testing fees were set, and the ability to change those fees by State Board of Education resolution was removed from the rule (N.J.A.C. 6:30-1.4(a) and (b)). This was done to meet the APA requirement that allows for appropriate public notice and comment should future GED fee increases be necessary.

ADOPTIONS

Full text of the adoption follows (deletions from proposal shown in brackets with asterisks *[thus]*).

6:30-1.4 Fees

(a) Persons submitting application for a State high school diploma by examination or reexamination must pay a fee of *[not less than]* \$15.00 in the form of a money order or bank certified check made payable to the Commissioner of Education. *[Said fee shall be subject to change by formal resolution of the State Board of Education. The resolution cannot be adopted less than 30 days after it is introduced.]*

(b) Persons taking the reading and mathematics tests of the General Educational Development Test to meet State basic skills testing requirements for a state endorsed high school diploma must pay a fee of *[not less than]* \$10.00 in the form of a money order or bank certified check made payable to the Commissioner of Education. *[Said fee shall be subject to change by formal resolution of the State Board of Education. The resolution cannot be adopted less than 30 days after it is introduced.]*

(c) Persons requesting the issuance of a State high school diploma based on evaluation of secondary school credit or college coursework and those requesting a duplicate diploma must pay \$5.00 in the form of a money order or bank certified check made payable to the Commissioner of Education.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Surface Water Quality Standards

Adopted Amendments: N.J.A.C. 7:9-4 Index D

Proposed: July 1, 1985 at 17 N.J.R. 1625(a).

Adopted: August 7, 1985 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: August 12, 1985 as R.1985 d.466, **without change.**

Authority: N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq.,
58:11A-1 et seq.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): May 20, 1990.

DEP Docket No. 032-85-06.

Summary of Public Comments and Agency Responses:

Notice of the proposed amendments to the Surface Water Quality Standards was published at 17 N.J.R. 1625(a) on July 1, 1985 as DEP Docket No. 032-85-06. Approximately 230 copies were mailed to affected dischargers and parties within the study area. Copies of the proposed amendments were also available at all of the public depositories in the State.

A public hearing concerning the proposed amendments was

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held at the Hackensack Meadowlands Environmental Center, Lyndhurst, New Jersey on July 16, 1985. Comments received at that hearing and during the public comment period which closed on July 31, 1985 became part of the official administrative record.

The Department has carefully reviewed the comments made at the public hearing and submitted during the comment period. The Department prepared a document entitled "Response to Public Comments on Amendments to the Surface Water Quality Standards Index D," which includes statements of the issues raised, the Department's response, and, where necessary, a discussion of the response.

A copy of the response document has been sent to all individuals and organizations which commented on the proposed amendments. Others may request a copy from:

Bureau of Systems Analysis and
Wasteload Allocation
Division of Water Resources
Department of Environmental Protection
CN 029
Trenton, N.J. 08625

Comment: The Department's proposed reclassification of the Hackensack tidal segment from Berry's Creek to the Route 1 and 9 crossing appears to be based entirely on "what ifs" that were plugged into a computer model. Examples of assumptions plugged into the model are: (1) that the Bergen County Utilities Authority will actually upgrade to level three treatment; (2) that loading due to landfill leachate runoff will be reduced nearly in half; and, (3) dissolved oxygen deficits due to Benthic Demand and runoff loadings will not preclude attainment of instream dissolved oxygen levels of 4 mg/l. These assumptions are not proved and may not occur for several years. The Department is therefore being premature in proposing the reclassification. Instead, the Department should wait until the Bergen County Utilities Authority has achieved level three treatment, landfill loadings have been cut in half, and it is shown that dissolved oxygen deficits due to Benthic Demand and runoff do not preclude attainment of dissolved oxygen levels of 4 mg/l.

Response: The commenter misunderstands the purpose of performing Use Attainability Analyses. The purpose of performing a Use Attainability Analysis is not to determine whether existing conditions are suitable for the uses contained in section 101(a) of the Federal Clean Water Act. Instead, the purpose is to determine whether the section 101(a) uses can be attained by application of available technology. It is therefore not only appropriate for the Department to evaluate the attainability of the section 101(a) uses through computer simulation, it is one of the few available methods for making such an evaluation and, in the opinion of the Department, it is the preferred method.

Comment: The report's conclusion that classification SE2 is attainable in the tidal Hackensack River below Overpeck Creek by the Bergen County Utilities Authority's sewage treatment plant providing level three treatment or equivalent, is based on outdated data and modeling studies.

Response: Although the commenter indicated that, in his opinion, the data and modeling studies utilized by the Department were outdated, the commenter did not provide new data, modeling procedures or information with the comments. The Department utilized the best information available in preparation of the Use Attainability Analysis as well as the most current modeling studies of the Hackensack River. Should more current data or more accurate modeling approaches become available for the Hackensack River, the Department

would incorporate this new information into its next triennial review of the State Surface Water Quality Standards. The statement of the issue leaves the impression that this is the only facility required to provide level three treatment. It should be noted that all municipal dischargers to this region of the Hackensack River are required to attain level three treatment.

Comment: Figure VI-9 of the report indicates that the total capital cost of upgrading the Bergen County Utilities Authority's sewage treatment plant to Level three is \$44,000,000. The Facilities Plan for the same STP gives the estimated capital cost as \$69,000,000 for the least expensive alternative.

Response: The estimated figure of \$44,000,000 was used for reference purposes only. Exact cost figures for this facility would be dependent on a detailed cost analysis performed as part of the 201 planning process conducted by the Department's Construction Grants Administration. It should be noted that changing the dollar amount would not change the conclusions of the report and would not affect the decision to upgrade this segment of the Hackensack River.

Full text of the adoption follows.

INDEX D— Surface Water Classifications of the Passaic, Hackensack and N.Y. Harbor Complex Basin

HACKENSACK RIVER	
(Oradell)—Source to Oradell dam	FW2-NT
(Oradell)—Main stem and saline tributaries from Oradell dam to the confluence with Overpeck Creek	SE1
(Little Ferry)—Main stem and saline tributaries from Overpeck Creek to confluence with Berry's Creek	SE2
(Secaucus)—Main stem from Berry's Creek to Route 1 & 9 crossing	SE2
(Kearny Point)—Main stem downstream from Route 1 & 9 crossing	SE3

HUDSON RIVER	
(Rockleigh)—River and saline portions of New Jersey tributaries from the N.J.-N.Y. boundary line in the north to its confluence with the Harlem River, N.Y.	SE1
(Englewood Cliffs)—River and saline portions of New Jersey tributaries from the confluence with the Harlem River, N.Y. to a north-south line connecting Constable Hook (Bayonne) to St. George (Staten Island, N.Y.)	SE2

TRIBUTARIES	
(Rockleigh)—Freshwater portions of tributaries to the Hudson River in New Jersey	FW-NT

HEALTH
(a)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

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

**Adopted Amendments: N.J.A.C. 8:31-26.3 and
26.4**

Proposed: December 3, 1984 at 16 N.J.R. 3249(a).
Adopted: July 29, 1985 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).

Filed: August 1, 1985 as R.1985 d.440, **without change.**

Authority: 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): August 20, 1989.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the adoption follows.

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

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

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

8:31-26.4 Child abuse and neglect

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

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

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

(b)

**Ambulatory Care Facilities
Standards for Licensure**

Adopted Repeal: N.J.A.C. 8:43A

Adopted New Rule: N.J.A.C. 8:43A

Proposed: December 3, 1984 at 16 N.J.R. 3254(a).
Adopted: July 29, 1985 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with approval
of Health Care Administration Board).

Filed: August 1, 1985 as R.1985 d.438, **with substantive
and technical changes** not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66

(1978): September 3, 1990.

Summary of Public Comments and Agency Responses:

Among those who submitted comments and recommendations are professional licensing boards, professional associations, and diverse programs within the Department of Health. More specifically, letters were received from the New Jersey State Board of Nursing, the New Jersey State Board of Medical Examiners, the New Jersey Association of Osteopathic Physicians and Surgeons, the New Jersey State Nurses Association, the New Jersey Family Planning Forum, the director of the Family Practice Residency Program of St. Joseph's Hospital and Medical Center, the chief of nephrology at Newark Beth Israel Medical Center, and the Division of Medical Assistance and Health Services of the New Jersey State Department of Human Services. Commentors within the Department of Health include the Renal Disease Program, Alcohol, Narcotic and Drug Abuse, the Treatment and Rehabilitation Program of the Division of Narcotic and Drug Abuse Control, the Field Operations Program, and the following programs of Parental and Child Health Services: the Family Planning Program, the Maternal and Child Health Program, and Special Child Health Services.

The comments and recommendations were the subject of a meeting between the Standards Program of the Department and representatives of Parental and Child Health Services of the Department. The meeting resulted in the clarification of some of the comments and recommendations and in the clarification of the intent of the proposed rules. Many of the revisions of the proposed rules, which are described and stated below, are products of this meeting.

Similarly, the Advisory Committee of the Renal Disease Program was given the opportunity to review the comments received with respect to chronic dialysis services. Consequently, the Committee was able to suggest modifications of the tentative Departmental responses which were presented to the members of the Committee.

The Department has compiled the comments and recommendations which it received, responded to them individually, and sent a copy of the compilation to each respondent. This listing of the comments received by the Department and the corresponding Departmental responses is on file at the Office of Administrative Law and at the Standards Program of the Department of Health. The Department made substantive changes which are not detrimental to patients or providers. In addition to revising the proposed rules in response to the comments received, the Department made other technical and editorial changes in order to rectify publication errors in the notice of proposal. The following is a description of the comments received by the Department, the Departmental responses, and the differences between the proposed rules and the adopted rules.

Most of the comments specifically address individual rules. Of the few general comments received, several support the proposed rules on the basis of their format, clarity, or flexibility. One commentor, however, stated that the rules "appear to ignore constraints placed on dialysis units by fixed rate reimbursement." The Department maintains that such rules are taken into account in the determination of reimbursement rates.

The comments regarding the definition of "ambulatory care facility," N.J.A.C. 8:43A-3.1(a), and N.J.A.C. 8:43A-10.1(a) seem to indicate a lack of clarity in these three proposed rules. In order to resolve the problem, these rules were revised so as to clearly indicate which services must be provided. The

rules do not, however, specify the mechanism of provision of required services. The ambiguous phrase "under medical supervision" was deleted from both the definition and N.J.A.C. 8:43A-3.1(a). The Department maintains that patient care and safety will not be jeopardized since State professional practice acts delineate requirements regarding medical supervision.

A technical addition was made to the definition of "controlled dangerous substances."

Respondents recommended the inclusion of definitions for additional categories of personnel and the augmentation of the qualifications of some of the personnel defined. Although facilities may employ "mid-level practitioners" and "public health nurses," the facilities are not required to do so and, therefore, definitions of these terms would be superfluous. Additional qualifications were recommended with respect to the proposed definitions of "dietitian or dietary consultant," "director of nursing services," "nephrologist," and "medical director-chronic dialysis services." The proposed definitions, however, are intended to specify minimum qualifications. The Department maintains that the facility may establish more stringent requirements regarding the education and previous experience of personnel. Technical and editorial modifications were made in the definitions of "nephrologist" and "medical director (chronic dialysis services)." One commentor informed the Department that osteopathic physicians may be certified by the American Osteopathic Board of General Practice, and the definition of "family practice physician" was revised accordingly.

Two commentors claimed that the definition of "drug administration" is not suitable for family planning clinics. The Department contends that there is no need to revise the definition. It is intended that the term "drug administration" refer to only those instances in which drugs are handled and used in the manner described. One respondent recommended that the definition of "medication error" in N.J.A.C. 8:43A-1.1 allow for the withholding of prescribed medication on the basis of the judgement of a registered professional nurse. The rule was not rewritten. The Department acknowledges the accuracy of the commentor's claim that such judgement is within the scope of activity of the registered professional nurse. Consequently, the recommended addition to the rule is unnecessary.

The definition of "staff education plan" is based on the Department's contention that it is important for a facility to have a written plan because such a plan can promote efficiency, accommodation of individual educational needs, and improvement of patient care. Contrary to one commentor's interpretation, the definition is not incompatible with the training mechanism currently employed by family planning clinics. In fact, the required written plan may delineate such a mechanism.

N.J.A.C. 8:43A-2.1(c), regarding the Commissioner's Certificate of Need approval letter, has been added. Subsequent to the publication of the proposed rules, this rule became effective on February 4, 1985 (see 16 N.J.R. 3125(a) and 17 N.J.R. 285(a)).

A substantive change was made in the proposed rule, N.J.A.C. 8:43A-2.2(b), in order to accommodate a recent amendment to N.J.A.C. 8:31-26.5, which delineates the licensure fees charged by the Department for the filing of an application for licensure of a health care facility and for the annual renewal of the license. The amendment which became effective on July 15, 1985, increased the licensure fees for inpatient health care facilities other than hospitals (see 17

N.J.R. 1760(b)). The initial proposal of this amendment also called for an increase in the annual licensure fee for ambulatory care facilities (see 17 N.J.R. 664(a)) in order to continue the implementation of the legislative directive to increase the Department's revenues. The Health Care Administrative Board, however, expressed concern at its meeting on June 13, 1985, for the future economic viability of ambulatory care facilities providing family planning services given adoption of the proposed fee increase for ambulatory care facilities. Consequently, the Department initiated a review of the propriety of a licensure fee increase for ambulatory care facilities. It was determined that the concern expressed by the Health Care Administration Board is pertinent only to ambulatory care facilities providing family planning services. The Department, therefore, has increased the annual licensure fee for ambulatory care facilities which do not provide only family planning services from \$100.00 to \$500.00 (see 17 N.J.R. 1760(b)). The adopted amendment, N.J.A.C. 8:31-26.5(a)2, does not affect the licensure fee for facilities providing only family planning services. The Department maintains that a fee increase for such facilities could be a cause of financial hardship for the facilities, and, therefore, the proposed amendment, N.J.A.C. 8:31-26.5(a)2, was revised so as to allow the Department to charge facilities providing only family planning services an annual licensure fee of \$100.00. Another amendment to N.J.A.C. 8:31-26.5 has been proposed in order to make this dichotomy explicit (see 17 N.J.R. 1999(a)).

The proposed rules, N.J.A.C. 8:43A-2.3(a) through (c), were editorially corrected so as to refer to Health Care Facilities Construction Services by its new title.

The Department received recommendations to increase the specificity of the proposed rules, N.J.A.C. 8:43A-2.4(d) and N.J.A.C. 8:43A-2.8(b), in order to protect patient confidentiality and to prevent subjective evaluation of facility operation. Neither rule was rewritten as suggested since the Department maintains that N.J.A.C. 8:43A-2.4(d) does not imply that conferences with patients can be held without the consent of the patients and that N.J.A.C. 8:43A-2.8(b) is not intended to indicate the magnitude of the deficiencies for which the Department would take action to curtail admission of patients, revoke licensure, or impose a fine. As requested, N.J.A.C. 8:43A-2.8(b) was revised so as to note that the facility shall have the opportunity for a prompt hearing in accordance with N.J.S.A. 26:2H-13. The Department did not accept a recommendation to add a provision to N.J.A.C. 8:43A-2.4(d) which would specify that survey visits may be "announced." The Department maintains that unannounced visits serve a purpose and that such visits are not intended to disrupt the operation of the facility.

The Department did not implement a recommendation to allow for rehabilitation of convicted persons by revising the proposed rule, N.J.A.C. 8:43A-3.2(b). The rule is based upon N.J.A.C. 8:31-26.1, which was amended in 1983 to eliminate the provision allowing a rehabilitated person to own or operate a health care facility (see 15 N.J.R. 307(a) and 15 N.J.R. 1021(a)).

One respondent indicated that some facilities "do not operate on a 24-hour basis" and, therefore, the proposed rule, N.J.A.C. 8:43A-3.3(b) needed revision. The rule was revised so as to require coordination of the reporting of cases of child abuse or neglect during the hours of operation of the facility. It is not necessary that N.J.A.C. 8:43A-3.3(b)2 state, as suggested by two commentators, that cases of child abuse or neglect may be referred. The required written protocols for the treatment of abused and/or neglected children may specify that

treatment will be provided through referral to another agency.

Two respondents recommended that the proposed rule, N.J.A.C. 8:43A-3.5(c), be modified in such a way as to require the presence of a person trained in cardiopulmonary resuscitation "when direct medical services are being provided." One of the commentators stated that "hours of operation" may include times during which non-medical/administrative staff alone are on duty. The rule was not rewritten. The Department maintains that "hours of operation," in accordance with N.J.A.C. 8:43A-3.6(a)5, may be defined by the facility in such a manner as to exclude such times. A suggestion to prescribe a minimum staffing ratio with respect to the proposed rule, N.J.A.C. 8:43A-3.5(c), was not implemented. The suggested revision would render the rule difficult to measure and enforce. The facility, however, may establish a higher standard than the proposed minimum standard. N.J.A.C. 8:43A-3.5(e) was renumbered as N.J.A.C. 8:43A-3.5(d) in order to accommodate the new rule, N.J.A.C. 8:43A-3.5(c), regarding staff orientation and education (see below).

In response to comments regarding the availability of the policy and procedure manual required by N.J.A.C. 8:43A-3.6, the Department maintains that the availability in all facilities of the items listed in N.J.A.C. 8:43A-3.6(a) 1 through 10 is necessary for effective management and patient care and safety. The proposed rule, N.J.A.C. 8:43A-3.6(a)5, was revised so as to be compatible with the definition of "full-time" in N.J.A.C. 8:43A-1.1. In accordance with the revision of N.J.A.C. 8:43A-3.6(a)6 and the new rule, N.J.A.C. 8:43A-3.5(c), the manual must contain policies and procedures for staff orientation and education but not the written plans themselves. This situation is similar to N.J.A.C. 8:43A-3.6(a)9, which does not require that the policy and procedure manual contain actual personnel records. The Department did not accept a recommendation to broaden the proposed rule, N.J.A.C. 8:43A-3.6(a)8, in such a way that "a written agreement . . . with a hospital for emergency services" would be sufficient, since such an addition would not adequately address the issue of patient safety.

One commentator was unsure of the relation between N.J.A.C. 8:43A-3.7 and the mechanism for replacement of absent staff members. Although provision of substitute staff is required, the rule prescribes neither a particular substitution ratio nor a mechanism for substitution. As a result of comments received, the proposed rule, N.J.A.C. 8:43A-3.8(a), was edited in order to clearly indicate that a written agreement is required only for required services not provided in the facility. Additional questions and comments concern the availability of information as required by N.J.A.C. 8:43A-3.10. The proposed rules, N.J.A.C. 8:43A-3.10(a)2 and 3, were not rewritten. According to Departmental policy, patients and the public have the right to see required documents within the limits attendant upon the need for confidentiality of patient records and corporate or business matters. Two respondents described the problems which the proposed rule, N.J.A.C. 8:43A-3.10(a)5, could cause for facilities providing family planning services. The rule was revised as requested. The proposed rule was intended to provide a means by which patients and the public may transmit information directly to members of the governing authority. The Department maintains that the revision will not jeopardize patient care or safety since the names of the members and the address of the facility are sufficient for the purpose of transmitting information.

The proposed rule, N.J.A.C. 8:43A-6.3(a)3, was edited to eliminate duplication of N.J.A.C. 8:43A-15.3(a).

Two proposals to increase the flexibility of N.J.A.C.

8:43A-6.3(a)13 were received. Neither, however, was sufficiently specific, and the rule was not revised.

The Department accepted a recommendation to substitute "medical/health history" for "medical history" in N.J.A.C. 8:43A-6.3(a)18. The revision clarifies the Department's intention to permit the facility to specify the persons responsible for obtaining a medical/health history.

The new rules, N.J.A.C. 8:43A-6.3(a)20 and 21, were added as a result of recommendations of the Maternal and Child Health Program of the Department. N.J.A.C. 8:43A-6.3(a)20, regarding assessment of growth of pediatric patients, was added to clarify the purpose of the proposed rule, N.J.A.C. 8:43A-13.2(c)4. N.J.A.C. 8:43A-6.3(a)21, regarding assessment of uterine growth, was added in order to ensure at least the provision of safe, minimal care. This requirement, which is contained in the current rule, N.J.A.C. 8:43A-6.4(d), was inadvertently omitted from the proposed rules. The proposed rule, N.J.A.C. 8:43A-13.2(c)4, was rewritten and the new rule, N.J.A.C. 8:43A-13.2(c)5, was added so as to complement N.J.A.C. 8:43A-6.3(a)20 and 21, respectively. In order to accommodate the new rules, N.J.A.C. 8:43A-6.3(a)20 and 21, the proposed rules, N.J.A.C. 8:43A-20 through 28, were renumbered.

The rules in subchapter 6 regarding chronic dialysis services were the subject of comments based on concern for patient safety. Consequently, N.J.A.C. 8:43A-6.4(a)2 and N.J.A.C. 8:43A-6.4(b)2 and 4 were revised. The revised rules allow the facility to regulate the categories of food permitted in the dialysis treatment area and require surveillance of home care dialysis through visitation by a registered professional nurse. An editorial change in N.J.A.C. 8:43A-6.4(a)1 clarifies the fact that the guidelines emanate from the Renal Disease Program of the Department.

A recommendation to add the care and control of drugs under certain circumstances to the medical director's responsibilities listed in N.J.A.C. 8:43A-7.3 was not accepted. The recommendation is based on a desire to accommodate proposed changes in the regulations of the New Jersey State Board of Pharmacy. Such an addition is unnecessary, however, because N.J.A.C. 8:43A-9.3(a)6 requires policies and procedures for the safeguarding and accountability of drugs in accordance with N.J.A.C. 13:39-1 et seq. of the New Jersey State Board of Pharmacy. This reference ensures compatibility.

One respondent recommended that N.J.A.C. 8:43A-7.5(a)4 "be expanded to include Nuclear Magnetic Resonance." The rule was not revised because specific criteria have not been developed and incorporated into N.J.A.C. 8:33J, Certificate of Need: Nuclear Magnetic Resonance (NMR) Services.

An editorial change was made in the proposed rule, N.J.A.C. 8:43A-7.5(a)5, in order to render consistent with the revised definition of "medical director (chronic dialysis services)" in N.J.A.C. 8:43A-1.1.

Two commentators stated that the proposed rule, N.J.A.C. 8:43A-8.2, which requires the presence of the director of nursing services during hours of operation, is inappropriate "during periods of limited operation" and in drug abuse treatment facilities whenever medications are not being administered. The Department maintains that the rule does not require that a registered professional nurse be on the premises during "periods of limited operation," but, rather, during the "hours of operation" of the facility. The facility, in accordance with N.J.A.C. 8:43A-3.6(a)5, may define "hours of operation" in such a way as to exclude those periods during which patient need does not require the presence of a registered professional

nurse. A new rule, N.J.A.C. 8:43A-8.2(a)1, was added, as requested, in order to differentiate between nursing services in drug abuse treatment facilities and nursing services in other ambulatory care facilities. The director of nursing services (or the designee) in drug abuse treatment facilities is required to be on the premises whenever medications are being administered and at times specified by the facility in the policy and procedure manual.

Respondents questioned the intent and the practicability of the proposed rule, N.J.A.C. 8:43A-8.4(a)6, with respect to the role of the licensed practical nurse. The rule was rewritten for the sake of clarity. The rewritten rule allows licensed practical nurses to provide, but not to initiate, teaching and counseling, in accordance with the policy of the New Jersey State Board of Nursing.

One commentator noted that the term "nursing personnel" in N.J.A.C. 8:43A-8.5(a) is not defined. The term is not defined because it is the policy of the Department to allow the facility to determine who may enter information into the patient medical record.

An editorial change was made in the proposed rule, N.J.A.C. 8:43A-8.6(a)2, because the New Jersey State Board of Nursing determines the type of training to be approved.

The proposed rules, N.J.A.C. 8:43A-8.6(a)4 and N.J.A.C. 8:43A-8.7, were rewritten on the basis of comments received. The revision of N.J.A.C. 8:43A-8.6(a)4 permits the administration of medications by persons possessing temporary work permits in accordance with the amendments of the New Jersey State Board of Nursing, N.J.A.C. 13:37-2 through 6, which became effective on April 16, 1984 (see 16 N.J.R. 922(a)). The revision of N.J.A.C. 8:43A-8.7 clarifies the fact that the rule pertains only to facilities providing surgical services in an operating room and recovery area. A family practice facility without an operating room and recovery area is not required to have the personnel specified in the rule.

The Department received comments to the effect that, although the values of the staffing ratios specified in the proposed rules, N.J.A.C. 8:43A-8.9(a) and N.J.A.C. 8:43A-8.9(a)1, are appropriate, the types of nursing personnel required are inappropriate. The term "nursing service staff member" was substituted for "licensed nurse" in N.J.A.C. 8:43A-8.9(a), as recommended. The Department maintains that this revision will not jeopardize patient safety since this staffing ratio, which is contained in the current rule, N.J.A.C. 8:43A-13.3(a)5, has effectively protected patients in the past. In N.J.A.C. 8:43A-8.9(a)1, conversely, "member of the nursing staff" was changed to "licensed nurse," as recommended. This revision clarifies the original intent of the rule. The Department maintains that this clarification will promote patient safety.

Due to the distinct nature of self care dialysis, as noted by one respondent, and the readoption of "Standards and General Criteria for the Planning and Certification of Need for Regional End-Stage Renal Disease Services," N.J.A.C. 8:33F (see 16 N.J.R. 3124(a) and 17 N.J.R. 284(a)), a new rule, N.J.A.C. 8:43A-8.9(a)2, was added. The new rule requires a ratio of one licensed nurse per six self care dialysis patients. The Department contends that this substantive addition is detrimental to neither patients nor providers. The staffing ratio has been accepted by the Advisory Committee of the Renal Disease Program and is descriptive of the current state of affairs with regard to the provision of self care dialysis services.

Diverse comments regarding the proposed rule, N.J.A.C. 8:43A-8.9(a)2, were submitted. For example, one commentator

suggested that the rule include a requirement for a registered professional nurse, whereas another recommended that a requirement for the presence of a registered professional nurse in the pediatric unit be coupled to a decrease in the staffing ratio and the replacement of the term "licensed nurse" by the term "nursing staff member." The issue of defining "pediatric dialysis" was discussed by two respondents. After considering the various recommendations, the Department revised the rule in such a way that the rule requires the presence of at least one registered professional nurse in the service and requires a two nursing staff member per three patient ratio. "Pediatric" remains undefined. The rule allows the facility to establish a definition of "pediatric dialysis" appropriate to the rule and in conformance with N.J.A.C. 8:33F. The Department believes that most facilities have established a definition of "pediatric."

One commentor recommended the revision of several rules in the proposed subchapter, N.J.A.C. 8:43A-9. The Department did not add the term "quantity" to the "required context of ordered prescriptions" in N.J.A.C. 8:43A-9.3(a)1. The rule pertains to written orders for medications not to prescriptions. N.J.A.C. 8:43A-9.3(a)8iv was not revised as requested so as to apply only to "those facilities without in-house pharmacies." Since the surgical service stores controlled drugs, the Department contends that it is appropriate that the surgical service, rather than the pharmacy, maintain the declining inventory of these stored drugs. The commentor indicated the ambiguity of the term "relabeling" in the proposed rule, N.J.A.C. 8:43A-9.3(a)16, and the term was deleted. The proposed rule, N.J.A.C. 8:43A-9.3(a)6, was edited in order to rectify a publication error.

Two respondents objected to the proposed rule, N.J.A.C. 8:43A-9.3(a)11, and discussed the value of drug samples. The rule was not revised. The rule is based upon N.J.A.C. 13:39-9.2 of the New Jersey State Board of Pharmacy.

The Department received two recommendations to revise the proposed rule, N.J.A.C. 8:43A-10.1(a), in such a way that policies regarding dietary counseling and social work services would "be left to the discretion of individual agencies. . ." The rule, however, does not specify the mechanism by which dietary counseling and social work services are to be provided. The rule is intended to ensure the existence of a written agreement if these required services are not provided directly. An editorial change was made in N.J.A.C. 8:43A-10.1(a), and the proposed rule, N.J.A.C. 8:43A-10.3(b), was expanded as requested in order to better define "drug abuse counseling services."

It was recommended that the proposed rule, N.J.A.C. 8:43A-11.1(b), be rewritten so as to allow licensure or approval of laboratory services by agencies other than the Department. The rule was not revised. The Department contends that, for the purpose of state licensure, it is both necessary and sufficient that laboratory services provided directly or through written agreement be licensed or approved by the Department.

One commentor suggested that N.J.A.C. 8:43A-13 refer to medical and health records. The proposed subchapter was revised, and the phrase "medical/health record" was substituted for the phrase "medical record" in order to emphasize the fact that the record concerns states of health as well as states of illness. The revision also clarifies the fact that N.J.A.C. 8:43A-13 pertains to both data recorded by physicians and data recorded by non-physicians. This terminological change was made consistently throughout N.J.A.C. 8:43A.

A respondent expressed concern that subchapters, such as

N.J.A.C. 8:43A-13, "which cannot and should not be applied to family planning projects" might be applied to all ambulatory care facilities, including those providing family planning services. The Department maintains that the rules are organized in such a way that all rules, including those regarding medical/health records, apply to all facilities which satisfy the definition of "ambulatory care facility," unless the rule specifically indicates that it pertains only to a particular type of facility.

The revision of N.J.A.C. 8:43A-13.2(c)4 and the addition of N.J.A.C. 8:43A-13.2(c)5 are discussed above. The proposed rules, N.J.A.C. 8:43A-13.2(c)5 through 14, were renumbered.

In the interest of patient safety and in accordance with a recommendation of the Maternal and Child Health Program of the Department, a rule regarding the medical/health record of prenatal patients was added. The new rule, N.J.A.C. 8:43A-13.3(a)2i, is intended to ensure that the information in the prenatal patient medical/health record is present at the time of delivery and during subsequent visits to the facility. This new rule is similar to the current rules, N.J.A.C. 8:43A-6.6 and N.J.A.C. 8:43A-6.8(a).

An editorial change was made in the proposed rule, N.J.A.C. 8:43A-14.2(a)6ii, so as to render the rule consistent with N.J.A.C. 8:43A-6.4(a)1.

One respondent suggested that the option of choosing disposition of tissue by interment be deleted from N.J.A.C. 8:43A-14.6. It was stated that the combination of citations in the proposed rule is "confusing and disturbing." The intent of the rule is to ensure that all tissue removed surgically or by any other procedure, including termination of pregnancy, is properly disposed of and is not disposed of, for example, into a municipal garbage and trash removal system. The rule permits a choice of either of two methods for disposal of tissue—incineration or interment. Interment, if chosen by the patient, must be in compliance with State law and would be arranged by the patient. Consequently, the rule was not rewritten.

The Department received comments to the effect that the proposed rules do not adequately address the treatment and testing of water used for dialysis. Ample documentation was provided regarding the necessity of adding a new rule. Specific recommendations concern maximum permissible levels of biological and chemical contaminants and the frequency of testing. The Department maintains that the current rule, N.J.A.C. 8:43A-13.10(b), adequately addresses the commentors' concern. This rule was inadvertently excluded from the proposed rules. Consequently, this rule was revised and added as N.J.A.C. 8:43A-14.9. The rule, as added, requires that water used for dialysis (1) conform to the requirements of the Association for the Advancement of Medical Instrumentation, (2) be microbiologically analyzed monthly, and (3) be analyzed for trace elements at least once every six months. Although the addition of the rule is substantive in nature, it is necessary for, rather than detrimental to, the health of patients.

Several respondents claimed that the proposed rules, N.J.A.C. 8:43A-15.2(a) and (b), are excessively stringent. It was noted that many facilities providing family planning services assign the same personnel to various shifts and do not have manual alarms. In the interest of patient safety, the rules were not rewritten. The Department affirms the importance of each shift of personnel having the opportunity to participate in drills. Also, the Department maintains that it is necessary that different types of drills be conducted. If it is not possible for a facility to test one alarm per week, then the facility may

request a waiver from the Director of the Licensing, Certification and Standards Program of the Department.

The Department did not accept a recommendation to revise the proposed rule, N.J.A.C. 8:43A-15.3(b), so as to require the availability of personnel trained in the use of emergency equipment and in cardiopulmonary resuscitation "whenever direct medical services are being provided." Use of the recommended term "direct medical services" could lead some to misinterpret the rule as applying only when services are being provided by physicians.

One commentor recommended the addition of a new rule requiring the calibration of electronic diagnostic/evaluative equipment. The suggested rule was generalized so as to require that the facility establish and implement policies and procedures for the calibration of instruments of measurement. This addition to the proposed rule, N.J.A.C. 8:43A-17.2(d)6, is intended to enhance the quality of patient care.

A technical change was made in the footnote to the proposed rules, N.J.A.C. 8:43A-19.1 and 2.

The Department received a recommendation to add a number of current rules which address the "special needs of ambulatory dialysis treatment centers." Meetings with the Renal Disease Program and Health Facilities Construction Services of the Department on February 19, 1985, and on April 17, 1985, resulted in a decision to add a section regarding functional requirements such as those recommended by the commentor. Due to the substantive nature of this addition, however, the new rules will be the subject of a separate notice of proposal in the New Jersey Register so that interested persons may have ample opportunity to comment.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

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

SUBCHAPTER 1. DEFINITIONS AND
QUALIFICATIONS

8:43A-1.1 Definitions and/or qualifications

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

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

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

"Ambulatory care facility" shall mean a facility or a distinct part of a facility which is licensed by the New Jersey State Department of Health to provide preventive, diagnostic, and therapeutic services *[under medical supervision]* to persons who come to the facility to receive services and depart from the facility on the same day. All ambulatory care facilities shall provide at least ***the following required services:*** medical, nursing, dietary counseling, social work services, laboratory, and radiological services. The regulations contained in this manual

are applicable to a wide range of ambulatory care facilities including outpatient services in a hospital.

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

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

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

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

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

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

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

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

"Clinical note" shall mean a written, signed, and dated notation made at each patient visit by each health care professional who renders a service to the patient, and shall include a description of signs and symptoms, treatment and/or medication(s) given, the patient's response, and any changes in physical or emotional condition. Clinical notes are written into the patient's medical*/**health*** record the day service is rendered.

"Commissioner" shall mean the New Jersey State Commissioner of Health.

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

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

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

"Controlled dangerous substances" shall mean drugs subject to the Controlled Substances Act of 1970 (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act of 1970 ***(N.J.S.A. 24:21-1 et seq.)***.

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

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

"Department" shall mean the New Jersey State Department of Health.

"Dietitian or dietary consultant" shall mean a person who:

1. Is registered or eligible for registration by the Com-

mission on Dietetic Registration of the American Dietetic Association; or

2. Has a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and has completed a dietetic internship ***accredited*** by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or has one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; or

3. Has a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; and

4. Participants annually in continuing dietary education.

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

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

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

2. "Terminal disinfection" shall mean the application of measures of disinfection after the patient has ceased to be a source of infection, or after the facility's isolation practices have been discontinued. Terminal disinfection is rarely practiced; terminal cleaning generally suffices (see definition of "cleaning" above), along with airing and sunning of rooms, furniture, and bedding. Terminal disinfection is necessary only for diseases spread by indirect contact.

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

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

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

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

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

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

"Governing authority" shall mean the organization, person, or persons designated to assume legal responsibility for the

determination and implementation of policy and for the management, operation, and financial viability of the facility.

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

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

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

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

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

"Medical director" ***[-]* ***(*chronic dialysis services*)****** shall mean a nephrologist. The same person shall not serve as medical director for more than two facilities providing chronic dialysis services.

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

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

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

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

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

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

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

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

"Physician" shall mean a person who is licensed or

authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

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

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

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

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

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

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

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

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

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

"Social worker" shall mean a person who has a master's degree in social work from a graduate school of social work accredited by the Council *or* *on* Social Work Education.

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

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

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

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

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

"Tertiary care" shall mean specialized inpatient care.

SUBCHAPTER 2. LICENSURE PROCEDURE

8:43A-2.1 Certificate of need

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

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

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

(c) The facility shall implement all conditions imposed by the Commissioner as specified in the Certificate of Need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:43A-2.2 Application for licensure

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

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

(b) The Department shall charge a nonrefundable fee of *[\$100.00]* ***\$500.00*** for the filing of an application for licensure of an ambulatory care facility and for the annual renewal of the license. ***The Department shall charge a nonrefundable fee of \$100.00 for the filing of an application for licensure of a family planning facility and for the annual renewal of the license.***

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

8:43A-2.3 Newly constructed or expanded facilities

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

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

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

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

8:43A-2.4 Surveys and temporary license

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

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

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

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

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules and regulations pursuant thereto;

2. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;

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

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

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

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

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

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

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

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

8:43A-2.5 Full license

(a) A full license shall be issued on expiration of the temporary licensure, if surveys by the Department have de-

termined that the health care facility is operated as required by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules and regulations pursuant thereto.

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

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

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

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

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

8:43A-2.6 Surrender of license

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

8:43A-2.7 Waiver

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

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

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

1. The specific regulation(s) or part(s) of the regulation(s) for which waiver is requested;

2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;

3. An alternative proposal which would ensure patient safety; and

4. Documentation to support the application for waiver.

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

8:43A-2.8 Action against a license

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

(b) If the Department determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination. ***In accordance with N.J.S.A. 26:2H-13, the facility shall have the opportunity for a prompt hearing.***

(c) The Commissioner may order the immediate removal of patients from a facility whenever he or she determines

imminent danger to any person's health or safety.

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

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:43A-3.1 Compliance with regulations and laws

(a) The facility shall provide preventive, diagnostic, and therapeutic services *[under medical supervision]* to patients. ***[This]* *These* shall include *[, but not be limited to,]* *at least the following required services: medical,*** Nursing, dietary counseling, social work services, and laboratory and radiological services.

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

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

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

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

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

8:43A-3.2 Ownership

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

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

8:43A-3.3 Child abuse and neglect

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

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

1. The designation of a staff member(s) to be responsible for coordinating the reporting of diagnosed and/or suspected cases of child abuse and/or neglect ***[on a 24-hour basis]* *during the hours of operation of the facility***, recording the notification to Division of Youth and Family Services on the **medical*/health*** record, and serving as a liaison between the facility and Division of Youth and Family Services.

2. The development of written protocols for the identification and treatment of abused and/or neglected children.

3. The provision of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of child abuse and/or neglect and regarding the facility's policies and procedures on at least an annual basis.

¹Copies of the law can be obtained from the local district office of Division of Youth and Family Services (DYFS) or from the Office of Program Support, Division of Youth and

Family Services, New Jersey State Department of Human Services, CN 717, Trenton, New Jersey 08625.

8:43A-3.4 Submission of documents

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

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

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

8:43A-3.5 Personnel

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

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

(c) The facility shall develop and implement a staff orientation plan and a staff education plan;

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

8:43A-3.6 Policy and procedure manual

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

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

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

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

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

5. Definition and specification of business hours, hours of operation, and full*[-time]* ***working week***;

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

7. A system for referral of patients to sources of secondary and tertiary health care. A facility providing chronic dialysis services shall have a written transfer agreement with at least one hospital having an acute dialysis center and with at least one facility having a ***renal*** transplant program;

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

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

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

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

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

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

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

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

8:43A-3.7 Staffing

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

8:43A-3.8 Consultant services

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

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

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

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

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

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

8:43A-3.9 Reportable events

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

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

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

8:43A-3.10 Notices

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

1. All waivers granted by the Department;

2. All documents required by this chapter;

3. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable);

4. A list of the facility's committees, or their equivalents, and the membership, minutes, and annual reports of each;

5. The names *[and addresses]* of members of the governing authority;

6. Any changes of membership of the governing authority, within no more than 30 days of the change;

7. Policies and procedures regarding patient rights; and

8. Hours of operation and business hours of the facility.

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

(a) The facility shall establish and implement written policies and procedures for reporting to the State Board of Medical Examiners in writing on forms provided by the Department, within 30 days of the proceeding or action, request, settlement, judgment or award, information in compliance with P.L. 1983, Chapter 247 (N.J.S.A. 26:2H-12.2).¹ ***The information reported shall include, but not be limited to, the following:***

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

i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was the subject of governing body action which resulted in the reduction or suspension of privileges, or the removal or resignation of the physician or surgeon from the medical staff;

ii. Nature and grounds of proceedings;

iii. Date(s) of precipitating event(s) and of official action taken;

iv. Name, title, and telephone number of facility official(s) having knowledge of existence and location of pertinent records or persons familiar with the matter;

v. Pendency of any appeal; and

vi. Other information relating to the proceedings or action as may be requested by the Board*[;]* ***.***

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

i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was involved in the medical malpractice liability insurance claim settlement, judgment or arbitration award;

ii. Nature and grounds of proceedings;

iii. Date(s) of precipitating event(s), and of official action taken;

iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;

v. A copy of the complaint, response, and settlement order, judgment, or award; and

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

¹Submit forms to the New Jersey State Board of Medical Examiners, 28 West State Street, Trenton, NJ 08608. Questions may be directed to the Board office at (609) 292-4843.

SUBCHAPTER 4. GOVERNING AUTHORITY

8:43A-4.1 Responsibility

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

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

SUBCHAPTER 5. ADMINISTRATION

8:43A-5.1 Administration

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

1. In a facility where an administrator has both administrative and other functions, the facility shall maintain written documentation of the individual's time in each function.
2. The administrator's hours shall not be included in computation of staffing ratios for nursing or counseling services.
3. An alternate shall be designated in writing to act in the absence of the administrator.

8:43A-5.2 Administrator's responsibilities

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

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;
2. Planning for, and administration of, the managerial, operational, fiscal, and reporting components of the facility;

3. Ensuring that all personnel are assigned duties based upon their education and training;

4. Ensuring the provision of staff orientation and staff education;

5. Ensuring that a file is maintained for each staff member, including at least his or her name, previous employment, educational background, license number and date of expiration (if applicable), staff orientation and staff education records, personnel evaluations, health evaluation records, and job description;

6. Communicating with staff through group meetings, individual conferences, written memoranda, and/or other methods of exchanging information;

7. Establishing and maintaining liaison relationships, communication, and integration with support services and community resources in accordance with the philosophy and objectives of the facility; and

8. Establishing and maintaining a system for the collection, processing, storage, retrieval, and distribution of patient medical*/health* records.

SUBCHAPTER 6. PATIENT CARE POLICIES

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

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

8:43A-6.2 Patient care policy committee

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

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

8:43A-6.3 Policies and procedures

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

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

11. A system whereby, whenever possible, the patient is cared for by the same health care professionals;

12. Referral of patients and for use of consultant services;

13. The provision of dietary counseling and social work services. Social work services shall be provided by a social worker. Dietary counseling shall be provided by a dietitian or dietary consultant;

14. The provision of equipment and supplies which are suited to the age and type of patients;

15. Patient instruction and health education;

16. The provision of printed and/or written instructions and information for patients, including multilingual instructions as indicated. Information shall include, but not be limited to, tests and/or procedures needed, possible complications, a telephone number to call when needed, and instructions for obtaining care in an emergency;

17. The provision of telephone consultation to patients during the facility's hours of operation;

18. Obtaining a medical*/health* history including specification of the circumstances under which a medical */health* history will be performed, the frequency of updating, and the contents. The contents shall include at least past surgical procedures and medical*/health* conditions, allergies, adverse reactions to drugs, and current *[or recently used]* medications;

19. Performing a physical examination including specification of the circumstances under which a physical examination will be performed, the frequency, and the contents. The contents shall include at least an assessment of body systems;

20. Documenting assessment of growth, including at least policies and procedures for recording weight and length or height (for pediatric patients);

21. Documenting assessment of uterine growth (for prenatal patients);

[20.]* *22. Documenting information to be obtained at each patient visit including, but not limited to, the following:

i. The patient's complaint or purpose of the visit;

ii. The diagnosis or medical impressions;

iii. Orders for laboratory, radiological, diagnostic, and/or screening tests; and

iv. Therapies administered;

[21.]* *23. Screening services. The policies and procedures shall specify where, when, and to whom the screening services shall be provided, including indications for, and frequency of, screening services;

[22.]* *24. Discharge/termination, retention, and readmission of patients;

[23.]* *25. Financial arrangements, to ensure that the facility:

i. Makes known to patients the fees for services (where a fee is charged);

ii. Maintains a written record of all financial arrangements with the patient, with copies furnished to the patient;

iii. Notifies the patient of any additional charges, expenses, or other financial liabilities in excess of the predetermined rate; and

iv. Describes, for the patient, agreements with third-party payors and/or other payors and referral systems for patients' financial assistance;

[24.]* *26. Interpretation services, if the patient population is non-English speaking or for patients who are blind or deaf;

[25.]* *27. The safe-keeping of patients' valuables when required;

[26.]* *28. Ensuring visual and auditory privacy of pa-

tients;

[27.]* *29. The control of smoking in the facility in accordance with N.J.S.A. 26:3D-1 et seq. and 26:3D-7 et seq.; and

[28.]* *30. Immunization schedules.

8:43A-6.4 Chronic dialysis services

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

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

2. Patients shall be permitted to bring their own food provided that it is consumed only in the dialysis treatment area, and only by the patient*. **The facility shall develop a policy regarding the categories of food permitted in the dialysis treatment area***; and

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

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

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

2. Surveillance of the patient's home adaptation through visitation of the patient's home ***by a registered professional nurse***, including the frequency of home visitation;

3. Installation and maintenance of equipment in the home;

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

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

8:43A-6.5 Drug abuse treatment services

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

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

SUBCHAPTER 7. MEDICAL STAFF SERVICES

8:43A-7.1 Services

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

8:43A-7.2 Medical director's appointment

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

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

8:43A-7.3 Medical director's responsibilities

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

1. Monitoring the professional performance of medical

staff members who provide care to patients;

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

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

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

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

6. Ensuring that medical staffing patterns are implemented;

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

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

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

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

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

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

8:43A-7.4 Policies and bylaws

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

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

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

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

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

8:43A-7.5 Facility's responsibilities

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

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

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

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

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

5. A facility providing chronic dialysis services shall have a medical director ***[-]* *(chronic dialysis services)*** available.

SUBCHAPTER 8. NURSING SERVICES

8:43A-8.1 Services

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

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

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

1. Ambulatory care facilities which provide drug abuse treatment services shall designate in writing a registered professional nurse as the director of nursing services. The director of nursing services, or a registered professional nurse designated in writing to act for the director of nursing services, shall be on the premises of the facility whenever medications are being administered and at times specified by the facility in the policy and procedure manual.

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

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

1. Monitoring the performance of nursing personnel;

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

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

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

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

6. Ensuring that nursing staffing patterns are implemented;

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

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

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

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

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

8:43A-8.4 Responsibilities of nursing personnel

(a) In accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., The Standards of Practice for the Registered Nurse in the State of New Jersey and The Standards of Practice for the Licensed Practical Nurse in the State of New Jersey of the New Jersey State Board of Nursing (1983) ***[Published by the New Jersey State**

Board of Nursing]* *,* and written job descriptions, nursing personnel shall be responsible for providing nursing care including, but not limited to, the following:

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

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

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

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

8:43A-8.6 Administration of medications

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

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

8:43A-8.7 Surgical services

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

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

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

additional 150 or fewer patients.

8:43A-8.9 Chronic dialysis services

(a) A facility providing chronic dialysis ***services*** shall have a minimum of one *[licensed nurse]* ***nursing service staff member*** on duty for every three patients receiving dialysis services on the premises.

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

2. If self care dialysis services are provided, there shall be a minimum of one licensed nurse on duty for every six patients on the premises receiving self care dialysis.

[2.]* *3. If pediatric dialysis services are provided, there shall be a minimum of two *[licensed nurses]* ***nursing service staff members*** on duty for every three patients receiving chronic pediatric dialysis services on the premises. ***There shall be a minimum of one registered professional nurse in the service whenever services are being provided. The registered professional nurse may be considered as one of the total number of required nursing service staff members.***

SUBCHAPTER 9. PHARMACEUTICAL SERVICES

8:43A-9.1 Services

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

8:43A-9.2 Patient care policy committee

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

8:43A-9.3 Policies and procedures

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

1. A requirement that all medications are ordered in writing, the written order specifies the name of the drug, dose, frequency and route of administration, the order is signed and dated by the prescriber, and all medications are administered in accordance with the laws of the State of New Jersey;
2. Documenting and reviewing adverse drug reactions and medication errors, including, but not limited to, the following:
 - i. Allergies shall be documented in the patient's medical ***health*** record and on its outside front cover; and
 - ii. Medication errors and adverse drug reactions shall be orally reported immediately to the nurse in charge and the prescriber, and an entry shall be made in the patient's medical ***health*** record. An incident report shall be completed in accordance with procedures established by the facility;
3. Stop orders and discontinued orders, as defined in the

facility's policies and procedures, including, but not limited to, the following:

- i. The length of time orders may be in effect; and
 - ii. A policy for control of drugs, including intravenous infusion solutions, not specifically limited as to duration of use or number of doses when ordered;
4. The control of the administration of toxic and dangerous drugs, including at least narcotics, sedatives, anticoagulants, antibiotics, oxytocics, corticosteroid products, intravenous infusion solutions, and other drugs specified in the facility's policies and procedures;
5. The use of parenterals, if used, including the labeling of intravenous infusion solutions, such that a supplementary label is affixed to the container of any intravenous infusion solution to which drugs are added;
6. The purchase, storage, safeguarding, accountability, use, and disposition of drugs in accordance with the New Jersey State Board of Pharmacy Rules*,* N.J.A.C. 13:39-1 et seq., *[and]* the *New Jersey* Controlled *Dangerous* Substances *[Acts,]* *Act,* N.J.S.A. 24:21-1 et seq.*, and the **Controlled Substances Act of 1970, Title II, Public Law 91-513,*** and amendments thereto;
7. The procurement, storage, use, and disposition of needles and syringes in accordance with the laws of the State of New Jersey and amendments thereto. There shall be a system of accountability for the purchase, storage, and distribution of needles and syringes. There shall be a system of accountability for the disposal of used needles and syringes which shall not necessitate the counting of individual needles and syringes after they are placed in the container for disposal;
8. The control of drugs subject to the Controlled Dangerous Substances Acts and amendments thereto, in compliance with the New Jersey State Board of Pharmacy Rules N.J.A.C. 13:39-1 et seq. and all other Federal and State laws and regulations concerning procurement, storage, dispensing, administration, and disposition. Such policies and procurements shall include, but not be limited to, the following:
- i. Provision for a verifiable record system for controlled substances;
 - ii. Policies and procedures to be followed in the event that the inventories of controlled substances cannot be verified or drugs are lost, contaminated, unintentionally wasted, or destroyed. A report of any such incident shall be written and signed by the persons involved and any witnesses present;
 - iii. In all areas of the facility where drugs are dispensed, administered, or stored, procedures for the intentional wasting of controlled substances, including the disposition of partial doses, and for documentation. A second person shall witness the disposition; and
 - iv. A declining inventory shall be maintained by the surgical service of all controlled substances. This inventory shall be checked by actual count by two persons at least once every 24 hours. The following shall be recorded: name of patient receiving the drug, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, route of administration, signature of the person administering the drug, amount of drug remaining, amount of drug destroyed or wasted (when appropriate), and the signature of the person witnessing the destruction or wasting of the drug (when appropriate);
9. The maintenance of records of prescribers' Drug Enforcement Administration numbers for New Jersey;
10. The provision of current pharmaceutical reference materials and sources of information. These shall include pharmaceutical compendia and periodicals, and current editions

of texts and reference books;

- i. Authoritative, current antidote information and the telephone number of the regional poison control center shall be provided at locations specified in the facility's policies and procedures;
 - ii. Information on drugs, their indications, contraindications, actions, reactions, interactions, cautions, precautions, toxicity, and dosage, shall be provided at locations specified in the facility's policies and procedures; and
 - iii. A list of abbreviations, metric apothecary conversion charts, and chemical symbols, approved by the medical staff, shall be kept in areas where medications are prepared for administration;
11. The activities of medical and pharmaceutical sales representatives in the facility. Drug samples shall not be accepted, placed or maintained in stock, distributed, or used in the facility;
12. Storage of medications according to the following:
- i. All medications are kept in locked storage areas. Medication storage and preparation areas shall be kept locked when not in use;
 - ii. Drugs requiring refrigeration are kept in a separate, locked box in the refrigerator, in a locked refrigerator, or in a refrigerator in a locked room. The refrigerator shall have a thermometer to indicate temperature in conformance with U.S.P. (United States Pharmacopoeia) requirements; and
 - iii. Drugs for external use are kept separate from drugs for internal use;
13. Identification of the patient prior to drug administration. Drugs prescribed for one patient shall not be administered to another patient;
14. Measurement of vital signs, as defined in the facility's policies and procedures, prior to drug administration;
15. Administration of drugs promptly after the dose has been prepared, and by the individual who prepared the dose;
16. Discontinued, unused, expired (outdated), recalled, visibly deteriorated, or unlabeled drugs and intravenous solutions, and containers with worn, illegible, damaged, incomplete, or missing labels, are returned to the institutional pharmacy or, in the absence of an institutional pharmacy, to a location specified in the facility's policies and procedures, for *[relabeling,]* disposal*[,]* or destruction *[within 30 days]*, in accordance with Federal and State laws;
17. Storage and verification of controlled substances according to the following:
- i. Substances in Schedules III and IV of the Controlled Dangerous Substances Acts and amendments thereto shall be stored under lock and key. Substances in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto shall be stored in a separate, locked, permanently affixed compartment within the locked medication cabinet, medication room, refrigerator, or mobile medication cart. The key to the separate, locked compartment for Schedule II drugs shall not be the same key that is used to gain access to storage areas for other drugs;
 - ii. The keys for the storage compartments for controlled substances in Schedules II, III, and IV shall be kept on a person who meets the criteria listed in N.J.A.C. 8:43A-8.6; and
 - iii. A declining inventory of all substances in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto retained wherever these drugs are maintained shall be made at the termination of each tour of duty. This record shall be signed by both the outgoing and incoming nurses who shall meet the criteria listed in N.J.A.C. 8:43A-8.6. The following shall be recorded: name of the patient receiving

the drug, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, method of administration, signature of the licensed nurse administering the drug, amount of drug remaining, and amount of drug destroyed or wasted (when appropriate).

SUBCHAPTER 10. COUNSELING SERVICES

8:43A-10.1 Services

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

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

8:43A-10.2 Administrator's responsibilities

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

1. The provision, direction, and quality of counseling and/or social services provided to patients;
2. The development and implementation of written objectives, standards of practice, policies, a procedure manual, and an organizational plan for counseling and/or social services;
3. Coordinating and integrating the counseling and/or social services with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;
4. Representing the counseling and/or social services in the facility's staff committees, or their equivalent, at least on a consultative basis;
5. Assessing the patient's counseling and/or social service needs and providing counseling and/or social services;
6. Provision of consultation to staff;
7. Assisting in the development of, and participating in, staff orientation and staff education programs for the facility, and documenting these activities; and
8. Entering in the patient's medical*/health* record:
 - i. The counseling and/or social service portions of the patient plan of care, in accordance with the facility's policies and procedures; and
 - ii. Clinical notes.

8:43A-10.3 Drug abuse counseling services

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

1. Assignment of each patient to a drug counselor, with assignment documented in the patient's medical record. A drug counselor's caseload shall not exceed 50 patients;
2. All outpatient methadone detoxification and outpatient drug-free programs shall provide a minimum of one counseling session per week to each patient during the first four months after initiation of treatment and at least one counseling session every two weeks thereafter until discharged;

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

- i. One counseling session per week during the first three months of treatment;
- ii. One counseling session every two weeks from the beginning of the fourth month to the end of the ninth month of treatment;
- iii. One counseling session per month from the beginning of the tenth month to the end of the second year of treatment; and
- iv. One counseling session every three months after completion of two or more years of treatment.

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

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

(b) Drug abuse counseling services shall mean the provision of *[group and/or]* individual *, **group, family, and/or vocational*** counseling.

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

8:43A-11.1 Services

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

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

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

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

8:43A-11.2 Computerized tomography services

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

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

SUBCHAPTER 12. SURGICAL SERVICES

8:43A-12.1 Services

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

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

8:43A-12.2 Policies and procedures

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

1. Delineation of the surgical and anesthesia services which may be performed in the facility;

2. Delineation of the responsibilities of medical staff members in providing care to patients;

3. Designation of a time frame and of persons responsible for completing a medical history, physical examination, and laboratory tests prior to surgery;

4. Policies and procedures to ensure that every patient is examined by a physician immediately prior to surgery;

5. Policies and procedures for use of analgesia and anesthesia, including types which may be used for each procedure, safety regulations, and persons responsible for administration;

i. A physician shall be immediately available in the facility when anesthesia is administered by a nonphysician (for example, by a podiatrist, dentist, or certified registered nurse anesthetist);

ii. Surgical procedures shall be performed only by practitioners who are licensed to perform such procedures in New Jersey and who have been granted privileges to perform those procedures by the governing body of the organization, upon the recommendation of the medical staff, after medical review of each practitioner's documented education, training, experience, and current competence;

6. Delineation of responsibilities, qualifications, and supervision required for persons responsible for administering anesthesia;

7. Policies and procedures for recording of vital signs (blood pressure, temperature, respiration rate, and pulse) prior to surgery and before discharge;

8. Pre- and postoperative observation and care required for each type of procedure;

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

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

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

11. Requirements for written documentation of surgical procedures performed, including complete findings and techniques used (as specified in N.J.A.C. 8:43A-13.2(c)*[11]* *12*), to be completed immediately following the procedure by the person performing the surgery and incorporated into the patient's medical*/health* record;

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

13. Provision of written instructions to the patient (multi-

lingual, if indicated) on pre- and postsurgical care, including, but not limited to, restrictions on food and beverages before surgery and procedures for obtaining help in the event of postoperative problems; and

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

8:43A-12.3 Records

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

SUBCHAPTER 13. MEDICAL*/HEALTH* RECORDS

8:43A-13.1 Services

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

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

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

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

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

1. The patient's complaint or purpose of the visit;

2. The diagnosis or medical impressions;

3. Orders for laboratory, radiological, diagnostic, and/or screening tests; and

4. Therapies administered.

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

1. A dated medical*/health* history, if performed;

2. A dated report of physical examination, if performed;

3. A plan of care, in accordance with the facility's policies and procedures;

4. Documentation of assessment of growth*, **including at least a record of weight and length or height*** (for pediatric patients);

5. Documentation of assessment of uterine growth (for prenatal patients);

[5.]* *6. A medication sheet indicating at least the name, date, dosage, and duration of all medications prescribed;

[6.]* *7. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person administering the drug;

[7.]* *8. The results of laboratory, radiological, diagnostic, and/or screening tests performed;

[8.]* *9. An immunization record, in accordance with the facility's policies and procedures;

[9.]* *10. Referrals to and from other health care agencies;

[10.]* *11. Instructions given to the patient and/or family for follow-up care;

[11.]* *12. For patients receiving surgical services, an operative note, written or dictated immediately after surgery.

The operative note shall include at least a description of the findings, procedures used, specimens removed, patient's condition, any unusual events occurring during the procedure, postoperative diagnosis, and names of the surgeon and assistants;

[12.] *13.* A pathologist's report of gross and microscopic tissue surgically removed;

[13.] *14.* Any signed written informed consent forms; and

[14.] *15.* A copy of the Client-Oriented Data Acquisition Process (CODAP) form (for patients receiving drug abuse treatment services.)

(d) All entries contained in the patient medical*/health* record shall be typewritten or written in ink, legible, and signed and dated by the person entering them.

(e) All completed patient medical*/health* records shall include a discharge summary, in accordance with N.J.S.A. 26:8-5 et seq.

(f) All patient medical*/health* records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.

(g) The patient medical*/health* record shall be completed within the time frames specified in the medical staff bylaws or their equivalent.

(h) The patient's medical*/health* record shall be available to the facility's health care practitioners involved in the patient's care.

8:43A-13.3 Policies and procedures

(a) The facility shall establish and implement policies and procedures regarding medical*/health* records, including, but not limited to, the following:

1. Protection of medical*/health* record information against loss, tampering, alteration, destruction, or unauthorized use;

2. Transfer of patient information when the patient is transferred to or from another health care facility, or if the patient has been an inpatient and becomes an outpatient at the same facility, to ensure continuity of care; *[and]*

i. In the case of a prenatal patient, transfer of a copy or summary of the patient's prenatal medical/health record from the facility to the inpatient facility where delivery is to take place and transfer of a copy or summary of the patient's labor, delivery, and postpartum medical/health record from the inpatient facility to the ambulatory care facility; and

3. Release and/or provision of copies of the patient's medical */health* record to the patient and/or the patient's authorized representative. Such policies and procedures shall include, but not be limited to, the following:

1. Establishment of a fee schedule for obtaining copies of the patient's medical*/health* record;

ii. Definition of the business hours or hours of operation during which the patient has access to his or her medical */health* record;

iii. Availability of the patient's medical*/health* record to the patient's authorized representative if it is medically contraindicated (as documented by a physician in the patient's medical*/health* record) for the patient to have access to or obtain copies of the record; and

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

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

If the facility plans to cease operations, it shall notify the Department in writing, at least 14 days before cessation of

operation, of the location where medical*/health* records shall be stored and of methods for their retrieval.

SUBCHAPTER 14. INFECTION PREVENTION AND CONTROL SERVICES

8:43A-14.1 Infection prevention and control program

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

8:43A-14.2 Policies and procedures

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

1. In accordance with the New Jersey State Sanitary Code, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility, and maintaining records for all patients or personnel having these infections, diseases, or conditions;

2. Reportable and other diseases shall be reported in accordance with N.J.A.C. 8:57-1 et seq. of the New Jersey State Sanitary Code, and amendments thereto;

3. Care of patients with communicable diseases;

4. Policies and procedures for exclusion from work, and authorization to return to work, for personnel with communicable diseases;

5. Surveillance techniques to minimize sources and transmission of infection;

6. Sterilization, disinfection, and cleaning practices and techniques used in the facility, including, but not limited to, the following:

i. Care of utensils, instruments, solutions, dressings, articles, and surfaces;

ii. Selection, storage, use, and disposition of disposable and nondisposable patient care items. Disposable items shall not be reused; ***dialyzers may be reused by facilities providing chronic dialysis services, in accordance with N.J.A.C. 8:43A-6.4(a);***

iii. Methods to ensure that sterilized materials are packaged and labeled to maintain sterility and to permit identification of expiration dates; and

iv. Procedures for care of equipment and other devices that provide a portal of entry for pathogenic microorganisms;

7. Techniques to be used during each patient contact, including handwashing before and after caring for a patient; and

8. Criteria and procedures for isolation of patients.

(b) Each service in the facility shall develop written infection control policies and procedures for that service.

8:43A-14.3 Orientation and inservice education

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

8:43A-14.4 Inspection reports

The administrator shall evaluate written reports of State and local sanitary inspections, including results of cultures taken of food, equipment, and personnel, and shall take the necessary corrective action.

8:43A-14.5 Pathological and infectious wastes

(a) The facility shall establish and implement policies and procedures for the collection, storage, handling, and disposition of all pathological and infectious wastes within the facility, and for the collection, storage, handling, and disposition

of all pathological and infectious wastes to be removed from the facility, including, but not limited to, the following:

1. Needles and syringes shall be destroyed in accordance with N.J.S.A. 2A:170-25.17*, and amendments thereto*;

2. Needles and syringes and other solid, sharp, or rigid items shall be placed in a puncture-resistive container and incinerated or compacted prior to disposal;

3. Non-rigid items, such as blood tubing and disposable equipment and supplies, shall be incinerated or placed in double, heavy-duty, impervious plastic bags and disposed of at a facility approved by the New Jersey State Department of Environmental Protection;

4. Fecal matter and liquid waste, such as blood and blood products, shall be flushed into the sewerage system;

5. All pathology specimens and waste, including gross and microscopic tissue removed surgically or by any other procedure, shall be incinerated; and

6. If the facility provides laboratory services directly, the facility shall adhere to the following:

i. Solid waste from the laboratory shall be incinerated or autoclaved prior to disposal; and

ii. Liquid waste from the laboratory shall be autoclaved prior to disposal into the sewerage system.

8:43A-14.6 Disposition of tissue

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

8.43A-14.7 Surgical services

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

1. Use of aseptic technique and scrub procedures;

2. Gowning and operating room attire;

3. Traffic control;

4. Cleaning of the operating room after each procedure; and

5. Care of operating room equipment and anesthesia equipment.

8:43A-14.8 Hepatitis Surveillance

Facilities providing chronic dialysis services shall adhere to the recommendations of the United States Department of Health and Human Services, Centers for Disease Control, "Hepatitis Surveillance," Report No. 41, September 1977.¹

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

*8:43A-14.9 Water analysis and treatment

If the facility provides chronic dialysis services, the facility shall have a water treatment system. Water used for dialysis shall conform to the requirements of the Association for the Advancement of Medical Instrumentation (AAMI).¹ The water shall be microbiologically analyzed monthly by a laboratory certified by the New Jersey State Department of Environmental Protection or licensed by the New Jersey State Department of Health. Trace element analysis shall be performed at least once every six months by a laboratory certified by the New Jersey State Department of Environmental Protection. Written records of all test results (mineral, biological, and water treatment equip-

ment) and equipment maintenance shall be maintained in the facility.*

¹The AAMI requirements may be obtained from either of the following sources: (a) Association for the Advancement of Medical Instrumentation, Suite 602, 1901 N. Fort Myer Drive, Arlington, VA 22209; or (2) Environmental Health Services, New Jersey State Department of Health, CN 364, Trenton, NJ 08625

SUBCHAPTER 15. EMERGENCY SERVICES AND PROCEDURES

8:43A-15.1 Emergency plan and procedures

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

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

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

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

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

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

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

8:43A-15.3 Emergency medical services

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

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

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

1. Specify the locations, contents, frequency of checking contents (including expiration dates), and assignments of responsibility for checking contents;

2. Ensure that pediatric doses are provided in areas of the facility where pediatric emergencies may occur;

3. Ensure that emergency kits are secure but are not kept

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under lock and key; and

4. Ensure that the facility provides an emergency cart, an electrocardiogram machine, a cardiac defibrillator, oxygen, and an aspirator, if the facility provides chronic dialysis services.

8:43A-15.4 Surgical services

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

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

SUBCHAPTER 16. PATIENT RIGHTS

8:43A-16.1 Policies and procedures

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

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

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

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10. Is not required to perform services for the facility;
11. May join with other patients or individuals to work for improvements in patient care;
12. Is assured of exercising civil and religious liberties, including the right to independent personal decisions;
13. Is not the object of discrimination because of age, race, religion, sex, nationality, or ability to pay; and
14. Is not deprived of any constitutional, civil, and/or legal rights solely because of receiving services from the facility.

8:43A-16.2 Notice

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

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

SUBCHAPTER 17. HOUSEKEEPING, SANITATION, AND SAFETY

8:43A-17.1 Services; policies and procedures

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

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

8:43A-17.2 Facility's responsibilities

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

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

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

- (d) The facility shall adhere to the following:
1. The facility and its contents shall be free from dirt and debris;
 2. Nonskid wax shall be used on all waxed floors;
 3. All rooms shall be ventilated to help prevent condensation, mold growth, and noxious odors;
 4. All patient areas shall be free of noxious odors;
 5. Throw rugs or scatter rugs shall not be used in the facility;
 6. All furnishings shall be clean and in good repair, and mechanical equipment shall be in working order. ***The facility shall establish and implement policies and procedures for the calibration of instruments of measurement, including the fre-**

quency of calibration.* Equipment shall be kept covered to protect from contamination, and accessible for cleaning and inspection. Broken or worn items shall be repaired, replaced, or removed promptly;

7. All equipment shall have unobstructed space provided for operation;

8. All equipment and materials necessary for cleaning, disinfecting, and sterilizing shall be provided;

9. Thermometers shall be maintained in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

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

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

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

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

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

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

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

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

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

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

20. Latex foam pillows shall be prohibited; and

21. The temperature of the hot water supply at each water outlet shall be regulated and shall not exceed 110°F. (43°C.), except as specified in the New Jersey State Sanitary Code for dishwashing purposes.

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

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

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

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

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

and

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

8:43A-17.4 Chronic dialysis services

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

SUBCHAPTER 18. EVALUATION (QUALITY ASSURANCE)

8:43A-18.1 Evaluation plan

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

8:43A-18.2 Evaluation committee's responsibilities

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

1. Annual review of staff qualifications;
2. Annual review of patient care statistics;
3. Annual review of staff orientation and staff education plans;

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

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

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

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

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

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

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

8:43A-18.3 Administrator's responsibilities

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

SUBCHAPTER 19. PHYSICAL PLANT REQUIREMENTS

8:43A-19.1 Construction

(a) Regulations for new buildings and existing buildings

constructed after May 7, 1981, and additions, alterations, and renovations to existing buildings for ambulatory health care facilities under 6,000 square feet shall be in accordance with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and standards imposed by the United States Department of Health and Human Services (HHS), the State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).¹ In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, article 7 except sections 712.0, 716.0 and 717.0, and article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

(b) Regulations for new buildings and existing buildings constructed after May 7, 1981, and additions, alterations, and renovations to existing buildings for ambulatory health care facilities under 6,000 square feet shall be in accordance with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and standards imposed by the United States Department of Health and Human Services (HHS), the State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).¹ In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, article 7 except sections 712.0, 716.0 and 717.0, and article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

¹HHS Publication No. (HRA) 79-14500 may be obtained from *:* *[the United States Government Printing Office, Washington, D.C.]*

***United States Department of Health and Human Services
Region II
Office of Engineering Services
26 Federal Plaza, Room 3309
New York, NY 10278
212-264-3603***

8:43A-19.2 Additional requirements

(a) Regulations for existing buildings or major alterations constructed from July 1, 1979, through May 7, 1981, for ambulatory care facilities under 6,000 square feet shall be in accordance with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and standards imposed by the United States Department of Health and Human Services (HHS), the State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).¹ In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, article 7 except sections 712.0, 716.0 and 717.0, and article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Code of the State in all

matters regulated by the sections herein specified.

(b) Regulations for existing buildings or major alterations constructed from July 1, 1979, through May 7, 1981, for ambulatory care facilities *[under]* ***over*** 6,000 square feet shall be in accordance with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and standards imposed by the United States Department of Health and Human Services (HHS), the State Department of Health, and the State Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500).¹ In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, article 7 except sections 712.0, 716.0 and 717.0, and article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) shall not govern with respect to health care facilities. The HHS (HRA) 79-14500 shall serve as the Uniform Construction Code of the State in all matters regulated by the sections herein specified.

¹HHS Publication No. (HRA) 79-14500 may be obtained from *:* *[the United States Government Printing Office, Washington, D.C.]*

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Office of Engineering Services
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(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances General Provisions, Registration

Adopted New Rules: N.J.A.C. 8:65-1

Proposed: June 17, 1985 at 17 N.J.R. 1508(a).

Adopted: August 9, 1985 by Charles F. Pierce, Acting
Commissioner, Department of Health.

Filed: August 12, 1985 as R.1985 d.459, **without change.**

Authority: N.J.S.A. 24:21-9.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): September 3, 1990.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the adoption follows.

8:65-1.1 Registration fees

(a) Manufacturers of controlled dangerous substances shall pay an annual fee of \$200.00 at the time of application for registration or for renewal of registration.

(b) Distributors of controlled dangerous substances shall pay an annual fee of \$100.00 at the time of application for registration or for renewal of registration.

(c) Dispensers of controlled dangerous substances or practitioners registered to conduct research with controlled dangerous substances shall pay an annual fee of \$20.00 at the time of application for registration or for renewal of registration.

(d) Incorporated humane societies or licensed animal control facilities registered to purchase and administer sodium pentobarbital for the purpose of animal euthanasia shall pay an annual fee of \$20.00 for registration or renewal of registration as a Dispenser in the category of hospital/clinic.

(e) A separate fee shall be paid for each separate place of business or professional practice for which registration is required.

(f) The following persons shall be exempt from payment of a fee for registration or renewal of registration:

1. Any hospital, clinic, institution, or other facility operated by any department of the State of New Jersey;

2. Any other agency, excluding individual State employees, for which the State of New Jersey would be responsible for payment of the fee, provided that such exemption is approved by the commissioner;

3. Hospitals and other facilities operated by any department of the United States of America.

(g) Exemption from payment of a fee for registration or renewal of registration does not relieve the person of the requirement to obtain a registration or of any other requirements or duties prescribed by law.

8:65-1.2 Registration requirements

(a) Every person who manufactures or proposes to manufacture a controlled dangerous substance or substances, unless specifically exempted by statute or specifically waived by the Commissioner of Health, shall obtain a registration within 30 days of the effective date of these regulations, and shall obtain a renewal of the registration every year thereafter.

(b) Every person who distributes or proposes to distribute a controlled dangerous substance or substances, unless specifically exempted by statute or specifically waived by the Commissioner of Health, shall obtain a registration within 30 days of the adoption of these regulations, and shall obtain a renewal of the registration within 30 days of the effective date of these regulations, and shall obtain a renewal of the registration every year thereafter.

(c) Every person who dispenses (including prescribing, administering, compounding, or delivering) or proposes to dispense a controlled dangerous substance or substances, unless specifically exempted by statute or specifically waived by the Commissioner of Health, shall obtain a registration within 30 days of the effective date of these regulations, and shall obtain a renewal of the registration every year thereafter.

(d) Every person who conducts research or proposes to conduct research with a controlled dangerous substance or substances, unless specifically exempted by statute or specifically waived by the Commissioner of Health, shall obtain a registration within 30 days of the effective date of these regulations, and shall obtain a renewal of the registration every year thereafter.

(e) A person desiring to obtain a registration or a renewal of registration as provided in (a) through (d) above shall prepare and file an application in accordance with the procedure set forth in N.J.A.C. 8:65-1.4, accompanied by the annual registration fee as set forth in N.J.A.C. 8:65-1.1.

(f) A separate application shall be made and a separate registration obtained for each place of business or professional practice, where the applicant manufactures, distributes or dispenses controlled dangerous substances. A separate appli-

cation shall be made and a separate registration obtained for each separate and distinct business entity, affiliated corporation, or subsidiary corporation that engages in such activities, but a single entity doing business at one location under more than one business name or trade name may obtain a single registration provided that all such business names or trade names are stated in the application.

(g) Every person or duly authorized agent who dispenses or proposes to dispense sodium pentobarbital for purposes of animal euthanasia, unless specifically exempted by statute or specifically waived by the Commissioner of Health, shall apply for a registration within 30 days of the effective date of the regulations and shall obtain a renewal of registration every year thereafter.

1. Applications for registration to use sodium pentobarbital for animal euthanasia may be obtained from the Drug Control Program, Division of Narcotic and Drug Abuse Control, New Jersey State Department of Health, CN 362, Trenton, New Jersey 08625. Upon receipt of said application by this Department, the security, safeguards, recordkeeping requirement and personnel training requirements shall be inspected and/or reviewed, and upon satisfactory compliance with the statute and regulations, a registration certificate shall be issued to the applicant.

(h) Every person or duly authorized agent required to register pursuant to (g) above shall be required to provide evidence of a current general liability insurance policy. A certified individual shall be deemed to be acting in behalf of and at the direction of the duly authorized agent.

(i) Every person or duly authorized agent required to register pursuant to (g) above shall be limited to the use of sodium pentobarbital only. Registration granted under (g) above shall not entitle a registrant to buy possess and/or dispense controlled dangerous substances other than that specified in the registration.

(j) Every individual, as directed by the registered duly authorized agent to use sodium pentobarbital in animal euthanasia, shall be required to be trained in, and demonstrate proficiency with, the use of sodium pentobarbital in animal euthanasia, to the satisfaction of a New Jersey licensed veterinarian. Said New Jersey licensed veterinarian shall, in writing and filed with the registered incorporated humane society or licensed animal care facility, so certify the training and demonstrated proficiency of the individual in the use of sodium pentobarbital in animal euthanasia.

(k) Every person or duly authorized agent required to register pursuant to (g) above shall prepare written procedures and protocol, approved by a New Jersey licensed veterinarian, for the administration of sodium pentobarbital in animal euthanasia. Such written procedure and protocol must be on file at the licensed premise and readily available for review by a Department representative.

(l) A person or duly authorized agent registered as a dispenser for the purposes of purchasing and dispensing sodium pentobarbital for the purpose of animal euthanasia shall be limited to registration in Schedule II (sodium pentobarbital) and may possess or have under his control such amounts as are reasonably necessary to administer euthanasia on the premises of the registered location.

8:65-1.3 Activities requiring registration

(a) Registration under N.J.A.C. 8:65-1.2(a) or (b) shall be issued to authorize the registrant to manufacture or distribute respectively specific controlled dangerous substances included in Schedule I or Schedule II, or to authorize the registrant

to manufacture or distribute respectively the controlled dangerous substances included in Schedules III, IV, or V. Any registrant authorized to manufacture or distribute substances included in Schedules III, IV, or V may manufacture or distribute respectively any controlled dangerous substance listed in the Schedule or Schedules for which he is registered.

(b) A person desiring to obtain a registration under N.J.A.C. 8:65-1.2(a) or (b) shall specify the controlled dangerous substances or the Schedules for which he wishes to obtain a registration in his application and may manufacture or distribute only those controlled dangerous substances authorized in his registration.

(c) Registration under N.J.A.C. 8:65-1.2(c) shall be issued to authorize the registrant to dispense controlled dangerous substances in Schedules II, III, IV, or V by Schedules. Any person desiring to obtain a registration to dispense shall specify the Schedules for which he wishes to be registered in his application and may dispense only those controlled dangerous substances in the Schedules included in his registration.

(d) Every practitioner registered to dispense controlled dangerous substances who desires to conduct research with substances included in Schedule I or with narcotic substances included in Schedules II through V shall make a separate application and be issued a separate registration to conduct such research. Such practitioner shall, in addition to the general requirements of these regulations, furnish the Commissioner of Health with a copy or photocopy of his Federal registration or Federal authorization to conduct research with such substances and, where required by Federal regulations, a copy of the research protocol.

(e) A practitioner registered to dispense controlled dangerous substances may conduct research with nonnarcotic substances in Schedules II through V which are included in his registration without applying for a separate registration to conduct research.

(f) A practitioner not registered to dispense may be registered to conduct research only for the purpose of making a laboratory analysis of substances to determine the presence of controlled dangerous substances. Such registrant may not possess or have under his control any controlled dangerous substance except such amounts as are reasonably necessary to make such analysis on the premises of the registered location.

(g) A person registered to manufacture controlled dangerous substances may distribute those substances which he is authorized to manufacture without obtaining a separate registration, provided that distribution is from the registered location. A person desiring to distribute controlled dangerous substances other than those he is registered to manufacture or from a different location shall obtain a separate registration as a distributor.

(h) For purposes of registration, the following activities by a registrant will not be deemed to require an additional registration for a separate location:

1. An office used by a registered manufacturer or distributor or his agents or employees to solicit or make sales of controlled dangerous substances, provided that no such substances are contained in or distributed from such office.

2. An office used by a registered dispenser where controlled dangerous substances are prescribed, provided that no such substances are administered, delivered, or otherwise dispensed, and no such substances are contained in such office.

8:65-1.4 Registration application

(a) All applicants for registration shall be made on forms provided by the Commissioner of Health and shall be filed

with the Division of Narcotic and Drug Abuse Control, Drug Control Program, State Department of Health, CN 362, Trenton, NJ 08625.

(b) Applications shall contain all information called for on the forms provided, except where such information is not applicable in which case this fact shall be stated.

(c) The Commissioner may require an applicant to submit documents and statements pertinent to the application or may require the applicant to amend the application to make it more definite and certain.

(d) Each application and each additional document or statement required by the Commissioner shall be signed by the applicant, if an individual; by a general partner of the applicant, if a partnership; or by an officer of the applicant, if a corporation or other entity.

(e) Any application may be amended or withdrawn by the applicant as a matter of right prior to the date of service of any order to show cause pursuant to N.J.S.A. 24:21-12. An application may be amended or withdrawn by the applicant after the date of service of such an order to show cause only upon written consent of the Commissioner.

(f) A duplicate copy of each application and of each additional document or statement required pursuant to (c) above shall be kept by the applicant at the location to be registered.

8:65-1.5 Action upon application

(a) After an application for registration has been filed, the Commissioner or his authorized agent or representative shall make such inspection of the place of business or professional practice described in the application and such investigation of the applicant as may be necessary to determine that the applicant meets the requirements of the applicable statutes and regulations.

(b) A person lawfully engaged in the manufacture, distribution or dispensing of any controlled dangerous substance prior to January 17, 1971, who was registered or licensed by the State to engage in such activity, may in the discretion of the Commissioner, after making proper application for registration, be issued a registration as to such controlled dangerous substances prior to the making of an inspection or investigation by the Commissioner or his authorized agent or representative.

(c) Any application for renewal of a registration issued pursuant to the New Jersey Controlled Dangerous Substances Act and these regulations may in the discretion of the Commissioner be granted and a renewal of registration issued prior to the making of an inspection or investigation by the Commissioner or his authorized agent or representative.

(d) The issuance of a registration pursuant to paragraphs (b) or (c) above shall not be deemed to vest any right to continue the registration or to obtain a renewal thereof, if upon subsequent inspection or investigation the Commissioner determines that the registrant does not meet the requirements of the applicable statutes or regulations.

(e) The registration certificate issued hereunder shall be displayed conspicuously in the registered location.

8:65-1.6 Assignment or transfer of registration

(a) No registration nor any right granted thereunder shall be assigned or otherwise transferred to any person not named as the registrant therein nor to any place of business or professional practice not stated therein, except as provided by statute or regulations.

(b) A registrant who changes his place of business or professional practice from the location which is stated in the

registration to a new location within the State of New Jersey, without any change in the ownership of the business or professional practice, may obtain an endorsement validating his registration for the remainder of the registration period at the new location by notifying the Commissioner in writing, which notice shall set forth the name and registration number of the registrant, the address of the registered location, the address of the new location, and the effective date of the change of location.

(c) A registration shall terminate and become void if and when the registrant dies, ceases legal existence, or discontinues business or professional practice in the State of New Jersey. A registrant who ceases legal existence or discontinues business or professional practice shall notify the Commissioner in writing and surrender his current registration. In the event that the business or professional practice will be continued or resumed after a change in ownership a new application for registration shall be made pursuant to N.J.A.C. 8:65-1.1 and 1.2 of this Chapter.

(d) For purposes of this section it shall be deemed to be a change of ownership of a business or professional practice in the case of a partnership, and in the case of a corporation if there is a change in the president or chief executive officer of the corporation, or in the ownership of ten per cent or more of the outstanding shares in the corporation.

8:65-1.7 Changes in schedule

Consistent with the provisions set forth in N.J.S.A. 24:21-3, regulations promulgated pursuant to the United States Comprehensive Drug Abuse Prevention and Control Act of 1970, which designate, reschedule or delete a substance as a controlled substance under Federal Law, shall be deemed to be effective under the New Jersey Controlled Dangerous Substance Act (N.J.S.A. 24:21-1 et seq.) 30 days after their effective date of the Federal regulation, unless the Commissioner, within that 30 day period, shall object to inclusion, rescheduling or deletion, which objection shall thereafter be published in the New Jersey Register.

8:65-1.8 Duplicate registration

Any registrant requesting a duplicate of a certificate of registration shall apply to the Department in writing and pay a fee of \$5.00 for such duplicate.

(a)

Controlled Dangerous Substances Requirements for Use of Order Forms

Adopted New Rule: N.J.A.C. 8:65-6

Proposed: March 4, 1985 at 17 N.J.R. 528(a).

Adopted: August 9, 1985 by Charles F. Pierce, Acting
Commissioner, Department of Health.

Filed: August 12, 1985 as R.1985 d.457, **without change**.

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(1978): September 3, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

8:65-6.1 Scope

This subchapter sets forth the Federally mandated requirements governing the issuance, use, and preservation of order forms pursuant to the Controlled Substances Act (21 U.S.C. 828, section 308).

8:65-6.2 Definitions

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

"Act" means the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) and the Controlled Substance Import and Export Act (84 Stat. 1285; 21 U.S.C. 951).

"D.E.A." means the Drug Enforcement Administration.

"Purchaser" means any registered person entitled to obtain and execute order forms pursuant to Sections 4 and 6 of this Subchapter.

"Supplier" means any registered person entitled to fill order forms pursuant to N.J.A.C. 8:65-6.8.

Any term not defined in this section shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) and 301.02 and 302.02 of the Act, or N.J.S.A. 24:21-1 et seq.

8:65-6.3 Distribution requiring order forms

(a) An order form (DEA Form 222c) is required for each distribution of a controlled substance listed in schedule I or II, except for the following:

1. The exportation of such substances from the United States in conformity with the Act;

2. The delivery of such substances to or by a common or contract carrier for carriage in the law and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business (but excluding such carriage or storage by the owner of the substance in connection with the distribution of a third person);

3. The procurement of a sample of such substances by an exempt law enforcement official pursuant to 316.04(d) of the Act, provided that the receipt required by that section is used and is preserved in the manner prescribed in this part for order forms;

4. The procurement of such substances by a civil defense or disaster relief organization, pursuant to 301.27 of the Act, provided that the civil defense emergency order form required by that section is used and is preserved with other records of the registrant; and

5. The purchase of such substances by the master of a vessel pursuant to 310.28(a)(3) of the Act; provided, that the special order form provided by the U.S. Public Health Service required by that section is used and preserved in the manner prescribed in this order form.

8:65-6.4 Persons entitled to obtain and execute order forms

(a) Order forms may be obtained only by persons who are registered under section 303 of the Act (21 U.S.C. 823) to handle controlled substances listed in schedules I and II, and by persons who are registered under section 1008 of the Act (21 U.S.C. 958) to export such substances. Persons not registered to handle controlled substances listed in, schedules I or II and persons registered only to import controlled substances listed in any schedule are not entitled to obtain order forms.

(b) An order form may be executed only on behalf of the registrant named thereon and only if his registration as to the substances being purchased has not expired or been revoked or suspended.

8:65-6.5 Procedure for obtaining order forms

(a) Order forms are issued in groups of twenty-one forms, each form containing an original, duplicate, and triplicate copy (respectively, Copy 1, Copy 2 and Copy 3). A limit of twenty-one forms will be furnished on any requisition, unless additional quantities are specifically requested and a reasonable need for such additional quantity is shown.

(b) Any person applying for a registration which would entitle him to obtain order forms may requisition such forms by so indicating on the application form; order forms will be supplied upon the registration of the applicant. Any person holding a registration entitling him to obtain order forms may requisition such forms for the first time on DEA Form 222d, which may be obtained from the Registration Branch of the Administration. All requisitions shall be submitted to the Registration Branch, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005.

(c) Each requisition shall show the name, address, and registration number of the registrant and the quantity of forms desired. Each requisition shall be signed and dated by the same person who signed the most recent application for registration or for reregistration, or by any person authorized to obtain and execute order forms by a power of attorney pursuant to Section 7 of this Subsection.

(d) Order forms will be serially numbered and issued with the name, address, and registration number of the registrant, the authorized activity and schedules of the registrant. This information cannot be altered or changed by the registrant; any errors must be corrected by the Registration Branch of the Administration by returning the forms with notification of the error.

8:65-6.6 Procedure for executing order forms

(a) Order forms shall be prepared and executed by the purchaser simultaneously in triplicate by means of interleaved carbon sheets which are part of the DEA Form 222c. Order forms shall be prepared by use of a typewriter, pen, or indelible pencil.

(b) Only one item shall be entered on each numbered line. There are ten lines on each order form. If one order form is not sufficient to include all items in an order, additional forms shall be used. The total number of items ordered shall be noted on that form in the space provided.

(c) An item shall consist of one or more commercial or bulk containers of the same finished or bulk form and quantity of the same substance; a separate item shall be made for each commercial or bulk container of different finished or bulk form, quantity or substance. For each item the form shall show the name of the article ordered, the finished or bulk form of the article (e.g., ten milligram tablet, ten-milligram concentration per fluid ounce or milliliter, or United States Pharmacopeia), the number of units or volume in each commercial or bulk container (e.g., 100-tablet bottle of three-milliliter vial) or the quantity or volume of each bulk container (e.g., 10 kilograms), the number of commercial or bulk containers ordered, and the name and quantity per unit of the controlled substance or substances contained in the article if not in pure form. The catalogue number of the article may be included at the discretion of the purchaser.

(d) The name and address of the supplier from whom the controlled substances are being ordered shall be entered on the form. Only one supplier may be listed on any one form.

(e) Each order form shall be signed and dated by a person authorized to sign a requisition for order forms on behalf of

the purchaser pursuant to Section 5(c) of this Subchapter. The name of the purchaser, if different from the individual signing the order form, shall also be inserted in the signature space. Unexecuted order forms may be kept and may be executed at a location other than the registered location printed on the form, provided that all executed forms are delivered promptly to the registered location.

8:65-6.7 Power of attorney

(a) Any purchaser may authorize one or more individuals, whether or not located at the registered location of the purchaser, to obtain and execute order forms on his behalf by filing a power of attorney with records of the registrant.

(b) The power of attorney shall be signed by the same person who signed the most recent application for registration or reregistration and shall contain the signature of the individual being authorized to obtain and execute order forms, which individual shall affirm his signature.

(c) Any power of attorney may be revoked at any time by filing a notice of revocation, signed by the person who signed the power of attorney.

(d) It shall be necessary to submit a new power of attorney upon the registration of a purchaser only if the application for reregistration was signed by a person different from the person who signed the existing power of attorney.

8:65-6.8 Persons entitled to fill order forms

(a) An order form may be filled only by a person registered as a manufacturer or distributor of controlled substances listed in schedules I or II under section 303 of the Act (21 U.S.C. 823) or as an importer of such substances under section 1008 of the Act (21 U.S.C. 958), except for the following:

1. A person registered to dispense such substances under section 303 of the Act, or to export such substances under section 1008 of the Act, if he is discontinuing business or if his registration is expiring without reregistration may dispose of any controlled substances listed in schedule I or II in his possession pursuant to order forms in accordance with N.J.A.C. 8:65-8.7;

2. A person who has obtained any controlled substance in schedule I or II by order form may return such substance, or portion thereof, to the person from whom he obtained the substance or the manufacturer of the substance pursuant to the order form of the latter person; and

3. A person registered to dispense such substances may distribute such substances to another dispenser pursuant to, and only in the circumstances described in, N.J.A.C. 8:65-8.4;

4. A person registered as a compounder of narcotic substances for use at off-site locations in conjunction with a narcotic treatment program at the compounding location, who is authorized to handle Schedule II narcotics, is authorized to fill order forms for distribution of narcotic drugs to off-site narcotic treatment programs only.

8:65-6.9 Procedure for filling order forms

(a) The purchaser shall submit copy 1 and copy 2 of the order form to the supplier, and retain copy 3 in his own files.

(b) The supplier shall fill the order, if possible and if he desires to do so, and record on copies 1 and 2 the number of commercial or bulk containers furnished on each item and the date on which such containers are shipped to the purchaser. If an order cannot be filled in its entirety, it may be filled in part and the balance supplied by additional shipments within 60 days following the date of the order form. No order form shall be valid more than 60 days after its execution by the purchaser, except as specified in (f) above.

(c) The controlled substances shall only be shipped to the purchaser and at the location printed by the D.E.A. on the order form, except as specified in (f) above.

(d) The supplier shall retain copy 1 of the order form for his own files and forward copy 2 to the Regional Director of the D.E.A. in the region in which the supplier is located. Copy 2 shall be forwarded at the close of the month during which the order is filled; if an order is filled by partial shipments, copy shall be forwarded at the close of the month during which the final shipment is made or during which the 60-day validity period expires.

(e) The purchaser shall record on copy 3 of the order form the number of commercial or bulk containers furnished on each item and the dates on which such containers are received by the purchaser.

(f) Order forms submitted by registered procurement officers of the Defense Personnel Support Center of Defense Supply Agency for delivery to armed services established within the United States may be shipped to locations other than the location printed on the order form, and in partial shipments at different times not to exceed six months from the date of the order, as designated by the procurement officer when submitting the order.

8:65-6.10 Procedure for endorsing order forms

(a) An order form made out to any supplier who cannot fill all or a part of the order within the time limitation set forth in N.J.A.C. 8:65-6.9 may be endorsed to another supplier for filling. The endorsement shall be made only by the supplier to whom the order form was first made, shall state (in the spaces provided on the reverse sides of copies 1 and 2 of the order form) the name and address of the second supplier, and shall be signed by a person authorized to obtain and execute order forms on behalf of the first supplier. The first supplier may not fill any part of an order on an endorsed form. The second supplier shall fill the order, if possible and if he desires to do so, in accordance with N.J.A.C. 8:65-6.9(b), (c) and (d), including shipping all substances directly to the purchaser.

(b) Distribution made on endorsed order forms shall be reported by the second supplier in the same manner as all other distributions except that where the name of the supplier is requested on the reporting form, the second supplier shall record the name, address and registration number of the first supplier.

8:65-6.11 Unaccepted and defective order forms

(a) No order form shall be filled if it:

1. Is not complete, legible, or properly prepared, executed or endorsed; or
2. Shows any alteration, erasure, or change of any description.

(b) If an order form cannot be filled for any reason under this Section, the supplier shall return copies 1 and 2 to the purchaser with a statement as to the reason (e.g., illegible or altered). A supplier may for any reason refuse to accept any order and if a supplier refuses to accept the order, a statement that the order is not accepted shall be sufficient for purposes of this paragraph.

(c) When received by the purchaser, copies 1 and 2 of the order form and the statement shall be attached to copy 3 and retained in the files of the purchaser in accordance with N.J.A.C. 8:65-6.13. A defective order form may not be corrected; it must be replaced by a new order form in order for the order to be filled.

8:65-6.12 Lost and stolen order forms

(a) If a purchaser ascertains that an unfilled order form has been lost, he shall execute another in triplicate and a statement containing the serial number and date of the lost form, and stating that the goods covered by the first order form were not received through loss of that order form. Copy 3 of the second form and a copy of the statement shall be retained with copy 3 of the order form first executed. A copy of the statement shall be attached to copies 1 and 2 of the second order form sent to the supplier. If the first order form is subsequently received by the supplier to whom it was directed, the supplier shall mark upon the face thereof "Not accepted" and return copies 1 and 2 to the purchaser, who shall attach it to copy 3 and the statement.

(b) Whenever any used or unused forms are stolen from or lost (otherwise than in the course of transmission) by any purchaser or supplier, he shall immediately upon discovery of such theft or loss, report the same to the Registration Branch, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005, and the Drug Control Program, New Jersey Department of Health, CN 362, Trenton, NJ 08625 stating the serial number of each form stolen or lost. If the theft or loss includes any original order forms received from purchasers and the supplier is unable to state the serial numbers of such order forms, he shall report the date or approximate date of receipt thereof and the names and addresses of the purchasers.

(c) If an entire group of order forms is lost or stolen, and the purchaser is unable to state the serial numbers of the order forms contained therein, he shall report, in lieu of the numbers of the forms contained in such group, the date or approximate date of issuance thereof. If any unused order form reported stolen or lost is subsequently recovered or found, the registration branch of the bureau and the Department of Health shall immediately be notified.

8:65-6.13 Preservation of order forms

(a) The purchaser shall retain copy 3 of each order form which has been filled. He shall also retain in his files all copies of each unaccepted or defective order form and each statement attached thereto.

(b) The supplier shall retain copy 1 of each order form which he has filled.

(c) Order forms must be maintained separately from all other records of the registrant. Order forms are required to be kept available for inspection for a period of two years. If a purchaser has several registered locations, he must retain copy 3 of the executed order forms and any attached statements or other related documents (not including unexecuted order forms which may be kept elsewhere pursuant to N.J.A.C. 8:65-6(e) of this Subchapter) at the registered location printed on the order form.

8:65-6.14 Return of unused order forms

If the registration of any purchaser terminates (because the purchaser dies, ceases legal existence, discontinues business or professional practice, or changes his name or address as shown on his registration) or is suspended or revoked pursuant to 301.45 or 301.46 of the Act as to all controlled substances listed in schedules I and II for which he is registered, he shall return all unused order forms for such substance to the nearest office of the Administration.

8:65-6.15 Cancellation and voiding of order forms

(a) A purchaser may cancel part or all of an order on an order form by notifying the supplier in writing of such cancellation. The supplier shall indicate the cancellation on

copies 1 and 2 of the order form by drawing a line through the cancelled items and printing "canceled" in the space provided for number of items shipped.

(b) A supplier may void part or all of an order on an order form by notifying the purchaser in writing of such voiding. The supplier shall indicate the voiding in the manner prescribed for cancellation in Subsection (a) of this Section.

(c) No cancellation or voiding permitted by this section shall affect in any way contract rights of either the purchaser or the supplier.

8:65-6.16 Special procedure for filling certain order forms
(a) The purchaser of etorphine hydrochloride or diprenorphine shall submit copy 1 and 2 of the order form to the supplier and retain copy 3 in his own files.

(b) The supplier, if he determines that the purchaser is a veterinarian engaged in zoo and exotic animal practice, wildlife management programs and/or research and authorized by the D.E.A. to handle these substances shall fill the order in accordance with the procedures set forth in Section 1305.09 except that (1) Order forms for etorphine hydrochloride and diprenorphine shall only contain these substances in reasonable quantities and (2) the substances shall only be shipped to the purchaser at the location printed by the D.E.A. upon such order forms under secure conditions using substantial packaging material with no markings on the outside which would indicate the content.

(a)

**Controlled Dangerous Substances
Persons Entitled to Issue Prescriptions**

Adopted Amendment: N.J.A.C. 8:65-7.3

Proposed: April 15, 1985 at 17 N.J.R. 876(a).
Adopted: August 9, 1985 by Charles F. Pierce, Acting
Commissioner, Department of Health.
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(1978): January 7, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

8:65-7.3 Persons entitled to issue prescriptions
(a) A prescription for a controlled substance may be issued only by an individual practitioner who is:
1. Authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession; and
2. Either register or exempted from registration pursuant to the Code of Federal Regulations, Title 21, part 1301.24(c) or 1301.25.
(b) A prescription issued by an individual practitioner shall be communicated to a pharmacist by the individual practitioner.

(b)

**Controlled Dangerous Substances
Temporary Placement of 3-Methylfentanyl into
Schedule I**

Adopted Amendment: N.J.A.C. 8:65-10.1

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No comments received.

Full text of the adoption follows.

8:65-10.1 Controlled dangerous substances; Schedule I
(a) (No change.)
(b) The following is Schedule I listing of the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code number.
1.-6. (No change.)
7. Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:
i. 3-Methylfentanyl (N-(3-methyl-1-(2-phenylethyl)-4-iperidyl)-N-phenylpropanamide), its optical and geometric isomers, salts and salts of isomers 9613.

(c)

**Controlled Dangerous Substances:
Buphenorphine to Schedule V**

Adopted Amendment: N.J.A.C. 8:65-10.5

Proposed: May 20, 1985 at 17 N.J.R. 1234(a).
Adopted: August 9, 1985 by Charles F. Pierce, Acting
Commissioner, Department of Health.
Filed: August 12, 1985 as R.1985 d.460, **without change**.
Authority: N.J.S.A. 24:21-9.

Effective Date: September 3, 1985.
Expiration Date pursuant to Executive Order No. 66
(1978): Exempt, pursuant to the provisions of
N.J.S.A. 24:21-3.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

8:65-10.5 Controlled dangerous substances; schedule V
 (a) (No change.)
 (b) The following is schedule V listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances numbers.
 1. (No change.)
 2. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

Buphenorphine 9064

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual Provider Reinstatement

Readopted: N.J.A.C. 10:49-7

Proposed: June 17, 1985 at 17 N.J.R. 1519(a).
 Adopted: August 9, 1985 by Geoffrey S. Perselay, Esq., Acting Commissioner, Department of Human Services.
 Filed: August 12, 1985 as R.1985 d.463, **without change**.
 Authority: N.J.S.A. 30:4D-3h, 5, 7a, b, c, 17.1.
 Effective Date: August 12, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:49-7.

(b)

Pharmacy Manual; Pharmaceutical Assistance to the Aged and Disabled Program Diabetic Testing Material

Adopted Amendments: N.J.A.C. 10:51-5.1, 5.16

Proposed: June 17, 1985 at 17 N.J.R. 1521(a)
 Adopted: August 9, 1985 by Geoffrey S. Perselay, Esq., Acting Commissioner, Department of Human Services.
 Filed: August 12, 1985 as R.1985 d.462 **without change**.
 Authority: N.J.S.A. 30:4D-22.

Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): April 26, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

10:51-5.1 Covered pharmaceutical services
 (a) The following prescribed drugs and items are covered by PAAD:
 1. Prescribed Legend Drugs;
 2. Insulin;
 3. Insulin Syringes or Insulin Needles;
 4. Diabetic Testing Materials.
 i. "Diabetic testing materials" means blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets, but shall not include electronically monitored devices.
 (b) (No change.)

10:56-5.16 Pharmaceutical services not eligible for payment
 (a) (No change.)
 (b) Devices, legend or non-legend, such as but not limited to, electronic devices for monitoring blood glucose levels are not covered.

LAW AND PUBLIC SAFETY

(c)

BOARD OF BEAUTY CULTURE CONTROL

General Rules and Regulations Fee Schedule

Adopted New Rule: N.J.A.C. 13:28-4.1

Proposed: July 1, 1985 at 17 N.J.R. 1638(a).
 Adopted: July 31, 1985 by Bridget Damiano, President, Board of Beauty Culture Control.
 Filed: August 12, 1985 as R.1985 d.464, **without change**.
 Authority: N.J.S.A. 45:4A-13 and 45:1-3.2.
 Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adoption follows.

SUBCHAPTER 4. FEES

13:28-4.1 Fee schedule
 (a) The following fees will be charged by the Board:

1. Initial shop registration (one year)	\$35.00
2. Biennial shop registration-renewal	\$50.00
3. Examination fee for practicing licensees	\$20.00
4. Biennial operator registration or renewal	\$20.00
5. Biennial manager-operator registration or renewal	\$20.00
6. Biennial manicurist registration or renewal	\$20.00
7. Biennial teacher registration or renewal	\$20.00
8. Restoration fee for lapsed practicing license	\$20.00
9. Demonstrator license	\$10.00
10. Demonstrator premise permit	\$10.00
11. Initial school registration (one year)	\$100.00
12. Biennial school license renewal	\$100.00
13. Student registration	\$3.00
14. Senior permit	\$3.00
15. Temporary permit	\$15.00
16. Charge for issuance of duplicate license	\$3.00

(a)**BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS****Reporting of Incidents of Professional Misconduct; Notification of Change of Address; Service of Process; Preparation of Land Surveys****Adopted New Rules: N.J.A.C. 13:40-3.2 and 13:40-4.1****Adopted Amendment: N.J.A.C. 13:40-5.1**

Proposed: April 1, 1985 at 17 N.J.R. 799(a).

Adopted: July 11, 1985 by Sol Seid, President of the Board of Professional Engineers and Land Surveyors.

Filed: August 12, 1985 as R.1985 d.465, **without change**.

Authority: N.J.S.A. 45:8-27 et seq.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): February 7, 1988 for N.J.A.C. 13:40-3; September 3, 1990 for 13:40-4; September 4, 1989 for 13:40-5.

Summary of Public Comments and Agency Responses:

Seven comments were received, all of which primarily dealt with N.J.A.C. 13:40-3.2, the proposed rule which would require a licensee to report a violation of the rules or statutes governing the professions to the Board of Professional Engineers and Land Surveyors (hereinafter "Board"). Six of the comments were from individual practitioners and one was from the North Jersey Chapter of the New Jersey Society of Professional Land Surveyors. Two of the seven comments also dealt with the two other proposals, N.J.A.C. 13:40-4.1, requiring a licensee to notify the Board within 30 days of any change of address, and N.J.A.C. 13:40-5.1(d)(3), clarifying the provision of the land surveying rule requiring that monuments set in accordance with the map filing law must also be identified with a cap bearing the name of the surveyor or firm.

Both comments recommended adoption of the change of

address rule, with one suggesting that a detachable form for that purpose be made part of the biennial certificate renewal forms sent to licensees. The Board will inquire about the feasibility of the latter suggestion, but sees no need to otherwise modify the rule as proposed.

The two comments concerning the clarifying amendment to the land surveying rule were favorable, with one apparently suggesting that the Board go even farther and require the same form of identification and types of survey markers in all cases. The Board will take into consideration the latter suggestion. Such an amendment could not be made at this time, however, because it would require a substantive change of the rule. The Board must also investigate the necessity and possible increased costs to the public of implementing such a suggestion.

The seven comments received varied in their position concerning the violation reporting rule. One comment was highly favorable, expressing the belief that such conduct should be expected of a professional. A second comment was favorable, but expressed concern about possible increased costs to the public if the Board becomes inundated by violation reports. The Board believes that the burden or possible increased costs, if any, would be clearly outweighed by the benefits of improving the quality of professional services to the public through ridding the professions of incompetent practitioners. The same commentator also expressed concern about the liability of a licensee reporting on another licensee pursuant to the rule. The Board does not perceive that the rule would alter any legal liability among licensees.

The North Jersey Chapter of the New Jersey Society of Professional Land Surveyors (hereinafter "Chapter") expressed approval for the rule, but suggested that the Board should publish guidelines to clarify what degree of violations should be reported. Although the Board agreed with this suggestion, it felt that guidelines should be published after the rule has been adopted and there has been some experience with the rule which could be incorporated in the guidelines.

Another commentator suggested that the rule would sacrifice professional courtesy by mandating the immediate reporting of any error or discrepancy a licensee discovers in the work of another. Rather, she suggests that a licensee need report another only when the violator fails or refuses to correct his or her errors. The Board certainly encourages communication between licensees to correct errors or discrepancies and does not believe that the rule would prohibit such practice. Minor errors or discrepancies do not always constitute a violation of the rules and statutes administered by the Board. In most instances, the Board cannot take disciplinary action without a showing of gross malpractice or repeated acts of malpractice. Thus, minor errors would usually not rise to the level of a violation within the meaning of the rule.

Another comment expressed the concern that the licensee of one profession governed by the Board (for example, land surveyor) would be required to know the laws governing the practice of the other profession governed by the Board (engineering). This is simply not the case. The Board does not expect a licensee to know the standards of practice governing other professions. The Board does expect, however, that if a licensee were aware of a violation of the professional misconduct rules that such a violation would be reported.

Another comment objected to the mandatory nature of the rule and the commentator's perception that it makes no provision for considering the severity of a violation which must be reported. It is the experience of the Board that many licensees are reluctant and often do not report violations by or the malpractice of other licensees. The Board believes this

to be a professional responsibility which must be met for the betterment of the professions. The commentator's concern about the degree of error requiring that a violator be reported was addressed in response to an earlier comment.

Finally, a commentator suggested that the appropriate procedure for referral of violations should be for a licensee to direct the matter to the ethics committee of his or her professional association which could then review the matter and refer it to the Board, if necessary. Although the proposed rule would and is not intended to restrain referrals to the ethics committees of professional associations, such associations are not affiliated with and do not possess the authority of a State licensing board. Only the Board can take disciplinary action against a professional's license. It is, thus, the appropriate forum for reviewing reports of violations.

Full text of the adoption follows.

13:40-3.2 Reporting incidents of professional misconduct
If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the Board of Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

SUBCHAPTER 4. GENERAL PROVISIONS

13:40-4.1 Notification of change of address; service of process
(a) A licensee of the Board of Professional Engineers and Land Surveyors shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.
(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).
(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

13:40-4.2 Uniform penalty letter
(No change.)

13:40-5.1 Land surveyors; preparation of land surveys
(a)-(c) (No change.)
(d) (No change.)
1.-2. (No change.)
3. In all cases listed in (d)2 above, including monuments set in accordance with the map filing law, the marker shall be identified with a durable cap, disc, or shiner, etc., bearing the name of the surveyor or firm responsible for setting the corner.

(a)

STATE BOARD OF PROFESSIONAL PLANNERS

General Provisions
Fee Schedules

Adopted New Rule: N.J.A.C. 13:41-3.2

Proposed: May 6, 1985 at 17 N.J.R. 1061(a).
Adopted: June 18, 1985 by Mary Winder, President, State Board of Professional Planners.
Filed: August 6, 1985 as R.1985 d.443, without change.

Authority: N.J.S.A. 45:14A-4, 45:14A-8, 45:14A-11, 45:14A-12, 45:14A-14; 45:1-3.2.

Effective Date: September 3, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

13:41-3.2 Fee schedule
(a) The fees charged by the State Board of Professional Planners shall be:
1. Application for a Professional Planner or Planner-In-Training license \$ 25.00
2. Examination and Reexamination Fees:
i. Combined National and State Examinations \$175.00
ii. State Examination only \$ 25.00
iii. Licensure in accordance with N.J.S.A. 45:14A-11 \$150.00
3. Duplicate Licensure Certificate \$ 10.00
4. Fee for Secretary of State as required by N.J.S.A. 22A:4.1 \$ 1.00
5. Biennial License Fee and Renewal— Professional Planner \$ 65.00
6. Late Renewal Fee \$ 10.00
7. Reinstatement Fee \$ 75.00
(Plus \$10 for each year license is in arrears.)

(b)

ATTORNEY GENERAL

Chemical Breath Testing; Approved Instruments as Methods of Chemical Breath Testing

Adopted Amendments: N.J.A.C. 13:51-3.5 and 3.6

Proposed: June 17, 1985 at 17 N.J.R. 1531(a).
Adopted: July 26, 1985 by Irwin I. Kimmelman, Attorney General of New Jersey.
Filed: August 5, 1985 as R.1985 d.441, without change.

Authority: N.J.S.A. 39:4-50.3.

Effective Date: September 3, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): June 21, 1987.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adoption follows.

- 13:51-3.5 Approved instruments for performing chemical analysis of a person's breath
 - (a)-(d) (No change.)
 - (e) Deleted.
- 13:51-3.6 Approved methods for performing chemical analysis of a person's breath utilizing an approved instrument
 - (a)-(c) (No change.)
 - (d) Deleted.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Pleadings Generally; Formal Requirements for Pleadings

Adopted Amendments: N.J.A.C. 14:1-5.2 and 5.3

Proposed: April 1, 1985 at 17 N.J.R. 802(a).
 Adopted: July 26, 1985 by the Board of Public Utilities, Barbara A. Curran, President.
 Filed: August 1, 1985 as R.1985 d.439, **without change**.
 Authority: N.J.S.A. 48:2-12.
 Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Responses:

The City of Englewood requested that municipalities be exempted from the requirement of filing ten copies of papers filed with the Board. The City feels that this requirement places a substantial financial burden on municipalities with small budgets, and on ad hoc groups interested in matters pending before the Board. The projected result of this amendment is non-participation of groups with legitimate interests in matters before the Board.

The Board declines to provide an exemption for municipalities based solely on the assertion of one city that failure to do so will impose an onerous burden. Prior to publication of the proposed amendment, Board Staff considered exemptions for various classes and for individuals. Four factors led to the published proposal, which provides no exemptions. First, the current rule contains no exemptions. Second, any costs avoided by an exemption party would be borne by the Board, and ultimately all the taxpayers of the State. This will result in taxpayers indirectly subsidizing findings in which they have a conflicting interest or no interest at all. Third, the efficiency of the Board's internal operations would be adversely affected by procedural changes necessary to accommodate

filings by exempted parties. Finally, the Board may permit deviations from this rule for good cause shown under N.J.A.C. 14:1-1.2.

Full text of the adoption follows.

- 14:1-5.2 Formal requirements for pleadings
 - (a) The form and size of pleadings shall be as follows:
 1. Except where otherwise specifically provided, all pleadings and other papers filed under these rules shall be typewritten or printed, cut or folded to 8½ x 11 inch size, with the left-hand margin 1¼ inches, and shall be bound or fastened on the upper left-hand corner;
 - (b)-(f) (No change.)
 - 14:1-5.3 Number of copies
 - (a) Unless otherwise required by the Board, there shall be filed with the Board for its own use, an original and 10 conformed copies of each pleading or other paper and amendment thereof.
 - (b) (No change.)

(b)

OFFICE OF CABLE TELEVISION

Rules of Practice and Procedure

Adopted Amendments: N.J.A.C. 14:17-6.8, 6.14 and 6.17

Proposed: May 6, 1985 at 17 N.J.R. 1062(b).
 Adopted: August 8, 1985 by Bernard Morris, Director, Office of Cable Television.
 Filed: August 9, 1985 as R.1985 d.449, **with technical and substantive changes** not requiring additional public notice and comment (See N.J.A.C. 1:30-3.5).
 Authority: N.J.S.A. 48:5A-10,-11,-40, and -43.
 Effective Date : September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): May 7, 1989.
 BPU Docket No. CX8503291.

Summary of Public Comments and Agency Responses:

At a public hearing on May 28, 1985, one person appeared and spoke on behalf of the New Jersey Cable Television Association (NJCTA). The written comment period expired June 6, 1985. Written comments were filed on behalf of Vision Cable Television Company, Inc. (Vision).

Both Vision and the NJCTA requested that the reference to municipalities' procedural rights in N.J.A.C. 14:17-6.17(b) be more specific. They also suggested minor revisions to clarify N.J.A.C. 14:17-6.8(a)10. These recommended changes are incorporated in the text below.

The NJCTA also suggested that the proof of service not be required until after a docket number has been assigned to the petition. A primary purpose of the proposed rule is to provide potentially affected persons with expeditious notice. Similar requirements already exist for several other subchapter 6 petitions. The rules governing service, N.J.A.C. 14:17-5.6 and 5.7, provide for proof of service by affidavit or certificate of coun-

sel. It is not essential, considering the low number of petitions filed annually, that the noticed party have a docket reference with the initial pleading.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisk ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***).

14:17-6.8 Petitions for approval of the transfer of certificates of approval

(a) Petitions for approval of the transfer of certificates of approval shall conform to the requirements of N.J.A.C. 14:17-5 and N.J.A.C. 14:17-6.1 through 6.5 to the extent applicable, and shall in the body thereof or in the attached exhibits also provide the following information:

1.-9. (No change.)

10. Proof of service of notice of the proposed transfer ***to subscribers*** by way of bill insert or by publication in ***at least one*** newspaper*[s]* circulated in the cable television company's service area, ***and*** upon all cable television companies referred to in (a) 4 above, and ***[upon]* *all*** the electric and telephone utilities serving the area ***in the manner provided for in*** ***[pursuant to]*** N.J.A.C. 14:17-5.7.

14:17-6.14 Petitions for authority to transfer capital stock

(a) Petition for authority to transfer upon the books and records of any CATV company pursuant to N.J.S.A. 48:5A-1 et seq., where applicable, any share or shares of its capital stock, shall conform to the provisions of N.J.A.C. 14:17-5 and N.J.A.C. 14:17-6.1 through 6.5 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1.-7. (No change.)

8. Proof of service of notice of the proposed transfer to the municipalities being served by the cable television company.

14:17-6.17 Tariff filings or petitions which propose increases to customers

(a) (No change.)

(b) Each cable television company that makes a filing under (a) above shall, at the same time, unless otherwise ordered or permitted by the Board, give notice thereof as follows:

1. Serve a notice of this filing which includes a statement of the municipality's procedural rights, ***under N.J.S.A. 48:5A-18(b) and N.J.A.C. 1:1-12.1, to elect to intervene as a party presenting evidence or to participate by written and/or oral statements or briefs under N.J.A.C. 1:1-12.6,*** and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered cable television service, the charge for which is proposed to be increased.

2. Serve a notice of the filing and two copies of the petition or tariff on the Director, Division of Rate Counsel, Department of the Public Advocate.

3. (No change.)

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

(g) At least one hearing for public comment shall be held in the affected service area in a time and place convenient for subscribers.

TRANSPORTATION

(a)

RIGHT-OF-WAY

Relocation Assistance

Adopted New Rules: N.J.A.C. 16:6

Proposed: March 4, 1985 at 17 N.J.R. 565(a).

Adopted: April 8, 1985 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations.

Filed: July 30, 1985 as R.1985 d.435, **without change**.

Authority: N.J.S.A. 27:1A-6, 27:7-27, 27:7-72 through 27:7-88.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C.16:6.

(b)

LOCAL AID

State Aid to Counties and Municipalities

Adopted New Rules: N.J.A.C. 16:21

Proposed: March 4, 1985 at 17 N.J.R. 566(a).

Adopted: April 8, 1985 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations.

Filed: July 30, 1985 as R.1985 d.434, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:8-1 to 9.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): September 3, 1990.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 16:21.

(c)

CONSTRUCTION

Construction Control

Adopted New Rules: N.J.A.C. 16:33

Proposed: March 4, 1985 at 17 N.J.R. 567(a).
 Adopted: April 8, 1985 by Jack Freidenrich, Assistant
 Commissioner for Engineering and Operations.
 Filed: July 30, 1985 as R.1985 d.433, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1 to 2.8.
 Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66
 (1978): September 3, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adopted new rules appears in the New Jersey
 Administrative Code at N.J.A.C. 16:33.

(a)

CONSTRUCTION AND MAINTENANCE

**Junkyards Adjacent to the Interstate and
 Primary Highway Systems**

Adopted New Rules: N.J.A.C. 16:43

Proposed: March 4, 1985 at 17 N.J.R. 567(b).
 Adopted: April 8, 1985 by Jack Freidenrich, Assistant
 Commissioner for Engineering and Operations.
 Filed: July 30, 1985 as R.1985 d.432, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:5E-1 et seq.
 Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66
 (1978): September 3, 1990.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the adopted new rules appears in the New Jersey
 Administrative Code at N.J.A.C. 16:43.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

**Administration
 Minimum Adjustments**

Adopted Amendment: N.J.A.C. 17:1-1.10

Proposed: July 1, 1985 at 17 N.J.R. 1642(b).
 Adopted: August 2, 1985 by Douglas R. Forrester,
 Director, Division of Pensions.
 Filed: August 6, 1985 as R.1985 d.442, **without change**.

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

Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66
 (1978): June 6, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

17:1-1.10 Minimum adjustments
 (a) (No change.)
 (b) No rebates or additional contributions shall be made
 for retired members if the adjustments involve amounts of
 \$5.00 or less. All bad balances of \$5.00 or less will be written
 off. In the event the balance is greater than \$5.00 but produces
 a monthly retirement adjustment of less than \$1.00 no re-
 calculation of monthly benefit will be computed and the bal-
 ance will be rebated.
 (c)-(d) (No change.)

(c)

**Teachers' Pension and Annuity Fund
 Contributory Insurance**

Adopted Amendment: N.J.A.C. 17:3-3.2

Proposed: May 20, 1985 at 17 N.J.R. 1252(a).
 Adopted: July 11, 1985 by the Board of Trustees of the
 Teachers' Pension and Annuity Fund, Anthony
 Ferrazza, Secretary.
 Filed: July 30, 1985 as R.1985 d.431, **without change**.

Authority: N.J.S.A. 18A:66-56.

Effective Date: September 3, 1985.
 Expiration Date pursuant to Executive Order No. 66
 (1978): June 6, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

17:3-3.2 Participation in the program
 (a) Participation in the program for members who obtained
 contributory insurance coverage on or after July 1, 1971,
 means the sum of the years of service credited for retirement
 purposes at the time of retirement.
 (b) (No change.)

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Corporation Business Tax Consolidated Casino Corporation Business Tax

Adopted New Rule: N.J.A.C. 18:7-1.17

Adopted Amendment: N.J.A.C. 18:7-11.15

Proposed: April 15, 1985 at 17 N.J.R. 901(a).

Adopted: August 9, 1985 by John R. Baldwin, Director,
Division of Taxation.

Filed: August 12, 1985 as R.1985 d.453, with substantive
changes not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:12-148(b) and 54:10A-27.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

The Division of Taxation received two letters within the thirty day comment period. Further correspondence to which the Division also responded was received after the comment period ended.

Two comments dealt with the identification of members of the consolidated group. The Division responded that the concept of obligating all licensees under common effective control arises because certain licensed service industries should be free of the obligation to join in filing the return whereas certain licensees holding a service license but not legally "owned" would be included in the consolidation where the licensee was not in substance independent of the owner and operator of the casino hotel.

Two comments dealt with the manner by which licensees would be computing duplications under the example. The Division responded that the proposal to permit a reduction for income appearing on the casino consolidated return when the separate return is filed could not be extended to credit one entity with the other entity's reported income. The corporation business tax is a franchise tax and not a direct tax on income and the provisions with respect to duplications of income are intended not to operate to diminish the obligations under either act.

Each commentator dealt with the possible duplication of net worth on the consolidated casino return and on the corporation business tax return of a member of the consolidated group. As a result of further review, the proposal was modified to permit an adjustment to the net worth of the corporate return under such circumstances.

One commentator inquired as to the operative date of the rule. The response was that since the rule simply makes more clear the general language of the statute, it may be applied to prior tax years in accordance with N.J.S.A. 54:10A-19.1.

Several commentators suggested that further examples be supplied in the proposal. The Division responded that the rule

as proposed deals with the significant issues of consolidation but that it would not be possible or desirable to attempt to deal with every possible factual situation or permutation in organizational structure. While the draftsman may control what will be left ambiguous, he cannot banish or control the aggregate amount of ambiguity in a document. See "Hyperlexis and the Law of Conservation of Ambiguity: Thoughts on Section 385," Bayless Manning, 36 Tax Lawyer 9 (1982-3) at 11. The possibility of proposing further examples as needed was left for the future. Specifically, with respect to apportionment of common costs, the Division determined that it was appropriate to use declaratory language while reserving to the Director the possibility of reviewing overhead allocation and joint costs.

Finally, it is noted that insofar as P.L. 1985, c.143, approved April 22, 1985, amended the corporation business tax law to provide for net operating loss carryover, the provision would be available to casino consolidated return taxpayers filing pursuant to that Act also.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*).

18:7-1.17 Application of the tax to licensees under the Casino Control Act; casino business consolidated return

(a) Pursuant to N.J.S.A. 5:12-148(b), any business conducted by an individual, partnership, corporation, or any other entity, or any combination thereof, holding a license pursuant to the Casino Control Act shall, in addition to all other taxes imposed by that act, file a consolidated corporation business tax return pursuant to the Corporation Business Tax Act and pay the taxes indicated thereon.

(b) The consolidated return to be filed under the Casino Control Act is in addition to, and not in lieu of, any return due under the Corporation Business Tax Act. Provided, however, that where any corporation is a licensee under the Casino Control Act, it may exclude from the return due under the Corporation Business Tax any item of income, loss or deduction appearing on its consolidated return, but which would have been reported on its own separate return under the Corporation Business Tax Act for the year for which that item would otherwise have been reported. Provided further, that where any corporation is a partner in a licensee under the Casino Control Act, it may similarly exclude its share of distributable income or loss attributable to its partnership interest in the licensee which would otherwise have been reported by it on its own separate return under the Corporation Business Tax Act.

1. In no event may the tax reduction arising out of any such exclusion exceed the portion of the tax paid with the consolidated return which is clearly attributable to the net effect of the existence of the amount which is duplicated in entire net income on the separate return filed under the Corporation Business Tax Act.

2. The return filed under the Corporation Business Tax Act shall reflect taxable income before net operating loss deduction and special deductions which is required to be reported to the United States Treasury Department for the purposes of computing its Federal income tax. Claims for exclusion for any duplication shall be separately identified in computing entire net income and be documented and reconciled on the return due under the Corporation Business Tax Act.

***3. The amount of net worth reported on the separate return filed under the Corporation Business Tax Act by a corporate**

member of a consolidated group may be reduced by an amount also reported on the consolidated corporation business tax return of the casino business to the extent that such net worth would have been duplicated on both returns.*

(c) The principles of consolidation are determined by regarding each casino hotel as though it were a single corporation reporting in its own right under the Corporation Business Tax Act. The rules governing consolidation under the Internal Revenue Code do not apply. The business conducted by each casino hotel shall give rise to an obligation to file a separate consolidated corporation business tax return based on all the business activities conducted with respect to that casino hotel. All licensees subject to common effective control, without respect to their form of organization or the form of license held, except for licenses issued to individuals in their capacity as employees, must join in filing the consolidated return. All transactions between or among them are to be eliminated in consolidation and shall not appear on the consolidated return. Accordingly, where the same licensee is a participant in the business conducted by more than one casino hotel, it must join in filing a consolidated return with each such business. A change in common effective control terminates the fiscal year for purposes of filing the consolidated return.

1. Common effective control is the power exercisable by any person or entity arising out of ownership or a contractual arrangement which joins more than one licensee and permits domination in the management of more than one licensee for the purpose of engaging in a single casino hotel business. Common effective control also occurs where a contractual arrangement permits more than one licensee to operate jointly a single casino hotel business. For example, where the same persons or entities simultaneously control voting stock, boards of directors or serve as or nominate managing partners or are employed as managers or executives in more than one licensee which participates in the business activities conducted by the same casino hotel, or where a licensee executes a sale and leaseback of its property with another licensee and reserves by contract the option to recover its property, all such licensees shall join in filing the consolidated return. Notwithstanding an absence of common ownership, licensees joined in the operation of the business conducted by a casino hotel by management contract or partnership arrangement shall join in filing the return.

2. Consistent with N.J.A.C. 18:7-11.15(a), the separate return due under the Corporation Business Tax Act may not be consolidated.

(d) Where a licensee is engaged in a business wholly unrelated to the casino hotel, or is engaged in the operation of more than one casino hotel, common costs must be apportioned in a reasonable manner consistently applied. The method of apportionment shall be disclosed on the consolidated return and may be adjusted by the Director where it shall appear to him to result in a distortion of tax liability.

(e) Where the licensees joining in filing the consolidated return do not have a common fiscal year, the return may be based upon the fiscal year of the casino operator as defined at N.J.A.C. 19:54-1.2 where all licensees join in making such an election. The other licensees may then include their respective financial condition and operations on the basis of their own fiscal years within which the consolidated year ends. Separate schedules reconciling timing differences in elimination of balance sheet items and items of entire net income attributable to the lack of a common fiscal year must be submitted as part of any such consolidated return. In the

absence of this election, the return shall be based on a calendar year ending December 31. The reporting method, once adopted, is effective for all future returns unless the prior consent of the Director is obtained for a change.

(f) A legend shall be prominently displayed on the face of any return filed under this section identifying the return as a casino business consolidated return.

EXAMPLE

	Hotel Entity 1		Management Co. Entity 2		Eliminations		Consolidated		Duplications		
	Dr.	Cr.	Dr.	Cr.	Dr.	Cr.	Dr.	Cr.	Dr.	Cr.	
Gaming Revenue	\$	\$1000	\$	\$0	\$	\$	\$	\$	\$1000	\$	\$0
Other Income		200		-0-					200		-0-
Management Fees		-0-		500		500		-0-			-0-
Total Income		1200		500					1200		1200
Management Fees	500	-0-			500	-0-			-0-		-0-
Payroll Deductions		-0-		200					200		-0-
Other Deductions	200	-0-							200		-0-
Total Deductions	700	200							400		200
Net Income	500	300							800		
Duplications										1000	(200)
Entity #1											
Net Income.....		\$ 500									
Adjustment for duplication.....				(1000)							
Tax Base.....		\$ -0-									
Entity #2											
Net Income.....		\$ 300									
Adjustment for duplication.....				(200)							
Tax Base.....		\$ 300									
Entity #2 may elect not to exclude duplications											

18:7-11.15 Consolidated returns

(a) Corporations are not permitted to file consolidated returns. Provided, however, any business conducted by an individual, partnership, or corporation or any other entity, or any combination thereof holding a license pursuant to the Casino Control Act shall file a consolidated corporation business tax return as described at N.J.A.C. 18:7-1.17.

(b) Except as provided in (a) above, where a taxpayer has filed a consolidated return with the Internal Revenue Service for Federal income tax purposes, it must complete its return under the act and must reflect its entire net income and entire net worth as if it had filed its Federal return on its own separate basis.

(c) (No change.)

(a)

Gross Income Tax

Extension of Time to File New Jersey Gross Income Tax Return

Adopted Amendment: N.J.A.C. 18:35-1.18

Proposed: July 1, 1985 at 17 N.J.R. 1643(a).

Adopted: August 9, 1985 by John R. Baldwin, Director, Division of Taxation.

Filed: August 12, 1985 as R.1985 d.454, without change.

Authority: N.J.S.A. 54A:9-17(a), specifically 54A:8-1b.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 12, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

18:35-1.18 Extension of time to file New Jersey gross income tax return

(a) Subject to the requirements set forth in (e) below, an automatic four month extension of time may be obtained by all taxpayers for filing their annual New Jersey Gross Income Tax Return provided the taxpayer has been granted at least a four month extension for Federal income tax purposes. A copy of the Federal application for automatic extension must be attached to the taxpayer's New Jersey return.

(b) If no automatic Federal extension has been obtained, the taxpayer must file a request for an automatic four month extension on Form NJ-630—Application for Extension of Time to File New Jersey Gross Income Tax Return. This form can be obtained from the Forms Section of the Division of Taxation, CN-269, 50 Barrack Street, Trenton, New Jersey 08646, or at any District Office. The request for extension must be filed with payment of at least 80 percent of the taxpayer's tax liability (as required on Form NJ-630) on or before the original due date of the New Jersey return and is subject to the requirements set forth in (e) below.

(c) Additional extensions beyond the automatic four month extension in subsections (a) and (b) above must be specifically requested by a taxpayer from the New Jersey Division of Taxation using Form NJ-630—Application for Extension of Time to File New Jersey Gross Income Tax Return. This form can be obtained from the Forms Section of the Division of Taxation, CN-269, 50 Barrack Street, Trenton, New Jersey 08646, or at any District Office. An extension beyond four months will not be considered unless the request is submitted on Form NJ-630 and the full amount of any estimated tax (as required on Form NJ-630) has been paid. The request for additional extension must be filed on or before the extended due date of the New Jersey return and is subject to the requirements set forth in (e) below.

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

(a)

**Spill Compensation and Control Tax
 Tax Rates**

Adopted New Rule: N.J.A.C. 18:37-2.2

Proposed: June 17, 1985 at 17 N.J.R. 1540(a).

Adopted: August 9, 1985 by John R. Baldwin, Director,
 Division of Taxation.

Filed: August 12, 1985 as R.1985 d.455, **without change.**

Authority: N.J.S.A. 58:10-23.11.

Effective Date: September 3, 1985.

Expiration Date pursuant to Executive Order No. 66
 (1978): August 5, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

18:37-2.2 Tax rates on the transfer of hazardous substances other than petroleum or petroleum products

(a) The tax on transfers of hazardous substances other than petroleum or petroleum products shall be at the rate of:

1. On transfers occurring prior to April 1, 1980, \$0.01 per barrel; or

2. On transfers occurring on and after April 1, 1980 but prior to November 1, 1980, the greater of \$0.01 per barrel or 0.4 percent of the fair market value of the hazardous substance provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined or rerefined, the tax shall be \$0.01 per barrel of the hazardous substance; or

3. On transfers occurring on or after November 1, 1980, but prior to August 1, 1982, the greater of \$0.04 per barrel or 0.8 percent of the fair market value of the hazardous substance, provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous substance. The tax rates specified herein were adopted pursuant to the determination of the Administrator of the Spill Compensation Fund that the condition stated for a tax increase in (c) below existed as of October 17, 1980; or

4. On transfers occurring on or after August 1, 1982, but prior to June 1, 1985, the greater of \$0.01 per barrel or 0.4 percent of the fair market value of the hazardous substance provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.01 per barrel of the hazardous substance. The tax rates specified herein were adopted pursuant to the determination of the Administrator of the Spill Compensation Fund that the condition stated for a tax increase in (c) below no longer existed as of June 21, 1982; or

5. On transfers occurring on or after June 1, 1985, the greater of \$0.04 per barrel or 0.8 percent of the fair market value of the hazardous substance, provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous substance. The tax rates specified herein were adopted pursuant to the determination of the Administrator of the Spill Compensation Fund that the condition stated for a tax increase in (c) below existed as of May 1, 1985.

(b) For purposes of (a) above, "fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed, "fair market value" shall mean the market price as of the close of the nearest day to the transfer paid for similar hazardous substances.

(c) In the event of a major discharge or series of discharges of hazardous substances other than petroleum or petroleum products resulting in claims against the Spill Compensation

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Fund which exceed the existing balance of the fund, a tax rate of the greater of \$0.04 per barrel transferred, or 0.8 percent of the fair market value of such hazardous substance shall be levied until the revenue produced by such increased rate equals 150 percent of the total dollar amount of all pending reasonable claims resulting from the discharge of hazardous substances other than petroleum or petroleum products; provided, however that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous substances. The tax rate as herein set forth may be less than \$0.04 per barrel transferred or 0.8 percent of the fair market value of such hazardous substance if, as provided by the Spill Compensation Law, the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within one year of such levy.

(d) If under the Spill Compensation Law it is determined:

1. That pending, reasonable claims against the fund for hazardous substances other than petroleum exceed 70 percent of the existing balance of the fund; and

2. That the sum of the claims paid by the fund on behalf of discharges or removals of hazardous substances other than petroleum plus pending, reasonable claims against the fund on behalf of discharges of hazardous substances other than petroleum is equal to or greater than 70 percent of all claims paid by the fund plus all pending, reasonable claims against the fund, the State Treasurer may order the Director of the Division of Taxation to levy the tax on all hazardous substances other than petroleum at a specified rate greater than \$0.01 per barrel or 0.4 percent of the fair market value of the product, as the case may be, but in no event to exceed \$0.04 per barrel with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined or rerefined, in this State, or which are transferred into this State subsequent to being recycled, refined or rerefined or the greater of \$0.04 per barrel or 0.6 percent of the fair market value of the product with respect to transfers of any other hazardous substances other than petroleum or petroleum products. However, such levy of tax shall not preclude the imposition of the tax at the higher rate set forth under (c) above.

EMERGENCY ADOPTION

(a)

PUBLIC TRANSPORTATION

Autobuses

Public Liability Insurance

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 16:53-9.1

Emergency Amendment Adopted: August 5, 1985 by
Roger A. Bodman, Commissioner, Department of
Transportation.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c): August
6, 1985.

Emergency Amendment Filed: August 8, 1985 as R.1985
d.445.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 52:14B-4(c).

Emergency Amendment Effective Date: August 8, 1985.

Emergency Amendment Expiration Date: October 7,
1985.

Concurrent Proposal Number: PRN 1985-480.

Submit comments by October 3, 1985 to:

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

These amendments were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency amendments are being proposed for readoption in compliance with the normal rule making requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted amendments become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

An urgent need exists to amend the provisions of N.J.A.C. 16:53-9.1. This section of the Code contains evidence of insurance requirements for persons operating motor buses for hire. Because of market conditions in the insurance industry, an appreciable number of New Jersey autobus companies are unable to comply with the evidence of insurance requirements of Title 16.

Specifically, N.J.A.C. 16:53-9.1(e) through (i) require, among other things, that a motor carrier's insurance certificate contain a continuing liability coverage provision and a 30 days' cancellation notice provision. Subchapter 9 also requires that insurance filings be made on specified forms: Form E,

Form F, and Form K. Over the past several months insurance premiums for autobus companies have increased dramatically and many insurers have begun to drop various autobus companies from standard insurance coverage rolls. As a result, many such motor carriers are being forced into assigned risk pool coverage. When this occurs, the autobus company is not able to make a timely insurance filing in accordance with N.J.A.C. 16:53-9.1.

When unable to comply with Subchapter 9 filing requirements, an autobus company's previously issued certificate of public convenience and necessity is subject to invalidation; and its vehicles are ineligible for certificates of compliance relating to specification and maintenance inspections. The Motor Carrier Inspectors of the Office of Regulatory Affairs are required to post "out-of-service" those vehicles that are ineligible for certificates of compliance.

In order that autobus companies and their vehicles do not lose their certification, it is imperative that N.J.A.C. 16:53-9.1 be amended forthwith so as to permit carriers whose insurance has not lapsed, but who are now assigned risk pool insureds, to use their insurance binders as temporary insurance certificates. To this end, the Department proposes that N.J.A.C. 16:53-9.1 be amended by adding a paragraph 4 to the existing subsection (d) and by adding a subsection (n) to the existing provisions.

Social Impact

The amendment will permit autobus companies to use their insurance binders as temporary insurance certificates in cases where they are assigned risk pool insureds. Additionally, it will provide assurance to the bus riding public that they are adequately protected in cases of accidents. The amendment will enable many autobus companies to make timely insurance filings and preclude loss of certification.

Economic Impact

The amendment will ultimately help certain autobus companies retain their certification. Loss of certification would prevent a carrier from lawfully operating its bus service, wholly or partially, and thereby cause the company to lose revenue. Thus, the amendment will prevent revenue loss for certain autobus companies.

Full text of emergency amendment and concurrent proposal follows (additions shown in boldface **thus**).

16:53-9.1 Certificate of insurance or evidence of self-insurance

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

(d) Termination by replacement: Certificates of insurance which have been accepted by the Commissioner of Transportation under this section may be replaced by other certificates of insurance. The liability of the retiring insurer under such certificates of insurance shall be considered as having been terminated as of the effective date of the replacement certificate of insurance, provided the certificate meets all of the following conditions:

1.-3. (No change.)

4. Notwithstanding the requirements of (e) through (i) below, a replacement certificate may be in the form of a standard

insurance binder. An insurance binder shall be valid as a replacement certificate for a period of 60 days from the date of the letter of authorization. The letter of authorization shall refer specifically to the use of the binder as a replacement certificate and shall warrant that the Department shall be notified immediately upon the insured's receipt of actual or constructive notice of cancellation.

(e)-(m) (No change.)

(n) The Department shall not issue any certificate of compliance for any vehicle owned by a motor carrier that avails itself of (e)4 above, if title to such vehicle was acquired by the motor carrier after the effective date of the replacement certificate. The Department may issue a certificate of compliance for vehicles owned by such a motor carrier when a replacement certificate is filed in accordance with the conditions of (d)1 through 3 above.

MISCELLANEOUS NOTICES

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Regulation of Private Pay Telephones

Notice of Public Hearings

Authorized By: Board of Public Utilities
Commissioners.

Authority: N.J.S.A. 48:2-13.

The Board of Public Utilities Commissioners has permitted the interim provision of private pay telephone service for intrastate telecommunications in the State of New Jersey. Approval of private pay telephone service on an interim basis and interim policies for this service were enacted by Orders of the Board of Public Utilities Commissioners, in Docket Nos. TX8403154 and TX8405284, dated August 22, 1984, February 5, 1985, and March 25, 1985. The policies are interim in nature and are not to be construed as final Board approval for intrastate provision of private pay telephone service.

Private pay telephone service is a proposed service offering by non-telephone company providers as an alternative to the traditional intrastate pay telephone service of the telephone companies in New Jersey. Private pay telephone service is provided through the connection of non-telephone company equipment to the telephone network by individuals or entities. Should private pay telephone service be permitted in New Jersey on a permanent basis, the telephone companies would no longer be the sole providers of intrastate pay telephone service.

The purpose of the public hearings is to aid the Board of Public Utilities Commissioners in the ultimate determination of whether intrastate private pay telephone service should be permitted on a permanent basis in the State of New Jersey and in the formation of appropriate regulations for the provision of such service.

The public is invited to participate at the public hearings, and while notice of intent to appear is not necessary in order to be permitted to make oral presentation at the public hear-

ings, it is requested that individuals or representatives intending to appear to make oral statements submit written notice of intent to participate, indicating the date and time which oral presentation will be made. In addition to, or in lieu of, appearing at the public hearings interested parties may submit written comments, data, views or arguments relevant to the subject of the provision of intrastate private pay telephones service in New Jersey, within 30 days of the publication of this notice. Parties who participate in the public hearings by means of oral statement may be subject to cross examination, and parties, other than individuals participating solely in an individual capacity, who submit prefiled direct testimony or written submissions may be subject to discovery.

Interested parties may submit notice of intent to speak at the public hearings and/or written submissions, within 30 days, to:

Honorable Diana C. Sukovich
Administrative Law Judge
Office of Administrative Law
185 Washington Street
Newark, New Jersey 07102

At the direction of the Board of Public Utilities Commissioners, parties to this proceeding, other than individuals participating solely in a private capacity, representatives of governmental bodies and agencies, and public officials will be responsible for sharing costs associated with the proceeding.

Public hearings concerning this matter will be held in Newark, New Jersey and in Mercerville, New Jersey:

Newark:	September 17, 18, 19, 20, 23, 1985 10:00 A.M. Office of Administrative Law 185 Washington Street Newark, New Jersey 07102
Mercerville: (Trenton area)	September 24, 26, 27, 1985 10:00 A.M. Office of Administrative Law Quakerbridge Plaza II, Bldg 9 Quakerbridge Road Mercerville, New Jersey 08625

OFFICE OF ADMINISTRATIVE LAW NOTE: This notice of public hearings also appeared in the August 19, 1985 issue of the New Jersey Register.

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 changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule 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 the rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the May 6, 1985 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1985 d.300 means the three hundredth rule adopted in 1985.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find quickly the issue of publication of a rule proposal or adoption.

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
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 763 and 858	April 1, 1985
16 N.J.R. 2475 and 2708	October 1, 1984	17 N.J.R. 859 and 1006	April 15, 1985
16 N.J.R. 2709 and 2864	October 15, 1984	17 N.J.R. 1007 and 1158	May 6, 1985
16 N.J.R. 2865 and 3066	November 5, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1461 and 1608	June 17, 1985
16 N.J.R. 3337 and 3518	December 17, 1984	17 N.J.R. 1609 and 1700	July 1, 1985
17 N.J.R. 1 and 140	January 7, 1985	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 141 and 236	January 21, 1985	17 N.J.R. 1819 and 1954	August 5, 1985
17 N.J.R. 237 and 338	February 4, 1985	17 N.J.R. 1955 and 2070	August 19, 1985
17 N.J.R. 339 and 502	February 19, 1985	17 N.J.R. 2071 and 2168	September 3, 1985

**N.J.A.C.
CITATION**

**PROPOSAL NOTICE
(N.J.R. CITATION)**

**DOCUMENT
NUMBER**

**ADOPTION NOTICE
(N.J.R. CITATION)**

ADMINISTRATIVE LAW—TITLE 1

1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)	R.1985 d.292	17 N.J.R. 1403(a)
1:1-3.7	Appearances by out-of-state attorneys	17 N.J.R. 1820(a)		
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)	R.1985 d.368	17 N.J.R. 1754(a)
1:1-13.4, 15.7	Correction to Administrative Code	_____	_____	17 N.J.R. 1795(a)
1:6A-3.1	Correction to Administrative Code	_____	_____	17 N.J.R. 1795(b)
1:7	Emergency Water Supply Allocation Plan cases	17 N.J.R. 1674(a)	R.1985 d.446	17 N.J.R. 2099(a)
1:10A	Inmate discipline cases	17 N.J.R. 1610(a)		
1:21	Trade secret claims	17 N.J.R. 1009(a)	R.1985 d.367	17 N.J.R. 1754(b)

(TRANSMITTAL 11, dated March 18, 1985)

AGRICULTURE—TITLE 2

2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8	Department organization	17 N.J.R. 1614(a)	R.1985 d.447	17 N.J.R. 2100(a)
2:6-1	Control of veterinary biologicals	17 N.J.R. 1617(a)	R.1985 d.448	17 N.J.R. 2102(a)
2:16-2	Seed certification standards	17 N.J.R. 636(a)	R.1985 d.278	17 N.J.R. 1403(b)
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)	R.1985 d.277	17 N.J.R. 1404(a)
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)	R.1985 d.276	17 N.J.R. 1404(b)
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)	R.1985 d.275	17 N.J.R. 1404(c)
2:16-7	Small grain standards	17 N.J.R. 640(a)	R.1985 d.274	17 N.J.R. 1405(a)
2:16-9	Soybean standards	17 N.J.R. 641(a)	R.1985 d.273	17 N.J.R. 1405(b)
2:16-10	Vegetable standards	17 N.J.R. 641(b)	R.1985 d.272	17 N.J.R. 1405(c)
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)	R.1985 d.271	17 N.J.R. 1405(d)
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)	R.1985 d.269	17 N.J.R. 1406(a)
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)	R.1985 d.270	17 N.J.R. 1406(b)
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)	R.1985 d.268	17 N.J.R. 1406(c)
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)	R.1985 d.267	17 N.J.R. 1407(a)
2:24-1.1, 1.2	Disease of bees: repeal Acarine mite quarantine	17 N.J.R. 860(a)	R.1985 d.304	17 N.J.R. 1542(a)
2:24-1.3, 1.4, 1.5	Bee diseases: Tracheal mite quarantine	17 N.J.R. 985(a)	R.1985 d.301	17 N.J.R. 1542(b)
2:24-1.6	Honeybee tracheal mite quarantine	17 N.J.R. 1589(a)	R.1985 d.437	17 N.J.R. 2019(a)
2:32-2.7	Sire Stakes Program	17 N.J.R. 1956(a)		
2:52-2, 3, 4.1, 7	Readopt rules concerning milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:52-2.1, 3.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:53-4	Milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:53-4.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:69-1.11	Commercial values of fertilizers and soil conditioners	17 N.J.R. 764(a)	R.1985 d.266	17 N.J.R. 1407(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
2:70-1	Liming materials: readopt fineness classification	17 N.J.R. 765(a)	R.1985 d.265	17 N.J.R. 1407(c)
2:71-2.2—2.7	Jersey Fresh Logo program	17 N.J.R. 765(b)	R.1985 d.282	17 N.J.R. 1407(d)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)	R.1985 d.370	17 N.J.R. 1756(a)
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)	_____	_____
2:90-2.24	Cost share rates for soil and water conservation projects	17 N.J.R. 861(a)	R.1985 d.303	17 N.J.R. 1542(c)
2:90-3.6	Soil and water conservation management problems	17 N.J.R. 861(b)	R.1985 d.302	17 N.J.R. 1543(a)

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BANKING—TITLE 3

3:7-3.3, 3.6, 3.7	Confirmation of loans and deposits	17 N.J.R. 1702(a)		
3:17-7.1, 7.3	Small loan licensees: mortgage bankers and brokers business	17 N.J.R. 1703(a)		
3:27-4.5, 4.6	Savings and loan associations: asset limitation; service corporations	17 N.J.R. 1619(a)		
3:41	Readoption of Cemetery Board rules	17 N.J.R. 1704(a)		

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CIVIL SERVICE—TITLE 4

4:1-5.1, 8.26, 8.27	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	_____	_____
4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)	R.1985 d.227	17 N.J.R. 1257(a)
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)	R.1985 d.456	17 N.J.R. 2103(a)
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)	R.1985 d.417	17 N.J.R. 2019(c)
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:2-7.13	Ninth step salary maximum	17 N.J.R. 1014(a)	R.1985 d.345	17 N.J.R. 1645(c)
4:2-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)		
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:3-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	_____	_____
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)	R.1985 d.418	17 N.J.R. 2020(a)

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COMMUNITY AFFAIRS—TITLE 5

5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)		
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)		
5:23-1.4, 2.14, 4.18, 4.20	Uniform Construction Code: annual permits	17 N.J.R. 1029(a)	R.1985 d.351	17 N.J.R. 1756(b)
5:23-2.15	Uniform Construction Code: contractor sales	17 N.J.R. 1462(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-2.15, 5.7	UCC: applying for construction permit; renewal of enforcement license	17 N.J.R. 1031(a)	R.1985 d.352	17 N.J.R. 1758(a)
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.14, 3.21	One and two-family dwelling construction subcode	17 N.J.R. 861(c)	R.1985 d.324	17 N.J.R. 1646(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)	R.1985 d.232	17 N.J.R. 1257(b)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)	R.1985 d.353	17 N.J.R. 1758(b)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)	R.1985 d.231	17 N.J.R. 1258(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:23-5.4, 5.5	UCC inspectors: experience requirements	17 N.J.R. 1821(a)		
5:23-5.7, 5.11	UCC: license suspensions and revocations	17 N.J.R. 1705(a)		
5:23-8	Asbestos Hazard Abatement Subcode	Emergency	R.1985 d.362	17 N.J.R. 1782(a)
5:24	Condominium and cooperative conversion: readopt rules	17 N.J.R. 1706(a)		
5:27	Readopt rules on Rooming and Boarding Homes	17 N.J.R. 341(b)	R.1985 d.350	17 N.J.R. 1759(a)
5:27-1.6	Rooming and boarding houses: owner and operator training	17 N.J.R. 777(a)	R.1985 d.300	17 N.J.R. 1543(b)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-2.1—2.5, 4.1, 4.2, 7.1—7.7	Local authorities: accounting principles, auditing and budgeting	17 N.J.R. 1823(a)		
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)	R.1985 d.283	17 N.J.R. 1409(b)
5:37	Municipal, County and Authority Employees Deferred Compensation Programs	17 N.J.R. 1960(a)		
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a)	R.1985 d.444	17 N.J.R. 2105(a)
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)		

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DEFENSE—TITLE 5A

5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)	R.1985 d.242	17 N.J.R. 1267(a)
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EDUCATION—TITLE 6

6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b)	R.1985 d.397	17 N.J.R. 1874(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:11-7	Standards for State approval of teacher preparation	17 N.J.R. 1708(a)		
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a)	R.1985 d.452	17 N.J.R. 2105(b)
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)	R.1985 d.208	17 N.J.R. 1076(a)
6:20-5.5	Asbestos removal and encapsulation reimbursement	17 N.J.R. 863(a)	R.1985 d.340	17 N.J.R. 1648(a)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)	R.1985 d.451	17 N.J.R. 2107(a)
6:21-5	Standards for school buses	17 N.J.R. 1035(a)	17 N.J.R. 396	17 N.J.R. 1875(a)
6:22	School facility planning services	17 N.J.R. 650(a)		
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)	R.1985 d.209	17 N.J.R. 1077(a)
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)	R.1985 d.281	17 N.J.R. 1410(a)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a)	R.1985 d.450	17 N.J.R. 2108(a)
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)	R.1985 d.207	17 N.J.R. 1078(a)

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ENVIRONMENTAL PROTECTION—TITLE 7

7:1-4	Fee schedule for Environmental Cleanup Responsibility Act	17 N.J.R. 1622(a)		
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)	R.1985 d.316	17 N.J.R. 1544(a)
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a)	R.1985 d.377	17 N.J.R. 1759(b)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1F	Industrial Survey Project rules: new expiration date	_____	_____	17 N.J.R. 1139(b)
7:1G	Right to Know Act: Federal district court ruling	_____	_____	17 N.J.R. 1139(c)
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b)	R.1985 d.420	17 N.J.R. 2020(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a)	R.1985 d.421	17 N.J.R. 2020(c)
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:4-2	Register of Historic Places: continuation of selection criteria			17 N.J.R. 1795(d)
7:6-1.37	Waiver of maximum tow line length for parasailing exhibitions			17 N.J.R. 1801(a)
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a)	R.1985 d.422	17 N.J.R. 2021(a)
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:7E-7.2	Correction to Administrative Code: Coastal Resource and Development Policies			17 N.J.R. 1140(a)
7:9-4, Index D	Surface water classifications: Hackensack and Hudson rivers	17 N.J.R. 1625(a)	R.1985 d.466	17 N.J.R. 2109(a)
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1270(a)
7:9-5.4	Correction: Policy concerning disinfection of wastewater	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1759(c)
7:11-2.3, 2.5, 2.8—2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)	R.1985 d.402	17 N.J.R. 1879(a)
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)	R.1985 d.290	17 N.J.R. 1412(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)	R.1985 d.218	17 N.J.R. 1080(a)
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)	R.1985 d.319	17 N.J.R. 1550(a)
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)	R.1985 d.217	17 N.J.R. 1080(b)
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)	R.1985 d.320	17 N.J.R. 1551(a)
7:13-7.1(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)	R.1985 d.329	17 N.J.R. 1648(b)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1551(b)
7:14A-1.8	Correction: NJPDES fee schedule	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1882(a)
7:19-5.11	Correction: Acquisition costs	16 N.J.R. 3380(a)	R.1985 d.182	17 N.J.R. 1559(a)
7:19-6.10	Water supply management in critical areas	17 N.J.R. 1966(a)		
7:19A-1.4	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)		
7:19B-1.3	Emergency water supply: residential and nonresidential users defined	17 N.J.R. 1967(a)		
7:20	Dam Safety Standards	16 N.J.R. 790(a)	R.1985 d.214	17 N.J.R. 1081(a)
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)	R.1985 d.251	17 N.J.R. 1289(a)
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)	R.1985 d.215	17 N.J.R. 1091(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)	R.1985 d.419	17 N.J.R. 2021(b)
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)	R.1985 d.401	17 N.J.R. 1883(a)
7:25-12.1	Close of sea clam season			17 N.J.R. 1142(a)
7:25-14	Readopt rules on Crab Pots	17 N.J.R. 1830(a)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)	Expired	
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)	R.1985 d.386	17 N.J.R. 1883(b)
7:25-18.5	Marine fisheries: general net rules	Emergency	R.1985 d.240	17 N.J.R. 1334(a)
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)	17 N.J.R. 250	17 N.J.R. 1289(b)
7:25A	Oyster management	17 N.J.R. 352(a)	R.1985 d.216	17 N.J.R. 1092(a)
7:25A-1.9	Closure of certain Delaware Bay oyster beds			17 N.J.R. 1795(c)
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(a)		
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-1.7 7:26-3	Solid waste disposal: exemption from registration Waste management: readopt Collection and Haulage rules	17 N.J.R. 1368(a) 17 N.J.R. 1041(a)		
7:26-6.5 7:26-6.5	Solid waste flow: Atlantic County Solid waste flow: Hunterdon County	17 N.J.R. 517(b) 17 N.J.R. 517(a)	R.1985 d.317	17 N.J.R. 1560(a)
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)	R.1985 d.248	17 N.J.R. 1290(a)
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)	R.1985 d.375	17 N.J.R. 1760(a)
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)	R.1985 d.247	17 N.J.R. 1291(a)
7:26-10.5 7:26-14 7:26-14	Tank storage containment requirements Resource Recovery grants and loans Resource Recovery grants and loans: extension of comment period	17 N.J.R. 152(a) 16 N.J.R. 3385(b) 17 N.J.R. 242(a)	R.1985 d.318	17 N.J.R. 1560(b)
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1767(a)	R.1985 d.252	17 N.J.R. 1292(a)
7:27-14.3 7:27-15.4 7:27-15.6 7:27-16 7:27B-4.6	Diesel-powered motor vehicles: idle standard Air pollution and gas-fueled motor vehicles Gas-fueled motor vehicle: idle standard Air pollution by volatile organic substances Lead test paper procedure	16 N.J.R. 2887 17 N.J.R. 781(a) 16 N.J.R. 2889 17 N.J.R. 1969(a) 17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:27B-4.6, 4.7 7:28-1.4, 17 7:28-12 7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Air pollution and gas-fueled motor vehicles Industrial and nonmedical radiology Transportation of radioactive material Podiatric x-ray technology	17 N.J.R. (a) 17 N.J.R. 1626(a) 17 N.J.R. 1369(a) 17 N.J.R. 1632(a)	R.1985 d.331 R.1985 d.387	17 N.J.R. 1649(a) 17 N.J.R. 1884(a)
7:29-1.1—1.5 7:30 7:36 7:38 7:45	Noise control: extension of comment period Pesticide Control Code Green Acres Program Wild and scenic rivers system Delaware Raritan Canal State Park: Review Zone rules	16 N.J.R. 2405(a) 17 N.J.R. 242(b) 16 N.J.R. 2405(b) 17 N.J.R. 1986(a) 17 N.J.R. 1711(a)	R.1985 d.400	17 N.J.R. 1885(a)
7:50-2.11, 4.12-4.92	Pinelands comprehensive management	Emergency	R.1985 d.399	17 N.J.R. 1918(a)

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HEALTH—TITLE 8

8:7-1 8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Licensure of persons for public health positions Depuration of soft shell clams	Emergency 17 N.J.R. 1370(a)	R.1985 d.388	17 N.J.R. 1926(a)
8:19 8:21-7 8:31-26.3, 26.4	Readopt Newborn Hearing Screening rules Frozen dessert products Health care facilities: employee physicals; child abuse	17 N.J.R. 869(a) 17 N.J.R. 1986(b) 16 N.J.R. 3249(a)	R.1985 d.380 R.1985 d.440	17 N.J.R. 1892(a) 17 N.J.R. 2100(a)
8:31-26.5 8:31-26.5 8:31-26.5 8:31B-2, 3, 4	Health care facilities: licensure fees Health care facilities licensure fee Family planning facilities: licensure fee Hospital Rate Setting rules: temporary waiver of expiration	17 N.J.R. 664(a) 17 N.J.R. 664(a) 17 N.J.R. 1999(a) 16 N.J.R. 2733(a)	R.1985 d.372 R.1985 d.414	17 N.J.R. 1760(b) 17 N.J.R. 2032(a)
8:31B-3 8:31B-3.19	Hospital reimbursement: procedure and methodology RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2000(a) 16 N.J.R. 2848(b)		
8:31B-3.23 8:31B-3.72	Correction: Hospital reimbursement Hospital reimbursement: periodic rate adjustments	16 N.J.R. 2733(b) 17 N.J.R. 872(a)	R.1985 d.349	17 N.J.R. 1652(a)
8:31B-3.79 8:31B-4	Hospital reimbursement: post-acute care patients Hospital reimbursement: financial elements and reporting	17 N.J.R. 873(a) 17 N.J.R. 2004(a)	R.1985 d.359	17 N.J.R. 1761(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33B	Extracorporeal Shock Wave Lithotripsy (ESWL)	17 N.J.R. 1728(a)		
8:33E-2.1—2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)	R.1985 d.360	17 N.J.R. 1762(a)
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)	R.1985 d.411	17 N.J.R. 2033(a)
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)	R.1985 d.413	17 N.J.R. 2034(a)
8:43-3.22	Fire safety in residential health care facilities	17 N.J.R. 1731(a)		
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)	R.1985 d.412	17 N.J.R. 2042(a)
8:43-4.13	Residential health care: personal needs allowance	17 N.J.R. 1731(b)		
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)	R.1985 d.438	17 N.J.R. 2110(b)
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)	R.1985 d.243	17 N.J.R. 1294(a)
8:51-1-6	Local boards: recognized public health activities and minimum standards	17 N.J.R. 1633(a)		
8:57-1	Readopt Reportable Disease rules	17 N.J.R. 784(a)	R.1985 d.363	17 N.J.R. 1764(a)
8:57-1.13	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)	R.1985 d.264	17 N.J.R. 1414(a)
8:60	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
8:60-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)	R.1985 d.459	17 N.J.R. 2132(a)
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)	R.1985 d.457	17 N.J.R. 2135(a)
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)	R.1985 d.461	17 N.J.R. 2138(a)
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)	R.1985 d.458	17 N.J.R. 2138(b)
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)	R.1985 d.460	17 N.J.R. 2138(c)
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b), 957(b), 1296(a))	16 N.J.R. 1436(a)	R.1985 d.295	17 N.J.R. 1561(a)
8:71	Generic drug list additions (see 17 N.J.R. 201(a), 957(c), 1296(b))	16 N.J.R. 2483	R.1985 d.297	17 N.J.R. 1562(b)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a), 1562(a))	17 N.J.R. 158(a)	R.1985 d.415	17 N.J.R. 2043(a)
8:71	Generic drug list additions	17 N.J.R. 1043(a)	R.1985 d.410	17 N.J.R. 2042(b)
8:71	Generic drug list additions	17 N.J.R. 1733(a)		

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HIGHER EDUCATION—TITLE 9

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)		
9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:2-4, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)	R.1985 d.309	17 N.J.R. 1563(a)
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)	R.1985 d.244	17 N.J.R. 1296(c)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
9:7-2.4, 2.9	Student assistance programs: eligibility; award combinations	R.1985 d.787(a)	R.1985 d.338	17 N.J.R. 1653(a)
9:7-3.1	Tuition Aid Grants: 1985-86 Award Table	Emergency	R.1985 d.430	17 N.J.R. 2050(a)
9:7-3.3, 5.9, 6.8	Student assistance program revisions	17 N.J.R. 1734(a)		
9:7-4.1	Garden State Scholars: eligibility	17 N.J.R. 2007(a)		
9:7-4.1, 4.7, 4.8	Distinguished Scholars Program	17 N.J.R. 787(b)	R.1985 d.339	17 N.J.R. 1654(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:7-8	Vietnam Veterans Tuition Aid Program	17 N.J.R. 1735(a)		
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)		
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)	R.1985 d.311	17 N.J.R. 1564(a)
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)	R.1985 d.245	17 N.J.R. 1303(a)

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HUMAN SERVICES—TITLE 10

10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:44-A-1.1—1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled; Supportive Living Programs	16 N.J.R. 1438(a)	R.1985 d.258	17 N.J.R. 1304(a)
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)	R.1985 d.246	17 N.J.R. 1307(a)
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)	R.1985 d.463	17 N.J.R. 2139(a)
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment; carrier charges	17 N.J.R. 1373(a)	R.1985 d.427	17 N.J.R. 2044(a)
10:50-1.5, 1.6	Reimbursement for ambulance and invalid coach services	17 N.J.R. 1637(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)		
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)	R.1985 d.369	17 N.J.R. 1766(a)
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)	R.1985 d.462	17 N.J.R. 2139(b)
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)	R.1985 d.257	17 N.J.R. 1317(a)
10:54	Physician Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)	R.1985 d.211	17 N.J.R. 1094(a)
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:55-3.1	Fee increases for shoe appliances	17 N.J.R. 1522(a)	R.1985 d.429	17 N.J.R. 2045(a)
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)	R.1985 d.376	17 N.J.R. 1894(a)
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522 (a)	R.1985 d.429	17 N.J.R. 2045(a)
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-4	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)	R.1985 d.263	17 N.J.R. 1415(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)	R.1985 d.237	17 N.J.R. 1318(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)	R.1985 d.384	17 N.J.R. 1895(a)
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736 (a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.5	Independent Clinic Manual: mental health services	17 N.J.R. 1377(a)	R.1985 d.428	17 N.J.R. 2046(a)
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)	R.1985 d.259	17 N.J.R. 1318(b)
10:81-3.27	PAM: transmission of data to receiving county	17 N.J.R. 878(a)	R.1985 d.344	17 N.J.R. 1655(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)	R.1985 d.312	17 N.J.R. 1565(a)
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)	R.1985 d.210	17 N.J.R. 1094(b)
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)	R.1985 d.219	17 N.J.R. 1095(a)
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.18	PAM: weekly second family adjustment	17 N.J.R. 879(a)	R.1985 d.343	17 N.J.R. 1655(b)
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)		
10:82-1.2, 2.13, 3.11, 5.11	ASH: AFDC payment standards	17 N.J.R. 880(a)	R.1985 d.341	17 N.J.R. 1656(a)
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)	R.1985 d.299	17 N.J.R. 1566(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)	Expired	
10:82-2.19, 3.2	Correction to Administrative Code: Assistance Standards Handbook	_____	_____	17 N.J.R. 1143(b)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)		
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)	R.1985 d.385	17 N.J.R. 1895(b)
10:82-5.3	ASH: correction to Administrative Code	_____	_____	17 N.J.R. 1801(c)
10:82-5.3	ASH: child care	17 N.J.R. 1835(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities	_____	_____	17 N.J.R. 485(c)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)	R.1985 d.298	17 N.J.R. 1566(b)
10:85-4.1, 9.4	General Assistance payment levels	17 N.J.R. 882(a)	R.1985 d.342	17 N.J.R. 1658(a)
10:85-4.6	GAM: correction to Administrative Code	_____	_____	17 N.J.R. 1802(a)
10:85-5.2	Correction to Administrative Code: General Assistance Manual	17 N.J.R. 1339(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:85-5.3	GAM: outpatient mental health care	17 N.J.R. 1836(a)		
10:85-5.3	GAM: correction to Administrative Code			17 N.J.R. 2051(b)
10:85-6.4	GAM: final reporting requirements	17 N.J.R. 1837(a)		
10:85-10.8	GAM: work registration violations and Food Stamp recipients	17 N.J.R. 1838(a)		
10:86	Repeat obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)		
10:87-2.21, 2.24, 2.28, 2.31, 2.35, 9.7, 11.29	Food Stamp Program revisions	17 N.J.R. 883(a)	R.1985 d.346	17 N.J.R. 1659(a)
10:87-5.7	Food Stamp Program: treatment of moneys used to repay overpayments	17 N.J.R. 986(a)	R.1985 d.313	17 N.J.R. 1567(a)
10:87-12.3, 12.4, 12.7	Food Stamp Program: Revised maximum eligibility limits	Emergency	R.1985 d.371	17 N.J.R. 1793(a)
10:89	Home Energy Assistance Handbook	17 N.J.R. 1737(a)		
10:89-2.3	Correction to Administrative Code: Home Energy Assistance Handbook			17 N.J.R. 1444(b)
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		
10:90-4.8	Correction to Administrative Code: Monthly Reporting Policy Handbook			17 N.J.R. 1143(c)
10:94-3.16	Medicaid district office	17 N.J.R. 38(a)	R.1985 d.291	17 N.J.R. 1416(a)
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)		
10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)	R.1985 d.314	17 N.J.R. 1568(a)
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)	R.1985 d.426	17 N.J.R. 2046(b)
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)	R.1985 d.373	17 N.J.R. 1766(b)

(TRANSMITTAL 28, dated April 15, 1985)

CORRECTIONS—TITLE 10A

10A:71	State Parole Board rules	16 N.J.R. 3391(a)	R.1985 d.213	17 N.J.R. 1096(a)
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(TRANSMITTAL 10, dated March 18, 1985)

INSURANCE—TITLE 11

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-5.2	Fire and casualty coverage: cancellation notice requirement			17 N.J.R. 1939(a)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Repairation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Repairation Reform Act rules	16 N.J.R. 3417(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:4-16, 17, 18	Readopt health insurance standards	17 N.J.R. 554(a)	R.1985 d.221	17 N.J.R. 1129(a)
11:4-21	Readopt Limited Death Benefit Forms	17 N.J.R. 891(a)	R.1985 d.325	17 N.J.R. 1660(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)	R.1985 d.374	17 N.J.R. 1768(a)
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)	R.1985 d.220	17 N.J.R. 1129(b)
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

(TRANSMITTAL 28, dated April 15, 1985)

LABOR—TITLE 12

12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.1, 1.2	Unemployment and Temporary Disability Benefits programs: purpose and scope	17 N.J.R. 1378(a)	R.1985 d.423	17 N.J.R. 2046(c)
12:15-1.6	Base week for unemployment compensation and temporary disability	17 N.J.R. 2007(b)		
12:35	Workfare rules	17 N.J.R. 1048(a)	R.1985 d.404	17 N.J.R. 1896(a)
12:56	Readopt Wage and Hour rules	17 N.J.R. 2008(a)		
12:57	Readopt Wage Orders for Minors	17 N.J.R. 2009(a)		
12:58	Readopt Child Labor rules	17 N.J.R. 2009(b)		
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:120	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
12:120-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	R.1985 d.1417(b)
12:200	Liquefield Petroleum Gas rules	17 N.J.R. 1379(a)	R.1985 d.403	17 N.J.R. 1899(a)

(TRANSMITTAL 21, dated April 15, 1985)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1985 d.421	17 N.J.R. 2683(a)
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LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)	R.1985 d.226	17 N.J.R. 1130(a)
13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)	R.1985 d.405	17 N.J.R. 1899(b)
13:2-4	ABC: readopt rules on Issuance or Transfer of Municipal Retail Licenses	17 N.J.R. 1052(a)	R.1985 d.332	17 N.J.R. 1661(a)
13:2-20	ABC: readopt rules on Transportation by Licensees; Transit Insignia	17 N.J.R. 1054(a)	R.1985 d.333	17 N.J.R. 1662(a)
13:23.16, -24, -35	ABC preproposal: industry marketing and sales practices	17 N.J.R. 3292(a)		
13:2-33	ABC: readopt Brand Registration rules	17 N.J.R. 794(a)	R.1985 d.279	17 N.J.R. 1423(a)
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)	R.1985 d.395	17 N.J.R. 1900(a)
13:3-3.5, 3.6, 7.9	Amusement games control	17 N.J.R. 1058(a)	R.1985 d.334	17 N.J.R. 1664(a)
13:13	Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1574(a)
13:13-1.3, 2.2, 2.3	Correction: Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1773(a)
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)		
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)	R.1985 d.379	17 N.J.R. 1901(a)
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-1.3, 1.4, 1.5	Driver licenses and social security numbers	16 N.J.R. 2746(a)	R.1985 d.307	17 N.J.R. 1579(a)
13:21-4	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)	R.1985 d.200	17 N.J.R. 1131(a)
13:21-11.13	Temporary initial registration of motor vehicles	17 N.J.R. 1863(a)		
13:21-14	Readopt rules on licensing of bus drivers	17 N.J.R. 556(a)	R.1985 d.205	17 N.J.R. 1131(b)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:27-8.11	Certified landscape architects: title block contents	17 N.J.R. 1864(a)		
13:28-4.1	Board of Beauty Culture Control fee schedule	17 N.J.R. 1638(a)	R.1985 d.464	17 N.J.R. 2139(c)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:29-1.1—1.6, 1.8—1.12	Board of Accountancy general rules	17 N.J.R. 557(a)	R.1985 d.287	17 N.J.R. 1424(a)
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)		
13:29-2.1, 2.2, 2.3	Registered municipal accountants	17 N.J.R. 559(a)	R.1985 d.286	17 N.J.R. 1426(a)
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.3	Board of Dentistry licensee requirements	17 N.J.R. 1864(b)		
13:30-8.4, 8.6	Dentistry: specialty practice; professional advertising	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1320(a)
13:30-8.4, 8.6	Correction: Specialties in dentistry	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1665(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)		
13:35-1A.4	Clinical clerkships for foreign medical graduates	17 N.J.R. 2010(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.1-3.4	Licensing of medical practitioners	17 N.J.R. 561(a)	R.1985 d.224	17 N.J.R. 1131(c)
13:35-4.2	Termination of pregnancy	17 N.J.R. 1865(a)		
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-66	Directly dispensed medication by physicians and podiatrists	17 N.J.R. 1866(a)		
13:35-6.13	Medical examiners board: fee schedule	17 N.J.R. 562(a)	R.1985 d.223	17 N.J.R. 1132(a)
13:36-2.10, 2.12, 4.4, 4.13, 5.1, 5.6, 5.9, 6.8, 7.1, 7.2	Mortuary science rules	17 N.J.R. 797(a)	R.1985 d.293	17 N.J.R. 1580(a)
13:37-1	Programs in nursing education	17 N.J.R. 51(a)	R.1985 d.285	17 N.J.R. 1426(b)
13:37-1.2, 1.21, 1.23-1.25	Programs in nursing education	17 N.J.R. 1528(a)		
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:38-3.2	Reexamination for optometry licensure	17 N.J.R. 1639(b)		
13:38-5.1	Board of Optometrists: fee schedule	17 N.J.R. 677(a)	R.1985 d.254	17 N.J.R. 1323(a)
13:40-3.2, 4.1, 5.1	Professional engineers and land surveyors: Board rules	17 N.J.R. 799(a)	R.1985 d.465	17 N.J.R. 2140(a)
13:40-8	Engineers and land surveyors: release of project records	17 N.J.R. 1027(a)	R.1985 d.225	17 N.J.R. 1133(a)
13:40-9	Supervision of engineering and land surveying projects	17 N.J.R. 2067(b)	R.1985 d.222	17 N.J.R. 1134(a)
13:41-1	Board of Professional Planners: readopt Seal rules	17 N.J.R. 1060(a)	R.1985 d.424	17 N.J.R. 2047(a)
13:41-3.2	Board of Professional Planners: fee schedule	17 N.J.R. 1061(a)	R.1985 d.443	17 N.J.R. 2141(a)
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:42-1.5	Psychological Board licensees: notification of current address	17 N.J.R. 896(a)		
13:43-3.4	Certified Shorthand Reporting exam: conditional credit	17 N.J.R. 801(a)	R.1985 d.288	17 N.J.R. 1431(a)
13:43-3.5	Shorthand reporting licensees: change of address notification requirement	17 N.J.R. 801(b)	R.1985 d.289	17 N.J.R. 1431(b)
13:44-1.2, 1.3, 1.4, 2.4, 2.9, 2.14, 2.15, 6	Veterinarian licensure	17 N.J.R. 1739(a)		
13:44-4.1	Veterinary medicine: training certificate fee	17 N.J.R. 383(a)	R.1985 d.364	17 N.J.R. 1773(b)
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
13:45A-9	Merchandise advertising: readopt rules	17 N.J.R. 678(a)	R.1985 d.256	17 N.J.R. 1323(b)
13:45A-16	Home improvement practices: readopt rules	17 N.J.R. 679(a)	R.1985 d.255	17 N.J.R. 1325(a)
13:45A-22	Kosher meat and poultry dealers: inspections and recordkeeping	17 N.J.R. 1241(a)	R.1985 d.407	17 N.J.R. 1901(b)
13:45A-23	Deceptive watercraft repair practices	17 N.J.R. 680(a)	R.1985 d.306	17 N.J.R. 1581(a)
13:46	Boxing Rules	16 N.J.R. 2962(a)	R.1985 d.284	17 N.J.R. 1432(a)
13:48	Charitable fund raising	17 N.J.R. 1244(a)		
13:51-3.5, 3.6	Chemical breath testing: approved instruments	17 N.J.R. 1531(a)	R.1985 d.441	17 N.J.R. 2141(b)
13:59	Background checks for licensing and employment purposes: user fees	17 N.J.R. 1743(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:70-3.46	Thoroughbred rules: horsemen's bookkeeper account	17 N.J.R. 173(a)	R.1985 d.204	17 N.J.R. 1135(a)
13:70-4.15	Thoroughbred racing: farms and training centers	17 N.J.R. 1393(a)		
13:70-6.53	Thoroughbred rules: qualifications as New Jersey bred	17 N.J.R. 271(a)	R.1985 d.203	17 N.J.R. 1135(b)
13:70-14A.11	Thoroughbred racing: urine testing of track personnel	17 N.J.R. 1640(a)		
13:71-7.26	Harness racing: farms and training centers	17 N.J.R. 1393(b)		
13:71-18.2	Harness racing: urine testing of track personnel	17 N.J.R. 1641(a)		
13:75-1.5	Violent crimes compensation: filing of claims	17 N.J.R. 2010(b)		
13:76-1.2, 1.3, 3.2, 4.1	Arson investigators	17 N.J.R. 2011(a)		

(TRANSMITTAL 30, dated April 15, 1985)

ENERGY—TITLE 14A

14:1-5.2, 5.3	Filings with Board of Public Utilities	17 N.J.R. 802(a)	R.1985 d.439	17 N.J.R. 2142(a)
14:3-8.1, 8.2	Suggested formulae for extension of utility service	17 N.J.R. 174(a)	R.1985 d.202	17 N.J.R. 1136(a)
14:3-10.9	Petitions by solid waste collectors	16 N.J.R. 3292(b)		
14:9-6.11	Correction: Acquisition costs	16 N.J.R. 3380(a)	R.1985 d.182	17 N.J.R. 1559(a)
14:10-5	Inter LATA telecommunications carriers	17 N.J.R. 2012		
14:17-6.8, 6.14, 6.17	CATV: system and stock transfers; rate increase filing procedures; public hearing requirement	17 N.J.R. 1062(b)	R.1985 d.449	17 N.J.R. 2142(b)
14:18-2.9	CATV pole attachment rate methodology	17 N.J.R. 1589(b)	R.1985 d.425	17 N.J.R. 2047(b)
14:18-3.10	CATV installation: compensation for taking	17 N.J.R. 563(a)	R.1985 d.337	17 N.J.R. 1666(a)
14:18-11	Pre-proposal: Renewal of CATV municipal consents and certificates of approval	17 N.J.R. 1394(a)		

(TRANSMITTAL 21, dated April 15, 1985)

ENERGY—TITLE 14A

14A:3-4.4	Energy Subcode: thermal efficiency standards	16 N.J.R. 2748(a)		
14A:3-11	Used oil recycling	17 N.J.R. 1866(b)		
14A:7	Submission and handling of confidential information	17 N.J.R. 1745(a)		
14A:13-1.2, 1.8-1.11, 1.13, 1.14	Energy conservation in State buildings	17 N.J.R. 1747(a)		
14A:20-1	Energy conservation planning and evaluation	16 N.J.R. 3293(a)		

(TRANSMITTAL 14, dated October 15, 1984)

STATE—TITLE 15

15:2-1.1, 1.3, 1.4	Commercial recording: expedited service	17 N.J.R. 897(a)	R.1985 d.327	17 N.J.R. 1670(a)
15:2-1.5	Commercial recording: fee payment for expedited service	17 N.J.R. 898(a)	R.1985 d.326	17 N.J.R. 1671(a)

(TRANSMITTAL 14, dated January 3, 1984)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

TRANSPORTATION—TITLE 16

16:1	Records management	17 N.J.R. 564(a)	R.1985 d.409	17 N.J.R. 1903(a)
16:6	Relocation assistance	17 N.J.R. 565(a)	R.1985 d.435	17 N.J.R. 2143(a)
16:20A-4.4	Municipalities qualified for depressed rural centers aid	17 N.J.R. 565(b)	R.1985 d.233	17 N.J.R. 1325(b)
16:21	State aid to counties and municipalities; readopt rules	17 N.J.R. 566(a)	R.1985 d.434	17 N.J.R. 2143(b)
16:28-1.79	Route 94 speed limits, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:28A-1.4, 1.31, 1.33	Bus stops on Route 4 in Hackensack and Routes 45 and 47 in Deptford	17 N.J.R. 1396(a)	R.1985 d.393	17 N.J.R. 1903(b)
16:28A-1.7	Parking on U.S. 9 in Berkeley Township	17 N.J.R. 1063(a)	R.1985 d.355	17 N.J.R. 1774(b)
16:28A-1.7, 1.19, 1.21, 1.31, 1.32	Parking on Routes U.S. 9, 28, U.S. 30, 45, U.S. 46	17 N.J.R. 898(b)	R.1985 d.328	17 N.J.R. 1671(b)
16:28A-1.7, 1.24	Bus stops on U.S. 9 and 34 in Old Bridge	17 N.J.R. 1064(a)	R.1985 d.354	17 N.J.R. 1774(a)
16:28A-1.7, 1.38, 1.51, 1.71	Parking on U.S. 9 in Marlboro, Routes 71 in Asbury Park, 168 in Camden, and 67 in Fort Lee	17 N.J.R. 2013(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
16:28A-1.7, 1.45	Parking on U.S. 9 in Ocean County and Route 94 in Sussex County	17 N.J.R. 1250(a)	R.1985 d.390	17 N.J.R. 1904(a)
16:28-1.9, 1.19, 1.21, 1.23, 1.33, 1.38, 1.41, 1.57, 1.104	Parking on Routes 17, 28, U.S. 30, 33, 47, 71, 77, U.S. 206 and U.S. 40-322	17 N.J.R. 802(b)	R.1985 d.294	17 N.J.R. 1583(a)
16:28A-1.13, 1.27, 1.30	Bus stops on U.S. 22 in Kenilworth, Routes 38 in Cherry Hill and 44 in Paulsboro	17 N.J.R. 1397(a)	R.1985 d.394	17 N.J.R. 1905(a)
16:28A-1.18	Parking on Route 27 in Metuchen	17 N.J.R. 1642(a)		
16:28A-1.18	Parking on Route 27 in Union County	17 N.J.R. 1251(a)	R.1985 d.391	17 N.J.R. 1906(a)
16:28A-1.18, 1.21, 1.37, 1.40, 1.55, 1.56, 1.57, 1.69	Parking on Routes 27 in Middlesex County, U.S. 30 in Hammonton, 70 in Cherry Hill, 73 in Mt. Laurel, U.S. 202, 202-206 and 206 in Bedminster, and 124 in Springfield	17 N.J.R. 2014(a)		
16:28A-1.20, 1.25, 1.29, 1.64, 1.65	Parking and bus stops on Routes 29, 35, 42, 41 and 15	17 N.J.R. 1398(a)	R.1985 d.392	17 N.J.R. 1906(b)
16:28A-1.21, 1.26, 1.31, 1.38, 1.61, 1.71	Parking and bus stops on U.S. 9W, U.S. 30, Routes 36, 45, 67 and 71	17 N.J.R. 1064(b)	R.1985 d.356	17 N.J.R. 1774(c)
16:28A-1.31, 1.46	Parking on Route 45 in Mantua, U.S. 130 in Penns Grove and Carneys Point	17 N.J.R. 2016(a)		
16:28A-1.35	Route 52 in Cape May County	17 N.J.R. 898(b)	R.1985 d.365	17 N.J.R. 1776(a)
16:28A-1.36	Parking on Route 57 in Warren County	17 N.J.R. 1251(a)	Withdrawn	17 N.J.R. 2053(a)
16:28A-1.96	Route 183 parking, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:30-6.4	Weight limit on Route 45 in Gloucester County	17 N.J.R. 1337(a)	R.1985 d.389	17 N.J.R. 1907(a)
16:30-12	Truck weigh stations on Interstate Highway System I-78, I-80, I-287 and I-295	17 N.J.R. 987(a)	R.1985 d.357	17 N.J.R. 1778(a)
16:31-1.1	No left turn on US 206 in Hillsborough	17 N.J.R. 1250(a)	R.1985 d.390	17 N.J.R. 1904(a)
16:31-1.4	No left turn on Route 35 in Shrewsbury	17 N.J.R. 566(b)	R.1985 d.206	17 N.J.R. 1138(a)
16:32-2.3	Temporary exemptions from Federal bridge formula	17 N.J.R. 1868(a)		
16:33	Construction control	17 N.J.R. 567(a)	R.1985 d.433	17 N.J.R. 2143(c)
16:41A-6.1	Outdoor advertising permit fees	17 N.J.R. 385(a)	R.1985 d.230	17 N.J.R. 1325(c)
16:43	Junkyards adjacent to public highways: readopt rules	17 N.J.R. 567(b)	R.1985 d.432	17 N.J.R. 2144(a)
16:44-5.1	Receipt of bids: requirements	16 N.J.R. 3191(a)		
16:53-9.1	Autobuses: public liability insurance	Emergency	R.1985 d.445	17 N.J.R. 2149(a)
16:56-4.1	Airport safety improvement aid	17 N.J.R. 1067(a)	R.1985 d.366	17 N.J.R. 1779(a)
16:56-7.1	Airport safety improvement aid	17 N.J.R. 2017(a)		
16:62	Air safety and hazardous zoning	16 N.J.R. 860(b)	R.1985 d.173	17 N.J.R. 977(b)
16:62-5.1, 8, 9, 10	Air safety and hazardous zoning	17 N.J.R. 1869(a)		
16:78	Senior Citizen and Disabled Resident Transportation Assistance Act Program	17 N.J.R. 1532(a)		

(TRANSMITTAL 29, dated April 15, 1985)

TREASURY-GENERAL—TITLE 17

17:1-1.8	State pension checks and signature cards	17 N.J.R. 1068(a)	R.1985 d.348	17 N.J.R. 1673(a)
17:1-1.10	Minimum adjustments to pension accounts	17 N.J.R. 1642(b)	R.1985 d.442	17 N.J.R. 2144(b)
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	17 N.J.R. 2350(b)		
17:1-4.11	PERS: purchase of service credit by certain nurses	17 N.J.R. 900(a)	R.1985 d.321	17 N.J.R. 1586(a)
17:3-2.3	Teachers' pension and annuity: full-time employment	17 N.J.R. 60(a)		
17:3-3.2	Teachers' Pension and Annuity: contributory insurance benefits	17 N.J.R. 1252(a)	R.1985 d.431	17 N.J.R. 2144(c)
17:4	Readopt Police and Firemen's Retirement System rules	17 N.J.R. 805(a)	R.1985 d.330	17 N.J.R. 1673(b)
17:5	State Police Retirement System rules	17 N.J.R. 2018(a)		
17:5-5.5	State Police Retirement: outstanding loans	16 N.J.R. 2997(a)		
17:8	Supplemental Annuity Collective Trust: readopt rules	17 N.J.R. 682(a)	R.1985 d.378	17 N.J.R. 1907(b)
17:9-1.5	State Health Benefits Program: voluntary termination by employer	17 N.J.R. 1399(a)		
17:16-27	Investment Council: certificates of deposit	17 N.J.R. 60(b)	R.1985 d.201	17 N.J.R. 1907(c)
17:19-2.10	Classification of bidders: settlement conferences	16 N.J.R. 2751(a)	R.1985 d.436	17 N.J.R. 2048(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:20-5	Revocation or suspension of Lottery agent's license	17 N.J.R. 272(b)	R.1985 d.308	17 N.J.R. 1586(b)
17:28	Charitable fund raising and public employees: payroll deduction campaigns	Emergency	17 N.J.R. 406	17 N.J.R. 1931(a)

(TRANSMITTAL 29, dated April 15, 1985)

TREASURY-TAXATION—TITLE 18

18:7-1.15, 4.5, 4.11, 11.7	Corporation Business Tax: investment company, subsidiary, indebtedness, timely filing	17 N.J.R. 1537(a)		
18:7-1.17, 11.15	Consolidated casino business tax returns	17 N.J.R. 901(a)	R.1985 d.453	17 N.J.R. 2145(a)
18:7-5.1, 5.2, 5.4	Corporation Business Tax: entire net income base	17 N.J.R. 1538(a)		
18:7-14.12, 14.17—14.20	Corporation Business Tax: prior issuance of tax clearance certificate	17 N.J.R. 1252(b)	R.1985 d.383	17 N.J.R. 1909(a)
18:12A-1.2	County tax boards: member education	17 N.J.R. 683(a)	R.1985 d.261	17 N.J.R. 1439(a)
18:15-2.1—2.6	Farmland assessments	17 N.J.R. 903(a)	R.1985 d.310	17 N.J.R. 1587(a)
18:17-4.1	Local property tax: assessor duties	17 N.J.R. 1870(a)		
18:23A	Tax maps	17 N.J.R. 1068(b)	R.1985 d.381	17 N.J.R. 1910(a)
18:24-12	Sale of food and drink	17 N.J.R. 178(a)	R.1985 d.280	17 N.J.R. 1440(a)
18:35-1.18	Extension of time to file Gross Income Tax Return	17 N.J.R. 1643(a)	R.1985 d.454	17 N.J.R. 2146(a)
18:37	Spill Compensation and Control Tax rules	17 N.J.R. 1074(a)	R.1985 d.382	17 N.J.R. 1915(a)
18:37-2.2	Transfer of hazardous substances other than petroleum or its products	17 N.J.R. 1540(a)	R.1985 d.455	17 N.J.R. 2147(a)

(TRANSMITTAL 28, dated April 15, 1985)

TITLE 19 SUBTITLES A-L—OTHER AGENCIES (Except Casino Control Commission)

19:1	Repealed rules of New Jersey Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
19:4-4.33, 4.35, 4.36, 4.37, 4.39, 4.40, 4.42, 6.28	Hackensack Meadowlands waterfront recreation zone	16 N.J.R. 3423(b)	R.1985 d.408	17 N.J.R. 1916(a)
19:4-4.142	Meadowlands: granting zoning variances	17 N.J.R. 1871(a)		
19:4-5.6, 5.6A, 6.28	Zoning changes	16 N.J.R. 2351(a)		
19:4-6.28	Official zoning map	16 N.J.R. 3423(b)	R.1985 d.212	17 N.J.R. 1138(b)
19:4-6.28	Change in zoning designation	17 N.J.R. 385(b)		
19:4-6.28	Meadowlands: official zoning map change	17 N.J.R. 1872(a)		
19:25-1, 7, 11	Readopt General Provisions, Use of Deposited Funds, Reporting of Contributions	17 N.J.R. 683(b)	R.1985 d.238	17 N.J.R. 1326(a)
19:25-2.6	Facsimile signatures	17 N.J.R. 1399(b)	R.1985 d.238	17 N.J.R. 1917(b)
19:25-15.3, 15.12, 16.3, 16.10	Continuing political committees	17 N.J.R. 684(a)	R.1985 d.239	17 N.J.R. 1326(b)
19:30-4.4	Targeting of EDA assistance	17 N.J.R. 1872(b)		
19:30-7	Economic Development Authority: private activity bonds	17 N.J.R. 1750(a)		

(TRANSMITTAL 25, dated February 19, 1985)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION

19:41-2.8	Fire safety unit	16 N.J.R. 3195(a)		
19:43, 45	Pre-proposal: Rules governing casino industry bus operations	17 N.J.R. 1401(a)		
19:45-1.25	Patron credit and identity verification: revised operative date	_____	_____	17 N.J.R. 1917(b)
19:45-1.27	Patron credit	17 N.J.R. 181(a)	R.1985 d.229	17 N.J.R. 1327(a)
19:45-1.27	Correction: Granting of patron credit	17 N.J.R. 181(a)	R.1985 d.229	17 N.J.R. 1673(c)
19:45-1.27	Patron credit	17 N.J.R. 1254(a)		
19:45-1.28	Depositing gaming-patron checks	16 N.J.R. 2076(a)	Expired	_____
19:45-1.33	Counting and recording contents of drop boxes	17 N.J.R. 1752(a)		
19:45-1.37	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:46-1.26, 1.27, 1.33	Issuance and use of tokens for slot machines	17 N.J.R. 184(a)		
19:47-2.4, 3.4, 4.3	Opening of the table for gaming	17 N.J.R. 61(a)	R.1985 d.228	17 N.J.R. 1332(a)
19:52-1.4	Correction: Prohibited entertainment activities	_____	_____	17 N.J.R. 1684(a)

(TRANSMITTAL 14, dated March 18, 1985)

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