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RULE PROPOSALS

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Procedural Rules Criteria for Branch Approval; Public Interest; Promise of Success

Proposed New Rules: N.J.A.C. 3:1-2.22 and 2.23

Authorized By: Michael M. Horn, Commissioner,
Department of Banking.
Authority: N.J.S.A. 17:1-8.1 and 17:9A-20G.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick Mazzagetti, Deputy Commissioner
Department of Banking
Division of Consumer Complaints,
Legal and Economic Research
CN 040
Trenton, NJ 08625

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

This proposal is known as PRN 1983-553.

The agency proposal follows:

Summary

The purpose of these new rules is to lessen the paperwork and regulatory requirements for full branch applications by commercial

banks and savings banks and to clarify the factors upon which the Commissioner of the Department of Banking will base decisions to approve or deny such branches. Generally, the new rules advise the industry that the Commissioner will be placing greater emphasis on the decisions of management in the location and establishment of branch offices and will rely on market factors and competition to determine which institutions are providing adequate banking services to local communities.

Prior to 1969, branching was severely restricted by State statute. In 1969, branching in three Statewide districts was allowed and, in 1973, Statewide branching was allowed subject only to modified home office protection. Current State statutes require only that an applying institution demonstrate sufficient capital, a public interest, and a reasonable promise of success prior to gaining full branch approval. In moving from the restrictive setting to the more liberal setting, the Department has required substantial economic and competitive justification for full branch office approval. This includes the designation of a trade area, the projection of deposit potentials, pro forma profit and loss statements for at least three years, a listing of all competitive institutions located in the trade area, and projected deposit penetrations. Considerable emphasis has been placed by objectors upon claims of undue injury to existing institutions and the ability of the proposed office to turn a profit within three years based solely upon new deposits from within the trade area. In prior years, objections have led to lengthy hearings and time-consuming legal work.

In the past 18 months, the Department has substantially streamlined the branching process, particularly as to the need for public hearings. The Department has determined that the location and establishment of a new branch office by a viable and well-managed institution should not be denied without strong evidence that the operation of that office would result in adverse impact on the applying institution or a vulnerable existing institution.

The delivery of financial services by commercial banks and savings banks has changed dramatically in the past five years. Bank offices are often times located for the convenience of customers rather than the generation of new deposits; shifting populations require an institution to seek new branch sites in order to maintain market share rather than to capture new markets; local institutions no longer need the protection from newcomers in the deregulated atmosphere of banking today.

Social Impact

The proposed new rules will affect all commercial banks and sav-

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ings banks located within this State by helping to preserve the dual banking system. Additionally, the proposed rules will make banking services more generally available to persons throughout the State.

Economic Impact

The economic impact to the public will be beneficial due to the increased competition among financial institutions and the greater availability of financial services throughout the State. The requirements for filing of applications by commercial banks and savings banks will be lessened thus reducing the burden on the Department of Banking in the processing of such applications so that they may be processed more quickly and efficiently.

Full text of the proposal follows.

3:1-2.22 Criteria for Branch Approval: Public Interest

(a) In reaching a determination as to whether an applicant meets the requirement that "the interests of the public will be served to advantage by the establishment of such full branch" (N.J.S.A. 17:9A-20A(2)) the Commissioner shall consider only the following factors:

1. The availability of the proposed office to the general public or that segment of the public to be served as the case may be;
2. The presence and experience of a newly-chartered institution or an institution subject to supervisory review by the Department within the trade area of the proposed office;
3. The conditions set forth in N.J.S.A. 3:1-10.1 to 10.4 regarding insider real estate transactions; and
4. The current financial condition of the applicant, including but not limited to, capital, asset quality, management, earnings and liquidity. The Department files with respect to the factors contained in this subsection shall be confidential (N.J.S.A. 17:9A-264) and shall not be open or available for review by either the applicant or objectors. The Commissioner's determination with respect to these factors shall be final.

(b) The number of existing institutions and the ability of existing institutions within the trade area of the proposed office to compete with the applicant shall not form a basis for denying the full branch approval.

3:1-2.23 Criteria for Branch Approval: Promise of Success

(a) In reaching a determination as to whether an applicant meets the requirements that a full branch office is afforded a "reasonable promise of success" (N.J.S.A. 17:9A-20A(3)) the Commissioner shall consider only the following factors:

1. The costs of purchasing, constructing, leasing or otherwise **establishing** the proposed office including the costs for staffing, **furniture and equipment** needed therefor; and
2. The effect of the costs outlined in (a)1 **above on the operations of the applying institution as a whole.**

(b) The applicant need not demonstrate an ability to operate the proposed office at a profit within a definable period of time based on the generation of new deposits from the market area to be entered except to the extent that losses suffered at the proposed office could affect the profitability or liability of the applicant's overall operations.

(a)

**DIVISION OF CONSUMER COMPLAINTS,
LEGAL AND ECONOMIC RESEARCH**

**Finance Charge Rate Regulation Number
One**

Proposed Repeal: N.J.A.C. 3:22-1

Authorized By: Michael M. Horn, Commissioner,
Department of Banking.
Authority: N.J.S.A. 17:16D-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick A. Mazzagetti, Deputy Commissioner
Department of Banking
Division of Consumer Complaints, Legal and
Economic Research
CN040
Trenton, NJ 08625

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

This proposal is known as PRN 1983-542.

The agency proposal follows:

Summary

The repeal of N.J.A.C. 3:22-1 which sets the maximum finance rate that could be charged for the financing of insurance premiums at an annual percentage rate of 17 percent is necessitated by the passage of Senate Bill 3005, P.L. 1981, c. 103. N.J.S.A. 17:16D-10 of the Insurance Premium Finance Act was amended to permit the charging of an interest rate in connection with the financing of insurance premiums at a rate agreed to by the premium finance company and the insured. Consequently the Department of Banking regulation limiting the maximum interest rate permitted for financing insurance premiums to 17 percent per annum is inconsistent with the provision of the Premium Finance Act and therefore unnecessary.

Social Impact

The passage of P.L. 1981, c. 1983 removed the interest rate restrictions imposed on lenders and afforded the public greater access to lendable funds. The availability of these funds is now established by competitive market forces.

Economic Impact

Statutory and regulatory imposed interest rate restrictions have as a result of market forces limited the availability of funds for consumer type loans, with the elimination of these regulated interest limits, lenders can adjust interest rate charges to more accurately reflect economic conditions.

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

SUBCHAPTER 1. [FINANCE CHARGE RATE
REGULATION NUMBER ONE]
(RESERVED)

3:22-1.1 Maximum finance charge rate permissible

The maximum finance charge rate to be charged, contracted for or received for the financing of insurance premiums on or after 12:01 A.M., May 9, 1980, shall not exceed an annual percentage rate of 17 percent. Such finance charge shall be calculated in accordance with the provisions of N.J.S.A. 17:16D-10 (Chapter 221, P.L. 1968).

3:22-1.2 Prospective operation

This section shall have prospective effect only.

3:22-1.3 Term of regulation

The rate established by this section shall be effective 12:01 A.M. May 9, 1980, and shall remain in force until such time as this section is rescinded or until said rate is increased or decreased by a subsequent regulation.]

HEALTH

(a)

HEALTH ECONOMICS SERVICES

Hospital Reporting
Patient Case-Mix

Proposed Readoption: N.J.A.C. 8:31A-8.1

Authorized By: J. Richard Goldstein, M.D., Commissioner
Department of Health (with approval of Health Care
Administration Board on September 15, 1983).
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-12
and 26:2H-5b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

James R. Hub, Director
Health Economics Services
Department of Health
CN 360
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), this subchapter expired on August 18, 1983. The re-adoption of these rules becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-554.

The agency proposal follows:

Summary

The Patient Case-mix abstract rule, N.J.A.C. 8:31A-8.1, was proposed in 1978 and implemented in January 1979 to enable hospitals to collect the proper data needed to assign a patients' discharge diagnosis to the appropriate Diagnosis Related Group (DRG). This information is utilized in the development of a State standard cost per case when linked to the patients' hospital bill. The Medical Discharge Abstract Minimum Data Set is supplied for every patient discharged and some of the items collected are the

following: Medical Record Number, Patient Billing Number, Residence Code, Date of Birth, Sex, Admission Date and Hour, Discharge Date and Status, Principal Diagnosis, Principal Procedure and Primary Payors. On April 4, 1983, the regulation was amended to delete the requirement for collection of four items which were found to be no longer pertinent to the system. These items were as follows: Major Diagnosis, Major Procedure, Major Service and Major Physician Code. The comment period for the initial proposal for the amendment produced no responses from interested parties. The rule has proven to be very effective in providing the required data needed for the proper functioning of the DRG Payment System.

Social Impact

N.J.A.C. 8:31A-8.1 affects the hospitals, data processing intermediaries, Department of Health and Utilization Review Organizations. No information identifying the patient by name or by any personal characteristics other than medical record number, billing number, age, sex, and race is included in the information given to the Department of Health. The Department is not permitted to enter the records of the hospital to identify a patient. In order to assess the accuracy of the data provided on the medical abstract, the Department of Health periodically examines statistically selected records, consistent with the provisions of confidentiality, through the services of the review organizations.

Economic Impact

N.J.A.C. 8:31A-8.1 establishes minimum data abstracting that is required to be performed by each hospital to enable proper rate setting per case to be accomplished by a standardized method under the Diagnosis Related Group (DRG) System. The specific purpose of the patient billing number is to facilitate a computer linkage with Patient Charge Records and Medical Discharge Abstract Data on a patient-specific basis. A Diagnosis Related (DRG) assignment is given based on the Principal Diagnosis and Principal Procedure. By completing this process for each inpatient in the hospital and submitting the information in a computer processable format on a quarterly basis to the Department of Health, the hospital will have its prospective cost per case (DRG) determined for each year. This information also enables the Department of Health to derive a State standard with which each hospital is compared and its incentive or disincentive status determined. The DRG Prospective Reimbursement System allows hospitals to utilize financial planning techniques in the most efficient and effective manner for the benefit of the hospital and the consumer. It should be noted that hospitals have been preparing medical discharge abstracts for their own data needs well before the Department of Health began collecting Abstract data in 1976. If this rule were not readopted, the present rate setting system would be placed in jeopardy.

Full text of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 8:31A-8.1, as amended in the New Jersey Register.

(b)

HEALTH PLANNING AND RESOURCES
DEVELOPMENT

Certificate of Need
Application and Review Process

Proposed Re-adoption with Amendment:
N.J.A.C. 8:33

Authorized By: J. Richard Goldstein, M.D., Commissioner

of Health (with approval of Health Care Administration Board).
 Authority: N.J.S.A. 26:2H-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles A. Buttaci, M.P.H.
 Chief, Certificate of Need Program
 New Jersey Department of Health
 CN 360
 Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), subchapter 1 expires on December 13, 1983 and subchapters 2 and 3 expire on July 19, 1984. The readoption of these rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption. The amendment to the readoption becomes effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-556.

The agency proposal follows:

Summary

In 1971, the Department of Health was granted the authority pursuant to N.J.S.A. 26:2H-1 et seq. and N.J.S.A. 26:2H-8 to have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services, health care facility cost containment programs and all public and private institutions whether State, county, municipal, incorporated or not incorporated serving principally as nursing or maternity homes, residential health care facilities, or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition(s).

Pursuant to the aforementioned statutes the Department promulgated specific regulations concerning the Certificate of Need application and review process in order to clarify and execute the intent of these laws. In brief, Chapter 33 defines the scope of the regulations, establishes guidelines and criteria for the submission of applications for Certificates of Need, and assigns fees based on the category of facility.

These rules are in conformance with Title XV of the Public Health Service Act enacted by the Health Planning and Resource Development Amendments of 1979 (P.L. 96-79).

The agency conducted an internal review of the rules prior to noticing for readoption. In its review of the rules the agency determined that the rules adequately and reasonably provide the ability to execute the intent of State statutes. Additional public comment and review are expected as a result of the readoption process.

The rules have been effective for their original intended purpose since they have established clear parameters promoting the orderly development of adequate and effective health care services. Several sections have been amended since their original promulgation in order to (1.) further clarify the intent of the law, (2.) comply with Federal regulations, (3.) improve the efficiency of the process, and now (4.) adjust filing fees to account for increased programmatic costs.

The purpose of the proposed amendment is to extend the State regulations on health systems agency and State health planning and development agency (State Agency) review with one amendment.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health

of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health ... shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs...."

The responsibility of the planning agencies for considering the needs of underserved populations is emphasized in the Certificate of Need regulations. The Department continues to be concerned about the needs of the medically underserved, and believes that the Certificate of Need program can contribute to improved assessibility to health care of the medically underserved.

Economic Impact

These guidelines have been extended and amended to best effectuate the provisions of the State and Federal laws to provide for the protection and promotion of the health of the inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities, and contain the rising cost of health care services.

Full text of the proposed readoption may be obtained from:

Charles A. Buttaci, M.P.H.
 Chief, Certificate of Need Program
 New Jersey Department of Health
 CN 360
 Trenton, NJ 08625

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

8:33-1.2 Filing fees

(a) Below is a schedule of fees required when submitting applications for a Certificate of Need [which require substantive review]. Fees must be included at the time applications are filed with the Certificate of Need Program of the State Department of Health. Certified checks, cashiers' checks or money orders must be made payable to Treasurer, State of New Jersey. No cash will be accepted.

Facility Category	Fee Required
[Hospitals	\$250
Nursing Homes	200
Residential Health Care	150
All other Health Care Facilities (e.g. group homes for the mentally retarded, halfway houses, other homes for the care of those with special health problems)]	100

[(b) Projects as noted in N.J.A.C. 8:33-1.4 which require administrative review will file, in accordance with the above procedure, a fee of \$50.]

Hospitals	
-substantive review	\$1,000
-administrative review	200
Nursing Homes	
-substantive review	500
-administrative review	100
Residential Health Care	
-substantive review	250
-administrative review	50
All other Health Care Facilities	
-substantive review	250
-administrative review	50

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards for Licensure of Residential Health Care Facilities Dietary Services

Proposed Repeal: N.J.A.C.8:43-6

Proposed New Rules: N.J.A.C. 8:43-6

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

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-561.

The agency proposal follows:

Summary

Subchapter 6 of the current Manual of Standards for Licensure of Residential Health Care Facilities, N.J.A.C. 8:43, will expire on December 12, 1983, pursuant to the "sunset" provisions of Executive Order No. 66 (Governor Byrne, 1978) which mandates the five-year automatic expiration of a regulation. The current N.J.A.C. 8:43-6.1 through 6.9 regulates the food and food service activities in residential health care facilities.

The proposed N.J.A.C. 8:43-6 incorporates the existing regulations, with pertinent additions and amplification which will provide residential health care facilities with more comprehensive information as they seek to comply with the intent of the regulations.

The proposed new rules, N.J.A.C. 8:43-6, for dietary services in residential health care facilities have been simplified and written in more specific language to make the regulations more functional, workable, and realistic. The more objective language will promote regulations that are enforceable by eliminating subjective language. This will make compliance easier for the facilities. The contents have been reorganized for increased clarity and for consistency in terminology and language. The proposed new rules, N.J.A.C. 8:43-6, contain technical and logistical changes, based on the Department's past experience, which will not jeopardize the health and safety of the residents. However, these changes do not alter the basic philosophy of the current regulations, which includes the provision of a home-like atmosphere. Editorial changes have been made to make the proposed rules more cohesive, lucid, and precise.

The proposed N.J.A.C. 8:43-6 regarding dietary services contains the following: Facility's responsibilities, Administrator's responsibilities; Commercial food management services; and A

Daily Food Guide. This is different from the arrangement of topics in the current food and food service subchapter, which contains: Diet and menu; Food service; Food sanitation; Kitchen equipment; Kitchen maintenance; Personal hygiene; Dishwashing; Garbage disposal; and Food management. Some of the current rules have been deleted in the proposed rules since they are repetitious of the requirements of Chapter 12 of the New Jersey State Sanitary Code, N.J.A.C. 8:24. Moreover, N.J.A.C. 8:24 has recently been revised (see 14 N.J.R. 509(a), 15 N.J.R. 544 (b)) and the current regulations in N.J.A.C. 8:43-6.1 through 6.9 are outdated. According to the existing regulations, residential health care facilities currently must adhere to the New Jersey State Sanitary Code (see N.J.A.C. 8:43-6.9) and will be required to continue to adhere to the New Jersey State Sanitary Code (see proposed N.J.A.C. 8:43-6.1 (d)). Other changes in the proposed new regulations are as follows:

Provision has been made for the delineation of the facility's responsibilities to include establishing a documented annual review of written policies, procedures, and methods for the provision of dietary services. The organization of dietary services is to be specified in a written plan which delineates the responsibility and accountability of personnel and describes the relationship of dietary services to other services. In addition, policies, procedures, and methods for planning, preparing, and serving meals, purchasing food, and supervising residents at mealtime are required.

The Daily Food Guide appears in the current subchapter and in the proposed subchapter and has been updated to reflect the current recommendations of the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

The proposed subchapter contains new provisions that require the facility to have a diet manual and to ensure that the diets served to the residents are consistent with the diet manual.

The proposed requirements for utensils for place settings and condiments provided at each meal are compatible with the current subchapter and are consistent with the philosophy of the residential health care facility which serves as a substitute home. In providing a home-like setting for the residents, a new provision has been established for the facility to encourage the residents to eat in the dining room.

The proposed subchapter clearly and specifically delineates the responsibilities of the administrator or alternate in contrast to the current rules where the provisions are alluded to in N.J.A.C. 8:43-4, Administration, but are not clearly indicated. The new provisions are consistent with the philosophy in the current N.J.A.C. 8:43-1.2(a) 4. The content of administrative responsibilities has been delineated to ensure that the residential health care facility prepares menus with regard for the nutritional and therapeutic needs, cultural backgrounds, food habits, and personal food preferences of the residents; menus are not used more than once every seven days; current menus with portion sizes are posted and include changes and substitutions; written policies are maintained regarding meal hours and the time before which breakfast can not be served; substitute foods and drinks of equivalent nutritive value are provided for residents who refuse mealtime food; self-help feeding devices are provided; thermometers are maintained in refrigerators and storerooms used for perishable items; written policies and procedures for the selection, storage, use, reuse, and disposition of nondisposable and disposable items are adhered to; at least a five-day supply of food is maintained on the premises; a monthly summary of the numbers and kinds of diets served daily is prepared; a written work plan is developed for cleaning operations and categorization of assignments for the kitchen area of the facility; and commercial food management firms providing dietary services are required to conform to these dietary service regulations.

The following administrative regulations are compatible in both the current subchapter and the proposed subchapter: the stipulation of the time period for writing, dating, and planning of menus; the

time period for maintenance of menus on file in the facility; the number of meals prepared and served daily; the time period that may elapse between an evening meal and breakfast the next morning; the provision for between-meal and bedtime snacks; the preparation of food to meet the needs of each resident; the maintenance of a file of recipes for menu items; and provision for residents to eat their meals at their own pace.

Social Impact

Because of the central role which the dietary service plays in any residential health care facility's operations, the proposed regulations will have a direct social impact on the care of residents. The proposed subchapter establishes the organizational framework and structure of dietary services to facilitate coordinated, responsive, and timely dietary services. Lines of authority and accountability are established. In regulating the organization and accountability of dietary services, the proposed rules will have a positive social impact upon the functioning of the residential health care facility as well as direct resident care.

The proposed subchapter's change in format from the current subchapter will provide regulations that will be easier to read and understand and will facilitate the care being provided to residents to help ensure better quality of care in residential health care facilities. The deletion of the repetition of the New Jersey State Sanitary Code will not jeopardize the health and safety of the residents since the facilities already are required to adhere to these regulations in the current subchapter and the requirement will continue in the proposed subchapter. Questions from providers of care in residential health care facilities regarding standards and interpretation of standards should be more easily answered due to the revised format. The proposed subchapter, due to its flexibility, will give more initiative to health care providers to provide quality care to residents in residential health care facilities. Additionally, this flexibility will allow for better and more efficient utilization of staff and will expedite resident care, thus having a direct social impact upon the consumer.

The enforcement and interpretation of the licensure regulations by employees of the Department of Health will be simplified with the revision of this subchapter.

The survey process to determine the facility's compliance with licensure regulations will also be simplified. The survey process will, therefore, be more efficient and cost-effective.

The proposed regulation requiring a diet manual will provide more assurance that residents will consistently be served proper diets and will make it easier for the facility to follow these written guidelines. The continued provision for utensils, place settings, and condiments for residents will have a social impact since residents will continue to have these amenities which help to promote a home-like atmosphere.

The proposed rules are consistent with the intent of the current rules and the content essentially remains the same, however, because of the simplified and more specific language there is more likelihood that these regulations will be carried out. This clarity will make the regulations easier for operators of facilities to understand, thus removing any conflict in interpretation to ensure compliance. For example, the Department now allows the facility flexibility in developing written policies and procedures which were not required in the past for planning, preparing, and serving meals, purchasing food, supervising residents at mealtime, and providing therapeutic diets, and for the selection, storage, use, and disposition of nondisposable and disposable items.

Economic Impact

The Department of Health does not foresee any significant increase in cost as a result of the proposed new rules. The proposed subchapter is written in greater detail than is the current one. This detail does not, however, interfere with the facility's ability to determine its own policies and procedures. The language is more objective and the content clarifies areas to reduce subjectiveness in

the current rules so as to improve facility compliance and streamline the survey process which will be more efficient and cost-effective. The greater specificity of the proposed subchapter is also intended to improve the management practices of dietary services so as to promote greater efficiency, better use of professional staff time, improved standards of accountability, and cost-effectiveness.

The proposed rules are designed to enhance the quality of care rendered to residents and the general functioning of the dietary service, at no increase in cost to the facility.

The flexibility of the proposed new rules and the elimination of unnecessary and duplicative regulations is expected to increase the cost-effectiveness of providers of residential health care.

The Department does not anticipate an increase in cost concerning the adherence to the provisions of the New Jersey Sanitary Code, N.J.A.C. 8:24 (see 14 N.J.R. 509(a), 15 N.J.R. 544(b)), since this was a requirement of the current subchapter and again is a requirement of the proposed subchapter.

Delete in its entirety the current text found in the New Jersey Administrative Code at N.J.A.C. 8:43-6.

Full text of the proposed new rule follows.

SUBCHAPTER 6. DIETARY SERVICES

8:43-6.1 Facility's responsibilities

(a) The facility shall establish, implement, and perform a documented annual review of written policies, procedures, and methods for the provision of dietary services. It shall also maintain the organization, management, and operation of dietary services in accordance with a written organizational plan which shall describe the responsibility, authority, and accountability of personnel, and the relationship of the dietary service to other services.

(b) The facility shall provide:

1. Policies, procedures, and methods for planning, preparing, and serving meals, purchasing food, supervising residents at mealtime, and providing therapeutic diets in accordance with admission policy of the facility and as prescribed by the resident's physician. "Therapeutic diet" shall mean a diet prescribed by a physician, and may include modifications in nutrient content, caloric value, consistency, methods of food preparation, content of specific foods, or a combination of these modifications;

2. Nutrients and calories for each resident, in accordance with current recommended dietary allowance of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, adjusted for age, sex, weight, and physical activity, therapeutic needs of the resident if therapeutic diets are provided, and A Daily Food Guide (see Appendix A);

3. A current diet manual approved by the Department, such as the New Jersey Diet Manual 1975;

4. Diets served to residents that are consistent with the diet manual;

5. For each resident at each meal, a place setting consisting of at least a dish(es), a glass, cup, knife, fork, spoon, and napkin; and

6. For each resident's use at the table, at each meal, salt, pepper, sugar or sugar substitute, dairy or non-dairy additives for beverages, and condiments.

(c) All residents shall be encouraged to eat in the dining room when in the facility.

(d) The facility and personnel shall comply with the provisions of Chapter 12 of the New Jersey State Sanitary Code, N.J.A.C. 8:24.

8:43-6.2 Administrator's responsibilities

(a) The administrator or his/her alternate shall ensure that the dietary service:

1. Selects food and drink and prepares menus with regard for the nutritional and therapeutic needs, cultural backgrounds, food habits, and personal food preferences of residents;

2. Has written and dated menus, planned at least seven days in

advance for all diets, and does not use the same menu more than once every seven days;

3. Posts current menus with portion sizes in the food preparation area, and posts any changes or substitutes in menus. Menus, with changes or substitutes, shall be kept on file in the facility for at least 30 days;

4. Prepares and serves daily to residents at least three meals;

5. Adheres to written policies regarding meal hours. No more than 14 hours shall elapse between an evening meal and breakfast the next morning, and the first meal shall not be served before 7:00 A.M.;

6. Provides between-meal and bedtime snacks, including beverages, for each resident;

7. Offers substitute foods and drinks to all residents who refuse the food served at meal times. Such substitutes shall be of equivalent nutritive value;

8. Prepares food by cutting, chopping, grinding, or blending to meet the needs of each resident;

9. Provides self-help feeding devices;

10. Maintains a file of recipes for menu items, adjusted to yield, which shall be used in preparing foods listed on the posted menus;

11. Maintains thermometers in refrigerators and storerooms used for perishable items;

12. Adheres to written policies and procedures for the selection, storage, use, and disposition of nondisposable and disposable items. Disposable items shall not be reused;

13. Prepares work schedules for the dietary service so as to allow residents to eat at their own pace;

14. Maintains at least a five-day supply of food on the premises;

15. Prepares a monthly summary of the numbers and kinds of diets served daily to residents; and

16. Develops a written work plan for cleaning operations and categorization as to daily, weekly, monthly, or annual assignment for the kitchen area of the facility.

8:43-6.3 Commercial food management services

If a commercial food management firm provides dietary services, it shall be required to conform to the standards of this subchapter.

APPENDIX A
A Daily Food Guide¹

MEAT GROUP

Foods Included: Beef; veal; lamb; pork; variety meats, such as liver, heart, kidney. Poultry and eggs. Fish and shellfish. As alternates—dry beans, dry peas, lentils, nuts, peanuts, peanut butter.

Amounts Recommended: Choose 2 or more servings every day. Count as a serving: 2 to 3 ounces of lean cooked meat, poultry or fish—all without bone; 1 egg, 1/2 cup cooked dry beans, dry peas, or lentils; 2 tablespoons peanut butter may replace one-half serving of meat.

VEGETABLE-FRUIT GROUP

Foods Included: All vegetables and fruits. This guide emphasizes those that are valuable as sources of vitamin C and vitamin A.

Sources of Vitamin C: Good sources.—Grapefruit or grapefruit juice; orange or orange juice; cantaloupe; guava; mango; papaya; raw strawberries; broccoli; Brussels sprouts; green pepper; sweet red pepper. Fair sources.—Honeydew melon; lemon; tangerine or tangerine juice; watermelon; asparagus tips; raw cabbage; collards; garden cress; kale; kohlrabi; mustard greens; potatoes and sweet potatoes cooked in the jacket; spinach; tomatoes or tomato juice; turnip greens.

Sources of Vitamin A: Dark-green and deep-yellow vegetables and a few fruits, namely: Apricots, broccoli, cantaloupe, carrots, chard, collards, cress, kale, mango, persimmon, pumpkin, spinach, sweet potatoes, turnip greens and other dark-green leaves, winter squash.

Amounts Recommended: Choose 4 or more servings each day, including:

1 serving of a good source of vitamin C or 2 servings of a fair source. 1 serving, at least every other day, of a good source of vitamin A. If the food chosen for vitamin C is also a good source of vitamin A, the additional serving of a Vitamin A food may be omitted.

The remaining 1 to 3 or more servings may be of any vegetable or fruit, including those that are valuable for vitamin C and for vitamin A.

Count as 1 serving: 1/2 cup of vegetable or fruit; or a portion as ordinarily served, such as 1 medium apple, banana, orange, or potato, half a medium grapefruit or cantaloupe, or the juice of 1 lemon.

MILK GROUP

Foods Included: Milk—fluid whole, evaporated, skim, dry, buttermilk. Cheese—cottage; cream; Cheddar-type, natural or process. Ice cream.

Amounts Recommended: Some milk every day for everyone.

Recommended amounts are given below in terms of 8-ounce cups of whole fluid milk:

- Children under 9 2 or 3
Children 9 to 12 3 or more
Teen-agers 4 or more
Adults 2 or more
Pregnant women 3 or more
Nursing mothers 4 or more

Part or all of the milk may be fluid skim milk, buttermilk, evaporated milk, or dry milk.

Cheese and ice cream may replace part of the milk. The amount of either it will take to replace a given amount of milk is figured on the basis of calcium content. Common portions of cheese and of ice cream and their milk equivalents in calcium are:

- 1-inch cube Cheddar-type cheese 1/2 cup milk
1/2 cup cottage cheese 1/3 cup milk
2 tablespoons cream cheese 1 tablespoon milk
1/2 cup ice cream 1/4 cup milk

BREAD-CEREAL GROUP

Foods Included: All breads and cereals that are whole grain, enriched, or restored; check labels to be sure. Specifically, this group includes: Breads; cooked cereals; ready-to-eat cereals; cornmeal; crackers; flour; grits; macaroni and spaghetti; noodles; rice; rolled oats; and quick breads and other baked goods if made with whole-grain or enriched flour. Bulgur and parboiled rice and wheat also may be included in this group.

Amounts Recommended: Choose 4 servings or more daily. Or, if no cereals are chosen, have an extra serving of breads or baked goods, which will make at least 5 servings from this group daily.

Count as 1 serving: 1 slice of bread; 1 ounce ready-to-eat cereal; 1/2 to 3/4 cup cooked cereal, cornmeal, grits, macaroni, noodles, rice, or spaghetti.

OTHER FOODS

To round out meals and meet energy needs, almost everyone will use some foods not specified in the four food groups. Such foods include: unenriched, refined breads, cereals, flours; sugars; butter, margarine, other fats. These often are ingredients in a recipe or added to other foods during preparation or at the table.

Try to include some vegetable oil among the fats used.

¹Reprinted from New Jersey Diet Manual 1975, New Jersey State Department of Health, pp.1,3.

(a)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

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

Proposed Amendment: N.J.A.C. 8:43-7.2

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-560.

The agency proposal follows:

Summary

Subchapter 7 of the current Manual of Standards for Licensure of Residential Health Care Facilities requires residential health care facilities to establish written policies regarding the rights of residents and to develop and adhere to procedures for implementing those policies (see 15 N.J.R. 992(a), 15 N.J.R. 1658(a)).

The proposed amendment will require facilities to ensure that residents who receive benefits from the Home Energy Assistance Program need not share this benefit with the owner, operator, employee, or representative of the facility. The Department received notification from the Community Health Law Project to adopt the regulation based upon the Home Energy Assistance Act of 1980 and its successor legislation, the Low-Income Home Energy Assistance Act of 1981 (Title 42, P.L. 97-35, U.S.C. Sections 8621 et seq.) which provides a system of Federal grants to states to assist eligible households to meet the costs of home energy. The State of New Jersey has recognized that Supplemental Security Income (SSI) recipients living in boarding homes, rooming houses, and residential health care facilities are considered both to be residing in the community and to be responsible for their heating costs. This addition assists in protecting residents in residential health care facilities from coercion, intimidation, or exploitation by the facility's owner, operator, employee, or their representative who might want to obtain a portion or the entirety of the residents' home energy assistance checks.

Social Impact

In the State of New Jersey, persons who receive Supplemental Security Income and reside in residential health care facilities will receive benefit from the Home Energy Assistance Program. The proposed amendment enforces this concept by protecting the

residents from coercion, intimidation, or exploitation by the facility's owner, operator, employee, or their representative who might want to obtain a portion or the entirety of the residents' home energy assistance checks.

Economic Impact

The economic impact of the proposed amendment would slightly increase the income of the residents in residential health care facilities in the State. The Department, however, would not incur any expenditures in respect to actual funding, since the funding of the Home Energy Assistance Program is derived from another branch of government. Some minimal expense could be incurred, since the Department's role will be to monitor the implementation of the proposed amendment through the existing survey process and to investigate complaints regarding extortions by owners, operators, employees, or their representatives of residential health care facilities. The Department maintains that complaints of this nature would be minimal because the proposed amendment is in conformity with the existing law.

Full text of the current rule may be found at 15 N.J.R. 992(a), 15 N.J.R. 1658(a).

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

8:43-7.2 Policies and procedures

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

- 1.-14. (No change.)
15. Is allowed, or his/her next of kin and/or sponsor and/or guardian and/or conservator, as defined in N.J.S.A 3B:13A-1 through 13A-36, Laws of 1983, Chapter 192, is allowed, to manage the resident's personal financial affairs, or is given at least a quarterly written statement of financial transactions made on his/her behalf should the facility accept his/her written delegation of this responsibility:
 - i.-iii. (No change.)
 - iv. **Each resident residing in a residential health care facility who receives benefits generated from the Home Energy Assistance Program shall not be required to provide the owner, operator, employee, or their representative with any portion of monies provided through the Home Energy Assistance Program. No owner, operator, employee, or representative of the facility shall coerce, intimidate, or exploit residents into providing them with any portion of their home energy assistance checks;**
 - 16.-22. (No change.)

(b)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Manual of Standards for Hospital Facilities
Cardiac Diagnostic and Surgical Services**

**Proposed Readoption with Amendments:
N.J.A.C. 8:43B-17**

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), this subchapter expires on January 1, 1984. The readoption of these rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of its adoption.

This proposal is known as PRN 1983-555.

The agency proposal follows:

Summary

Subchapter 17 of N.J.A.C. 8:43B, Manual of Standards for Hospital Facilities, provides regulations for licensure of hospitals responsible for specialized cardiac services.

N.J.A.C. 8:43B-17 was implemented in regionalized cardiac diagnostic facilities and cardiac surgical centers in 1979. The rules were based upon N.J.A.C. 8:33E—planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers. The planning guidelines as well as N.J.A.C. 8:43B-17 were developed in conjunction with and based upon the recommendations of the Commissioner's Cardiac Advisory Committee (CCAC).

The current Subchapter 17 of N.J.A.C. 8:43B will expire on January 1, 1984, pursuant to the "sunset" provisions of Executive Order No. 66 (Governor Byrne, 1978) which mandates the five-year automatic expiration of a rule.

The current rule, N.J.A.C. 8:43B-17, has been reviewed and evaluated by the Department staff along with a cardiologist consultant to the Commissioner's Cardiac Advisory Committee. The Department has determined that the existing rules are viable and reflect the needs of patients who require specialized cardiac services. Thus, the Department intends to readopt the current Subchapter 17 of N.J.A.C. 8:43B with the addition of proposed amendments which are based upon changes made in the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers (see 13 N.J.R. 649(a), 14 N.J.R. 147(d) and 13 N.J.R. 651(a), 14 N.J.R. 147(e)). In addition, the nurse staffing ratio in intensive care service has been revised, as well as the definition of pump technician, upon the recommendation of the consultant to the Commissioner's Cardiac Advisory Committee.

N.J.A.C. 8:43B-17 covers all aspects of specialized cardiac diagnostic and surgical services and contains the following sections: general requirements, governing authority, emergency services, medical records, staffing patterns, cardiac diagnostic facilities, cardiovascular surgical services, cardiovascular surgical intensive care service or recovery room, pediatric cardiac diagnostic facility and cardiac surgical center, glossary of terms, and cardiac care construction standards.

The rules reflect the Department's policy and philosophy that cardiac diagnostic facilities and cardiac surgical centers are expensive, highly specialized, and sophisticated units requiring a very specialized staff and specialized equipment in order to provide quality care to patients. Care and safety of patients are also dependent upon and related to optimal patient utilization of services. The necessary concentration of elaborate equipment, highly trained technical personnel, and skilled professional supervision can be justified only on a continuing daily use of equipment and personnel in the patient care areas.

The existing rules, N.J.A.C. 8:43B-17, achieve this by requiring hospitals providing cardiac diagnostic and surgical services to maintain the appropriate utilization rate and by establishing the qualifications of staff and staffing ratios to maintain the quality of hospital support personnel necessary for safe and effective cardiac diagnostic and surgical procedures.

N.J.A.C. 8:43B-17.1 defines the types of services included in Subchapter 17 and is congruent to the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers.

N.J.A.C. 8:43B-17.2 contains requirements for a policy and procedure manual and general administration of the services including organizational structure, availability of care 24 hours a day, seven days a week, and criteria for admission, transfer, and discharge of patients. N.J.A.C. 8:43B-17.2(a)8 provides for the development and implementation of infection control measures which are vital for the health and safety of patients with specialized cardiac diagnostic and surgical problems.

The availability of laboratory and blood bank services, N.J.A.C. 8:43B-17.2(a)14, is mandated for the diagnosis and treatment of patients. The requirement for patient education, N.J.A.C. 8:43B-17.2(a)18, is also an essential part of both pre- and postoperative care in cardiac diagnostic and surgical procedures. Medical and nursing staff must be able to anticipate and answer questions concerning diagnostic tests, postoperative care, and eventual plans for discharge. N.J.A.C. 8:43B-17.2(a)26 and 27 address the concept of evaluation of patient care and staff performance as well as a mechanism for peer review. N.J.A.C. 8:43B-17.2(a)28 requires staff orientation and education including, but not limited to, the management of patients through the use of monitoring devices, respiration, pacemakers, defibrillator, and other necessary equipment for cardiac resuscitation.

N.J.A.C. 8:34B-17.8(a)2 and 3 call for the governing authority to ensure that at least the following specialists are available to cardiac patients: anesthesiologist, pathologist, hematologist, endocrinologist, radiologist, nephrologist, psychiatrist, and specialist in pulmonary medicine. A pediatrician and a neonatologist, additionally, are required for pediatric cardiac patients.

A hospital providing specialized cardiac diagnostic and surgical services is required to be so organized as to respond rapidly and decisively to medical and surgical emergencies around-the-clock, seven days a week as specified in N.J.A.C. 8:43B-17.9. The emergency services must be fully integrated and capable of responding on short notice, often at inconvenient times of the day or night. A requirement for 24-hour a day coverage to be available is essential to manage acute changes in patients.

N.J.A.C. 8:43B-17.11 deals with the duties and responsibilities of the administrator, physician-director, nursing supervisor, charge nurse, and licensed nursing personnel. The administrator shall be responsible for planning and administration of the services, developing policies and procedures, and maintaining liaison with the physician-director. The physician-director's responsibilities include establishing policies and procedures for patient care, delineating the responsibilities of physician for patient care, and maintaining a system of patient care evaluation. Nursing supervisor's duties consist of developing and maintaining written objectives, policies, a procedure manual, and an organizational and evaluation plan for nursing services. Licensed nursing personnel shall be responsible for the provision of nursing care, administering medications, and coordinating nursing care services with other patient care services.

N.J.A.C. 8:43B-17.11(g) further mandates that consultation must also be available from other disciplines such as social workers, nutritionists, and rehabilitation therapists.

N.J.A.C. 8:43B-17.12 and 13 deal with the specific requirements for cardiac diagnostic and cardiovascular surgical services including written agreements for referrals of cardiac surgical patients, and staffing and utilization rates for diagnostic and surgical procedures. In order to develop and maintain clinical

proficiency, the surgical team concept has been mandated. A specific minimum amount and type of experience is critical for the surgical, nursing, and hospital support team to develop and maintain the required technical skills. The effectiveness of this essential team, and its ability to intervene decisively, may determine whether or not the patient survives.

Similar to the requirements in N.J.A.C. 8:43B-17.9 calling for the availability of emergency services 24-hours a day, the requirements in N.J.A.C. 8:43B-17.14 delineate cardiovascular surgical intensive care services or recovery room services on a 24-hour basis to meet the needs and demands of the patients. The availability and mobilization of the diverse components of care such as blood bank, laboratories, catheterization team, surgical and operating room staff, and anesthesiology services, are activities essential for quality care to patients in the recovery room.

In addition to the qualifications and staffing requirements already described above, N.J.A.C. 8:43B-17.15 mandates criteria for hospitals providing cardiac diagnostic and surgical services to infants and children. The staff requires a knowledge not only of the many and often complex cardiac deviations encountered, but also of the physiological and psychological needs of infants and children. Meticulous attention to physiological variables must be maintained at all times in the operating room, recovery room, and the cardiac catheterization laboratory to provide quality care to infants and children.

The existing rules have been amended to reflect the changes made in the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers with two additional changes based on the consultant's advice. A summary of the changes in the proposed re-adoption of N.J.A.C. 8:43B-17 is as follows:

1) A reference to N.J.A.C. 8:33E-1.2(b)1 was added to N.J.A.C. 8:43B-17.1(a)1 regarding the shared laboratory, as defined in the planning guidelines on Cardiac Diagnostic Facilities (see 13 N.J.R. 649(a), 14 N.J.R. 147(d));

2) The content of recently updated and promulgated N.J.A.C. 8:31-26.3 (see 15 N.J.R. 470(a), 15 N.J.R. 1022(a)) regarding employees' physical examinations was added as N.J.A.C. 8:43B-17.4(a)1 and the existing rules 1-3 were renumbered as 2-4;

3) Two new rules, N.J.A.C. 8:43B-17.12(c)7iii and N.J.A.C. 8:43B-17.13(j), regarding the number of invasive cardiac diagnostic procedures, N.J.A.C. 8:33E-1.2(d) (see 13 N.J.R. 649(a), 14 N.J.R. 147(d)), and cardiovascular surgical procedures, N.J.A.C. 8:33E-2.2(a)3 (see 13 N.J.R. 651(a), 14 N.J.R. 147(e)), to be performed by the physician were included.

The requirements to establish certain parameters such as minimum numbers of procedures to be performed each year as well as staffing are included to maintain proficiency in order to provide quality care to patients and to ensure that minimum levels of service will be maintained. Although the number of procedures to be performed per year by each physician is specific in the planning guidelines on Cardiac Diagnostic Facilities, N.J.A.C. 8:33E-1.2(d) (see 13 N.J.R. 649(a), 14 N.J.R. 147(d)) and Cardiac Surgical Centers, N.J.A.C. 8:33E-2.2(a)3 (see 13 N.J.R. 651(a), 14 N.J.R. 147(e)), N.J.A.C. 8:43B-17.12(c)7iii and N.J.A.C. 8:43B-17.13(j) do not specify the number of cases to be performed. The specification of a minimum number of cases to be performed per year by each physician could lead to the revocation of the hospital's license for failing to meet these requirements by perhaps one or two patients. This might lead to disruption of services causing hardships to patients. Therefore, the rules provide latitude, based upon the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers, and allow hospitals to develop their own policies regarding the number of procedures to be performed per year by each physician, making the rules enforceable and workable.

4) N.J.A.C. 8:43B-17.12(c)7i and ii were revised by deleting the May 1980 time period which had expired since the original date of their promulgation. In N.J.A.C. 8:43B-17.12(c)7ii, the requirement for the performance of a minimum of 200 cardiac catheterizations annually was deleted due to the lapse of the May

1980 time period. Therefore, the minimum number of cardiac catheterization procedures in the proposed rule, N.J.A.C. 8:43B-17.12(c)7ii, remains at 250;

5) In N.J.A.C. 8:43B-17.14(d) the ratio of the registered professional nurse to patient in the cardiovascular surgical intensive care service was revised so that, after the first 24 hours following surgery, the ratio of one nurse to one patient was decreased to one nurse for every two patients. The revision was based upon the recommendation of the consultant to CCAC, the Department's experience during the past five years, and the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers, specifically N.J.A.C. 8:33E-2.3(b). The change in the nurse to patient ratio would not jeopardize patient care and safety, since less intensive nursing care is required after the first 24 hours following surgery;

6) The definition of "pump technician," N.J.A.C. 8:43B-17.16, was revised based on the advice of the cardiologist consultant to include persons having experience in cardiac perfusion techniques as defined in the hospital's policies and procedures. The Department was advised that, in limited instances, there were persons working as pump technicians in hospitals prior to the establishment of the American Board of Cardiac Perfusionists. The change in N.J.A.C. 8:43B-17.16 would allow the facility to continue employing these individuals. The Department maintains that the changes in the rule would not jeopardize patient care and safety; and

7) An editorial change was made in 8:43B-17.2(a).

The re-adoption of N.J.A.C. 8:43B-17 and the proposed amendments would not adversely affect hospitals providing cardiac diagnostic and surgical services and the Department's policy, since hospitals are already in compliance with these rules. On the other hand, the re-adoption would ensure the continuance of specialized cardiac diagnostic and surgical services to patients in a safe, efficient, and cost-effective manner. The proposed rules, N.J.A.C. 8:43B-17, are in conformity with the planning guidelines on Cardiac Diagnostic Facilities and Cardiac Surgical Centers, N.J.A.C. 8:33E, and would lead to the delivery of a coordinated system of care providing specialized cardiac diagnostic and surgical services to patients.

Social Impact

Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, enjoin upon the Department of Health to protect and promote the health of the inhabitants of the State. The Act also mandates the Department to develop "standards and procedures relating to the licensing of health care facilities and the institution of additional health care services" to ensure the delivery of health care services effectively and efficiently.

The re-adoption of N.J.A.C. 8:43B-17 and the proposed amendments establish minimal rules and regulations to ensure the provision of quality care to patients requiring specialized cardiac diagnostic and surgical services.

The Department recognizes that cardiac diagnostic facilities and cardiac surgical centers provide expensive and highly specialized services requiring skilled staff in order to provide quality care to patients. Since the re-adoption of N.J.A.C. 8:43B-17 and the proposed amendments would not change the Department's policy or philosophy as reflected in the existing rules, the changes are not expected to have any negative impact on services currently available within the State.

The rules for appropriate utilization rates, administrative arrangements, and professional staff qualifications and relationships as well as special criteria for cardiac pediatric services describe the environment in which specialized cardiac diagnostic and surgical procedures can be performed effectively and safely.

The requirements for the team approach for diagnosis and treatment of cardiac disease enhance professional skills and minimize risks to patients. These, in turn, improve the quality of patient care and protect the safety of the patients.

The revision in the definition of "pump technician", N.J.A.C. 8:43B-17.16, would not jeopardize the quality of patient care because hospitals have had personnel performing these duties prior to the certification requirement by the American Board of Cardiac Perfusionists.

It is anticipated that the revision of N.J.A.C. 8:43B-14(d) regarding the registered professional nurse to patient ratio will not compromise the quality of patient care because less intensive nursing care is required after the first 24 hours following surgery.

If the rules are not readopted, the Department contends that patient care will seriously be jeopardized by increasing risks to patients because of underutilized services resulting in deterioration of professional skills and expensive services below the desired level of care.

Economic Impact

Within the past three decades, there has been an upsurge of cardiac diagnostic facilities and cardiac surgical centers. Many times the impetus for the development of such programs is motivated by the prestige of this type of venture rather than the evaluation of actual needs. This often has resulted in underutilized services and consequently expensive care with less than the desired quality of care. Therefore, in New Jersey, as well as in many other states, cardiac diagnostic facilities and cardiac surgical centers are regionalized in order to provide the best possible care and to avoid wasteful duplication of such programs and personnel.

The economics of modern specialized cardiac care for patients requires that the complex staffing and equipment of cardiac diagnostic facilities and cardiac surgical centers be placed at regional locations for their optimum utilization by patients. Experience has demonstrated that the rarely used catheterization laboratory, intensive care unit, or operating room does not continue to function safely and effectively.

The readoption of N.J.A.C. 8:43B-17 and the proposed amendments will not have any major economic impact on existing programs, since the rules have been in effect for the past five years. The operative cost of hospitals providing these services would not be affected for they are already in compliance with N.J.A.C. 8:43B-17. Similarly, the Department will not have to incur additional expenditures for surveying cardiac diagnostic facilities and cardiac surgical centers because they have been surveyed for the last five years. It is anticipated that the change in the staffing ratio of the registered professional nurse to patient in the cardiovascular intensive care unit after the first 24 hours following surgery could possibly reduce the cost of care by decreasing nursing staff requirements. The readoption of N.J.A.C. 8:43B-17 with amendments will, however, facilitate third-party reimbursement for the care rendered at cardiac diagnostic facilities and cardiac surgical centers. This will ensure the continuance of cost-effective services to patients.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:43B-17.

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

SUBCHAPTER 17. CARDIAC DIAGNOSTIC AND SURGICAL SERVICES

8:43B-17.1 General

(a) This subchapter shall apply to all hospitals providing cardiac diagnostic facilities and cardiac surgical centers. These shall be administered by the governing authority responsible for the management, control, and operation of the hospital, shall be subject to the rules, regulations, and inspections applicable to the hospital, and shall be licensed as a part of the hospital. The cardiac diagnostic facilities and cardiac surgical centers included in this section are:

1. Cardiac diagnostic laboratory, either dedicated completely to cardiac catheterization/coronary angiographic procedures, or shared with other specialized radiologic procedures [;] as defined in N.J.A.C. 8:33E-1.2(b)1;

2.-3. (No change.)

8:43B-17.2 Policy and procedure manual

(a) A policy and procedure manual, supplementing the hospital policy and procedure manual, and approved by the governing authority, shall be developed and implemented by the administrator, the nursing director, and the physician-director, or their alternates [, as a guide] for the organization and operation of the cardiac diagnostic facility and/or surgical center. Cross-references to the hospital policy and procedure manual(s) are acceptable. The manual shall be reviewed, signed, and dated annually. The manual shall include:

1.-29. (No change.)

8:43B-17.4 Staff policies and procedures

(a) The hospital shall establish and implement policies and procedures for staff, including:

1. Policies and procedures for employees' physical examinations (health evaluations) upon employment and subsequently, including the content and frequency, in accordance with N.J.A.C. 8:31-26.3;

1.-3. renumbered as 2.-4. (No change in text.)

8:43B-17.12 Cardiac diagnostic facilities

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

(c) The cardiac diagnostic facility shall have the following full-time personnel[.]:

1.-6. (No change.)

7. The cardiac diagnostic facility shall provide to the Department annual, written documentation of utilization rates which shall meet the following criteria:

i. A facility dedicated completely to cardiac catheterization/coronary angiographic procedures (adult) [shall perform catheterizations on at least 400 patients annually, 150 of whom shall be coronary arteriographic patients, until May 1980. As of May 1980, such a facility] shall perform coronary angiographic examinations on 500 patients annually, 400 of whom shall be coronary arteriographic patients; [and]

ii. A facility which is shared with other specialized radiologic procedures shall have a minimum of [200] **250 adult** cardiac catheterization patients annually[. As of May 1980, such a facility shall have a minimum of 250 cardiac catheterization patients annually.]; **and**

iii. The facility shall develop policies regarding the minimum number of invasive cardiac diagnostic procedures to be performed per year by each physician.

8:43B-17.13 Cardiovascular surgical services

(a)-(i) (No change.)

(j) The facility shall develop policies regarding the minimum number of cardiovascular surgical procedures to be performed per year by each physician.

8:43B-17.14 Cardiovascular surgical intensive care service or recovery room

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

(d) There shall be a ratio of at least one registered professional nurse to one patient in the cardiovascular surgical intensive care service **during the first 24 hours following surgery. After the first 24 hours following surgery the ratio shall be at least one registered professional nurse to two patients.** The charge nurse shall not be included in the nurse/patient ratio if there are more than three patients in the service or recovery room.

(e) (No change.)

8:43B-17.16 Glossary of terms

“Pump technician” shall mean a person who is certified or eligible for certification by the American Board of Cardiac Perfusionists or who meets the qualifications and experience as specified in the hospital’s policies.

(a)

THE COMMISSIONER

Certificate of Need: Psychiatric Inpatient Beds; Adult Open Acute Psychiatric Bed Standards

Proposed New Rule: N.J.A.C. 8:43E-2

Authorized By: J. Richard Goldstein, M.D., Commissioner
(with approval of Health Care Administration Board).
Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert Fogg, Health Planning Specialist
Department of Health
Health Planning Services
Room 403
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1983-558.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certification of need for hospital and related health care facility services. Currently, no rules exist specifically addressing inpatient psychiatric programs, although need for such criteria has been discussed in the New Jersey State Health Plan. In developing proposed rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force (a list of names of the SHCC Task Force members may be obtained at the Department of Health).

The purpose of the proposed new rules is to establish criteria for the review of Certificate of Need applications for the addition of adult open acute psychiatric inpatient beds to licensed hospitals in the State of New Jersey. The rules contain a methodology for estimating psychiatric bed need on a county and Statewide basis, and establish standards and guidelines regarding planning concerns such as cost effectiveness, continuity of care, accessibility, quality, and endorsements by local and State mental health authorities.

Social Impact

N.J.S.A. 26:2H-1 et seq. (as amended) recognizes as “public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial

solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health ... shall have the central, comprehensive responsibility for the development and administration of the State’s policy with respect to health planning, hospital and health care services, and health facility cost containment programs....”

The New Jersey State Health Plan recognizes the underutilization of inpatient beds, specialty services, and expensive equipment as an important factor contributing to the rapidly escalating costs of health care. Regionalization of specialty services and equipment is viewed as an important mechanism for promoting health by improving the capabilities of services and quality of care offered, by improving the solvency of hospitals offering these expensive services, and by containing the rising costs of health care services.

The proposed rules are intended to promote the provision of inpatient psychiatric care in a cost-effective manner at a level appropriate to the needs of the patient. However, one of the primary objectives the rules address is to improve the continuity and accessibility of care by assuring that providers will deliver services as part of a unified system of mental health care. Referral agreements with both community mental health agencies as well as with State and county psychiatric hospitals are encouraged, while the involvement of these agencies and local mental health planning authorities in program development is promoted.

Economic Impact

In 1981, there were a total of 1,618 psychiatric inpatient beds licensed by the New Jersey Department of Health and utilized for adult open acute psychiatric care. Of this total, 961 were provided by general hospitals and the balance in private, special, or county psychiatric hospitals. General hospital units accounted for 20,425 admissions, or approximately two percent of the total of all general hospital acute care admissions. Average length of stay was 13.3 days in 1981, substantially higher than the Statewide general hospital average of 8.5 days for all inpatient services. Projected annual Statewide costs for providing inpatient psychiatric care in general hospitals is in excess of \$45 million dollars, based upon analysis of 1983 standard rates for psychiatric Diagnosis Related Groups (DRG’s), average indirect cost allocations, and volume and case-mix projections.

Current utilization levels of existing licensed psychiatric units in New Jersey are not indicative of a need to expand capacity Statewide in any significant way. During 1979, 1980, and 1981, average Statewide psychiatric unit occupancy rates averaged approximately 78 percent. The rules propose to require an annual occupancy of 90 percent prior to expansion, although length of stay for such hospitals must also be within 110 percent of the Statewide mean length of stay.

All areas of New Jersey now have an existing or approved through Certificate of Need adult open acute psychiatric unit within 30 minutes average driving time. Based upon the bed need methodology proposed within these rules, a Statewide excess of adult open acute psychiatric beds exists, although need is evident for some additional capacity by 1985 in as many as seven counties. It is expected that the rules would have the impact of permitting expansion of licensed psychiatric beds to occur only in areas of demonstrated need, and would promote cost effectiveness through mechanisms such as encouraging conversion of existing hospital bed capacity. The capital costs of conversion projects should be significantly lower than new construction. No significant increases in operating costs are projected as a result of these rules.

Full text of the proposed new rule follows.

SUBCHAPTER 2. RULES GOVERNING PSYCHIATRIC INPATIENT ADULT OPEN ACUTE BEDS

8:43E-2.1 Scope

The New Jersey Department of Health currently licenses and regulates inpatient psychiatric beds as provided in licensed general and special hospitals throughout the State. The vast majority of licensed psychiatric beds remain in use for the purpose of treating adults with acute psychiatric disorders on a voluntary basis. These rules address the addition or establishment of licensed psychiatric beds of this type, to be classified as Adult Open Acute Psychiatric Beds, in any existing or proposed licensed hospital in New Jersey. These rules will also apply to proposed beds or facilities providing services as defined in N.J.A.C. 8:43-E-2.2 (Adult Open Acute Psychiatric Beds) in cases where the projected length of stay may exceed 30 days.

8:43E-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings.

"Adult Open Acute Psychiatric Beds" means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the provision of intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have a length of stay which averages 30 days or less.

"Department" means the New Jersey Department of Health.

"Guidelines" means those general factors to be considered in applying a given standard, or to guide decision-making in areas for which specific standards are not available or would not be appropriate.

"Mental Health Service Area" means a designated area of the State approved by the New Jersey Department of Human Services as a primary catchment area for community mental health service delivery.

"Standards" means the specific requirements that applicants must satisfy in developing applications for Certificate of Need approval. To the extent practicable, standards address measurable characteristics that such applications must meet.

8:43E-2.3 Unit size

(a) The minimum size Adult Open Acute Psychiatric Unit shall be 20 beds.

(b) The maximum size for any single unit shall be 40 beds.

(c) The Department may consider exceptions to (a) above when the applicant demonstrates compliance with one or both of the following conditions:

1. Where the closest Adult Open Acute Psychiatric Unit is further than a 20 mile radius from the proposed new unit, and the bed need as determined by the methodology contained in N.J.A.C. 8:43E-2.4 indicates a need for less than 20 beds in the area. In no case may the minimum size of the unit be below 12 beds.

2. When the applicant facility is proposing to develop a unit combining both Adult Open Acute Psychiatric Beds and other special purpose adult acute psychiatric beds with a total unit size of at least 20 beds.

8:43E-2.4 Bed need

(a) Each applicant for Adult Open Acute Psychiatric Beds must demonstrate the need for additional bed capacity through application of the adult open acute bed need methodology, attached herein as Appendix A.

(b) Exceptions may be considered by the Department when the applicant has demonstrated compliance with either of the following conditions:

1. When the establishment of beds is for the purpose of serving patients who traditionally have been admitted to a State or county psychiatric hospital. This must be documented by an affiliation

agreement with the State or county psychiatric hospital, attached to the application. Need for the proposed number of beds must be documented through application of the methodology attached herein as Appendix B.

2. When the establishment of beds is for the purpose of increasing capacity for an existing Adult Open Acute Psychiatric Unit, based upon exceeding occupancy standards as set forth in N.J.A.C. 8:43E-2.12. The applicant must demonstrate compliance with all other requirements of these regulations, and provide the following additional documentation:

- i. Number of days at full occupancy during the last four quarters;
- ii. Number of requests for admission denied due to occupancy;
- iii. Number of referrals made to other hospitals of patients unable to be admitted due to unavailability of beds;
- iv. Description of discharge planning system and linkages for follow-up care;
- v. Description of linkages with outpatient and partial care programs as alternatives to inpatient admissions.

8:43E-2.5 Continuity of care

(a) Linkages with community mental health agencies and State or county hospitals for purposes of referral and follow-up must be adequately documented by the facility. Evidence should be attached indicating that formal transfer and/or program linkages agreements will be adopted with State and/or county hospitals, each community mental health center, and with other State or county - funded mental health resources within the facility's service area particularly including:

1. Partial hospitalization;
2. Emergency/screening;
3. Outpatient care programs; and
4. Residential care programs.

(b) The facility should assure that patients for whom an application for involuntary commitment is sought shall be referred for admission to a facility which accepts involuntary commitments through the appropriate channel for the sending facility's service area.

8:43E-2.6 Admissions criteria

(a) An admissions criteria and/or policy must be developed by the facility and included as part of the Certificate of Need application.

(b) A written admissions criteria should at a minimum address the following:

1. Diagnostic or other patient characteristics or factors both acceptable and not acceptable for admission.
2. For those individuals deemed ineligible for admission to the facility, a description of referral procedures to a more appropriate facility.
3. Policy on acceptance of individuals without the ability to pay for treatment.

8:43E-2.7 Accessibility of care

(a) Provisions for assigning all admissions, including the medically indigent, to the unit's psychiatry staff should be documented.

(b) The applicant should assure that individuals previously hospitalized in either a State or county facility will not be denied admission to the unit solely because of such previous hospitalization.

(c) The applicant should assure that individuals with primary diagnoses of alcoholism or drug abuse will not be accepted for treatment in the psychiatric unit, if appropriate and accessible facilities for substance abuse treatment are available.

8:43E-2.8 Emergency services

Procedures assuring 24 hour availability of admissions and psychiatric emergency services shall be documented. Provision of emergency psychiatric services to the facility's service area is encouraged, where identified as a need in an approved county mental health plan, and where not already available.

8:43E-2.9 Occupancy rate standards for bed additions to existing units

(a) Facilities currently with licensed psychiatric units of 20 beds or more must have maintained an annual occupancy rate of 90 percent or higher in order to justify an increase in bed capacity. The applicant must also reasonably document that at the proposed new capacity, occupancy will not decrease below 80 percent on an annual basis.

(b) Facilities currently with licensed psychiatric units of less than 20 beds must have maintained an occupancy rate of 80 percent or higher in order to justify an increase in bed capacity. The applicant must also reasonably document that at the proposed new capacity, if remaining less than 20 beds, occupancy will not decrease below 75 percent on an annual basis, or 80 percent occupancy on an annual basis if 20 beds or over.

(c) The applicant must have exceeded occupancy standards contained in (a) and (b) above for a period of at least the four most recent quarters for which data has been reported to the Department.

8:43E-2.10 Average length of stay guidelines for bed additions to existing units

Average length of stay (ALOS) in facilities seeking to add beds to an existing Adult Open Acute Psychiatric Unit shall not exceed 110 percent of ALOS of all such units within the State, for the last four quarters for which data has been reported to the Department, unless a clear rationale for this length of stay is satisfactorily demonstrated. Factors which may be considered in establishing such a rationale may include chronicity, socio-economic status, or age of the population served, or statistical anomalies based on unit size.

8:43E-2.11 Utilization guidelines; area psychiatric units

Occupancy rates in all Adult Open Acute Psychiatric Units in hospitals located within the same mental health service area or within a 20 mile radius of the applicant facility shall exceed 75 percent prior to addition of psychiatric beds within that area.

8:43E-2.12 Conversion of existing bed capacity

(a) Facilities seeking approval of new or additional Adult Open Acute Psychiatric Beds shall convert existing bed capacity when occupancy rates for other services (for example, Medical-Surgical, Pediatric, Ob/Gyn) are below, for the four previous reporting quarters, those levels set as minimum by the State Medical Facilities Plan. Copies of the State Medical Facilities Plan may be obtained by written request to:

Health Planning Services, Room 403
New Jersey Department of Health
CN 360
Trenton, NJ 08625

(b) The Department may consider exceptions when the applicant demonstrates compliance with one or more of the following conditions:

1. Where conversion of existing bed capacity would result in higher capital or operating costs than new construction.
2. Where conversion of existing facilities would not result in a physical environment that would meet applicable Federal, State, or other standards or would preclude treatment and service delivery necessary to such standards.
3. Where conversion of existing bed capacity would result in complete discontinuance of a health care service that has been found necessary to the needs of residents of the region or State as documented by the Health Systems Plan or State Health Plan.
4. Where conversion of existing bed capacity would result in a unit of less than minimum size as required by Department regulation.

8:43E-2.13 Projected length of stay

Average length of stay (ALOS) projections based on program design should not exceed 110 percent of ALOS of Adult Open Acute Psychiatric Units within the State unless a clear rationale for

this length of stay is satisfactorily demonstrated. Factors which may be considered to affect average length of stay projections are chronicity, age or socio-economic status of the population served, or potential statistical anomalies due to small unit size.

8:43E-2.14 Treatment programs and staffing patterns

The proposed treatment program and staffing pattern must be documented within the Certificate of Need application, and must be demonstrated to meet State licensing standards.

8:43E-2.15 Physical environment

The design of the unit should, within reasonable construction cost guidelines and consistent with applicable life-safety and BOCA codes, provide the most appropriate and least restrictive clinical environment to meet treatment goals.

8:43E-2.16 Local endorsement guidelines

The applicant must document evidence of local endorsement for the project by recognized mental health planning and service delivery agencies, including State and/or county funded community mental health agencies.

8:43E-2.17 County mental health board review

The county mental health board(s) of the service area proposed to be served by the applicant shall receive a copy of the Certificate of Need for their formal action at the time of submission to the Department. A letter of endorsement from the board(s) or its administrator reflecting board action shall be considered a significant factor in assessing local need for the project.

8:43E-2.18 New Jersey Department of Human Services endorsement

Every application for Adult Open Psychiatric Beds shall be forwarded by the Department to the Department of Human Services for review and comment. The Department of Human Services review will be based upon the criteria contained within these regulations. A statement of non-endorsement by the Department of Human Services may constitute a reason for denial by the Department of Health.

APPENDIX A

ADULT OPEN ACUTE PSYCHIATRIC BED NEED METHODOLOGY

A. Formula for determining county bed need

Step 1

$$\text{Bed need at 100\% occupancy} = \frac{\text{Projected 1985 County Population}}{1000} \div 365$$

$$\text{Bed need at 85\% occupancy (Method 1)} = \text{Bed need at 100\% occupancy} \times (2-.85)$$

Step 2

$$\text{Projected Patient Days} = \frac{\text{Current Patient Days}}{1000} \times \frac{\text{1985 Projected County Population}}{1000}$$

$$\text{Bed need at 100\% occupancy} = \text{Projected Patient Days} \div 365$$

$$\text{Bed need at 85\% occupancy (Method 2)} = \text{Bed need at 100\% occupancy} \times (2-.85)$$

Step 3

$$\text{Projected Bed Need} = \frac{\text{Bed Need (Method 1)} + \text{Bed Need (Method 2)}}{2}$$

Step 4

$$\text{Total Bed Need} \leftarrow \text{Mental Health Need Modifier} = \text{Total Bed Need}$$

Step 5

$$\text{Total Bed Need} - \text{Total Bed Supply} = \text{Net Bed Need (Excess)}$$

B. Derivation of Formula Components

1. "Total Statewide Patient Days" is the sum of patient days resulting in admissions to adult open acute psychiatric units, except as noted in v. below, of the following New Jersey licensed hospitals:

- i. General Hospitals
- ii. Private Psychiatric Hospitals
- iii. County Psychiatric Hospitals
- iv. Special Hospitals
- v. Patient days resulting from psychiatric admissions (as defined by the diagnoses listed in B. 4, below), to general hospitals without licensed psychiatric beds.

2. "Statewide Use Rate" is the Total Statewide Patient Days divided by the total New Jersey population (1980 census) per 1000 residents.

3. "1985 Projected Population" is derived from the New Jersey Department of Labor official projections, utilizing the "preferred" model.

4. "Current Patient Days" are the sum, by county of facility location, except as noted in iii. below, of patient days resulting from admissions to adult open acute psychiatric beds, except as noted in v. below, in the following facilities, during the last full calendar year for which such data has been reported to the Department:

- i. General Hospitals;
- ii. Special Hospitals;
- iii. Private Psychiatric Hospital patient days assigned to county of origin,
- iv. County Hospitals;
- v. General hospitals without licensed psychiatric beds, patients with primary diagnoses under the ICD-9-CM Codes 295, 296, 297, 298 (Psychoses), and 290, 300, 301, 309, 311 (Neuroses), inclusive of sub-diagnoses.

5. The "Mental Health Need Modifier" is a factor which estimates relative need for mental health services in a given county. Source of the data upon which the factor is based is a report published in November 1982 by the N.J. Division of Mental Health and Hospitals, entitled "Regional Need-Based Planning for the New Jersey State Mental Health System". Copies of the full text may be obtained by written request to the:

N.J. Division of Mental Health and Hospitals
 Office of Program Evaluation
 Capital Place One
 222 South Warren Street
 CN 700
 Trenton, NJ 08625.

(a) The Mental Health Need Modifier is computed for each county utilizing the following methodology:

$$\frac{\text{Composite Need T-Score} - \text{Mean of Composite Need Scores, 21 Counties}}{\text{Standard Deviation, Mean Composite Need Score}} =$$

$$\text{Relative Composite Need X} \frac{\text{1985 Projected County Population}}{100,000} = \text{Mental Health Need Modifier}$$

(b) The "Composite Need T-Score" is a relative value as listed under Table 1 in the above November 1982 report, under the column heading "Composite Need Score for Community Mental Health Resources."

(c) Future applications of this methodology may incorporate revised values should they be contained in officially published updates of the above November 1982 report. Information on and copies of updates may be obtained at the above address.

- 6. "Total Bed Supply" is the sum of the following:
 - i. Licensed psychiatric beds, as determined under official license issued by the Department, designated for use as an adult open acute psychiatric inpatient service, including beds licensed but not maintained.
 - ii. Adult open acute psychiatric beds approved by the Department through a currently valid Certificate of Need but not yet in

operation.

iii. Private psychiatric hospital assigned beds, derived as follows:

$$\frac{\text{Total Private Hospital Patient Days by County (of Origin)}}{365} \times (2 - .85) = \text{Private Hospital Bed Use by County}$$

**APPENDIX B
 METHODOLOGY FOR ESTIMATING
 NEED FOR ADDITIONAL PSYCHIATRIC
 BEDS UNDER 8:43E-2.4**

a. Formula

The number of beds proposed by the applicant shall be consistent with need as determined by applying the following formula:

$$\frac{\text{(Total State and/or County Psychiatric Hospital Admissions)}}{\text{(Expected Percent of Admissions)}} \times \text{(Statewide ALOS, Adult Expected Admissions X Open Acute Psychiatric Beds)}$$

$$\text{Expected Patient Days} \div 365 = \text{Bed Need, 100\% Occupancy}$$

$$\text{x (2 - .85)} = \text{Bed Need, 85\% Occupancy}$$

b. Derivations of Formula Components

1. Total State or County Psychiatric Hospital Admissions are the total of first and readmissions to the State Psychiatric Hospital and/or County Psychiatric Hospital from the proposed service area of the applicant facility. The most recent twelve (12) month period for which data has been published by the N.J. Department of Human Services shall be utilized in application of this methodology.

2. Expected Percent of Admissions shall be that proportion of total State or County Psychiatric Hospital Admissions which, based upon the written admissions criteria and projected referral agreements contained within the Certificate of Need application, may be demonstrated to be potential patients of the proposed new adult open acute psychiatric beds. This shall be further verified by a written agreement with the State and/or County Psychiatric Hospital, containing an estimate of diverted admissions.

3. Statewide Average Length of Stay (ALOS), adult open acute psychiatric beds, shall be the mean length of stay of all licensed general hospital adult open acute psychiatric units, for the last full calendar year available to and published by the Department.

(a)

THE COMMISSIONER

Certificate of Need: Psychiatric Inpatient Beds; Inpatient Screening Bed Standards

Proposed New Rule: N.J.A.C. 8:43E-3

Authorized By: J. Richard Goldstein, M.D., Commissioner (with approval of Health Care Administration Board). Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

PROPOSALS

HEALTH

Robert Fogg, Health Planning Specialist
Department of Health
Health Planning Services
Room 403
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1983-559.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certification of need for hospital and related health care facility services. Currently, no rules exist specifically addressing inpatient psychiatric programs, although need for such criteria has been discussed in the New Jersey State Health Plan. In developing proposed rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force (a list of names of the SHCC Task Force members may be obtained at the Department of Health).

The purpose of the proposed new rules is to establish criteria for the review of Certificate of Need applications for the addition of psychiatric inpatient screening beds. The rules contain a methodology for estimating bed need on a county and Statewide basis, and establish standards and guidelines regarding planning concerns such as cost effectiveness, continuity of care, accessibility, quality, and endorsements by local and State mental health authorities.

Social Impact

N.J.S.A. 26:2H-1 et seq. (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health ... shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs...."

The New Jersey State Health Plan recognizes the underutilization of inpatient beds, specialty services, and expensive equipment as an important factor contributing to the rapidly escalating costs of health care. Regionalization of specialty services and equipment is viewed as an important mechanism for promoting health by improving the capabilities of services and quality of care offered, by improving the solvency of hospitals offering these expensive services, and by containing the rising costs of health care services.

The proposed rules are intended to address the establishment of inpatient psychiatric units in community hospitals that accept individuals under involuntary commitment status for periods of up to 72 hours. The availability, accessibility, cost, continuity, and quality of care in these units are impacted on by the rules.

The development of inpatient screening units is consistent with the 1982-84 New Jersey Behavioral Health Services Plan, which promotes the provision of inpatient psychiatric care in the least restrictive setting and within a unified system of services. Inpatient screening units are to be closely linked with all other levels of mental health services, and are intended to quickly evaluate, treat, and refer patients to the most appropriate level of care.

The proposed rules will permit the orderly development of inpatient psychiatric services for involuntarily committed patients

in the community. The Department believes this will provide a better quality of care for such persons without the social stigma typically associated with admission to a public psychiatric hospital. Those community hospitals which choose to develop inpatient psychiatric units that accept involuntary commitments will be governed by Certificate of Need review criteria contained in these proposed rules.

Economic Impact

The development of psychiatric inpatient screening beds in New Jersey hospitals first began with the 1980 opening of a unit at East Orange General Hospital where involuntarily committed patients were admitted. In 1982, a second hospital began accepting involuntary commitments, Bridgeton Hospital in Cumberland County. Four other hospitals have received Certificate of Need approval for such programs. In addition to difficult legal and programmatic issues created by these services, the Department closely reviewed the fiscal implications of inpatient screening units.

Costs of treating patients admitted on an involuntary commitment order are projected to be higher per case than that incurred for patients seeking care on a voluntary basis. Involuntary patients will require an initial evaluation in a mental health emergency/screening service and more intense staffing patterns will be necessary to assure adequate patient monitoring. Increased psychiatric time and additional mental health professional staff may be required for more frequent evaluation and treatment planning activities, also necessary generally for more severely disturbed patients, regardless of commitment status.

In 1982, approximately 2,800 persons were committed to State and county psychiatric hospitals on an acute basis who could potentially be admitted initially to a community hospital with inpatient screening beds. This number is expected to remain constant, as total State and county hospital admission rates have remained fairly stable in recent years, which followed a period of significant decrease. Experience to date with existing inpatient screening services has shown that despite their existence, approximately 25 percent of this patient population continue to go directly to public psychiatric hospitals. Based on this expected "diversion factor", 75 percent of the total 2,800 admissions, or 2,100 patients, may be admitted community hospital beds, when developed. There is a limitation of 72 hours treatment of patients under involuntary commitment status in inpatient screening beds. It is projected that 75 percent or 1,575 of the 2,100 patients will become voluntary care patients and will remain in the same hospital for 15 days of treatment. The remaining 25 percent or approximately 525 patients are expected to remain under involuntary commitment order and will then be transferred to a State or county psychiatric hospital within 72 hours. Thus, a total of approximately 25,000 patient days are expected to be generated by admissions of these patients Statewide in both adult open psychiatric units and in inpatient screening beds, if a network of such units were fully available in each county. If the 1,575 full-stay patients are billed under DRG 430, Psychoses, at an average rate (including indirect costs) of \$2,540 in 1983 dollars, total costs would be approximately \$4,000,000. At an average per diem rate of \$225.00 as "clinical outliers" under Chapter 83, the cost of treating the 525 patients staying less than three days are projected to be less than \$350,000 in 1983 dollars. Total systems costs if fully implemented in 1983 would then be less than \$4.3 million annually. The Department projects that implementation of sufficient capacity in community hospitals to absorb 75 percent of all acute involuntary commitments will not occur until 1990. Current costs of treating these individuals in the State and county hospital system is estimated to be approximately \$5 million dollars, which is borne primarily by the Department of Human Services and county governments. It is projected that 20 percent of patients will be medically indigent in inpatient screening beds.

Capital costs of establishing inpatient screening beds are not projected to be significant. Most units will be of minimal size (two

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to four beds) and all units must be contained within or contiguous to existing acute psychiatric units. The Department of Human Services has additionally obligated \$2.3 million of bond issue funds towards defraying capital costs of these projects as of December 1982.

Full text of the proposed new rule follows.

SUBCHAPTER 3. RULES GOVERNING PSYCHIATRIC INPATIENT SCREENING BEDS

8:43E-3.1 Scope

The New Jersey Department of Health currently licenses and regulates inpatient psychiatric beds as provided in licensed general and special hospitals throughout the State. These standards address the addition or establishment of licensed psychiatric beds to be classified as Inpatient Screening Beds, which are to admit only patients under involuntary commitment order under provisions of N.J.S.A. 30:4-27 et. seq.

8:43E-3.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings.

“Adult Open Acute Psychiatric Beds” means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the provision of intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have a length of stay which averages 30 days or less.

“Closed Acute Psychiatric Beds” means licensed psychiatric beds in a separate unit of a licensed New Jersey hospital which have been designated as Mental Hospital beds by the Commissioner of the Department of Human Services. Such beds are for the provision of intensive treatment and rehabilitation services for persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have an average length of stay of less than 30 days.

“Department” means the New Jersey Department of Health.

“Detainer patients” means any person under a Class E or other involuntary commitment order under N.J.S.A. 30:4-27 et. seq., who is in confinement in a correctional facility, under indictment or sentence, or otherwise under the custody of the courts or correctional system as a result of criminal offense.

“Guidelines” means those general factors to be considered in applying a given standard, or to guide decision-making in areas for which specific standards are not available or would not be appropriate.

“Inpatient Screening Beds” means licensed psychiatric beds within or contiguous to a licensed psychiatric unit of a licensed New Jersey hospital, for the provision of intensive treatment, evaluation, and stabilization of adults who are experiencing an acute episode of a psychiatric disorder. All persons admitted to the unit must be under involuntary commitment order. Maximum stay under involuntary commitment order in an inpatient screening bed is 72 hours.

“Mental Health Service Area” means a designated area of the State approved by the New Jersey Department of Human Services as a primary catchment area for community mental health service delivery.

“Mental Hospital” means a facility or portion thereof designated by the Commissioner of the New Jersey Department of Human Services for the care and treatment of individuals with mental illness on an inpatient basis admitted under provision of Title 30, N.J.S.A.

“Standards” means the specific requirements that applicants must satisfy in developing applications for Certificate of Need approval. To the extent practicable, standards address measurable characteristics that such applications must meet.

8:43E-3.3 Unit size

The minimum number of beds required for establishment of an inpatient screening service is two.

8:43E-3.4 Bed need

(a) The number of beds approved for a proposed service area, which shall be defined by county or mental health service area boundaries, shall be equivalent to the following formula:

Step No.

1. Total involuntary commitments from area, age 18 and above, excluding detainer patients

2. $\times 75$ percent (Projected proportion diverted by Screening Unit) = Potential Admissions

3. $\times 3$ day length of stay = Potential patient days

4. $\div 365$ = Bed need at 100 percent occupancy

5. $\times (2-.8)$ = Bed need at 80 percent occupancy

8:43E-3.5 State and county hospital referral agreements

A letter of intent from the State and/or county hospitals serving the service area for the proposed screening unit must be attached to the Certificate of Need application. This letter must indicate that a formal agreement will be developed assuring that patients referred from the Inpatient Screening Unit will be accepted by the State or county psychiatric hospital.

8:43E-3.6 Referral agreements with Community Mental Health Programs

The applicant should provide evidence of efforts to establish referral agreements with State and/or county funded mental health programs within the facility's service area, for the acceptance of patients referred by the Inpatient Screening Unit to community-based treatment. This should include, where available, general hospital inpatient units, psychiatric emergency services, partial care, case management, outpatient, and residential care services.

8:43E-3.7 Minimally required services

(a) The applicant facility must directly provide an Adult Open or Closed Acute Psychiatric Unit. The process and criteria for patient transfer following inpatient screening must be documented.

(b) The applicant facility must provide a comprehensive psychiatric emergency/screening program meeting requirements for Emergency Services as determined by the Division of Mental Health and Hospitals in the Rules and Regulations Governing State Aid under the Community Mental Health Services Act (N.J.S.A. 30:9A; N.J.A.C. 10:37-5.6-5.11). Evidence that the program is or will be upon initiation in compliance with these standards shall be demonstrated within the Certificate of Need application. Copies of the above regulations may be secured by writing:

Bureau of Standards and Inspections
Division of Mental Health and Hospitals
Capitol Place One
222 South Warren Street
Trenton, NJ 08625

8:43E-3.8 Mental Hospital designation

The applicant facility shall attach a letter indicating that it has requested designation by the Commissioner of the Department of Human Services as a Mental Hospital under authority of Title 30, N.J.S.A., for acceptance of persons referred under involuntary commitment status. Final issuance of the license for inpatient screening beds by the Commissioner of Health is contingent upon the hospital's receipt of this designation.

8:43E-3.9 Acceptance and treatment of patients under involuntary commitment order

(a) The applicant facility must provide assurance that it will review all patients requiring psychiatric hospitalization under involuntary

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commitment status from its proposed service area, subject to bed availability and within its admissions criteria.

(b) Evidence that referral arrangements with municipal courts, police departments and local rescue squads, as well as with area hospitals, community mental health centers, and private psychiatrists will be developed must be attached to the application.

(c) A written admissions criteria must be attached to the application outlining diagnostic, behavioral, or legal characteristics or factors of patients which are both acceptable as well as unacceptable for admission to the unit.

(d) Patients admitted to psychiatric inpatient screening beds may remain a maximum of 72 hours under involuntary commitment order. Patients requiring continued treatment under involuntary status must be transferred to a closed psychiatric unit.

8:43E-3.10 Accessibility assurances

(a) Admission of individuals determined upon emergency room evaluation to have a primary diagnosis of substance abuse, and need only to be detoxified, shall not be accepted for treatment in the psychiatric screening unit.

(b) Individuals previously hospitalized in either a State or county facility shall not be denied admission to the unit solely because of such previous hospitalization.

(c) Individuals shall not be denied treatment due to their inability to pay.

8:43E-3.11 Bed conversion

Facilities seeking approval of new or additional psychiatric inpatient screening beds shall convert existing licensed psychiatric beds to this purpose where the occupancy rate for the last four quarters reported to the Department is below 80 percent for units of 20 beds or more, and 75 percent for units under 20 beds.

8:43E-3.12 Standards on regionalization

Psychiatric Inpatient Screening units shall be designated by the Department of Human Services to serve one or more mental health service areas. Only one designated facility may be approved per mental health service area, unless it is demonstrated that the existing designated facility cannot expand to meet need.

8:43E-3.13 Additions of beds to existing psychiatric inpatient screening units

Facilities with existing psychiatric inpatient screening beds shall be permitted to increase bed capacity when it can demonstrate compliance with bed need as determined by N.J.A.C. 8:43E-3.4.

8:43E-3.14 Appropriateness of cost

The applicant must demonstrate that the proposed program design and staffing pattern will permit charges for direct patient care costs to be within an acceptable range of Statewide average charges of existing psychiatric inpatient screening units as determined by the Department.

8:43E-3.15 Treatment program and staffing patterns

The treatment program and the staffing pattern for the psychiatric inpatient screening service must be documented within the Certificate of Need application, and it must be demonstrated that it will meet applicable State licensure standards. The applicant must also describe the impact of transfers from the the inpatient screening service on its existing inpatient psychiatric treatment programs.

8:43E-3.16 Physical configuration

Inpatient psychiatric screening units must be contained within or contiguous to an adult open or closed acute psychiatric unit. The physical design must be demonstrated to provide a capacity to segregate and secure the area, and the method of providing staff supervision of psychiatric screening patients must be described.

8:43E-3.17 Local endorsements

(a) The county mental health board(s) of the service area(s) proposed to be served by the applicant shall have received a copy of the Certificate of Need for their formal action at the time of submission to the State Department of Health. A letter of endorsement from the board(s) or its administrator reflecting board action shall be considered a significant factor in assessing local need for the project.

(b) The submission of endorsement letters from State and/or county funded community mental health agencies of the service area(s) proposed to be served by the applicant shall be considered a significant factor in assessing local need for the project.

8:43E-3.18 New Jersey Department of Human Services endorsement

Every application for psychiatric inpatient screening beds shall be forwarded by the Department to the New Jersey Department of Human Services for review and comment. The Division of Mental Health and Hospitals must certify that the proposed unit is acceptable for designation as a Mental Hospital under the provisions of Title 30, N.J.S.A.

(a)

THE COMMISSIONER

Certificate of Need: Psychiatric Inpatient Beds; Childrens Acute Psychiatric Bed Standards

Proposed New Rule: N.J.A.C. 8:43E-4

Authorized By: J. Richard Goldstein, M.D., Commissioner
(with approval of Health Care Administration Board).
Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert Fogg, Health Planning Specialist
Department of Health
Health Planning Services
Room 403
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1983-557.

The agency proposal follows:

Summary

The Department of Health is responsible for establishing rules governing the planning and certification of need for hospital and related health care facility services. Currently, no rules exist specifically addressing inpatient psychiatric programs, although need for such criteria has been discussed in the New Jersey State Health Plan. In developing proposed rules, the Commissioner obtained the recommendations of the Statewide Health Coordinating Council (SHCC) and its special advisory committee, the SHCC Psychiatric Bed Task Force, as well as the Department of Human Services, Division of Mental Health and Hospitals.

The purpose of the proposed new rules is to provide the Department and the SHCC an opportunity to further review the

future need for additional children's acute inpatient psychiatric beds in New Jersey. The rules will establish a moratorium on new children's acute psychiatric units but will permit existing units to expand, where the need for such expansion has been clearly established. These are interim rules which will be revised in 18 months pending development of an effective bed need methodology. The Department will continue to collect further relevant Statewide data and review national trends and research on children's acute psychiatric inpatient units. The recommendations of the SHCC and the Department of Human Services will be obtained at that time in proposing the new rules regarding applications for children's acute psychiatric beds.

Social Impact

N.J.S.A. 26:2H-1 et seq. (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs. . . ."

The delivery of inpatient psychiatric care to children has historically been centered in State and county psychiatric hospitals, but has increasingly been provided in community settings. Child and adolescent units at New Jersey's State psychiatric hospitals were reorganized by the Department of Human Services beginning in 1980. At the same time, the Division of Mental Health and Hospitals began a process of developing a Statewide network of community-based mental health services for this special target population. As of January 1983, all counties in New Jersey have in existence or under development a designated Children's Crisis Intervention Service, established to handle both emergency and inpatient treatment of children experiencing acute episodes of a psychiatric disorder.

The Department of Health and the SHCC have recently assessed the current availability of psychiatric beds for children and adolescents in New Jersey. Approximately 390 inpatient beds Statewide in all types of facilities and settings are designated or utilized for individuals aged 18 and below. Approximately 170 of these beds are State or county hospital sub-acute services, while about 220 beds are located in community hospitals. Five new regional acute children's services have been established since 1981. These facilities account for approximately 3,400 admissions annually, not including projected admissions to units still under construction. The data also includes an unknown number of duplicated-count admissions resulting from transfers from one institution to another. In determining whether the Statewide inventory of children's psychiatric beds was adequate, the Department and the SHCC reviewed methodologies currently in use nationally. Use rates by age group for children's inpatient psychiatric care were projected by the National Institute of Mental Health in a study published in 1981, utilizing 1975 data. Application of these rates to New Jersey's 1980 census data yielded a children's acute psychiatric bed need of only 130 beds Statewide, while the existing inventory is 220. The national use rate survey was updated in 1980. Although the results of this re-survey have not as yet been reported, this new information will be a valuable resource to the Department of Health in developing an appropriate bed need methodology.

A significant number of designated children's acute psychiatric beds are either recently opened or remain under construction. Without this significant new utilization data, the Department is unable at this time to assess what the impact of this new capacity will be on system wide need. Projection of future bed need is not relevant without a measure of current resource utilization.

The State Health Plan and the New Jersey Behavioral Health Services Plan both call for the continued development of community-based mental health services for children and adolescents in the least restrictive setting. Significant growth in partial hospitalization, outpatient, and residential care mental health services for children has occurred since 1980, strongly promoted by the Department of Human Services. The expansion of this system is viewed as an appropriate and cost effective public policy by the Department of Health.

In summary, these rules have been proposed based upon four major considerations: (1) the lack of current utilization data; (2) recent expansion acute children's inpatient resources; (3) pending release of national use rate information; and (4) the continuing growth of alternative cost-effective community resources. The Department and the SHCC believe the existing and approved children's acute inpatient services in New Jersey will continue to provide an appropriate level of care during the interim period these rules are in effect.

Economic Impact

Implementation of the rules will not result in the addition of new costs to the health care system. Without any regulation of the growth of this system, the Department believes that significant costs would potentially be generated. Children's acute psychiatric inpatient units are programs with high operational costs. The staffing patterns must be very intensive, and specialized and highly-trained professionals are necessary. A large physical plant area is required to support the provision of ancillary therapies, affecting both capital and operating costs. Average length of stay on children's acute psychiatric units has been found to be two to three times longer than on adult psychiatric units. The rules will contain the rise in health care costs in New Jersey by prohibiting the establishment of potentially duplicative or unnecessary resources, while a more thorough analysis of future need is conducted.

Full text of the proposed new rule follows.

SUBCHAPTER 4. RULES GOVERNING PSYCHIATRIC INPATIENT CHILDRENS ACUTE BEDS

8:43E-4.1 Scope

The New Jersey Department of Health currently licenses and regulates inpatient psychiatric beds as provided in licensed general and special hospitals throughout the State. These rules address the acceptance for consideration by the Department of Certificate of Need applications for establishment of new children's acute psychiatric beds.

8:43E-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings.

"Adult Open Acute Psychiatric Beds" means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the provision of intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have a length of stay which averages 30 days or less.

"Children's Acute Psychiatric Beds" means any separate unit or facility, or sub-unit of an existing licensed psychiatric unit or facility, established for the provision of intensive treatment and rehabilitation of individuals age 18 and under, who are experiencing an acute episode of a psychiatric disorder.

"Department" means the New Jersey Department of Health.

8:43-4.3 New units or facilities

(a) Certificate of Need applications for establishment of new Children's Acute Psychiatric Units or hospitals will not be accepted for processing by the Department.

(b) The Department may consider exceptions to (a) above in the following types of bed addition proposals:

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1. From facilities with an existing Children's Acute Psychiatric Unit where the occupancy rate has exceeded 85 percent for a period of not less than 12 months. If the application is accepted for review, the applicant shall document how the proposed new capacity will permit occupancy rates to be maintained at a minimum of 75 percent on an annual basis.

2. Additions of beds to an existing Adult Open Acute Psychiatric Unit for the purpose of serving adolescents ages 16 to 21. In no case may such bed additions be expected to have the effect of permitting more than 15 percent of the unit's average daily census to be individuals aged 16 to 21. Such bed additions will be licensed as Adult Open Acute Psychiatric Beds and must be reviewed under provisions of N.J.A.C. 8:43E-2.

8:43E-4.4 Regulation review

This regulation will be reviewed and evaluated within 18 months of its adoption by the Statewide Health Coordinating Council and its psychiatric bed advisory committee.

HUMAN SERVICES

(a)

COMMISSIONER

Administrative Hearings and Administrative Reviews

Proposed New Rule: N.J.A.C. 10:6

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:1-12, 52:14B-12.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Office of Intergovernmental Relations
Department of Human Services
CN 700
Trenton, NJ 08625

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

This proposal is known as PRN 1983-540.

The agency proposal follows:

Summary

The various divisions within the Department of Human Services (DHS) have policies and procedures regarding Administrative Hearings and Administrative Reviews. This chapter provides public information regarding the minimum standards applicable to all DHS hearings. The Department and its divisions retain the option of adopting policies and procedures regarding Administrative Reviews which supplement but are not inconsistent with these minimum standards.

The Office of Administrative Law has the exclusive authority for developing procedural rules for the conduct of Administrative Hearings. The individual State Agencies have the exclusive authority for developing procedures for the conduct of Administrative Reviews. All DHS cases are classified as either contested or non-contested. All contested cases must be conducted

in accord with OAL procedural rules for the conduct of Administrative Hearings. With regard to non-contested cases, the agency has the authority (1) to conduct an Administrative Review, (2) to send individual non-contested cases to the OAL for handling as Administrative Hearings as long as there is a genuine dispute of fact, or (3) to dismiss the matter with no Administrative Hearing or Administrative Review being conducted. (see generally N.J.S.A. 52:14B and 14F; N.J.A.C. 1:1-1.1 et seq.).

Social Impact

This chapter specifies and thus clarifies the minimum standards applicable to all DHS hearings. The specificity and clarification with regard to the Administrative Review Process is most important since heretofore the process has not been officially set forth as a Department rule or regulation.

The rule will be of benefit to all Department applicants, recipients and providers and as such the social impact will be most positive.

Economic Impact

This chapter will have no negative economic impact on Department applicants, recipients or providers, nor on any other members of the public at large. Its economic impact can only be considered to be positive.

Full text of the proposed new rule follows.

**CHAPTER 6
ADMINISTRATIVE HEARINGS AND
ADMINISTRATIVE REVIEWS**

SUBCHAPTER 1. ADMINISTRATIVE HEARINGS

10:6-1.1 Administrative Hearings: Contested cases

All matters which are determined by the Division Director (i.e., Agency Head) to constitute a contested case (as defined by N.J.A.C. 1:1-1) shall be transmitted to the Office of Administrative Law for handling as an Administrative Hearing in accord with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.) subject to any superceding Federal or State law.

10:6-1.2 Administrative Hearings: Non-Contested Cases

Matters which are determined by the Division Director to be non-contested cases (as defined by N.J.A.C. 1:1-1) may be transmitted to the Office of Administrative Law at the discretion of the Division Director for handling as an Administrative Hearing, as long as there is a genuine dispute of fact and in accord with N.J.S.A. 52:14F-5(o).

SUBCHAPTER 2. ADMINISTRATIVE REVIEWS

10:6-2.1 Non-contested matters handled at Director's discretion

(a) There is no right to an Administrative Review of a non-contested matter. Claimant (i.e., applicant/recipient) and non-claimant (i.e., provider) disputed matters are only entitled to Administrative Reviews at the discretion of the Division Director and to the extent that such is consistent with Federal and State law.

(b) Matters which are determined by the Division Director to be non-contested and which are not transmitted to the Office of Administrative Law for handling as an Administrative Hearing (see N.J.A.C. 10:6-1.2) may at the discretion of the Division Director be:

- 1. Retained for agency handling as an Administrative Review; or
- 2. Dismissed by the Agency with no Administrative Review.

10:6-2.2 Conduct of Administrative Reviews of non-contested matters

(a) Administrative Reviews of non-contested matters shall be conducted in accord with the following general process:

1. Consistent with N.J.A.C. 10:6-2.1, claimants and non-claimants who are not satisfied with the results of attempts to settle or resolve a dispute, shall be informed that they may request a divisional level Administrative Review of the disputed matter by completing and submitting an "Administrative Review Request Form" and all relevant attachments, to the Division Director or his designee. .

2. All disputed matters shall be carefully reviewed and every attempt shall be made to reasonably settle or resolve the dispute. Each Division may develop its own settlement procedures, but all procedures must ensure an expeditious treatment of the matter.

3. The Division Director shall then determine whether the disputed matter is appropriate for an Administrative Hearing (see N.J.A.C. 10:6-1.2), an Administrative Review (see N.J.A.C. 10:6-2.1), or neither (see N.J.A.C. 10:6-2.1). Notice shall be prepared and sent advising as to this determination and the reason therefore.

4. Where an Administrative Review is determined appropriate, the Division Director or his designee shall assign an appropriate agency employee to conduct the Administrative Review and transmit the case file to the employee. This employee and his immediate supervisor shall have had no direct part in the decision-making regarding the disputed matter.

5. Upon transmitting the matter for Administrative Review the Division Director shall advise the Administrative Review assignee as to the status of the disputed matter pending the issuance of the Final Decision (i.e., continuance or discontinuance of services, benefits, funding, etc.).

6. The Administrative Review shall be an informal proceeding at the discretion of the Administrative Review assignee subject to the following procedural requirements:

i. The Administrative Review shall be conducted within 30 working days of the transmittal of the matter to the Administrative Review assignee.

ii. The Administrative Review assignee shall give the person seeking review at least five working days notice of the time and place of the Administrative Review;

iii. At the Administrative Review the following shall be provided:

1. The opportunity to be present, to present and rebut positions taken by the agency, and to submit relevant documents;
2. The opportunity for representation by an attorney or any other person (i.e., a friend, neighbor, etc.); and
3. The opportunity to meet face-to-face with and question the reviewer and the agency staff member(s) involved in the disputed matter.

10:6-2.3 Completion of Administrative Reviews; Recommended Decisions and Final Decisions

(a) At the completion of an Administrative Review, the following shall occur with appropriate notice to the person seeking review:

1. The Administrative Review assignee shall write and send to the parties a Recommended Decision within 25 working days of the date of Administrative Review;

2. Written comments, objectives or exceptions to the Recommended Decision, if any, shall be submitted to and received by the Division Director's office within 10 working days from the date of the Recommended Decision.

3. The Division Director shall issue a Final Decision in writing after careful review of the Recommended Decision and any comments, objections or exceptions that may have been submitted in response to it;

4. Upon issuance the Final Decision shall be sent to the parties with notice that any further appeal must be to the Appellate Division of the Superior Court of New Jersey.

10:6-2.4 Administrative Reviews: additional divisional policy and procedure

The Division shall have the option of adopting policy and procedures regarding Administrative Reviews which supplement, but are not inconsistent with, N.J.A.C. 10:6-2.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual, Home Health Services Manual, and Independent Clinic Manual Personal Care Services

Proposed Amendments: N.J.A.C. 10:49-1.3, 1.4; 10:60-1.1, 1.2, 1.3, 2.1, and 2.4; 10:66-1.5, 1.6, and 3.3

Proposed New Rules: N.J.A.C. 10:60-2 and 10:60-3.4

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6b(16), 7 and 7b and 42 CFR 440.170(f).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
324 East State Street
CN 712
Trenton, NJ 08625

Any comments submitted are available for public review at the above address. Copies of the proposed changes are available for public review in each Medicaid District Office, and at the respective 21 county welfare agencies.

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

This proposal is known as PRN 1983-548.

The agency proposal follows:

Summary

This proposal concerns personal care services in a Medicaid patient's home, i.e., residence in the community. The purpose of personal care services is to accommodate patients with long-term chronic or maintenance health care, as opposed to short-term skilled care for an acute illness.

Personal care services are a new service being offered by the Medicaid program, and are authorized pursuant to Federal regulations (42 CFR 440.170(f)) which contain the following requirements:

1. The services must be prescribed by a physician;
 2. The individual rendering the service must be qualified and cannot be a member of the patient's family;
 3. There must be supervision by a registered nurse.
- As defined in the proposal below, personal care assistant services

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are health related tasks performed by a qualified individual in a Medicaid patient's home. The type of services, or duties, have been placed in three categories designated Group A, B, and C respectively. (The duties of each group are listed in the text of the proposal). Duties in groups A and B may be performed by personal care assistants who have successfully completed a minimum 40-hour training program approved by the New Jersey Medicaid Program. The duties in group C may be performed only by those individuals who have successfully completed an additional 20-hour training program and has received certification by the New Jersey Department of Health.

Except for an initial assessment visit, personal care services must be prior authorized for a period not to exceed six months.

Each personal care provider employing personal care assistants must be individually approved by the New Jersey Medicaid Program before said provider will be reimbursed for services rendered to eligible Medicaid patients.

Social Impact

This proposal should have a positive impact on both Medicaid patients and providers. Additional medically-related services will be available to Medicaid patients in a community setting. Approved providers of personal care services will be reimbursed for rendering these services.

Economic Impact

It is anticipated that the cost of personal care services to the Medicaid Program will be approximately 3.3 million dollars (federal-state share combined).

Approved personal care providers will be reimbursed up to \$7.00 per hour for personal care assistant services furnished to Medicaid patients. Personal care assistant services are limited to a maximum of 20 hours per week.

An initial nursing assessment visit may be billed up to \$25.00.

There is no cost to the Medicaid patient.

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

10:49-1.3 Eligible Providers

- (a) (No change.)
- (b) Providers eligible to participate in the New Jersey Medicaid Program are:

1.-20. (No change.)

21. Voluntary nonprofit homemaker/home health aide agencies.

22. State and County agencies which have agreed to provide specific services.

(c) (No change.)

10:49-1.4 Authorized services for covered persons

(a) The items and services provided to covered persons will not normally be limited in duration or amount. Any limitation imposed will be consistent with the medical necessity of the patient's condition, as determined by the attending physician or other practitioner, in accordance with standards generally recognized by health professionals and promulgated through the New Jersey Medicaid Program. The following items and services, more specifically defined in subsequent sections of the provider manual, are authorized under the program:

1.-18. (No change.)

19. Personal care assistant services are health related tasks performed by a qualified individual in a recipient's home, under the supervision of a registered professional nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the State Agency. The purpose of personal care is to accommodate long-term chronic or maintenance health care, as opposed to short-term skilled care required for some acute illnesses. Personal care assistant

services will receive Medicaid reimbursement when provided to Medicaid eligible recipients in their places of residence, such as a private home, rooming house, boarding house, but not in a residential health care facility, Class C boarding home, hospital, skilled nursing facility or intermediate care facility. Also excluded from this service are Division of Mental Retardation family care homes and Division of Youth and Family Services foster care homes. Personal care assistant services provided by a family member are not covered services.

i. In order to provide a statewide Personal Care Assistant Program, the New Jersey Medicaid Program will recognize, upon approval, the following agencies as personal care providers:

- (1) Certified licensed home health agencies;**
- (2) Voluntary nonprofit homemaker/home health aide agencies;**
- (3) County welfare agencies employing homemaker staff;**
- (4) Independent clinics under contract to the Department of Human Services Division of Mental Health and Hospitals;**
- (5) Other State agencies providing personal care services, such as the Division of Mental Retardation and the Division of Youth and Family Services.**

10:60-1.1 Scope

(a) Home Health agencies must provide nursing services and homemaker-home health aide services. Certain medical supplies must be provided by the agency. Medical equipment and appliances must be arranged for by the agency. Additional services may include physical therapy, occupational therapy, speech-language pathology, medical social services, **personal care assistant services** and other health care related services.

1. (No change.)

i. (No change.)

2. Medicaid reimbursement is available for personal care assistant services when provided to Medicaid eligible recipients in their places of residence, such as a private home, rooming house, boarding house, but not in a residential health care facility, Class C boarding home, hospital, skilled nursing facility or intermediate care facility. Also excluded from this service are Division of Mental Retardation family care homes and Division of Youth and Family Services foster care homes.

(b) (No change.)

(c) The provision of home health services can range from a complex concentrated professional program (for acute care cases) which could require the services of a public health nurse, registered professional nurse, a licensed practical nurse, physical therapist, occupational therapist, speech-language pathologist, social worker, and homemaker-home health aide to a less complicated program (as in chronic care cases) involving a homemaker-home health aide, **personal care assistant** and/or therapist and minimal visits by a registered nurse. The mixture of services provided and the duration of these services are determined by the needs of each patient.

10:60-1.2 Definitions

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

“Participating home health agency” means a public or private agency or organization, either proprietary or non-profit, or a subdivision of such an agency or organization, which qualifies as follows:

1.-3. (No change.)

“Personal care assistant” means a person who has successfully completed a minimum 40 hour training program in personal care services approved by the New Jersey Medicaid Program. The individual is assigned and supervised by a registered professional nurse of a Medicaid approved personal care provider agency. An individual who has successfully completed

an additional 20 hour training program and has received certification by the State Department of Health may perform additional duties as outlined in the service definition, section 10:60-1.3(d)3i.

10:60-1.3 Covered Home Health Services

(a) Home health agency services covered by the New Jersey Medicaid Program are limited to those services provided directly by a home health agency approved to participate in the New Jersey Medicaid Program or through written contractual arrangements by that agency with other individuals or agencies.

(b) (No change.)

(c) [The type of home health agency services covered] **Covered home health agency services** include professional nursing by a public health nurse, registered professional nurse, or licensed practical nurse; homemaker-home health aide services [;], **personal care assistant services**; physical therapy, occupational therapy, speech-language pathology, nutritional services, and medical social services; and certain medical supplies.

(d) The service must be directed toward rehabilitation and/or restoration of the patient to the optimal level of physical and/or mental functioning, self-care and independence, or directed toward maintaining the present level of functioning and preventing further deterioration, or directed toward providing supportive care in declining health situations.

1.-2. (No change.)

Re-number current 3.-6. as 4.-7. (No change in text.)

3. Personal care assistant services are performed by qualified individuals under the supervision of a registered professional nurse as certified by a physician in accordance with a written plan of care and prior authorized by the Medicaid Program. Prior authorization will be based on strict measures of functional impairment and disability. The purpose of personal care assistant services is to accommodate long-term chronic or maintenance health care, as opposed to short-term skilled care required for some acute illnesses. Personal care assistant services provided by family members are not covered services. Personal care assistant services shall be authorized only in instances where a family support system or other informal giver care is unavailable, inaccessible or inappropriate.

i. Description of Performances

DUTIES - GROUP A

Personal care assistant services include but are not limited to performance of household duties that are essential to the patient's health and comfort;

Care of the patient's room and areas used by the patient;

Sweeping, vacuuming, dusting;

Care of kitchen; maintaining general cleanliness of refrigerator, stove, sink and floor, dishwashing; Care of bathroom; maintaining cleanliness of toilet, tub, shower and floor;

Care of patient's personal laundry and bed linen (this may include necessary ironing and mending);

Necessary bed-making and changing of bed linens;

Re-arranging of furniture to enable the patient to move about more easily in his/her home;

Listing food and household supplies needed for the health and maintenance of the patient;

Shopping for above supplies, conveniently storing and arranging supplies, and doing other essential errands;

Planning, preparing and serving meals;

Reading and writing for the patient, paying bills.

DUTIES - GROUP B

Personal care assistant services include but are not limited to assistance with activities of daily living:

Care of the teeth and mouth;

Grooming-Care of hair, including shampooing, shaving, and the ordinary care of nails;

Bathing in bed, in the tub or shower;

Using the toilet or bed pan;

Changing bed linens with patient in bed;

Ambulation indoors and outdoors, when appropriate;

Helping patients in moving from bed to chair or wheelchair, in and out of tub and shower;

Eating; preparing meals, including special therapeutic diets for the patient;

Dressing;

Relearning household skills;

Accompanying the patient to clinics, physician office visits, or other trips which are made for the purpose of obtaining medical diagnosis, treatment or otherwise serve a therapeutic purpose;

ADDITIONAL DUTIES - GROUP C may be performed by a personal care assistant who has successfully completed a 60 hour certification training course approved by the Department of Health.

Helping and monitoring patient with prescribed exercises which the patient and personal care assistant have been taught by appropriate personnel;

Rubbing patient's back if not contra-indicated by physician;

Assisting with medications that can be self-administered;

Assisting patient with use of special equipment such as walker, braces, crutches, wheelchair, etc. after thorough demonstration by a registered professional nurse or physical therapist, with return demonstration until registered professional nurse or physical therapist is satisfied that patient can use equipment safely;

Assisting patient with simple procedures as an extension of physical, speech, or occupational therapy;

Taking oral and rectal temperature, radial pulse and respiration.

ii. The registered professional nurse, in accordance with the physician's plan of care prepares written instructions for the personal care assistant to include the amount and kind of supervision needed, the specific needs of the patient and the resources of the patient, the family and other interested persons. Supervision of the personal care assistant shall be provided by a registered nurse at a minimum of one visit every 60 days to assess the patient's health condition, as well as the quality of personal care assistant services received.

iii. Personal care assistant services are limited to a maximum of 20 hours per week at a reimbursement rate up to \$7.00 per hour.

iv. Up to \$25.00 may be billed for an initial nursing assessment visit. The above rates are all-inclusive rates for personal care assistant services and the initial nursing visit. Therefore, no direct or indirect cost over and above these established rates will be considered for reimbursement. The costs related to personal care assistant services must be excluded from Medicaid cost reporting.

Re-number current Subchapter 2. Authorization and Billing Procedures as **Subchapter 3.** with no change in text. Re-number only heading.

**SUBCHAPTER 2. VOLUNTARY NONPROFIT
HOMEMAKER/HOME HEALTH
AIDE**

10:60-2.1 Voluntary Nonprofit Homemaker/Home Health Aide Agencies

(a) Voluntary nonprofit homemaker/health aide agencies will be approved by the New Jersey Medicaid Program to provide personal care assistant services only.

1. Medicaid reimbursement is available for personal care assistant services when provided to Medicaid eligible recipients

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in their places of residence, such as a private home, rooming house, boarding house, but not in a residential health care facility, class C boarding home, hospital, skilled nursing facility or intermediate care facility. Also excluded from this service are Division of Mental Retardation family care homes and Division of Youth and Family Services foster care homes.

2. Each voluntary nonprofit homemaker/home health aide provider must be individually approved by the Department of Human Services, Division of Medical Assistance and Health Services before it will be reimbursed for services rendered to Medicaid eligible recipients.

3. Personal care assistant services are health related tasks performed by a qualified individual in a person's home, under the supervision of a registered professional nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the New Jersey Medicaid Program. Prior authorization will be based on strict measures of functional impairment and disability. The purpose of personal care is to accommodate long-term chronic or maintenance health care, as opposed to short-term skilled care required for some acute illnesses.

4. Each personal care assistant must successfully complete a minimum 40 hour training program approved by the New Jersey Medicaid Program. An individual who has successfully completed an additional 20 hour training program and has received certification by the State Department of Health may perform additional duties as outlined in the services definition, group C of this section. Personal care services provided by a family member are not covered services. Personal care assistant services should be authorized only in instances where a family support system or other informal giver care is unavailable, inaccessible or inappropriate.

i. Description of performance

DUTIES - GROUP A

Personal care assistant services include but are not limited to performance of household duties that are essential to the patient's health and comfort:

- Care of the patient's room and areas used by the patient;
- Sweeping, vacuuming, dusting;
- Care of kitchen; maintaining general cleanliness of refrigerator, stove, sink and floor, dishwashing;
- Care of bathroom; maintaining cleanliness of toilet, tub, shower and floor;
- Care of patient's personal laundry and bed linen (this may include necessary ironing and mending);
- Necessary bed-making and changing of bed linens;
- Re-arranging of furniture to enable the patient to move about more easily in his/her home;
- Listing food and household supplies needed for the health and maintenance of the patient;
- Shopping for above supplies, conveniently storing and arranging supplies, and doing other essential errands;
- Planning, preparing and serving meals;
- Reading and writing for the patient, paying bills.

DUTIES - GROUP B

Personal care services include but are not limited to assistance with activities of daily living:

- Care of the teeth and mouth;
- Grooming-Care of hair, including shampooing, shaving, and the ordinary care of nails;
- Bathing in bed, in the tub or shower;
- Using the toilet or bed pan;
- Changing bed linens with patient in bed;
- Ambulation indoors and outdoors; when appropriate;
- Helping patients in moving from bed to chair or wheelchair, in and out of tub and shower;
- Eating; preparing meals, including special therapeutic

diets for the patient;

Dressing;

Relearning household skills;

Accompanying the patient to clinics, physician office visits, or other trips which are made for the purpose of obtaining medical diagnosis, treatment or otherwise serve a therapeutic purpose;

ADDITIONAL DUTIES - GROUP C may be performed by a personal care assistant who has completed a 60 hour certification training course approved by the Department of Health.

Helping and monitoring patient with prescribed exercises which the patient and personal care assistant have been taught by appropriate personnel;

Rubbing patient's back if not contra-indicated by physician;

Assisting with medications that can be self-administered;

Assisting patient with use of special equipment such as walker, braces, crutches, wheelchair, etc. after thorough demonstration by a registered professional nurse or physical therapist, with return demonstration until registered professional nurse or physical therapist is satisfied that patient can use equipment safely;

Assisting patient with simple procedures as an extension of physical, speech, or occupational therapy;

Taking oral and rectal temperature, radial pulse and respiration.

(1) Prior authorization is required for all visits except for the initial evaluation visit.

(2) Personal care assistant services are limited to a maximum of 20 hours per week at a reimbursement rate up to \$7.00 per hour. Up to \$25.00 may be billed for an initial nursing evaluation visit. These are all inclusive rates for personal care assistant services and the initial nursing assessment visit. No direct or indirect cost over and above these established rates will be considered for reimbursement.

Renumber 10:60-3.4, "Submitting corrected bills", as 10:60-3.5.

Renumber 10:60-3.5, "Assessment of interest on overpayments", as 10:60-3.6. with no change in text. Renumber heading only.

10:60-3.4 Completing the Independent Outpatient Health Facility Form (MC-14) for Personal Care Assistant Services.

(a) The Independent Outpatient Health Facility Form (MC-14) must be used by the Home Health and Homemaker/Home Health Aide Agency to bill for personal care assistant services and the initial nursing evaluation visit under the personal care program.

(b) The Outpatient Health Facility Claim Form (MC-14) must be received by the contractor no later than 90 days after the last day the services were rendered and no later than 12 months from the earliest date of service on the claim form.

10:66-1.5 Prior Authorization

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

(c) Prior authorization for services rendered by independent clinics is required as follows:

1.-5. (No change.)

6. Personal Care Assistant services: The maximum period for authorization is six months. For services beyond six months, reauthorization will be required.

10:66-1.6 Scope of services

(a) Licensed and approved independent clinics may, to the extent of their specialty, license and/or approved New Jersey Medicaid Program Provider Agreement, provide the following services when medically necessary. Procedure codes descriptions, and maximum

allowance, which correspond to allowable services, are listed in N.J.A.C. 10:66-3.3.

(b)-(m) (No change.)

(n) Other services rules are as follows:

1.-4. (No change.)

5. Personal care assistant services are health related tasks performed by a qualified individual in a recipient's home under the supervision of a registered professional nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the Division of Mental Health and Hospitals. Prior authorization will be based on strict measures of functional impairment and disability. The purpose of personal care is to accommodate long-term chronic or maintenance health care, as opposed to short-term skilled care required for some acute illnesses.

i. Each personal care provider employing personal care assistants must be individually approved by the New Jersey Medicaid Program before it will be reimbursed for services rendered to Medicaid eligible recipients. The Division of Medical Assistance and Health Services will recognize upon approval, independent clinics under contract to the Division of Mental Health and Hospitals.

ii. Each personal care assistant must successfully complete a minimum 40 hour training program approved by the New Jersey Medicaid Program. An individual who has successfully completed an additional 20 hour training program and has received certification by the State Department of Health may perform additional duties as outlined in the service definition, section 10:66-3(a)14.

iii. Personal care assistant services provided by a family member are not covered services.

iv. Personal care assistant services shall be authorized only in instances where a family support system or other informal care giver is unavailable, inaccessible or inappropriate.

10:66-3.3 Procedure Code Listing

(a) (No change.)

1.-14. (No change.)

15. Personal care assistant services:

DUTIES - GROUP A

Personal care assistant services include but are not limited to performance of household duties that are essential to the patient's health and comfort:

- Care of the patient's room and areas used by the patient;
 - Sweeping, vacuuming, dusting;
- Care of kitchen; maintaining general cleanliness of refrigerator, stove, sink and floor, dishwashing;
- Care of bathroom; maintaining cleanliness of toilet, tub, shower and floor;
- Care of patient's personal laundry and bed linen (this may include necessary ironing and mending);
 - Necessary bed-making and changing of bed linens;
 - Re-arranging of furniture to enable the patient to move about more easily in his/her home;
 - Listing food and household supplies needed for the health and maintenance of the patient;
 - Shopping for above supplies, conveniently storing and arranging supplies, and doing other essential errands;
 - Planning, preparing and serving meals;
 - Reading and writing for the patient, paying bills.

DUTIES - GROUP B

Personal care assistant services include but are not limited to assistance with activities of daily living:

- Care of the teeth and mouth;
- Grooming-Care of hair, including shampooing, shaving, and the ordinary care of nails;
- Bathing in bed, in the tub or shower;
- Using the toilet or bed pan;

- Changing bed linens with patient in bed;
- Ambulation indoors and outdoors; when appropriate;
- Helping patients in moving from bed to chair or wheelchair, in and out of tub and shower;
- Eating; preparing meals, including special therapeutic diets for the patient;
- Dressing;
- Relearning household skills;

Accompanying the patient to clinics, physician office visits, or other trips which are made for the purpose of obtaining medical diagnosis, treatment or otherwise serve a therapeutic purpose;

ADDITIONAL DUTIES - GROUP C may be performed by a personal care assistant who has successfully completed a 60 hour certification training course approved by the Department of Health.

Helping and monitoring patient with prescribed exercises which the patient and personal care assistant have been taught by appropriate personnel;

- Rubbing patient's back if not contra-indicated by physician;
- Assisting with medications that can be self-administered;
- Assisting patient with use of special equipment such as walker, braces, crutches, wheelchair, etc. after thorough demonstration by a registered professional nurse or physical therapist, with return demonstration until registered professional nurse or physical therapist is satisfied that patient can use equipment safely;

Assisting patient with simple procedures as an extension of physical, speech, or occupational therapy;

Taking oral and rectal temperature, radial pulse and respiration.

Code Number up to \$7.00 per hour limited to a maximum of 20 hours per week. Code number up to \$25.00 may be billed for an initial nursing assessment visit. These are all-inclusive rates for personal care assistant services and initial nursing assessment visit. No direct or indirect cost over and above these established rates will be considered for reimbursement.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Physician's Services Procedure Code Manual

Proposed Amendments: N.J.A.C. 10:54-3

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The

adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-539.

The agency proposal follows:

Summary

This proposal contains amendments to the Procedure Code Manual. The Division of Medical Assistance and Health Services continually updates procedure codes by adding, deleting or making revisions as necessary. This periodic updating insures that the procedure codes reflect current medical practice and current Division policy. The procedure codes are the basis for Medicaid reimbursement for fee-for-service providers, primarily physicians.

There are approximately 140 procedure codes affected. These codes include surgical and non-surgical procedures, and radiology and laboratory services. The fee schedule for immunizations has been updated.

Social Impact

There is little social impact associated with this proposal, because the procedure codes are monetary in nature. However, the basic objective of reimbursing providers is to enable the Medicaid patient to receive the medical care and treatment.

Economic Impact

The procedure codes are directly related to fee-for-service provider reimbursement. They impact primarily on physicians. Whenever providers submit a claim to Medicaid, they must use the appropriate procedure code. They will be reimbursed in accordance with the dollar value assigned to the procedure code. The economic impact on an individual provider will vary, depending on the number of Medicaid patients being treated and the type of services performed.

There should be no significant economic impact on the Division, which is continually updating its procedure codes and corresponding reimbursement.

There is no economic impact on the Medicaid patient.

Full text of the proposed rule is not reproduced herein, and will not be reproduced in the New Jersey Administrative Code. A copy of the complete list of additions, deletions, and revisions was submitted as part of the proposal, and may be reviewed at:

The Office of Administrative Law
88 East State Street
Trenton, NJ 08625

or
Division of Medical Assistance
and Health Services
324 East State Street
Trenton, NJ 08625

In addition, a copy of the proposal may be obtained by contacting Henry W. Hardy, Esq., Administrative Practice Officer, at the Division address listed above. Providers will continue to receive periodic updates to their Procedure Code Manual. These updates are replacement pages which are issued by the Prudential Insurance Company, fiscal agent for the Division.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Vision Care Manual Eye Care; Professional Services and Optical Appliances

Proposed Readoption: N.J.A.C. 10:62-1 and 2

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

Authority: N.J.S.A. 30:4D-3h, 6a(5)b(6)(7), 7 and 7b, 42
CFR 440.50 and 440.120(d).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on February 15, 1984. Their readoption becomes effective upon filing with the Office of Administrative Law of a notice of readoption.

This proposal is known as PRN 1983-538.

The agency proposal follows:

Summary

The New Jersey Medicaid Program provides vision care services to the Medicaid eligible population. These services fall into two broad general categories. The first is surgical and medical care of the eye, which is required by Federal regulations (42 CFR 440.50). The second category is vision correction, which is an optional Title XIX service authorized pursuant to 42 CFR 440.120(d).

New Jersey provides a comprehensive vision care program that includes both mandatory and optional coverage. The types of services available to Medicaid patients include, but are not limited to, corrective surgery and medical treatment, eye examinations, glasses, contact lens (only if prior authorization is obtained), artificial eyes, and vision training. If glasses are sufficient to provide vision correction, then subnormal vision devices may be authorized.

These services may be provided by ophthalmologists, optometrists, and opticians within the scope of their license granted by the New Jersey Board of Medical Examiners, the New Jersey Board of Optometry and the New Jersey Board of Ophthalmic Dispensers respectively.

The rule came into being to set forth the Medicaid standards for provider participation, and defines covered services, including those that require prior authorization. Subchapter 1, entitled "Eye Care: Professional Services", indicates that eligible providers are ophthalmologists or optometrists licensed in New Jersey or in another state. This subchapter also lists those services which require prior authorization, and those that do not. Subchapter 2, entitled "Optical Appliances and Services", describes the policies regarding frames, lenses, replacement procedures, record keeping for providers, and the basis of payment, including reimbursement to dispensing opticians.

An administrative review has been conducted, and a determination made that the rule is necessary to insure Medicaid patients continue to receive vision care services, and that providers are reimbursed for rendering these services. The rule is adequate, reasonable, efficient, understandable and responsive to the purpose for which it was created, namely, the establishment and delivery of vision care services in accordance with the cited Federal regulations. There is no change in the text associated with this proposal.

The rule has been amended twice. One amendment concerned the HCFA-1500 claim form which replaced the MC-8. The HCFA-1500 claim form is used by both Medicare and Medicaid. The rule was adopted as R.1981 d.249 at 13 N.J.R. 417(a). A second amendment requiring ophthalmologists and optometrists to provide a narrative description, as well as the procedure code, on the claim form was adopted as R.1981 d. 280 at 13 N.J.R. 497(b). The Medicaid program wanted to get a better understanding of the service rendered and to avoid errors in claim processing.

Social Impact

The rule has a positive social impact on those Medicaid patients who require vision care services. The need for eye care will always exist, and the rule should be continued to enable Medicaid patients to receive these services.

The providers affected are ophthalmologists, optometrists, and dispensing opticians who have chosen to participate in the Medicaid program. The rule does enable the providers to be reimbursed for providing vision care services that are covered by the Medicaid program. This is another reason for continuance of the rule.

Economic Impact

The Division spent \$6,485,459 (Federal-State share combined) in calendar year 1982 on vision care services. This figure represents payment for optical appliances, optometrists, and physician specialists in ophthalmology. Re-adoption of these regulations will help insure continued receipt of Federal funds for vision care services.

Medicaid providers of vision care services will continue to be reimbursed in accordance with Medicaid policies, procedures, and fee schedules. There is no change in fee schedules associated with this proposal.

There is no cost to the Medicaid patient.

Full text of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:62-1 and 2, as amended in the New Jersey Register.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Independent Clinic Services Manual General Provisions

Proposed Re-adoption: N.J.A.C. 10:66-1

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6(b)(2), 7 and 7b; and 42
CFR 440.90.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), this rule would otherwise expire on February 16, 1984. The re-adoption becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of its re-adoption.

This proposal is known as PRN 1983-547.

The agency proposal follows:

Summary

An "independent clinic" means a free-standing organization which is approved by the New Jersey Medicaid Program to provide specific health care services (see N.J.A.C. 10:66-1.2, Definitions). Some of the services provided by independent clinics include dental, vision care, podiatry, mental health, family planning, medical day care, and physical, occupational, and speech-language therapy. Clinics are designed to treat non-acute conditions on an outpatient basis. This group of providers enables Medicaid patients to receive Medicaid services in the community. "Clinic services" must be furnished by or under the direction of a physician or dentist (see 42 CFR 440.90(c)).

Subchapter 1, entitled "General Provisions", contains basic definitions, identifies who may qualify as providers, the scope of services the clinics are authorized to render, and the basis of reimbursement. An administrative review has been conducted, and the rule has been found necessary and should be continued. Medicaid patients often require treatment on an outpatient basis, and clinics can provide this type of service. The rule is adequate, reasonable, efficient and responsive for the purpose of which it was promulgated, because it defines basic providership criteria.

The rule has been amended once. Sections 1.5 and 1.6 of this subchapter were amended by R.1982 d.19 effective February 1, 1982. This amendment included the service known as "partial care", which is a mental health service whose primary purpose is to maximize the client's independence and community living skills in order to reduce unnecessary hospitalization.

There are no amendments to the rule associated with this proposed re-adoption. The rule accomplishes its objective in its present format.

Social Impact

The same social conditions still exist, since Medicaid patients still require care and treatment for conditions that can be managed on an outpatient basis. Consequently, the rule has potential impact on all Medicaid patients.

The rule also impacts on independent clinics who are participating providers in the Medicaid program. The New Jersey Department of Health is involved in licensing clinics when licensure is required. The Division of Mental Health and Hospitals surveys the mental health clinics. If the rule were not re-adopted, Medicaid patients might find it difficult to obtain certain services, such as mental health services, in the community.

Economic Impact

Independent clinics are reimbursed on a fee-for-service basis. The total cost for independent clinic services during State Fiscal Year 1983 was \$8,972,992 (Federal-State share combined). This amount included \$1,142,229 for services at Medical Day Care Centers.

There is no change in reimbursement to providers associated with this proposal. There is no cost to the Medicaid patient.

The economic conditions that necessitated the rule still prevail. The Division does not have to incur the cost of an inpatient hospital

admission when the patient can be treated satisfactorily on an outpatient basis. The rule should be renewed to insure continued Federal funding for the variety of services rendered by independent clinics.

Full text of the rule proposed for re adoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:66-1 as amended in the New Jersey Register.

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Program Eligibility Computation Amounts

Proposed Amendments: N.J.A.C. 10:94-5.4, 5.5, and 5.6

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

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the Social Security Act.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

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

This proposal is known as PRN 1983-545.

The agency proposal follows:

Summary

The proposed revisions to N.J.A.C. 10:94 increase the Medicaid Only computation amounts (N.J.A.C. 10:94-5.4(a)12 and 5.5(d)) and the income eligibility standards (N.J.A.C. 10:94-5.6(c)5). These proposed amendments will align Medicaid income eligibility for the aged, blind, and disabled with the Supplemental Security Income (SSI) program. Section 1902(a) of the Social Security Act requires that Medicaid Only eligibility be determined by the same criteria as applies in the SSI program. This proposed revision must be implemented, effective January 1, 1984, to maintain compliance with Federal law.

Social Impact

The increase in standards and income computation amounts used in the eligibility process theoretically expands the population of potentially eligible persons. However, based on past experience, little increase in caseload because of this revision is anticipated.

Economic Impact

Past experience with such increases in standards have evidenced little economic impact. This change will not impact significantly on administrative functions of the Department or the county welfare agencies administering the program.

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

- 10:94-5.4 Includable income
- (a) (No change.)
- 1.-11. (No change.)

12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his/[or her needs for food, clothing, and shelter at no cost or at a reduced value. Persons determined to be "living in household of another" in accordance with N.J.A.C. 10:94-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in household of another" who receive in-kind support and maintenance shall be considered to have unearned income in the amount of:

- [\$121.43] **124.67** for an individual
- [\$172.13] **177.33** for a couple

- i. (No change.)
- 13. (No change.)
- (b) (No change.)

10:94-5.5 Deeming of income

- (a)-(c) (No change.)
- (d) A table for deeming computation amounts follows:

TABLE A
Deeming Computation Amounts

1. Living allowance for each ineligible child	\$[152.10]	
	158.00	
2. Remaining income amount	Head of Household	Receiving Support and Maintenance
	\$[152.15]	\$[101.44]
	157.00	104.67
3. Spouse to spouse Deeming-Eligibility Levels		
a. Residential Health Care facility	\$[604.37]	
	619.97	
b. Eligible individual living alone with ineligible spouse	\$[632.18]	
	652.28	
c. Living alone or with others	\$[485.57]	
	501.17	
d. Living in household of another	\$[346.50]	
	356.90	
4. Parental Allowance - Deeming to Child(ren)		
Remaining income is:	1 Parent	Parent & Spouse of Parent
a. Earned only	\$[608.60]	\$[912.80]
	628.00	944.00
b. Unearned only	\$[304.30]	\$[456.40]
	314.00	472.00
c. Both earned and unearned	\$[304.30]	\$[456.40]
	314.00	472.00

10:94-5.6 Income eligibility standards

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

5. TABLE B
Variations in Living Arrangements

	Medicaid Eligibility Income Standards	
	Individual	Couple
I. Residential Health	\$[452.27]	\$[887.88]

Care Facility	461.97	907.28
II. Living Alone or with others	[333.47]	[479.68]
	343.17	495.28
III. Living Alone with Ineligible Spouse	[479.68]	
	495.28	
IV. Living in Household of Another	[245.10]	[395.28]
	251.57	405.68
V. Title XIX Approved Facility-Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.	852.90*	

*Gross income (that is, income prior to any income exclusions) is applied to this Medicaid "Cap".

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

(a)

DIVISION OF PUBLIC WELFARE

Service Programs for Aged, Blind or Disabled Supplemental Security Income Payment Levels

Proposed Amendment: N.J.A.C. 10:100, Appendix A

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

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

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

This proposal is known as PRN 1983-551.

The agency proposal follows:

Summary

Section 1618(a) of the Social Security Act requires the State to maintain supplemental payments in the Supplemental Security Income (SSI) program at levels no lower than those in effect in December 1976. This effectively requires the State to "pass-

through" to SSI recipients the full amount of any Federal cost-of-living adjustment (COLA). This proposed amendment reflects the proposed payment levels in the SSI program which include the 3.5 percent Federal cost-of-living increase effective January 1, 1984.

Social Impact

This proposed amendment provides for an increase in payment levels to eligible low income aged, blind, and disabled individuals. The proposed increase will enable such persons to maintain a measure of parity with the increased cost-of-living.

Economic Impact

The increase in State expenditures over existing levels is estimated to be \$105,000 through the end of State fiscal year 1984. Increased cost to county government is estimated at \$35,000 for the same period. This rule will not impact administratively on the Department or county governments as the Supplemental Security Income program is administered by the Social Security Administration.

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

10:100, Appendix A

The New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level
	[10/1/83]
	1/1/84
Eligible Couple	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence	[\$50/456.40†] \$50/472.00†
Residential Health Care Facilities and certain residential facilities for children and adults	• [887.88] \$907.28
Living Alone or with Others	[479.68] \$495.28
Living in Household of Another, Receiving Support and Maintenance	[395.28] \$405.68
Eligible Individual	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	[\$25/304.30†] \$25/314.00†
Residential Health Care Facilities and certain residential facilities for children and adults	[452.27] \$461.97
Living Alone or with Others	[333.47] \$343.17
Living with Ineligible Spouse (No other individuals in household)	[479.68]

PROPOSALS

ENERGY

	\$495.28
Living in Household of Another, Receiving Support and Maintenance	[\$245.10] \$251.57

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

**Social Service Program for Individuals and Families
Personal Needs Allowance: Residential Health Care Facilities and Boarding Homes**

Proposed Amendment: N.J.A.C. 10:123-3.2

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-87.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Steve Valli
Boarding Home Coordinator
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, NJ 08625

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

This proposal is known as PRN 1983-562.

The agency proposal follows:

Summary

The amendment provides that the owner or operator of each residential health care facility or boarding house shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein a personal needs allowance in an amount of at least \$50.00 per month for the individual recipient.

Social Impact

The personal needs allowance increase represents an equitable distribution of the Supplemental Security Income between the residents and the owners or operators of boarding houses and residential health care facilities.

Economic Impact

Recipients of the increased personal needs allowance will have additional resources for use in purchasing personal incidentals. There will be no negative impact on the facility owners or operators because the increase in their personal needs allowance from \$46.00 to \$50.00 is proportionate to the total January 1, 1984 Supplemental Security Income Increase.

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

10:123-3.2 Amount

The owner or operator of each residential health care facility or boarding house shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least [\$46.00] **\$50.00** per month. No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

ENERGY

(b)

THE COMMISSIONER

Certificates Of Need For Electric Facilities

Proposed New Rule: N.J.A.C. 14A:14

Authorized By: Leonard S. Coleman, Jr., Commissioner
Department of Energy.
Authority: P.L. 1983, c.115.
DOE Docket No.: DOE 004-83-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Linda M. Scuorzo, Esq.
Department of Energy
101 Commerce Street
Newark, NJ 07102

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

This proposal is known as PRN 1983-543.

The agency proposal follows:

Summary

The Certificate of Need legislation, P.L. 1983, c.115, generated a significant amount of interest and a number of suggestions and comments concerning the contents of Certificate of Need regulations prior to the formal proposal of these regulations.

The Department of Energy will include in its record those written comments received before proposal of these regulations. This approach is being taken in order to ensure that the most complete record is obtained concerning the proposal. It is not intended to preclude the resubmission of any such comments previously received by the Department or of raising new issues through additional comments.

P.L. 1983, c.115 directed the Department of Energy to develop regulations to implement the Certificate of Need process. The regulations as proposed contain general provisions concerning the form of submissions and the treatment of proprietary information as well as a definitional section.

In accordance with the legislation, the regulations establish a two-step process by which an applicant provides notice of its intent to file a Certificate of Need Application and later files the actual Application.

The notice of intent is required to contain preliminary information that the Department will use to evaluate the need for the electric facility. Receipt by the Department of the notice initiates the Early Assessment Stage of the review process. During this stage the Department, after proper notice, holds informational public hearings concerning the proposed facility. The Department issues interim reports and a final Early Assessment Report detailing the issues raised during the Early Assessment Stage and evaluating need for the facility.

In the second stage the applicant, if still convinced of the need to construct the facility, files an Application for a Certificate of Need. The Application, inter alia, must respond to the issues raised in the Early Assessment Report and identify the permits and other requirements of State instrumentalities that must be obtained or met.

When the Department determines that the Application is complete, it is forwarded to other State instrumentalities for review and comment. The comments and a certification of the issues that will be decided by the State instrumentality are forwarded to the Department within 120 days.

The comments of the State instrumentalities as well as the Early Assessment Report, or such parts as are relevant to a resolution of any issues that remain contested are forwarded by the Department to the Office of Administrative Law for hearing as a contested case. The Department will identify the issues that remain contested and will be heard before the Office of Administrative Law.

Within six months of receipt of the findings of the presiding administrative law judge, the Department is required to approve, conditionally approve or deny the Application. The decision is accompanied by a written report addressing, inter alia, the need for the facility in relation to the State's overall energy needs and the policies of the State Energy Master Plan as well as the social economic and environmental impact of the facility.

The Certificate of Need remains valid for three years and is renewable by the Department thereafter. Renewal may be denied in the event that the Board of Public Utilities concurs. In the event that the Board and the Department disagree on denial a designee of the Governor arbitrates the matter and renders a binding decision.

Should renewal be denied the applicant may continue the project or terminate it under terms established by the Board that equitably balance the interests of the ratepayers, stockholders and the public utility.

Social Impact

The decision to construct a new electric facility or to expand an existing one must be made only after careful evaluation of the need for such a facility. The proposed regulations ensure that decisions concerning the need for additional generating capacity and the siting of electric facilities will be made only after a full and open exchange of views, data and information. The proposed rules attempt to involve, to the greatest extent possible, all State agencies in the process of evaluating the Application. This approach should reduce duplications of effort and make the need and siting decisions as nearly as possible a one-stop process for the applicant.

The proposed rules will have a positive social effect on electric facility need and siting decisions by encouraging broader public participation in the process. Additionally, the rules will establish a mechanism whereby the applicant for a Certificate of Need will be able to better assess its own need for the facility and possibly avoid unnecessary construction.

The rules also will encourage proper planning by both the private and governmental sector with respect to the assessment of needs for new construction.

Economic Impact

The enabling legislation authorizes the Department to charge a fee for review of Certificate of Need applications. The fee will be an increased cost that must initially be borne by the applicant.

The Department will incur expenses in the form of additional paperwork, use of staff time and Department resources for the review of such applications. It is anticipated that the application fee will offset most such costs. However, it is possible that the Department may have expenses in excess of the revenues provided by the application fee in the case of very complicated applications. At this point the costs under such circumstances are not quantifiable.

Full text of the proposed new rule follows.

CHAPTER 14 CERTIFICATES OF NEED FOR ELECTRIC FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

14A:14-1.1 Scope

No electric facility shall be constructed without the issuance of a Certificate of Need by the Department of Energy. This chapter establishes the procedures for issuance of a Certificate of Need by the Department.

14A:14-1.2 Communications and submissions

(a) Each applicant shall submit to the Department all documents and information in accordance with the requirements of N.J.A.C. 14A:1 and with particular attention to the following requirements:

1. Documents: Typewritten or printed, cut or folded to 8 1/2 x 11 inches in size with left hand margins 1 1/2 inches; double spaced, except that quotations may be single spaced; contained in hard cover loose leaf binders.

2. Exhibits: Exhibits and larger documents shall, where practicable, conform to the requirements of (a)1 above.

3. Captions: All submissions shall contain the caption, docket number and other information identifying the participants and the nature of the application, and the signature of a person authorized to act in the name of the applicant.

4. Copies: All submissions shall be furnished as an original and three copies, unless the Commissioner determines that additional copies shall be submitted.

14A:14-1.3 Proprietary information

Proprietary information submitted pursuant to this chapter shall be entitled to confidential treatment. Such information shall be clearly marked by the applicant.

SUBCHAPTER 2. DEFINITIONS

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Board" means the Board of Public Utilities.

"Commissioner" means the Commissioner of the Department of Energy.

"Construction" means on-site work to install any permanent equipment or structure for any facility. "Construction" does not include any of the following:

1. The installation of environmental monitoring equipment or any work related thereto;

2. A soil or geological investigation;

3. A topographical survey;

4. Any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility;

5. Any work to provide access to a site for any of the purposes specified in 1, 2, 3, and 4 above.

"Demand forecast" means a mathematically based projection of

either power or energy demand during a specified period of time for the franchise territory of the utility and for the reliability council to which the utility belongs.

"Department" means the Department of Energy for the State of New Jersey.

"Electric facility" means:

1. Any electric power generating unit or combination of units at a single site with a combined production of 100 megawatts or more and any facilities appurtenant thereto; or

2. Any electric generating facility which will increase its installed capacity by 25 percent or by 100 megawatts, whichever is smaller.

"Installed reserve" means the difference between the net system generating installed capacity and system maximum load.

"Load" means the amount of power or energy needed to be delivered to a given point on an electric system.

"Operating flexibility" means the operating characteristics of the electric generating facility with respect to fuel switching, start-up time, generating output adjustments, life expectancy, maintenance requirements, and other factors related to operation.

"Site" means any location on which an electric facility is constructed or sites including out-of-state locations.

"State instrumentality" means any agency, board or commission defined in or subject to the provisions of N.J.S.A. 52:27F-15a.

SUBCHAPTER 3. NOTICE OF INTENT

14A:14-3.1 Submission

(a) Each applicant shall provide the Department with a Notice of Intent at least one year prior to the anticipated submission of an Application for a Certificate of Need.

1. The Notice of Intent shall be submitted to the Department in accordance with the requirements of N.J.A.C. 14A:14-1.2;

2. The applicant shall publish in such newspapers of general circulation as the commissioner shall designate a notice indicating that a Notice of Intent was filed.

14A:14-3.2 Content

(a) The Notice of Intent shall provide the information and method that the applicant has used in determining the need for the proposed facility. The Notice of Intent shall contain the following:

- i. A description of the proposed facility including:
 - i. Capacity;
 - ii. Fuel/energy source;
 - iii. Combustion/generation technology;
 - iv. Location:
 - (1) Acreage;
 - (2) Geology;
 - (3) Climatology;
 - v. Environmental impacts on:
 - (1) Air;
 - (2) Water;
 - (3) Other sources as required.
 - vi. Scheduled completion date.
2. An explanation of the need for the facility based upon data submitted in the most recent 15-year demand forecast;
3. A description of alternatives to the proposed facility and an assessment of the feasibility thereof. The description and assessment shall include but not be limited to:
 - i. Types of facilities, capacities, sites and replacement or alternative technologies, including but not limited to conservation.
 - ii. An evaluation and documentation of replacement or alternative technologies specified in (a)3i above that are considered to be reasonable and feasible.
 - iii. Citations to any judicial or legislative requirements of the Department or other State and Federal entities.

14A:15-3.3 Early assessment stage

- (a) After receipt of the Notice of Intent, the Commissioner shall:
1. Hold at least two public informational hearings in the franchise

area served by the applicant and such other hearings, conferences or meetings as necessary. Costs of the hearings shall be borne by the applicant.

i. Notice of each public information hearing shall be published:

(1) In a newspaper of general circulation in the region where the public informational hearing is to be held; and

(2) In any other newspapers of general circulation which the Commissioner determines appropriate to reach the greatest possible number of affected citizens.

ii. The public informational hearings shall be conducted for the purpose of:

(1) Soliciting views of concerned individuals and groups on the proposed electric facility;

(2) Providing advice to the utility on the proposed facility and on relevant alternative ways of meeting projected electricity demand which will minimize rate increases, reduce any adverse environmental impacts of the proposed electric facility, and address other objections to the proposed facility (exclusive of safety concerns regulated by the Atomic Energy Act, 42 U.S.C. 2011 et seq.);

(3) Developing a comprehensive view of the way in which the proposed electric facility and any suggested alternatives thereto will affect the long range energy plans and economic development of the State and otherwise promote the public interest.

2. Publish in a manner designed to reach the maximum number of affected persons, interim reports identifying key issues raised during the public informational hearings and reporting on the progress of the analysis of the proposed electric facility.

3. Publish a list of the groups and persons that participated in any meetings or conferences with the Commissioner during the Early Assessment Stage.

4. Within nine months, issue an Early Assessment Report. The report shall:

- i. Address the major concerns raised during the early assessment stage; and
- ii. Evaluate the need for the proposed facility in relation to feasible alternatives.

SUBCHAPTER 4. CERTIFICATE OF NEED

14A:14-4.1 Submissions

(a) An Application for a Certificate of Need may be filed by the applicant at any time after one year subsequent to the filing of the Notice of Intent. A non-returnable application fee of \$250,000 shall accompany the Application.

(b) All Applications for a Certificate of Need shall comply with the requirements of N.J.A.C. 14A:15-1.2. Where the requirements create material inconsistencies with the requirements of other State instrumentalities or the Office of Administrative Law, the Department shall resolve the inconsistencies on a case-by-case basis. In all cases the Application shall contain the following information:

1. Name of applicant.
2. Name or designation of the proposed facility.
3. Date of application.

14A:14-4.2 Contents

(a) At a minimum the substantive contents of the Application for a Certificate of Need shall be as follows:

1. A description of the procedural history of the application.
2. A response to issues raised in the Early Assessment Report.
3. A list of the permits and requirements of other State instrumentalities that must be obtained and a timetable for applying for and obtaining same.
4. Other information required by the Department.

14A:14-4.3 Evaluation of application

(a) The Department shall determine when the Application for a Certificate of Need is complete for the following purposes:

1. Complete for comment: An Application for a Certificate of Need that meets the requirements of N.J.A.C. 14A:14-3.2 shall be declared complete for comment. An application that is declared complete for comment shall be:

i. Submitted by the Department to the appropriate State instrumentalities including but not limited to the Board of Public Utilities, the Department of the Public Advocate, as well as to the chief executive officer of each municipal corporation and county in which any facility will be located, for review and comment.

ii. Returned by the State instrumentalities to the Department with review and comments within 120 days of referral of the Application by the Department. At a minimum, the review and comments shall include:

(1) Certification of the factors and issues that will be subject to review during the course of any permit or approval processes conducted by the State instrumentality; and

(2) A description of any relevant policy or other considerations that will guide the State instrumentality in evaluating the application.

2. Complete for review: An Application for a Certificate of Need that has been returned to the Department pursuant to (a) 1ii above, or to which no response has been received within the 120 day period shall be considered complete for review. The Department shall:

i. Identify for the Office of Administrative Law the issues that remain contested and are to be reviewed by the Office of Administrative Law and the policies to be followed in evaluating the case.

ii. As necessary, formulate appropriate procedures to govern the case.

iii. Transmit the application and supporting documents, including the Early Assessment Report or such documents as are necessary to the resolution of the case, to the Office of Administrative Law for review as a contested case pursuant to the Administrative Procedure Act, P.L. 1978, c.67 (C.52:14F-1 et seq.). Supporting documents may include a statement of policy by the Department regarding the proper manner of evaluating conformity by State instrumentalities to the requirements of the State Energy Master Plan adopted pursuant to the "Department of Energy Act", P.L. 1977, c. 146 (C. 52:27F-1 et seq.) and of evaluating the relationship of the proposed electric facility to overall State energy needs as determined by the State Energy Master Plan.

14A:14-4.4 Decision on application

(a) Within six months of receipt of the findings of the presiding administrative law judge the Department shall approve, conditionally approve or deny the Application for a Certificate of Need. In the case of a conditional approval the Department shall provide the applicant with a statement of the conditions to be met, including any modifications to the proposed electric facility. The decision of the Department shall be supported by a written report that:

1. Contains a determination that the proposed facility is necessary to meet the projected need for electricity in the area to be served and that no more efficient, economical, or environmentally sound alternative is available, based on the following factors:

i. The probable result of denial of a Certificate of Need would be to adversely affect the future adequacy, reliability, or efficiency of the electric energy supply to the public utility's customers, or to the people of New Jersey, taking into account:

(1) The accuracy of the public utility's demand forecast for the level of electric energy that would be supplied by the proposed facility;

(2) The probable effects of existing or prospective State and Federal conservation programs;

(3) The effect of promotional practices of the public utility that may have given rise to the demand for this facility;

(4) The ability of current and planned facilities not requiring Certificates of Need, and to which the public utility has access, to meet future demand; and

(5) The effect of the proposed facility in making efficient use of resources.

ii. The consequences of issuing the Certificate of Need outweigh the consequences of denying same, taking into account:

(1) The relationship of the proposed facility to overall State energy needs as determined by the State Energy Master Plan adopted pursuant to the "Department of Energy Act" P.L. 1977, c. 146 (C.52:27F-1 et seq.);

(2) The role of the proposed facility in inducing future development; and

(3) The socially beneficial uses of the output of the proposed facility including its uses to protect or enhance environmental quality.

iii. That no more reasonable and prudent alternative to the proposed facility exists considering:

(1) The appropriateness of the size, type and timing of the proposed facility compared to those of reasonable alternatives;

(2) The cost of the proposed facility and the cost of the electric energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of the electricity that would be supplied by the reasonable alternatives;

(3) The impact of the proposed facility upon the social, economic, and health environments compared to the impact of reasonable alternatives; and

(4) The expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.

iv. That design, construction, and operation of the proposed facility would comply with all relevant State and Federal laws, rules, regulations and policies.

2. Addresses the issues raised and arguments advanced in the materials and information complied:

i. During the Early Assessment Stage as raised in the Early Assessment Report;

ii. In the recommendations made pursuant to N.J.A.C. 14A:14-4.3;

iii. In the analyses made by any outside consultants retained by the Department; and

iv. In the record of the contested case conducted by the Office of Administrative Law and the written decision issued by the presiding administrative law judge.

SUBCHAPTER 5. PERIODIC REVIEW

14A:14-5.1 Periodic review

(a) The Commissioner shall review a grant of a Certificate of Need every three years until the electric facility is placed in operation:

1. In accordance with the criteria set out in N.J.A.C. 14A:14-3.4; and

2. Giving due consideration to other information or data subsequent to approval of the Certificate of Need that is relevant and material to renewal.

(b) The decision concerning renewal of the Certificate of Need shall be made as follows:

1. Approval of renewal shall be made by the Commissioner;

2. Denial of renewal shall be made by the Commissioner with the agreement of the Board.

i. In the event that the Commissioner and the Board fail to both deny the renewal, a designee of the Governor shall arbitrate the matter and the decision shall be binding.

ii. In the event that renewal is denied, the applicant shall have the option to continue the project, or to terminate or alter the project under terms and conditions established by the Board, which equitably balance the interests of the stockholders, the ratepayers, and the public utility.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes US 1 and 9, US 9, 27, 28, 35 and 41

Proposed Amendments: N.J.A.C.16:28A-1.2, 1.7, 1.18, 1.19, 1.25 and 1.64

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-6, 39:4-138.1,
39:4-139 and 39:4-199.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mr. Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

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

This proposal is known as PRN 1983-549.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones in the areas designated and at established bus stops for the safe and efficient flow of traffic along various highways and the enhancement of the safety of the populace.

The proposed amendments are summarized as follows:

N.J.A.C. 16:28A-1.2 Route US 1 and 9, adds another far side bus stop in the City of Elizabeth, Union County, and authorizes the local authorities to install appropriate signs advising the motoring public.

N.J.A.C. 16:28A-1.7 Route US 9, establishes new "no Parking" zones restrictions in Upper Township, Cape May County.

N.J.A.C. 16:28A-1.18 Route 27, adds a new "no parking" zone restriction in the City of New Brunswick, Middlesex County along the northbound side of Academy Street.

N.J.A.C. 16:28A-1.19 Route 28, establishes a new "no parking" zone in the town of Westfield, Union County at the established near side bus stop of Drake Place.

N.J.A.C. 16:28A-1.25 Route 35, establishes new "no parking" zones in the Borough of Bay Head, Ocean County on Osborne, Johnson and Bridge Avenues.

N.J.A.C. 16:28A-1.64 Route 41, designates new "no parking" zones in Deptford Township, Gloucester County.

Based upon requests from local officials, the Department's Bureau of Traffic Engineering conducted engineering studies to ascertain the best possible traffic control device to be installed to regulate the traffic along the various highways. The engineering studies which included traffic counts, traffic flow, accidents and congestion of traffic proved that the establishment of "no parking" zones in the areas designated were the most efficient means for the

safe flow of traffic and the enhancement of public safety along the highway system.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.2, -1.7, -1.18, -1.19, -1.25 and -1.64 in compliance with the engineering studies and the requests from local officials.

Social Impact

The proposed amendments will establish new "no parking" zones along the various highways in the Cities, Town, Borough, Townships and Counties outlined in the Summary for the safe and efficient flow of traffic and the safety and welfare of the public. Additionally, these amendments effect the same restrictions at established bus stops for the safe and efficient on/off loading of passengers. Appropriate signs will be erected to advise the motoring public of the restrictions.

Economic Impact

The proposed amendments will cause the Department and local officials to incur direct and indirect costs for mileage, personnel and equipment requirements. The local officials will incur added costs involved in the placement and procurement of signs. These rules will impact on motorists, who violate the regulations through the payment of fines imposed.

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

16:28A-1.2 Route US 1 and 9

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

(c) The certain parts of State highway Route US 1 and 9 described in [(c) of] this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the northbound (**easterly**) side in the City of Elizabeth, Union County:

i. Far side bus stops:

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

(6) Julia Street: Beginning at the northerly curb line of Julia Street and extending 210 feet northerly therefrom.

ii. (No change.)

3.-4. (No change.)

16:28A-1.7 Route US 9

(a) The certain parts of State highway Route US 9 described in [(a) of] this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-13. (No change.)

14. No stopping or standing in Upper Township, Cape May County:

i. Along both sides:

[(1) From the centerline of Harbor Road to a point 475 feet north of the centerline of Harbor Road.]

(1) Between Tuckahoe Road (Co. Rd. 631) and Roosevelt Boulevard (Co. Rd. 623).

(2) From the center line of Harbor Road to a point 475 feet north of the centerline of Harbor Road.

15.-17. (No change.)

(b) (No change.)

16:28A-1.18 Route 27

(a) The certain parts of State highway Route 27 described in [(a) of] this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-13. (No change.)

14. No stopping or standing in the City of New Brunswick, Middlesex County:

i. Along the northbound side.

(1) From the northerly curb line of Academy Street to a point 175 feet north of the northerly curb line of Academy Street.

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

16:28A-1.19 Route 28

(a) (No change.)

(b) The certain parts of State highway Route 28 described in [(b) of] this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1.-9. (No change.)

10. Along (South Avenue), eastbound on the southerly side in the Town of Westfield, Union County:

i. Near side bus stop:

(1) Drake Place: Beginning at the westerly curb line of Drake Place and extending 105 feet westerly therefrom.

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

16:28A-1.25 Route 35

(a) The certain parts of State highway Route 35 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-20. (No change.)

21. No stopping or standing in the Borough of Bay Head, Ocean County:

i. Along both sides:

(1) From the northerly curb line of Osborne Avenue extending northerly to a point 120 feet therefrom.

(2) From the southerly curb line of Osborne Avenue extending southerly to a point 120 feet therefrom.

(3) From the northerly curb line of Johnson Avenue extending 120 feet northerly therefrom.

(4) From the southerly curb line of Johnson Avenue extending 120 feet southerly therefrom.

(5) From the northerly curb line of Bridge Avenue extending northerly to a point 120 feet therefrom.

(6) From the southerly curb line of Bridge Avenue extending southerly to a point 120 feet therefrom.

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

16:28A-1.64 Route 41

(a) The certain parts of State highway Route 41 described in [(a) of] this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

[1. No stopping or standing in Deptford Township in Gloucester County:

i. Along both sides:

(1) From the southerly curb line of Deptford Center Road to the northerly curb line of McKee Avenue.

ii. Along the easterly side of Route 41 northbound:

(1) From Pennsylvania Avenue to Fairview Avenue.]

1. No stopping or standing in Deptford Township, Gloucester County:

i. Along both sides:

(1) From Route 47 to Clements Bridge Road including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(b) (No change.)

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes US 22 and 45

Proposed Amendment: N.J.A.C. 16:28A-1.13 and 1.31

Authorized By: John P. Sheridan Jr., Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-6, 39:4-138.1, 39:4-139 and 39:4-199.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mr. Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Ave.
CN 600
Trenton, NJ 08625

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

This proposal is known as PRN 1983-537.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Route US 22 in Mountainside Borough, Union County and Route 45 in Pilesgrove Township, Salem County, for the efficient flow of traffic, the enhancement of public safety and the safe and efficient on/off loading of passengers at established bus stops.

Based upon requests from the local authorities the Department's Bureau of Traffic Engineering conducted engineering studies to consider the best method of traffic control device to be installed to regulate the traffic.

The engineering studies which include traffic counts, accidents rates, traffic flow and volume and other data obtained indicated that the installation of signs restricting parking establishing "no parking" zones was the most efficient method for traffic control, after considering all alternatives.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.13 regarding "no parking" zones along Route US 22 in Mountainside Borough, Union County, and N.J.A.C. 16:28A-1.31 regarding "no parking" zones along Route 45 Pilesgrove Township, Salem County, in compliance with requests from the local officials and the results of the engineering studies.

Social Impact

The proposed amendments will establish "no parking" zones along Route US 22 Mountainside Borough, Union County, and Route 45 in Pilesgrove Township, Salem County for the safe and efficient flow of traffic, and the on/off loading of passengers at established bus stops, respectively. Additionally, the regulations will enhance public safety in the respective areas designated and the interest of mass transit. Appropriate signs will be erected advising the motoring public.

Economic Impact

The Department of local authorities will incur direct and indirect

costs for personnel, for mileage and equipment requirements. There will be no economic impact on any business within the areas where parking is being restricted. However, fines will be levied for the motoring public in violation of the law. Local authorities will be responsible for the installation of signs establishing "no parking" zones.

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

16:28A-1.13 Route US 22

(a) (No change.)

(b) The certain parts of State highway Route US 22 described in [(b)of] of this section are designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1.-4. (No change.)

5. Along the eastbound (far side) in the Borough of Mountainside, Union County:

i. Beginning at the easterly curb line of Lawrence Avenue and extending 150 feet easterly therefrom.

16:28A-1.31 Route US 45

(a) The certain parts of State highway Route 45 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

5. No stopping or standing in Pilesgrove Township, Salem County:

i. Along both sides:

(1) Between Cemetery Road and Bridge over Nicholas Run.

(b) (No change.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Social Security Transmittals, Reports and Forms

Proposed Amendment: N.J.A.C. 17:1-1.3, 8.9, 8.10, 8.11, 8.12 and 8.14

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

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

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

This proposal is known as PRN 1983-550.

The agency proposal follows:

Summary

The proposed amendments are necessary to conform these rules to the recent Federal Social Security Administration's changes in policy which mandate that remittances and certain transmittals are to be sent to them on a semi-monthly, rather than a monthly, basis.

The Division of Pensions acts as the State Agency for Social Security and is responsible for collecting the appropriate employer and employee Social Security contributions and related forms and reports and forwarding such material to the Federal Social Security Administration. The latter is altering its previous policies and is requiring semi-monthly remittances be forwarded to them. Thus, the current rules of the Division of Pensions must be amended to those new federal rules.

Social Impact

The proposed amendments will affect all public employers in New Jersey who have chosen to participate in the Social Security Program who now must follow new Social Security Administration filing and reporting procedures.

Economic Impact

The proposed amendments will only have an adverse economic impact upon those participating public employers who do not submit their Social Security transmittals, reports and forms in a timely manner. The federal rules prescribe the penalties to be charged in such cases.

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

17:1-1.3 Due dates for transmittals and reports

(a)-(h) (No change.)

[(i) Monthly remittances and transmittals for Social Security are due in the State Agency for Social Security from all covered entities the 15th day of the month following the end of the preceding month for which contributions are required. Quarterly transmittals and reports for Social Security are due in the State Agency for Social Security the 15th day of the month following the end of the preceding quarter.]

(i) Semi-monthly remittances and transmittals for Social Security are due in the State Agency for Social Security from all covered entities on the 5th day of the month representing contributions due for the last half of the preceding month and on the 20th day of the current month representing contributions due for the first fifteen days of the month. Annual reports and Federal forms are due in the State Agency for Social Security on February 1st, following the end of the preceding calendar year.

17:1-8.9 Wage reports and transmittals; copies

[(a) Participating employers shall complete three copies of each report or adjustment statement, forwarding the original and one copy to the Division of Pensions. In addition, employers are required to complete two copies of transmittals which accompany the report; the original of the transmittal with checks covering the contributions and/or fees must be returned to the Division of Pensions with the reports].

(a) Participating employers shall forward by the due date one copy of the transmittal, annual wage report and Federal forms as required to the State Agency for Social Security.

(b) Interstate instrumentalities, with the exception of the Palisades Interstate Park Commission, or any agency whose employer tax liability is paid by the State, are [not] required to file [a quarterly] **an annual** wage report with the division.

(c) (No change.)

17:1-8.10 Wage reports; forms

(a) Reports must be made utilizing forms **and formats** prescribed by the Division of Pensions.

(b) (No change.)

17:1-8.11 Wage reports, transmittals and remittances, and Federal forms; employer responsibility

(a) The State Agency for Social Security is charged with the responsibility of transmitting and remitting contributions for each semi-monthly period. A transmittal without the proper check or a check without the proper transmittal cannot be forwarded to the Federal government and still meet the State's contractual obligation. Where the amount reported on transmittal as being remitted does not agree with accompanying check, neither item can be accepted and both will be returned to the employer. Failure to resubmit correct information and money in a timely manner will result in a delinquency notice.

(b) Illegible or incomplete reports and transmittals or copies of Federal report forms, shall [can] be rejected by the Division of Pensions and returned to participating employers. The employer will bear the expense of any interest penalty levied by the Federal government for such nonreporting or for any other good cause in accordance with Federal regulations. This includes boards of education reporting members of the Teachers' Pension and Annuity Fund.

17:1-8.12 Late filing penalties

(a) If proper transmittals, reports and contributions, for the month, the quarter or the year, are not received by the State Agency for Social Security by the due date, the participating employer will be notified that a late filing penalty will be assessed. The penalty will be computed using the daily factor shown on the transmittal form and multiplying it by the days late.

1. The amount of the penalty will be determined by multiplying the covered wages by the full Social Security rate and the resulting contributions due by the factor developed. However, if in each of the first two months of a quarter, transmittals and contributions received do not appear to be understated, the State Agency will assume that proper contributions have been remitted. Reports and remittances must be in agreement and timely and if they are not, the penalty factor will be applied to the total contributions due.

(b) Whenever participating employers are delinquent for a period of three months in forwarding to the State Agency for Social Security the appropriate contributions and reports mentioned in (a) above, the Division of Pensions shall notify the State Treasurer and the Director of the Division of Budget and Accounting, who are authorized to deduct any amount due, plus applicable interest, from any monies payable to the employer by a department or agency of the State.

(c) When the participating employer has failed to file a report, or pay contributions due for a particular month, quarter or year the State Agency will estimate the penalty of the delinquency by using the information from the last transmittal, adding 25 percent and thus developing the estimated charge. The same estimate will be used in determining the amount to be recommended to the State Treasurer to be withheld from other State funds payable to the participating employer.]

(a) If proper transmittals and contributions for the semi-monthly period are not received by the State Agency for Social Security by the due date, they will be liable for any penalties assessed by the Federal Government.

(b) The participating employer will be sent a delinquency notice covering late or rejected items. Whenever participating employers are delinquent for a period of 90 days in forwarding the appropriate contributions and transmittals, the Division of Pensions shall notify the State Treasurer and the Director of the Division of Budget and Accounting, who are authorized to deduct any amount due, from any monies payable to the employer by a department or agency of the State. In this event, the State Agency will estimate the contributions due by using information from the last available transmittal, adding 25 percent and thus developing the estimated charge. The withheld funds will be returned to the employer when he submits the delinquent item.

17:1-8.14 Administrative fee

(a) The administrative cost of the program shall be borne by the State and reimbursed annually on a pro rata basis by participating employers.

(b) The cost will be reduced by specific charges of \$10.00 per employer for each delinquent transmittal remittance [or report], annual report or Federal report form.

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

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Motor Fuels Tax Retail Sales

Proposed Amendment: N.J.A.C. 18:19-2.7

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

Authority: N.J.S.A. 56:6-6.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

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

This proposal is known as PRN 1983-546.

The agency proposal follows:

Summary

The amendment to N.J.A.C. 18:19-2.7 is proposed as the result of a recent Attorney General opinion which permits self-service of diesel fuel. The opinion held that diesel fuel does not constitute an "inflammable liquid" as that term is used in the Filing and Service Stations Act, N.J.S.A. 34:3A-1, et seq.

Where diesel fuel is sold in different modes, both by self-service and by an attendant, the operator is deemed to be passing on to the motorist his lower costs at the self-service diesel fuel pump, and may thus charge different prices for the same product since different costs are involved.

If the operator elects to sell diesel fuel with a cash discount, the price on the pump and the pump meter must be the credit price unless the sale is made at a cash only dedicated island. In that case the cash price shall be posted on the pump and pump meter. When a cash discount is available from a pump designated credit, the price per gallon (or per gallon and per liter) reduction shall be posted on the face of the pump.

Social Impact

The implementation of self-service for diesel fuel will supply the motorist with an option on the manner by which he will obtain fuel and permit two price levels in this regard.

Economic Impact

The amendment implements in rule form the Attorney General opinion authorizing self-service for diesel fuel. It will permit the operator to pass along his cost savings to the motorist permitting the purchase of diesel fuel at lower cost to the consumer.

Full text of the current rule may be found at 14 N.J.R. 705(a), 14 N.J.R. 1166(c) and 15 N.J.R. 614 (a), 15 N.J.R. 1105(b).

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

18:19-2.7 Posted prices and brand names; cash discounts;
self-service of diesel fuel

(a) (No change.)

(b) A retail dealer may sell similar fuels at different prices to cash and credit customers, and the price posted on top of the pump and on the pump meter shall be the credit purchase price. A conspicuous sign shall also be displayed at the pump or at the island posting the price per gallon (or per gallon and per liter) reduction for cash purchases of fuels. **If the dealer elects to offer an island dedicated exclusively to cash sales, the price posted on top of the pumps and the pump meters at the dedicated island shall be the cash purchase price.**

(c) (No change.)

(d) **A retail dealer selling diesel fuel may elect to sell such fuel at different prices from pumps dedicated to self-service and from pumps where attendant service is available. The price posted on top of the pump and on the pump meter shall be the price at which such fuel is sold from that pump.**

1. **If, in addition, the seller of fuels elects to offer a cash discount for sales of diesel fuel, then the price at the pump and on the pump meter shall be the credit price, and notice shall be placed on the face of the pump of the price per gallon (or per gallon and per liter) reduction for cash.**

2. **A retail dealer electing to dedicate an island to cash sales may sell diesel fuel self-service from that island provided that the cash price is posted on top of the pump and on the pump meter.**

3. **If there is a sign indicating that diesel fuel will be dispensed self-service from a pump or dispensing device, the sign must include in letters of at least the same size, the words, "DIESEL ONLY".**

[d] (e) (No change from text.)

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Division of Financial Evaluation & Control
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5
CN 208
Trenton, NJ 08625

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

This proposal is known as PRN 1983-544.

The agency proposal follows:

CASINO CONTROL COMMISSION NOTE: On June 29, 1983, the Casino Control Commission approved for publication proposed amendments to N.J.A.C. 19:45, concerning casino credit. These proposed amendments were the result of rulemaking petitions (see N.J.S.A. 5:12-69(c), N.J.A.C. 19:42-8 and N.J.S.A. 52:14B-4 (f)) received from the Division of Gaming Enforcement (DGE) and the State Commission of Investigation (SCI) concerning the reform of certain credit controls and procedures employed by the Commission and the casino industry. A notice of petition appeared in the July 5, 1983 New Jersey Register at 15 N.J.R. 1110(b).

The text of the proposed rules has been divided into three separate agency segments representing the proposals offered by the Casino Control Commission, the Division of Gaming Enforcement and the State Commission of Investigation. These amendments were approved by the Casino Control Commission for publication in the New Jersey Register for the sole purpose of securing public comment thereon. The adoption of any, or all of these amendments, will be considered by the Commission at a future public meeting held in conformity with the provisions of N.J.S.A. 5:12-73.

Summary

The Casino Control Commission proposes to amend N.J.A.C. 19:45-1.25, 1.27 and 1.29. These amendments are being proposed in conjunction with the separate proposals submitted by the DGE and SCI.

Concerning N.J.A.C. 19:45-1.25(l), two alternative proposals are being proposed. Alternative No. I would require casino licensees to request patrons to apply any chips or plaques in their possession, in excess of \$500.00, in reduction of counter checks for purposes of gaming. Alternative No. II would require casino licensees to obtain and require patrons to apply any chips or plaques in their possession, in excess of \$500.00, in reduction of counter checks exchanged for gaming purposes.

The proposed amendment to N.J.A.C. 19:45-1.27 is designed to increase restrictions on the issuance of credit limits. Presently, the establishment of credit limits is within the discretion of each casino licensee, provided appropriate procedures are followed. The proposal would make the changing of limits more difficult, thereby protecting patrons who might impulsively agree to an increase in their prior limit. At the present time, when a customer reaches his or her established credit limit, the casino can grant additional credit simply by increasing the limit either on a permanent or a "This Trip Only" basis. This amendment would establish strict guidelines for increasing limits by requiring that a patron have no outstanding balance and that 48 hours elapse before the limit could be changed.

The proposed amendment to N.J.A.C. 19:45-1.29 would require casino licensees to make a nonrefundable payment to the Casino Control Fund for any gaming check that is unpaid 180 days after the date of issuance. The purpose of this amendment is to encourage

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION**Accounting and Internal Controls
Casino Credit**

**Proposed Amendments: N.J.A.C. 19:45-1.1,
1.11, 1.25, 1.26, 1.27, 1.28, 1.29 and 1.45
Proposed New Rules: N.J.A.C. 19:45-1.47
and 1.48**

Authorized By: Casino Control Commission, Theron G.
Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c), 5:12-69, 5:12-70(g) and
(l) and -101.

casinos to become more prudent in granting credit. There is a distinct difference between credit granted by a casino licensee and credit granted by other businesses. In other types of businesses (for example, retailers), a real loss occurs when credit becomes uncollectible; namely, the value of the merchandise for which the credit was given. In the casino industry, no loss occurs when a person fails to make payment on outstanding counter checks provided the person does not walk out of the casino with the gaming chips. The proposed amendment is intended to place casinos at a real risk of loss when deciding to grant credit. By increasing the casinos' risk of loss, it is anticipated that their decisions to grant credit will become more prudent.

Social Impact

The social impact of the amendment to N.J.A.C. 19:45-1.25 will be insignificant although general cashiers may benefit because they will no longer be required to ask all patrons to apply their chips or plaques to outstanding counter checks.

Compulsive gamblers and patrons whose credit lines are overextended may incur some social benefit from the amendments to N.J.A.C. 19:45-1.27 and 1.29 since the rules are designed to discourage the extension of credit to patrons who may be unable to repay their debts. The Commission and Division may be affected by the increased workload required to monitor and enforce these rules, but the impact is expected to be minimal.

Economic Impact

The economic impact of the amendment to N.J.A.C. 19:45-1.25 (Alternative I) is insignificant since the rule change only requires that the casino licensee ask patrons a question and does not require chips and plaques to be applied to outstanding counter checks. Alternative II will have a positive impact on the casino licensees since it will aid in preventing patrons from "walking" with chips in amounts greater than \$500.00. However, Alternative II will have a negative impact upon patrons since they will be required to apply chips to outstanding counter checks.

The amendment to N.J.A.C. 19:45-1.27(d) may have a positive impact on compulsive gamblers and those whose credit limits are overextended because this proposed amendment will prevent them from obtaining increases in credit limits until their account is settled. Casino licensees may experience a slight negative impact since credit patrons who have reached their limits will not be able to obtain additional credit and therefore may discontinue gambling.

The amendment to N.J.A.C. 19:45-1.29 will require casino licensees to make a non-refundable payment to the Casino Control Fund for any gaming check that remains unpaid 180 days after issuance. Compulsive gamblers and those whose credit is overextended may benefit if casino licensees become more prudent in granting credit lines since a real loss will be incurred if a check is not paid within the specified time.

The amendments will have no appreciable economic impact upon the Commission or the Division because they are primarily concerned with the relationship between the casino licensee and the gaming patron. To the extent that these new procedures require the Commission and the Division to monitor their enforcement and operation, administrative costs will be incurred by the regulatory agencies.

Summary

The Division of Gaming Enforcement and the State Commission of Investigation submitted proposed amendments to N.J.A.C. 19:45-1.1, 1.11, 1.25, 1.26, 1.27, 1.28, 1.29 and 1.45. Additionally, the DGE submitted new rules, codified as N.J.A.C. 19:45-1.47 and 1.48, concerning procedures for redemption of counter checks in the casino pit and removing chips and plaques from pit booths. Except where otherwise indicated, the following summaries and impact statements apply to the submissions of both the DGE and SCI.

Proposed amendments to N.J.A.C. 19:45-1.1 would require that

identification credentials contain a photograph or a physical description of the patron.

Proposed amendments to N.J.A.C. 19:45-1.11 would "require" written communication between specific departments within the casino organization and the credit manager (and/or other appropriate supervisors) concerning information regarding casino patrons which may have an impact on determining the patron's credit worthiness. The proposed regulation would also require the credit department to report to the directors of security and surveillance, on a daily basis, the names of new credit applicants with approved credit limits. The SCI proposal would also require the communication of information concerning the fitness of a patron to remain on the premises.

Proposed amendments to N.J.A.C. 19:45-1.25(e) would require the casinos to document, in detail, the verification process of cash equivalents prior to their acceptance at the cashier's cage. Under subsection (l), the amendment would require the casinos to obtain, and the patrons to apply, chips in their possession in reduction of counter checks. The SCI proposal gives the regulation mandatory effect only if the patron has unredeemed negotiable checks in the amount of \$200.00 or more.

Proposed amendments to N.J.A.C. 19:45-1.26 would require casinos to redeem checks on a "last in, first out" basis.

As proposed by the DGE, the amendments to N.J.A.C. 19:45-1.27 would require the casinos to obtain and verify additional information regarding the patron's identification and credit worthiness. Also, this proposal would document the credit decision process in greater detail and would make casino employees more accountable for their decisions. The SCI has also proposed that a casino licensee be required to pay a penalty when checks become uncollectible if the credit was issued with knowledge of "derogatory information."

Proposed amendments to N.J.A.C. 19:45-1.28 would require casino licensees to deposit all gaming checks within 14 days of the date of issuance.

Proposed amendments to N.J.A.C. 19:45-1.29 would require casino licensees to obtain sufficient documentation evidencing the uncollectibility of return checks prior to the discontinuance of collection efforts.

Proposed amendments to N.J.A.C. 19:45-1.45 would require that signatures include the date and time of signing.

As proposed by the DGE, N.J.A.C. 19:45-1.47 would allow for the redemption of counter checks, at the discretion of the casino, in the casino pit area.

As proposed by the DGE, N.J.A.C. 19:45-1.48 sets forth guidelines for transferring chips and plaques from pit redemption booths to the cashier's cage. These guidelines are similar to the controls required for chip and plaque transfers between gaming tables and the cashier's cage.

Social Impact

The proposed amendments to N.J.A.C. 19:45-1.1 would provide the casino licensees and regulatory agencies with accurate and comprehensive methods of identifying patrons, thereby reducing the likelihood of credit scams and credit frauds. The impact on casino patrons would be to reduce the likelihood of other individuals receiving credit by fraudulently using their name. It provides better protection for all parties concerned.

The proposed amendments to N.J.A.C. 19:45-1.11 would allow specific departments within the casino licensee's organization to communicate to the credit department information regarding casino patrons. This information may have a material effect on determining the patron's credit worthiness and fitness to remain on the premises (SCI proposal), thus providing the credit department with additional information on which to base a credit decision. The impact on regulatory agencies would be minimal since the communication of information is from within the casino itself. The impact on patrons would be the possible prevention of unwarranted credit.

The proposed amendments to N.J.A.C. 19:45-1.25(l) would combat the current problems associated with patrons "walking with chips" and would prevent patrons from utilizing casino funds for non-gaming purposes. The impact on the general public would be to curtail the financing of illegal activities or other activities which would be detrimental to society. Since the casinos are currently required to verify cash equivalents prior to their acceptance at the cashiers' cage, there is no additional impact imposed by requiring casinos to document this verification process as required by the amendment to N.J.A.C. 19:45-1.25(e).

The proposed amendments to N.J.A.C. 19:45-1.26 would curtail the current problems associated with "rolling over the checks." It would also provide the casino with an earlier opportunity to more effectively evaluate the patron's ability to repay his debt. The impact on compulsive or problem gamblers would be to reduce the amount of monies that a patron could afford to lose since later checks would be redeemed first and earlier checks would be sent for deposit.

The proposed amendments to N.J.A.C. 19:45-1.27 would provide casinos with additional information on which to make a credit decision on the patron. The impact on regulatory agencies would be to provide these agencies with verified information regarding patrons and the casino's credit decisions which would aid them in criminal and administrative investigations. The impact on patrons would be to require them to disclose additional information which is not currently required. It would also have an impact of curtailing credit frauds and scams since more information would be verified.

The proposed amendments to N.J.A.C. 19:45-1.28 would provide casinos with more timely information as to a patron's ability to pay, since checks would be deposited within 14 calendar days. This would allow the casinos to effectively evaluate their credit decisions and, if necessary, adjust them accordingly. Additionally, if a crime was perpetrated, regulatory agencies would have earlier notification of such a crime since the depositing of checks would be on a more timely basis. The impact on patrons would be to reduce the total amount of monies that the patron could afford to lose since checks would be deposited sooner, thus reducing the patron's exposure.

The social impact of N.J.A.C. 19:45-1.29 on the casinos, the regulatory agencies and the patrons would be minimal since documentation on the uncollectibility of returned checks is currently obtained the majority of the time.

The proposed amendments to N.J.A.C. 19:45-1.45 would provide a more effective audit trail in determining the exact sequence of transactions. There would be no impact on patrons.

Proposed amendments to N.J.A.C. 19:45-1.47 would provide casinos with procedures for obtaining gaming chips from patrons in the pit area to reduce outstanding unredeemed checks. This would also curtail patrons "walking with chips," and would provide the casinos with additional information as to the patron's credit worthiness. The impact on the regulatory agencies and the general public would be to reduce the incidence of casino funds being utilized for non-gaming purposes, whether they be legal or illegal. This proposed regulation would also provide patrons with a convenient method to redeem counter checks, since pit cashier booths would be located in the vicinity of gaming tables and would only handle such transactions.

Proposed N.J.A.C. 19:45-1.48 would assure that all chip transfers are documented and that an audit trail is maintained. This would assist the regulatory agencies in their monitoring function and the casinos in fulfilling their obligation to record and document gambling transactions. There will be no direct impact on casino patrons.

Economic Impact

The proposed amendment to N.J.A.C. 19:45-1.1 would provide additional revenue to the casinos and the State since the likelihood of credit scams and frauds would be greatly reduced. This in turn

would reduce the amount of "uncollectibles." Also, the monies spent collecting from and investigating unknown individuals would be reduced since a more positive identification of individuals would be obtained. There is no economic impact on patrons.

The proposed amendments to N.J.A.C. 19:45-1.11 would require casinos to incur some additional costs for communication and documentation of information between various departments. Also, this proposed regulation might prevent the issuance of unwarranted credit, thus reducing the casino's exposure. The impact on both the regulatory agencies and the general public would be the impediment which the regulations create to use casino funds for non-gaming purposes.

The proposed amendments to N.J.A.C. 19:45-1.25 would enable casinos to improve their cash flow position and to reduce the amount of uncollectible checks from patrons "walking with chips." Since the casinos are currently required to verify the validity of all cash equivalents prior to their acceptance, subsection (e) will impose a minimal burden on the industry. The impact of proposed subsection (e) on regulatory agencies and the patron public would be minimal. The impact of proposed subsection (l) on the regulatory agencies and the patron public would be the prevention of casino funds from being used for non-gaming purposes.

The proposed amendments to N.J.A.C. 19:45-1.26 would enable casinos to improve their cash flow position and to prevent the issuance of credit to patrons who are unworthy, since the disposition of checks would be known sooner. The impact on patrons would be that they would have to redeem on a "last in, first out" basis, causing earlier checks to be deposited. This would reduce their exposure and the "rolling over" of checks. The impact on regulatory agencies and the general public would be the reduction of casino funds utilized for non-gaming purposes.

The proposed amendments to N.J.A.C. 19:45-1.27 would impose upon the industry certain costs of compliance. Such costs would include: the purchase of photography equipment to photograph the patrons; new credit application forms to allow for the recording of all required information; the costs associated with credit reference verifications; and the costs associated with establishing a method to review the reasonableness and accuracy of player rating forms. The casinos would also experience a potential cost savings because the extension of credit would be based on more verifiable information which may result in the denial of credit to patrons who are not credit worthy. The impact on the regulatory agencies would be some cost savings for investigations since much of the information which they need to prosecute patrons perpetrating a crime would now be readily available (address, employment, etc.). The impact on the general public would be to deter the issuance of credit to "problem" or compulsive gamblers. Additional costs must be borne by the casinos to comply with SCI's recommendation that all credit applicants be fingerprinted and a fine be imposed for any credit issued, in the face of "derogatory information" that remains unpaid 180 calendar days after the date of issuance; or, in the case of partial redemptions and consolidations, 180 calendar days after the date of the initial check.

The proposed amendments to N.J.A.C. 19:45-1.28 would improve the casinos' cash flow position and would provide them with a more timely evaluation of the patron's ability to pay his debt. This may prevent the issuance of additional unwarranted credit. The impact on the general public would be to reduce the exposure to "problem" or compulsive gamblers since checks would be deposited on a more timely basis. There is no economic impact on the regulatory agencies.

The proposed amendments to N.J.A.C. 19:45-1.29 would require collection efforts to continue until documentation of a check's uncollectibility is obtained. This may lead to more productive collection results. There is no economic impact on the regulatory agencies or patrons.

The proposed amendments to N.J.A.C. 19:45-1.45 would provide the casinos and the regulatory agencies with a more effective audit trail. This in turn would reduce the cost of audits and

investigations. There is no impact on patrons.

Proposed N.J.A.C. 19:45-1.47 may reduce the amount of "uncollectibles" since payment, or an evaluation of the patron's credit worthiness, would be obtained in the pit. Also, certain costs would be incurred by the casino relative to the construction of pit redemption booths and the procedures to implement the redemption process. There is no impact on the regulatory agencies or patrons.

Proposed N.J.A.C. 19:45-1.48 may require casinos to employ additional personnel to perform the transaction now required.

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

CASINO CONTROL COMMISSION PROPOSED AMENDMENTS

19:45-1.25 Procedure for exchange of checks submitted by gaming patrons
(a)-(k) (No change.)

Alternative No. 1

(l) The casino licensee shall request patrons to apply any chips or plaques **in excess of \$500.00** in their possession in reduction of counter checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino area.

Alternative No. 2

(l) The casino licensee shall [request patrons] **be required to obtain and the patron shall be required** to apply any chips or plaques **in excess of \$500.00** in their possession in reduction of counter checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino area.

(m) (No change.)

19:45-1.27 Procedure for recording checks exchanged, redeemed or consolidated
(a)-(c) (No change.)

(d) A credit file for each patron shall be prepared manually or by computer, prior to issuance of a Counter Check to a patron by casino clerks and such file shall include, at a minimum, the following:)

1.-7. (No change.)

8. Credit limit increases shall be approved by a casino only if the patron does not have an outstanding balance at that casino and 48 hours have elapsed since the request was submitted.

Renumber 8.-15. as 9.-16.

(e) (No change.)

19:45-1.29 Procedure for collecting and recording checks returned to the casino after deposit

(a)-(j) (No change.)

(k) A casino licensee shall be required to make a nonrefundable payment to the Casino Control Fund in an amount equal to 25 percent of any gaming check which remains unpaid 180 days after the date of issuance.

DIVISION OF GAMING ENFORCEMENT PROPOSED AMENDMENTS

19:45-1.1 Definitions

"Identification credentials" means a [valid credit card,] driver license, passport or other form of identification credential which **bears a photo or a physical description and** contains, at a minimum, the patron's signature. A personal reference does not constitute an identification credential.

19:45-1.11 Casino licensee's organization

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

(c) Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:

1. A surveillance department supervised by a director of surveillance who shall cooperate with, yet perform independently of all other departments and shall report directly to the Board of Directors, or its audit committee, or equivalent regarding matters of policy, purpose, responsibilities and authority and indirectly to the Chief Executive Officer or his equivalent, for daily operations. The director of surveillance shall be responsible for, but not be limited to, the following:

i.-vii. (No change.)

viii. The communication in writing of any information regarding casino patrons to the credit manager and other appropriate supervisors which may be useful in determining a patron's credit worthiness.

2.-5. (No change.)

6. A credit department supervised by a credit manager who shall cooperate with, yet perform independently of, all other departments and shall report directly to the Vice President of Casino Operations or his equivalent. The credit manager shall be responsible for the credit function including, but not limited to, the following:

i.-iii. (No change.)

iv. The reporting of the names of new credit applicants, with approved credit limits, to the directors of security and surveillance, at a minimum, on a daily basis.

7. A security department supervised by a director of security who shall cooperate with, yet perform independently of, all other departments and shall report directly to the chief executive officer or his equivalent. The director of security shall be responsible for the overall security of the establishment including, but not limited to, the following:

i.-viii. (No change.)

ix. The communication in writing of any information regarding casino patrons to the credit manager and other appropriate supervisors which may be useful in determining a patron's credit worthiness.

8.-9. (No change.)

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

19:45-1.25 Procedure for exchange of checks submitted by gaming patrons
(a)-(d) (No change.)

(e) Cash equivalents, as defined in N.J.A.C. 19:45-1.1, shall only be accepted at the cashiers' cage by general cashiers. Prior to acceptance of a cash equivalent from a person, the general cashier shall determine the validity of such cash equivalent by performing the necessary verification for each type of cash equivalent. [and such other procedures as may be required by the issuer of such cash equivalent.] **Verification of all cash equivalents shall be recorded in a log which shall include, at a minimum, the following:**

1. The date the cash equivalent is accepted;

2. Type of cash equivalent;

3. The name of the patron;

4. The amount of the cash equivalent;

5. The foreign exchange rate, if applicable;

6. The method of verification;

7. The name of the issuer of the cash equivalent;

8. The information obtained from the issuer regarding the validity of the cash equivalent;

9. The name and title, of the person furnishing the information obtained in 8. above; and

10. The signature of the general cashier verifying the validity of the cash equivalent.

(f)-(k) (No change.)

(l) The casino licensee shall [request patrons] **be required to obtain and the patron shall be required** to apply any chips or plaques in their possession in reduction of counter checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino area.

(m) (No change.)

19:45-1.26 Procedure for redemption, consolidation or substitution of checks submitted by gaming patrons

(a) The drawer of a check may redeem the check by exchanging[.] the following and such check redeemed shall be the most currently dated check:

1.-3. (No change.)

(b)-(f) (No change.)

19:45-1.27 Procedure for recording checks exchanged, redeemed or consolidated

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

(d) A credit file for each patron shall be prepared manually or by computer, prior to issuance of a Counter Check to a patron by casino clerks and such file shall include, at a minimum, the following:

1. The casino clerk's signature receiving and/or preparing the credit file including the method of receipt (mail, telephone, in person, etc.);

Renumber 1. as 2. (No change.)

[2.] 3. The [address] residence of the patron;

4. The patron's residence phone;

5. The name of the patron's employer;

i. Type of business;

ii. Position; and

iii. Number of years.

6. The address of the patron's employer;

7. The patron's business phone;

8. Income to be considered;

i. Amount; and

ii. Source.

Renumber 3. as 9. (No change.)

[4.] 10. The number of the patron's [bank] personal checking account(s) which the patron is individually authorized to sign on;

11. A physical description of the patron which shall include, but not be limited to, the following:

i. A photograph taken by the licensee accompanied by the signatures of the cage cashier and the patron indicating the photograph is the patron applying for credit;

ii. Date of birth;

iii. Height;

iv. Weight;

v. Hair color; and

vi. Eye color.

[6.] 12. The patron's signature[.] indicating acknowledgement of the following statement: I declare the information provided to be true and correct, and authorize the casino to conduct such investigations pertaining to this information as it deems necessary for the approval of my requested credit limit. I further authorize the release of all information contained in my credit file as required by law. I certify that all of the above information is true. I realize that willingly furnishing false information may subject me to criminal prosecution.

[7.] 13. The type of identification credentials examined, accompanied by the signature of the cage cashier [and the date], indicating that the signature on the credit file compares to the signature on the identification credentials presented by the patron;

14. The credit limit requested by the patron and the names of other legal casinos where the patron has/had established credit;

15. The verification of information required by (d)3 through 7 above prior to the approval of a credit limit unless items 16i and ii below do not reveal any derogatory information;

[5.] 16. Credit references, prior to the approval of a credit limit and increases thereto, accompanied by the signature of the credit department representative [and the date] indicating verification directly with: [either a recognized credit bureau, the patron's bank or another legal casino;]

i. Recognized credit bureaus that have the capability to provide the following:

(1) The patron's casino credit history;

(2) The patron's other credit history; and

ii. Other legal casinos where the patron has/had established credit. Each New Jersey casino shall be required to furnish to other New Jersey casinos information that shall include, but not be limited to, the following:

(1) Date account established;

(2) Amount of highest approved credit limit;

(3) Amount of current approved credit limit;

(4) Status of the account at the time of verification, including intransit items and derogatory information; and

(5) The name and title of person supplying the information.

iii. The patron's personal checking account(s). In the event that items 16i and ii above do not reveal any derogatory information, the casino shall not be required to verify the patron's bank account(s) prior to the approval of a credit line, but shall immediately request in writing, and by other normal business practices, verification of the bank account(s) provided.

iv. "Derogatory" is defined as write-offs, unpaid returned checks, the outstanding balance at other casinos exceeds the credit limit requested at the casino at the time of verification, settlements, liens, judgments.

v. If casino credit history is unavailable or if derogatory information is obtained or the patron does not have casino credit activity in the last 24 months, no credit shall be extended unless the bank account(s) provided by the patron is verified in writing.

vi. The information to be verified on the patron's bank account(s) shall include, but not be limited to, the following:

(1) Type of account (business, personal, savings, checking, etc.);

(2) Account number;

(3) Date the account was opened;

(4) Average balance of account for, at a minimum, the last twelve months;

(5) Current status of account;

(6) An indication as to whether the individual applying for credit, can sign individually on the account; and

(7) Name and title of the person supplying the information.

vii. Credit reference verifications required by subsection 16 above shall be updated at least every six months; and

viii. A reply of "no record", "too new to rate", "no information obtained", etc., does not constitute a credit reference verification.

[8.] 17. The credit limit, and any changes thereto, approved by the signature of the Vice President of Casino Operations, or his equivalent, credit manager, the assistant credit manager, credit shift managers, or a credit committee which may approve credit as a group but whose members may not approve credit individually unless such person is included in the job positions referenced above. The credit limit and changes thereto shall be commensurate with the information contained in the credit file. The casino manager, assistant casino manager, or casino shift manager may have input to the credit limit decision but shall not have approval authority[.]. The approval shall include:

i. Signature;

ii. Player rating;

iii. Outstanding balances at other legal casinos on the date of the approval;

iv. A description of other information considered in determining the credit limit, including the source of the information;

v. A reason as to why credit was approved if derogatory information was obtained when performing credit references; and

vi. Credit limit increases shall be requested in writing by the

patron and shall include, but not be limited to:

- (1) **Signature of patron;**
- (2) **Date of request; and**
- (3) **Amount of request.**

18. The credit limit reduced to zero at any casino where the patron has returned checks until such time the returned checks have been paid in full by the patron. Exempted from this regulation shall be dishonored checks where the patron is not responsible.

[9.] **19.** The credit player rating based on a continuing evaluation of his amount and frequency of play subsequent to the patron's initial receipt of credit. **Each casino licensee shall establish a method to independently review and monitor player ratings to determine the accuracy and reasonableness of information recorded. The review shall be performed by persons with no incompatible functions such as internal audit or surveillance. These procedures must be submitted in writing to both the commission and division for review and approval.** The information for the credit player's rating shall be recorded on a player rating form by casino department supervisors and shall include, but not be limited to, the following:

i.-iv. (No change.)

v. **Amount of gaming chips in patron's possession upon leaving the gaming table;**

Renumber v.-vii. as vi.-viii.

Renumber 10.-11. as 20.-21.

[12.] **22.** The date, **method** and amount of each redemption transaction;

[13.] **23.** (No change.)

[14.] **24.** The date and amount of each check deposited; [and]

25. The outstanding balance after each transaction;

[15.] **26.** The details relating to returned checks[.]; and

27. The details relating to checks written-off.

(e) (No change.)

19:45-1.28 Procedure for depositing checks received from gaming patrons

(a) All checks, unless redeemed or consolidated prior to the time requirements herein, received from gaming patrons in conformity with N.J.A.C. 19:45-1.25 shall be deposited in the casino licensee's bank account in accordance with the casino licensee's normal business practice, and such practice must be submitted in writing to both the Commission and Division, but in no event later than:

1. (No change.)

2. [Seven banking] **Fourteen** days after the date of the check. [for a check in an amount less than \$1,000.00;]

[3. Fourteen banking days after the date of the check for a check in an amount of at least \$1,000.00 but less than \$2,500.00; or

4. Ninety banking days after the date of the check for a check in an amount of \$2,500.00 or more.]

(b) All checks received for consolidation in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. [Seven banking] **Fourteen** days after the date of the initial check for a consolidating check. [where the consolidating check is in an amount less than \$1,000.00;]

[2. Fourteen banking days after the date of the initial check for a consolidating check where the consolidating check is in an amount of at least \$1,000.00 but less than \$2,500.00; or

3. Ninety banking days after the date of the initial check for a consolidating check where the consolidating check is in an amount of \$2,500.00 or more.]

(c) All checks received as part of a redemption in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. [Seven banking] **Fourteen** days after the date of the initial check. [if the initial check is in an amount of less than \$1,000.00;]

[2. Fourteen banking days after the date of the initial check if the

initial check is in an amount of at least \$1,000.00 but less than \$2,500.00; or

3. Ninety banking days after the date of the initial check if the initial check accepted is in an amount of \$2,500.00 or more.]

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

(f) **In computing the time period fixed by this section the last day of the period is to be included unless it is a Saturday, Sunday or legal holiday in which event the period runs until the next day.**

19:45-1.29 Procedure for collecting and recording checks returned to the casino after deposit

(a)-(i) (No change.)

(j) After all reasonable collection efforts, **if returned checks prove to be uncollectible**, returned checks shall be written-off **only if sufficient documentation has been obtained evidencing the uncollectibility of the returned check** and listings of such check shall be approved in writing by, at a minimum, the Chief Executive Officer, or his equivalent, Vice-President of Casino Operations, or his equivalent and Controller and such checks and listings shall be maintained and controlled by accounting department employees. A continuous trial balance of all written-off checks shall be maintained by employees of the accounting department with no incompatible functions. The continuous trial balance shall be adjusted for any subsequent collections.

19:45-1.45 Signatures

(a) Signatures shall:

1.-2. (No change.)

3. **Include the date and time;**

Renumber 3.-4. as 4.-5.

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

19:45-1.47 Procedure for redemption of counter checks in the casino pit

(a) **For counter checks redeemed in the casino pit, the pit supervisor shall determine the following information:**

1. **The patrons who shall be requested to apply chips in their possession as payment on outstanding counter checks; and**

2. **The amount of payment to be made.**

(b) **This information shall be conveyed to the "pit cashier" and the casino patron shall be directed to the "pit cashier booth". The pit cashier shall report directly to the cage manager and the pit booth shall be considered an extension of the cashiers' cage.**

(c) **The pit cashier will obtain the patron's name and then determine the amount of unpaid counter checks from the check bank cashier for each redemption.**

(d) **The pit cashier will prepare a pit payment receipt which will be a four-part form and contain the following information at a minimum:**

1. **The date of the transaction;**

2. **The time of the transaction;**

3. **The shift of the transaction;**

4. **The patron's name and date of birth; and**

5. **The amount of unpaid counter checks prior to the payment.**

(e) **Pit payment receipts shall be serially prenumbered forms, each series of pit payment receipts shall be used in sequential order, and the series numbers of all pit payment receipts received by a casino shall be accounted for by employees with no incompatible functions. All original and duplicate void pit payment receipts shall be marked "VOID" and shall require the signature of the preparer.**

(f) **For establishments in which pit payment receipts are manually prepared, the following procedures and requirements shall be observed:**

1. **Each series of pit payment receipts shall be a four-part form, at a minimum, and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to**

be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate and triplicate while the fourth copy remains in a continuous, unbroken form in the dispenser.

2. Access to the fourth copy shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of pit payment receipts, placing pit payment receipts in the dispensers, and removing from the dispensers, each day, the fourth copy remaining therein. These employees shall have no incompatible functions.

(g) For establishments in which pit payment receipts are computer-prepared, each series of pit payment receipts shall be a three-part form, at a minimum, and shall be inserted in a printer that will: simultaneously print an original, duplicate and triplicate, store in machine-readable form, all information printed on the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a pit payment receipt.

(h) On original, duplicate, triplicate and fourth copies of the pit payment receipts, or in stored data, the preparer shall record, at a minimum, the following information:

1. The denomination of the gaming chips and plaques received in payment;
2. The total amount of each denomination of gaming chips and plaques received in payment;
3. The total amount of all denominations of gaming chips and plaques being received in payment;
4. The pit cashier booth number at which the gaming chips and plaques are received in payment;
5. The date and shift during which the payment of gaming chips and plaques occurs; and
6. The signature of the preparer or, if computer prepared, the identification code of the preparer.

(i) The time of preparation of the pit payment receipt shall be recorded at a minimum, on the original, duplicate and triplicate upon preparation.

(j) Once the pit payment receipt has been prepared, the pit cashier shall obtain the patron's signature attesting to the accuracy of the document. At that time the pit cashier shall sign the document.

(k) The copies of the pit payment receipt shall be distributed as follows:

1. Original copy shall be immediately forwarded to the check bank to be included in the check bank inventory and compared to the patrons copy upon redemption, if applicable;
2. Duplicate copy maintained in the pit booth to document the transaction and to be used as a reconciling item; and
3. Triplicate copy given to the patron to be used at the cashiers' cage to obtain the paid counter checks or to complete the transactions required by a partial redemption.

(l) The original, duplicate and fourth copy shall be forwarded to the accounting department for appropriate comparisons and audit procedures.

(m) The pit cashier shall maintain a log which includes the following information at a minimum for each redemption:

1. The date;
2. The amount;
3. The sequential number of the pit payment receipt;
4. The name of the patron;
5. The shift; and
6. The signature and license number of the pit cashier.

(n) The contents of the pit cashiers' booth shall be balanced at the end of each shift and the cashiers' closeout sheet shall be prepared in a manner similar to other cashier positions (N.J.A.C. 19:45-1.15).

(o) In order to transfer excess chips obtained from patrons chips at the pit booth, exchanges may be made with the cashiers' cage only. This can be accomplished utilizing a form entitled a pit booth credit slip similar to the documents used to

transfer gaming chips from tables to the casino cage known as table credit slip.

19:45-1.48 Procedure for removing chips and plaques from pit booths

(a) A request for credit ("Request") shall be prepared by a casino clerk or a pit cashier, to authorize the preparation of a pit booth credit slip ("Credit") for the removal of gaming chips and plaques from pit cashier booth to the cashiers' cage. The request shall be a two-part form, at a minimum, and access to such form shall, prior to use, be restricted to casino clerks and pit cashiers.

(b) On the original and duplicate request, the following information, at a minimum, shall be recorded:

1. The date and time, or shift of preparation;
2. The denomination of gaming chips and plaques to be removed from the pit cashier booth;
3. The total amount of each denomination of gaming chips and plaques to be removed from the pit cashier booth;
4. The pit number and pit cashier booth number from which the gaming chips and plaques are to be removed; and
5. The signature of the pit booth cashier assigned to the booth from which the gaming chips and plaques are to be removed.

(c) Immediately upon preparation of a request and transfer of gaming chips and plaques to a security department member, a pit booth cashier shall obtain on the duplicate, the signature of the security department member to which the gaming chips and plaques were transferred and the pit booth cashier shall maintain the duplicate request. Such request shall not be removed until a credit is received from the chip bank at which time the request and credit are compared for agreement and attached.

(d) The original request shall be transported directly to the cashiers' cage by the security department member who shall at the same time transport the gaming chips and plaques removed from the pit booth.

(e) A credit shall be prepared by a chip bank cashier or, if computer prepared, by a chip bank cashier or a casino clerk whenever gaming chips and plaques are returned from the pit booth to the cashiers' cage.

(f) Credits shall be serially prenumbered forms, each series of credits shall be used in sequential order, and the series numbers of all credits received by a casino shall be accounted for by employees with no incompatible functions. All original and duplicate void credits shall be marked "VOID" and shall require the signature of the preparer.

(g) For establishments in which credits are manually prepared, the following procedures and requirements shall be observed:

1. Each series of credits shall be a three-part form, at a minimum, and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser.

2. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of credits, placing credits in the dispensers, and removing from the dispensers, each day, the triplicates remaining therein. These employees shall have no incompatible functions.

(h) For establishments in which credits are computer prepared, each series of credits shall be a two-part form, at a minimum, and shall be inserted in a printer that will: simultaneously print an original and a duplicate and store, in machine-readable form, all information printed on the original and duplicate; and discharge in the cashiers' cage the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a credit.

(i) On originals, duplicates, and triplicates, or in stored data, the preparer shall record, at a minimum, the following information:

1. The denomination of the gaming chips and plaques being returned;
2. The total amount of each denomination of gaming chips and plaques being returned;
3. The total amount of all denominations of gaming chips and plaques being returned;
4. The pit number and pit cashier booth number from which the gaming chips, coins and plaques are being returned;
5. The date and shift during which the removal of gaming chips and plaques occurs; and
6. The signature of the preparer or, if computer prepared, the identification code of the preparer.

(j) The time of preparation of the credit shall be recorded, at a minimum, on the original and duplicate upon preparation.

(k) Signatures attesting to the accuracy of the information contained on the credits shall be, at a minimum, of the following personnel at the following times:

1. The original and the duplicate:
 - i. The chip bank cashier upon preparation;
 - ii. The security department member returning the gaming chips and plaques to the cashiers' cage; and
 - iii. The pit booth cashier assigned to the pit booth upon receipt at such booth from the security department member.

(l) Upon meeting the signature requirements as described in (k) above, the security department member returning the original and duplicate copies of the credit to the booth or the pit booth cashier receiving the original and duplicate copies of the credit at the booth, through a pneumatic tube system, shall compare the "request" with "credit" for agreement of information recorded on the forms. The security department member or the pit booth cashier shall expeditiously return the original credit to the chip bank where the original credit and request shall be maintained and controlled by employees independent of the casino department.

(m) The original and duplicate of void credits and the original request and credit, maintained and controlled in conformity with (l) above shall be forwarded to the cashiers' cage at the end of each shift.

STATE COMMISSION OF INVESTIGATION PROPOSED AMENDMENTS

19:45-1.1 Definitions

"Identification credentials" means a [valid credit card,] driver license, passport or other form of identification credential which bears a photo or a physical description and contains, at a minimum, the patron's signature. A personal reference does not constitute an identification credential.

19:45-1.11 Casino licensee's organization

(a)-(b) (No change.)
(c) Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:

1. A surveillance department supervised by a director of surveillance who shall cooperate with, yet perform independently of all other departments and shall report directly to the Board of Directors, or its audit committee, or equivalent regarding matters of policy, purpose, responsibilities and authority and indirectly to the Chief Executive Officer or his equivalent, for daily operations. The director of surveillance shall be responsible for, but not be limited to, the following:

- i.-vii. (No change.)
- viii. The communication in writing of any information regarding casino patrons to the credit manager and other

appropriate supervisors which may be useful in determining a patron's credit worthiness, or fitness to remain on the premises. This is a continuing responsibility.

2.-5. (No change.)
6. A credit department supervised by a credit manager who shall cooperate with, yet perform independently of, all other departments and shall report directly to the Vice President of Casino Operations or his equivalent. The credit manager shall be responsible for the credit function including, but not limited to, the following:

- i.-iii. (No change.)
- iv. The reporting of the names of new credit applicants, with approved credit limits, to the directors of security and surveillance, at a minimum, on a daily basis.

7. A security department supervised by a director of security who shall cooperate with, yet perform independently of, all other departments and shall report directly to the chief executive officer or his equivalent. The director of security shall be responsible for the overall security of the establishment including, but not limited to, the following:

- i.-viii. (No change.)
- ix. The communication in writing of any information regarding casino patrons to the credit manager and other appropriate supervisors which may be useful in determining a patron's credit worthiness, or fitness to remain on the premises. This is a continuing responsibility.

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

19:45-1.25 Procedure for exchange of checks submitted by gaming patrons

(a)-(k) (No change.)
(l) The casino licensee shall [request patrons] be required to obtain and the patron shall be required to apply any chips or plaques in their possession in reduction of counter checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino area, unless that person has unredeemed negotiable checks in an amount of less than \$200.00.

(m) (No change.)

19:45-1.26 Procedure for redemption, consolidation or substitution of checks submitted by gaming patrons

(a) The drawer of a check may redeem the check by exchanging[:] the following and such check redeemed shall be the most currently dated check.

- 1.-3. (No change.)
- (b)-(f) (No change.)

19:45-1.27 Procedure for recording checks exchanged, redeemed or consolidated

(a)-(c) (No change.)
(d) A credit file for each patron shall be prepared manually or by computer, prior to issuance of a counter check to a patron by casino clerks and such file shall include, at a minimum, the following:

1. The casino clerk's signature receiving and/or preparing the credit file including the method of receipt (mail, telephone, in person, etc.);

- Renumber 1. as 2. (No change.)
- [2.] 3. The [address] residence of the patron;
4. The patron's residence phone;
5. The name of the patron's employer;
- i. Type of business;
- ii. Position; and
- iii. Number of years.
6. The address of the patron's employer;
7. The patron's business phone;
8. Income to be considered;
- i. Amount; and
- ii. Source.

9. Outstanding indebtedness;

- i. Amount; and**
- ii. Source(s).**

[3.] **10.** (No change.)

[4.] **11.** The number of the patron's [bank] personal checking account(s) which the patron is individually authorized to sign on;

i. The cage cashier shall examine and retain an original specimen check from the account(s) used to redeem counter checks.

12. A physical description of the patron which shall include, but not be limited to, the following:

i. Two photographs taken by the licensee accompanied by the signatures of the cage cashier and the patron indicating the photographs are of the patron applying for credit;

ii. Date of birth;

iii. Height;

iv. Weight;

v. Hair color; and

vi. Eye color.

vii. Two fingerprints taken by the licensee accompanied by the signatures of the cage cashier and the patron indicating the fingerprints are of the patron applying for credit.

[6.] **13.** The patron's signature[;] indicating acknowledgement of the following statement: I declare the information provided to be true and correct, and authorize the casino to conduct such investigations pertaining to this information as it deems necessary for the approval of my requested credit limit. I further authorize the release of all information contained in my credit file as required by law. I certify that all of the above information is true. I realize that willingly furnishing false information may subject me to criminal prosecution.

[7.] **14.** The type of identification credentials examined, accompanied by the signature of the cage cashier [and the date], indicating that the signature on the credit file compares to the signature on the identification credentials presented by the patron;

15. The credit limit requested by the patron and the names of other legal casinos where the patron has/had established credit;

16. The verification of information required by (d)3 through 7 above prior to the approval of a credit limit;

[5.] **17.** Credit references, prior to the approval of a credit limit and increases thereto, accompanied by the signature of the credit department representative [and the date] indicating verification directly with: [either a recognized credit bureau, the patron's bank or another legal casino;]

i. Recognized credit bureaus that have the capability to provide the following:

(1) The patron's casino credit history;

(2) The patron's other credit history; and

ii. Other legal casinos where the patron has/had established credit. Each New Jersey casino shall be required to furnish to other New Jersey casinos information that shall include, but not be limited to, the following:

(1) Date account established;

(2) Amount of highest approved credit limit;

(3) Amount of current approved credit limit;

(4) Status of the account at the time of verification, including intransit items, derogatory information and information received from the security and surveillance departments.

(5) The name and title of person supplying the information.

iii. The patron's personal checking account(s). In the event that items 17i and ii above do not reveal any derogatory information, the casino shall not be required to verify the patron's bank account prior to the approval of a credit line, but shall immediately request in writing, and by other normal business practices, verification of the bank account(s) provided.

iv. "Derogatory" information consists of, but is not limited to, the any write-off, unpaid returned check, settlement, lien, or

judgment.

v. If casino credit history is unavailable or if derogatory information is obtained or the patron does not have casino credit activity in the last 24 months, no credit shall be extended unless the bank account(s) provided by the patron is verified in writing.

vi. The information to be verified on the patron's bank account(s) shall include, but not be limited to, the following:

(1) Type of account (business, personal, savings, checking, etc.);

(2) Account number;

(3) Date the account was opened;

(4) Average balance of account for, at a minimum, the last 12 months;

(5) Current status of account;

(6) An indication as to whether the individual applying for credit, can sign individually on the account; and

(7) Name and title of the person supplying the information.

vii. In the event that derogatory information is obtained when verifying credit references, or there is knowledge of derogatory information, or a credit limit decision is made which is not commensurate with information contained in the credit file, and counter checks issued thereafter are uncollectible, the licensee shall be required to pay a penalty in an amount equal to the uncollectible items. This penalty will be in addition to other fines, penalties or sanctions authorized by law or these regulations.

viii. Credit reference verifications required by subsection 17 above shall be updated at least every six months; and

ix. A reply of "no record", "too new to rate", "no information obtained", etc., does not constitute a credit reference verification.

[8.] **18.** The credit limit, and any changes thereto, approved by the signature of the Vice President of Casino Operations, or his equivalent, credit manager, the assistant credit manager, credit shift managers, or a credit committee which may approve credit as a group but whose members may not approve credit individually unless such person is included in the job positions referenced above. The credit limit and changes thereto shall be commensurate with the information contained in the credit file. The casino manager, assistant casino manager, or casino shift manager may have input to the credit limit decision but shall not have approval authority[;]. The approval shall include:

i. Signature;

ii. Player rating;

iii. Outstanding balances at other legal casinos on the date of the approval;

iv. A description of other information considered in determining the credit limit, including the source of the information;

v. A reason as to why credit was approved if derogatory information was obtained when performing credit references; and

vi. Credit limit increases shall be requested in writing by the patron and shall include, but not be limited to:

(1) Signature of patron;

(2) Date of request; and

(3) Amount of request.

19. The credit limit reduced to zero at any casino where the patron has returned checks until such time the returned checks have been paid in full by the patron. Exempted from this regulation shall be dishonored checks where the patron is not responsible.

[9.] **20.** The credit player rating based on a continuing evaluation of his amount and frequency of play subsequent to the patron's initial receipt of credit. Each licensee shall establish a method to independently review and monitor player ratings to determine the accuracy and reasonableness of information recorded on the documents. The review shall be performed by persons with

no incompatible functions such as internal audit or surveillance. These procedures must be submitted to the Division of Gaming Enforcement and Casino Control Commission for review and approval. The information for the credit player's rating shall be recorded on a player rating form by casino department supervisors and shall include, but not be limited to, the following:

i.-iv. (No change.)

v. Amount of gaming chips in patron's possession upon leaving the gaming table;

Renumber v.-vii. as vi.-viii.

Renumber 10.-11. as 21.-22.

[12.] **23.** The date, **method** and amount of each redemption transaction;

[13.] **24.** (No change.)

[14.] **25.** The date and amount of each check deposited; [and]

26. The outstanding balance after each transaction;

[15.] **27.** The details relating to returned checks[.]; and

28. The details relating to checks determined to be uncollectible.

(e) (No change.)

19:45-1.28 Procedure for depositing checks received from gaming patrons

(a) All checks, unless redeemed or consolidated prior to the time requirements herein, received from gaming patrons in conformity with N.J.A.C. 19:45-1.25 shall be deposited in the casino licensee's bank account in accordance with the casino licensee's normal business practice, and such practice must be submitted in writing to both the Commission and Division, but in no event later than:

1. (No change.)

2. [Seven banking] **Fourteen** days after the date of the check. [for a check in an amount less than \$1,000.00;]

[3. Fourteen banking days after the date of the check for a check in an amount of at least \$1,000.00 but less than \$2,500.00; or

4. Ninety banking days after the date of the check for a check in an amount of \$2,500.00 or more.]

(b) All checks received for consolidation in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. [Seven banking] **Fourteen** days after the date of the initial check for a consolidating check. [where the consolidating check is in an amount less than \$1,000.00;]

[2. Fourteen banking days after the date of the initial check for a consolidating check where the consolidating check is in an amount of at least \$1,000.00 but less than \$2,500.00; or

3. Ninety banking days after the date of the initial check for a consolidating check where the consolidating check is in an amount of \$2,500.00 or more.]

(c) All checks received as part of a redemption in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. [Seven banking] **Fourteen** days after the date of the initial check. [if the initial check is in an amount of less than \$1,000.00;]

[2. Fourteen banking days after the date of the initial check if the initial check is in an amount of at least \$1,000.00 but less than \$2,500.00; or

3. Ninety banking days after the date of the initial check if the initial check accepted is in an amount of \$2,500.00 or more.]

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

(f) In computing the time period fixed by this section the last day of the period is to be included unless it is a Saturday, Sunday or state or federal holiday in which event the period runs until the next day.

19:45-1.29 Procedure for collecting and recording checks returned to the casino after deposit

(a)-(i) (No change.)

(j) After all reasonable collection efforts, **it may be determined**

that returned checks are uncollectible. A returned check may be considered uncollectible only if sufficient documentation has been obtained evidencing the uncollectibility of the returned check. Also, a listing of uncollectible returned checks [returned checks shall be written-off and listings of such checks] shall be approved in writing by, at a minimum, the Chief Executive Officer, or his equivalent, Vice-President of Casino Operations, or his equivalent and Controller and such checks and listings shall be maintained and controlled by accounting department employees. A continuous trial balance of all [written-off] uncollectible checks shall be maintained by employees of the accounting department with no incompatible functions. The continuous trial balance shall be adjusted for any subsequent collections.

(k) When computing the penalty required by N.J.A.C. 19:45-1.27 (d)17vii., all checks received by a casino licensee which remain unpaid 180 calendar days after the date of issuance, or in the case of partial redemptions and consolidations 180 calendar days after the date of the initial check, shall be considered uncollectible.

19:45-1.45 Signatures

(a) Signatures shall:

1.-4. (No change.)

5. Include the date and time;

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

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Disease Control Program Reportable Diseases

Readoption: N.J.A.C. 2:2-1

Proposed: August 1, 1983 at 15 N.J.R. 1202(a).
Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
Secretary, Department of Agriculture.
Filed: September 29, 1983 as R.1983 d.448, **without
change.**

Authority: N.J.S.A. 4:5-4.

Effective Date: September 29, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
September 29, 1988.

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

(b)

DIVISION OF ANIMAL HEALTH

Disease Control Program Tuberculosis Control and Eradication

Readoption: N.J.A.C. 2:2-3

Proposed: August 1, 1983 at 15 N.J.R. 1203(b).
Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
Secretary, Department of Agriculture.
Filed: September 29, 1983 as R.1983 d.449, **without
change.**

Authority: N.J.S.A. 4:5-18-75.

Effective Date: September 29, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
September 29, 1988.

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

(c)

DIVISION OF ANIMAL HEALTH

Disease Control Program Swine Disease Control

Readoption: N.J.A.C. 2:2-4

Proposed: August 1, 1983 at 15 N.J.R. 1204(a).
Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
Secretary, Department of Agriculture.
Filed: September 29, 1983 as R.1983 d.450, **without
change.**

Authority: N.J.S.A. 4:5-106.1-106.20.

Effective Date: September 29, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
September 29, 1988.

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

(d)

DIVISION OF ANIMAL HEALTH

Disease Control Program Tests and Improvement Plans

Adopted Repeal: N.J.A.C. 2:2-10

Proposed: August 1, 1983 at 15 N.J.R. 1204(b).
Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
Secretary, Department of Agriculture.
Filed: September 29, 1983 as R.1983 d.451, **without
change.**

Authority: N.J.S.A. 4:10-3-4:10-13.

Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
No Expiration Date.

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

(a)**DIVISION OF ANIMAL HEALTH****Livestock and Poultry Importations
General Requirements****Readoption: N.J.A.C. 2:3-1**

Proposed: August 1, 1983 at 15 N.J.R. 1205(a).
 Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
 Secretary, Department of Agriculture.
 Filed: September 29, 1983 as R.1983 d.452, **without
 change.**

Authority: N.J.S.A. 4:5-54-75.

Effective Date: September 29, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 September 29, 1988.

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

(b)**DIVISION OF ANIMAL HEALTH****Livestock and Poultry Importations
General Requirements; Prior Import Permits****Adopted New Rule: N.J.A.C. 2:3-1.8**

Proposed: August 15, 1983 at 15 N.J.R. 1290(a).
 Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
 Secretary, Department of Agriculture.
 Filed: September 29, 1983 as R.1983 d.455, **without
 change.**

Authority: N.J.S.A. 4:5-54 through 75, 4:5-93.21 through
 93.50 and 4:5-106.2.

Effective Date: October 17, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 September 29, 1988.

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

(c)**DIVISION OF ANIMAL HEALTH****Biological Products for Diagnostic or
Therapeutic Purposes
Biological Licensing****Readoption: N.J.A.C. 2:6**

Proposed: August 1, 1983 at 15 N.J.R. 1205(b).

Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
 Secretary, Department of Agriculture.
 Filed: September 29, 1983 as R.1983 d.453, **without
 change.**

Authority: N.J.S.A. 4:5-107-112.

Effective Date: September 29, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 September 29, 1988.

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

(d)**DIVISION OF ANIMAL HEALTH****Poultry and Turkey Improvement Plans
General Provisions****Readoption: N.J.A.C. 2:7**

Proposed: August 1, 1983 at 15 N.J.R. 1206(a).
 Adopted: September 29, 1983 by Arthur R. Brown, Jr.,
 Secretary, Department of Agriculture.
 Filed: September 29, 1983 as R.1983 d.454, **without
 change.**

Authority: N.J.S.A. 4:10-2-4:10-13.

Effective Date: September 29, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 September 29, 1988.

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

BANKING**(e)****DIVISION OF SAVINGS AND LOAN****Reward Profit Plans****Adopted New Rules: N.J.A.C. 3:30-1.3
Adopted Amendment: N.J.A.C. 3:30-1.4**

Proposed: August 1, 1983 at 15 N.J.R. 1207(b).
 Adopted: September 29, 1983, by Michael M. Horn,
 Commissioner, Department of Banking.
 Filed: September 30, 1983 as R.1983 d.459, **without
 change.**

Authority: N.J.S.A. 17:12B-133.

Effective Date: October 17, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 October 17, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Examinations and Applications Examination Rules

Readoption with Amendments: N.J.A.C. 4:1-8.1, 8.2, 8.4 through 8.9 (4:2-8.3 recodified as 4:1-8.9, and 4:2-8.4 recodified as 4:1-8.10), 8.11 through 8.17, 8.19 through 8.23, and 4:3-8.7

Readoption without changes: N.J.A.C. 4:1-8.3, 4:2-8.1, 4:3-8.2 and 4:3-8.3

Recodification: N.J.A.C. 4:2-8.9 and 4:3-8.8 as 4:1-2.16

Adopted Repeal: N.J.A.C. 4:1-8.6, 8.8B, 8.10, 8.15, 8.16, 8.18; 4:2-8.2 through 8.13; 4:3-8.1, 8.4 through 8.6, and 8.8 through 8.17

Proposed: August 15, 1983 at 15 N.J.R. 1292(a).

Adopted: September 21, 1983 by Civil Service Commission, Eugene J. McCaffrey, Sr., President.

Filed: September 28, 1983 as R.1983 d.444, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 11:1-7a, 11:4-1, 11:4-2, 11:5-1a, 11:6-2e, 11:9-1, 11:9-2, 11:9-3, 11:9-6, 11:9-7, 11:9-8, 11:9-9, 11:9-14.

Effective Date: October 17, 1983 for Amendments and Repeals.

Effective Date: September 28, 1983 for Readoption.

Expiration Date pursuant to Executive Order No. 66(1978): September 28, 1988.

Summary of Public Comments and Agency Responses:

A letter was received from Judy Winkler, Director of Administration, Board of Public Utilities, generally supporting the readoption. Ms. Winkler suggested that the education and experience portion of an examination application be made available to an appointing authority upon request if the individual has been certified to that appointing authority. The suggestion merits consideration and will be reviewed in light of statutory limitations, confidentiality, and operational feasibility; however, to include the procedure in a rule at this point would be premature.

Ms. Winkler also requested that whether the intent of proposed N.J.A.C. 4:1-8.2 is to rely solely on appointing authority requests before determining the character of an examination or if an examination should be held. To clarify the intent of this rule, the Commission has amended the rule to include the language in N.J.S.A. 11:6-2(e), that the determination to hold an examination also be predicated on an indication of the need for additional employees as evidenced by the appointment of a provisional employee.

Additionally, Ms. Winkler questions the deletion of the provision allowing exceptions to the general residency requirements. Such a provision has been restored to the rule to comply with N.J.S.A. 11:9-2.

Proposed N.J.A.C. 4:1-8.14(a)6 has been amended to allow the removal of an employee for cause. Ms. Winkler interprets this amendment as an expansion of Civil Service authority. The amendment reflects current and necessary policy allowing the removal of an applicant or eligible for cause when he or she is a State or local employee. Additionally, Ms. Winkler commented about the use of the phrase "for sufficient reason" in proposed N.J.A.C. 4:1-8.14(b)7. This is merely a language change from N.J.A.C. 4:1-8.14(a).

Proposed N.J.A.C. 4:1-8.20 provides that the addition of a candidate to a list as a result of a make-up physical performance examination for police and fire titles will not affect any prior appointments made from that list. Ms. Winkler suggests that this provision be added to proposed N.J.A.C. 4:1-8.19, the general rule concerning make-up examinations. The present policy is to insert the name of a person taking a make-up examination into his or her appropriate rank on the eligible list; however, this is for prospective use and does not affect prior appointment. It is proposed that the rule be amended to reflect this policy.

In conclusion, Ms. Winkler comments that proposed N.J.A.C. 4:2-8.1(d)1 appears to be in conflict with the Department of Civil Service's new rules concerning the possibility of promotion from the non-competitive or labor divisions to the competitive division. The Department is in the process of rewriting this rule; however, until the new rule and repeals are effectuated, the above provision should be deleted as in conflict with Civil Service policy and N.J.A.C. 4:1-10.2(e).

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

4:1-8.[9]2 Character of examinations

(a) [Competitive examinations shall be designed to test fairly and determine the relative qualifications, fitness and ability or aptitude of applicants to perform the duties of the class or position for which they are held and] **After receiving a recommendation for an examination from an appointing authority, *or upon indication of the need for additional employees as evidenced by provisional appointment* a determination shall be made as to whether a promotional examination, open competitive examination or both shall be held. An examination may consist of any one or more of the following:**

1. Written tests;
2. Oral tests;
3. Performance tests;
4. Medical examinations;
5. Physical **performance** tests [of strength, stamina or dexterity];
6. Evaluation of education, training, experience or other qualifications [set forth] **submitted** in the **examination** application [for examination in] **and** any supporting evidence or proofs [submitted] **presented** with such application; [or]
7. **Assessment Center evaluations; or**
- [7.] **8. Any other appropriate measure of [fitness] knowledge, skills and abilities.**

4:1-8.[8]7 Qualifications [of applicants] for open competitive examinations

(a) [In order t]To qualify for open competitive examination, an applicant [must] **shall meet all of the following qualifications by the closing date for filing the examination application:**

1. Be a resident of the State or[, the governmental subdivision in which he seeks employment.] **designated local government if specified in the examination announcement. Residency shall be determined pursuant to N.J.A.C. 4:1-8.8*[*]** [An individual is

considered a resident when residing in this State or the governmental subdivision immediately prior to the announced closing date for filing examination application. This residency requirement shall not apply in any examination] ***except*** when:

- i. A different residency requirement is specified by law or provided by ***[commission's]* *Commission*** regulation;
- ii. In the considered judgment of the commission, because of the character of the work, such a limitation would seriously restrict the ***[commission's]* *Commission's*** ability to recruit a sufficient number of qualified residents for the position or it has been demonstrated that advertisement as provided by these rules has failed to produce a sufficient number of qualified residents.

2. Meet [all] the requirements specified in the [official] examination announcement [of the examination];

3. Meet age requirements specified in the examination announcement:

i. Veterans who are over a maximum age requirement may recalculate their age for recording purposes pursuant to N.J.S.A. 38:23A-2; and

ii. An applicant shall be considered above the maximum age requirement on the day of his or her birthday.

3.4. File an examination application [for examination] on the form furnished by the Civil Service [c]Commission, setting forth fully and truthfully all information required and submitting all necessary supporting evidence or other proof[, on or before the announced closing date for filing such application].

[See also N.J.A.C. 4:2-8.6, 4:2-8.7, 4:2-8.8, 4:3-8.6 and 4:3-8.7.]

[4:2-8.3]4:1-8.9 Professional qualifications substitution program

[(a) This section provides for substituting appropriate prior work experience for college educational requirements for entry-level professional titles.]

[(b)](a) [It is the policy of the Civil Service Commission to encourage career development and upward mobility for employees and prospective employees. Therefore, e]Experience appropriate to the related profession may be substituted for college educational requirements for designated open competitive or promotional examinations for ***[entry-level]* professional titles.**

[(c)](b) [Standards:] **The following standards shall be considered:**

1. Applicants may be considered eligible to take ***[entry-level]* professional open competitive and promotional examinations by substituting appropriate work experience for college educational requirements[.]**;

2. Appropriate prior work experience shall be substituted on a year for year basis; e.g., five years of appropriate prior work experience may be substituted for a requirement of a B.A. degree and one year of experience[.]

3. For those class titles which require only specific course work or major fields of study, the successful completion of same shall be required and no substitution of experience for such requirements will be permitted unless the specific course work has been completed[.] **and**

4. Non-professional career employees must have permanent status and the required time in grade to be considered eligible to take promotional examinations.

[(d) Procedure:]

[1. The Department of Civil Service will announced and conduct open competitive and promotional examinations.]

[2.](c) [Announcement of open competitive examinations will be made in the regular monthly "Job Opportunities Bulletin." The **Job Opportunities** Bulletin shall include general information on eligibility requirements and how prospective applicants may utilize the Professional Qualifications Substitution Program [outlined above].

[3.](d) Appointing authorities shall post, for ready access to

employees, information about how employees may utilize[d] the Professional Qualifications Substitution Program [as outlined above].

[4.](e) [See N.J.A.C. 4:2-8.4 f]For provisions for substituting [CLEP] College Level Examination Program (CLEP) scores for college educational requirements[.], see N.J.A.C. 4:1-8.10.

4:1-8.[21]19 Make-up examinations

(a) Make-up examinations [shall] **may** be permitted for the following [causes] **reasons**:

1. Administrative error by the Department of Civil Service[;] **or**

[2. Administrative error by] the appointing authority[, in promotional examinations, provided the Department of Civil Service is notified in writing of the error];

[3.]2. Military assignments of a temporary or emergency nature occurring after the candidate files an application and on or before the examination date, provided the candidate furnishes evidence of assignment;

[4.]3. Serious illness or disability of the candidate on the test date, provided **the candidate submits** a physician's certificate [is supplied] which specifies that [the physician advised] the candidate **was not to take the test on that day** for medical reasons;

[5.]4. Serious illness or death in the **candidate's** immediate family [of the candidate], provided the candidate [furnishes] **submits** evidence of the illness or death;

[6.]5. Natural disasters ("acts of God"); for example, flood[.] **or** riot [and so forth];

[7.]6. Vacation or travel plans [outside the state] which cannot be reasonably changed provided supportive sworn statement and appropriate evidence are [furnished;] **submitted; or**

[8.]7. Other valid [cause] **reasons** [as determined by the Chief Examiner and Secretary].

(b) Except in the case of administrative error, the candidate must notify the Department of Civil Service of a make-up request no later than five days after the examination date or, in the case of military assignment or vacation or travel, before the test date.

(c) Make-up examinations will be administered as far as possible under the same conditions as the original examination and, in the case of oral or performance examinations, by the same personnel [whenever possible. The exceptions to this are] **except that:**

1. Police and fire **physical performance and** promotional written make-up examinations will be held [with the next scheduled test and any resultant eligibles will be added to the original list.] **pursuant to N.J.A.C. 4:1-8.20;**

2. Skilled trade performance tests and physical performance tests will be held with the next scheduled test and [any resultant] **the** eligibles will be added to the original list[.] **and**

3. For open competitive examinations which are held more than once a year and which may be scheduled again within six months, make-up tests may be held with the next regularly scheduled test for the same title and jurisdiction and [any resultant] **the** eligibles will be added to the original list.

(d) If the candidate passes the examination, his or her name will be added to the eligible list. This procedure shall not affect any appointments made prior to the addition of the applicant's name to the employment list unless the make-up examination is administered as a result of administrative error.

*[(d)]***(e)* All candidates taking make-up examinations, except those specified in (c)1 and (c)3 above, [will] **shall, as a precondition to taking the make-up test,** be required to sign a statement [attesting to the fact] that they have no knowledge of the content of the test as the result of information gained from or furnished by other candidates who participated in the original test [as a precondition to taking the make-up test].

*[(e)]***(f)* When a test[ing format is used that] requires multiple assessments of a candidate[, such as assessment centers or targeted selection,] which results in a group consensus rating by a panel of [specially trained subject matter] experts, a make-up examination shall [be deemed inappropriate and will] not be held. The only

exception to this will be documented error on the part of the Department of Civil Service. In this case, a make-up may be granted if practicable.

[4:3-8.10] **4:1-8.20** Make-up [tests on physical part of police and fire] examinations **for police and fire titles**

(a) [This section describes the procedure to be used for make-up tests on the physical part of police and fire examinations.]

[(b) Procedure:]

[1.] The Division of Examinations will grant make-up tests on the physical performance part of [the above examinations] **police and fire examinations** to [individuals] **candidates** who pass the written examination but [who] because of some temporary physical incapacity are not able to participate in the physical performance test. This incapacity will be determined by the staff doctor at the time of the examination.

[2.] **1.** If the staff doctor determines that the [individual] **candidate** should not participate in the physical part of the [test] **examination**, the [individual in question] candidate will be permitted to take a make-up **examination** [test]. The make-up [test] **examination** must be taken within 14 days of the date of the written examination if a medical [physical] examination is scheduled in that period; or **if a medical examination cannot be scheduled within 14 days, the make-up examination may be taken** on the next scheduled date.

[(c)] **2.** The Division of Examinations[, Department of Civil Service,] will not notify the [individual] **candidate** of the date of the make-up physical performance test[.]; **however**, [I]t will be the [responsibility of the] individual's **responsibility** to contact the Division [of Examinations] as soon as [s/he] **he or she** is [physically] able to participate. [so that a make-up test can be arranged.]

3. If the [applicant] **candidate** is successful in passing the physical performance part, his[/or] her name will be added to the employment list. This procedure [will] **shall not** ***[e]**a***ffect any appointments made prior to the addition of the applicant's name to the employment list.

[4:3-8.11] Make-up examinations in police and fire promotional situations]

(a) This section describes the procedure to be used for make-up police and fire promotional examinations.]

[(b) Procedure:]

[1.] The Division of Examinations will use every means possible, including making special arrangements where practicable, to test candidates for police and fire promotional examinations on the day of the examination.]

[2.] **(b)** [Candidates who miss the original] **The Division of Examinations will grant make-up tests for promotional examinations [and] to candidates who** submit proper evidence of a valid reason **for missing the examination**. [will be given a make-up examination] **The examination will be given** at the next testing series for police and fire promotional [examinations] **titles**. [The make-up examination will be the same examination given to all candidates of each rank at that time. The comparability of this examination with the original examination will be determined by statistical means.]

[3] **1.** [The names of successful] **If the candidate[s] in the make-up examination passes the promotional examination, his or her name** will be [put on] **added** to the original employment list in the proper [rank] order of **rank** and certified accordingly in future certifications. Any certifications and appointments made prior to this addition to the employment list would not be affected by this procedure.

SUBCHAPTER 8. EXAMINATIONS AND APPLICATIONS

4:2-8.1 Interim status of permanent employees promoted to higher class

(a) This section describes the policy and procedure applicable to any employee with permanent status in the classified service who has been promoted to a higher class in the same organizational unit and is serving provisionally or in a working test period.

(b) The provisional or probationary employee is considered to be continuing in the lower class (permanent status) while serving provisionally or in a working test period in the higher class and continues to accrue seniority in the lower class.

(c) Procedures:

1. It is not necessary to grant this employee a leave of absence from the lower class. An employee's tenure rights to the lower class continue until the employee becomes permanent (successfully completes his working test period) in the higher class. Appointments replacing the employee in the lower class are made in accordance with the laws and rules concerning permanent positions. An employee in the higher class is not eligible for other promotional examinations at the higher level while serving his/her working test period. If an employee fails the working test period, or otherwise returns to his/her lower permanent title, and a promotional examination for which s/he is eligible was announced in the interim, s/he may request a make-up examination.

2. Any such employee who is discontinued in that higher class during provisional employment or his/her working test period shall be returned to the duties and responsibilities of the lower class unless s/he has been otherwise disqualified for further employment. See N.J.A.C. 4:2-***1***4.1 for procedures for the return of provisional employees and employees who fail their working test period and provisional employees to their permanent titles.

(d) This policy and procedure applies to all situations in which a permanent employee is promoted to a higher class whether the promotion is from the noncompetitive or labor division to the competitive divisions or within any of the divisions of the classified service.

[1. Promotion is to be interpreted for salary reasons only: an employee in the non-competitive or labor division can be appointed to a higher position but is not eligible for a promotion.]

4:3-8.3 Interim status of permanent employees promoted to higher class

(a) This section describes the policy and procedure applicable to any employee with permanent status in the classified service who has been promoted to a higher class in the same organizational unit and is serving provisionally or in a working test period.

(b) The provisional or probationary employee is considered to be continuing in the lower class (permanent status) while serving provisionally or in a working test period in the higher class and continues to accrue seniority in the lower class.

(c) Procedures:

1. It is not necessary to grant this employee a leave of absence from the lower class. An employee's tenure rights to the lower class continue until the employee becomes permanent (successfully completes his working test period) in the higher class. Appointments replacing the employee in the lower class are made in accordance with the laws and rules concerning permanent positions. An employee in the higher class is not eligible for other promotional examinations at the higher level while serving his/her working test period. If an employee fails the working test period, or otherwise returns to his/her lower permanent title, and a promotional examination for which s/he is eligible was announced in the interim, s/he may request a make-up examination.

2. Any such employee who is discontinued in that higher class during provisional employment or his/her working test period shall be returned to the duties and responsibilities of the lower class

unless s/he has been otherwise disqualified for further employment. See N.J.A.C. *[4:2-4.1]* *4:3-14.1* for procedures for the return of provisional employees and employees who fail their working test period and provisional employees to their permanent titles.

(d) This policy and procedure applies to all situations in which a permanent employee is promoted to a higher class whether the promotion is from the noncompetitive or labor division to the competitive divisions or within any of the divisions of the classified service.

[1. Promotion is to be interpreted for salary reasons only: an employee in the non-competitive or labor division can be appointed to a higher position but is not eligible for a promotion.]

COMMUNITY AFFAIRS

(a)

THE COMMISSIONER

Nonpublic Records Rooming and Boarding House License and Loan Applications

Adopted Amendment: N.J.A.C. 5:3-2.1

Proposed: July 18, 1983 at 15 N.J.R. 1152(a).
Adopted: September 15, 1983 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: September 20, 1983 as R.1983 d.433, **without
change.**

Authority: N.J.S.A. 47:1A-2, 52:27D-3(f) and 55:13B-4.

Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
September 1, 1988.

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

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Planned Real Estate Development Full Disclosure

Adopted Amendments: N.J.A.C. 5:26-2.3, 3.1, 3.2, 3.4, 4.1-4.3, 4.4, 5.2, 6.3, 9.1, 10.1, 10.2, 11.1

Proposed: July 5, 1983 at 15 N.J.R. 1055(a).
Adopted: September 15, 1983 by William M. Connolly,
Director, Division of Housing and Development,
Department of Community Affairs.
Filed: September 28, 1983 as R.1983 d.446, **with
substantive changes** not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:22A-35.

Effective Date: October 17, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
April 1, 1986.

Summary of Public Comments and Agency Responses:

A comment was received from a representative of the New Jersey Tenants Organization requesting that certain changes be made in the proposed amendments. The requested changes were as follows:

1. Proposed, as well as actual, contracts should be required to be included in the Public Offering Statement.
2. A statement regarding the use and zoning of adjoining lands should be required in the Public Offering Statement.
3. N.J.A.C. 5:26-3.1(a)12 should include conditions that are "potentially adverse".
4. A statement as to availability of public utilities should be included in the Public Offering Statement or be retained in the application requirements.
5. The narrative description of the promotional plan should be retained in the application for registration and there should be prior approval of all advertising.
6. The reference to the predecessor of the developer should be retained in N.J.A.C. 5:26-3.1(a)18.
7. N.J.A.C. 5:26-3.1(a)2 and 15 should continue to be applicable to developments of all sizes.
8. Purchasers should have access to both parts of the Public Offering Statement prior to the execution of a sales contract.
9. Purchasers should continue to receive a copy of a specimen title policy.
10. N.J.A.C. 5:26-4.3(a)3 should distinguish between new construction and conversions and require that Part II be given at or before contract execution.
11. The standards for advertising included in N.J.A.C. 5:26-5.2 should be retained.
12. N.J.A.C. 5:26-9.3(a)1 should allow 90 days for written comments rather than 45 days because tenants faced with a conversion require more than 45 days to organize themselves and obtain reports from experts.

The Division's response was as follows:

1. The proposal is being amended to require submission of both proposed and actual contracts.
2. Disclosure of use and zoning of adjoining lands will be required.
3. The Division considers the text of N.J.A.C. 5:26-3.1(a)12 to be adequate without the inclusion of the term "potentially adverse".
4. A statement concerning the availability of utilities is required in N.J.A.C. 5:26-4.2(a)4.
5. Developers have an affirmative obligation to use advertising which does not violate N.J.A.C. 5:26. The Division now reviews all advertising submitted with the initial application. Thereafter, the developer is not required to submit new advertising, but is subject to penalty if any new advertising is found to be inconsistent with N.J.A.C. 5:26.
6. The word "predecessor" is being added to N.J.A.C. 5:26-3.1(a)18.
7. In the Division's judgment, there is no practical reason for requesting the information set forth in N.J.A.C. 5:26-3.1(a)2 and 15. However, information as to orders, judgments and decrees will be required.
8. The two part Public Offering Statement is being permitted to insure that purchasers are provided with pertinent information prior to executing a contract of sale. Currently, the regulations do not require that a prospective purchaser receive the Public Offering Statement until such time as a sales contract is executed (N.J.A.C. 5:26-6.6(a)7).
9. The specimen title policy does not necessarily contain all pertinent information and may be misleading. The Division does not consider the inclusion of a list of other developments by the developer to be useful.

10. N.J.A.C. 5:26-4.3(a)3 is being amended to distinguish between new construction and conversions and to make the language consistent with N.J.A.C. 5:26-4.1(d).

11. The deletions from the advertising requirements are being made because they duplicate requirements of other agencies and are not necessary because potential purchasers have an opportunity to see the properties. These provisions were relevant when people were buying land sight unseen and running the risk of owning swampland and mountainsides.

12. N.J.S.A. 45:22A-21 et seq. requires the Division to act on an application within 90 days of issuance of a Notice of Filing. Thus, comments must be received well in advance of the 90th day.

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

5:26-3.1 Contents of application for registration

(a) The application for registration shall contain the following documents and information:

1.-6. (No change from proposal.)

7. [Copies of the instruments which will be delivered to the association to evidence their interest in the common elements and facilities;] **A statement concerning any litigation *, orders, judgments or decrees* which might affect this offering;**

8.-17. (No change from proposal.)

18. A statement concerning any adjudication of bankruptcy during the last five years against the developer, its [predecessor] *** predecessor,* parent or subsidiary company** and any principal owing more than 10 percent of the interests in the development at the time of the filing of the application for registration. This requirement shall not extend to limited partners or those whose interests are solely those of investors;

19.-27. (No change from proposal.)

5:26-4.2 Contents of public offering statement

(a) The public offering statement shall contain the following information:

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

9. The following documents:

i. (No change from proposal.)

ii. **Copies of any *actual or proposed* management or service contract, lease or agreement affecting the use, maintenance or access of or to any or all of the common elements or facilities;**

10.-15. (No change from proposal.)

16. The significant terms of any encumbrances, easements, liens and restrictions, including but not limited to zoning regulations, affecting such lands and each lot, parcel, unit or interest ***, as well as the use and zoning of adjoining lands*;**

17.-25. (No change from proposal.)

5:26-4.3 Form

(a) The proposed public offering statement shall be in the following form:

1.-2. (No change from proposal.)

3. [The text, in a narrative form, containing the items listed in N.J.A.C. 5:26-4.2 followed by the required documents marked as exhibits.] **As set forth in N.J.A.C. 5:26-4.1(a), *with respect to new construction projects,* Part I of the Public Offering Statement shall be in narrative form and, in addition to the items set forth in N.J.A.C. 5:26-4.1(a), shall contain an explanation that the documents referred to in Part I will be provided to prospective purchasers at *or prior to* the time a contract is executed.**

(a)

DIVISION OF COMMUNITY RESOURCES

Management Assistance Programs Handicapped Persons' Recreational Opportunities Act

Readoption: N.J.A.C. 5:36 (recodified as N.J.A.C. 5:51)

Proposed: August 15, 1983 at 15 N.J.R. 1305(a).

Adopted: September 22, 1983 by John P. Renna,
Commissioner, Department of Community Affairs.

Filed: September 27, 1983 as R.1983 d.443, **without change.**

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

Effective Date: September 27, 1983.

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

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

EDUCATION

(b)

STATE BOARD OF EDUCATION

Evaluation of Pupil Achievement; Statewide Assessment

Thorough and Efficient System of Free Public Schools

Adopted Amendments: N.J.A.C. 6:8-1.1, 3.4, 3.8, 4.2, 4.6 and 6:39-1.1 through 1.4

Proposed: June 20, 1983 at 15 N.J.R. 979(b).

Adopted: September 7, 1983 by State Board of Education,
Saul Cooperman, Secretary.

Filed: September 29, 1983 as R.1983 d.458, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15, 18A:4-24, 18A:7A-1 et
seq., 18A:7C-1 et seq.

Effective Date: October 17, 1983.

Expiration Dates pursuant to Executive Order No. 66(1978):
N.J.A.C. 6:8, August 1, 1984; N.J.A.C. 6:39,
November 1, 1984.

Summary of Public Comments and Agency Responses
and Reasons for Changes Upon Adoption:

The Department received one written comment from the New Jersey Education Association, which neither endorsed nor opposed

the proposed amendments. Rather, it suggested steps the Department should follow to document the fairness of the testing program. The Department plans to implement all relevant suggestions.

Upon adoption, the Department has changed the word "interpretative" to "interpretive" in N.J.A.C. 6:39-1.4(c) (a) for consistency.

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

6:39-1.4 Interpretation of data

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

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

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

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

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

(a)

STATE BOARD OF EDUCATION

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

Adopted Amendment: N.J.A.C. 6:21-1.4

Proposed: June 20, 1983 at 15 N.J.R. 982(b).
 Adopted: September 7, 1983 by State Board of Education, Saul Cooperman, Secretary.
 Filed: September 29, 1983 as R.1983 d.457, **without change**.

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

Effective Date: October 17, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978): September 1, 1985.

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

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF PARKS AND FORESTRY

State Park Service

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

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

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

Proposed: June 20, 1983 at 15 N.J.R. 983(a).

Adopted: September 29, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: September 30, 1983 as R.1983 d.464, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: October 17, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978): July 19, 1988.

Summary of Public Comments and Agency Responses:

No public comment was received on the proposal; however, as a result of further departmental review of the proposal, two minor changes were made to clarify the intent of the proposal as originally drafted.

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

7:2-1.7 Definitions

"Person" means any natural person, company, firm, association, corporation, or other entity ***or any political subdivision of the State or any agency or instrumentality thereof***.

7:2-8.15 Rules of the road

All vessels navigating the waters of this State shall comply with the inland rules of the road as set forth ***[in]* *by* the United States Coast Guard *[pamphlet C.G. 169 and the amendments thereto]***, except where the international rules of the road are applicable.

Copies of the ***[pamphlet]* *current rules*** may be obtained at any office of the United States Coast Guard or the New Jersey Marine Police.

ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Shellfish-Growing Water Classification

Notice of Correction: N.J.A.C. 7:12-2.9 and 2.12

Errors appear in the June 20, 1983 issue of the New Jersey Register at 15 N.J.R. 1021 concerning the transplant program and possession and/or processing plant program. N.J.A.C. 7:12-2.9 and N.J.A.C. 7:12-2.12 should have appeared as follows:

7:12-2.9 Transplant program

(a) The purpose of Permit No. 7 ("Transplant Permit Seed [Oysters] ***[Shellfish]*** ***Oysters***") is to allow for the harvest of seed [oysters] ***[shellfish (oysters, clams, mussels)]*** ***oysters*** from [c]Condemned waters for transplanting to leased lots in [a]Approved waters for purging ***[of waters]*** of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control. **The purging period will be for a minimum of 30 days at which the water temperature of the Approved waters is maintained at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

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

7:12-2.12 Possession and/or processing plant program; seed [oysters] ***[shellfish]*** ***oysters***

(a) The purpose of Permit No. 8c ("Possession Permit for Seed [Oysters] ***[Shellfish]*** ***Oysters***") is to allow the lessee of shellfish grounds to purchase seed [oysters] ***[shellfish]*** ***oysters*** harvested in [c]Condemned waters for planting on his leased lots in [a]Approved waters for purging of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control.

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

(b)

DIVISION OF WATER RESOURCES

**Flood Hazard Area Delineations
Delineated Floodways along the Delaware River, Shabakunk Creek, Little Shabakunk Creek, Stony Brook, Benden's Brook and Rock Brook**

Adopted Amendment: N.J.A.C. 7:13-1.11(c)

Proposed: October 18, 1982 at 14 N.J.R. 1132(a).
Adopted: September 27, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: September 30, 1983 as R.1983 d.462, **without change.**

Authority: N.J.S.A. 58:16A-50 et seq.

Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978): July 19, 1988.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection held a public hearing on November 16, 1982 at the Division of Water Resources Conference Room A, 1474 Prospect Street, Trenton, New Jersey. Only one individual commented at the public hearing and supplemented his comments by a follow-up letter. Several points of a programmatic nature, not relating to the specific proposal, were made during the public hearing.

The commenter questioned whether the proposal was based upon assumed development or on strictly present state of development. The Department bases proposed delineation on the present state of development. However, the Department's calculations of 25 percent over and above the 100-year flood discharge does take some potential future development into consideration.

The commenter recommended a change in the proposed delineation in order to avoid a conflict with an approved local drainage study. Similarly, the commenter found that the proposal was not consistent with current floodway and flood boundaries indicated on flood insurance maps for Lawrence Township. The Department's proposal is based upon updated and current information for the affected area. Changing the proposal to reflect outdated information would not accomplish the Department's purpose of applying added flood protection to the Townships of Ewing, Lawrence, Hopewell and the Boroughs of Hopewell, Pennington and Hightstown, all within Mercer County. The proposal more clearly defines the flood hazard area in the affected area based upon more recent information. Other related studies and plans should be revised to coincide with the Department's updated and current information rather than maintaining flood delineations based on outdated information.

(c)

DIVISION OF WATER RESOURCES

**Flood Hazard Area Delineations
Delineated Floodways along the Raritan River**

Adopted Amendment: N.J.A.C. 7:13-1.11(d)45

Proposed: May 2, 1983 at 15 N.J.R. 659(a).
Adopted: September 27, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: September 30, 1983 as R.1983 d.463, **without change.**

Authority: N.J.S.A. 58:16A-50 et seq.

Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): July 19, 1988.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection held a public hearing on May 24, 1983 at the Edison Township Municipal Building, 100 Municipal Boulevard, Edison, New Jersey. Twelve people attended the public hearing, however, only two individuals made oral comments. No written comments were received concerning the proposal.

No testimony was received in objection to the proposal. One commenter requested clarification on the relationship of the proposed flood delineation to the overall situation concerning Kin-

HEALTH

ADOPTIONS

Buc Landfill. The Department advised that the proposal concerned flood protection and that other Departmental programs apply to landfills directly. The Department also explained the flood protection prevention benefits of the proposal, including basing future stream encroachment permit issuance in the area on the proposal. Another commenter questioned whether environmental impact statements would be required as part of the flood delineation process. The Department advised that this would not be required. The public hearing provided the public with an opportunity to learn more about the flood delineation program.

(a)

DIVISION OF FISH, GAME AND WILDLIFE

**Shellfisheries
Penalties for Shellfish Violations**

**Adopted Repeal: N.J.A.C. 7:25-9.2
Adopted New Rule: N.J.A.C. 7:25-9.2**

Proposed: August 1, 1983 at 15 N.J.R. 1220(a).
Adopted: September 26, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: September 30, 1983 as R.1983 d.461, **without change**.
Authority: N.J.S.A. 13:1B-3 and 23:2B-14.
Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): October 17, 1988.

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

HEALTH

(b)

CONSUMER HEALTH SERVICES

Licensing Fees of Wholesale Food and Cosmetic Establishments

Adopted Amendment: N.J.A.C. 8:21-9.5

Proposed: August 15, 1983 at 15 N.J.R. 1317(a).
Adopted: September 28, 1983 by J. Richard Goldstein, M.D., State Commissioner of Health.
Filed: September 29, 1983 as R.1983 d.456, **without change**.
Authority: N.J.S.A. 24:15-14.
Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): August 8, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

(c)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards for Licensure of Hospital Facilities
Medical Staff**

Readoption: N.J.A.C. 8:43B-6

Adopted: September 29, 1983 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).
Filed: September 30, 1983 as R.1983 d.469, **without change**.
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b.
Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): October 17, 1984.

AGENCY NOTE: The original proposal found at 15 N.J.R. 1065(a) deleted in its entirety the existing text of N.J.A.C. 8:43B-6 and replaced it with new text. Since the existing N.J.A.C. 8:43B-6 was to expire on September 18, 1983 pursuant to Executive Order No. 66(1978) and since the existing N.J.A.C. 8:43B-6 was outdated and was written in nonspecific language subject to multiple interpretations, new rules were written to clarify and make more specific the intent of the Department. The proposal was published as a proposed readoption as a new rule.

During the public comment period, which ended on August 4, 1983, 47 letters of comment were received. Based on these comments and further discussion in a joint meeting on August 19, 1983, of the Medical Society of New Jersey, New Jersey Hospital Association, and the Department, the proposed new rules were revised and subsequently presented to the Health Care Administration Board on September 15, 1983. Due to the number and type of comments received and the apparent misinterpretation of the revised rules, the Health Care Administration Board recommended a postponement of the adoption of the new rules for one year to allow time for more thorough evaluation and exploration before the proposed rules are finalized and adopted. In addition, the Health Care Administration Board recommended that the existing N.J.A.C. 8:43B-6 be readopted for one year since the existing text would be expiring pursuant to Executive Order No. 66(1978).

Therefore, the proposed new rule and the proposed repeal of existing N.J.A.C. 8:43B-6 as proposed at 15 N.J.R. 1065(a) are not being adopted at this time. The existing text of N.J.A.C. 8:43B-6 is being readopted for one year from October 17, 1983, to October 17, 1984, without change.

Summary of Public Comments and Agency Responses:

The Department received comments and recommendations on the proposed rules for Licensure of Hospital Facilities, Medical Staff from the New Jersey State Board of Medical Examiners, the New Jersey State Department of Human Services, presidents, vice presidents, medical directors, administrators, and executive directors representing 21 hospitals, professional associations—Medical Society of New Jersey, New Jersey Dental Association, New Jersey Chapter of the American College of Surgeons, Union County Medical Society of New Jersey, and Essex County Medical

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Society, the New Jersey Hospital Association, North Jersey Blood Center, Charles Kaufman of the Ocean County Health Department, and eight physicians writing on their own behalf.

Support for the adoption of the proposed rules was provided by the New Jersey State Board of Medical Examiners which found "that the proposed rule concerns the best interests of the health, safety and welfare of the public". Although the effort by the Department to make the rules consistent with the standards of the Joint Commission on Accreditation of Hospitals (JCAH) received much support, reaction to the product of this effort ranged from recommendations that the JCAH standards be used for the purpose of licensure to warnings of the danger involved in converting JCAH standards into regulations for licensure.

Recommendations that the Department consult with specific associations resulted in a meeting being held on August 19, 1983, at the New Jersey Hospital Association in which Department staff, a representative of the Medical Society of New Jersey, and a committee assembled by the New Jersey Hospital Association participated. As a consequence of this discussion, some of the proposed rules were changed.

The Department has compiled the comments and recommendations which it received, responded to them individually, and sent a copy of the compiled document to each respondent. This listing of the comments and the Department's responses is on file at the Office of Administrative Law and the Department of Health. The following is a summary of the comments and Departmental responses.

Some of the comments which the Department received are of a general nature and do not refer to particular rules within Subchapter 6. For example, the Department received recommendations that it delay the development of its medical staff rules until such time as the Joint Commission on Accreditation of Hospitals has completed the current revision of its accreditation standards. It was further suggested, in some cases, that the proposal be withdrawn and that the previous rules be allowed to remain in effect until the JCAH has completed its revision. The Department is attempting to bring State licensure requirements into agreement with the accreditation standards of the Joint Commission on Accreditation of Hospitals. However, the frequency of JCAH revisions and the length of time required for the promulgation of Departmental regulations preclude the Department from coinciding its efforts with those of the JCAH. If and when the JCAH accreditation standards are revised in such a way as to be in conflict with Department regulations, the Department will consider revising Subchapter 6.

Commentors considered the 30 day period allowed for comment on the proposed rules to be inadequate. The 30 day comment period allowed by the New Jersey Register, however, is mandated by State law in the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

Comments to the effect that the proposed rules differ substantially and significantly from the standards of the Joint Commission on Accreditation of Hospitals were received. The Department contends that the revised rules are consistent in concept and in specific requirements with the Joint Commission on Accreditation of Hospital standards although it is not the case that all of the JCAH standards are included in the Department rules due to the fact that it was not the objective of the Department to transform the JCAH standards into rules for licensure. Differences in language, format, organization, and style reflect the difference between enforceable licensure regulations and the JCAH standards, the compliance with which is voluntary.

Several commentors expressed concern over problems which may arise when standards which are intended to represent goals toward which hospitals should strive, such as those of the Joint Commission on Accreditation of Hospitals, are converted into licensure regulations. The Department maintains that the standards of the Joint Commission on Accreditation of Hospitals were not "converted" into licensure regulations but, rather, the Department rules were written so as to be consistent with both the JCAH

standards and with the current hospital licensure regulations.

The Department received comments which characterized the proposed rules as "an unnecessary and costly duplication of JCAH standards", as providing "duplicate enforcement", as "redundant", and as presenting "burdens with no demonstrable benefit over JCAH reviews". These comments were coupled in some cases with recommendations that the Department "come to an agreement with JCAH that joint surveys of hospitals be accomplished", or that the Department "might decide that the accreditation process of JCAH is adequate and can be accepted as a substantial portion of the inspection required for licensing", or that the Department "should consider accepting a hospital's JCAH accreditation as compliance with the State's standards". The Department disagrees with these characterizations and did not accept the recommendations which they engendered. The intent of the Department is to make the rules consistent with the standards of the Joint Commission on Accreditation of Hospitals and with the current rules, N.J.A.C. 8:43B-6. It is not the intent of the Department to adopt JCAH standards or to institute joint surveys. Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, require the Department to adopt "standards and procedures relating to the licensing of health care facilities and the institution of additional health care services." The Department does not grant "deemed status" to the Joint Commission on Accreditation of Hospitals or any other agency as a substitute for the execution of its mandated responsibility to regulate health care facilities for the following reasons: (1) The Joint Commission on Accreditation of Hospitals is a voluntary agency which must be invited to do a survey for which they are paid by the hospital. (2) The JCAH functions as a consultative body making recommendations rather than mandating corrective action. The JCAH standards are written for voluntary compliance by hospitals throughout the country whereas the rules promulgated by the Department are written in an established style so as to be enforceable as licensure regulations. (3) The reports of the JCAH surveys are confidential and not available to the public or to the Department unless the hospital chooses to make them available. (4) The Department would have to maintain its own regulations and conduct surveys for licensure for all facilities which either choose not to apply for JCAH accreditation or fail to obtain such accreditation. (5) The Joint Commission on Accreditation of Hospitals currently surveys and accredits hospitals for a three year period of time whereas the Department is obligated by statute to survey and license hospitals at least annually. The Department would be obligated to conduct surveys for those years during which the JCAH did not survey.

One commentor requested that the Department revise the proposed rule by expanding N.J.A.C. 8:43B-6.3(a) so as to specify the responsibilities of medical staff members to indigent patients. The Department did not accept the recommendation since the jurisdiction of the Department does not extend to the physician's private practice. N.J.A.C. 8:43B-1.11(q)7i does, however, require that all hospitals provide accident and emergency care for patients without regard to their ability to pay. Additionally, the Department is confident that the receipt of Hill-Burton funding and the DRG system will assist facilities in providing indigent care.

Several comments were received by the Department objecting to provisions in the proposed rules which would allow the inclusion of nonphysicians and limited license practitioners on the medical staff. The Department contends that these objections are based on a misinterpretation of the proposed rule, N.J.A.C. 8:43B-6.4(a)5, which does not mandate the inclusion of nonphysicians and limited license practitioners on the medical staff. The proposed rule requires that, in the event that the medical staff bylaws permit nonphysicians to be members of the medical staff, the medical staff bylaws shall specify their privileges, functions, and responsibilities. There was no intent on the part of the Department to mandate that nonphysician practitioners be included as part of the facility's medical staff. See the paragraphs regarding N.J.A.C.

8:43B-6.4(a)5 and N.J.A.C. 8:43B-6.4(a)6 below.

Some commentors disagreed with the Department's claim that adoption of the proposed subchapter would not result in a significant increase in costs. One commentor stated that "administrators, managers and doctors will have to spend many additional hours each year preparing for State inspections." The Department maintains that the rules which were proposed will not have any significant economic impact and will not produce an increase in cost either upon the facility or upon the Department because the rules incorporate the current medical staff regulations contained in N.J.A.C. 8:43B-6. These rules will not increase the operative cost of facilities providing these services, since the facilities are already in compliance with the rules. Likewise, the Department will not incur additional expenditures as a result of surveying these facilities, and these facilities are surveyed annually as mandated by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto. Recommendations that the standards of the Joint Commission on Accreditation of Hospitals be used for the purposes of both licensure and accreditation in the interest of reducing costs were rejected for the reasons enumerated above.

The Department received comments to the effect that the proposed rules would not simplify the regulatory process but, rather, would render the process "more complex and burdensome." Such comments were usually not accompanied by specific recommendations for change.

One commentor expressed concern over the maintenance of confidentiality of the "information required for the proper credentialing" of physicians. The Department contends that the rules do not preclude the facility from maintaining privileged information as confidential. The commentor further recommended that the Department not exceed the standards of the Joint Commission on Accreditation of Hospitals on the issue of credentials. The Department contends that the rules do not exceed the JCAH standards.

The Department received recommendations that "all licensed professionals who have lost privileges for other than administrative matters, should be reported to the appropriate licensing board" and "when the hospital is self-insured, malpractice settlements exceeding \$25,000 on behalf of individuals covered by the hospital should be reported by the hospital to the specific licensing boards." The current policy of the Department is to report to the appropriate licensing board any health care professional who allegedly has engaged in misconduct when the Department is aware of such. The Department could not enforce a requirement that the facility report all health care professionals to the appropriate licensing board for misconduct because the facility would first have to make the determination of misconduct or incompetence and then report it. The Department would not usually be aware of self-insured malpractice settlements made by facilities and, therefore, could not enforce a rule that the facility report this to the appropriate licensing board. The Department will further address the new Chapter 247, P.L. 1983 (N.J.S.A. 26:2H-12.2 et seq.) at a future time.

Doubts were expressed regarding the amenability of the proposed rules to the survey process. The Department maintains that the revised rules are more detailed, objective, measurable, and observable than the current hospital licensure regulations, N.J.A.C. 8:43B-6, and, therefore, compliance with these rules will be easier to survey. The Department contends that the revised rules leave less room for interpretation than the previous rules yet allow the facility flexibility in establishing its own management practices.

Two comments were received which questioned the wisdom of making available to the public the findings of Department surveys. It was believed by one commentor that the possibility of multiple interpretation of standards intensifies the problem since the Department, in contrast to the joint Commission on Accreditation of Hospitals, does not possess "a sophisticated network to review the findings" of its surveyors. One commentor also questioned the ability of the public to "fully understand the meaning" of the

Department rules. The Department does not operate under a cloak of confidentiality. Department records are available to the public whom the Department is mandated to protect. The Department, furthermore, contends that the public is able to read and understand the Department rules. Finally, the Department does have mechanisms and operational procedures for the review of the findings of its surveyors.

Comments were received which questioned the extent to which the proposed rules would actually affect patient care. The Department maintains that the medical staff bylaws establish a framework of self-government as well as a means of accountability by the medical staff to the governing body which ultimately affect the care of patients. The Department further contends that the overall responsibility for the quality of medical care provided to patients is a responsibility of the medical staff. Subchapter 6 does affect patient care through the professional practices and ethical conduct of the medical staff.

In addition to these comments and recommendations of a general nature, the Department received comments and recommendations pertaining to specific rules. One commentor, for example, claimed that N.J.A.C. 8:43B-6.1(b) is ambiguous in its treatment of a written organizational plan, though the commentor offered no specific recommendation for change. The Department contends that the rule is not ambiguous. The rule as written would not necessitate the duplication of the written organizational plan in both corporate and medical staff bylaws.

The Department received numerous objections to N.J.A.C. 8:43B-6.2(a) which provides for the review by the Department and revision as required by the Department of medical staff bylaws, rules and regulations. One commentor remarked that these bylaws are "changing documents subject to multiple amendments and revisions" and, consequently, "it is highly unreasonable that they be continually submitted to the State Department of Health for approval." Another stated that these bylaws "are guidelines of self-governance and a means of accountability to the governing body, not state government." One commentor considered the rule to be an "unwarranted and unnecessary intrusion... into the professional practice of medicine," and another questioned its legality. A recommendation was made to restrict the review and revision authority of the Department "to those instances where the medical staff bylaws, rules, or regulations may be at variance to adopted state regulations or statutes." In reaction to these comments, the Department has reviewed its policy of requiring approval of all policies and procedures and agrees that this decision is a management decision subject to facility control rather than to Departmental control. N.J.A.C. 8:43B-6.2(a) was rewritten to omit reference to any review or revision function on the part of the Department. The Department contends that this deletion would not have a negative effect on the quality of patient care since it would enable each facility to exercise its own judgment in matters in which individualized policies are more appropriate than policies which do not take the particular nature of a given facility into account. Since N.J.A.C. 8:43B-6 would regulate the implementation of facility policy, the Department maintains that the level of patient safety would not be diminished.

In regard to N.J.A.C. 8:43B-6.2(a)3, recommendations were made to define "physician," to limit physician membership on the medical staff to medical doctors (M.D.) and doctors of osteopathy (D.O.), and to reinforce the role of the dentist in a hospital setting. The definition of "physician" has been established by the New Jersey State Board of Medical Examiners in accordance with N.J.S.A. 45:9-1 et seq. N.J.A.C. 8:43B-6.2(a)3 was rewritten to include reference to N.J.S.A. 45:9-1 et seq. The New Jersey State Board of Dentistry, not the Department of Health, has the authority to delineate the duties and responsibilities of dentists. Another commentor specified two cases in which N.J.A.C. 8:43B-6.2(a)3 might be impractical due to the inclusion of larger numbers of dental

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faculty members on hospital medical staffs. The Department contends that the proposed rule is not impractical because the rule does not preclude dentists from becoming members of the medical staff. N.J.A.C. 8:43B-6.3(a)1 requires that the medical staff bylaws include provision for the delineation of those health care professionals who are eligible for medical staff membership and privileges. The Department contends that N.J.A.C. 8:43B-6.2(a)3 is essential. Since hospitals are caring principally for acutely ill patients, the majority of medical staff members should be physicians. This aspect of the rule was not rewritten.

The meeting on August 19, 1983 at the New Jersey Hospital Association produced a recommendation that the facilities be permitted to define the meaning and objectives of the term "monitoring" which appears in N.J.A.C. 8:43B-6.2(a)5. N.J.A.C. 8:43B-6.2(a)5 was rewritten to allow the medical staff and the facility to define the extent of the participation of the medical staff in monitoring services and activities. The greater flexibility which this change allows each facility is expected to promote a more efficient utilization of personnel on the part of each facility. The change in the rule clarifies the intent of the Department and would not, therefore, have a negative effect on the quality of patient care.

In reference to N.J.A.C. 8:43B-6.2(a)5viii, it was recommended that the patient care policies be defined by the hospital in order that administrative policies could be differentiated from medical staff policies. The Department contends that the rule does not interfere with or preclude the facility from defining patient care policies. The Department believes that there are some patient care policies and instances specifically related to the role of the medical staff, such as requirements for history and physical examinations, completion of medical records, and written entries in the medical records, that require the participation of the medical staff. This is implied in the current N.J.A.C. 8:43B-6.2(a)14 and N.J.A.C. 8:43B-6.2(b). N.J.A.C. 8:43B-6.2(a)5viii was not rewritten since it is needed to assure the quality of patient care.

The term "physician-directors" was changed to "directors" in N.J.A.C. 8:43B-6.2(a)6 in order to render the language of this rule consistent with that in the revised rule N.J.A.C. 8:43B-6.6(a).

It was recommended that N.J.A.C. 8:43B-6.2(a)10iii and N.J.A.C. 8:43B-6.3(a)1 be rewritten so as to recognize the right of oral surgeons to admit patients to hospitals, to write the admission history, and to conduct physical examinations of patients admitted for nonmedical reasons. The rules would not preclude the dentist from performing these procedures in accordance with the individual facility's medical staff bylaws, rules and regulations and the rules and regulations of the New Jersey State Board of Medical Examiners. The rules, therefore, were not rewritten. The same commentor suggested that N.J.A.C. 8:43B-6.4(a)6ii also be altered accordingly. N.J.A.C. 8:43B-6.4(a)6ii, however, was deleted for reasons given below.

The Department received a recommendation that the criteria and time frames for preadmission testing and the policy regarding symbols and abbreviations be referred to, but not stated, in the medical staff bylaws. The Department contends that both N.J.A.C. 8:43B-6.2(a)10v and N.J.A.C. 8:43B-6.2(a)10viii have been misinterpreted. The Department agrees that the bylaws can state that hospital policy regarding medical records and admission is to be followed. The specific criteria and time frames for preadmission testing can be included in the hospital policy manual or in the rules and regulations of the medical staff.

Recommendations were received that N.J.A.C. 8:43B-6.2(a)11 be deleted or modified. The rule was variously characterized as "not practical," "unwarranted," "counterproductive," "not enforceable or surveyable," "very arbitrary," and "unrealistic." Commentors agreed that the rule would have a negative effect on the quality of patient care. The feasibility of providing an adequate definition of "emergency situations" was challenged. It was emphasized that most telephone orders are of a "non-emergent nature" and that verbal and telephone orders can be an efficient means of physician communication in these situations. The rule was rewritten by the

Department deleting reference to emergency situations but requiring the prescriber to countersign verbal and telephone orders within 24 hours as recommended by the commentors and by the participants of the joint meeting held on August 19, 1983 at the New Jersey Hospital Association, and as required by N.J.S.A. 45:9-21(n). The Department contends that this additional requirement would ensure patient safety.

Comments were received that N.J.A.C. 8:43B-6.2(a)12 is inappropriate since, in practice, only physicians and dentists write orders. The Department contends that the rule is not inappropriate since, in some facilities, orders may be written by unlicensed persons engaged in intern or residency training programs approved by the New Jersey State Board of Medical Examiners pursuant to N.J.S.A. 45:9-21(n) and N.J.A.C. 8:43B-7.2(d)5. These orders would have to be countersigned by a licensed physician within 24 hours. A recommendation was also received that dentists "not be required to have their orders countersigned." The Department maintains that the rule would not preclude dentists from writing orders if the medical staff bylaws, rules and regulations allowed such.

The Department received written recommendations and recommendations from the participants of the discussion held on August 19, 1983 at the New Jersey Hospital Association that the rule regarding written consent policies, N.J.A.C. 8:43B-6.2(a)13ii, be amended so as to provide for emergency situations. The Department agrees with these comments and the proposed rule, N.J.A.C. 8:43B-6.2(a)13ii was deleted and rewritten as N.J.A.C. 8:43B-6.2(a)14. N.J.A.C. 8:43B-6.2(a)13iii was renumbered as N.J.A.C. 8:43B-6.2(a)13ii. The Department contends that the change in the rule does not jeopardize patient care or safety but, rather, will enhance the care provided to patients by allowing the facility more leeway and flexibility in determining those policies and procedures specific to the facility as well as to individual patient needs.

N.J.A.C. 8:43B-6.2(a)14 was rewritten as a result of comments offered at the joint meeting held on August 19, 1983 at the New Jersey Hospital Association and written comments received by the Department such as the one which questioned the right of the Department "to oversee the education of the medical staff." Others confined their objections to N.J.A.C. 8:43B-6.2(a)14i on the grounds that a written staff education plan would not be sufficiently flexible, that it is not "necessarily the hospital's responsibility to educate its staff," that hospitals in New Jersey do not have such education plans, and that N.J.A.C. 8:43B-6.2(a)14ii would be, in itself, adequate. Another commentor, however, stated that the documentation of continuing medical education "should be the responsibility of the individual physicians." The rule was rewritten as N.J.A.C. 8:43B-6.2(a)15, and the phrase "in accordance with the staff education plan," N.J.A.C. 8:43B-6.2(a)14i, and N.J.A.C. 8:43B-6.2(a)14ii were deleted. The rewritten rule allows flexibility in order to meet the needs of the individual facility's management practices and allows for various programs and requirements of the professional organization involved in conducting continuing education programs.

A new rule was added, N.J.A.C. 8:43B-6.2(a)16, as a result of comments mentioned below with respect to N.J.A.C. 8:43B-6.6(a)9.

A technical change was made in N.J.A.C. 8:43B-6.3(a). The term "bylaws" was expanded to the phrase "bylaws, rules and regulations" to render N.J.A.C. 8:43B-6.3(a) consistent with other portions of the rules.

Participants of the August 19, 1983 meeting at the New Jersey Hospital Association as well as commentors who responded in writing questioned the meaning of the phrase "specific assignments" which appears in N.J.A.C. 8:43B-6.3(a)3iv. The rule was rewritten deleting reference to "specific assignments." The Department contends that patient care is not jeopardized by this deletion since the proposed rule would be duplicative given the addition that was made to the rule requiring an applicant to follow

the procedures specified in the medical staff bylaws, rules and regulations.

N.J.A.C. 8:43B-6.3(a)3v was rewritten based upon comments made at the August 19, 1983 meeting at the New Jersey Hospital Association and upon an opinion received to the effect that it might be improper for a hospital to collect information concerning involvement in a malpractice action or loss and privileges since these circumstances are not necessarily indicative of the commission of any wrongdoing. The Department agrees with the comment that involvement in a malpractice action or loss of privileges does not indicate that a physician has committed a wrongdoing. However, the Department contends that it is essential for the hospital to determine the extent of the involvement in order to comply with Chapter 247, P.L. 1983, N.J.S.A. 26:2H-12.2 et seq. In N.J.A.C. 8:43B-6.3(a)3v, the reference to "or any loss of professional organizational membership" was deleted. This deletion does not jeopardize patient care and safety since the professional could lose membership in a professional organization for reasons not involving misconduct. A statement was also added concerning any involvement in a malpractice action within a period of time specified in the medical staff bylaws, rules and regulations. The rule allows flexibility based upon the policies and procedures of the individual facilities.

A recommendation to delete the specification of a time period within which a decision regarding an application must be made from N.J.A.C. 8:43B-6.3(a)3vi was accepted. The Department agrees that the time required to review applications is variable and contends that this deletion will not adversely affect patient care.

Clarification as to the extent to which compliance with N.J.A.C. 8:43B-6.3(a)3viii(1) would be surveyed was requested. The Departmental response indicated that the surveyor will review the bylaws to ascertain whether or not there is a statement that review of the credentials of medical staff members will include a review of staff performance. The Department further contends that each facility must and shall have the responsibility of establishing the boundaries, types, and degree of evaluation of the quality of the care which the facility provides.

N.J.A.C. 8:43B-6.3(a)3viii(4) was changed for the sake of clarity. "Medical record entries" was changed to "entries in patients' medical records".

The rule regarding the use of health status information in the periodic review of credentials, N.J.A.C. 8:43B-6.3(a)3viii(5), was considered by one commentator to be too general and difficult to survey. Another suggested that differences in the manner in which this issue is handled in different hospitals would be a source of controversy between the Department and the industry. The volume of public comment attendant upon the proposal of this rule does not support this latter statement. The Department maintains that the rule is not general because it deals with a specific issue; however, the facility has the prerogative to establish specific parameters within this category.

One commentator stated that the rule regarding the consideration of involvement in malpractice action during the periodic review of credentials, N.J.A.C. 8:43B-6.3(a)3viii(6), is unclear "as to the type and degree of information to be required". As in the case of N.J.A.C. 8:43B-6.3(a)3v, the Department added a phrase which permits the facility to determine the period of time within which involvement in a malpractice action would be relevant. In this case, too, the Department contends that this change will not adversely affect the care provided to patients. The Department received requests to specify the manner in which compliance with the rule will be surveyed. The surveyors will determine whether or not the medical staff bylaws include provisions for consideration of involvement in malpractice action in the review process.

The Department received written recommendations that the rule regarding the signing of an ethical pledge on the part of medical staff members, N.J.A.C. 8:43B-6.3(a)5, be eliminated since the current practice in hospitals is to have the members sign a statement expressing their intention of complying with the medical staff

bylaws, rules and regulations. As a result of these comments and those offered at the joint meeting on August 19, 1983 at the New Jersey Hospital Association, the rule was rewritten so as to require medical staff members to sign a written statement that they will comply with the medical staff bylaws, rules and regulations thereby bringing the rule into agreement with current hospital practice without jeopardizing patient care. The proposed rules N.J.A.C. 8:43B-6.3(a)5i-v were deleted and N.J.A.C. 8:43B-6.3(a)4iii was combined with the revision of N.J.A.C. 8:43B-6.3(a)5. The deleted rule, N.J.A.C. 8:43B-6.3(a)5i, was singled out by commentators as being impossible to implement.

A recommendation was received that the rule regarding the termination of a medical staff member, N.J.A.C. 8:43B-6.3(a)8, be eliminated due to lack of clarity. The Department agreed and deleted the rule on the grounds that it would be duplicative of N.J.A.C. 8:43B-6.3(a)3. Since the rule would be duplicative, the Department contends that its deletion would not affect patient care. The subsequent rule, N.J.A.C. 8:43B-6.3(a)9, was renumbered as N.J.A.C. 8:43B-6.3(a)8.

One commentator noted that geographic residential requirements, such as those referred to in N.J.A.C. 8:43B-6.4(a)3, are usually specified in the medical staff rules and regulations rather than in the bylaws. N.J.A.C. 8:43B-6.4(a) was rewritten so as to include "rules and regulations". Also, the term "bylaws" in N.J.A.C. 8:43B-6.4(a) was replaced with the term "provision", and reference to "status" was deleted. The Department contends that these changes are of a technical nature and will not have a detrimental affect on the quality of patient care.

The elimination of the rules regarding the delineation of the categories of the medical staff, N.J.A.C. 8:43B-6.4(a)1 and N.J.A.C. 8:43B-6.4(a)2 was recommended. The reference to a maximum period of time that a medical staff member could remain in a given category or status was considered to be unnecessary since a member who objects to the length of time that he or she is assigned to a given category has recourse to due process. In the case of N.J.A.C. 8:43B-6.4(a)2, the specification of a "maximum time" could force such action as loss of privileges or supervision. The Department revised the rule in such a way that N.J.A.C. 8:43B-6.4(a)1 and N.J.A.C. 8:43B-6.4(a)2 are combined without reference to specific categories, status, or maximum time periods. The Department contends that this change will not affect the care provided to patients. The Department agrees that physicians have recourse to due process as stated in N.J.A.C. 8:43B-6.3(a)6. One commentator remarked that the categories referred to in the rule "are not consistent with categories in all hospitals" and that the rule inaccurately treats the method of promotion from one status to another. The Department contends that the suggested categories were intended as examples only. In addition, the Department had no intent of requiring a delineation of the method of promotion.

N.J.A.C. 8:43B-6.4(a)3 was renumbered as N.J.A.C. 8:43B-6.4(a)2.

Comments were received to the effect that N.J.A.C. 8:43B-6.4(a)4, which concerns restrictions on the admission of patients by members of the medical staff, is inconsistent with the JCAH requirement and is anachronistic. This rule was deleted, without causing a decline in the quality of patient care since, the Department contends, the rule would be duplicative of N.J.A.C. 8:43B-6.3.

In reference to N.J.A.C. 8:43B-6.4(a)5, a comment was received that the rule "would bring pressure to bear on hospitals" to expand their medical staffs. Several more general comments objecting to the rule were also received. The Department contends that these objections were based upon the misinterpretation that the Department was mandating that nonphysician practitioners be appointed to the medical staff. The Department does not concur with the comments received. The regulation does not bring pressure to bear on hospitals to grant medical staff privileges to anyone other than those to whom they choose. The rule does not mandate privileges for nonphysician practitioners; however, if the hospital has nonphysician practitioners, their privileges must be delineated.

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For further clarity, "if any" was added to N.J.A.C. 8:43B-6.4(a)5. The rule was renumbered as N.J.A.C. 8:43B-6.4(a)3.

The Department received recommendations that N.J.A.C. 8:43B-6.4(a)6 require the delineation of only those functions, techniques, and procedures which nonphysician practitioners are authorized to perform. The rule was rewritten as requested by the commentors, since the editorial nature of the change leaves the quality of patient care unaffected. A comment that the rule does not clearly assign the "responsibility for the medical care of admitted patients of nonphysician practitioners" was unaccompanied by specific recommendation for change. A recommendation was received that N.J.A.C. 8:43B-6.4(a)6ii and N.J.A.C. 8:43B-6.4(a)6iii be changed to accommodate the fact that "surgical procedures that dentists and podiatrists may perform are privileges which should be determined on an individual basis". These rules were deleted on the basis of this comment and those offered at the joint meeting on August 19, 1983 at the New Jersey Hospital Association. The Department contends that patient care would not be affected since these rules would be duplicative of N.J.A.C. 8:43B-6.3. N.J.A.C. 8:43B-6.4(a)6 was renumbered as N.J.A.C. 8:43B-6.4(a)4. N.J.A.C. 8:43B-6.4(a)7 was renumbered as N.J.A.C. 8:43B-6.4(a)5.

One commentor questioned the "relevance as a licensing mandate" of the Department's inclusion of the establishment of an executive committee in the proposed rules – a point which was also discussed at the August 19, 1983 meeting at the New Jersey Hospital Association. It was further contended that the establishment of an executive committee was never previously required. The Department maintains, however, that, based upon its own interpretation, the rule regarding the establishment of an executive committee would not represent a new rule since it is suggested in the current licensure regulations, N.J.A.C. 8:43B-6.1(b) and N.J.A.C. 8:43B-6.2(a). The proposed rule, N.J.A.C. 8:43B-6.5(a) through (c), was deleted and rewritten as one rule, N.J.A.C. 8:43B-6.5, so as to ensure the establishment of a liaison mechanism between the medical staff, the hospital administrator, and the governing authority. The rewritten rule is less specific since committee responsibilities are no longer stated in detail. The Department contends that the establishment of an executive committee is relevant as a licensing mandate because of the importance of the liaison function associated with it. The Department maintains that deletion of the entire rule would be detrimental to the quality of patient care since there would remain no provision for a liaison mechanism to represent the medical staff in matters pertaining to the medical care rendered to patients.

Recommendations for change were received by the Department in reference to N.J.A.C. 8:43B-6.6 in general on the basis of the many objections directed at its various paragraphs and subparagraphs. Comments were received, for instance, to the effect that the term "physician-director" is inappropriate and that this rule resembles a job description and, as such, should not appear in the medical staff bylaws. Another recommendation was received that N.J.A.C. 8:43B-6.6 be changed "to reflect the need for a dentist to serve as director of the hospital dental service". It included in the appropriate paragraphs "to reflect the fact that dental services will be rendered by dentists". The Department realizes that the term "physician-director" will vary from hospital to hospital. The rule as written will not preclude the facility from establishing an equivalent title. N.J.A.C. 8:43B-6.6 was rewritten. The Department contends that the rewritten rule is not a job description, since it is not all-inclusive of the vast responsibilities and duties of a department director. The rule sets forth basic requirements for departmental functions which affect patient care and services. The Department contends that if the rule were deleted, patient care would be adversely affected. Sentences were added to N.J.A.C. 8:43B-6.6(a) which permit the appointment of directors of services in accordance with the medical staff bylaws, rules and regulations. The rewritten rule allows, for example, the appointment of a dentist as director of the dental service. The term "physician-director"

HIGHER EDUCATION

which followed this addition was changed to "director". A technical change in N.J.A.C. 8:43B-6.6(a) consisted of the addition of the phrase "rules and regulations".

More specific comments addressed N.J.A.C. 8:43B-6.6(a)4 through 11. For example, one respondent objected to the mention of a service-specific policy and procedure manual. Another stated that "the physician does not write a plan of care nor does he ensure that one is written". "Care plans are usually," according to one commentor "the function of Nursing Service". The rule regarding the participation of the physician-director in the review of the care and treatment of each patient was criticized as being "impractical, unworkable, ... unachievable and unnecessary". One commentor stated that "placing on the hospital the responsibility for modifying physician behavior in record keeping details falls into the category of harassment". Another claimed that this would transfer a responsibility that rightfully belongs to the individual physician to the physician-director. One commentor stated that the rules concerning consultant services and a system of patient care evaluation would require the physician-director to assume responsibilities which should be assigned to the medical staff. N.J.A.C. 8:43B-6.6(a)4 was rewritten to allow each service to use the facility's policy and procedure manual with additional supplementary policies and procedures specific for that service. N.J.A.C. 8:43B-6.6(a)5 through 11 and N.J.A.C. 8:43B-6.6(b) were deleted. The Department contends that these rules would be duplicative since the medical staff bylaws, rules and regulations would delineate the qualifications and responsibilities of the physician-director with respect to patient care as well as methods for the monitoring and surveillance of patient care as noted in sections of N.J.A.C. 8:43B-6.2 such as N.J.A.C. 8:43B-6.2(a)10 and N.J.A.C. 8:43B-6.2(a)5ix. N.J.A.C. 8:43B-6.6(a)9 was deleted and provision for consultation was added to the appropriate section, N.J.A.C. 8:43B-6.2(a)16 as requested. The Department maintains that the deletion of these rules will not unfavorably affect the quality of patient care given their duplicative character. N.J.A.C. 8:43B-6.6(a)12 was retained, with an editorial change, and renumbered as N.J.A.C. 8:43B-6.6(a)5.

In conclusion, due to the number and type of comments received and the recommendations of the Health Care Administration Board, the proposed new rule with the changes described above and the repeal of existing N.J.A.C. 8:43B-6 were not adopted. The existing text of N.J.A.C. 8:43B-6 is being readopted for one year from October 17, 1983, to October 17, 1984, without change.

HIGHER EDUCATION**(a)****FACILITIES PLANNING AND APPROVAL STANDARDS****Project Approval Procedures****Adopted Amendment: N.J.A.C. 9:3-1.1**

Proposed: July 5, 1983 at 15 N.J.R. 1070(a).

Adopted: September 23, 1983 by Board of Higher Education, T. Edward Hollander, Chancellor and Secretary of the Board.

Filed: September 28, 1983 as R.1983 d.447, **without change**.

Authority: N.J.S.A. 18A:3-14(a); 18A:3-15.

Effective Date: October 17, 1983.

HUMAN SERVICES

ADOPTIONS

Expiration Date pursuant to Executive Order No. 66(1978):
October 17, 1988.

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

(a)

STUDENT ASSISTANCE BOARD

**Student Assistance Programs
Foreign National; Eligibility**

Adopted Amendment: N.J.A.C. 9:7-2.3

Proposed: July 5, 1983 at 15 N.J.R. 1071(a).
Adopted: September 27, 1983 by Student Assistance
Board, Joseph Streit, Chairman.
Filed: September 30, 1983 as R.1983 d.468, **without
change.**

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.8, 18A:71-46
and 18A:71-48.

Effective Date: October 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
April 13, 1988.

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

HUMAN SERVICES

(b)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Vision Care Manual
Lens and Frame Envelopes**

Adopted Amendments: N.J.A.C. 10:62-3.8

Proposed: May 16, 1983 at 15 N.J.R. 783(a).
Adopted: September 16, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: September 20, 1983 as R.1983 d.434, **without
change.**

Authority: N.J.S.A. 30:4D-6b(7), 7 and 7b.

Effective Date: October 17, 1983.
Operative Date: November 1, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 10, 1986.

Summary of public comments and agency responses:
No comments received.

(c)

DIVISION OF PUBLIC WELFARE

**Home Energy Assistance Handbook
Income Computation and Eligibility Limits;
Emergency Energy Assistance; Automatic
Payments**

**Adopted Amendment: N.J.A.C. 10:89-
Foreword, 2.3, 3.2, 3.4, 3.6 and 4.1**

Proposed: August 15, 1983 at 15 N.J.R. 1338(a).
Adopted: September 30, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: September 30, 1983 as R.1983 d.465, **with technical
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2 and P.L. 97-35.

Effective Date: October 17, 1983.
Operative Date: November 1, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
November 10, 1985.

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

Summary of Changes Subsequent to Proposal:

Due to a publication error, the figures for a household size of 10 were omitted at N.J.A.C. 10:89-2.3(g). These figures are now being added.

The payment schedules at N.J.A.C. 10:89-3.6 have been amended to include two additional benefit levels required by the increase in gross monthly income guidelines which appear at N.J.A.C. 10:89-2.3(g).

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

10:89-2.3 Income Eligibility

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

(g) Gross income eligibility limits for home energy assistance:

Household Size	Monthly Allowable Gross Income Limit
1	\$(487) 506
2	[648] 681
3	[809] 856
4	[970] 1031
5	[1131] 1206
6	[1292] 1381
7	[1453] 1556
8	[1614] 1731
9	[1775] 1906
10	*[1936]* *2081*
Each Additional Member	+ [161] 175

10:89-3.6 Payment Schedule

(a) Schedule A: Fuel Oil, Kerosene, Electricity
HOUSEHOLD SIZE 1 or 2 3 to 5 6 or more

ADOPTIONS

INSURANCE

Region Designation	Blue		Red		Blue		Red	
	Blue	Red	Blue	Red	Blue	Red	Blue	Red
Monthly Income								
\$0-\$417.00	492	428	658	572	788	686		
\$417.01-\$667.00	470	358	548	476	658	572		
\$667.01-\$917.00	*330*	*286*	438	382	526	458		
\$917.01-\$1167.00			328	286	394	342		
\$1167.01-\$1583.00			*220*	*190*	262	228		
Over \$1583.00					132	114		

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(b) Schedule B: All Other Fuel

Region Designation	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
\$0-\$417.00	322	280	430	374	516	448
\$417.01-\$667.00	268	234	358	312	430	374
\$667.01-\$917.00	*216*	*188*	286	250	344	298
\$917.01-\$1167.00			214	186	258	224
\$1167.01-\$1583.00			*144*	*124*	172	150
Over \$1583.00					86	74

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(c) Schedule C: Renters

Region Designation	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
\$0-\$417.00	236	204	314	272	376	328
\$417.01-\$667.00	196	170	262	228	313	272
\$667.01-\$917.00	*158*	*136*	210	182	250	218
\$917.01-\$1167.00			156	136	188	164
\$1167.01-\$1583.00			*104*	*90*	126	110
Over \$1583.00					62	54

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

**Administration
 Fair Hearing Guidelines**

Readoption: N.J.A.C. 10:120-3

Proposed: August 15, 1983 at 15 N.J.R. 1340(a).
 Adopted: September 26, 1983 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: September 26, 1983 as R.1983 d.442, **without change.**

Authority: N.J.S.A. 30:1-12 and 30:4C-26a.

Effective Date: September 26, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 September 26, 1988.

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

INSURANCE

(b)

DIVISION OF ADMINISTRATION

**Automobile Insurance
 Automobile Rate Filers: Deductibles for
 Private Passenger Automobile Collision
 and Comprehensive Coverages**

Adopted New Rule: N.J.A.C. 11:3-13

Proposed: August 15, 1983 at 15 N.J.R. 1342(a).
 Adopted: September 29, 1983 by Joseph F. Murphy,
 Commissioner, Department of Insurance.
 Filed: September 30, 1983 as R.1983 d.467, **without change.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and the New Jersey Automobile Insurance Reform Act of 1982, P.L. 1983, c.65, N.J.S.A. 17:29A-33 et seq., specifically, 17:29A-39.

Effective Date: October 17, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 October 17, 1988.

Summary of Public Comments and Agency Responses:

The Department received four written comments on the proposed new rule concerning deductibles for private passenger automobile collision and comprehensive coverages.

One insurer asked for clarification concerning the scope of the rule and, specifically, questioned its applicability to motorcycles. This writer noted the requirements of N.J.S.A. 17:29A-39 appear to be limited to private passenger automobile coverages. Further, it was contended that the required offering to motorcycle insureds of the deductibles specified in the proposal would create an undue complication and burden for such insureds in selecting coverage as well as difficulties for the insurer.

The Department does not feel that motorcycle insureds would necessarily find the deductible schedules contained in N.J.A.C. 11:3-13 to be complicated or burdensome. However, as this commenter indicated, the language of N.J.S.A. 17:29A-39 addresses collision and comprehensive deductibles for private passenger automobiles, rather than motorcycles. Accordingly, the requirement of this subchapter are similarly limited.

Another commenter noted that the statute and proposed rule do not distinguish between private passenger automobiles which are written under a Personal Auto Policy and those private passenger automobile types which are written under a Business Auto Policy. The latter types, which may include private passenger automobiles owned by corporations, partnerships, and government agencies are rated under the Commercial Lines Manual which provides both for separate collision and comprehensive deductibles and for combined physical damage deductibles. This writer recommended that the

rule be revised to reflect the availability of such combined deductibles based upon the deductible schedule provided for collision coverages.

The comment, while technical in nature, drew attention to the question of the applicability of N.J.S.A. 17:29A-39 to commercial type automobiles. It should be noted that the Commercial Lines Deregulation Act of 1982, N.J.S.A. 17:29AA-1 et seq., exempts commercial lines insurance from the provisions of N.J.S.A. 17:29A-1 et seq., except as may be specifically provided in that Act. N.J.S.A. 17:29A-39 and this implementing rule are, therefore, inapplicable to coverages deregulated pursuant to the provisions of N.J.S.A. 17:29AA-1 et seq. The Department has not revised the rule to provide for combined physical damage deductibles.

A rating organization suggested that the rule be amended to eliminate the mandatory offering of a \$150.00 collision deductible for those filers which offer a \$200.00 collision deductible. This commenter argued that the collision schedule contained in the proposal creates a cluster of choices at the lower amounts where premium savings between deductibles are not significant.

In the Department's view, the premium savings associated with the proposed schedule are significant compared to the reduction in coverage, and may be illustrated by the present difference in rates between a \$100.00 and \$200.00 collision deductible. An insured who selects a \$200.00 deductible may pay between \$36.00 to \$54.00 less per year, depending on territorial classification, than an insured selecting a \$100.00 deductible. Within two to three years, the resulting premium savings will more than offset the increased deductible which the insured would be required to absorb in the event of a loss. The Department has, therefore retained the mandatory \$150.00 collision deductible in the adopted rule.

Finally, an insurer questioned the annual notice requirement set forth at N.J.A.C. 11:3-13.5(b). This provision specifies that at least annually each insurer shall furnish its insureds with a schedule of collision and comprehensive deductibles. It was argued that this provision requires excessive notification to existing policyholders and should be limited to 1984.

The annual notice requirement is designed to encourage insureds to evaluate their coverage needs on a continuing basis, particularly with respect to changes in economic circumstances. In addition, it ensures that existing policyholders will be apprised of changes which an insurer makes in its deductible schedule. The annual notice requirement has been retained in the adopted rule.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Transportation of Bulk Commodities

Readoption: N.J.A.C. 13:26

Proposed: July 5, 1983 at 15 N.J.R. 1116(a).
Adopted: September 20, 1983 by Clifford W. Snedeker,
Director of the Division of Motor Vehicles.
Filed: September 26, 1983 as R.1983 d.441, **without change.**

Authority: N.J.S.A. 39:5E-5.

Effective Date: September 26, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
September 26, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

(b)

BOARD OF ARCHITECTS

Plans for Single Family Dwellings

Adopted New Rule: N.J.A.C. 13:27-7

Proposed: June 20, 1983 at 15 N.J.R. 1010(a).
Adopted: August 15, 1983 by New Jersey Board of
Architects, Bernard Kellenyi, President.
Filed: September 30, 1983 as R.1983 d.466, **without change.**

Authority: N.J.S.A. 45:3-3.

Effective Date: October 17, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
October 17, 1988.

Summary of Public Comments and Agency Responses:

William M. Connolly, Director, of the Division of Housing and Development, Department of Community Affairs expressed the "strong support" of his Division for the rule which he felt would result in "significant savings" to the public. John A. Lacz, P.E., supported the rule and suggested that it be expanded to include the requirement of a professional engineer's and professional land surveyor's seal on the plans as well, since siting is "under the jurisdiction and normal responsibility of licensed professional engineers and surveyors." The Board indicated that regulation of engineers and land surveyors is beyond its jurisdiction and, without accepting or rejecting the correspondent's statements as to siting, the Board noted that this rule is primarily concerned with home design, which is solely within the purview of architects.

(c)

DIVISION OF CONSUMER AFFAIRS

Board of Pharmacy Administrative and Registration Requirements

Readoption with Amendments: N.J.A.C. 13:39-5

Proposed: July 18, 1983 at 15 N.J.R. 1172(a).
Adopted: September 14, 1983 by Sanford Luger, Treasurer,
New Jersey Board of Pharmacy.
Filed: September 26, 1983 as R.1983 d.440, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:14-3, 6, 7, 8, 8.1, 11, 26.2.

Effective Date: September 26, 1983 for readoption; October
17, 1983 for amendments.

Expiration Date pursuant to Executive Order No. 66(1978):
September 26, 1988.

Summary of Public Comments and Agency Responses:

ADOPTIONS**TRANSPORTATION**

The Board received a comment from the Essex County Pharmaceutical Society. The Society objected to the addition of "mental fitness" as a requirement of reciprocal registration, as a mental disability may not be a "clear-cut-and-dry" situation. The Society requested a public hearing on what constitutes "mental fitness" before the adoption of the regulation.

The Board responded at a public hearing and in writing indicating that it is their intent to protect the public from those that are not able to exercise professional judgment because of a mental disability. The Board notes that physical fitness is already required pursuant to N.J.A.C. 13:39-5.12, and believes that physical fitness can be no more clearly defined than mental fitness. Pursuant to N.J.S.A. 45:1-21(f) the Board has specific authority to refuse to issue registration if an applicant is incapable for "medical or any other good cause" of discharging the functions of a licensee. Finally, the Board rejected the request for a public hearing on what constitutes "mental fitness" as being impractical and unnecessary. The Board noted that testimony on such a subject would by its nature be voluminous and extremely time consuming.

Full text of the changes between proposal and adoption follows (deletions from proposal shown in brackets with asterisks *[thus]*).

13:39-5.7 States reciprocating

(a) Pharmacists registered in every state of the United States with the exception of those registered in [the states of California and Florida] *[those]* **states that do not reciprocate with New Jersey shall be eligible to apply for reciprocal registration.** [the Boards of Pharmacy of which do not reciprocate with other states, and pharmacies] **Pharmacists** registered in the District of Columbia and in the territories of the United States shall **also** be eligible to apply for reciprocal registration **provided that reciprocal registration privileges are available in such jurisdiction to licensees of the New Jersey Board of Pharmacy.**

1. Applicants who have graduated from pharmacy schools [have] not [been] accredited by the American Council on Pharmaceutical Education and who have been licensed by the District of Columbia, a reciprocate state or a United States territory shall be eligible for reciprocity pursuant to N.J.A.C. 13:39-5.14 if the Board of Pharmacy is satisfied that the licensing procedures applicable to graduates of non accredited schools in the state of original licensure provide for an adequate evaluation of the applicant's education, training and experience.

TRANSPORTATION

(a)

PUBLIC TRANSPORTATION**Autobus Specifications**

Vans, Small Buses, Recreational Vehicles, Sedans; Special Equipment for Wheel Chairs, Modified Interiors for Charter or Special Bus Operations; Certificates, Public Liability Insurance

Adopted Amendments: N.J.A.C. 16:53-1.29, 1.30, 3.23, 3.24, 6.21, 6.30, 7.17, 7.23, 8.22 and 8.25

Proposed: June 6, 1983 at 15 N.J.R. 877(b).

Adopted: September 26, 1983 by James A. Crawford, Acting Assistant Commissioner for Transportation Services.

Filed: September 28, 1983 as R.1983 d.445, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 52:14D-1 et seq., Executive Order on Reorganization Plan for Board of Public Utilities, September 19, 1978. (See: 10 N.J.R. 466(a))

Effective Date: October 17, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): March 19, 1984.

Summary of Public Comments and Agency Responses and Changes to Proposal:

One comment was received regarding the proposal from the Division of Environmental Quality, Department of Environmental Protection, John Fitch Plaza, CN 027, Trenton, New Jersey, 08625. The comment is as follows:

"In 1971, the Department of Environmental Protection promulgated N.J.A.C. 7:27-14, "Control and Prohibition of Air Pollution from Diesel Powered Motor Vehicles". Effective January 1, 1972, the Board of Public Utilities began enforcement of this regulation as it pertained to diesel powered autobuses. Enforcement authority has since been delegated to the Department of Transportation. During the past twelve years, there has been a great amount of cooperation between our two agencies in order to achieve the goals of clean air as mandated by the Federal Clean Air Act and set forth in N.J.A.C. 7:27-14. The present regulation requires a dynamic (on-the-road) test for diesel exhaust smoke opacity. Installation of vertical exhaust stacks on buses became common during the latter part of the 1970's. Liability concerns prevented DOT investigators from attaching smokemeters to the vertical stacks. Consequently, investigators are now performing visual examinations of such vehicles in order to determine compliance with the smoke opacity standard. DOT suggested to DEP that a static (stationary) test, with an appropriate standard, would be at least as effective as the dynamic test. Therefore, in 1982, DEP purchased 35 new smokemeters from the Robert H. Wager Co., Inc. The specifications and final production units included telescopic handles designed for accessing vertical exhaust outlets. DEP and DOT have also invested much time and effort in preparing revisions to N.J.A.C. 7:27-14. Proposed changes in the test procedure and the standard will accommodate DOT's inspection procedures while, at the same time, fulfill the requirements of the State and Federal Air Pollution Control Laws. These proposed revisions will be published in the New Jersey Register in the near future.

"The proposed amendments to DOT's inspection program raise many concerns for DEP relative to N.J.A.C. 7:27-14 and the New Jersey State Implementation Plan For the Attainment and Maintenance of National Ambient Air Quality Standards. A concern is the fact that such a program change may be required to be approved by the U.S. Environmental Protection Agency as a revision of New Jersey's Total Suspended Particulate SIP. A case in hand is the very recent problem with the motor vehicle inspection program. The implementation of the odd/even inspection program was done without the necessary SIP Revision documentation and subsequent EPA approval. As such, a law suit was brought against New Jersey. Also, legislative intervention was necessary to find an acceptable solution to the problem.

"As for the proposal itself, DEP questions both the supporting comments and specific subsections of the proposal which will adversely impact on the quality assurance of diesel bus smoke testing:

1) The Social Impact and Economic Impact statements are vague, are without basis, and do not depict the effects the proposal will produce on both the public and private sectors involved. The protection of the public's best interest by State government is an unsubstantiated claim based on the information provided. The apparent failure of the self-inspection privileges provided to fleet operators of commercial vehicles as attested to by DMV's spot road checks, is the basis for our concern.

2) Not addressed is the economic impact upon New Jersey Transit, its wholly-owned subsidiaries, and all private owner-operators for the purchase, lease or rental of an "approved" smokemeter for the purpose of demonstrating compliance with the smoke opacity standard during the course of an inspection. The impact on a small fleet operator could be significant.

3) Mention is made in the proposal summary of "recent technological advances" which support a self-inspection certification program. With respect to exhaust opacity testing, no recent advances are known which justify the economic impact of smokemeter acquisition by all operators and the intuitive deterioration of testing quality assurance.

4) With respect to N.J.A.C. 6:53-3.23 (e) and (f), it is necessary to define the penalties and sanctions assigned to vehicles and/or operators not in compliance with inspection standards. Further, these sanctions must be severe enough to insure that self-inspection privileges are not abused. Finally, the sanctions must be applied through a strong enforcement effort.

5) DOT would be expected to ensure quality assurance on behalf of all inspection certifications in order to achieve the same level of success as the present program. Conformance with equipment calibration and opacity testing procedures are two segments of this quality assurance effort. Equipment down-time will result in failure to inspect vehicles or the need for operators to own more than one smokemeter. DOT's surplus of smokemeters currently enables it to avoid down-time.

6) The reasoning for full self-inspection privileges proposed to NJT and its wholly owned subsidiaries, while all other operators will receive one inspection annually by DOT investigators, is quite obscure.

On the basis of the arguments presented above, the Department of Environmental Protection strongly opposes the amendments as proposed. The Summary, Social, and Economic Impact statements do not demonstrate a serious consideration of the proposal's true impact. Contrary to the information presented, the social, economic, environmental and legal impacts are expected to be significant. Commercial buses spend considerable time and accumulate high mileage while transporting persons in the commercial sector. It appears very difficult to assure the passengers of these buses and the residents of New Jersey that their best interests are being protected by our State government through the implementation of a self-inspection certification program.

The financial savings to be accrued by the Department of Transportation are to the detriment of the commercial sector. The air quality impacts of the proposed amendments must also be taken seriously. As stated, DEP is currently revising N.J.A.C. 7:27-14. The proposed revisions will provide a margin of safety against the adverse environmental and health effects of diesel bus exhaust. A self-inspection certification program cannot guarantee the same safeguards.

DEP has long recognized the air quality benefits of the present diesel bus inspection program. Proposing to reduce New Jersey's involvement in the certification process can only be considered a weakening of the program. Therefore, DEP opposes the proposed amendments to the New Jersey Administrative Code 16:53."

There were several meetings held between the representatives of The Department of Transportation and the Division of Environmental Quality. Following these meetings and consultations between DOT and DEP, the DEP withdrew its objections to the rules as proposed in view of the manner in which DOT agreed to implement the emissions testing program.

Futhermore, it was mutually agreed that the Department's emissions testing opacity would be reduced from 20 percent to 12 percent; roadway terminals and safety checks will be increased and all garages involved in the self-inspection system will be inspected through unannounced inspections at randomly selected hours of the work day. The Department will work with DEP and the Bus Carriers to minimize the economic effect of requiring the various companies to acquire test equipment. There were no other changes

to the rule as proposed.

Full text of the changes between proposal and adoption follows (additions to proposal indicated in boldface **thus**).

Summary

(No change from proposal.)

Social Impact

These amendments will reflect changes in inspection procedures which are the result of improvements in technology which will permit the New Jersey Department of Transportation to administer a system of self-inspection coupled with adequate on site inspection. Additionally, these amendments will assure passengers that their best interests are being protected by State government by **the enforcement of strict pollution requirements and the retention of periodic maintenance and unannounced inspection at garages and on the road** to ensure standards are being maintained. **This will be ensured by the reduction of the emissions testing opacity standard from 20 percent to 12 percent.**

Economic Impact

The Department will incur direct and indirect costs for its workforce for personnel and equipment requirements for the periodic inspection of vehicles. As a result of these amendments it is anticipated that a reduction of costs will occur. **Additionally, it will impact on the New Jersey Transit, its wholly-owned subsidiaries, and all private owner-operators for the purchase, lease or rental of an "approved" smokemeter for the purpose of demonstrating compliance with the approved smoke opacity standard during the course of an inspection. This could have significant impact on a small fleet operator. However, the Department will work with DEP to minimize this impact.**

(No changes in text of rules.)

(a)

FISCAL MANAGEMENT CONSTRUCTION AND MAINTENANCE UNIT

Contract Administration

Recodification: N.J.A.C. 16:65 recodified as 16:44, without change

Authorized By: John P. Sheridan, Jr., Commissioner, Department of Transportation.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1-1 et seq., and 14:15-2.

Summary

On July 5, 1983 N.J.A.C. 16:65, Contract Administration, was proposed for re adoption without change pursuant to Executive Order No. 66(1978). See: 15 N.J.R. 1080(b). The re adoption of the chapter was filed and became effective on September 6, 1983. See: 15 N.J.R. 1668(b).

The Department of Transportation has now recodified the re adopted rules from Subtitle K, Fiscal Management, to Subtitle G, Construction and Maintenance Unit, and designated the chapter N.J.A.C. 16:44, without change in text. Since N.J.S.A. Title 27 governs the Department's bidding procedures, especially N.J.S.A. 27:2-1 et seq. and specifically N.J.S.A. 27:7-29, this recodification will properly reflect the present organizational structure.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Insurance Liability for Unenrolled Members

Adopted Repeal: N.J.A.C. 17:3-2.8

Proposed: July 18, 1983 at 15 N.J.R. 1177(a).
Adopted: September 14 1983 by Mary C. Conrey, Secretary,
Teachers' Pension and Annuity Fund.
Filed: September 26, 1983 as R.1983 d.439, **without
change.**

Authority: N.J.S.A. 18A:66-56.

Effective Date: October 17, 1983.
Expiration Date Pursuant to Executive Order No. 66(1978):
None

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

EMERGENCY ADOPTION

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program Revised Income Deductions, Utility Allowances, and Maximum Coupon Allotments

Adopted Emergency Amendments and Concurrent Proposal: N.J.A.C. 10:87-5.10, 12.1, and 12.2

Emergency Amendment Adopted: September 16, 1983 by
George J. Albanese, Commissioner, Department of
Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September
26, 1983.

Emergency Amendment Filed: September 30, 1983 as
R. 1983 d.460.

Authority: N.J.S.A. 30:4B-2; the Food Stamp Act of
1977 as amended; 7 CFR 273.9(d)(6), (7), and (8); 7
CFR 273.10(e)(4); and 48 FR 28190.

Emergency Amendment Effective Date: September 30,
1983.

Emergency Amendment Operative Date: October 1,
1983.

Emergency Amendment Expiration Date: November 30,
1983.

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before November 16,
1983. These submissions, and any inquiries about submissions and
responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

This amendment was 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-4(c) as implemented by N.J.A.C. 1:30-
4.4). Concurrently, the provisions of this emergency amendment
are being proposed for readoption in compliance with the normal
rulemaking requirements of the Administrative Procedure Act,
N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective
upon acceptance for filing by the Office of Administrative Law (see
N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-563.

The agency emergency adoption and concurrent proposal
follows:

Summary

The Department of Human Services is required by Federal law

and regulations to revise maximum coupon allotments and increase
the standard deduction and child care/shelter deduction to reflect the
annual Federal adjustment of these amounts which takes into
account changes in the cost of living. Additionally, the Department
is implementing revised standard utility allowance amounts.
Previously, these amounts were adjusted seasonally. Under the
Food Stamp Act Amendments of 1982, states were given the option
of developing annualized utility allowances or seasonally adjusting
utility allowances. In accordance with final Federal regulations at
48 FR 28190 and negotiations with the United States Department
of Agriculture, Food and Nutrition Service, the Department has
elected to annualize these allowances in order to simplify
administration of the program and decrease the potential for
erroneous issuances due to seasonal adjustments of these
allowances.

The heating utility allowance (HUA) has been annualized in the
amount of \$172.00. Households which are responsible for heating
costs will be entitled to the HUA amount for the entire year. The
standard utility allowance (SUA) is \$102.00. These annual
standards are effective through September 1984. The rule at
N.J.A.C. 10:87-5.10 has been amended to state that only renters
that are billed directly, or are billed by their landlord, for actual
heating fuel costs according to usage as determined by individual
metering may claim the HUA. Households whose only major utility
expense is a surcharge for excess heat or an amount billed by a
landlord which does not reflect actual usage as determined by
individual metering are not eligible for either utility allowance, but
may claim actual utility costs.

Further, the regulation has been amended to specify that once a
household has made an election between a utility allowance and
actual utility expenses, the household may not switch for a period
of 12 months unless the household's circumstances change such
that its liability for utility expenses change.

Social Impact

The increase in the standard deduction, child care/shelter
deduction and increase in certain maximum coupon allotments will
result in some increase in the amount of Food Stamp benefits
households are receiving.

The annualized heating utility allowance will benefit households
eligible to claim the HUA deduction. The annualized HUA amount
of \$172.00 represents an increase over the previous seasonal
summer standard utility allowance of \$112.00, resulting in an
increase in Food Stamp benefits. Additionally, since the amount is
annualized, allotments to households claiming the HUA are less
subject to fluctuation and thus enabling such households to better
budget their food expenditures.

The decrease in the annualized standard utility allowance amount
of \$102.00 is down from the previous summer standard of \$112.00
due to the reduction in fuel costs over the past year. This change
may reduce allotments for some households using the SUA
contingent upon individual household circumstances. However,
households with utility costs in excess of the SUA may elect to have
actual expenses used in the eligibility and benefit computation and
will thereby suffer no penalty.

Economic Impact

The net effect of the increase in the standard deduction, child
care/shelter deduction and maximum coupon allotments and
increase in the utility deduction for households eligible for the
heating utility allowance will be an increase in benefits for Food
Stamp recipients.

The decrease in the annualized standard utility allowance may

cause a decrease in benefits to certain households, however, the decrease in this allowance may be offset by the increases in other deductions contingent upon individual household circumstances.

These changes will not have a significant adverse impact on the Department and local agencies administering the program but may bring some additional Federal funds into the State for those households participating in this federally funded program.

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

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1.-4. (No change.)

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after the deductions in (a)1, 2, 3, and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction alone or in combination with the dependent care deduction in (a)4 exceed the amount in N.J.A.C. 10:87-12.1 (Appendix A, Table I) unless the household contains a member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. These households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

i.-iii. (No change.)

iv. Utility standard: Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the appropriate utility allowance (see N.J.A.C. 10:87-12.1, Table I, Appendix A) in accordance with the following provisions.

(1) Households which pay directly for their primary source of heat separate[ly] and apart from rent or mortgage may claim the heating utility allowance (HUA) [during the heating season]. The CWA shall verify that the household is responsible for primary heating costs.

(A)-(C) (No change.)

(D) Renters who are billed by their landlords for heating fuel costs according to actual usage as determined by individual metering may claim the HUA.

(2) (No change.)

[(3) Households must be advised that they are allowed to switch between actual utility costs and the appropriate utility allowance once within a certification period with the exception specified below.

(A) Households which elect to average actual utility expenses are not permitted to switch to the HUA in the months between billing months. Households which elect to deduct actually incurred utility costs for heating expenses for which they are billed intermittently are not permitted to switch to the HUA during the period for which the deducted cost was intended to cover.

(4) Households whose certification periods overlap the annual adjustment of the utility allowances shall be advised that the adjustment will occur.]

(3) Households whose only utility cost is a surcharge for excess heat or an amount billed by a landlord which does not reflect actual usage as determined by individual metering are not eligible for either utility allowance. Such households may claim actual expenses.

(4) Once a household has made an election between a utility allowance and actual utility expenses, the household may not switch for a period of 12 months after initial selection and no more frequently than once every 12 months thereafter.

(A) Change in household circumstances: If a household's circumstances change such that their responsibility for utilities

changes (such as a change in residence) the household may switch between actual costs and the standard allowance at that time.

(5)-(7) (No change.)

10:87-12.1 Income deduction table

TABLE I
Income Deductions

Standard Deduction	[\$ 85.00] \$ 89.00
Child Care/Shelter Deduction	[\$115.00] \$125.00
Uniform Telephone Allowance	\$ 8.51
Standard Utility Allowance	[\$112.00] \$102.00
Heating Utility Allowance	[\$286.00*] \$172.00
[*Expires 3/31/83]	

10:87-12.2 Maximum coupon allotment table

TABLE II
Maximum Coupon Allotment (MCA)

Household Size	MCA
1	[\$75] 76
2	139
3	199
4	253
5	[300] 301
6	[360] 361
7	[398] 399
8	[455] 457
9	[512] 514
10	[569] 571
Each Additional Member	57

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

NEW JERSEY NOISE CONTROL COUNCIL

Public and Private Resources for Protection from Environmental Noise

Public Hearing

Take notice that the New Jersey Noise Control Council will hold a public hearing on November 1, 1983 at 9:00 A.M. at:

Lewis Hermann Labor Education
Center
Ryders Lane
New Brunswick, NJ

Subject: Public and Private Resources for Protection from Environmental Noise

Government priorities are causing a shift downward in the control of noise to public and private efforts at the local level. The Commissioner of the New Jersey Department of Environmental Protection has delegated to the Noise Control Council the task of drafting new model noise control ordinances for adoption by local governments. The Council has been involved in the accumulation of data and recommendations from multiple sources to complete this task. To supplement these documents, the Noise Control Council is seeking information on noise control programs that are or might be carried out by local governments, professional groups, private individuals, and self-help organizations.

This public hearing is being held as a forum for gathering and sharing ideas on community noise control efforts. The Noise Control Council will present a status report on its efforts. The Council has invited certain other individuals and State and local groups to discuss their experiences and make suggestions. Testimony is also earnestly solicited from the general public.

The topic to be addressed is: "What public and private resources are available to communities for the control of noise?"

Though not intended to be all-inclusive, sub-questions that might be discussed are the following:

1. What have you, as a public official, accomplished for noise control in your community?
2. What have you, as a private citizen or private professional, public interest or service organization, accomplished for noise control?
3. What assistance from government agencies would be helpful to local officials involved in noise control?
4. What assistance from government agencies would be helpful to private individuals or organizations involved with noise control?
5. In anticipation of new model noise control ordinances, what role might private individuals and organizations take in encouraging their adoption and implementation by local governments?
6. What additional steps can you suggest to help prevent noise in communities?

Interested persons are invited to provide additional testimony on the material presented by invited witnesses and to present any other information relevant to the topic. Anyone wishing to testify may notify:

Edward DiPolvere
Office of Noise Control
65 Prospect Street
Trenton, NJ 08625
Telephone: (609)292-7695

INSURANCE

(b)

THE COMMISSIONER

EXPORTABLES LIST

Public Hearing

Take notice that Joseph F. Murphy, Commissioner, Department of Insurance announces that the Department will hold a public hearing to determine classes of insurance for which no reasonable or adequate market exists among authorized insurers on October 31, 1983 at 10:30 A.M. at:

Department of Insurance
Hearing Room
201 East State Street
Trenton, NJ 08625

Consideration will be given to the 48 classes of coverage declared eligible to export on October 29, 1982 including, but not limited to, deletion of the following:

1. Auto Physical Damage (value over \$30,000)
2. Bowling Alleys
3. Excess Liability Insurance
4. Motorcycle Physical Damage Insurance

In addition, interested persons are invited to submit other proposed classes of coverage for listing.

Interested persons may submit in writing, data, views or arguments relevant to the Exportables List on or before October 26, 1983. These submissions should be addressed to:

Department of Insurance
Financial Examinations Division
Surplus Lines Examining Office
CN 325
Trenton, NJ 08625

Joseph F. Murphy, Commissioner of Insurance, pursuant to authority delegated to him at N.J.S.A. 17:22-6.43, after notice and a hearing on October 19, 1982, finds no reasonable or adequate market among authorized insurers for the following 48 classes of insurance coverage or risk and rules them eligible for export effective November 1, 1982.

1. Amusement Devices for Adults and Kiddies
2. Amusement Parks and Carnivals Liability
3. Animal Morality, Horses Only
4. Armored Cars
5. Automobile-Race Tracks Liability
6. Auto Races

7. Aviation, Crop dusters
8. Bowling Alleys
9. Burglary and Robbery, Check Cashing, Money Exchange, and Installment Sales Houses Only
10. Business Interruption—Valued Per Diem Form Only
11. Cleaners' and Dyers' Bailee Coverage in Municipalities Over 100,000 Population
12. Differences in Condition (parasol)
13. Environmental Impairment Liability Insurance
14. Auto Physical Damage (value over \$30,000)
15. Excess of First Loss Insurance
16. Excess Liability Insurance
17. Excess Loss and Excess Aggregate for Self-Insurers' Public Liability and Workers' Compensation
18. Excess Property Insurance
19. False Arrest and Other Personal Injury Liability Classes
20. Fine Arts Dealers
21. Fire and Allied Line on Buildings Occupied as Auction Markets, Farmers Markets and Contents of Such Buildings
22. Fireworks Display
23. First Loss Insurance
24. Golf Driving Range
25. Hole-in-One
26. House Movers and Building Demolition
27. International Movers Insurance Plan
28. Kidnapping Insurance
29. Liquor Law Liability
30. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators
31. Motorcycle Physical Damage Insurance
32. Personal Articles Floaters Only
33. Picnics/Excursions
34. Police Professional Errors and Omissions
35. Pony Rides/Riding Academies
36. Products Liability and Products Recall Coverage
37. Professional Liability (Malpractice) Policies for Chiropractors, Clinical Laboratories, Psychologists, Veterinarians, Massage and Reducing Salons and Divorce Mediation
38. Rain Insurance
39. Retrospective Penalty Indemnity
40. Short-term (not over 30 days) Drive-away Auto Insurance with \$15,000/\$30,000 Bodily Injury and \$15,000 Property Damage Limits on Vehicles Owned and Operated by Military Personnel Except for Vehicles Registered in New Jersey
41. Short-term Entertainment Events/Rock Festivals
42. Short-term Association Meetings and Conventions
43. Skating Rinks, Roller and Ice; Skateboard Parks
44. Sporting Events (casual)
45. Swim Clubs/Swim Pools
46. Truck Physical Damage Coverage for Non-fleet (one to five) Trucks Over 7,800 Pounds, Including Trailers and/or Trailer Interchange
47. Vacant Building—Fire, Extended Coverage and Vandalism
48. Warehouseman's Legal Liability

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Petition for Rulemaking Manual Slot Payouts

Petitioner: Bally's Park Place, Inc.

Authority: N.J.S.A. 5:12-69(c), N.J.A.C. 19:42-8.1,
N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6

TAKE NOTICE that on September 26, 1983, the Casino Control Commission received a petition for rulemaking from Bally's Park Place, Inc. requesting an amendment to N.J.A.C. 19:45-1.40, concerning jackpot payouts. Bally's is seeking to increase the threshold figure for jackpot payouts requiring hand-payment by slot supervisors from \$600.00 to \$1,000.00.

N.J.A.C. 19:45-1.40 establishes requirements for recording and paying jackpots which are not totally and automatically paid directly from slot machines. The regulation provides that "All coin or currency paid to a patron as a result of winning a jackpot shall be ... disbursed ... if the manual jackpot is \$600.00 or more, to a slot supervisor who shall transport the coin or currency directly to the patron", and that in the case of such a jackpot of \$600.00 or more, that a slot supervisor shall sign and attest to the accuracy of the Jackpot Payout Slip.

At the time the aforementioned regulation was adopted by the Commission, the Susan B. Anthony silver dollar was being used in the Dollar Slot Machines. The machines' hoppers could hold as many as 1200 coins. With this number of coins in the hoppers, the \$1,000.00 jackpot was machine-paid. Subsequently, however with the casino-wide changeover from silver dollars to the larger-sized dollar tokens, the hoppers will hold only 400 to 500 tokens. This makes it impossible to pay jackpots of up to \$1,000.00 directly from the machine, and requires the manual payment of any jackpot of \$500.00 or more.

Bally's contends that each hand-paid jackpot which is currently required to be paid directly by a slot supervisor takes at least 15-20 minutes of a slot supervisor's time to process, which time would otherwise be spent by the supervisor on duties such as surveillance, supervision of employees and customer relations. With the recent upsurge in the popularity of the Dollar Slot Machines which cannot directly pay a jackpot of greater than \$500.00, slot supervisors have been forced to devote substantially more of their time to paying jackpots, which translates into decreased time for the performance of more important surveillance, supervisory and customer relations functions.

Petitioner utilizes a computerized slot system which verifies all hand-paid jackpots. Additionally, Petitioner's security department has a representative present to verify all hand-paid jackpots. This security and verification procedure provides safeguards which are commensurate with, if not more demanding than, those established by the Commission in requiring slot supervisors to personally oversee the payment of hand-paid jackpots of \$600.00 or more.

Bally's maintains that increasing the size of a jackpot payout which requires hand-payment by slot supervisors from \$600.00 to \$1,000.00 would not materially alter the controls over the payment of hand-paid jackpots. The \$1,000.00 jackpots were ordinarily machine-paid prior to the implementation of dollar tokens. By allowing slot attendants to make hand-payments of up to \$1,000.00, the slot supervisors' time can be spent on more important surveillance, supervisory and customer relations

activities, which, given Petitioner's extensive safeguards, would not have any adverse effects on security. Such an increase would in no way negatively impact on the objectives of either this regulation or the Casino Control Act, and would increase efficiency and the quality of management within this department.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c), N.J.S.A. 52:14B-4(f), N.J.A.C. 19:42-8 and N.J.A.C. 1:30-3.6.

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INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between October 18, 1982, and October 3, 1983, and which have not been adopted and filed by September 30, 1983. **The index does not contain rules proposed in this Register and listed in the Table of Rules in This Issue. These proposals will appear in the next Index of Proposed Rules.**

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which N.J.A.C.

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

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1:1-3.2	Placement of case on inactive list	9-6-83	15 N.J.R. 1399(a)
1:1-9.7	Interlocutory review	9-6-83	15 N.J.R. 1399(b)
1:1-12.4	Notice of opportunity to intervene or participate	9-6-83	15 N.J.R. 1400(a)
1:1-16.5	Final decisions: remanding	9-6-83	15 N.J.R. 1400(b)
1:1-17.1	Approving the settlement	9-6-83	15 N.J.R. 1401(a)
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4:1-18.11	Alternative workweek programs (State)	3-21-83	15 N.J.R. 374(a)
4:2-12.5, 12.7, 12.8	Readopt Certification and Appointment (State)	9-6-83	15 N.J.R. 1403(a)
4:3-12.7, 12.8	Readopt Certification and Appointment (Local)	9-6-83	15 N.J.R. 1403(a)
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5:27-11.7	Home energy assistance payments and boarding house residents	10-3-83	15 N.J.R. 1622(a)
5:30-10.1, 10.2	Local finance: municipal port authorities	8-15-83	15 N.J.R. 1304(a)
5:37-11.6	Municipal and county employees deferred compensation programs: annual audit	9-6-83	15 N.J.R. 1408(b)
5:38	State Review Process of Federal Programs	9-6-83	15 N.J.R. 1494(a)
5:42	Repeal Federal Aid Project Notification rules	9-6-83	15 N.J.R. 1494(a)
5:80-2	Private investment in HFA-financed housing	8-1-83	15 N.J.R. 1208(a)
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6:11-4	Readopt Types of Teaching Certificates	7-18-83	15 N.J.R. 1154(a)
6:20-2.10	Local districts: petty cash fund	6-20-83	15 N.J.R. 982(a)
6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
6:29-6.3	Hiring coaches for interscholastic athletics	7-18-83	15 N.J.R. 1152(b)
6:39-1.1-1.4	Statewide testing program	6-20-83	15 N.J.R. 979(b)
6:69-1	Repeal Public Library Construction grant rules	9-6-83	15 N.J.R. 1410(a)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:1A-2.3-2.5, 2.8, 2.9, 2.12-2.14, 2.18, 2.20, 2.35	Water Supply Bond Loan rules	8-15-83	15 N.J.R. 1307(a)
7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:11	Sanitary Landfill Facility Contingency Fund	8-1-83	15 N.J.R. 1213(a)
7:6-7.1, 7.2, 7.4, 7.6	Obtaining title to abandoned vessels	9-6-83	15 N.J.R. 1411(a)
7:7A-1.13	Wetlands in Middlesex County	3-21-83	15 N.J.R. 386(a)
7:11-2.10-2.13	Sale of water from D/R Canal and Spruce Run/Round Valley	8-15-83	15 N.J.R. 1311(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:13-1.11(c)30	Delineated floodways for Delaware Bay tributaries	9-19-83	15 N.J.R. 1541(a)
7:13-1.11(d)	Floodway delineation in Roseland, Essex County	8-15-83	15 N.J.R. 1313(a)
7:13-1.11(d)	Floodway delineation along Third River in Clifton	9-6-83	15 N.J.R. 1412(a)
7:13-1.11(d)42	Delineated floodways for Green Brook and Bound Brook	9-19-83	15 N.J.R. 1540(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14-4.4	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-1.9, 10.1, 10.5, 13.1, 13.2, 13.5-13.8	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-14	NJPDES: oil and grease effluent limitations	8-15-83	15 N.J.R. 1313(b)
7:15	Water quality management planning and implementation process	5-16-83	15 N.J.R. 765(b)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:20A	New comment period: Water diversion for growing use	11-15-82	15 N.J.R. 73(a)
7:25-6	1984-85 Fish Code	8-1-83	15 N.J.R. 1217(a)
7:25-7.13	Crab dredging along Atlantic coast	9-6-83	15 N.J.R. 1413(a)
7:25-11.1, 20.1	Endangered species and status of nongame species	10-3-83	15 N.J.R. 1623(a)
7:25-12.1	Preservation of sea clams	9-6-83	15 N.J.R. 1414(a)
7:25A-1.2	Sale of licensed oyster vessel	9-6-83	15 N.J.R. 1415(a)
7:25A-3.1	Oyster seed beds	9-6-83	15 N.J.R. 1415(b)
7:25A-4	Oyster cultch program	9-6-83	15 N.J.R. 1416(a)
7:26-1.4, 2.6, 2.11, 2.13, 3.5	Solid waste management	5-2-83	15 N.J.R. 660(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	9-6-83	15 N.J.R. 1417(a)
7:26-8.13, 8.16	Dioxin and dibenzofuran contamination (with Emergency Adoption)	7-18-83	15 N.J.R. 1184(a)
7:27-15.1	Specifications for Exhaust Gas Analytical System (with Emergency Adoption)	9-19-83	15 N.J.R. 1607(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
HEALTH—TITLE 8			
8:21-2.31-2.33	Repeal (see 8:21-13)	8-15-83	15 N.J.R. 1318(a)
8:21-13	Wholesale food establishments	8-15-83	15 N.J.R. 1318(a)
8:31A-7	Readopt SHARE Rate Review Guidelines	9-19-83	15 N.J.R. 1542(a)
8:31B-2.4, 2.6	Uniform bill—patient summaries (inpatient)	8-15-83	15 N.J.R. 1325(a)
8:31B-3	Hospital rate setting: 1984 procedure and methodology	8-15-83	15 N.J.R. 1326(a)
8:31B-4.6, 4.25, 4.64, 4.66, 4.67, 4.131	1984 Hospital Financial Elements and Reporting 1984 Hospital Financial Elements and Reporting	8-15-83	15 N.J.R. 1334(a)
8:31B-5.1, 5.2	Diagnosis related groups and outliers	8-15-83	15 N.J.R. 1336(a)
8:34	Readopt Rules for Licensing Nursing Home Administrators	10-3-83	15 N.J.R. 1624(a)
8:44	Readopt Operation of Clinical Laboratories	6-20-83	15 N.J.R. 995(a)
8:71	Generic drug list changes (see 15 N.J.R. 339(a), 691(a))	11-15-82	14 N.J.R. 1278(a)
8:71	Generic drug list changes (see 15 N.J.R. 1100(c))	2-7-83	15 N.J.R. 126(b)
8:71	Generic drug list additions (see 15 N.J.R. 691(b), 1100(a))	2-7-83	15 N.J.R. 127(a)
8:71	Generic drug list additions	3-21-83	15 N.J.R. 420(a)
8:71	Additions to generic drug list	6-6-83	15 N.J.R. 846(a)
HIGHER EDUCATION—TITLE 9			
9:1	Colleges and universities: licensing and degree program approval	9-6-83	15 N.J.R. 1418(a)

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9:2-3.8	Layoff notice at State Colleges	5-2-83	15 N.J.R. 663(a)
9:2-13.9	Auxiliary organizations at county colleges	10-3-83	15 N.J.R. 1626(a)
9:4-5.7	Layoff notification at county colleges	7-5-83	15 N.J.R. 1070(b)
9:7-3.1	1983-84 Tuition Aid Grant Award Table	9-6-83	15 N.J.R. 1427(a)
9:9-10.1, 10.2	Student loan programs: reducing default rates	8-15-83	15 N.J.R. 1336(b)
9:11-1	Educational Opportunity Fund rules	9-6-83	15 N.J.R. 1428(a)
9:12-1.2	EOF: Program Support	9-6-83	15 N.J.R. 1428(a)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)
9:15	Readopt Graduate Medical Education Program	9-6-83	15 N.J.R. 1429(a)
HUMAN SERVICES--TITLE 10			
10:3-2.3	Funding agreement for improvements to community-based facilities	10-3-83	15 N.J.R. 1627(a)
10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:13, 14, 15	Repeal obsolete veterans' loan and housing rules	9-6-83	15 N.J.R. 1430(a)
10:49-1.4	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:54-1.7	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:56-1.14, 1.21, 2.2, 3.3, 3.6 3.7, 3.15	Orthodontic treatment by general practitioners	7-18-83	15 N.J.R. 1160(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:60-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:63-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:63-1.4	Long Term Care: services requiring consultations or referrals	9-19-83	15 N.J.R. 1543(a)
10:65-1.2, 1.6, 1.7, 2.4	Medical day care: authorization periods; "center" defined	8-15-83	15 N.J.R. 1337(a)
10:66-1.2	"Medical day care center" defined	8-15-83	15 N.J.R. 1337(a)
10:66-1.6, 3.3	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:69B	Lifeline Credit and Tenants Lifeline Assistance Programs	8-1-83	15 N.J.R. 1227(a)
10:81-3.41	PAM: exempt income	9-6-83	15 N.J.R. 1430(b)
10:82-3.2	ASH: exempt income	9-6-83	15 N.J.R. 1431(a)
10:82-5	ASH: readopt Other Payments	10-3-83	15 N.J.R. 1628(a)
10:85-3.1	GAM: Household size	2-22-83	15 N.J.R. 212(a)
10:85-3.1	GAM: determination of household size	10-3-83	15 N.J.R. 1629(a)
10:85-3.2	GAM: initial work registration	10-3-83	15 N.J.R. 1630(a)
10:85-5.3	GAM: DRG rates for outpatient services	5-2-83	15 N.J.R. 666(a)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:90-4.8	AFDC: Recovery of overpayments and correction of underpayments	7-18-83	15 N.J.R. 1162(a)
10:100-1.23	SSI payment levels recodified as 10:100-App. A (with Emergency Adoption)	7-18-83	15 N.J.R. 1188(a)
10:109-2,3, App. I, II	Readopt Ruling 11 classification and leave rules	9-19-83	15 N.J.R. 1546(a)
10:121-3	Adoption complaint investigation fees	8-15-83	15 N.J.R. 1341(a)
10:123-1	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:125	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:126	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:133	Aversive conditioning of autistic patients	9-6-83	15 N.J.R. 1432(a)
INSURANCE--TITLE 11			
11:3-6.1-6.4	Automobile insurance identification cards	3-7-83	15 N.J.R. 315(a)
11:5	Readopt Real Estate Commission rules	8-15-83	15 N.J.R. 1343(a)
11:10	Dental plan organizations	3-21-83	15 N.J.R. 423(a)
11:10-2	Employees' dental benefit plans: alternate coverage	8-15-83	15 N.J.R. 1350(a)
LABOR--TITLE 12			
12:15-1.3	Unemployment and disability: 1984 maximum weekly rates	9-6-83	15 N.J.R. 1434(a)
12:15-1.4	Unemployment compensation: 1984 taxable wage base	9-6-83	15 N.J.R. 1435(a)
12:17-5.1	Claim for partial unemployment benefits	9-6-83	15 N.J.R. 1435(b)
12:17-11.3	Prorating lump sum pension payments	9-6-83	15 N.J.R. 1436(a)
12:51-2.1, 3.5, 4.1, 5.1, 6.1, 7.1, 8.2, 8.3, 8.4, 9.1, 10.1, 11.1, 13.1, 13.2, 17.1, 18.1	Vocational Rehabilitation Facilities	9-19-83	15 N.J.R. 1548(a)
12:175	Ski lift safety standards	9-19-83	15 N.J.R. 1553(a)
12:235-1.5	1984 workers' compensation benefit rates	9-6-83	15 N.J.R. 1437(a)
LAW AND PUBLIC SAFETY--TITLE 13			
13:2-7.10, 24.4	ABC: wholesaler to retailer credit controls	9-19-83	15 N.J.R. 1557(a)
13:2-23.16	ABC: exceptions to prohibited promotions	9-19-83	15 N.J.R. 1558(a)

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13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)
13:20-2.3	Commercial motor vehicles: maximum width computation	9-19-83	15 N.J.R. 1559(a)
13:20-7.4	Motor vehicle inspection: repeal odd-even system (with Emergency Adoption)	8-1-83	15 N.J.R. 1261(a)
13:20-32.4, 32.14, 32.15	Motor vehicle reinspection centers: mechanic certification (with Emergency Adoption)	9-19-83	15 N.J.R. 1608(a)
13:21-8	Driver license testing	9-6-83	15 N.J.R. 1437(b)
13:21-19	Motor Vehicle Franchise Committee: procedural rules	8-1-83	15 N.J.R. 1232(a)
13:21-21	Used motor vehicles: temporary transit permits	8-1-83	15 N.J.R. 1233(a)
13:25-8	Readopt Operation of Motorized Bicycles on Specific Highways	9-6-83	15 N.J.R. 1440(a)
13:25-9	Approved helmets for motorized bicycle operators	5-2-83	15 N.J.R. 684(a)
13:32-1.5	Plumbing business and bona fide representative	7-18-83	15 N.J.R. 1171(a)
13:34-1, 2, 3, 4	Marriage counselor practice: rules of the Board	9-6-83	15 N.J.R. 1441(a)
13:35-2.4(k)	Chiropractic school accreditation	4-4-83	15 N.J.R. 503(a)
13:35-3.3, 6.13	Medical examiners board: chiropractic endorsement; fees	5-16-83	15 N.J.R. 784(a)
13:35-6.7	Medical examiners board: prescribing amphetamines	5-16-83	15 N.J.R. 785(a)
13:35-6.10	Board of Medical Examiners: advertising by licensees (pre-proposal)	10-3-83	15 N.J.R. 1631(a)
13:35-11	Out-of-State medical school clinical training	9-6-83	15 N.J.R. 1444(a)
13:38-2.1	Optometric practice: minimum examination	8-1-83	15 N.J.R. 1234(a)
13:42	Readopt Board of Psychological Examiners rules	9-6-83	15 N.J.R. 1497(a)
13:44-1.1, 1.2	Veterinary examiners: approval of schools; licensure examination	7-18-83	15 N.J.R. 1175(a)
13:45A-19	Deceptive advertising and prizes	11-15-82	14 N.J.R. 1281(b)
13:45A-20	Resale of tickets of admission to places of entertainment	9-6-83	15 N.J.R. 1445(a)
13:45B-4	Temporary help service firms	2-22-83	15 N.J.R. 233(a)
13:46-5.1	Boxer licensure and medical examinations	5-16-83	15 N.J.R. 786(a)
13:49-1-8	State Medical Examiner: death investigations	8-15-83	15 N.J.R. 1351(a)
13:49-1-8	Death Investigations rules: extension of comment period	10-3-83	15 N.J.R. 1672(a)
13:70-9.18	Jockey fees	4-4-83	15 N.J.R. 518(a)
PUBLIC UTILITIES--TITLE 14			
14:3-3.6, 7.16	Diversion of service disputes	5-16-83	15 N.J.R. 787(a)
14:3-7.3, 7.5	Customer accounts: deposits for service	8-15-83	15 N.J.R. 1355(a)
14:3-7.11A	Uniform budgeting plan for residential customers	8-1-83	15 N.J.R. 1235(a)
14:18-1.2, 3.9	CATV: credit for service outages	9-6-83	15 N.J.R. 1447(a)
ENERGY--TITLE 14A			
14A:4	Solar energy systems: readopt property tax exemption rules	9-6-83	15 N.J.R. 1448(a)
14A:5	Solar energy systems: readopt sales tax exemption rules	9-6-83	15 N.J.R. 1450(a)
STATE--TITLE 15			
15:10-1.4	Voter registration: Timely filing	10-18-82	14 N.J.R. 1148(b)
TRANSPORTATION--TITLE 16			
16:16, 17	Readopt State aid for municipal operation and construction of roads	9-6-83	15 N.J.R. 1505(a)
16:28-1	Readopt Speed Limits for State Highways	9-6-83	15 N.J.R. 1450(b)
16:28-1.2	Speed rate, Route I-80 interchange, Morris County	6-6-83	15 N.J.R. 877(a)
16:28-1.22	Speed rate on Route 109 in Cape May County	8-15-83	15 N.J.R. 1358(a)
16:28-1.75	Speed rates on Route 36 in Monmouth County	8-1-83	15 N.J.R. 1236(a)
16:28A-1.2	Readopt Restricted Parking and Stopping	9-6-83	15 N.J.R. 1450(b)
16:28A-1.4	Parking on Route 4 in Fair Lawn	10-3-83	15 N.J.R. 1632(a)
16:28A-1.19	Handicapped parking on Route 28 in Elizabeth	8-1-83	15 N.J.R. 1237(a)
16:28A-1.21, 1.45	Parking on US 30 in Atlantic County and Route 94 in Sussex County	7-5-83	15 N.J.R. 1080(a)
16:28A-1.24, 1.26	Parking on Routes 34 (Colts Neck) and 36 (Middletown)	10-3-83	15 N.J.R. 1633(a)
16:28A-1.25, 1.61	Parking on Route 35 (Middletown) and US9W (Ft. Lee)	10-3-83	15 N.J.R. 1634(a)
16:28A-1.31, 1.41	Bus stops on Routes 45 and 77 in Gloucester County	8-15-83	15 N.J.R. 1358(b)
16:28-1.33	Parking on Route 47 in Glassboro	9-19-83	15 N.J.R. 1559(b)
16:28A-1.33, 1.40	Parking on Routes 47 (Deptford) and 73 (Mt. Laurel)	9-6-83	15 N.J.R. 1451(a)
10:28A-1.37, 1.96	Parking on Routes 70 and 183 in Camden and Sussex counties	9-19-83	15 N.J.R. 1560(a)
16:28A-1.43	Parking on Route 82 in Springfield	9-6-83	15 N.J.R. 1452(a)
16:28A-1.43, 1.88	Parking on Routes 82 and 208 in Union and Fair Lawn	9-19-83	15 N.J.R. 1562(a)
16:28A-1.70	Handicapped parking on Route 439 in Elizabeth	6-20-83	15 N.J.R. 1012(a)
16:29	Readopt No Passing rules	9-6-83	15 N.J.R. 1450(b)
16:30	Readopt Miscellaneous Traffic Rules	9-6-83	15 N.J.R. 1450(b)
16:30-2.6	Stop intersection: Rising Sun Square--Old York Road, Bordentown	8-15-83	15 N.J.R. 1359(a)
16:30-2.7, 2.8	Yield intersections: Routes 31 (Clinton) and 23 (Wayne)	10-3-83	15 N.J.R. 1636(a)
16:30-7.5	Exclusion of trucks on US 1 & 9, the Pulaski Skyway	9-6-83	15 N.J.R. 1506(a)
16:31	Readopt rules on Turns	9-6-83	15 N.J.R. 1450(b)

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16:31A	Readopt Prohibited Right Turns on Red	9-6-83	15 N.J.R. 1450(b)
16:32	Designated routes for special categories of trucks	10-3-83	15 N.J.R. 1644(a)
16:32-1.2	Pre-proposal: Regulation of 102-inch-wide trucks	10-3-83	15 N.J.R. 1636(b)
16:41-2.1, 2.3-2.14, 2.18, 2.19, 3.3	Access driveways along highways	11-15-82	14 N.J.R. 1284(a)
16:41-7.2	Street intersections	11-15-82	14 N.J.R. 1289(a)
16:53C	Rail Freight Program	9-19-83	15 N.J.R. 1563(a)
16:55	Licensing of Aeronautical Activities	9-6-83	15 N.J.R. 1453(a)
16:56	Repeal Aircraft Registration rules	9-6-83	15 N.J.R. 1453(a)
16:60-1.3	Aeronautical peace officers	9-6-83	15 N.J.R. 1456(a)
16:61-1.1, 2.1, 2.2, 2.4	Aircraft accident rules	9-6-83	15 N.J.R. 1456(a)
16:62	Repeal Special Aircraft Operating Restrictions	9-6-83	15 N.J.R. 1453(a)
TREASURY-GENERAL-TITLE 17			
17:1-1.3	Alternate Benefit Program: monthly report due date	9-6-83	15 N.J.R. 1457(a)
17:3-1.4	Teachers' Pension: delegates to annual convention	8-15-83	15 N.J.R. 1360(a)
17:3-2.1	Teachers' Pension: eligible positions	8-15-83	15 N.J.R. 1360(b)
17:4-2.5	Pensions: age requirements for police and firemen	6-6-83	15 N.J.R. 883(a)
17:4-4.1	Police and Firemen's Retirement: "creditable salary"	8-1-83	15 N.J.R. 1238(b)
17:10-1.11	Judicial Retirement: Withdrawals and interest earned	6-20-83	15 N.J.R. 1013(a)
17:10-3.5	Judicial Retirement: repeal insurance liability for unenrolled members	6-20-83	15 N.J.R. 1013(b)
17:16-45	State Investment Council: real estate equity	9-6-83	15 N.J.R. 1457(b)
17:19-2	Contractor classification: Bid prequalification	2-22-83	15 N.J.R. 235(a)
17:20	Lottery Commission rules	8-15-83	15 N.J.R. 1361(a)
17:21	Repeal lottery game rules	8-15-83	15 N.J.R. 1361(a)
17:27	Public contracts: readopt Affirmative Action Rules	9-6-83	15 N.J.R. 1459(a)
TREASURY-TAXATION-TITLE 18			
18:7-3.10	Corporation Business Tax: regulated investment companies	8-15-83	15 N.J.R. 1365(a)
18:7-5.2	Correction: Corporation Business Tax	11-1-82	14 N.J.R. 1299(b)
18:7-5.2	Corporation Business Tax: Entire net income	3-21-83	15 N.J.R. 427(a)
18:7-11.12	Corporation Business Tax: filing extension; "amount of underpayment"	8-15-83	15 N.J.R. 1366(a)
18:15-3.3	Farmland assessment application: timely filing	9-6-83	15 N.J.R. 1459(b)
18:24-25.2	Sales tax exemption: mailing lists	9-19-83	15 N.J.R. 1565(a)
18:24-30	Sales tax exemption: prescription and over-the-counter drugs	6-6-83	15 N.J.R. 885(b)
18:35-1.12	Gross Income Tax: resident tax credit	9-19-83	15 N.J.R. 1566(a)
18:35-1.15	Gross income tax withholding exclusion	11-15-82	13 N.J.R. 839(b)
18:35-1.17	Gross Income Tax: credit for excess contributions	9-19-83	15 N.J.R. 1570(a)
TITLE 19 SUBTITLES A-L-OTHER AGENCIES (Except Casino Control Commission)			
19:4-4.18A-4.27A	New planned park zone	1-3-83	15 N.J.R. 16(b)
19:4-6	Readopt HMDC general zoning rules	9-6-83	15 N.J.R. 1506(b)
19:4-6.28	Zoning change in Carlstadt	8-15-83	15 N.J.R. 1367(a)
19:8-3.2	Toll-free passage on Garden State Parkway	10-3-83	15 N.J.R. 1638(a)
19:9-1.17, 1.20	Traffic safety; interstate commerce	10-3-83	15 N.J.R. 1638(b)
19:9-2	Purchasing and contracting	10-3-83	15 N.J.R. 1639(a)
19:9-4.4	Obtaining State Police accident reports	10-3-83	15 N.J.R. 1643(a)
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19:44	Gaming schools	9-6-83	15 N.J.R. 1460(a)
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19:46-1.1, 1.3	Gaming chips	8-1-83	15 N.J.R. 1239(a)
19:46-1.16	Inspection of dice	8-15-83	15 N.J.R. 1368(a)
19:46-1.18	Security of playing cards	8-15-83	15 N.J.R. 1370(a)
19:46-1.27	Gaming equipment: slot stools	9-6-83	15 N.J.R. 1465(a)
19:47-1.2, 1.4	Craps: "Horn High Bet" wagers	8-1-83	15 N.J.R. 1241(a)
19:47-2.2	Correction: Double shoe in blackjack		14 N.J.R. 832(a)
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19:47-5.7, 8.1, 8.2	Use of electronic, electrical and mechanical devices	9-19-83	15 N.J.R. 1572(a)
19:48	Readopt Exclusion of Persons rules	9-6-83	15 N.J.R. 1466(a)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

6:11-4.2, 4.3, 4.4	Temporary, proposal, emergency certificates	9-20-82	14 N.J.R. 1011(a)
8:71	Generic drug list revisions (see 15 N.J.R. 148(a), 700(a))	10-4-82	14 N.J.R. 1077(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers	9-20-82	14 N.J.R. 1032(a)
18:24-4.6, 5.16	Sales tax and capital improvements	10-4-82	14 N.J.R. 1086(a)
19:45-1.11	Line of authority; reporting of violations	10-4-82	14 N.J.R. 1087(b)

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