

NEW JERSEY



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(Includes rules filed through January 14, 1985)

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

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **March 6, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Advertising by Financial Institutions

Proposed Readoption with Amendments: N.J.A.C. 3:2-1

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

Authority: N.J.S.A. 17:16H-1 et seq., specifically 17:16H-3.

Proposal Number: PRN 1985-74.

Address comments and inquiries to:

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

Pursuant to Executive Order No. 66(1978), N.J.A.C. 3:2-1 expires on March 20, 1985. The readoption of the existing rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption.

The agency proposal follows:

Summary

Subchapter 1 of N.J.A.C. 3:2-1 establishes standards for advertising by financial institutions and provisions to insure compliance with the rules and chapter 193, Public Laws of 1979. The provisions of N.J.A.C. 3:2-1 were adopted pursuant to the authority of N.J.S.A. 17:16H-1 et seq., and became effective on March 20, 1980, as R.1980 d.125. (see: 12 N.J.R. 170(a).) Pursuant to the requirements of Executive Order No. 66(1978), this Subchapter will expire on March 20, 1985. Therefore, the Department proposes the readoption of the existing rule without change.

The rules were originally enacted pursuant to the authority of N.J.S.A. 17:16H-1 et seq., so as to prohibit a financial institution from causing directly or indirectly any advertisement, announcement or statement containing any assertion with respect to the business of banking, lending, being a financial institution or with respect to any person in the conduct of such business which is inaccurate, untrue, deceptive, misleading or which negatively affects the public's confidence in such financial institution or financial institutions in general. The rules provide the procedure by which the Commissioner of Banking will enforce compliance with both the rules and N.J.S.A. 17:16H-1 et seq. The statute and the rules were adopted to cover certain areas of advertising which were not

NEW JERSEY REGISTER

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then regulated and to correct some of the abuses in advertising which existed at the time of the enactment of the statute. Certain areas of advertising were already regulated by the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, the Federal Trade Commission and the Federal Reserve Bank. They included the paying of interest on the deposits (Regulation Q) and the charging of interest on loans or retail credit agreements (Regulation Z). Certain restrictions were also placed on institutions with respect to things such as advertising of premiums for opening new accounts. Many areas were not regulated and abuses in advertising did exist. The Commissioner of Banking had no explicit statutory authority to deal with abuses and the statute was enacted to correct this condition. The rules enacted by the Department of Banking were under the explicit authority of N.J.S.A. 17:16H-1 et seq. and are meant to establish standards for advertising by financial institutions and a procedure to insure compliance.

The following is a summary of the contents of the current text of N.J.A.C. 3:2-1:

N.J.A.C. 3:2-1.1 provides for the authority, scope and enforcement of the subchapter.

N.J.A.C. 3:2-1.2 is a definitional section of the subchapter.

N.J.A.C. 3:2-1.3 provides that advertising by a financial institution of maximum interest rates and yields on time and savings deposits must comply with the advertising rules established by either the Federal Home Loan Bank Board, or the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System, whichever is applicable. Further, it provides at subsection (b) that gift offerings must fully disclose whether the gift is in lieu of, in addition to, or the reduction of interest otherwise payable to the account.

N.J.A.C. 3:2-2.4 sets forth prohibited activities by a financial institution which would be deceptive or misleading and would negatively affect the public's confidence in such financial institution or financial institutions in general.

N.J.A.C. 3:2-1.5 provides for the notification of violation by the Commissioner of Banking and further provides for cease and desist orders in the event that grounds are indicated therefore and for hearings and service of the order to show cause.

N.J.A.C. 3:2-1.6 provides for the manner in which the hearing will be held and is being amended to reflect hearing procedures pursuant to the Administrative Procedure Act and the Uniform Administrative Rules of Practice.

N.J.A.C. 3:2-1.7 provides for penalties in the event there are continued violations of the provisions of N.J.A.C. 3:2-1.4.

N.J.A.C. 3:2-1.8 provides for the size of printed type in the event a disclaimer is made.

N.J.A.C. 3:2-1.9 provides that the procedures by the Commissioner shall conform to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) except as otherwise provided in N.J.S.A. 17:16H-1 et seq. and these regulations.

The Department of Banking has reviewed the rules in accordance with Executive Order No. 66(1978) and has determined that they are necessary, adequate, reasonable, efficient and understandable and responsive for the purpose for which they were originally promulgated.

Social Impact

The need for rules for advertising is especially significant in the light of current deregulation of financial institutions. The promulgation of material or information to the public which is untrue, misleading or which negatively effects the public

confidence in financial institutions would have a deleterious effect upon stability in the banking community and the economy of the State of New Jersey by causing an erosion of depositor confidence with resultant diminished savings and funds available for the production of income. The readoption of these rules will have a beneficial impact upon the public since they will continue to promote truth in advertising by financial institutions and thereby continue to instill public confidence in these institutions.

Economic Impact

The readoption of the rules will have a beneficial economic impact by allowing the public and the industry to have continued faith and reliance in the advertising statements made by financial institutions which will promote financial stability in both the banking community and the economy in general. The State of New Jersey should also benefit economically by virtue of the fact that it has financial institutions within its borders which are viable competitively, and economically sound and are truthful in their advertisements for the services which they perform.

There should be no new or additional economic impact to the Department of Banking since the procedure authorized by this rule is an on-going one. Administrative costs, such as for the review and investigation of violations, will be incurred by the Department as it has in the past although such costs are not readily quantifiable and are subsumed as part of the overall Department budget.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 3:2-1.

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

3:2-1.6 Hearings

Upon notification of a request for a hearing by a financial institution in response to an order to show cause issued pursuant to N.J.A.C. 3:2-1.5, the Commissioner shall certify the matter as a contested case. An administrative hearing will then be conducted pursuant to the [procedures established for contested cases.] **Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.**

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

**Uniform Construction Code
Building and Mechanical Subcodes**

**Proposed amendments: N.J.A.C. 5:23-3.14
and 3.20**

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

Authority: N.J.S.A. 52:27D-124.

Proposal Number: PRN 1985-73.

Address comments and inquiries to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

The agency proposal follows:

Summary

Adoption of the 1985 Supplement to the BOCA Basic National Building and Mechanical Codes/1984 is proposed. The BOCA Basic National Building and Mechanical Codes/1984 are the respective building and mechanical subcodes of the State Uniform Construction Code. Both are adopted by reference subject to modifications stated in the Uniform Construction Code Regulations. The sponsoring organization of the model codes, Building Officials and Code Administrators International, Inc. engage in a public code change process and issue supplements between succeeding editions of their codes. This procedure enables the codes to be responsive to rapidly advancing building technology. The adoption of these supplements is proposed so that New Jersey's building and mechanical subcodes may be as up-to-date as possible. The modifications being made to the supplements relate to the administration and enforcement systems of the State Uniform Construction Code and do not change the technical provisions of the model codes.

Social Impact

The supplements are presumed to be improvements to the model codes that are designed to protect public health, safety and welfare through efficient and effective use of available materials and current construction technology. The BOCA supplement contains several provisions that were New Jersey State sponsored code changes that were accepted by the organization and are now being incorporated into the model code.

Economic Impact

There may be an economic impact on property owners and building contractors who perform or contract for the performance of work that will have to comply with the supplements to the code. In some instances the new code provisions may result in savings and in other instances in increased costs. It is not possible to anticipate these economic impacts as the future extent and type of construction activity in the State impacted by the supplements is unknown.

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

5:23-3.14 Building subcode

(a) Rules concerning subcode adopted are as follows:

1. (No change.)

2. The 1985 Supplement to the BOCA Basic/National Building Code/1984 is adopted by reference with modifications as cited in (c) below as part of the building subcode for New Jersey.

(b) (No change.)

(c) **The following articles or sections of the 1985 Supplement to the building subcode are modified as follows:**

1. The following amendment is made to Article 1 of the building subcode, entitled "Administration and Enforcement":

i. Sections 103.3, 103.4, 124.0 are deleted.

2. The following amendment is made to Article 5 of the building subcode, entitled "General Building Limitations":

i. Section 505.2 is amended to delete the words "Section 103.3" and substitute in lieu thereof "NJAC 5:23-2.4."

3. The following amendment is made to Article 14 of the building subcode, entitled "Fireresistive Construction Requirements":

i. Section 1405.8.1 exception is amended to delete the words "NFIPA 70 listed in Appendix A" and substitute in lieu thereof "the Electrical Subcode:"

4. The following amendment is made to Article 17 of the building subcode, entitled "Fire Protection Systems":

i. Section 1702.22 is amended to delete the words "fire official" and substitute in lieu thereof "fire subcode official."

5. The following amendments are made to Article 25 of the building subcode, entitled "Repair, Alteration, Addition to, and Change of Use of Existing Buildings."

i. Section 2500.1 is amended to delete the words "this article" in the fourth line and substitute in lieu thereof "NJAC 5:23."

ii. Section 2501.2 is amended to delete the words "Section 120.0" and in lieu thereof substitute "NJAC 5:23-2.32".

6. The following amendments are made to Appendix A of the building subcode entitled "Reference Standards:"

i. Delete the entire subheading "ASHRAE" and all titles under this subheading.

ii. Under the subheading "BOCA" delete the following titles:

(1) Basic/National Plumbing Code;

(2) Basic/National Existing Structures Code.

iii. Under the subheading "CABO" delete the following titles:

(1) One and Two Family Dwelling Code;

(2) Model Energy Code.

iv. Under the subheading "NFIPA" delete the title "National Electrical Code."

5:23-3.20 Mechanical subcode

(a) Rules concerning subcode adopted are as follows:

1. (No change.)

2. The 1985 Supplement to the BOCA Basic/National Mechanical Code/1984 is adopted by reference with modifications cited in (c) below as part of the mechanical subcode for New Jersey.

(b) (No change.)

(c) **The following articles or sections of the 1985 Supplement to the Mechanical Subcode are modified as follows:**

1. The following amendments are made to Article 1 of the mechanical subcode, entitled "Administration and Enforcement.":

i. Sections M-122.1, M-122.2, M-122.2.1, M-122.2.2, M-122.2.3, M-122.2.4, M-122.2.5, M-122.2.6, M-122.3, M-122.4, M-122.4.1, M-122.5, M-122.6, M-122.6.1, M-122.6.2, and M-122.7 are deleted.

ii. Section M-301.1 exception is amended to delete the phrase "building code listed in Appendix A" and "NFIPA 70 listed in Appendix A" and substitute, respectively, "Building Subcode" and "The Electrical Subcode."

iii. Section M-1602.2 is amended to delete the phrase "building code listed in Appendix A" and substitute in lieu thereof "Building Subcode."

2. The following amendments are made to Appendix A of the mechanical subcode entitled "Referenced Standards:"

i. Delete the entire subheading "ASHRAE" and all titles under this subheading.

ii. Under the subheading "BOCA" delete the following titles:

(1) Basic/National Plumbing Code.

iii. Under the subheading "NFIPA", delete the title "National Electrical Code."

ENVIRONMENTAL PROTECTION

DIVISION OF WASTE MANAGEMENT

The following proposals are authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection.

(a)

Hazardous Waste Facilities Letter of Credit Wording

Proposed Amendments: N.J.A.C. 7:26-9.10, 9.11 and Appendix A

Authority: N.J.S.A. 13:1E-6.

Proposal Number: PRN 1985-75.

DEP Docket No.: 078-85-01.

Address comments and inquiries to:

J. Mark McQuerry

New Jersey Department of Environmental

Protection

CN 402

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department proposes to delete the provisions at N.J.A.C. 7:26-9.10(f)4v(3) and 7:26-9.11(d)4v(3), as well as a sentence in section (d)2 in Appendix A to Subchapter 9 which contains the letter of credit used for financial assurance for closure or post-closure care for hazardous waste facilities. A letter of credit is an agreement between a person and a bank wherein the bank is obliged to pay out money according to the terms of the letter. The requirement of these provisions, that the letter may not expire while a compliance proceeding is pending, was inadvertently incorporated into the wording of the rules when they were revised on January 3, 1984. The presence of this sentence makes letters of credit unavailable, since financial institutions are restricted by banking regulations (Uniform Customs and Practice for Documentary Credits, 1974 revision, International Chamber of Commerce Publication 290) from incorporating a requirement of this sort. Therefore, the Department proposes to delete the offending language.

The wording of the trust agreement in Appendix A is proposed to be amended by three changes. In the first sentence of the introductory paragraph, the description of what must be contained in the brackets for the State of incorporation of the Grantor is changed from "New Jersey" to "insert name of

State". Also, the beginning words of the third sentence in Section 14 of the trust agreement were originally left out. The words "All orders, requests and instructions" are proposed to be inserted. In section 19 of the Trust Agreement, the description of what must be contained in the brackets for the State of choice of law is changed from "New Jersey" to "insert name of State". Appendix A is not published in the Register, but rather is available for review in its proposed form at the address set forth below.

Finally, several other errors of a technical nature are proposed to be corrected.

Social Impact

No direct social impact is foreseen from the adoption of the proposal, since the scope of the rule requirements will remain the same as prior to the amendment. The ability of hazardous waste facilities to economically comply with the Department's regulatory requirements indirectly benefits the citizens of New Jersey by making compliance with the rule easier.

Economic Impact

Availability of the letter of credit, as an option for hazardous waste facility owners attempting to comply with closure and post-closure financial assurance requirements, allows use of such letter where it proves to be the most economical option.

Environmental Impact

Letters of credit are a desirable method of financial assurance, because they insure the availability of money for closure or post-closure care, should the facility owner fail to properly close and care for the facility. Their unavailability can only inhibit compliance with this vital requirement of New Jersey's rules.

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

7:26-9.10 Financial requirements for facility closure

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

(f) The owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options, as specified in (f)1 through 5 below, except the option in (f)3 is not available to owners or operators of existing facilities until they have received a permit:

1.-3. (No change.)

4. Closure letter of credit requirements are as follows:

i.-iv. (No change.)

v. The letter of credit must be irrevocable and issued for a period of at least one year.

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

[(3) Expiration may not occur while a compliance procedure is pending, as defined in N.J.A.C. 7:26-9.10(b).]

vi.-x. (No change.)

5.-8. (No change.)

7:26-9.11 Financial requirements for facility post-closure care

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

(d) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility. He must choose from the following options except that the option in (d)3 is not available to owners or operators of existing facilities until they have received a permit:

1. Post-closure trust fund requirements are as follows:

i.-xi. (No change.)

xii. The Department will agree to termination of the trust when:

(1) (No change.)

(2) The Department releases the owner or operator from the requirements of this section in accordance with (d)[7]8 below.

2. (No change.)

3. Requirements for the surety bond guaranteeing performance of post-closure care are as follows:

i.-ix. (No change.)

x. The owner or operator may cancel the bond if the Department has given prior written consent. The Department will provide such written consent when:

(1) (No change.)

(2) The Department releases the owner or operator from the requirements of this section, in accordance with (d)[7]8 below.

xi. The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Department releases the owner or operator from the requirements of this section, in accordance with (d)[7]8 below.

4. Post-closure letter of credit requirements are as follows:

i.-iv. (No change.)

v. The letter of credit must be irrevocable and issued for a period of at least one year.

(1) The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Department by certified mail of a decision not to extend the expiration date.

(2) (No change.)

[(3) Expiration may not occur while a compliance procedure is pending, as defined in N.J.A.C. 7:26-9.10(b).]

vi.-x. (No change.)

xi. The Department will return the letter of credit to the issuing institution for termination when:

(1) (No change.)

(2) The Department releases the owner or operator from the requirements of this section, in accordance with (d)[7]8 below.

6.-8. (No change.)

Appendix A of N.J.A.C. 7:26-9 is also being amended. Copies of the amended appendix are available for review at:

Office of Regulatory Services
Room 803
Labor and Industry Building
Trenton, N.J.; or

Office of Administrative Law
Building 9
Quakerbridge Plaza
Quakerbridge Road
Trenton, N.J.

(a)

DIVISION OF WASTE MANAGEMENT

Resource Recovery Grants and Loans

Proposed Amendments: N.J.A.C. 7:26-14

Public Notice

Take notice that the Department of Environmental Protection, Division of Waste Management, in response to a request from the public, has extended the comment period for the proposed amendments to N.J.A.C. 7:26-14, Resource recovery grants and loans, as proposed in the December 17, 1984 issue of the New Jersey Register at 16 N.J.R. 3385(b), from January 16, 1985 to **February 18, 1985**.

Submissions and inquiries about submissions should be addressed to:

Barbara M. Greer
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(b)

DIVISION OF ENVIRONMENTAL QUALITY

Pesticide Control

New Jersey Pesticide Control Code

**Proposed Amendments and New Rules:
N.J.A.C. 7:30**

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

Authority: N.J.S.A. 13:1D-1 et seq. and 13:1F-1 et seq.
DEP Docket No.: 079-85-01.

Proposal Number: PRN 1985-76.

Two **public hearings** concerning this rule will be held at the following times and locations:

February 25, 1985
2:00 P.M. to 5:00 P.M. and 6:00 P.M. to 8:00 P.M.

Randolph Municipal Building
Millbrook Avenue
Randolph Township, Morris County

February 19, 1985
2:00 P.M. to 5:00 P.M. and 6:00 P.M. to 8:00 P.M.

Vineland Municipal Building
Council Chambers
7th and Wood Streets
Vineland, Cumberland County

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before March 6, 1985. These submissions, and any inquiries about submissions and responses, should be addressed to:

Raymond Ferrarin, Chief
Office of Pesticide Control
380 Scotch Road
West Trenton, NJ 08628

The agency proposal follows:

Summary

Due to changes in practice which have occurred since the enactment of the current Pesticide Control regulations,

N.J.A.C. 7:30, the Department of Environmental Protection (the Department) is proposing to amend the Chapter. The proposed rules will clarify some sections of the existing regulations and address new areas identified as requiring more comprehensive and efficient regulation. The proposals will modify N.J.A.C. 7:30-1 through 8 and 10. One new subchapter, N.J.A.C. 7:30-9 is proposed. Additional amendments and recodifications are being proposed to make the regulations more understandable and to better represent the regulatory practices of the Department. The Pesticide Control Council was consulted on all changes, as required by N.J.S.A. 13:1F-8.

The eight major changes to the existing pesticide regulations are as follows:

1. **Pesticide Product Registrations:** The Department's powers to refuse to register or cancel or suspend the registration and use of a pesticide are expanded.

2. **Aerial applications:** The revisions regulate aerial applicators through requirements such as mandating equipment calibration, specifying distances between aerial applications and sensitive areas such as homes, schools, hospitals, etc., and limiting non-agricultural applications to a specified minimum size area.

3. **Restricted use list:** The regulations describe the criteria for adding additional pesticides to the restricted use list.

4. **Commercial and Private Pesticide Operators:** The commercial operator licensing requirements are extended to private operators, including farmers.

5. **Storage:** For safety reasons, pesticide storage and service vehicle transportation requirements are tightened.

6. **Record-keeping:** Records must be available to medical personnel. Record-keeping requirements are made more stringent for commercial and private applicators.

7. **Farm-worker safety:** Posting of sprayed fields and reentry times after applications are specified.

8. **Termiticides:** The revisions include provisions to reduce the misuse and exposure to termiticides.

By subchapter, the specific changes are as follows:

N.J.A.C. 7:30-1 Pesticide Product Registration and General Requirements: The Department has reworded for clarification N.J.A.C. 7:30-1.6(a) which states when pesticide registration in New Jersey may be refused, cancelled or suspended. N.J.A.C. 7:30-1.3(g) is modified to clarify the requirement that all pesticide products that are held or used in New Jersey are subject to the \$40.00 product registration fee. This is consistent with the department's stated intent at the time N.J.A.C. 7:30-1 was adopted. A proposed new section, N.J.A.C. 7:30-1.10 addresses the issuance of stop sale, stop use, removal, or embargo orders for pesticide products in New Jersey.

N.J.A.C. 7:30-2 Prohibited and Restricted Use Pesticide List: The list of New Jersey restricted use pesticides is revised to include a new identification system based on standardized Chemical Abstract Society numbers for the listed restricted use pesticides. New restricted use pesticides are also proposed for addition to the listing. Low toxicity pesticides have the signal word "caution" on the label in addition to label statements such as "for use only by service persons," are proposed for deletion from the restricted use pesticide list (7:30-2.3(a)1). These are products found by the Department to be intended for use by unlicensed persons and should be general use pesticides. N.J.A.C. 7:30-2.4 is amended to clarify that changes in the New Jersey restricted use list must be consistent with the provisions of the Administrative Procedures Act,

N.J.S.A. 52:14B-1 et seq. A new set of pesticide restriction criteria, to be considered in the future prior to the addition of restricted use pesticides to the list, is also proposed as an amendment to N.J.A.C. 7:30-2.4.

N.J.A.C. 7:30-3 Pesticide Dealers: The pesticide dealer registration at N.J.A.C. 7:30-3.4 is amended to include the current Department policy of requiring a dealer to be a minimum of 18 years old. N.J.A.C. 7:30-3.8(c) is proposed as an amendment to the section regulating sales of restricted use pesticides. This prohibits misrepresentation of applicator licensing requirements and the dissemination of use misinformation by pesticide dealers. N.J.A.C. 7:30-3.9 clarifies denial, suspension or revocation authority for pesticide dealer registrations and lists grounds for which any of these actions may be taken. N.J.A.C. 7:30-3.10 Exemption from fees is proposed to be repealed. This proposed repeal of the exemption would require State and local municipal employees to pay the same dealer registration fee as required of other pesticide dealers. N.J.A.C. 7:30-3.11 and 3.12 are recodified without change from 3.12 and 3.13, respectively.

N.J.A.C. 7:30-4 Pesticide Dealer Business: N.J.A.C. 7:30-4.5 is amended to clarify denial, suspension or revocation authority for pesticide dealer business registrations and lists grounds for which any of these actions may be taken. N.J.A.C. 7:30-4.6 is proposed to be deleted. This proposed repeal of the exemption would require any State or local municipal agencies acting as pesticide dealer businesses to pay the same dealer business registration fee as required of other registered pesticide dealer businesses. N.J.A.C. 7:30-4.7 is recodified as N.J.A.C. 7:30-4.6 without change.

N.J.A.C. 7:30-5 Commercial and Private Pesticide Operators: The provisions of this Subchapter are extended to include applicators working under the direct supervision of a registered private pesticide applicator when such registered private applicator is not physically present at the application site. These persons will now have to maintain a specified minimum level of competence and knowledge relating to the use of pesticides (N.J.A.C. 7:30-5.2 and 5.3). Proposed is a new section requiring any commercial or private pesticide operator held responsible for a violation of the pesticide regulations in New Jersey to demonstrate his continued competency to apply pesticides by becoming a registered pesticide applicator (N.J.A.C. 7:30-5.8). N.J.A.C. 7:30-5.4 is amended to require a commercial pesticide operator to be 18 years of age and a private pesticide operator to be 16 years of age to be eligible for registrations. N.J.A.C. 7:30-5.7 is amended to clarify denial, suspension or revocation authority for pesticide operator registrations and lists grounds for which any of these actions may be taken. This section also prohibits any operator whose registration has been revoked or suspended from applying under the supervision of a licensed pesticide applicator during the time period the suspension or registration is in effect. The former 7:30-5.8 is proposed to be deleted. This proposed repeal of the exemption would require any State or local municipal employees registered as pesticide operators to pay the same pesticide operator registration fee as required of other registered pesticide operators.

N.J.A.C. 7:30-6 Commercial Pesticide Applicators: N.J.A.C. 7:30-6.2(a)3. is amended to reflect the current requirement of the Department, that for a commercial applicator to supervise pesticide applications an employer-employee relationship must exist between the two parties to the application. Proposed is a new wood preserving pest control subcategory. The establishment of this new subcategory is required to be consistent with the Federal Environmental Protection

Agency which requires this concurrent with a proposed Federal restriction of pesticides used in this area (July 13, 1984 Federal Register). Also proposed are new provisions in N.J.A.C. 7:30-6.7 requiring any commercial applicator held responsible for a pesticide misuse to demonstrate his continued competency to apply pesticides by repeating the commercial pesticide applicator certification requirements. N.J.A.C. 7:30-6.4 is amended to reflect current Department policy specifying which category and/or subcategory an applicator must be certified in to perform different types of pesticide applications. A proposed new N.J.A.C. 7:30-6.11 reflects current Department policy that the commercial applicator co-signing the application for registration of a commercial operator is responsible for the operator having obtained the training requirements provided in N.J.A.C. 7:30-5.3(a). N.J.A.C. 7:30-6.5, which contains the registration procedures, is amended to require a commercial pesticide applicator to be 18 years of age to be eligible for registration. The Cooperative Extension Service personnel involved with training of pesticide applicators will be exempt from the commercial applicator registration fee. N.J.A.C. 7:30-6.8(a) is amended to require a specific designation of the land area and crop treated and the time of treatment for pesticides having a reentry time of 24 hours or more as proposed in N.J.A.C. 7:30-9. N.J.A.C. 7:30-6.8(c) is amended to require that records of pesticide application be available upon request by medical personnel in emergency cases. N.J.A.C. 7:30-6.9, as proposed, clarifies denial, suspension or revocation authority for commercial pesticide applicators and lists grounds for which any of these actions may be taken. Deletion of the former N.J.A.C. 7:30-6.11 would require State and local municipal employees to pay the same registration fee as required of other commercial pesticide applicators.

N.J.A.C. 7:30-7 Pesticide Applicator Businesses: N.J.A.C. 7:30-7.4 on financial responsibility is amended to include the concept that such financial responsibility must be maintained at all times while the business registration is in effect. The remainder of this section is reorganized for clarity with no change in intent. The record keeping requirements of N.J.A.C. 7:30-7.3 are amended to be consistent with changes elsewhere for applications to an agricultural crop and availability of records to medical personnel in emergency cases. N.J.A.C. 7:30-7.6 is amended to clarify denial, suspension or revocation authority for pesticide applicator business registrations and lists grounds for which any of these actions may be taken. A new provision is added to N.J.A.C. 7:30-7.2 which would require unregistered pesticide applicator businesses to pay the business registration fee for each year the business was in operation and was not registered with the Office.

N.J.A.C. 7:30-8 Private Pesticide Applicator: The record keeping requirements of N.J.A.C. 7:30-8.8 for private applicators are amended to require record keeping for applications of both general and restricted use pesticides. The record keeping changes for applications to an agricultural crop and availability of records to medical personnel in emergency cases are also applicable here. A new section N.J.A.C. 7:30-8.10 makes the private applicator co-signing the application for registration of a private operator responsible for the operator obtaining the training mandated in N.J.A.C. 7:30-5.3(a). Another proposal at N.J.A.C. 7:30-8.6 would require recertification of a private applicator held responsible for a pesticide misuse to demonstrate his continued competency to apply pesticides. N.J.A.C. 7:30-8.10 is amended and recodified as N.J.A.C. 7:30-8.11 to clarify denial, suspension or revocation authority for private applicator registrations and lists grounds for which

any of these actions may be taken. N.J.A.C. 7:30-8.4(e) is proposed to require a private pesticide applicator to be 18 years of age to be eligible for registration. N.J.A.C. 7:30-8.11 and N.J.A.C. 7:30-8.12 are recodified without change as N.J.A.C. 7:30-8.12 and N.J.A.C. 7:30-8.13 respectively.

N.J.A.C. 7:30-9 Pesticide Exposure: This is a new subchapter comprising current sections moved with no change from N.J.A.C. 7:30-10 along with proposed new regulations. N.J.A.C. 7:30-9.2, 9.4(a), 9.4(b), 9.5(a), 9.6, 9.7, and 9.8 are moved with no change in text from N.J.A.C. 7:30-10. N.J.A.C. 7:30-9.3 is also recodified from N.J.A.C. 7:30-10 with clarifications of text and format and a specific amendment requiring persons receiving conditional aquatic application permits to submit information requested at the time the permit is approved. The beekeeper notification N.J.A.C. 7:30-9.9 is moved from N.J.A.C. 7:30-10.11 with a change in the date for beekeeper registration to March 1 of each calendar year. This section, as recodified at N.J.A.C. 7:30-9.9, is also reorganized and amended to exclude reference to and any participation by the New Jersey Beekeepers Association. These subsections authorizing a fee for issuance of mosquito and aquatic application permits and for registration of beekeepers as provided in 9.2(e), 9.3(f), and 9.9(a)3i, are amended to include the specific fee that the Department may charge. N.J.A.C. 7:30-9.5 includes expanded provisions on containers, container labeling and storage in addition to provisions recodified from N.J.A.C. 7:30-10.5. New farm worker safety provisions including the posting of fields and the establishment of reentry times for specific pesticides or categories of pesticides are proposed at N.J.A.C. 7:30-9.10. New regulations requiring reporting of pesticide spills by persons licensed or required to be licensed as pesticide applicators and specifying the procedure for same are proposed at N.J.A.C. 7:30-9.11.

N.J.A.C. 7:30-10 Pesticide Use: The Department is proposing to extensively revise and expand this Subchapter. Many sections, as mentioned in the summary of Subchapter 9 above, were transferred to the new N.J.A.C. 7:30-9, Pesticide Exposure subchapter. A new section 7:30-10.2 authorizes restrictions on the use of any pesticide as deemed necessary by the Department. N.J.A.C. 7:30-10.4, as proposed, provides specific new termiticide application procedures in various structural situations as determined necessary to prevent termiticide misuse and contamination in the State. A new section 7:30-10.5 proposes new aerial application requirements including some equipment specifications, calibration options, application restrictions, and minimum size area delineation. The new section 7:30-10.6 codifies the current pesticide cleanup policy of the Department and specifies procedures and evaluation of contamination cases. A new section 7:30-10.7 allows assessment of fees for sample analyses against persons held responsible for pesticide misuse. A new section 7:30-10.8 exempts persons from citation for pesticide violations in limited misuse situations or spills providing strict criteria are met including effective clean-up of the pesticide. A new section 7:30-10.9 proposes pesticide use reporting provisions to allow the Department to ascertain exact amounts and location of pesticide use in the State. The former N.J.A.C. 7:30-10.6 on pesticide use and/or application is recodified with minor changes at N.J.A.C. 7:30-10.3.

Social Impact

A positive social impact will result from the changes and additions made to the current pesticide control regulations as proposed.

Some changes have been proposed for which significant effects have been identified.

A new stop sale, stop use, removal or embargo orders section will provide a mechanism for prompt removal from the market of pesticides held deficient under the pesticide regulations.

Reorganization of the restricted use pesticide listing will make it more understandable to regulated dealers in New Jersey and thus, act to ensure fewer restricted use pesticides will inadvertently be offered for sale to unlicensed persons. Proposed criteria on which to evaluate pesticides to be added to the list will aid the Department in standardizing future additions. Pesticides to be added to the list are mainly in the same toxicity and use classes as those currently on the list and persons using or selling these pesticides are most likely already certified and registered to use or sell restricted pesticides. Changes to the restricted use pesticide dealer subchapter will make individual dealers accountable for dissemination of misinformation during sales of pesticides and thus, reduce misuse by the purchasing applicators and also violations of the pesticide licensing provisions.

The inclusion of persons working under the direct supervision of private pesticide applicators in the operator registration program will result in these persons having a mechanism to obtain verifiable training and thus, reduce the risk of pesticide exposure to themselves and others through reduced pesticide misuse.

Aerial pesticide application regulations specifying equipment calibration rules will act to reduce drift from aerial applications. This should be especially effective in conjunction with other proposals restricting the size areas which can be sprayed aerially. Persons whose property is excluded from aerial spraying under the latter proposal should suffer no adverse effect as ground spraying of their property is an available option.

The proposed section on submission of data on pesticide use will provide previously unavailable data on amounts and locations of pesticides used in New Jersey. This will aid in solving actual or potential environmental and health problems by providing a pesticide use profile, by geographical location.

The social impact of the farm workers safety section will be to reduce and prevent unnecessary pesticide exposure to these persons. In recent years increasing information has been provided showing that the migrant farmworker population is subject to varying pesticide exposure with little regulatory control. The exact magnitude of the problem is difficult to ascertain due to the transient nature of the worker and their general lack of fluency in English. The proposed farmworker regulations will allow control of this exposure with what is thought to be minimal economic impact on agriculture in New Jersey.

The proposed pesticide regulation upgrading will, in combination with adequate enforcement, result in greater protection from the negative aspects of pesticides while allowing continued use and benefits to the citizens of New Jersey.

Economic Impact

Since the major part of the proposal is a rewording of existing text and format for clarity or direct statements of requirements which already exist through interpretation of current regulations, the proposal has no great economic impact.

Several areas of the new regulations have been identified as presenting significant to minor economic costs. The major

cost to applicators will result from the elimination of the fee exemption sections of the current regulations. Currently there are 1,090 government exempt commercial applicators and approximately 400 government exempt commercial operators. The registration fees to be charged these applicators will total \$23,800. Because of the large and increasing number of these applicators, the Department incurs substantial costs for administration, testing, issuance of licenses, file maintenance and data processing. On January 12, 1982 the Pesticide Control Act was amended to provide for payment of fees into the Department's environmental services fund dedicated to fund the operation of the Department. Because of the substantial costs incurred by the Department and consistent with the intent of the Pesticide Control Act, N.J.S.A. 131F et seq., the elimination of the general fee exemption sections is necessary.

Extension of the operator registration program to persons supervised by private applicators will require a \$5.00 annual registration fee. The specific number of this category of applicator required to register is unknown, but the Department believes the benefits accruing to these individuals and the public from the training provided significantly exceeds the economic impact.

Amendments to the denial, suspension and revocation sections of N.J.A.C. 7:30-3, 4, 5, 6, 7, and 8 should result in more registrations of dealers, applicators, and dealer and applicator businesses being denied, suspended or revoked which will have a significant impact upon such persons. These enforcement actions are viewed as a necessary deterrent to protect the citizens of New Jersey from improper pesticide sale and use.

The latest available figures on an annual basis show the issuance of 27 mosquito application permits, 266 aquatic application permits, and the registration of 1081 beekeepers. If the Department charges the maximum \$5.00 fee for each, the total fees charged would be \$6,870.

There will be some increased costs to comply with the requirements for termiticide applications. These costs will ultimately be passed to the person having the termite treatment performed. Compliance by the regulated industry should result in substantially reduced numbers of contaminated homes with concurrent reductions in cleanup costs, benefiting the applicator and homeowner. The cost of sample analyses in termiticide contamination cases and other misuse situations will be shifted from the Department to the person held responsible for the violation.

The farm worker safety regulations should have a minimal economic effect on agriculture in the State. Some costs will be involved for acquisition and posting of signs for applications of highly toxic pesticides in certain situations.

Some increased operational costs will be incurred by aerial applicators to comply with the proposed aerial application regulations. The main costs are for calibration under the Operation Safe program if this calibration option is selected. Some smaller spray jobs primarily for non-agricultural work will be lost due to the minimum size acreage restrictions for spraying. This should not result in significant economic loss for the property owner as ground spraying of these smaller areas is a viable option, though slightly higher costs for ground application would result.

Increased costs will be incurred by the Department for administrative costs of implementing the regulations and for enforcement upon adoption.

The Department has determined that whatever adverse economic constraints which are experienced as a consequence of

these regulations are significantly outweighed by the numerous public benefits achieved for all citizens of this State.

Environmental Impact

The proposed amendments will reduce the risk to persons and the environment of unnecessary exposure to pesticides.

The risk of unnecessary exposure will be reduced by the Department's increased powers to embargo pesticides, by the clearer labeling, by the enhanced authority to revoke licenses for violations, by specifying procedures for evaluation of contamination cases, by farmworker protection and by aerial application limitations. The restrictions placed on pesticide users are necessary because the substances involved are inherently dangerous, and improper use will result in grave hazards to the general public and the environment.

The section on reporting of pesticide spills will identify contamination situations as they occur and allow prompt remedial actions. The pesticide storage requirements have been expanded and strengthened. New termiticide application regulations will result in reduction in many misapplication situations as evidenced by the extensive misuse history for this type of application in New Jersey.

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

SUBCHAPTER 1. PESTICIDE PRODUCT REGISTRATION AND GENERAL REQUIREMENTS

7:30-1.2 Definitions

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

...

"Antidote" means the most practical immediate treatment for poisoning and includes first aid treatment.

...

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.

...

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

...

7:30-1.3 Registration

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

(g) Before **holding, using**, distributing, selling, or offering for sale any pesticide in this State the applicant or registrant shall pay an annual registration fee of \$40.00 to the Department or its authorized representative for each pesticide to be registered. All such registrations shall expire on December 31 of each calendar year.

(h)-(l) (No change.)

7:30-1.6 Refusal, cancellation, or suspension of a pesticide registration

(a) The Department may refuse to register, or may cancel or suspend the registration of any pesticide distributed, sold, offered for sale or used in the State of New Jersey if it does not appear to the Department that the pesticide warrants the proposed claims or if the pesticide or its labeling and other material required to be submitted for registration do not comply with the provisions of FIFRA, the Act or rules and regulations adopted thereunder; provided that the Department has notified the registrant of the manner in which the pesticide, labeling or other required material has failed to comply and has permitted the registrant to make the necessary corrections and that, upon receipt of such notice, the registrant has not made all required changes.

(b) The Department may issue an Order prohibiting the distribution or use of a pesticide pending the suspension or cancellation of its registration where the Department determines that a situation exists in which the continued use of a pesticide during the time required for suspension or cancellation would likely result in a significant risk of injury or damage.

(c) At the time of application for registration of any pesticide the department may:

1. Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide in this State;
2. Refuse to register any pesticide which is highly toxic and for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended;
3. Refuse to register any pesticide for use on a crop for which no finite tolerance for residues of such pesticide have been established by either the department or the Federal government.]

(a) **The Department may refuse the registration of any pesticide, if:**

1. **It appears to the Department that the pesticide does not warrant the proposed claims;**
2. **The pesticide is highly toxic and there is no effective antidote under the conditions of use for which such pesticide is intended or recommended;**
3. **The pesticide is recommended for use on food or feed crops, and the EPA has not established for such pesticide a tolerance or exemption from the need of a tolerance or a temporary tolerance or exemption from the need of a temporary tolerance; or**
4. **The pesticide and its labeling and other material required to be submitted for registration do not comply with the provisions of FIFRA, the Act or rules and regulations promulgated thereunder.**

(b) The Department may cancel or suspend the registration of any pesticide upon determination that the pesticide or its labeling does not comply with the provisions of FIFRA, the Act or this chapter, or upon determination that continued use of a pesticide would present a significant risk of injury or damage; provided, that no registration shall be cancelled or suspended until the registrant has been given a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(c) **The Department, upon determination that an imminent hazard to man or the environment would result from continued distribution or use of a pesticide, may issue an order immediately prohibiting such distribution or use pending the final cancellation or suspension hearing given the registrant. Such hearing shall be scheduled on an expedited basis.**

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(d) If the Department refuses registration as provided in (a) above, the Department shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, the registrant does not make the necessary corrections within 30 days, the Department shall refuse registration and afford the registrant a hearing pursuant to the Administrative Procedure Act and the Uniform Administrative Rules of Practice.

7:30-1.10 Stop sale, stop use, removal, or embargo orders

(a) When a pesticide is being held, used, distributed, sold, or offered for sale in violation of any of the provisions of the Act or this chapter, the Department may issue a stop sale, stop use removal, or embargo order, in writing, to the owner or custodian of any such pesticide. The owner or custodian of such pesticide shall be afforded an expedited hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice N.J.A.C. 1:1-1 et seq.

(b) The owner or custodian of the pesticide subject to an order issued pursuant to (a) above shall comply with the requirements of such order until the provisions of the Act and this chapter have been complied with, and the Department has issued a release, in writing, to the owner or custodian of the pesticide.

SUBCHAPTER 2. PROHIBITED AND RESTRICTED USE PESTICIDE LIST

7:30-2.1 Definitions

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

...

“CAS number” means the Chemical Abstract Society number.

...

[“Listed number” means the number assigned by the department to a prohibited or restricted use pesticide.]

...

“Toxicity category one pesticide” means any pesticide the label for which is required by EPA to prominently display the signal word “Danger” or the signal word “Poison” and the skull and crossbones symbol.

“Toxicity category two pesticide” means any pesticide the label for which is required by EPA to prominently display the signal word “Warning”.

...

7:30-2.3 Restricted use pesticides

(a) The following pesticides are restricted use pesticides which can be purchased and/or used only by certified and registered responsible pesticide applicators or persons working under their direct supervision. Unless it is otherwise provided, all formulations and uses of the following pesticides are restricted use.

1. Any toxicity category one or toxicity category two pesticide if its labeling bears any restriction (such as “For Professional Use Only” or “For use only by service persons”) which would cause any user who was not certified and registered, by

virtue of the very fact that he was not certified and registered, to use the pesticide in a manner inconsistent with its labeling.

2. (No change.)

3. Any fumigant except:

i.-iii. (No change.)

iv. Any resin strips [not included within the provisions of N.J.A.C. 7:30-2.3(a)7 v. 405.] unless so classified by the EPA as provided in 2 above.

4. Any pesticide which contains labeling instructions indicating that the pesticide is usable in the waters of the State [but that there are restrictions if the treated water is to be used for potable water, irrigation, agricultural sprays, stock watering, or swimming, or if the fish in the treated waters are to be used for food or feed.] and which contains restrictions on the use of the treated water for potable purposes, irrigation, agricultural sprays, stock watering, swimming, or the use of fish from the treated water for food or feed. If the labeling contains statements indicating that the pesticide cannot be applied to waters that are used for any of the above uses, or if there are restrictions on how close to a potable water intake the pesticide can be applied, those pesticides are also considered restricted use pesticides.

5. Any fungicides, nematocides, fumigants and related materials listed below:

[Listed Number]	CAS Number	Restricted Pesticides
[203]	7440-43-9	Cadmium products (containing salts or metal complexes)
[210]	297-97-2	0,0-diethyl 0-2-pyrazinyl phosphorothioate
[212]	534-52-1	4,6-dinitro-0-cresol and salts
[213]	131-89-5	4,6,-dinitro-0-cyclohexyphenol and salts
[218]	87-86-5	Pentachlorophenol and salts—all concentrations above 5%
[223]	140-56-7	Sodium [4-dimethylamino)phenyl] diazenesulfonate—all concentrations above 5%
[224]	76-87-9	Triphenyltin hydroxide—all concentrations above 10%
[225]	26628-22-8	Sodium Azide—all concentrations above 0.5%
[226]	7439-97-6	Any pesticide containing mercury as an inorganic or organic compound except those used as a drug as defined in N.J.S.A. 24:21-2, those used as a fungicide in the treatment of textiles and fabrics intended for continuous outdoor use, those used as an in-can preservative in water-based paints and coatings, or those used as a fungicide in water-based paints and coatings used for exterior application.
	22224-92-6	Fenamiphos

6. Any herbicides and related materials listed below:

[Listed Number]	CAS Number	Restricted Pesticides
[304]	94-75-7	2,4-Dichlorophenoxyacetic acid (high volatile esters)

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- [309] 7775-09-9 Sodium Chlorate
- [310] 93-76-5 2,4,5-Trichlorophenoxyacetic acid
- [311] 50-31-7 2,3,6-Trichlorobenzoic acid and related polychlorobenzoic acids, dimethylamine salts
- [312] 21725-46-2 2-2-methyl-propionitrile—all concentrations above 30%
- 61-82-5 Amitrole
- 88-85-7 Dinoseb
- 7784-46-5 Sodium arsenite

7. Any insecticides and related materials listed below:

[Listed Number]	CAS Number	Restricted Pesticides
[402]	57-74-9	Chlordane
[405]	62-73-7	2,2-dichlorovinyl dimethyl phosphate—all concentrations above 3% [All]; resin strips not restricted [if Federally registered] unless so classified by the EPA as referenced in 2 above.
[406]	2310-17-0	Phosalone—all concentrations above 12%
[407]	56-72-4	0,0-diethyl 0-(3 chloro-4-methyl-2oxo-2H-1 benzopyran-7-yl) phosphorothioate—all concentrations above 5%
[408]	333-41-5	0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate—all concentrations above 25%
[412]	315-18-4	Mexacarbate—all concentrations above 2%
[414]	122-10-1	Dimethyl 3-hydroxylglutaconate dimethyl phosphate—all concentrations above 1%
[416]	55-38-9	Fenthion—all concentrations above 0.5%
[423]	563-12-1	Ethion—all concentrations above 6% G; 3% all others
[426]	114-26-1	0-Isopropoxyphenyl-methylcarbamate—all concentrations above 2%; resin strips not restricted unless so classified by the EPA as referenced in 2 above.
[427]	58-89-9	Lindane (Gamma isomer of benzene hexachloride)—all concentrations above 20%
[433]	311-45-5	Paraoxon
[440]	60-51-5	Dimethoate—all concentrations above 25%
[441]	22781-23-3	Bendiocarb—all concentrations above 15%
[442]	732-11-6	N-(Mercaptomethyl)phthalimide S-(0,0-dimethyl) phosphorodithioate—all concentrations above 20%
[443]	112-56-1	Beta-Butoxy beta'-thiocyano diethyl ether—all concentrations above 10%
[444]	2032-65-7	4-(Methylthio)-3,5-xylyl methylcarbamate—all concentrations above 2%
[445]	919-86-8	Metasystox—all concentrations above 7%

- [446] 23103-98-2 Pirimicarb—all concentrations above 15%
- [447] 23505-41-1 Pirimiphos-ethyl—all concentrations above 20%
- [448] 52-68-6 Dimethyl (2,2-trichloro-1-hydroxyethyl) phosphonate—all concentrations above 15%
- [449] 390-00-2 Aldrin
- [450] 60-57-1 Dieldrin
- [451] 76-44-8 Heptachlor
- [452] 8001-35-2 Toxaphene
- [453] 72-20-8 Endrin
- [454] 2921-88-2 Chlorpyrifos—all concentrations above 15%
- [455] 7440-38-2 Any inorganic arsenical pesticide not specifically covered elsewhere which has greater than 0.5 ounces of active ingredient
- 115-29-7 **Endosulfan**
- 86-50-0 Azinphos-methyl
- 298-04-4 Disulfoton
- 7681-49-4 Sodium fluoride

8. Any rodenticides and related materials listed below:

[Listed Number]	CAS Number	Restricted Pesticides
[601]	117-52-2	3-(alpha-acetonylfurfuryl)-4-hydroxycoumarin—all concentrations above 3%
[602]	86-88-4	Alpha-Naphthylthiourea—all concentrations above 4%
[603]	504-24-5	4-Aminopyridine
[604]	535-89-7	2-Chloro-4-(dimethylamino)-6-methylpyrimidine
[606]	82-66-6	Diphacinone—all concentrations above 3%
[607]	7723-14-0	Phosphorus (yellow, white)
[608]	83-26-1	2-Pivalyl-1, 3-indandione—all concentrations above 3%
[610]	81-81-2	Warfarin—all concentrations above 3%
[612]	28772-56-7	3-[3-(4'-Bromo-[1,1'-biphenyl]-4-yl)-3-hydroxyl-1-phenylpropyl]-4-hydroxy-2H-1-benzopyran-2-one [3-[3-(4-Bromo-1,1'biphenyl-4-yl)-3-hydroxyl-1-phenylpropyl]-4-hydroxy-2H-1-benzopyran-2-one]-all concentrations above 0.01%
[613]	3691-35-8	2-[(p-Chlorophenyl)phenylacetyl]-1,3 -indandione-all concentrations above 0.2% and above.
[614]	507-60-8	Red Squill—all concentrations above 30%
[615]	1327-53-3	Arsenic Trioxide—all concentrations above 1.5% in products intended for the control of rodents.
	56073-10-0	Brodifacoum

Note: Chemical Abstract Society (CAS) numbers of 7440-43-9, 7439-97-6, and 7440-38-2 are for the elemental form.

(b) Any pesticide restriction Federally imposed by the EPA shall take precedence over any restriction under the provisions of (a) above; providing, such federal restriction is more stringent than that of (a) above.

7:30-2.4 Amending prohibited and restricted-use pesticide lists

(a) [From time to time the]The department may revise the list of prohibited and restricted use pesticides designated by the State of New Jersey [at the date of enactment of this subchapter]; provided that, [prior to effecting any change in the lists, the department shall publish a notice of its intentions in the "New Jersey Register" and allow all interested persons not less than 60 days from the date of publication to submit written data and comments in regards to the proposed revision(s).] **any change in the list shall be made in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.**

[(b) No more than 90 days after the close of the comment period the department shall make and publish its determination.]

[(c)](b) (No change in text.)

[(d) If the Administrator of the EPA reclassifies any pesticide addressed in N.J.A.C. 7:30-2.2 or 2.3, then such reclassification shall automatically supercede the current listing in this subchapter—unless the department undertakes actions to the contrary.]

(c) The Department shall consider the following criteria when evaluating a pesticide for placement on the prohibited or restricted use pesticide list:

1. Acute toxicity;
2. Chronic health effects, including but not limited to:
 - i. Carcinogenicity;
 - ii. Mutagenicity;
 - iii. Teratogenicity;
 - iv. Embryotoxicity;
 - v. Reproductive effects.
3. Environmental fate, including but not limited to:
 - i. Persistence;
 - ii. Bioaccumulation;
 - iii. Frequency of detection in environmental media;
 - iv. Potential for contamination of "waters of the State";
4. Pesticide use pattern(s); and
5. Pesticide regulatory history.

(d) For purposes of interpretation of (c) above, failure to evaluate all criteria or lack of definitive data in any review criterion so as to limit effective consideration in such area, shall not affect prohibition and/or restriction as determined by the department through evaluation of other criteria.

SUBCHAPTER 3. PESTICIDE DEALERS

7:30-3.1 Definitions

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

...

"Commercial pesticide [operator] applicator" [means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.] **means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.**

...

7:30-3.4 Registration

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

(f) No person shall be eligible for registration as a pesticide dealer until reaching 18 years of age.

7:30-3.8 Sale of restricted use pesticides

(a) No pesticide dealer shall distribute or sell a restricted use pesticide to an end user unless the purchaser presents a valid pesticide applicator registration.

1. For the purpose of this section, the presentation of only a [commercial] pesticide operator's registration is not acceptable.

2. (No change.)

(b) (No change.)

(c) No sales person or agent who distributes, sells, or offers for sale a restricted use pesticide to any person shall:

1. Misrepresent the degree of certification and registration required by such person to apply the pesticide being distributed, sold or offered for sale; or

2. Disseminate misinformation as to the correct use of the pesticide as provided in the Act and this Chapter.

7:30-3.9 Denial, suspension, or revocation of pesticide dealer documents

[(a) No person shall:

1. Falsify or make misleading statement in the application for certification or registration;

2. Falsify or make misleading statements in any documents which were utilized to obtain a certification or registration;

3. Alter his certification or registration documents;

4. Falsify required records;

5. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or

6. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.]

(b) The department, may deny, suspend or revoke the application, certification, or registration of a pesticide dealer if the applicant or certified pesticide dealer has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer;

2. Revoke a pesticide dealer registration;

3. Suspend a pesticide dealer registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with provisions of the Act or this Chapter;

2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

3. Falsification or making misleading statements in the application for pesticide dealer registration;

4. Failing to keep or falsification of required records;

5. Allowing the dealer registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter; or

6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) Where the department acts pursuant to (a) above, the departments shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

[7:30-3.10 Exemption from fees

The following shall be exempt from all fees required under this Subchapter: the State government, employees or agencies thereof, or any political subdivisions of the State, employees or agencies thereof, provided that whenever the word "employee" is used in this section it shall mean any employee engaged in the distribution or sale of restricted use pesticides solely as is necessary within the scope of his employment.]

[7:30-3.11] 7:30-3.10 (No change in text.)

[7:30-3.12] 7:30-3.11 (No change in text.)

SUBCHAPTER 4. PESTICIDE DEALER BUSINESSES

7:30-4.1 Definitions

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

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

7:30-4.2 Registration

(a) (No change.)

(b) Each pesticide outlet from which restricted use pesticides are distributed, sold, or offered for sale to end users, and each name under which such outlet operates, shall be required to be registered separately. This subsection also applies to out-of-state pesticide outlets from which restricted use pesticides are distributed, sold, or offered for sale to New Jersey end users.

[(c) Each salesperson or agent of a pesticide dealer business who conducts transactions, other than those excluded in the definition of a pesticide outlet, out of a location such as his home, which is different from the main location of the business with which he is associated shall be considered to be operating from a separate pesticide outlet which must be registered separately by the pesticide dealer business. Each direct sales representative of an out-of-state distributor who is involved, wholly or in part, with the sale and/or distribution of restricted use pesticides to end users must be registered separately.]

(c) A location, such as the home of a salesperson or agent of a pesticide dealer business, which is different from the main location of the business with which he is associated and from which transactions, other than those specifically excluded in the definition of a pesticide outlet, are conducted, shall be considered to be a separate pesticide outlet which must be registered with the Department.

(d) - (j) (No change.)

7:30-4.4 Sale of restricted use pesticides

(a) (No change.)

(b) No [pesticide dealer business] person shall distribute or sell a restricted use pesticide for resale only to [another] a retail dealer or distributor without first informing the purchaser that the pesticide being distributed or sold is a restricted use pesticide.

(c) (No change.)

7:30-4.5 Denial, suspension, or revocation of pesticide business documents

[(a) No person shall:

1. Falsify or make misleading statements in the application for registration;

2. Falsify or make misleading statements in any documents which were utilized to obtain a registration;

3. Alter his registration document;

4. Falsify required records;

5. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or

6. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.

(b) The department, in addition to any penalties authorized by the Act, may deny, suspend or revoke the application or registration of a pesticide dealer business if the applicant or pesticide dealer business has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer business;

2. Revoke a pesticide dealer business registration;

3. Suspend a pesticide dealer business registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice failing to comply with provisions of the Act or this Chapter;

2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

3. Falsification or making misleading statements in the application for pesticide dealer business registration;

4. Failing to keep or falsification of required records;

5. Allowing the dealer business registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) Where the department acts pursuant to (a) above, the department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

[7:30-4.6 Exemption from fees

The following shall be exempt from all fees required under this Subchapter; the State or Federal government, employees or agencies thereof, or any political subdivisions of the State, employees or agencies thereof, provided that whenever the

word "employee" is used in this section it shall mean any employee engaged in the sale and distribution of pesticides solely as is necessary within the scope of his employment.]

[7:30-4.7] 7:30-4.6 (No change in text.)

SUBCHAPTER 5. [COMMERCIAL] PESTICIDE OPERATORS

7:30-5.1 Definitions

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

...

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

"Pesticide operator" as used in this Subchapter means both a commercial pesticide operator and a private pesticide operator.

...

"Private pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible private pesticide applicator.

...

"Significant risk of injury or damage" means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.

...

7:30-5.2 General requirements

(a) [Effective October 1, 1983, no] No commercial pesticide operator or private pesticide operator shall engage in, cause, suffer, allow, or permit the use or application of any pesticide without first meeting the training and registration requirements of this Subchapter unless:

1. Such person is certified and registered as a commercial pesticide applicator [in the application category in which he is engaged] or private pesticide applicator; or

2. Such person is working under the direct supervision of a responsible commercial pesticide applicator or private pesticide applicator who is present at the time and place of application.

(b) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this Subchapter, any [commercial] pesticide operator may be jointly and severally responsible for any aspects of any pesticide application in which he is involved.

(c) Persons exempt under this section from all training requirements shall not be considered to be commercial pesticide operators or private pesticide operators.

(d) No commercial pesticide operator or private pesticide operator shall supervise the use or application of any pesticide.

(e) The requirement for registration as a commercial pesticide operator shall be operative October 1, 1983. The requirement for registration as a private pesticide operator shall be operative October 1, 1985.

7:30-5.3 Training

(a) In order to meet the requirements for training, a [commercial] pesticide operator must obtain instruction in and possess adequate knowledge of the proper use and application of pesticides.

1. The instruction must result in the [commercial] pesticide operator having a working knowledge which shall include but not be limited to the following areas:

i.-vii. (No change.)

2. The instructions shall include a sufficient level of practical training to allow the [commercial] pesticide operator to competently perform the functions associated with any applications in which the [certified] pesticide operator is expected to be involved.

(b) The [commercial] pesticide operator must undergo training no less than annually to ascertain that his knowledge reflects the proper level for satisfactory completion of his work-related duties and significant advances in the state-of-the-art in pesticide control.

(c) Subject to the approval of the Department, the person responsible for the training of a [commercial] pesticide operator shall determine the appropriate level of training needed for each [commercial] pesticide operator.

7:30-5.4 Registration

(a) At the completion of training the [commercial] pesticide operator must file with the Department, on forms provided by the Department, an application to register. The application must be co-signed by a certified and registered responsible [commercial] pesticide applicator [employed by the business which] who was responsible for the training and shall indicate that the co-signer will be the responsible pesticide applicator for pesticide applications performed by the [commercial] pesticide operator. An annual registration fee of \$5.00 must be included as an integral part of the application.

(b) (No change.)

(c) Applications for new registrations will be accepted from [commercial] pesticide operators throughout the calendar year but a full year's registration fee will be required. All such registrations will expire on September 30 following the date of application, except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(d) The registration shall cease to be in force if the holder thereof or the co-signer of the application on which it was based [ceases to be an employee of the business.] terminates the supervisory relationship as defined by "under direct supervision."

1. Any [commercial] pesticide operator whose registration has become void as a result of this subsection shall immediately be eligible to refile for another registration with a new co-signer.

i.-ii. (No change.)

2. Any [commercial] pesticide operator whose registration has become void pursuant to this subsection shall be allowed to apply pesticides in accordance with his current registration for a period of 30 calendar days from the date of cessation of [employment] the supervisory relationship of the co-signer if

the [commercial] pesticide operator [is still employed by the same business and] is applying pesticides under the direct supervision of a certified and registered responsible pesticide applicator.

(e) The registration of a [commercial] pesticide operator is not transferable.

(f) A [commercial] pesticide operator must notify the Department, in writing and within 30 days, if he changes his name or address or if he is no longer engaged in the application of pesticides.

(g) The [commercial] pesticide operator and/or the co-signer of the application for registration must notify the Department, in writing and within 30 days, of any changes in the information contained on the application for registration.

(h) The [commercial] pesticide operator must maintain his registration on his person whenever a pesticide application is performed.

(i) No person shall be eligible for registration as a commercial pesticide operator until reaching 18 years of age. No person shall be eligible for registration as a private pesticide operator until reaching 16 years of age.

7:30-5.5 Reregistration

A [commercial] pesticide operator must re-register annually with the department and pay the reregistration fee of \$5.00.

7:30-5.6 Records

(a) The records of each application of pesticides made by a commercial pesticide operator must be kept by the co-signer of the commercial pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-6.8.

(b) The records of each application of pesticides made by a private pesticide operator must be kept by the co-signer of the private pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-8.8.

7:30-5.7 Denial, suspension, or revocation of [commercial] pesticide operator documents

[(a) No person shall:

1. Falsify or make misleading statements in the application for registration;

2. Falsify or make misleading statements in any documents which were utilized to obtain a registration;

3. Alter his registration documents;

4. Falsify required records;

5. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or

6. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.

(b) The department, in addition to any penalties authorized by the Act, may deny, suspend or revoke the application or registration of a commercial pesticide operator if the commercial pesticide operator has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide operator;

2. Revoke a pesticide operator registration;

3. Suspend a pesticide operator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above

may be taken upon a finding that the applicant or registrant committed such act:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter;

2. Operating in a faulty, careless, or negligent manner so as to cause harm or injury to the environment or to persons, or a significant risk of injury or damage;

3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a).

5. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present;

6. Falsification or making misleading statements in the application for a pesticide operator registration;

7. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) No person having a pesticide operator registration which has been revoked or suspended shall be allowed to register as a commercial pesticide applicator or private pesticide applicator or to apply pesticides under the direct supervision of a registered pesticide applicator who is physically present at the application location, during the time period in which the revocation or suspension is in effect.

(d) Where the department acts pursuant to (a) above, the department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

[7:30-5.8 Exemption from fees

The following shall be exempt from all fees required under this subchapter: the State or the Federal government, employees or agencies thereof, or any political subdivisions of the State, employees or agencies thereof, provided that whenever the word "employee" is used in this section, it shall mean any employee engaged in the use and application of pesticides solely as is necessary within the scope of his employment.]

7:30-5.8 Requirement for pesticide operator certification and registration as pesticide applicators

(a) Any person registered or required to be registered as a pesticide operator working under the direct supervision of a registered pesticide applicator, who is held to be jointly or severally responsible for a violation of the Act or regulations promulgated thereunder, may be required by the Department to become a certified and registered pesticide applicator as provided in N.J.A.C. 7:30-6 or N.J.A.C. 7:30-8.

(b) Any pesticide operator required under (a) above to become a fully certified and registered applicator shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(c) Failure to comply with (a) and (b) above will result in the pesticide operator registration being immediately suspended pending the outcome of a hearing which shall be granted the registrant upon request. Such hearing shall be scheduled on an expedited basis and shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 6. COMMERCIAL PESTICIDE APPLICATORS

7:30-6.1 Definitions

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

...
“Agricultural crop” means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...
“Commercial pesticide applicator” means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator.” **Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.**

“Commercial pesticide operator” means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

7:30-6.2 General requirements; variances

(a) No commercial pesticide applicator shall engage in, cause, suffer, allow, or permit the use or application of, or supervise the use or application of, any pesticide in any category or subcategory in which he has not been certified and registered unless:

1.-2. (No change.)

3. Such person is applying pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator **and where an employer-employee relationship exists between the person supervising the application and the person applying the pesticide;** or

4.-5. (No change.)

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

7:30-6.3 Categories

(a) Any commercial pesticide applicator who satisfactorily completes the requirements for Core certification may become certified in one or more of the following categories or subcategories:

1.-6. (No change.)

7. Industrial, institutional, structural pest control:

i.-iv. (No change.)

v. Wood preserving pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control fungi, insects, bacteria, marine borers and other wood destroying pests.

8.-11. (No change.)

(b) (No change.)

7:30-6.4 Certification

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

(f) Since there is a partial overlapping between certain categories and/or subcategories, it shall not be necessary for an applicator to become certified in certain additional categories or subcategories provided:

1. The study manual for the category or subcategory in which the applicator is actually certified covers the particular type of pesticide application in question as substantially as the

manual for the category or subcategory in which the applicator would, by definition, be making the application.

2. The applicator customarily does work in the category or subcategory in which certified, with the type of application in question being supplemental to and not the sole emphasis of the work. (Example: An applicator mainly applies pesticides to forest trees for gypsy moth control and is certified in Category 2, Forest Pest Control. The applicator will not have to also be certified in Subcategory 3i, Ornamental Pest Control, when applying pesticides for gypsy moth control to ornamental trees in residential areas, since the manuals for both Category 2 and Subcategory 3i cover application for gypsy moth control similarly.)

7:30-6.5 Registration

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

(g) Rutgers University Cooperative Extension Service personnel who participate in applicator certification and/or recertification training programs shall be exempt from the fee requirements as provided in (a) above and N.J.A.C. 7:30-6.6(a).

(h) No person shall be eligible for registration as a commercial pesticide applicator until reaching 18 years of age.

7:30-6.7 Continuing certification

(a) In order to maintain his certification, the commercial pesticide applicator must meet the requirements for continuing certification as specified by the Department in N.J.A.C. 7:30-6.4. If the requirements for continuing certification are not met, the commercial pesticide applicator must again become certified in accordance with the provisions of this Subchapter.

(b) Persons registered as commercial pesticide applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or this chapter, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-6.4.

(c) Provisions of (b) above shall be directed to the responsible commercial applicator for pesticide misuse by himself and/or for pesticide misuse by commercial applicators or commercial operators under his direct supervision.

(d) Any commercial pesticide applicator required under (b) above to become recertified shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply with (a) through (d) above will result in the commercial pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C 1:1-1 et seq.

7:30-6.8 Records

(a) A commercial pesticide applicator shall keep, for each application of pesticides made by him or under his direct supervision, a record of application containing the following information:

1. The date of application;

i. For pesticides having a reentry time of 24 hours or more date of application shall include the hour completed.

2. The place of application;

i. For applications by a commercial pesticide applicator to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.

3.-6. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of two years and must be immediately available upon request by the department and by medical personnel in emergency cases. These records may be kept by a business pursuant to N.J.A.C. 7:30-7.1 et seq.

(d) (No change.)

7:30-6.9 Denial, suspension, or revocation of commercial pesticide applicator documents

[(a) No person shall:

1. Falsify or make misleading statements in the application for certification or registration;

2. Falsify or make misleading statements in any documents which were utilized to obtain a certification or registration;

3. Alter his certification or registration documents;

4. Falsify required records;

5. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or

6. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.

(b) The department, in addition to any penalties authorized by the Act, may deny, suspend, or revoke the application, certification or registration of a commercial pesticide applicator if the applicant or certified pesticide applicator has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) **The Department, when it determines that grounds exist, may:**

1. **Deny an application for a commercial pesticide applicator registration;**

2. **Revoke a commercial pesticide applicator registration;**

3. **Suspend a commercial pesticide applicator registration.**

(b) **Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:**

1. **Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter.**

2. **Operating in a faulty, careless, or negligent manner so as to cause harm or injury to the environment or to persons, or a significant risk of injury or damage;**

3. **Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;**

4. **Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);**

5. **Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present;**

6. **Failing to keep or falsification of required records;**

7. **Falsification or making misleading statements in the application for a commercial pesticide applicator registration;**

8. **Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.**

(c) No person having a commercial pesticide applicator registration which has been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) Where the department acts pursuant to (a) above, the department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

7:30-6.10 Purchase [and] of restricted use pesticides
(No change.)

[7:30-6.11 Exemption from fees

The following shall be exempt from all fees required under this subchapter: the State government, employees or agencies thereof, or any political subdivisions of the State, employees or agencies thereof, provided that whenever the word "employee" is used in this section, it shall mean any employee engaged in the use and application of pesticides solely as is necessary within the scope of his employment.]

7:30-6.11 **Responsibility for commercial pesticide operator training**

The commercial pesticide applicator co-signing the application for registration of a commercial pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

SUBCHAPTER 7. PESTICIDE APPLICATOR BUSINESSES

7:30-7.1 Definitions

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

...
"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...
"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...
"Reentry time" means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an activity requiring substantial contact with treated plants, as provided in N.J.A.C. 7:30-9.10.

7:30-7.2 Registration

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

(g) **Every unregistered pesticide applicator business found to be operating in the State of New Jersey shall be required to pay the registration fee as provided in (b) above for each year the unregistered business was in operation, as determined through investigation by the Department.**

7:30-7.3 Records

(a) Every business required to register pursuant to the provisions of N.J.A.C. 7:30-7.2 shall keep, for each application of pesticides made by that business, a record of application containing the following information:

1. (No change.)
2. The place of application;

i. **For pesticide applicator business applications to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide and, for pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed.**

3.-6. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section, or copies thereof, shall be kept for a minimum of two years at the place of business and must be immediately available upon request by the Department **and by medical personnel in emergency cases.**

(d) (No change.)

7:30-7.4 Financial responsibility

[(a) Businesses required to register under N.J.A.C. 7:30-7.2 shall submit with the application for registration an attestation by the person providing the coverage that the business has in force an insurance policy (or surety bond in equivalent amounts) which meets or exceeds the standards set forth below:

1. For pesticide applicator businesses which do not engage in fumigation pest control:

i. Bodily injury liability:

- (1) \$100,000—each occurrence
- (2) \$300,000—aggregate

ii. Property damage liability:

- (1) \$50,000—each occurrence.

2. For pesticide applicator businesses engaged, wholly or in part, in fumigation pest control:

i. Bodily injury liability:

- (1) \$300,000—each occurrence;
- (2) \$500,000—aggregate

ii. Property damage liability:

- (1) \$300,000—each occurrence.

(b) The attestation submitted in accordance with the requirements of (a) above must contain a statement that indicates that the person providing the coverage will notify the department in writing and within 15 days if the policy or bond is cancelled for any reason.]

(a) **Businesses required to register pursuant to N.J.A.C. 7:30-7.2 shall submit proof of financial responsibility with the application for registration to the Department and, upon obtaining a registration, shall maintain financial responsibility at all times while such registration is in effect. The financial responsibility shall meet or exceed the standards set forth below:**

1. For pesticide applicator businesses which do not engage in fumigation pest control:

i. **Bodily injury liability insurance:**

- (1) \$100,000 for each occurrence;
- (2) \$300,000 in the aggregate.

ii. **Property damage liability insurance:**

- (1) \$50,000 for each occurrence.

2. For pesticide applicator businesses engaged, wholly or in part, in fumigation pest control:

i. **Bodily injury liability insurance:**

- (1) \$300,000 for each occurrence;

(2) \$500,000 in the aggregate.

ii. **Property damage liability insurance:**

- (1) \$300,000 for each occurrence.

3. **As an alternative to insurance coverage, the business shall have deposited with the Department a surety bond in favor of any person who may suffer damage by reason of the operation of the pesticide applicator business. The surety bond for applicator businesses pursuant to (a)1. above shall be a minimum of \$100,000 and for applicator business pursuant to (a)2. above shall be a minimum of \$300,000, and shall be executed by a corporate surety company authorized to do business in New Jersey. The Department shall examine and approve as to adequacy all such bonds before acceptance. When the registrant ceases operation, the bond shall be returned after a period of six months following date of notice of withdrawal, provided that withdrawal shall not release the surety from liability existing hereunder at the time of the effective date of the withdrawal.**

7:30-7.6 Denial, suspension, or revocation of pesticide applicator business documents

[(a) No person shall:

1. Falsify or make misleading statements in the application for registration;

2. Falsify or make misleading statements in any documents which were utilized to obtain a registration;

3. Alter his registration documents;

4. Fail to keep or falsify required records;

5. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or

6. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.]

(b) The department, in addition to any penalties authorized by the Act, may deny, suspend, or revoke the application or registration of a pesticide applicator business if the applicant or pesticide applicator business has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) **The Department, when it determines that grounds exist, may:**

1. **Deny an application for an applicator business registration;**

2. **Suspend an applicator business registration; or**

3. **Revoke an applicator business registration.**

(b) **Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:**

1. **Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter.**

2. **Operating in a faulty, careless, or negligent manner so as to cause harm or injury to the environment or to persons, or a significant risk of injury or damage;**

3. **Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;**

4. **Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);**

5. Operating faulty or unsafe pesticide application equipment;

6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present;

7. Failing to keep or falsification of required records;

8. Falsification or making misleading statements in the application for applicator business registration;

9. Failing to submit and/or maintain adequate insurance or surety bond as provided for in N.J.A.C. 7:30-7.4; and

10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) The Department may deny registration of a new pesticide applicator business location or pesticide applicator business name by any person whose registration to apply pesticides has been revoked or suspended, or pending the outcome of a revocation or suspension action initiated by the Department.

(d) Where the department acts pursuant to (a) above, the department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 8. PRIVATE PESTICIDE APPLICATORS

7:30-8.1 Definitions

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

...

“Agricultural crop” means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...

“Commercial pesticide applicator” means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator.” Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

...

“Significant risk of injury or damage” means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property, and the environment.

...

“Use” means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;

2. Handling, transporting, or storing a pesticide or pesticide container;

3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

7:30-8.4 Registration

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

(e) No person shall be eligible for registration as a private pesticide applicator until reaching 18 years of age.

7:30-8.6 Continuing certification

(a) In order to maintain his certification, the private pesticide applicator must meet the requirements for continuing certification as specified by the Department. If the requirements for continuing certification are not met, the private pesticide applicator must again become certified in accordance with the provisions of this Subchapter.

(b) Persons registered as private pesticide applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or regulations promulgated thereunder, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-8.3.

(c) Provisions of (b) above shall be directed to the responsible private applicator for misuse by himself and/or for pesticide misuse by private applicators or private operators under his direct supervision.

(d) Any private pesticide applicator required under (b) above to become recertified shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply will result in the private pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

7:30-8.8 Records

(a) A private pesticide applicator shall keep, for each application of a [restricted use pesticides] pesticide made by him or under his direct supervision, a record of application containing the following information:

1. The date of application;

i. For pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed.

2. The place of application;

i. For pesticide application to an agricultural crop, place of application shall include the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.

3.-5. (No change.)

(b) (No change.)

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of two years and must be immediately available upon request by the Department and by medical personnel in emergency cases.

7:30-8.10 Responsibility for private pesticide operator training

The private pesticide applicator co-signing the application for registration of a private pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

[7:30-8.10] **7:30-8.11** Denial, suspension, or revocation of private pesticide applicator documents

(a) No person shall:

1. Falsify or make misleading statements in the application for certification or registration;
2. Falsify or make misleading statements in any documents which were utilized to obtain a certification or registration;
3. Alter his certification or registration documents;
4. Fail to keep required records;
5. Falsify required records;
6. Aid, abet, combine with, or conspire with any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder; or
7. Allow his registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or any rules and regulations promulgated thereunder.

(b) The department, in addition to any penalties authorized by the Act, may deny, suspend, or revoke the application, certification or registration of a private pesticide applicator if the applicant or certified private pesticide applicator has failed to comply with any provisions of the Act or any rules and regulations promulgated thereunder.]

(a) **The Department, when it determines that grounds exist, may:**

1. Deny an application for registration as a private pesticide applicator;
2. Suspend a private pesticide applicator registration;
3. Revoke a private pesticide applicator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter;
2. Operating in a faulty, careless, or negligent manner so as to cause harm or injury to the environment or to persons, or a significant risk of injury or damage;
3. Making false or fraudulent claims through any form of written or verbal communication misrepresenting the effect of any pesticide or application methods to be utilized;
4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of 7:30-10.2(a);
5. Operating faulty or unsafe pesticide application equipment;
6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present;
7. Failing to comply with reentry time requirements as provided in 7:30-9 and any days to harvest interval as stated on a pesticide label(s);
8. Failing to keep or falsification of required records;
9. Falsification or making misleading statements in the application for private pesticide applicator registration;
10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) No person having a private pesticide applicator registration which as been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) **Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.**

[7:30-8.11] **7:30-8.12** (No change in text.)

[7:30-8.12] **7:30-8.13** (No change in text.)

EDITOR'S NOTE: Subchapter 9 was RESERVED. The following are proposed new rules.

SUBCHAPTER 9. PESTICIDE EXPOSURE

7:30-9.1 Definitions

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.

"Application equipment" means any type of ground, water, or aerial apparatus or contrivance used to apply any pesticide.

"Brand" or "Brand name" or "Trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used, or transported in the State of New Jersey.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Community or areawide" means any pesticide application performed on aggregate areas greater than three acres of land or water which is either part of a pesticide control program performed, or contracted for, by a governmental agency or is performed, or contracted for, by one person who has control over the use of the land to which the pesticide is applied.

"Department" means the State Department of Environmental Protection.

"Dispose of" means the final transfer of pesticides, pesticide containers or pesticide related equipment from the current possessor to a second party or place.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"Emergency" means an occurrence which can impair the public health and safety or can cause injury or damage to the environment or which presents a significant risk of injury or damage.

"Environment" means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"EPA" means the United States Environmental Protection Agency.

"Farm worker" or "worker" means any person or persons engaged in agricultural hand labor in the field.

“Field” means any treated land area, or part thereof, upon which one or more pesticides are used for agricultural purposes.

“Label” means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

“Labeling” means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or
2. To which reference is made on the label or in literature accompanying the pesticide except that it does not include current official publications of the EPA, the United States Department of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

“Ornamental” means trees, shrubs, and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

“Person” means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

“Pest” means:

Any insect, rodent, nematode, fungus, weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

“Pesticide” means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term “pesticide” shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

“Private applicator” means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

“Private residence” means any portion of a building or structure that is occupied exclusively for residence purposes.

“Reentry time” means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an activity requiring substantial contact with treated plants.

“Reportable pesticide spill” means:

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or
2. Any spill of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

“Restricted use pesticide” means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so

classified by the Administrator of the United States Environmental Protection Agency.

“Service container” means any container, other than the original labeled container of a registered pesticide provided by the registrant which contains the original material, that is utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation.

“Service vehicle” means any motorized conveyance owned or operated by any person registered or required to be registered by the Department to apply or supervise the application of pesticides, and used to hold and/or transport a pesticide from any place to an application location; except the following:

1. Vehicles used to hold and/or transport pesticides by private pesticide applicators’ providing, the vehicles are operated solely within the boundaries of property owned or controlled by the private applicator;

2. Vehicles used to hold and/or transport a pesticide to an application location which is owned or controlled by a private pesticide applicator performing or supervising the pesticide application; providing, the pesticide being held and transported is wholly contained within the final holding tank from which the application will be made; or

3. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing:

- i. The pesticide is transferred at the application location to a vehicle subject to the service vehicle requirements;

- ii. The person operating such vehicle making the delivery and transfer does not apply or directly supervise the application of the pesticide; and

- iii. The maximum quantity of pesticide being transported is five gallons liquid or 50 pounds dry formulation.

“Significant risk of injury or damage” means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property and the environment.

“Toxicity category one pesticide” means any pesticide the label for which is required by EPA to prominently display the signal word “Danger” or the signal word “Poison”, and to show the skull and crossbones symbol.

“Under direct supervision” means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present.

“Use” means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;

2. Handling, transporting, or storing a pesticide or pesticide container; or

3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

“Waters” or “waters of the State” means the ocean and its estuaries, all springs, streams, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State or subject to its jurisdiction.

“When unattended” means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticides either is not present at the storage site

or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.

7:30-9.2 Community or areawide mosquito or fly applications

(a) No person shall apply any pesticide on a community or areawide basis for the control of larval or adult forms of mosquitoes and/or flies (in the Order Diptera) unless the application is approved under the Department's mosquito permit program.

(b) The provisions of this section do not apply to:

1. Applications for agricultural purposes; or
2. Programs conducted pursuant to the provisions of the Mosquito Extermination statutes (N.J.S.A. 26:9-1 et seq.)

(c) All mosquito and fly control applications must conform to the applicable Guidelines of the New Jersey Agricultural Experiment Station (Rutgers University).

(d) Any person administering a community or areawide mosquito control program must contact and coordinate his program with any county mosquito control agency which exists in the county in which the application is to be made.

(e) A \$5.00 fee may be charged for each permit.

7:30-9.3 Aquatic use permits

(a) No person shall apply an aquatic pesticide to any waters of the State without having obtained approval for an aquatic application from the Department prior to the proposed date of application.

(b) An approval is not required if the pesticide used is not a restricted use pesticide as specified by N.J.A.C. 7:30-2.3(a)4.

(c) An approval shall not be required if the application is to waters of the State which are not used as a source of potable water and:

1. The application is made to waters which have no outflow and which are bounded by land wholly owned or rented, and controlled, by one person;

2. The application is made for the control of mosquitoes or flies and the application procedure requires approval pursuant to the provisions of (a) above or by the appropriate lead agency operating under the provisions of the Mosquito Extermination Statutes (N.J.S.A. 26:9-1 et seq.);

3. The application is made to sanitary or storm sewers owned and maintained by any governmental body of this State or any agencies or instrumentalities thereof if the application is made by a properly certified and registered employee or contractor of said governmental agency; or

4. The application is made to drainage ditches with no water flow which are not used for any other purpose besides drainage.

(d) Applications for approval of an aquatic application must be made on forms supplied by the Department at least 21 days prior to the proposed application date.

1. Any information requested on the form must be submitted.

2. The Department may request any pertinent additional information which it deems necessary to evaluate the application.

3. The Department may require the submission of a report addressing the effectiveness of the treatment and any environmental effects as a condition for approval. The person performing the application shall submit such information to the Department at the time and in the format as specified on the approved aquatic pesticide application form.

4. The applicant must notify the Department of any proposed changes in the application and receive approval for such changes prior to the application.

(e) Failure to submit any requested information or the falsification of any information may result in the denial or revocation of an aquatic application approval; the aforementioned shall not constitute the only reasons for the denial or revocation of an approval.

(f) A \$5.00 fee may be charged for each permit.

(g) The Department may exempt any person from the formal application provisions of (d) above if the Department determines that such person has already satisfied the requirements necessary to obtain a permit.

(h) The Department will respond to any application for approval of an aquatic pesticide application within 21 days after the Department receives the information deemed necessary to evaluate the application.

7:30-9.4 Storage of pesticides

(a) Restricted use pesticides and containers contaminated by residues of restricted use pesticides shall, when unattended, be stored in a secure, locked enclosure. Such an enclosure shall bear prominently displayed warnings in English and any other language or languages as may be designated by the Department to reflect the ethnic majority of the local geographical area in which the storage area is located.

(b) Any person who stores any pesticide must maintain a list of the pesticides stored or likely to be stored during the calendar year and must notify the local fire department of the location of the storage area; provided that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence or persons who are storing pesticides for less than seven calendar days at loading or application sites in connection with their use.

1. The list must be updated annually.

2. The list must be kept at a location which is separate from the actual storage site.

(c) No person shall store restricted use pesticides in a building wholly or partly occupied as a private residence unless:

1. The actual storage area, such as a garage, is a structurally separate room from those commonly used as living areas of the residence, and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence; and

2. In the case of a multi-family private residence, the location of the storage area does not present a significant risk of injury or damage to residents in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence.

(d) No person shall store restricted use pesticides in a building wholly or partly occupied as a commercial establishment or institution unless:

1. The actual storage area is a structurally separate room from those occupied as work areas and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building; and

2. In the case of a multi-unit commercial establishment or institution, the location of the storage area does not present a significant risk of injury or damage to occupants or employees in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building.

(e) The storage of any restricted use fumigant as specified in N.J.A.C. 7:30-2.3(a)3. in a multi-family private residence, or multi-unit commercial establishment or institution is con-

sidered to present a significant risk of injury or damage and is prohibited.

(f) No person shall store or transport pesticides in any service vehicle unless:

1. The service vehicle has posted thereon prominently displayed signs on at least two sides of the vehicle, which clearly identify the vehicle as containing pesticides or which clearly identify the vehicle as being a pest control service vehicle;

2. All containers smaller than five gallons are securely stored in such a manner as to be resistant to being spilled or directly bumped by other containers;

3. Glass containers of any size are securely padded to avoid breakage;

4. Five gallon or larger containers are tightly braced or secured to a structural part of the service vehicle, such as to the side, to prevent or reduce movement resulting from a sudden stop;

5. The service vehicle is provided with a supply of an absorbent material to soak up any spills which may occur and a shovel to help contain the spill;

6. The service vehicle is equipped with a proper fire extinguisher;

7. The pesticides are stored in a compartment separate from the driver, such as the bed of a pick-up truck or a van equipped with a partition to limit movement of the pesticide containers. Provisions of this subsection shall be operative October 1, 1985.

8. All pesticide containers or any pesticide contained in portable application equipment, such as hand-held pressurized tank sprayers, are locked or secured to the vehicle in such a manner as to prevent removal by unauthorized persons, when such container or application equipment is located at an open, accessible area on the service vehicle when unattended; and

9. The hatch or door on any service vehicle tank containing a pesticide is equipped with a cover that will prevent spillage when the vehicle is in motion.

7:30-9.5 Containers and container labeling

(a) No person shall store, transport, or otherwise possess any pesticide if part or all of its registered label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition. The provisions of this subsection shall not apply to pesticides in service containers, pesticides contained in application equipment, pesticides in the process of manufacturing or formulating, or pesticides in the possession of public officials of this State or Federal government while engaged in the performance of their official duties in administering State or Federal pesticide law.

(b) No person shall store, transport, or otherwise possess any pesticide in any service container unless the service container has attached to it a copy of the registered label that represents the pesticide contained therein or a readable label with the following information:

1. Brand or trade name;

2. EPA Registration Number;

3. Name and percentage of active ingredients in the service container; and

4. Appropriate signal word; that is, Danger-Poison, Warning, or Caution.

(c) No person shall place or keep any pesticide in any container commonly used for food, drink, or household products.

(d) No person shall use or otherwise possess any pesticide in any rodent control bait box unless:

1. The bait box is secured against tampering;

2. The bait box has attached to it or contained therein as part of the actual packaging of the pesticide, a copy of the registered label of the pesticide; or

3. The bait box has attached to it a readable label with the following information about the pesticide contained therein:

i. Brand or trade name;

ii. EPA Registration Number;

iii. Name and percentage of active ingredients in the bait box; and

iv. Appropriate signal word, that is, Danger-Poison, Warning, or Caution.

(e) For purposes of interpretation of (d) above, a bait box shall be considered secured against tampering when:

1. It has met the standards for tamper proof/tamper resistant bait boxes used by the EPA;

2. The bait box containing the pesticide is in a secure storage area; or

3. The bait box is at the actual physical location and under the direct observation of a pesticide applicator.

7:30-9.6 Disposal

(a) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that causes harm or injury to persons or the environment, or a significant risk of injury or damage.

(b) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that is in violation of State or Federal law.

7:30-9.7 Pesticide application and safety equipment

(a) No person shall apply a pesticide unless the application equipment is properly maintained.

(b) No person shall apply a pesticide unless the application equipment is properly calibrated.

(c) All persons having employees who use, apply, transport, or otherwise handle any pesticide shall make available to such employees any necessary or appropriate safety equipment in good working order and shall train such employees in the proper operation of such safety equipment.

7:30-9.8 Notification: community or areawide applications

(a) No person shall apply any pesticide on a community or areawide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target site.

1. The notification shall be made through advertisement in at least two newspapers having the greatest likelihood of informing the public within the area of application.

2. The newspaper notification must be given a maximum of 60 days and a minimum of seven days prior to the proposed application date.

3. The notification shall contain at least:

i. The proposed application date(s);

ii. The location of the application;

iii. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;

iv. The brand name and active ingredients of the pesticide(s) to be used;

v. Application equipment to be used; and

vi. The name, address and phone number of a person who may be contacted and is responsible for supplying updated information on the advertised pesticide applications to those persons requesting it.

4. Upon the request by a person residing in the vicinity of the proposed target site, to a person designated pursuant to

(a)3vi above, such designated person shall provide, at a minimum, the following information at least 12 hours prior to the application, except that if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application.

- i. The actual time and date of application;
- ii. The actual pesticide to be applied including the EPA registration number; and
- iii. Any precautionary statement(s) on the product's Federal registered label.

5. The person designated pursuant to (a)3vi above shall maintain a record of all telephone calls, attempted and completed, with persons requesting information referred to in (a)4 above, and a file of related correspondence. Such records and files shall be made available to the Department upon request. The minimum information required to be kept on the call record shall include:

- i. Name and phone number of the person contacted; and
- ii. The time and date of the call.

6. The person making the application subject to the notification requirements shall keep a record of the newspapers in which the advertisement was placed and the dates published. This information shall be made available to the Department upon request.

(b) The provisions of this section shall not apply to any pesticide application which is made for the purpose of producing an agricultural commodity, mosquito larviciding applications, or the application of granular formulations in non-residential areas.

(c) A waiver from the provisions of this section may be granted by the Commissioner, at his discretion, for the purpose of controlling emergency outbreaks of pests.

7:30-9.9 Notification to apiarists (beekeepers)

(a) No person shall make an outdoor application of a pesticide product which has information on its label or labeling noting that the product is toxic to bees unless such person first notifies, at least 36 hours prior to the application, each apiarist who:

1. Desires notification;
2. Maintains an apiary which is located within one-half mile of the target site; and
3. Has been registered with the Department by March 1 of the calendar year in which the applications subject to the notification requirements of this section will occur.

i. The Department may charge a \$5.00 fee to offset its registry cost.

(b) The notification must include the following information:

1. The intended date of the application;
2. The approximate time of the application;
3. The brand name and active ingredient of the pesticide to be applied;
4. The location of the land on which the application is to be made; and
5. The name and certified pesticide applicator registration number of the responsible pesticide applicator.

(c) The Department may alter the interval of time needed for notification if any person can demonstrate to the satisfaction of the Department that an emergency situation has occurred and an immediate application is required to control a sudden and unexpected pest infestation, but time does not reasonably allow the giving of an advance 36-hour notice; provided, however, that notice of emergency applications shall be given to the apiarist himself as soon as reasonably possible before or after the application.

(d) If the owner or operator of an apiary does not choose to move, cover, or otherwise protect the apiary, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(e) The provisions of this section shall not apply to any person using a pesticide on an aggregate area less than three acres; provided that the application is not made with hydraulic spraying equipment operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial equipment.

(f) Any person required to notify apiarists pursuant to the provisions of (a) above shall not be responsible for notifying any apiarist who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification; provided, that the person required to notify the apiarist requested the information from the Department at least two weeks prior to the application date; or

2. The person required to notify the apiarist was unable to contact the apiarist, providing at least three attempted telephone contacts were made between the hours at 9:00 A.M. and 10:00 P.M., at least one of which shall be made after 6.00 P.M., the calls being a minimum of one hour apart, on the last day before the 36-hour notification limit.

(g) If the application date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification must be given to the individual apiarist as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(h) The provisions of this section shall not apply to any pesticide application which is made for agricultural purposes, except to the crops within the dates and/or stage as stated below:

1. Apples	April 15 to May 15
2. Pears	April 15 to May 15
3. Strawberries	April 15 to May 15
4. Blueberries	April 15 to May 31
5. Cranberries	June 15 to August 15
6. Holly	June 1 to June 30
7. Vine Crops (Cucurbits)	June 1 to August 31
8. Sweet Corn	Flowering Stage

7:30-9.10 Farm worker safety

(a) Unless exempted from such requirements as provided in (l) below or, a longer reentry time is designated by this section or stated on the pesticide label, any farm worker shall not be permitted to enter any field treated with a pesticide until the pesticide spray has dried or the pesticide dust has settled.

(b) Pesticides classified as EPA toxicity category one pesticides shall have a reentry time of at least 24 hours, except as otherwise provided in this section.

(c) A 48-hour reentry time applies after each application of a pesticide containing one of the following ingredients:

Bidrin	Methidathion (Supracide)
Carbophenothion	Methyl Parathion
(Trithion)	
Demeton (Systox)	Mevinphos (Phosdrin)
Disulfoton (Di-Syston)	Parathion
Endosulfan (Thiodan)	Phorate (Thimet)
Endrin	Phosphamidon
Ethion	TEPP
Metasystox-R	

(d) When more than one pound per acre of parathion, methyl parathion, or EPN is applied singly or in combination to any plant, a 14 day reentry time applies.

(e) Any restriction against workers entering treated fields which appears on a label for a pesticide or any reentry time for a pesticide established by the EPA, providing such restriction or reentry time is more stringent than those of this section, shall take precedence over the provisions of this section.

(f) Workers who might reasonably be anticipated to unknowingly enter an area being treated or which has been treated with a pesticide for which the reentry time has not expired shall be warned orally in English. When workers do not understand English, the oral warning shall be in a language understood by such workers.

(g) When any pesticide having a reentry time greater than seven days is applied to a field, the posting of warning signs is required as follows:

1. Warning signs shall be posted at the usual points of entry to the field.

2. When treated fields requiring posting are adjacent to a public right-of-way and are unfenced, warning signs shall be posted at each corner of the field and at intervals not exceeding 6700 feet in addition to the normal points of entry.

(h) The warning signs posted under the provisions of (g) above shall:

1. Be of such durability and construction that they will remain clearly legible for the duration of the reentry time.

2. Be of such size that the word "Danger" is readable and the skull and crossbone symbol clearly visible at a distance of 25 feet and will be printed in English and a second language of the ethnic group usually employed as farm workers, substantially as follows:

Danger

Place skull and crossbone symbol here

(name of pesticide)

Do not enter until _____

Grower's name

3. Not be posted unless a pesticide application has begun or is scheduled within the next 24 hours.

4. Not be removed during the reentry time.

5. Be removed within five days after the end of the reentry time and before workers are allowed to enter to engage in an activity requiring substantial contact with treated plants.

(i) Workers who might reasonably be anticipated to enter a field being treated or which has been treated with a pesticide having a reentry time of more than 24 hours shall be warned by the posting of a sign on a bulletin board at all points where the workers usually assemble for instructions.

1. Posted warnings shall clearly designate the treated field and the reentry time for such field.

(j) The persons responsible for compliance with the provisions of (a) to (i) above shall be:

1. The owner or lessee of the field being treated; and

2. The responsible private pesticide applicator for the application of the pesticide, providing the application is made by an applicator licensed or required to be licensed under the provision of N.J.A.C. 7:30-8.

(k) Commercial pesticide applicators and/or pesticide applicator businesses performing any application of a pesticide having a reentry time subject to the provisions of this section, except (a) above shall, prior to the application, inform the owner or lessee of the field being treated of the reentry time.

(l) The provisions of this section shall not apply to:

1. Mosquito abatement treatments and related public pest control programs;

2. Greenhouse treatments which are applied in accordance with labeling directions and restrictions;

3. Livestock and other animal treatments which are applied in accordance with labeling directions and restrictions;

4. Treatment of golf courses and similar non-agricultural areas which are applied in accordance with labeling directions and restrictions; and

5. Applications incorporated in the soil by mechanical means and in accordance with labeling directions and restrictions.

7:30-9.11 Reporting of pesticide spills

(a) Any registered pesticide applicator, or any registered pesticide applicator business, or any person required under the provisions of the Act and subchapters 6, 7, and 8 to be a registered applicator or applicator business, shall inform the Department of any reportable pesticide spill occurring under such person's direct supervision and/or direct observation and shall provide the following information:

1. The name of the pesticide applicator;

2. The name of the applicator business, if any;

3. The name of the property owner or operator;

4. The location of the incident;

5. The name and EPA registration number of the pesticide; and

6. The estimated amount of pesticide involved.

(b) The report shall be made to the Department no later than the end of the next working day following the date of occurrence and may be made by either telephone or certified mail.

(c) In the event of a telephone report of a pesticide spill, the Department shall maintain a log dedicated to recording these reports and shall immediately enter such report upon receipt.

(d) Any pesticide applicator and/or pesticide applicator business shall be jointly and severally responsible for the reporting of a pesticide spill as required by this section.

Full text of the proposed amendment to N.J.A.C. 7:30-10.1 follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

SUBCHAPTER 10. PESTICIDE USE

7:30-10.1 Definitions

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

...

"Agricultural aircraft operation" means the operation of an aircraft for the purpose of applying any pesticide directly affecting agriculture, horticulture, forest preservation, or for any other pest control operation.

...

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

...

"Aircraft" means a weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces and includes either fixed-wing or rotary-wing aircraft.

...

"Basement" means any accessible space under a structure, wholly or partly below the surface of the ground, that is greater than three feet in height and contained by foundation walls.

...

“Community or areawide” means any pesticide application performed on aggregate areas greater than three acres of land or water which is part of a pesticide control program administered by a governmental agency or which is contracted for or performed by one person who has control over the use of the land to which the pesticide is applied.

“Crawlspace” means any accessible space under a structure that is three feet or less in height and contained by foundation walls.

...

[“Dispose of” means the final transfer of pesticides, pesticide containers or pesticide related equipment from the current possessor to a second party or place.]

...

“Emergency” means an occurrence which can impair the public health and safety or can cause injury or damage to the environment or which presents a significant risk of injury or damage.

...

“F.A.R.-137” means Federal Aviation Regulations Volume VII, Part 137, relating to agricultural aircraft operations.

“Inaccessible sub-floor area” means any space under a structure which is not open to normal ingress from within and/or without the structure.

...

“Operation SAFE” means Self-regulating Application and Flight Efficiency, a program sponsored by the National Agricultural Aviation Association to improve agricultural aircraft operation by analysis of aerial spray deposition patterns and use of this information to calibrate such aircraft for the most effective placement of pesticides on a target site.

...

“Persistent pesticide” means any pesticide, or its metabolites of equal or greater toxicity, which will be present in the environment beyond one year from the date of application.

...

“Pesticide spill” means any intentional or unintentional action or omission resulting in the releasing, discharging, leaking, pumping, pouring, emitting, emptying, or dumping of any pesticide to any location which is not a labeled and intended site.

“Plenum air space” means any space under a structure which acts as an air circulation chamber for air circulated throughout the structure.

...

“Psi” means pounds per square inch.

“Reportable pesticide spill” means;

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or

2. Any spill of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

...

“Retreatment” means the reapplication of a pesticide, whether or not it is the same concentration or formulation as

applied initially, to a structure or any part thereof, provided the application is for the control of the same pest as initially treated.

“Rodding” means the application of a pesticide by means of the verticle or horizontal insertion of section treating rods or subslab injectors into the soil to a depth of at least four inches when the injection site is visible and beneath the soil surface when the injection site is not visible to the applicator, as when treating an inaccessible sub-floor area from the outside.

“Sandy soil” means soil containing 70 percent or more of sand particles and 0-30 percent of any combination of silt, clay, and/or other soil material.

[“Service container” means any container, other than the original labeled container of a registered pesticide provided by the registrant which contains the original material, that is utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation.]

...

“Structure” means any building or part thereof, including outside extensions such as patios, which are included as sites to which a pesticide is to be applied.

“Subterranean application” means the placement of any pesticide:

1. Under or adjacent to structures by trenching;
2. Under slabs or under or within six inches of foundation walls by rodding; or
3. Within the interior voids of foundation walls:

...

“Termiticide” means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

“Trench” or “Trenching” means the application of a pesticide by means of the excavation of a narrow ditch and the application of the pesticide into the ditch. It may also mean treatment of successive layers of the excavated soil as it is replaced into the trench. A trench shall be a maximum of ten inches wide at the surface.

...

[“When unattended” means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticides either is not present at the storage site or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.]

Delete the current text of N.J.A.C. 7:30-10.2 through 10.11 in the New Jersey Administrative Code and replace it with the following new text.

7:30-10.2 Restriction of pesticide use

(a) Upon determination that a specific use of any pesticide or group of pesticides consistent with the Federal registered label or labels presents a significant risk of injury or damage, the Department may place restrictions on such use of the pesticide or group of pesticides as deemed necessary by the Department.

(b) All applications performed with any pesticide on which the Department has imposed restrictions as authorized by (a) above, must be done in accordance with both the pesticide label directions and any additional restriction. If the Federal registered label is revised by EPA to be more stringent than the restrictions imposed by the Department, then such

amended more stringent label shall take precedent, consistent with effective dates of such more stringent requirement as may be provided by the EPA.

7:30-10.3 Pesticide use and/or application

(a) No person shall use or apply a pesticide in a manner inconsistent with its Federal or State registered label or labeling or restrictions as provided for in this Chapter.

(b) No person shall transport, handle, store, mix or load any pesticide or pesticide container in a manner that causes harm or injury to persons or the environment, or a significant risk of injury or damage.

(c) No person shall apply pesticides in a manner that causes damage to non-target sites, harm or injury to persons or the environment, or a significant risk of injury or damage.

(d) No person shall directly apply any pesticide to a non-target site.

(e) No person shall make any application of a pesticide unless he takes reasonable precautions, before, during and after the application, to minimize exposure of individuals to the pesticide and insure the safety of any individuals necessarily exposed. Such precautions may include transmittal from the applicator to the exposed and/or potentially exposed individual of precautionary label statements relevant to such individuals.

(f) No person shall make an application of a pesticide to a target site in such a manner or under such conditions that drift or other movement of the pesticide, which is avoidable through reasonable precautions, infringes on a non-target site.

(g) No person shall clean or rinse containers or application equipment which holds or has held a pesticide in a manner that causes harm or injury to persons or the environment, or a risk of injury or damage.

(h) No person shall add water to any pesticide handling, storage, or application equipment via a hose, pump, or other equipment unless such hose, pump, or other equipment is fitted with an effective valve or device to prevent backflow of pesticides or liquids containing pesticides into water supply systems, streams, lakes, other sources of water or other areas; except that such backflow devices or valves are not required when the hose, pump, or other equipment is not allowed to contact or fall below the level of the liquid in the handling, storage, or application equipment to which water is being added and no other possible means of establishing a back-siphon or backflow exists.

(i) No person shall mix or apply or use a pesticide unless a readable copy of the registered label for the pesticide which is being mixed or applied is available at the application or mixing site.

(j) No person shall apply or use pesticides on a field or any other area used for agricultural purposes when persons other than those involved in the application or evaluation of the applied pesticide are in the area to which the pesticide is being applied; unless such persons have appropriate protective clothing and/or equipment as required by the labels or labeling of the pesticides being applied.

(k) No person shall perform a community or areawide pesticide application for gypsy moth control between 7:30 and 8:30 A.M. within two miles of a school including part or all of grades K through 8 and within two and one-half miles of a school including part or all of grades 9 through 12. Provisions of this subsection shall not apply on those days when a school is not in session.

(l) No person shall apply a community or areawide application of a pesticide product, which has information on its

label or labeling noting that the product is toxic to bees, on hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31 unless:

1. The applicator has received written permission to perform the application from all blueberry growers located within the one mile distance.

7:30-10.4 Restrictions on use of termiticides

(a) No person shall make an application of a pesticide for control of termites unless at least one applicator certified and registered in the termite subcategory as described in N.J.A.C. 7:30-6.3(a)7ii is present at the application location for the duration of the application.

(b) No person shall apply any termiticide without first pressurizing the application equipment and inspecting for leaks, including but not limited to observation of the tank, pump, hose, fittings, and injection apparatus. Any leak detected during this inspection shall be repaired prior to starting the application. If any leaks are detected during the application, the application shall immediately cease until the leak has been repaired and the spill soaked up with an absorbent material. Provisions of N.J.A.C. 7:30-10.8 may also apply.

(c) All pressurized termiticide application equipment must be equipped with a properly operating pressure gauge, accurate to within plus or minus 5 p.s.i. Provisions of this subsection do not apply to hand-held pressurized tank type sprayers which may be used for control of swarming termites with pesticides labeled for this use.

(d) No person shall add water to any termiticide application equipment unless adequate provision is made for prevention of backflow as stated in N.J.A.C. 7:30-10.3(h).

(e) When treating a structure with a termiticide, hoses acting as the conduit between the tank holding the termiticide and the injection apparatus shall be routed through the structure in the manner most likely to minimize the potential for contamination should a hose rupture during treatment. Whenever possible, keep hoses outside of the structure being treated.

(f) No organo-chlorine termiticide may be sprayed onto any interior surface exposed to the air or injected into wood structural elements in any post-construction termite application.

(g) No person shall make a subterranean application of a termiticide to soil along the exterior of a foundation wall by rodding or trenching unless:

1. The surface of the treated soil is covered with at least one-half inch of untreated soil, except in the erosion prone areas as provided in 4. below.

2. When backfilling a trench with soil removed prior to starting the application, the final layer of backfill is not added until all the termiticide puddles have been absorbed into the bottom of the trench.

3. Visible holes, cracks, and other above grade surface openings in the foundation wall which extend below the level of the outside grade are filled with mortar or other suitable material to the extent feasible prior to the application to prevent infiltration of pesticides into basements or crawl-spaces.

4. Soil in areas along a foundation obviously prone to erosion, such as soil immediately adjacent to a gutter downspout, shall have treated soil covered with enough untreated soil to prevent the erosion from reaching the treated layer, but in no case less than two inches of untreated soil.

5. Provisions of this subsection shall not apply when the soil removed by trenching is treated away from the site as provided in (p)5iv below except coverage with at least one-half

inch or two inches of untreated soil is required as in 1 and 4 above.

(h) Voids in foundation walls may be left untreated when deemed appropriate, in the experience of the applicator and after review of the structure and evidence of damage or infestation therein, to effect a successful treatment. Upon selection of this option, with subsequent discovery of continued infestation necessitating treatment of the voids, treatment shall be performed consistent with label directions and the provisions of (i) below.

(i) No person shall make an application of a termiticide into voids of foundations unless done pursuant to the following restrictions listed by foundation type:

1. Hollow block, brick, and tile foundations shall:

i. Be capped at the top of the foundation with cement, mortar, or other suitable material in such a manner as to completely seal the opening;

ii. Have all visible holes, cracks, and other openings sealed to the extent feasible prior to treatment; and

iii. Have any paneling or other wall covering, as in the case of a finished basement, removed prior to treatment for inspection and sealing as in iii above or, have a member of the termite application crew inside the basement during treatment observing for evidence of leaks. If a leak is observed by such crew member, application shall immediately cease, the spill be absorbed, the paneling or other wall covering removed, and any visible holes or cracks sealed prior to continuing treatment. If this second option is selected, other clean-up procedures, to be determined by the Department when discovered or reported pursuant to N.J.A.C. 7:30-10.8 may be required in addition to absorption of the termiticide.

2. Rubble and stone foundations shall:

i. When the mortar is in good condition, have test holes drilled, any of which reaching voids may be treated as consistent with label directions. Test holes not reaching voids shall be left untreated and must be sealed along with the treated holes after application;

ii. When the mortar is in poor condition as determined by inspection or test application using water only, the inside wall must be sealed with cement or equivalent covering prior to treatment, or the voids injected with a pesticide, other than an organo-chlorine, which is federally registered for this use;

iii. Be injected at a treatment pressure not exceeding 25 psi at the pump; and

iv. Be injected only in conjunction with positive ventilation using fans inside the basement and/or crawlspace to remove solvent and pesticide vapors from the treated structure.

(j) No person shall treat the void behind a brick, stone, or other veneer on the exterior of a structure with an organo-chlorine termiticide unless the injection hole is below the top of the foundation. If treatment is required above the foundation, application must be made with a pesticide, other than organo-chlorine, which is Federally registered for use at this site.

(k) No person shall make a subterranean application of any organo-chlorine termiticide to a basement floor, unless applied pursuant to the following restrictions listed by structural floor type and/or condition:

1. Exposed soil basement floors shall be treated by shallow trenching adjacent to the foundation, rodding or flooding the trench and backfill or covering with a least two inches of untreated soil.

2. Wood basement floors over soil shall be treated by removal of the wood floor and treating the perimeter consistent with label directions and 1 above. Treated soil shall be cov-

ered with at least two inches of untreated soil or the entire soil floor covered with a concrete slab.

3. Concrete slab floors with an expansion joint more than 1/4 inch wide shall be treated by first sealing the expansion joint with cement, mortar, or equivalent material and then treating consistent with label directions.

4. Concrete slab floors with a French drain system shall be treated by low pressure injection, not to exceed 25 psi at the pump, beneath the slab and/or expansion joint with a pesticide, other than an organo-chlorine, labeled for this site.

5. Basement floors which are very wet and the source of the water is a high local water table which is known to the person contracting for the termite treatment and communicated to the applicator, or basement floors which have a sump pump pit in which there is standing water, or basement floors which are wet and the proximate cause is readily identifiable to a person using reasonable care in inspecting the premise to be treated, shall not be treated unless it can be determined that the site of injection is above the level of the surrounding water table.

(l) No person shall make a subterranean application of a termiticide to a crawlspace unless applied pursuant to the following restrictions listed by structural type and/or other conditions:

1. Accessible crawlspaces with no heating unit present and with exposed soil shall be treated by shallow trenching adjacent to the foundations, application consistent with label directions for trenching and then coverage of the treated soil with a minimum of two inches of untreated soil.

2. Accessible crawlspaces with no heating unit present and with the soil covered with a thin grout or equivalent material shall be treated consistent with label direction for treatment of slabs, unless the grout or equivalent material breaks up upon drilling, whereupon these areas shall be sealed with concrete or equivalent material in such a manner as to adequately close all holes, cracks, or seams resultant from the treatment. Coverage of the treated surface with a minimum of two inches of untreated soil is also acceptable.

3. Accessible crawlspaces with a heating unit present shall be treated consistent with 1 or 2 above, any air intakes in the heating unit which draw air from the crawlspace shall be ducted to the exterior of the building and seams on the ducts inspected for tightness of fit and taped or equivalently sealed as necessary. In addition, adequate cross-ventilation must be present or shall be provided prior to treatment with a minimum total ventilation opening size requirement of 1/150th of the square footage of the crawlspace surface. As an alternative, this crawlspace may also be treated as in 4 below.

4. Accessible plenum crawlspaces shall be treated consistent with 1 or 2 above, but only with a termiticide other than an organo-chlorine which is labeled for this site and only in conjunction with positive ventilation during and for 24 hours following the end of the plenum crawlspace treatment. Pump pressure shall not exceed 25 psi at the pump and the point of termiticide injections shall be at least four inches beneath the crawlspace floor. Immediately following treatment, cover treated soil with at least 4 mil polyethylene of equivalent sheeting as may be approved by the Department. Occupants of the treated structure shall be advised to vacate during treatment and for the 24 hour aeration period.

(m) No person shall make a subterranean application of a termiticide to an inaccessible sub-floor area unless applied pursuant to the following restrictions:

1. Access shall be created to permit visual inspection of the area to be treated.

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2. If there is a minimum of two feet of clearance between the soil surface and the bottom of the floor joists, treatment shall be made consistent with label directions using the access point in 1 above.

3. If there is less than two feet of clearance and if entry can be made into the area to be treated, remove soil to obtain adequate clearance and treat consistent with label directions, or:

i. If the ceiling of the space is concrete, drill through the foundation walls from the exterior at an angle and rod beneath the soil surface or drill vertically through the top of the concrete and rod beneath the soil surface; or

ii. If the ceiling of the space is wood, apply as in 3.i. above, but only with a termiticide other than an organo-chlorine.

(n) No person shall make a subterranean application of a termiticide to a slab unless applied in accordance with the following restrictions by slab type and/or other conditions:

1. Prior to treatment, inspect the structure containing the slab to determine the location of utility lines, sewer waste lines, water shut-off valves, radiant heat and hot water base-board heat lines and any other conduits or ducts that may be contained therein.

2. When slabs are drilled from the inside, a device such as a drill stopper must be used.

3. Each hole drilled through the slab shall be plugged immediately following treatment by sub-slab injector. Such plug may be temporary, until permanently sealed following completion of the job, with mortar or equivalent material.

4. Wood over slab construction shall be drilled and treated as in 2 and 3 above, except pressure shall not exceed 25 psi at the pump and the quantity of termiticide pumped into each hole shall not be great enough to cause excess termiticide to emerge from adjacent holes.

5. Slabs covering or containing air ducts may be treated with an organo-chlorine termiticide if the treatment is limited to outdoor trenching or rodding on the exterior of the foundation, or the air circulation ducts are securely and permanently filled at the duct openings with a concrete or equivalent plug, any visible cracks or seams in the slab surface sealed, and the slab then treated consistent with label directions.

6. Slabs covering or containing air ducts may be treated with a termiticide, other than an organo-chlorine, without sealing of the duct openings and installation of an alternative air circulation/heating system provided:

i. There is evidence of an existing termite infestation in the structure;

ii. The exact location of the air ducts can be determined;

iii. Application under the slab is limited to gravity or low pressure injection not to exceed 25 psi at the pump;

iv. At least one member of the termite application crew is familiar with initial duct decontamination procedures;

v. Equipment necessary to facilitate initial clean-up, should accidental contamination occur, shall be present at the application location. The equipment shall include, but not be limited to, a wet/dry vacuuming system, spill absorbent material, five gallons of sodium hypochlorite and filters of charcoal or comparable efficacious material sized for or capable of being readily adapted for use in the type ducts and/or heating system present; and

vi. The applicator obtains a signed statement from the contracting party for whom the termite treatment is to be performed, requesting such treatment, and stating that the contracting party understands the potential for contamination of the air ducts and resultant possible required modifications to the heating system.

(o) Accidental duct contamination resultant from an application performed in strict accordance with (n)6i-vi above, shall be subject to reporting and review under the provisions of N.J.A.C. 7:30-10.8.

(p) No person shall make a subterranean application of a termiticide to a property on which wells and/or related water sources are located unless applied pursuant to the following restrictions:

1. If the well or other water source is within the linear distance of the treatment site as provided in 4 below and if connection to a public water supply system is practical and feasible, delay treatment until this is done.

2. Do not treat any structure if a well, cistern, or spring, currently in use or capable of being used, is located within the foundation walls, except subterranean application around the perimeter of the foundation.

3. If a well is down grade (at a lower elevation) from the application site, and there is a structural conduit, such as a paved driveway between the well and the application site, provision must be made to block the conduit or dike the area around the well to prevent movement of the termiticide to the well should a spill occur.

4. If the well or other water source is more than 20 feet from the treatment site in sandy soil, or more than 100 feet in other soils, treatment shall be consistent with label directions.

5. If the well or other water source is located closer to the treatment site than as stated in 4 above, treat as follows:

i. The foundation wall voids shall not be treated;

ii. The soil outside the foundation within two feet of the water or septic lines shall not be treated, except as provided in iv below.

iii. To treat the soil adjacent to the foundation other than that through or adjacent to which water or sewer lines run, dig a shallow trench adjacent to the foundation and flood it with termiticide. Allow the termiticide to seep downward with gravity. Do not rod under pressure; or

iv. Remove soil from grade to top of footing, place it on polyethylene sheeting, mix the termiticide with it, permit to dry a minimum of 15 minutes, and replace the soil into the trench.

v. Soil within two feet of the water or sewer lines must be treated as provided in iv above; and not by trenching or gravity treatment, unless left intentionally untreated as in ii above.

vi. Soil adjacent to the foundation which is covered by a concrete or other soil covering shall be treated by drilling through the covering surface at one foot intervals and using a funnel to gravity feed the correct quantity of termiticide into each hole. Do not apply the termiticide under pressure.

vii. If the soil beneath the basement floor must be treated, space treatment holes one foot apart and apply using a funnel as in vi above.

(q) Retreatments with termiticides are allowed only when there is evidence of reinfestation subsequent to the initial treatment, or if there is a disruption of the pesticide barrier in the soil due to construction, excavations, or landscaping. In cases of disruption of the soil barrier, only those locations where this occurred may be retreated. In cases of evidence of termite infestations, the entire premises may be treated if:

1. The history of treatment of the structure is not known and cannot be readily determined, or

2. Live termites are found.

(r) For purposes of interpretation of (q)1 above, retreatment by the same person as originally performed the initial treatment shall presume knowledge of the history of treatment.

(s) Prior to entering into any contract to apply a pesticide, the applicator shall provide the contracting party with a copy of the Federal registered label of the pesticide to be used and a copy of this section (N.J.A.C. 7:30-10.4).

7:30-10.5 Aerial application of pesticides

(a) All agricultural aircraft operations in New Jersey shall comply with those parts of F.A.R.-137 not covered in this section. In the case of conflict, a regulation of F.A.R.-137 shall take precedence over any of this section.

(b) The pilot of an agricultural aircraft shall, prior to any pesticide application, learn and confirm:

1. The boundaries and exact location of the target area(s); and
2. The identity of non-target areas and safety hazards located on or adjacent to the target area.

(c) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation, except when the next application will be made using the same pesticide or, if another pesticide is to be used, it is compatible with that previously in the equipment and will not result in illegal residues or significant risk of injury or damage when applied to the new target site.

(d) During pesticide application, the flow and mixture of the pesticide(s) shall be uniform and applied with spray or spreading equipment suited for the pesticide(s) used. Application equipment shall be properly calibrated, according to the manufacturers' specification for the equipment utilized, for the specific type of pesticide application being performed and proof of this proper calibration shall be maintained by the aerial pesticide applicator business and be available, upon request, to the Department.

(e) For interpretation of (d) above, participation of the individual aircraft in the Operation SAFE program shall presume proper equipment calibration; providing, the type of application(s) for which it is calibrated remains the same and the equipment set-up is not modified from that determined to be the most efficient under Operation SAFE.

(f) Participation of each aerial pesticide applicator business in the Operation SAFE program shall be mandatory; providing, the program addresses the type of application to be performed and providing the program is offered within New Jersey and for a sufficient time period to allow this participation.

(g) Aircraft of the exact type and conformation, including but not limited to the application equipment utilized, shall also be considered to be properly calibrated if set-up to the specification determined from Operation SAFE to be the most efficient for that type aircraft; provided, this extension provision shall only apply to aircraft owned and operated by the aerial pesticide applicator business that has calibrated at least one of each type of aircraft under Operation SAFE.

(h) The Department may require full participation of all aerial application aircraft if experience in working with the Operation SAFE program shows the need, as determined by the Department, to require the participation of each aircraft regardless of sameness of conformation.

(i) All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticide on any non-target areas over which the flight is made.

(j) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow the complete drainage during flight and on the ground.

(k) Any emergency or accidental release of pesticide(s) from the aerial application or auxiliary equipment shall be subject to the reporting provisions of N.J.A.C. 7:30-9.11.

(l) All pesticides applied aurally as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the target, except for applications to forests and/or trees, such application height shall be within 40 feet above the target, and except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(m) All pesticide applied aurally as dry granules or pellets shall be released within 40 feet above the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(n) No aerial pesticide application for non-agricultural purposes and using rotary wing aircraft shall be performed on a target site less than three contiguous acres in size.

(o) No aerial pesticide application for non-agricultural purposes and using fixed-wing aircraft shall be performed on a target site less than ten contiguous acres in size.

(p) Aerial pesticide application to an agricultural crop may be performed on any size field; providing, the field being sprayed is part of a larger property of five or more acres wholly owned or controlled by the person contracting for the application.

(q) No pesticide shall be applied by aircraft within 300 feet horizontally of the premises of schools, hospitals, nursing homes, churches, or any building, other than a private residence, which is used for business or social activities, if either the premise or the building is occupied by people.

(r) No pesticide shall be directly sprayed by aircraft on the right-of-way of a public road, except when the right-of-way is included as the target site.

(s) No pesticide shall be deposited by aircraft within 100 feet of any private residence unless the aerial pesticide applicator and/or applicator business has written consent of an inhabitant of said private residence of legal age. The aerial applicator business shall obtain the written consent, or the party who is contracting for the services of an aerial applicator business shall obtain the written consent and forward it to the aerial applicator business for record keeping purposes. The consent agreement shall include:

1. Date of agreement;
2. Time period for which the consent is valid;
3. Location or designation of the private residence; and
4. Signature of the consenting inhabitant of the private residence.

i. Any consenting inhabitant may withdraw consent at any time by notifying, in writing, the party which requested the consent. Upon such notification, the previous consent shall be invalidated. Copies of all consent agreements shall be maintained by the aerial pesticide applicator and/or applicator business and made immediately available, upon request, to the department. Provisions of this subsection shall not apply to any private residence that is occupied by the person contracting to have the spray performed and which is located on a property which includes the target site.

(t) No person shall be exempt from any of the provisions of this section except under the following conditions:

1. During an emergency proclaimed by the Commissioner, specific aerial applicators may be exempted from all, or from specific regulations as deemed necessary by the Department to handle the emergency situation.
2. Any State, Federal, or public agency or aerial applicator under contractual agreement with such an agency when con-

ducting a pest control operation shall be exempted from (l) to (n) and (g) to (s) above.

7:30-10.6 Pesticide contamination cleanup

(a) In situations involving misapplication of a pesticide(s) with resultant citation of applicable section(s) of N.J.A.C., 7:30-10, and where the Department determines an imminent hazard or significant risk of injury or damage to man or the environment would result, or in the case of a reportable pesticide spill, the Department may order the person responsible for the misapplication or spill to return to the site location and conduct a cleanup to reduce or remove the pesticide to a level deemed acceptable by the department. The cleanup procedure is to be in accordance with the methods approved by the Department and subject to follow-up sampling by the responsible person to verify the efficacy of the cleanup.

(b) The person held responsible for the cleanup shall notify the Department when the cleanup has been completed and, upon request, provide to the Department copies of the analytical results of all samples collected to verify the efficacy of the cleanup.

(c) For purposes of interpretation of (a) above, the basis for issuance of a cleanup order by the Department may include, but not be limited to:

1. Any application and/or spill of a persistent pesticide to a non-target site, as determined by review of the product's Federal registered label or other use restrictions adopted under the authority of N.J.A.C. 7:30-10.2(a); or

2. Any application of a pesticide to a non-target site where evaluation of the pesticide use pattern in conjunction with properties of the pesticide in addition to persistence, are deemed by the Department to present a significant risk of injury or damage.

7:30-10.7 Assessment of fees for sample analysis

In any situation involving a suspected misapplication or spill of a pesticide and where the sample(s) routinely collected during the initial inspection and sampling date define a violation of the Act or regulations promulgated thereunder and show the need for collection of additional samples to define the extent of the contamination as required by the Department to fully evaluate the procedures necessary to remedy the violation, a fee for all sampling may be assessed against the person responsible for the violative application or spill, such fee to reflect the actual cost incurred by the Department for the analyses of the sample(s).

7:30-10.8 Accidental pesticide misapplications and spills

(a) When, during the application of a pesticide, it can be shown that an accidental reportable pesticide spill has occurred, or if movement of a pesticide to a non-target site within a structure has occurred, no violation of the pesticide regulations shall be cited provided:

1. The person responsible for the application reports the spill or movement of the pesticide to the Department by the end of the next working day following the date of occurrence;

2. Necessary procedures to cleanup the pesticide, subject to the review of and to a level deemed acceptable by the Department, are immediately implemented to reduce or remove resultant contamination at the non-target site. The Department may, at its discretion, extend the time period for initiation of the cleanup; and

3. It can be adequately demonstrated to the Department that the following conditions relevant to the application were met:

i. No injury to persons resulted from the incident or the presence of the pesticide at the non-target site;

ii. All persons involved in the application were properly licensed under the provisions of the pesticide regulations;

iii. Equipment used during the application was properly maintained and/or calibrated;

iv. The record of pesticide application contains all mandated information; and

v. The application was performed in a manner consistent with the provisions of the Federal registered label of the pesticide used and other restrictions as contained in the Act or regulations promulgated thereunder.

7:30-10.9 Submission of data on pesticide use

(a) The Department may require the annual submission from any person registered to apply pesticides in New Jersey of information specifying the type and amount of pesticide applied by that person within a time interval as determined by the Department. The information shall be submitted on forms supplied by the Department and contain the following information:

1. The product name and EPA registration number of all pesticides applied within the time period specified; and

2. The total quantity of each pesticide applied within such time period.

(b) Additional information relating to the use of a specific pesticide or type of pesticide may be requested by the Department, at any time, when deemed necessary to evaluate a significant risk of injury or damage to man or the environment.

HEALTH

(a)

THE COMMISSIONER

Clinical Laboratory Services

Proposed New Rules: N.J.A.C. 8:45

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health.

Authority: N.J.S.A. 45:9-42.30 and 26:1A-33.

Proposal Number: PRN 1985-77.

Address comments and inquiries to:

S.I. Shahied, Ph.D.
Assistant Commissioner,
Department of Health
CN 360
Trenton, NJ 08625

The agency proposal follows:

Summary

Due to the steadily increasing costs of providing quality laboratory analytical services and assuring the quality of analytical services provided by laboratories throughout New Jersey, the Department of Health is proposing the adoption of new rules governing the fee structure for laboratory services and the fee structure for laboratory license fees. The prior rules concerning licensure of clinical laboratories expired on October 1, 1984 and the rules concerning laboratory charges expired November 1, 1984 pursuant to Executive Order No. 66(1978).

The proposed increases are required to meet the increased costs of laboratory materials and maintenance contracts on instrumentation required to perform the analyses and for proficiency testing materials to assure quality clinical laboratory care. The new rules will increase fees already established for analytical services as well as establish new fees for analytical services. The rules also increase the fees for licensure of clinical laboratories.

The changes are critical if the State of New Jersey is to be maintained as the reference center for laboratory analytical testing as well as the emergency response capability to respond to such crises as AIDS, EDB, toxic waste dumps and environmental spills. This need cuts across all social lines in protecting the citizens of New Jersey by providing timely and accurate laboratory analyses.

As was true in the past, these changes are exclusive of those samples related to justifiable epidemiological investigations. Payment will be on a prepaid basis. All concerned parties should plan purchases of the "Laboratory Service Fee" stamps based on these new prices.

Social Impact

In order to keep pace with rapidly changing laboratory technology, instrumentation and procedures, the State Department of Health has incurred increased costs in all phases of providing laboratory analyses as well as the on-site inspection and monitoring of all licensed laboratories in New Jersey. The delivery of quality services is required by law and depended upon by citizens as well as health professionals in New Jersey. The inability to remain current with this rapidly changing field and provide the best analyses, could have a potentially disastrous affect on the public health of New Jersey's citizens.

Economic Impact

The increases in fee for service analytical tests will have a slight impact on the private sector, hospitals and other service providers. The proposed fees, however, are generally considerably less than those charged by private laboratories. The economic impact on the general public should be minimal.

In an area of licensure fees, the Department of Health anticipates approximately \$11,500 in increased revenues. Each licensee will only be experiencing a \$5.00 increase per specialty on a one-time basis. This should have no economic impact on the fee per analysis charged by the laboratory to the general public. It has been more than two years since fees for analytical services or laboratory licensure fees have been changed.

Licensure, as requested by P.L. 1975, Chapter 166, specifies a fee schedule by specialty in which a laboratory is licensed.

Full text of the prepared new rules follows.

SUBCHAPTER 1. LICENSURE OF CLINICAL LABORATORIES

8:45-1.1 Initial licensure

(a) Application for an initial license to conduct a clinical laboratory, as required under the provisions of Chapter 166, P.L. 1975, commonly known as the New Jersey Clinical Laboratory Improvement Act, shall be made on forms provided for that purpose by the New Jersey State Department of Health.

(b) Each license to operate a clinical laboratory will specify those laboratory procedures or categories of procedures which the laboratory is authorized to perform.

(c) No license issued under these regulations shall be transferable.

(d) A new license shall be obtained whenever the location, ownership or director of a clinical laboratory is changed.

(e) The license shall be conspicuously displayed by the licensee on the premises of a clinical laboratory.

(f) A separate license shall be required for each location.

8:45-1.2 Annual renewal of licensure

(a) All clinical laboratory licenses shall be issued on or before January 1 in each calendar year and shall expire December 31 in each calendar year.

(b) The Department will provide applications for licensure renewal on or before October 1 of each year to be completed properly and returned to the Department, together with appropriate licensure renewal fee, on or before the succeeding November 1. The Department will mail license renewals to clinical laboratories not later than January 1, of the succeeding year.

8:45-1.3 Licensure fees

(a) Initial and annual renewal licensure fees shall be identical and are prescribed by the following table. Fees noted are per each specialty.

Specialty	Total Number of Employees of Entire Laboratory†								
	1-4	5-9	10-19	20-29	30-39	40-44	50-69	70-89	90 or More
Urinalysis	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Bacteriology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Mycobacteriology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Parasitology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Mycology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Virology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Serology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Hematology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Immunohematology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Routine Chemistry	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Special Chemistry	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Toxicology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Cytology	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Cytogenetics and/or Tissue Typing	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75
Collection Station (only)	\$35	\$40	\$45	\$50	\$55	\$60	\$65	\$70	\$75

† Exclusive of director, trainees in approved medical technologist schools, clerical and maintenance employees. Part-time employees are to be included, prorated to full-time equivalents.

SUBCHAPTER 2. LABORATORY CHARGES

8:45-2.1 Fees; generally

(a) Commencing April 1, 1985, the following changes will be made in the fee-for-service cost structure, Division of Public Health and Environmental Laboratories, New Jersey State Department of Health:

Laboratory Test

Inborn Errors of Metabolism (PKU, T., Galactosemia)	\$ 6.00
RPR Syphilis	\$ 5.00
Toxoplasmosis	\$ 9.00
FTA-ABS (Confirmatory Syphilis)	\$ 5.00
Rubella	\$ 6.00

(b) Commencing April 1, 1985, the following newly established fee for service charges will go into effect:

Bacteriology	
Isolation of Special Pathogens	\$25.00
Identification of Problem Cultures (Reference)	\$20.00
Susceptibility Studies (TB)	\$25.00
Mycology	\$25.00
Mycobacteriology (TB)	\$25.00
Parasitology	\$15.00
Serology	
Non-syphilis Serology	\$ 6.00
Virology	
Viral Serology	\$20.00/case
Viral Isolation	\$20.00/case

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service

Self-inspection of Certain Classes of Motor Vehicles

Proposed Amendments: N.J.A.C. 13:20-26.5 and 26.12

Proposed New Rule: N.J.A.C. 13:20-26.16

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

Authority: N.J.S.A. 39:3-43, 39:8-2 and 39:8-10.

Proposal Number: PRN 1985-79.

Address comments and inquiries to:

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

The agency proposal follows:

Summary

Pursuant to N.J.A.C. 13:20-26, trucks registered at a gross weight in excess of 6,000 pounds and truck tractors are required to be systematically inspected and maintained by owners and lessees. Trucks and truck tractors are thereby exempted from the annual inspection conducted at State inspection stations. As part of the revised State Implementation Plan (SIP) for Attainment and Maintenance of Ozone and Carbon Monoxide Air Quality Standards, the Division of Motor Vehicles commenced annual inspections of light-duty trucks (trucks registered at a gross weight of less than 10,000 pounds) at State inspection stations on January 1, 1984. The Division of Motor Vehicles will commence annual inspections of heavy-duty, gasoline-fueled trucks (trucks registered at a gross weight of 10,000 pounds or more) and truck tractors at State inspection stations on July 1, 1985. Accordingly, the self-inspection rules (N.J.A.C. 13:20-26) are being amended

to provide that vehicles, other than those specifically excepted, are required to be annually inspected at State inspection stations in addition to complying with the requirements imposed by the self-inspection regulations.

Pursuant to N.J.S.A. 39:8-14, the owner or lessee of 10 or more motor vehicles may be licensed to initially inspect, reinspect and certify fleet vehicles. An owner or lessee of 10 or more heavy-duty, gasoline-fueled trucks and truck tractors may therefore inspect, reinspect and certify those vehicles if the owner or lessee has been licensed under N.J.S.A. 39:8-14. Trucks and truck tractors inspected pursuant to N.J.S.A. 39:8-14 are not required to be inspected at State inspection stations.

Social Impact

The proposed amendments will have a beneficial social impact as they will result in increased highway safety and improved air quality for the citizens of this State.

Economic Impact

There is an economic impact on the State in funding the Division's Bureau of Vehicle Inspection which will be required to inspect a larger number of vehicles. There is an economic impact on the owners of heavy-duty, gasoline-fueled trucks and truck tractors in that said vehicles will be required to be presented at State inspection stations annually for State inspection.

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

13:20-26.5 Inspection of motor vehicles

(a) Every [motor vehicle officer, every] State police officer, **and** every employee of the Division of Motor Vehicles, Department of Law and Public Safety, may enter upon and perform inspections of vehicles in operation upon the highways of this State or at the premises or places of business of the owner or lessee of such vehicles; provided, however, that such officer or employee has been authorized to inspect by the Director of the Division of Motor Vehicles and provided he has been trained in the techniques and procedures of inspection now or hereafter established by the [Bureau of Motor Carrier Safety] **Division of Motor Vehicles**.

(b) (No change.)

13:20-26.12 Standards of inspection

(a) (No change.)

(b) The Director may, **in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.)** [upon 30-day notice], alter or amend any standard if, in his discretion, he finds that such standard is contrary to safe operation.

13:20-26.16 State inspection required; time for inspection

(a) **Notwithstanding, and in addition to any other provision or requirement of this chapter, all "vehicles" except trailers, semi-trailers, pole trailers and diesel trucks registered at a gross weight of 10,000 lbs. or more and diesel truck tractors as defined in N.J.S.A. 39:1-1 shall be required to be inspected at State inspection stations or by examiners designated by the Director.**

(b) **The expiration of the windshield inspection sticker of each vehicle shall be the last day of the month in which the vehicle registration expires. Each such vehicle shall be presented for inspection after registration has been renewed and prior to the expiration date shown on the windshield inspection sticker.**

(a)

NEW JERSEY RACING COMMISSION**Thoroughbred Rules****Eligibility; Registration Required****Proposed Repeal and New Rule: N.J.A.C.****13:70-6.53**

Authorized By: New Jersey Racing Commission,
Harold G. Handel, Executive Director.

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

Proposal Number: PRN 1985-78.

Address comments and inquiries to:

Bruce H. Garland, Deputy Director
New Jersey Racing Commission
Richard J. Hughes Justice Complex
CN 088
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule is intended to tighten eligibility requirements for qualification as a New Jersey bred. The qualifications are defined, non-resident breeders are provided for and the responsibility for registration with the Thoroughbred Breeders' Association is placed directly upon the breeder. In addition, the amendments provide for sanctions by the Thoroughbred Breeders' Association for registering or attempting to register a foal based upon false or fraudulent information.

The Thoroughbred Breeders' Association is involved in promoting the breeding of thoroughbred horses in New Jersey. Three-quarters of one percent of the total pari-mutuel handle generated at all private thoroughbred tracks is used to support the Breeder's Fund Program. The money is distributed to horsemen in the form of purses, breeder awards and stallion awards.

Social Impact

The proposed new rule would have a positive social impact upon the racing industry and the State. The Breeder's Fund Program is the most successful in this nation. However, it has become necessary to more clearly define eligibility requirements to prevent non-Jersey bred's from benefiting from the breeder awards. The new rule will also benefit the promotion and breeding of thoroughbred horses in New Jersey.

Economic Impact

The economic impact is a positive one for the State, the public and racing industry. Breeding thoroughbred horses is a major industry in New Jersey and those who participate in it should be the ones to benefit from a breeder's fund program. By clearly defining the qualifications for a New Jersey bred, that goal can be reached. There will be no additional costs to the public, State, racing associations or racing participants as a result of this new rule. The new rule will not directly affect State revenue from racing. However, to the extent the breeding industry increases the quality of horses that run in New Jersey, the industry should benefit and ultimately, the State.

Full text of the proposed new rule follows.

Delete the current text of N.J.A.C. 13:70-6.53 in the New Jersey Administrative Code and replace it with the following new text:

13:70-6.53 Eligibility; registration required

(a) In order to be eligible to enter and start in races exclusively for New Jersey bred foals, each horse must be registered with the Thoroughbred Breeders' Association of New Jersey.

(b) To qualify for such registration the said horse must have been foaled in the State of New Jersey and;

1. The breeder must be a resident of New Jersey or an individual or entity that maintains a breeding farm in New Jersey or;

2. If the breeder is a non-resident or an entity not owned entirely by New Jersey residents, the foal must meet one of the following conditions:

i. Be the produce of a mare conceived in New Jersey the previous season or;

ii. If conceived outside of New Jersey, the mare must be bred to a registered New Jersey stallion the season of the birth of said foal or;

iii. If conceived outside of New Jersey by a resident mare which leaves New Jersey for breeding purposes, the resident mare must return by September 1 of that year, and the non-resident breeder must immediately notify the Thoroughbred Breeders' Association the mare has returned, where the mare is domiciled, where the mare will foal and certify that a copy of the mare's Jockey Club Foal papers is at the farm where the mare is.

(c) A horse is bred where it is foaled. The breeder is the owner of the dam at the time of foaling.

(d) The breeder is responsible for the registering of the foal as a New Jersey bred thoroughbred.

(e) A breeder who registers or attempts to register a foal based upon false or fraudulent information may be subject to any or all of the following sanctions by the Thoroughbred Breeders' Association:

1. The horse may no longer be considered a New Jersey bred;

2. Any New Jersey breeder awards earned by an ineligible horse shall be forfeited to the State;

3. The breeder may be denied the privilege of registering any horses as a New Jersey bred for a time period determined by the Thoroughbred Breeders' Association;

4. The breeder may be denied the benefit of any and all breeder awards in New Jersey for a time period determined by the Thoroughbred Breeders' Association.

(f) Any owner or breeder may appeal the decision of the Thoroughbred Breeders' Association of New Jersey concerning the registration of a horse under this rule to the New Jersey Racing Commission.

(g) To be considered a New Jersey stallion, it is required that the stallion stand in the State of New Jersey the full breeding season, commonly understood to be the period from February 1 through July 1 of any year, and remain in the State, or if the stallion is brought in subsequent to the start of the breeding season, he must be approved as a New Jersey stallion by the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey and the appropriate annual fee paid to the Association prior to serving the first mare in the State of New Jersey and annually thereafter prior to February 1.

1. Should any stallion die in New Jersey prior to completion of one full breeding season he may also be considered a New Jersey stallion upon approval of the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey.

2. A copy of the Stallion Report of Mares Bred as filed with the Jockey Club must be provided to the Thoroughbred Breeders' Association of New Jersey no later than September 1.

(h) All fees for registration of foals, horses of racing age and stallions as established by the Thoroughbred Breeders' Association of New Jersey shall be subject to the approval of the Commission, which approval shall be based upon the Commission's review of a full accounting of fees received and the disposition and purposes for which the revenue collected by the Association is utilized in order to comply with the rules of racing and the terms of New Jersey statutes, the purposes of which are to improve and develop the thoroughbred breeding industry in the State.

statutory law. The rule sets forth criteria for the accounting and operational procedures of motor bus carriers receiving operating assistance from the New Jersey Transit under N.J.S.A. 27:25-5 et seq., and provides procedures for the contractual relationship between the agency and the assisted carriers. The rules have been reviewed internally and found to be necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which it was promulgated. If the rule is not readopted it will result in loss of revenue necessary to continue an efficient transportation system.

Social Impact

The proposed readoption has caused carriers to enhance the public transportation system and encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition. The rule could impact socially upon passengers wherein a carrier does not comply with the requirements and thus result in possible loss of and less public transportation in a given area.

Economic Impact

The proposed readoption will impact on carriers who fail to comply with the provisions of the regulations in that they are subjected to a loss of financial assistance. Additionally, it will impact on carriers who maintain this form of assistance in that they are required to employ proper management techniques necessary to assure proper and efficient administration of funds. There is no additional impact envisioned at this time as the rules are not being amended to effect any change in present procedure.

Full text of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 16:53A.

TRANSPORTATION

(a)

PUBLIC TRANSPORTATION

**Financial and Accounting Conditions and
Criteria for Bus Operating Assistance
Program**

Proposed Readoption: N.J.A.C. 16:53A

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:25-5 et seq.
Proposal Number: PRN 1985-58.

Address comments and inquiries to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:53A concerning "Financial and Accounting Conditions and Criteria for Bus Operating Assistance Program." The rules were filed and became effective on August 7, 1979, as a result of the "New Jersey Public Transportation Act of 1979," (L.1979, c.150§1, effective July 17, 1979.) This Act created a public corporation within the Department empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties and revising parts of the

TREASURY-GENERAL

(b)

STATE LOTTERY COMMISSION

**Reasons for Denial, Revocation, Suspension
or Imposition of Civil Penalties**

**Proposed Amendments: N.J.A.C. 17:20-5.1,
5.2, 5.3**

**Proposed Repeal: N.J.A.C. 17:20-5.4
through 17:20-5.7**

Authorized By: State Lottery Commission, Hazel
Frank Gluck, Executive Director.
Authority: N.J.S.A. 5:9-7(a)(b) and (f).
Proposal Number: 1985-48.

Address comments and inquiries to:
Hazel Frank Gluck
Executive Director
New Jersey State Lottery Commission
CN 041
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposal constitutes a rewriting and consolidation of Subchapter 5 of the Lottery Commission's rules, N.J.A.C. 17:20-5. N.J.A.C. 17:20-5.4 to 17:20-5.7 are deleted, as their substance is added to N.J.A.C. 17:20-5.1(a)3. The proposal also adds new grounds for disciplinary action by the Lottery Director, including failure to satisfy minimum sales quotas (N.J.A.C. 17:20-5.1(a)8) and failure to pay civil penalties authorized under L. 1983, c. 429 (N.J.A.C. 17:20-5.1(a)9). The procedure for obtaining transcripts of hearings held by the Lottery Director is also clarified (N.J.A.C. 17:20-5.3(g)).

Social Impact

The procedural changes effected by the proposal should improve efficiency in the operation of the State Lottery. Likewise, the enforcement of minimum sales quotas is directed toward maximizing the efficiency of the Lottery's agent network, enhancing revenues for the State and providing better service to the ticket-buying public.

Economic Impact

The proposal should have no discernible economic impact on the public at large, since it primarily affects only licensed lottery ticket sales agents, presently numbering fewer than 4,000 statewide. Insofar as it relieves the Division of the State Lottery of transcript preparation expenses, it will augment the State Lottery Fund. So too its enhancement of the procedures for collecting civil penalties and enforcing minimum sales quotas for retention as a licensed lottery ticket sales agent. At this time, quantitative estimates of economic impact cannot be made. However, no such impact is expected to be substantial.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 17:20-5.4 through 5.7.

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

17:20-5.1 Reasons for denial, revocation, [or] suspension or **imposition of civil penalties**

(a) [The agent's license] **An application** may be denied [, revoked,] **or a license** suspended, **revoked** [put on notice of proposed suspension,] or its renewal rejected **by the Director in the exercise of discretion** for any one **or more** of the following reasons [or any combination of the same]:

1. Whenever the [agent's] application for a license **or renewal thereof** contains knowingly false or misleading information or is incomplete; [or]

2. Whenever the agent violates any of the provisions of the **Act** [State Lottery Law] or [the] **these** rules and regulations [and] **or the** instructions of the [State] Lottery; [or]

3. [Any] **Whenever** a person [who] has been **indicted, arrested for or** convicted of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent, **or has been the subject of a complaint or accusation for such offense, or has failed to notify the Director in writing within five days of any of the above actions;** [or]

4. Whenever an agent engages in conduct detrimental to a sound business relationship between the agent and the Lottery; [or]

5. Whenever [in the discretion of the Director of the State Lottery] it is determined that such [revocation or suspension] **action** would be in the best interest of the [State] Lottery based on actions [by the agent] which reflect upon the agent's moral character or affect the integrity of the [Commission] **Lottery;** [or]

6. Whenever [in the judgment of the Director the] **an applicant does not, or an agent can no longer** [meets] satisfy the criteria set forth in N.J.S.A. 5:9-11 **or these regulations** for the issuance of a license;

7. **Whenever ownership has been changed without the Director's approval;**

8. **Whenever the agent fails to meet minimum sales quotas set by the Director;**

9. **Whenever the agent fails to make prompt and timely payment of a civil penalty imposed under N.J.A.C. 17:20-9.1, et seq.**

(b) **The Director may suspend a license for up to five consecutive days without prior notice if such suspension is deemed imminently necessary**

1. **To prevent a breach of security;**

2. **In the event of the misuse of a lottery machine or other lottery equipment, or**

3. **To protect the lottery from economic harm.**

(c) **Notices of suspension, including the reasons therefor, shall be given to agents as promptly as possible and by means deemed most effective by the Director.**

(d) **The Director may impose civil penalties pursuant to N.J.A.C. 17:20-9.1, et seq., in addition to any other action, for violations of this section.**

17:20-5.2 Termination procedures

(a) Upon termination of an agent's license **by revocation, resignation or cessation of operations**, the agent shall appear [at his or her assigned bank] on a date **and at a location** designated by the Director to render [his or her] **a final** lottery accounting and surrender [his or her agent's] license and other lottery property. [The bank shall thereupon complete the termination portion of the agent's identification certificate.]

(b) [In such case, the bank shall deliver one copy of said certificate to the agent and shall deliver one copy thereof to the Director.

(c) Upon the failure of any agent to settle [his or her] accounts on or before the designated date, the [bank] **courier** shall immediately notify the Director.

17:20-5.3 Hearings

(a) The Director [shall] **may** personally hold hearings required by law and any person entitled to a hearing [before the Director] shall receive [a hearing] **one** upon **proper** request. All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., and the Uniform Rules of Practice, N.J.A.C. 1:1-1.1, et seq. Where the suspension has been instituted summarily, the agent shall be entitled to a hearing on an expedited basis.

(b) The request for a hearing shall:

1. Be in writing, signed by the petitioner or attorney [in] **on** behalf of the petitioner and include the petitioner's mailing address.

2. Specify the ruling, action or matter on which the hearing is requested and indicate what relief is desired.

(c) A petition or request to the Director for hearing or other relief, unless otherwise required by law or these rules and regulations, must be received by the Director within 15 days after the date of service of the notice [upon petitioner] of [a denial, suspension, proposed suspension or revocation of a "bank," "manual agent," "machine agent," "claim center," or "license"] **the action.**

(d) [The Director shall issue an order or directive fixing the date and time when the hearing will be heard, and shall give at

least five business day's notice to the petitioner and other parties thereto by serving copies of such order or directive upon them personally or by regular mail or give such other notice as may be agreed upon and requested by all the parties.] (RESERVED)

(e) If the petitioner without sufficient reasons fails to appear at the scheduled hearing, such failure may be treated as a withdrawal of the petition or request [and the Director may dismiss the petition]. The Director **may** in [his or her] **the exercise of discretion** [may] **dismiss the petition**, adjourn the hearing to a future date or take such action as may be just and proper under the circumstances.

(f) All hearings and contested cases will be held in the Main Lottery Office unless otherwise specified by the [Executive] Director **or unless referred to the Office of Administrative Law.**

(g) **Upon receipt of a request for a transcript of a hearing held before the Director and recorded on audio tape, the Director shall send the appropriate tape or tapes to an outside transcribing service for preparation of the transcript. The cost of preparing said transcript shall be billed to the party making the request, who shall also be responsible for any deposit which may be required by the transcriber or by administrative rule.**

[17:20-5.4 Suspension pending trial

Any agent against whom an indictment, accusation or complaint has been filed charging commission of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent may be summarily suspended as a lottery agent

pending the outcome of his or her trial. The agent shall have the right to an immediate post-suspension hearing. If the agent is convicted of the offense charged, the Director may continue the suspension pending the outcome of a license revocation hearing.

17:20-5.5 Suspension or revocation after hearing

The license of any agent who is arrested for a crime or a disorderly persons offense relating adversely to the duties of a lottery agent, may at the discretion of the Director be suspended or revoked either before or after a license revocation hearing. If the license is suspended prior to a hearing, the agent shall have the right to an immediate post-suspension hearing.

17:20-5.6 Suspension or revocation after conviction

Upon being notified that a licensee has been convicted of a crime or disorderly persons offense relating adversely to the notice of proposed license revocation. The notice shall afford the licensee the right to request a hearing on the matter.

17:20-5.7 Reporting offenses

Any agent may have his or her license revoked for not reporting in writing to the Director his or her arrest, or the filing of an indictment, accusation, complaint or conviction of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent within five days of such arrest, indictment, accusation, complaint, or conviction.]

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code; Rooming and Boarding Houses Alterations Required by Other Codes

Adopted Amendments: N.J.A.C. 5:23-2.4 and 2.6; 5:27-1.5

Proposed: November 19, 1984 at 16 N.J.R. 3073(b).
Adopted: January 7, 1985 by John P. Renna, Commissioner, Department of Community Affairs.
Filed: January 10, 1985 as R.1985 d.16, **without change.**

Authority: N.J.S.A. 52:27D-124 and 55:13B-4.

Effective Date: February 4, 1985.
Expiration Dates pursuant to Executive Order No. 66(1978): N.J.A.C. 5:23-2.4 and 2.6—April 1, 1988; N.J.A.C. 5:27-1.5—July 1, 1985.

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

AGENCY NOTE: The proposed amendment to N.J.A.C. 5:23-2.17A, which was part of the proposal, has not been adopted and is still pending.

Full text of the adoption follows.

5:23-2.4 Alterations, replacements and damages
(a) Except as provided in N.J.A.C. 5:23-2.5, existing structures, when altered or repaired, shall conform to the following requirements:

- 1.-6. (No change.)
- 7. Alterations mandated by any property or fire safety maintenance code, or minimum housing standard or regulation, adopted pursuant to law, shall be made to conform only to the requirements of that code, standard or regulation and shall not be required to conform to the subcodes adopted pursuant to this chapter unless the code requiring the alterations so provides.

(b) (No change.)

5:23-2.6 Change in use group
(a) Continuation of existing use: The legal use of any structure existing on the effective date of the regulations may be continued without change, except as may be specifically provided in these regulations or in any property or fire safety maintenance code, or minimum housing standard or regulation, adopted pursuant to law.

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

5:27-1.5 Construction and alteration; change of use
(a) No rooming or boarding house may be constructed or altered except in accordance with the Uniform Construction

Code, except that alterations required by this chapter shall be made in accordance with this chapter and higher requirements of any adopted subcode of the Uniform Construction Code shall be inapplicable unless the Bureau shall otherwise direct.
(b)-(f) (No change.)

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Flood Hazard Area Control

Adopted Amendments: N.J.A.C. 7:13-1.4, 4.7, 5.2, 5.4

Proposed: August 20, 1984 at 16 N.J.R. 2193(a), 2476(a).
Adopted: January 10, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: January 14, 1985 as R.1985 d.24, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 58:16A-50 et seq., N.J.S.A. 58:10A-1 et seq. and N.J.S.A. 13:1D-1 et seq.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order 66(1978): May 4, 1989.
DEP Docket No. 052-84-07.

Summary of Public Comments and Agency Responses:

Comments were received both in favor of and opposed to the proposed amendment to N.J.A.C. 7:13-1.4(d). The proposal allows the Department of Environmental Protection (Department) to approve applications for stream encroachment permits which were determined to be complete prior to the effective date of the new permit rules (May 21, 1984), even though such applications did not conform to the new rules. The Department conceded, when this amendment was proposed, that denial of permits, based upon rules not yet formally adopted, could be considered as an unreasonable application of agency standards. The proposed amendment gives the Department the flexibility to approve these permits, but at the same time, apply the new regulatory standards to the extent feasible. The Department believes that the proposed procedures for review of the applications involved insures that the standard of reasonableness in application of agency rules is met.

The proposed amendment allows the Department to modify application of the fill rules in N.J.A.C. 7:13-4.7(d) and (e) to highways, to the extent that it is demonstrated, after public discussion, that full compliance with the rules would be im-

practical or unreasonably expensive and that no reasonable alternative exists for lessening the degree of non-compliance. In partial accord with views advanced during the public comment period, the Department believes more specific standards are appropriate for judging the extent to which the fill requirements will be waived. Public interest alone is not sufficient to justify a modification of the fill rules. Certain specific, inherent characteristics of highways which make it unreasonably difficult and expensive or completely impracticable to apply the fill rules, justify special consideration, particularly in regard to highways far advanced in planning.

At the public hearing, several commenters urged that no concessions be given to accommodate highway projects and that the limitations on fill in flood hazard areas be applied to highways equal to other projects. On the other hand, other commenters requested that a complete exemption be granted for highways, due to the great public interest in transportation. In summary, there was a virtually complete dichotomy in the views expressed.

Upon consideration of the various views expressed, the Department has determined that highways should be eligible to be considered for special analysis only when and to the extent that the problem arises (a) because the highway is obliged to cross a flood plain to get from origin to destination, or (b) because the highway was planned and commitments impracticable to change were made prior to the effective date of the flood hazard area control regulations, or (c) because the highway improvement in question is required to be made in an existing right-of-way which is impracticable to enlarge. Therefore, N.J.A.C. 7:13-5.4 has been changed to reflect this determination.

As proposed, N.J.A.C. 7:13-5.4(b)5 limits the application of the special highway provisions in the case of municipal roads and streets to those which are "through-streets or through-roads, rather than a purely local improvement". It has been called to the attention of the Department that any street which is not a dead-end could be construed to be a through-street. In order to clarify the intention of the subparagraph, more precise language has been substituted.

As a result of the very large number of highway improvements to be processed under the new Highway Bond Program, the proposal is changed to allow the Department to waive the public meeting requirements, under N.J.A.C. 7:13-5.4(b)2, where the degree of public interest does not appear to render such a meeting necessary.

Finally, N.J.A.C. 7:13-5.4(b)2 was amended to remove the requirement that the applicant hold the public hearing regarding a highway or road variance. In many cases, the hearing will be held as part of the procedures for stream encroachment permitting process, where the hearing is held by Department staff.

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

7:13-1.4 Applicability

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

(c) These rules will be effective upon promulgation, except that the following projects will be processed in accordance with prior existing procedures and standards:

1.-2. (No change.)

(d) Applications submitted and accepted as complete between January 15, 1984 and May 21, 1984 may be acted upon or reconsidered in accordance with the following criteria, even

though they may have been withdrawn by the applicant or denied in accordance with these regulations:

1. If the application fails to comply with the regulations in effect prior to May 21, 1984 without plan modification, it will be denied.

2. If the application meets all provisions of the rules in this subchapter, it will be approved.

3. If the application can be adjusted with minor modification to meet all provisions of the rules in this subchapter, it will be so modified.

4. If the application requires major modification in order to meet all provisions of the rules in this subchapter, the Department will negotiate an adjustment with the applicant, designed to meet the provisions of the rules in this subchapter, as far as the Department determines to be practicable, with consideration given to the time and expense which has been expended by the applicant in preparing plans to meet the requirements of the previous regulations.

5. Stream encroachment permits granted under provisions of this paragraph will not be granted an extension of time, unless hardship can be shown.

(e) (No change.)

(f) (No change.)

(g) (No change.)

7:13-4.7 Regulated uses

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

(d) Requirements for fill under regulated uses:

1. The volume of net fill and structures to be placed on an applicant's property shall be limited to occupying 20 percent of the total volume of net-fill which:

i. Is from within the flood fringe area of delineated streams or within the 100-year flood plain, but outside of encroachment lines, of non-delineated streams; and

ii. Which is also from between the natural or existing ground surface, which ever is lower, and the level of the flood hazard design elevation along delineated streams or the 100-year storm elevation along non-delineated streams.

2.-5. (No change.)

6. When a stream encroachment permit has been granted allowing the placement of fill, under the provisions of this subchapter, any subsequent subdivision of the property shall not have the effect of increasing the total amount of fill allowed to be placed upon the property covered by the previous permit. Additional fill may be placed on the newly divided property only to the extent that the total amount of fill allowed under these rules for the original defined property has not been exceeded.

7. A variance from the requirements of this subsection may be granted by the Department, on a case-by-case basis, for Federal, State, county or municipal highway or road construction projects, pursuant to N.J.A.C. 7:13-5.4(b).

8. The requirements of this subsection are not applicable to flood control projects approved as flood control projects by the Department.

9. Where dikes, levees, floodwalls or other structures, not approved as flood control projects, impede the entry of flood waters into an enclosed space, the enclosed space shall be considered as solid fill for the purposes of this subsection.

(e) Additional requirements for fill in the Central Passaic Basin:

1.-2. (No change.)

3. A variance from the requirements of this subsection may be granted by the Department, on a case-by-case basis, for

ADOPTIONS

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Federal, State, county or municipal highway or road construction projects, pursuant to N.J.A.C. 7:13-5.4(b).

4. The requirements of this subsection are not applicable to flood control projects approved as flood control projects by the Department.

5. Where dikes, levees, floodwalls or other structures, not approved as flood control projects, impede the entry of flood waters into an enclosed space, the enclosed space shall be considered as solid fill for the purposes of this subsection.

(f)-(k) (No change.)

7:13-5.2 Project of Special Concern, defined

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

(e) Projects for construction of Federal, State, county or municipal highways or roads, where a variance is requested under N.J.A.C. 7:13-4.7(d)7 or (e)3, shall be considered projects of Special Concern.

7:13-5.4 Permits for Projects of Special Concern

(a) (No change.)

(b) Variances requested for Federal, State, county or municipal highway or road projects under N.J.A.C. 7:13-4.7(d)7 or (e)3 may be granted by the Department upon its making the following findings:

1. The applicant has complied with the notice requirements of N.J.A.C. 7:13-2.2 or 7:13-5.3(b), as appropriate; and

2. ***Where response to the notice requirements indicates significant public interest,*** ***[A]* *a*** public meeting has been held ***[by the applicant]*** at which the interested public was informed of the scope and reason(s) for the variance; and

***3. The variance to be granted is required because of one or more of the following circumstances.**

i. **The highway or road is required to cross a flood plain in order to achieve its purpose, or**

ii. **The highway or road was planned and commitments impracticable to change were made as to alignment and right-of-way prior to May 21, 1984, or**

iii. **Improvement of the highway or road is required to be made in an existing right-of-way which is impracticable to enlarge.***

***4. For projects or portions of projects which meet one or more of the circumstances described in 3 above*:**

[3.]* *i. Compliance with the net-fill requirements in N.J.A.C. 7:13-4.7(d) and (e) is impractical or will be unreasonably expensive ***[as determined by the Department]***, and

[4.]* *ii. The applicant has shown that no reasonable alternative exists for lessening the degree of noncompliance with N.J.A.C. 7:13-4.7(d) and (e); and

5. For those portions of highway projects which do not meet one or more of the circumstances described in 3 above, the net fill requirements of N.J.A.C. 7:13-4.7(d)7 and (e)3 shall be met; and

[5.]* *6. In the case of municipal road or street projects, the project must be associated with ***[the through-street or throughroad, rather than a purely local improvement]*** ***principal roads or streets, rather than local roads or streets.***

(a)

DIVISION OF ENVIRONMENTAL QUALITY

**Bureau of Air Pollution Control
Control and Prohibition of Air Pollution
from New or Altered Sources Affecting
Ambient Air Quality (Emission Offset
Rule)**

**Adopted Amendments: N.J.A.C. 7:27-18.1,
18.2, 18.3, 18.4 and 18.7**

Proposed: July 2, 1984 at 16 N.J.R. 1679(a).

Adopted: January 10, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: January 14, 1985 as R.1985 d.25, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 26:2C-8 et seq.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): Exempt under 42 U.S.C. 7401 et seq.

DEP Docket No. 039-84-06.

Summary of Public Comments and Agency Responses:

On August 2, 1984 a public hearing was held in Trenton, New Jersey. Nine persons testified at the hearing and six others submitted written comments during the comment period.

Those testifying at the hearing represented the Atlantic Electric Company, American Lung Association of New Jersey, New Jersey Environmental Lobby, Delaware Valley Citizens' Council for Clean Air, New Jersey State Chamber of Commerce, New Jersey Petroleum Council, Neighborhood Cleaners Association, Jersey Central Power and the Light Company, and New Jersey Department of the Public Advocate.

Written statements relating to Subchapter 18 were received from the New Jersey Business and Industry Association, Public Service Electric and Gas Company, Woodbridge Metropolitan Chamber of Commerce, Diamond Shamrock Chemicals Company, Ad Hoc Committee of New Jersey Pharmaceutical Manufacturers, New Jersey State Chamber of Commerce, and the United States Environmental Protection Agency.

1. Comment—Dropping “non-attainment” from the title appears to extend the scope of the regulation to the entire State instead of only to the non-attainment areas.

Response—This change was made to clear up the confusion that the previous title obviously caused. The scope of the regulation has not been changed. It covers emissions that could cause an area to become non-attainment, as well as emissions that affect non-attainment areas. Therefore, the rule has always been applicable to both attainment and non-attainment areas. The parts of Subchapter 18 specifically applicable to attainment areas, (18.2(a) and 18.3(a)) have not been changed.

2. Comment—Commenters objected to reducing the criterion for significant emission increase from 100 tons per year to 50 tons per year.

Response—The 100 tons per year trigger level was not approved by the U.S. Environmental Protection Agency (EPA) and so did not become part of the New Jersey State Implementation Plan (SIP). The EPA set 50 tons per year as the triggering rate in New Jersey. In the Federal Register of April 15, 1981 the following was promulgated by EPA.

(1) The definition of "significant emission increase" as it appears in Section 7:27-18.1, entitled, "Definitions," is disapproved. The following definition of "significant emission increase" is applicable: "an increase, since December 21, 1976, in the rate of allowable emissions, including fugitive pollutant emissions, at a facility of any criteria pollutant greater than or equal to 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions except where such decreases are contemporaneous with emission increases."

One commenter also objected to lowering the trigger rate for modelling in N.J.A.C. 7:27-18.3. However, in N.J.A.C. 7:27-18.3 the emission rate that triggers the modelling requirement was 50 tons per year in the 1980 issue of the regulation and has not been changed. For simplification, now that the definition of significant emission increase is amended to 50 tons per year that term is used in N.J.A.C. 7:27-18.3 in place of the previous wording, which also specified the 50 tons per year rate. This may have misled the commenter into thinking that the modelling triggering rate given in N.J.A.C. 7:27-18.3 was being changed. It has not changed.

3. Comment—With the deletion of non-attainment from the title, there appears to be a conflict between the significant emission rates contained in the Federal Prevention of Significant Deterioration (PSD) Regulations and those of N.J.A.C. 7:27-18. This should be clarified.

Response—The scope of the regulation has not been changed, as has already pointed out. However, the comment on the relationship between N.J.A.C. 7:27-18 and the Federal PSD regulations calls for an explanation. PSD applies to attainment areas. PSD review is required for a new major source, or modification of a non-major source, if the proposed increase in emissions exceeds the major source rate (greater than 100 tons per year or 250 tons per year depending on the source classification). It also applies to a major source that increases emissions by certain pollutant specific "significant" amounts such as 100 tons per year (tpy) for carbon monoxide, 25 tpy for particulate matter and 0.6 tpy for lead. All of New Jersey is non-attainment for ozone, so PSD will not apply to any increase in volatile organic substance emissions as these are ozone precursors. On the other hand, only part of the State is non-attainment for total suspended particulates (TSP). In the attainment or unclassified portions, PSD rules would apply. If the source was located near enough to a non-attainment area so as to cause a threshold increase in ambient levels (Table 1 in N.J.A.C. 7:27-18) in that area, the full emission offset regulations would also apply. These requirements are more restrictive than those required under PSD. It is important to note that where the source's proposed emission increase is less than major under PSD, air quality simulation modelling would still be required under the proposed rules if the increase is significant (greater than 50 tpy or 0.6 tpy for lead), regardless of its location in the State.

4. Comment—Adopt the Environmental Protection Agency significant emission increase values which differ, de-

pending on the pollutant. A suggested list of pollutants and rates was included in the comment.

Response—The suggested list includes pollutants for which ambient air quality standards have not been set so those pollutants can not be addressed by N.J.A.C. 7:27-18. However, where PSD significant emission levels are relevant, the adoption of these significant levels, such as 25 tpy for particulate matter emissions, was considered. Significance levels may be made more stringent when N.J.A.C. 7:27-18 is revised to conform more closely with the complete EPA offset regulations. This is scheduled for 1986. Since the purpose of the present revision is alignment with the lead and ozone SIP's, changes to the significance levels were not proposed with this revision.

5. Comment—Two comments addressed the length of time allowed between shutdown of a source and banking the credit (N.J.A.C. 7:27-18.7). It was argued that six months is too short a time, from what could start as a temporary shutdown, to decide to make it permanent.

Response—The argument seems reasonable, and the time has therefore been increased to 12 months. Also, a requirement that the Department be given the opportunity to inspect the shut down source equipment before it is dismantled has been added.

Certification of the emission credit depends on the physical evidence of the shut down source still being present and verification of the emission rates by calculation, stack test data, permit information, or other data acceptable to the Department. Just as meeting the six month period did not guarantee approval, neither does applying within the 12 month period.

6. Comment—N.J.A.C. 7:27-18.3 should limit the modelling requirement to pollutants emitted at or above the significance level—that is, at a rate greater than 50 tons per year. Also, no modelling should be required unless there is reason to believe that an ambient air quality standard is threatened.

Response—N.J.A.C. 7:27-18.3 applies to all criteria pollutants emitted once the rate of 50 tons per year or 0.6 tpy in the case of lead, is reached by one pollutant. Modelling is necessary to determine if an air quality standard is threatened. Note that use of a simple screening model is often sufficient, and refined modelling may not be required in many cases.

7. Comment N.J.A.C. 7:27-18.4—The offset ratios for nitrogen dioxide (NO₂) should not have been increased.

Response—Since New Jersey is currently in attainment for NO₂, no immediate consequence of the proposed change is foreseen. On the other hand, the 1983 Ozone State Implementation Plan includes nitrogen oxides (NO_x) as precursors of ozone in the atmosphere.

The ratio of ambient volatile organic substances (VOS) to (NO_x) nitrogen oxides is critical for determining the VOS emission reduction target. In the event that the NO₂ ambient standard was threatened, the VOS reduction strategy could also be affected. In short, attainment of the ozone standard by the statutory deadline of 1987 depends on a balance of factors which the Department will be better prepared to deal with if emission increases of NO_x are subject to the same offset ratios as VOS emissions.

8. Comment N.J.A.C. 7:27-18.4—The change in the minimum offset ratios is not supported.

Response—The offset ratio was changed to comply with the 1983 State Implementation Plan (SIP) for ozone. This calls for an assortment of measures to achieve additional VOS control. On page 22 of the September 1983 revision of the SIP, a statewide reduction by 1987 of 5 metric tons of VOS

per day was predicted due to decreasing the significant emission limit to less than 50 tpy and increasing the offset ratio to 2:1 from 1:1. The significant emission limit reduction was not proposed, one reason being that the reduction of the limit to the EPA significance level, applicable only to major sources, would drop it to 40 tpy, and NJ already uses 50 tpy for all sources. The higher ratios of 4:1 and 8:1 at the greater distances follow from the results of the Empirical Kinetics Modelling Approach (EKMA) modelling described in the ozone SIP. That modelling indicated that the same drop in ambient levels of ozone could be achieved by a local emission reduction of 1 ton or an emission reduction of 4 tons upwind, at a distance of close to a 100 miles. The ratio of 8:1 represents an extrapolation of this effect to 250 to 500 miles.

9. Comment N.J.A.C. 7:27-18.1—It isn't clear from the definition that a significant increase could occur at a new or proposed facility, as well as at an existing facility.

Response—To clarify the definition, the words "new or altered" have been placed before "facility".

10. Comment N.J.A.C. 7:27-18.4—Allowing 1:1 offset ratios for lead would not reduce lead emissions; there would not be reasonable further progress toward attainment.

Response—1:1 is the minimum offset ratio and higher ratios can be called for in order to achieve the air quality standard. Also, the stack height criterion of N.J.A.C. 7:27-18.4(b)3 will reduce ambient levels even with a 1:1 ratio.

11. Comment N.J.A.C. 7:27-18.1—"Contemporaneous" is used in the definition of Significant Emission Increase; it should itself be defined.

Response—The thrust of the comment was that New Jersey should adopt the Federal definition given in 40 CFR 51, Appendix S. This comment is not pertinent to the proposal because the changes to the definition of Significant Emission Increase related to the lead SIP, not to the question of contemporaneity. However, the Department has committed to reevaluating the entire Emission Offset Rule in 1985/1986 and will then propose additional revisions, if necessary, to be consistent with Federal requirements. In the interim, New Jersey will continue to evaluate the acceptability of emission decreases used to net out the offset rule, on a case by case basis.

Sources should continue to aggregate emission increases which occur after December 21, 1976 in order to determine applicability of the rule and obtain the Department's concurrence on the acceptability of any emission decreases occurring over the same period.

12. Comment N.J.A.C. 7:27-18.1—The EPA objected to the credit for "decreases in the rates of allowable emissions" in the definition of Significant Emission Increase. This could permit credit for emission reductions that never took place if the actual emissions were less than the allowable in the first place.

Response—Although in fact, such credit was never given, to make the rule clear on this, the wording has been changed to "decrease in the rate of actual emissions that are below allowable emissions".

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

SUBCHAPTER 18. CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES)

7:27-18.1 Definitions

...

"Air quality simulation model" means a mathematical procedure for predicting the ambient air concentration of pollutants resulting from the dispersive properties of the atmosphere.

"Allowable emission" means the rate at which an air contaminant may be emitted into the outdoor atmosphere. For the purposes of this subchapter, the allowable emissions shall be based on the maximum rated capacity of the equipment or on Federally enforceable permit conditions which limit the operating rate, hours of operations, or both, and on the most stringent of the following:

1. Applicable new source performance standards as set forth in 40 CFR Part 60.

2. Applicable standards for hazardous pollutants as set forth in 40 CFR Part 61.

3. Applicable emission, equipment, and operating standards as set forth in this Chapter including those with a future compliance date; and

4. The maximum emission rate specified as a condition of the last applicable permit in effect prior to an emission reduction approved by the Department for an emission offset or for banking.

...

"Ambient Air Quality Standard" means a limit on the concentration of a contaminant in the general outdoor atmosphere as set forth in N.J.A.C. 7:27-13 or in 40 CFR Part 50.

"Attainment area" means any area identified by the Department as one in which the ambient air concentration for a criteria pollutant does not exceed an ambient air quality standard.

...

"Emission offset" means a legally enforceable reduction, approved by the Department, in the rate of actual emissions from an existing facility, which reduction is used to offset the increase in allowable emissions of air contaminants from a new or altered facility.

...

"Fugitive emissions" means any emissions of an air contaminant into the open air which does not pass through any stack or chimney.

...

"Nonattainment area" means any area identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds an ambient air quality standard.

...

"Reasonable further progress" means annual incremental reduction in emissions to the outdoor atmosphere of a criteria pollutant which are sufficient, in the judgment of the Department, to provide for attainment of the applicable ambient air quality standard as required by the Clean Air Act, as amended August, 1977 (42 U.S.C. 7401 et. seq.).

...

"Significant emission increase" means an increase, at a ***new or altered*** facility, since December 21, 1976, in the rate of allowable emissions, including fugitive emissions, of lead that is greater than or equal to 0.6 ton per year or of any other criteria pollutant that is greater than or equal to 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of ***actual emissions that are below*** allowable emissions except where such decreases are contemporaneous with emission increases. The increases in the rates of allowable emissions shall be the cumulative total of increases from all new or altered equipment for which

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permits have been issued or required on or after December 21, 1976 and the fugitive emissions associated with that equipment. The hourly and daily rates shall apply only with respect to a pollutant for which an ambient air quality standard for a period not exceeding 24 hours has been established. Any emission increase that is considered significant for volatile organic substances shall be considered significant for ozone.

"Stack or chimney" means a flue, conduit or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

"Threshold increase" means an increase in ambient air concentration of a pollutant in an area which is nonattainment for that pollutant, by an amount equal to or greater than specified in Table 1 of this subchapter.

7:27-18.2 General provisions

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

(c) Any person required by (a) or (b) above to comply with this subsection shall demonstrate that:

1. Each new or altered equipment and facility is controlled to the degree which represents the lowest achievable emission rate (LAER) for the relevant criteria pollutant; and

2. All existing facilities owned or operated by the person (or an entity controlling, controlled by, or under common control with the person) in New Jersey are in compliance with the provisions of this Chapter and with all applicable emission limitations and standards promulgated pursuant to the Federal Clean Air Act as amended, 42 U.S.C. 7401 et seq., or are in conformance with an enforceable compliance schedule approved by the Department; and

3. Emission offsets in accordance with the provisions set forth in section 18.4 (Emission Offset Demonstration) of this subchapter are secured from existing facilities; and

4. All employer business travel control measures and employee commuter travel control measures have been analyzed to assess the feasibility of their use at the subject facility. Analysis of ride-sharing shall include participation in the state ride-sharing program; and

5. For a new or altered facility which would cause a significant emission increase in volatile organic substances, an analysis has been made of alternative sites, sizes, production processes, and environmental control techniques for such facility demonstrating that the benefits of the proposed facility significantly outweigh the environmental and social costs imposed as a result of its location, construction or alteration.

(d) No person shall cause, suffer, allow or permit an emission increase which has been determined, in accordance with N.J.A.C. 7:27-18.3(a) to cause a new violation of an ambient air quality standard, unless emission offsets, in accordance with the provisions of N.J.A.C. 7:27-18.4 (Emission offset demonstration), have been secured to eliminate such predicted violation.

(e) Once a facility is permitted to cause a significant emission increase in a nonattainment area for a criteria pollutant for which that area is nonattainment and has complied with the requirements of this section:

1. The requirements of (c)3, (c)4, and (c)5 above shall again become applicable when proposed new construction or alterations at the facility would cause the increase in the rate of allowable emissions of that criteria pollutant to again exceed the significant emission increase. The accumulation of increases in the rate of allowable emissions shall resume from zero after each application of (c)3 and (c)4 above;

2. The requirements of (c)1 and (c)2 above shall be applicable to each subsequent construction or alteration which in-

creases the rate of allowable emissions for the relevant criteria pollutant.

(f) (No change.)

7:27-18.3 Air quality impact review

(a) Any person who proposes to cause a significant emission increase, at a facility, of a criteria pollutant, not including volatile organic substances (VOS), must determine, by means of an air quality simulation model approved by the Department, whether the proposed emission increase of any criteria pollutant would cause:

1. A threshold increase in ambient air concentration, as set forth in Table 1, to be exceeded in any nonattainment area for the criteria pollutant, not including volatile organic substances, for which that area is nonattainment; and

2. A new violation of an ambient air quality standard.

TABLE 1
THRESHOLD INCREASES IN AMBIENT AIR CONCENTRATIONS
FOR NONATTAINMENT AREAS

POLLUTANT	ANNUAL	24-HOUR	AVERAGING TIME		
			8-HOUR	3-HOUR	1-HOUR
SO ₂	1.0 ug/m ³	5 ug/m ³		25 ug/m ³	
TSP	1.0 ug/m ³	5 ug/m ³			
NO ₂	1.0 ug/m ³				
CO			0.5 mg/m ³		2 mg/m ³
Pb		0.1 ug/m ³			

(b) The determinations required by (a) above shall:

1. Consider all increases and contemporaneous decreases in the rate of allowable emissions since December 21, 1976 at the facility except for increases offset under the provisions of N.J.A.C. 7:27-18.2(c)3 and (d); and

2. Be required with each permit which causes the cumulative total of increases in the rates of allowable emissions of a criteria pollutant to exceed a multiple of the significant emission increase, not including increases offset under the provisions of N.J.A.C. 7:27-18.2(c)3 and (d).

7:27-18.4 Emission offset demonstration

(a) Any person required to secure emission offsets in accordance with the requirements of this subchapter must achieve such offsets on or before the commencement of operation of the new or altered facility by:

1. Installing air pollution control equipment which reduces the rate of the actual emissions to less than that of the allowable emissions; or

2. Applying fugitive emission control measures which reduce the rate of the actual emissions to less than that of the allowable emissions; or

3. Using emission reductions banked under the provisions of N.J.A.C. 7:27-18.7; or

4. Reducing production rate or operating hours to less than the actual rates or hours for the year immediately preceding such reductions or for any representative year within 5 years of the reductions. For volatile organic substances (VOS), winter reductions of actual emissions may not be used to offset summer increases in allowable emissions; or

5. Establishing and supporting employer business travel control measures or employee commuter travel control measures, provided that the reductions are quantifiable and enforceable and that they are not already required by the New Jersey State Implementation Plan for attaining and maintaining national ambient air quality standards; or

6. Adopting any other measures approved by the Department for reducing the rate of the actual emissions to less than that of the allowable emissions.

- (b) Emission offsets required by this subchapter must:
1. Exceed the minimum offset ratio and be within the respective distance specified in Table 2; and
 2. Be of like quality and nature to the emissions being offset; and
 3. Have an effective stack height no greater than that of the emissions being offset in the cases of sulfur dioxide, lead, and suspended particulates; and
 4. Be provided in a manner that will not cause summer increases of allowable volatile organic substances (VOS) emissions to be offset by winter reductions of actual emissions; and
 5. In the case of lead, come from the same facility as the increase or from the facility which is causing the lead ambient air quality standards to be exceeded. The minimum offset ratio for lead is 1.00:1.

VOS & NO ₂	SO ₂ , TSP, CO	MINIMUM OFFSET RATIO
—	0-0.5	1.00 : 1
—	0.5-1.0	1.5 : 1
0-100	1.0-2.0	2.00 : 1
100-250	—	4.00 : 1
250-500	—	8.00 : 1

(c) The minimum offset ratios specified in Table 2 shall not apply if the Department determines that reasonable further progress toward attainment of the ambient air quality standard allows or requires that different minimum offset ratios be applied. Any person may petition the Department for the application of an emission offset different from those specified in Table 2 if it is shown by an air quality simulation model that a net air quality benefit would result from the proposed emission offset.

7:27-18.7 Banking of emissions

(a) The Department may credit a person with emission reductions achieved in accordance with the provisions of N.J.A.C. 7:27-18.4(a). To obtain such credit, documentation of emission reductions must be submitted to the Department within ***[6]* *12*** months after the emission reduction occurs. ***For a shutdown source to be eligible for banking consideration, the applicant must notify the Department at least 60 days prior to removal of the equipment so the Department has the opportunity to inspect the equipment before it is dismantled.*** ***[Such emission]* *Emission*** reductions, if approved by the Department ***for banking***, shall become an enforceable operating restriction for the facility. Such banked emission reductions will be adjusted in accordance with the allowable emission rates in effect at the time when the banked emission reductions are offered to offset emissions from new or altered facilities.

HEALTH
(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Cardiac Facilities Cardiac Surgical Centers

Adopted New Rule: N.J.A.C. 8:33E-2

Proposed: November 19, 1984 at 16 N.J.R. 3120(a).
 Adopted: January 11, 1985, by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).
 Filed: January 14, 1985, as R.1985 d.28, **without change.**

Authority: N.J.S.A. 26:2H-5; 26:2H-8.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978): February 4, 1990.

Summary of Public Comments and Department Responses:

Comments were received during the comment period from the following: Regional Health Planning Council; Department of the Public Advocate.

COMMENT:

The Regional Health Planning Council disagreed with the proposed annual minimum utilization of 200 open heart procedures and suggested consideration of a 250 procedure minimum annual utilization level and a 500 procedure per room optimal utilization level. The New Jersey Department of the Public Advocate (DPA) reiterated its opposition to the utilization levels being proposed and also suggested an optimal level of 500 procedures per room at all existing cardiac surgery programs prior to the approval of additional new programs.

RESPONSE:

The comment which suggested increasing the minimum annual utilization level for cardiac surgery centers from 200 to 250 procedures per operating room was a result of a lengthy series of compromises that has centered on the issues of quality of care and cost containment. It is apparent from the comments that have been received that the extensive study and compromise that has been undertaken in recent months between the Department, the SHCC and the industry to develop more substantive and meaningful utilization criteria has not led to a satisfactory conclusion. The comment which suggested elevating the minimum annual utilization level from 200 to 250 procedures per operating room clearly does not sufficiently address the cost impacts of providing this type of resource-intensive cardiac service. The proposed difference of 50 procedures per year provides no significant difference in cost efficiency or patient care for the provider institution.

There is also a great deal of uncertainty currently surrounding the future of coronary artery bypass surgery, particularly after the publication of the Coronary Artery Surgery Study (CASS) in November, 1983, and the rapid technological developments in interventional techniques and medical management that are taking place throughout the country. While the impact of these events is not readily apparent at the present time, there are indications that the demand for coronary artery bypass procedures is and will be profoundly affected. There are areas of the country where the demand for cardiac surgery has leveled off or declined in the past year. New Jersey cardiac surgical centers have not experienced this impact, although a relatively large proportion of the statewide increase in open heart procedures in recent years is directly attributable to the retention of out-of-state referrals—particularly those patients that had previously been referred to New York City and Philadelphia cardiac surgical centers.

Since there is virtual unanimity regarding the dissatisfaction over the amendments to the utilization standards that have been proposed, the Department recommends the retention of the original annual minimum utilization level of 200 open heart procedures per operation room. The Department intends to study the impact of new technology and the apparent emphasis in medical management stemming from the CASS study on the demand and cost of providing these services both nationally and statewide. Further amendments to these rules will be forthcoming once the implications of these developments in the field are more clearly defined.

Full text of the adopted rule follows.

8:33E-2.1 Scope

(a) The purpose of this subchapter is to establish standards and general criteria for the planning of a regional cardiac surgical center and for the preparation of an application for a certificate of need for such a facility. A regional approach to the provision of cardiac services is necessary to provide safe, complete patient care, efficiently and effectively, at the lowest cost to the consumer.

(b) A regional cardiac surgical center is defined as a medical facility which specializes in most aspects of cardiac service, including at a minimum, cardiovascular surgical services as well as diagnostic services.

(c) In the regional cardiac surgical center, the primary diagnostic services are provided by a cardiac catheterization and coronary angiographic laboratory and a non-invasive laboratory. A cardiac catheterization/coronary angiographic laboratory is one which provides a service devoted to achieving physiological and angiographic studies of optimal quality.

(d) At a minimum the non-invasive laboratory should include the following facilities:

1. ECG and VCG instruments;
2. Exercise stress testing;
3. Phono/pulse tracing/echo equipment;
4. Holter type monitoring.
5. Nuclear cardiology.

(e) Before heart surgery is performed, every patient must undergo diagnosis through a recognized diagnostic service, except in an extreme emergency as in the case of open wounds to the heart.

(f) The cardiovascular surgical services include open heart, closed heart and coronary artery surgery as well as surgery of the great vessels and also cardiac assist devices such as the intra-aortic balloon pump. The facilities, personnel and equipment required by this regulation for open heart surgery are minimal for all cardiovascular surgical procedures. For the purpose of this regulation open heart surgery is herein defined as a procedure which uses a heart-lung by-pass machine to perform the functions of circulation during surgery.

8:33E-2.2 Utilization of cardiac surgical centers

(a) The following shall apply to cardiovascular surgical units:

1. An applicant for a certificate of need as a regional cardiac surgical center must provide written documentation that the center will perform 75 surgical procedures in the first year and 200 by the end of the third year for each operating room utilized for open heart surgery procedures.

2. The regional cardiac surgical center shall continue to perform at least 200 open heart surgical procedures per year per operating room to insure the competency of the surgical services team and to provide for efficient and economical operation.

3. Failure to achieve an average minimum utilization level, as defined in 1 and 2 above, during 36 consecutive months for cardiac surgery programs obtaining Certificate of Need approval after December, 1984 and during 24 consecutive months for cardiac surgery programs in existence prior to December, 1984, may result in a recommendation for denial of reimbursement for the service by the department to the Hospital Rate-setting Commission and/or the loss of licensure for the service.

4. Each cardiac surgical center should establish a minimum caseload per physician and team in order to ensure a consistent level of proficiency within the surgical program. The Commissioner's Cardiac Advisory Committee (CCAC) has recommended that a minimum of 50 cases per year is adequate to maintain the professional skills of a cardiac surgeon and team. It is recommended that cardiac surgeons and teams not performing this minimum caseload should work under the direct supervision of a physician who has achieved this minimum volume consistently.

(b) The following shall apply to cardiac diagnostic services:

1. Utilization standards for the diagnostic services are based on the number of patients upon whom invasive cardiac diagnostic procedures are performed. The minimum acceptable number of adult cardiac catheterization patients per laboratory is 250 per year in a laboratory which is shared with other specialized radiographic procedures, while the number for a fully dedicated laboratory is 500 per year in order to maintain the efficiency and the skills of the catheterization team. Of this number, 150 must be coronary arteriographic patients in a shared laboratory.

i. The optimal utilization level for a laboratory dedicated to cardiac catheterization/coronary angiographic examinations is 500 adult patients per year, including 400 coronary arteriographic patients, in order to maximize quality of care and minimize unit cost per examination (250 adult patients per year is to be considered optimal utilization for a shared laboratory). All diagnostic facilities will be evaluated in light of this optimal level by the CCAC.

ii. Each cardiac diagnostic facility should establish a minimum number of procedures for each physician with laboratory privileges in order to maintain a consistent level of proficiency within the laboratory. The CCAC recommends that each physician should perform a minimum of 50 cases each year or be under the supervision of a physician who has performed this minimum number of cases.

2. If a pediatric surgical program is being considered, the minimum acceptable number of pediatric cardiac catheterization patients per laboratory is 150 per year.

3. The laboratory must be prepared to perform pre and postoperative examinations on a scheduled basis and emergency examinations at all times.

4. As a planning guideline the accepted ratio of examinations to cardiac operations shall be at least two examinations to one operation.

8:33E-2.3 Cardiac surgery center personnel

(a) The following shall apply to cardiovascular surgical units:

1. Cardiac surgery is most successful when performed by a smoothly functioning team. Based on 200 open heart procedures the basic team of the regional cardiac surgical center for each operation will consist of the following permanently assigned staff:

i. One physician in charge, board-certified by the American Board of Thoracic and Cardiovascular Surgery as a cardiovascular surgeon who directs the team or the surgical unit;

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(1) Exceptions for incumbent directors to this requirement for board certification may be granted by the Commissioner upon application by an institution providing proper documentation as to the physician's qualifications;

ii. One assistant to the physician in charge who will be a board eligible cardiovascular surgeon (a third assistant may be a Thoracic Surgical Resident or fellow);

iii. One anesthesiologist, certified by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, and assisted by one other qualified person, that is, resident or nurse anesthetist or board-certified anesthesiologist. "Qualified" implies special training and experience with cardiac surgical problems in addition to normal certification;

iv. There will be at least three trained operating room technicians or trained nurses in each operating room. One of the three must be a registered nurse;

v. Two perfusionists will be available, for each operation, one of whom will be certified and one qualified.

vi. Cardiovascular nurse specialists (one for every 100 open heart procedures) may be used to supplement the cardiovascular surgical team.

2. The operating cardiac surgeon in conjunction with the attending cardiologist is responsible for overseeing and integrating all details of preoperative evaluation and preparation of the operation procedures and of post-operative care.

(b) The intensive care cardiac recovery room (or Surgical Critical Care Unit, (SCCU) is the area where cardiac patients are held for postoperative care. At a minimum patient coverage in this area shall be on a one specially trained cardiac nurse to one patient basis for the first 24 hours after surgery or in accordance with the diagnosis. During this period, the operating surgeon and team or qualified alternate shall be on call. After a full 24 hours following the operative day, and in accordance with patient diagnosis, nursing coverage may be reduced to a maximum of three patients to two nurses during the second and third days following the operative day.

(c) The following shall apply to cardiac diagnostic facilities:

1. Each diagnostic facility shall be minimally staffed by the following full-time personnel:

- i. One physician;
- ii. One nurse;
- iii. Three technicians.

2. While the following functions shall be performed within each facility, more than one function may be executed by a single individual appropriately cross-trained to perform the required functions:

i. Laboratory director (physician in charge): The chief diagnostician within the unit, certified in cardiology by the Sub-Specialty Board of Pediatric Cardiology of the American Board of Pediatrics or the Cardiovascular Sub-Specialty Board of the American Board of Internal Medicine. In addition to board certification the director must have broad experience and training in cardiac diagnostic procedures.

(1) Exceptions for incumbent directors to this requirement for board certification may be granted by the Commissioner upon application by an institution providing proper documentation as to the physician's qualifications;

ii. Associate physician: Assigned to assist the laboratory director. One of these physicians will be trained in cardiovascular catheterization;

iii. Registered nurse: To assist with administration of medications and the preparation and observation of the patient. The nurse should have Intensive Care Cardiac Unit (ICCU)

experience, and must have knowledge of cardiovascular medications and experience with catheterization;

iv. Cardiac catheterization technician: To handle blood samples and assist in the performance tests. The technicians will help in the maintenance of equipment and supplies.

v. Monitoring and recording technician: Responsible for constant monitoring of physiologic data, including the electrocardiogram and recording this information. This job can best be handled by a second cardiac catheterization technician or radiologic technician;

vi. Radiologic technician: Skilled in conventional radiography and has special training and skills in angiographic techniques. This technician must be competent in magnification radiography, subtraction photography, cine recording, television presentations and the use of video tape and be responsible for the care and maintenance of all radiologic equipment;

vii. Electronic and radiological repair technician: Highly trained and available for consultations regarding the operation and maintenance of all radiographic and physiologic measuring and recording instruments in the laboratory. This person must be immediately available to carry out repairs in the event of equipment failures during the course of the procedure.

3. One physician shall be present in the room during all catheterization and angiographic procedures.

(d) Outlined in (c) above are only the special personnel required by a cardiac center established within an existing hospital. Appropriate supporting staff or personnel shall be available in existing departments within the hospital.

8:33E-2.4 Use of inpatient facilities

(a) In a center performing 200 open heart surgical procedures annually the following inpatient facilities are required:

1. Because of the nature of care to be provided, cardiac surgical patients shall be grouped at the intermediate or acute care level for proper observation and treatment. During the preoperative stage when diagnostic work-ups are to be performed, four beds in a general medical/surgical unit shall be available for patients having an average length of stay of three to four days.

2. An intermediate intensive care/cardiac care unit will be available for post operative care. It will include three or four beds for patients having an average length of stay of three to four additional days following discharge from the SCCU or surgical recovery room. These beds may be located in a cardiovascular step-down unit with telemetry monitoring but reduced nursing coverage with a maximum ratio of four patients to one nurse in accordance with patient diagnosis. Suitably equipped beds will be available for the rest of the patient's stay. At a minimum the intensive care/cardiac care unit will have the following capabilities:

- i. Facilities for hemodynamic ECG monitoring;
- ii. Temporary pacemaker insertion;
- iii. C.P.R. equipment;
- iv. Arrhythmia detection equipment;
- v. Resuscitative equipment.
- vi. Cardiovascular support devices (intra-aortic balloon pump, etc.)

8:33E-2.5 Commissioner's cardiac advisory committee (CCAC)

(a) A cardiac advisory committee has been established under the authority of the Commissioner of Health to review on a regular basis the performance of all cardiac institutions.

(b) In addition to practicing specialists, the cardiac advisory committee will be comprised of representatives from

third-party payors, a consumer member who is involved in the New Jersey health planning process and the administration of institutions providing the service.

(c) Mortality rate, utilization and medical practices of each regional cardiac surgical center will be reviewed regularly by the CCAC to insure quality control and accurate data reporting.

(d) To the greatest degree possible other inspection programs of cardiac services will be integrated with those of the advisory committee to minimize the number of official visits to those services.

(e) The CCAC will review certificate of need applications for new cardiac surgical centers and make recommendations to the Statewide Health Coordinating Council and Commissioner of Health.

8:33E-2.6 Referral

(a) Each applicant for a certificate of need as a regional cardiac center must agree to send out a mailing to all appropriate institutions and physicians stating that the services of the center are available. Following certificate of need approval, the center will provide written documentation that this mailing has occurred.

(b) Each applicant must provide written documentation in the form of an institutional policy statement that the center will accept referrals from physicians not ordinarily having access to the applicant's facilities.

(c) Each center will have written transfer agreements to receive appropriate patients from the "free standing" cardiac diagnostic facilities in its service area or health services area, whichever is larger.

8:33E-2.7 Population base

An applicant for designation as a regional cardiac surgical center must document need in its service area. At a minimum, the regional service area for an adult surgical program must include a population of one million adjusted for accessibility. For a regional pediatric cardiac surgical center, a population base of three million, adjusted for accessibility, must be documented. The applicability of these minimum population bases to the specific New Jersey cardiac services environment should be closely scrutinized by the CCAC based on the utilization of cardiac surgical resources reported to the department on a quarterly basis.

8:33E-2.8 Long-range planning

The applicant must show evidence that the proposed certificate of need request is consistent with the hospital's approved long-range plan, submitted to the department under the requirements of N.J.A.C. 8:31-16.1, and with the health systems plan and annual implementation plan of the health systems area in which the applicant is located.

8:33E-2.9 Documentation of purchase and operational cost

The applicant will provide full written documentation of the projected implementation and operational costs of the proposed regional center. This documentation will include direct and indirect costs, that is, construction, equipment, supplies, personnel, maintenance, overhead costs, as well as projected costs of remodeling or renovation necessary to accommodate the center. Projections of anticipated revenues must be supplied for at least the first three years.

8:33E-2.10 Statistical data required

The center will maintain and provide basic statistical data on its operations and report that data to the Department of Health on a quarterly basis and on a standardized form pre-

pared by the department. Copies of the full text of the required quarterly reporting form may be obtained upon written request to the New Jersey State Department of Health, Health Data Services, Room 405, CN 360 Trenton, New Jersey 08625.

8:33E-2.11 Certification on nondiscriminatory practices

Each applicant must provide written certification of compliance with all Federal and State laws in regard to nondiscriminatory practices to the effect that no patient shall be refused treatment on the basis of race, religion, sex, age or ability to pay.

8:33E-2.12 Peer review

(a) Quality control is essential for the consistent high level of performance required of any cardiac surgical service. As one means of quality control, appropriate mechanisms for peer review shall be described in each certificate of need for a regional cardiac surgical center, which shall include, but is not limited to the following:

1. Overall case selection for study (for example, rate of normal studies, rate of surgical referral);
2. Laboratory and physician performance (for example, case volume, mortality and complication rates per physician);
3. Quality of studies (for example, number of incomplete studies, diagnostic adequacy of films, number of restudies performed elsewhere).

(b) In all cases, criteria selection should be based on sound medical practice and consistency with the literature. Cardiac surgical centers with marginal utilization (10 percent above or below minimum utilization standards) will be reviewed by the local Utilization Review Organization and the CCAC, based on protocols established by the Department in conjunction with these review entities, to assure appropriate case selection has occurred.

8:33E-2.13 New facilities

(a) All certificate of need applications for new adult or pediatric cardiac surgical centers must meet the minimum standards and criteria contained in this subchapter.

(b) Certificate of need applications for new cardiac surgical centers will not be approved in health service areas that include cardiac surgical centers that are not in full compliance with the minimum utilization requirements contained herein.

8:33E-2.14 Review

This subchapter will be reviewed and evaluated within three years by the CCAC.

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Renal Disease Services

Standards and General Criteria for the Planning and Certification of Need for Regional End-Stage Renal Disease Services

Readoption: N.J.A.C. 8:33F

ADOPTIONS

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Proposed: November 19, 1984 at 16 N.J.R. 3124(a).
Adopted: January 11, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with Approval of the Health Care Administration Board).
Filed: January 14, 1985 as R.1985 d.29, **without change**.

Authority: N.J.S.A. 26:2H-5; 26:2H-8.

Effective Date: January 14, 1985.

Expiration Date pursuant to Executive Order 66(1978):
January 14, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:33F.

(a)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards; All Health Care Facilities
Commissioner's Certificate of Need
Approval Letter**

**Adopted Amendments: N.J.A.C. 8:39-2.1(c);
8:42-1.2(c); 8:42A-2.1(c); 8:42B-2.1(c);
8:43-1.5(c); 8:43A-1.3(c)**

Proposed: November 19, 1984 at 16 N.J.R. 3125(a).
Adopted: January 11, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).
Filed: January 14, 1985 as R.1985 d.26, **without change** (except for N.J.A.C. 8:43B-1.7(f) and 8:43F-2.1(c), which are not being adopted at this time).

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

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): N.J.A.C. 8:39-2.1, June 20, 1988; 8:42-1.2, February 1, 1985; 8:42A-2.1, June 12, 1986; 8:42B-2.1, August 1, 1988; 8:43-1.5, August 8, 1985; 8:43A-1.3, August 9, 1986.

Summary of Public Comments and Agency Responses:

The Department received one comment from the Assistant Deputy Public Advocate, State of New Jersey, Department of the Public Advocate, Division of Public Interest Advocacy, supporting the proposed amendments. The Department acknowledges receipt of the comment.

Full text of the adoption follows.

The facility shall implement all conditions imposed by the Commissioner as specified in the Certificate of Need approval letter. Failure to implement the conditions may result in the

imposition of sanctions in accordance with Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

OFFICE OF ADMINISTRATIVE LAW NOTE: The adopted amendment will appear at the following subsections in the New Jersey Administrative Code:

N.J.A.C. 8:39-2.1(c); 8:42-1.2(c); 8:42A-2.1(c); 8:42B-2.1(c); 8:43-1.5(c); 8:43A-1.3(c).

(b)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Manual of Standards for Hospital Facilities
Medical Staff**

Readoption: N.J.A.C. 8:43B-6

Proposed: November 19, 1984 at 16 N.J.R. 3152(a).
Adopted: January 11, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).
Filed: January 14, 1985 as R.1985 d.27, **without change**.

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

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
February 4, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:43B-6.

(c)

**DIVISION OF HEALTH FACILITIES
EVALUATION**

**Standards for Licensure of Hospital Facilities
Obstetric and Newborn Services**

Adopted New Rule: N.J.A.C. 8:43B-8

Adopted Repeal: N.J.A.C. 8:35 and 8:43B-8

Proposed: February 6, 1984 at 16 N.J.R. 188(a).

Adopted: January 11, 1985, by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).

Filed: January 14, 1985 as R.1985 d.30, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

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Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): February 4, 1990.

The Department received 40 letters of comment regarding the proposed Standards for Licensure of Obstetric and Newborn Services, N.J.A.C. 8:43B-8, from health care professionals, organizations, and hospitals. The tenor of these comments ranges from general support of the proposed rule to opposition to the proposed rule. Letters of comment were received from: directors of nursing, assistant directors of nursing, nursing supervisors, obstetric supervisors, maternal and child health coordinators, or perinatal coordinators representing ten hospitals, including Somerset Medical Center, Bridgeton Hospital, John F. Kennedy Medical Center, Holy Name Hospital, Saint Clare's Hospital, Hackensack Medical Center, Bayshore Community Hospital, Newark Beth Israel Medical Center, Saint Peter's Medical Center, and Monmouth Medical Center; physicians, chiefs, chairmen, or directors of obstetric and pediatric services, or medical directors representing seven hospitals, including St. James Hospital, Hunterdon Medical Center, Raritan Bay Health Services Corporation, Elizabeth General Medical Center, Hackensack Medical Center, Bridgeton Hospital, and Saint Peter's Medical Center; directors, co-directors, or staff from two regional perinatal centers (Newark Beth Israel Medical Center and Southern New Jersey Perinatal Corporation); administrators, assistant administrators, presidents, vice presidents, or associate directors of patient care services representing eight hospitals, including Somerset Medical Center, Rahway Hospital, Bridgeton Hospital, Shore Memorial Hospital, the Valley Hospital, Morristown Memorial Hospital, Hackettstown Community Hospital, and Our Lady of Lourdes Medical Center; the Director of Planning and the Chief Dietitian representing Overlook Hospital and Saint Peter's Medical Center, respectively; the Quality Assurance Manager—Middlesex General University Hospital, the President, New Jersey Society of Nursing Service Administrators; the President and the Vice-President of Governmental Affairs, New Jersey Speech-Language-Hearing Association; the Associate Director, New Jersey State Nurses Association; the President, New Jersey Obstetric and Gynecologic Society; the Director, Division of Medical Assistance and Health Services; the Executive Secretary, New Jersey State Board of Nursing, President, University of Medicine and Dentistry of New Jersey; the President, New Jersey Hospital Association; and the Chairman, Committee on Maternal and Child Care, Medical Society of New Jersey.

The Department has compiled the comments, questions, and recommendations which it received, responded to them individually, and sent a copy of the compilation to each respondent who made recommendations for change. This listing of the comments received by the Department and the corresponding Departmental responses and emendations is on file at the Office of Administrative Law and at the Standards Program of the Department of Health.

General comments express concern regarding the extent to which the requirements are prescriptive; the extent to which the proposed rule describes an optimal, rather than a minimally acceptable, state of affairs; the applicability of particular requirements to hospitals and certain patient care areas; the extent of the authority of the Department of Health; cost factors; staffing ratio; the extent to which the regulations are duplicative; and the "enforceability" and "surveyability" of the proposed regulations.

One commentor commended the Department of Health for updating the Manual of Standards for Hospital Facilities. Another commentor regarded the regulations as being an "improvement" in relation to the originally drafted rules. One commentor viewed this "comprehensive and explicit set of standards" as being helpful with respect to "the planning and monitoring functions of the hospital organization." The rules were also considered as being "a positive attempt. . .to establish criteria that are workable in a contemporary obstetrical setting."

A respondent stated that the proposed rules "upgrade" the current rules and are "similar to the Joint Commission Accreditation Standards. . ." The same respondent expressed satisfaction with the proposed rules because they prevent surveyors from making "individual interpretations to the State Code."

Many of the comments were based upon misinterpretations of the proposed regulations with regard to staffing ratios and the absence of reference to levels of acuity of obstetric and newborn care. The Department affirms the fact that the proposed regulations are consistent with the staffing ratios specified in N.J.A.C. 8:33C (Certificate of Need and Designation: Perinatal Services) and in the Guidelines for Perinatal Care, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, 1983, (AAP/ACOG guidelines). The Department also reiterates that the rules are applicable to Level I obstetric and newborn services only, as mentioned in the proposal notice, 16 N.J.R. 188(a). Moreover, the rules are cost-effective and do not prevent the facility from increasing staffing levels in accordance with patient need. Regulations based upon precise measurements of levels of acuity of patient care are not yet attainable.

Substantive changes, which are not detrimental to the public welfare, were made in three general areas. The affected proposed rules include N.J.A.C. 8:43B-8.3(a)9, pertaining to prenatal classes, counseling and education, and N.J.A.C. 8:43B-8.7(a)10 and 11, regarding infection control and prevention. In both cases, the proposed rules were revised so as to allow facilities to determine their policies and procedures in accordance with AAP/ACOG guidelines. The changes allow facilities maximum flexibility in the administration of services while protecting the health and safety of patients. Also, the revisions are reflective of the current state of the art in obstetric and newborn care. The third major change was the deletion of all proposed rules relating to physical plant requirements. Patient care and safety will not be jeopardized since requirements for physical plant currently appear in N.J.A.C. 8:43B-3. Moreover, the Department is in the process of revising and developing new rules and regulations pertaining to physical plant requirements for obstetric and newborn services which will be published at a later time. The particular proposed rules regarding physical plant which were deleted are listed below in reference to N.J.A.C. 8:43B-8.1. Finally, the authority of the Department to promulgate regulations regarding the issues addressed in the proposed rule derives from Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, in order to protect and promote the health of the residents of the State. The Department maintains that the Subchapter, N.J.A.C. 8:43B-8, is responsive to the needs of individual facilities and patients and allows the various hospitals and health care professionals the opportunity and flexibility to devise innovative and effective methods of providing obstetric and newborn services to patients.

In addition to revising the proposed rules in response to the comments received, the Department made editorial and other technical and substantive changes which clarify, rather than alter, the intent of the rules. These latter changes will not adversely affect patient care or safety. The following is a description of the comments received by the Department, the Departmental responses, and the other changes between proposal and adoption.

The Department received two recommendations to eliminate all definitions of terms in N.J.A.C. 8:43B-8.1 which are not obstetric and newborn specific. The Department is currently in the process of rewriting and revising N.J.A.C. 8:43B, Manual of Standards for Hospital Facilities. Due to constraints and priorities within the Department, revision of N.J.A.C. 8:43B in its entirety has not been possible. Definitions which apply to other services as well as to obstetric and newborn services will be deleted from this section and added to a general subchapter on definitions in the revised Manual of Standards for Hospital Facilities, N.J.A.C. 8:43B. The recommendation, therefore, was not accepted.

Changes were made in the definitions of "anesthesiologist," "obstetrician," and "pediatrician" in response to comments requesting that references to osteopathic medicine be included.

One commentator requested the addition of a definition of "birthing room." The Department indicates that the Health Facilities Construction and Monitoring Program is currently in the process of promulgating rules for obstetric and newborn services. Therefore, all physical plant standards were removed from the proposed subchapter and will be reconstituted as a discrete subchapter within N.J.A.C. 8:43B at a later date. The deleted rules include N.J.A.C. 8:43B-8.2(b), N.J.A.C. 8:43B-8.24(a)8, N.J.A.C. 8:43B-8.24(a)11i, N.J.A.C. 8:43B-8.24(a)18iv (in part), N.J.A.C. 8:43B-8.25, and N.J.A.C. 8:43B-8.29(a) through (c).

Three commentators requested clarification of the definitions of "care plan" and "discharge summary." Specifically, respondents queried whether care plans would be required from all services which a patient receives. The Department contends that the definitions apply only to services which provide direct care such as nursing, medical, and social services. The same commentator asserted that the definitions of "charge nurse," "dietitian," "nursing supervisor," "public health nurse," "social work designee," and "social worker" amount to job descriptions which represent an intrusion upon the prerogatives of the facility. The Department contends that these definitions concern only experience and educational qualifications and do not address job duties. It is the Department's belief that rules which seek to ensure a minimum level of competency are necessary in order to promote and protect the patient's health and safety. Consequently, no changes were made.

One commentator pointed out that the terms "charge nurse" and "head nurse" are used interchangeably and stated that this may conflict with "individual hospital organizational objectives." The Department contends that facilities may pursue their organizational objectives as they see fit provided that a person satisfying this definition performs the functions described in these rules. Designation of the job title, in the Department's view, is the facility's prerogative. The intent of the rule is that the particular job functions are appropriately and effectively executed.

The Department received a request to redefine the term "clinical note." The commentator holds that the proposed definition represents an unwarranted intrusion by the Department

into an area governed by clinical judgment. The Department contends that the content of the clinical note is determined by the professional judgment of the person recording the note. The Department has merely specified the areas to be included and the time frame for recording information so as to ensure adequate documentation.

Several commentators expressed difficulties regarding the definition of the term "dietitian," in N.J.A.C. 8:43B-8.1. One commentator indicated that it is not feasible for hospitals to comply with a requirement that the dietitians whom they employ have a master's degree. Other charged that the definition is "confusing" and "contradictory." Still another held that the definition is too demanding with respect to qualifications. The Department responds by noting that the definition of "dietitian" (or "dietary consultant") offers three different combinations of experience and education. The dietitian with a master's degree and six month's experience is one of three alternatives. The alternatives are delineated for the convenience of anyone using these rules who might not be familiar with the qualifications required of a dietitian. This definition is included in the regulations for other types of health care facilities and has not been a source of difficulty. (See N.J.A.C. 8:39, Manual of Standards for Licensure of Long-Term Care Facilities and N.J.A.C. 8:43A, Manual of Standards for Licensure of Ambulatory Care Facilities.) An editorial change was made in the definition through the substitution of "or" for "and" for clarification.

Two commentators requested clarification of the term "discharge summary." They questioned the practicality of the requirement for a discharge summary by each support service. The commentators regarded this requirement as being "duplicative" and "time consuming" since the information could be included by the nurse and/or physician in his or her summary. The rule, as written, does not prohibit the facility from preparing comprehensive medical and nursing summaries.

In response to a commentator's request, the Department corrected the definition of "epidemic." One respondent questioned the use of the word "directly" in the definition of the term "monitor" in N.J.A.C. 8:43B-8.1 and stated that it creates ambiguity in the definition. The Department did not rewrite the definition because it believes that the term "directly" enhances the clarity of the definition. Clarification was also requested concerning the definition of "obstetric patient" as given in N.J.A.C. 8:43B-8.1. With regard to the obstetric-gynecological mixing program, the Department believes that further classification beyond that described in the definition of "obstetric patient" is the prerogative of the facility. It should be noted that neither the existing rule, N.J.A.C. 8:35, nor the proposed rules prohibit the mixing of obstetric and nonobstetric patients (see N.J.A.C. 8:43B-8.32). A technical change was made in the definition of "obstetric patient" through deletion of the phrase which characterizes a patient delivering a fetus weighing less than 500 grams as a nonobstetric patient, since the number of weeks of gestation may be used as determining factor.

Two commentators questioned the definition of "public health nurse," declaring that hospitals are not able to police public health agencies in order to discern whether all registered professional nurses utilized by such agencies are baccalaureate-prepared. The Department contends that the hospital is responsible only for its own employees. However, the Department maintains that a hospital does have a responsibility to ensure that personnel (including those employed on a contractual basis) have appropriate credentials.

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One commentor suggested revising the definition of signature so as to allow those signing a patient's medical record to use their initials. The Department contends that, since many people write in the medical record, the use of initials would cause confusion and make it difficult to tell whether the appropriate personnel have signed the patient medical record, as required. If a suitable system for the use of initials were devised, however, a waiver could be granted to the facility.

The Department received two comments concerning the definitions of "staff education plan" and "staff orientation plan." One commentor protested that the proposed definitions "are overly restrictive, and will require the hiring of additional personnel." The Department disagrees with the commentor and took no action on the basis of the comment. However, in response to a comment that "orientation prior to employment is unrealistic since employees are normally paid for orientation," the Department revised the definition of "staff orientation plan" so as to delete the requirement that orientation for new employees be provided prior to or within one week of employment. If an orientation period is provided to employees by the facility, then, in the Department's view, the intent of the regulation is fulfilled.

Three comments were received requesting clarification of the term "physically separate" in the proposed rule, N.J.A.C. 8:43B-8.2(b). As mentioned above, all rules pertaining to physical plant were deleted from the proposed subchapter and, therefore, no clarification was provided. Two commentors inquired whether the proposed rule "authorized mixed obstetric and gynecological units." The proposed rules do not preclude mixed obstetric and gynecological units (see the proposed rule, N.J.A.C. 8:43B-8.32).

An editorial change was made in the proposed rule, N.J.A.C. 8:43B-8.3(a), for the sake of clarity, in response to questions concerning the policy and procedure manual. The Department maintains that the rewritten rule allows the facility managerial flexibility in establishing the facility's policy and procedure manual. The proposed rule, N.J.A.C. 8:43B-8.3(a)1, was rewritten in response to a request for clarification. The term "priorities" was deleted, and the rewritten rule requires the facility to establish admission criteria, rather than admission priorities.

Commentors objected to N.J.A.C. 8:43B-8.3(a)4 and called for its deletion. The commentors charged that the rule is overly prescriptive and inappropriately interferes with the internal management of individual hospitals. One commentor suggested that use of the term "procedure" is not a correct choice of words. Another indicated that imposition of such regulations is not an effective means of encouraging committee participation, and that hospital by-laws and administrative structure are more appropriate and sufficient for the purpose of stimulating committee attendance. The proposed rule, in the Department's view, does not preclude use of by-laws and administrative structure to promote participation. Furthermore, the Department contends that the rule is not excessively prescriptive since it does not mandate participation on committees or specify the content of the procedure. A procedure might include allocation of time for staff to attend meetings or posting schedules of meetings. Therefore, no revisions were made.

The Department received a request to delete the proposed rule, N.J.A.C. 8:43B-8.3(a)5, concerning provisions for services to adolescent parents. The Department maintains that adolescent parenthood is a significant public health problem. Adolescents often exhibit group-specific problems with regard to parenting. Referral for services may prevent potential cases

of child abuse and other parenting problems. For the above reasons, the Department did not change the proposed rule.

An editorial change for the sake of clarity was made in N.J.A.C. 8:43B-8.3(a)6 through the addition of the word "taking." A number of comments were submitted regarding N.J.A.C. 8:43B-8.3(a)8, which requires the facility to develop a plan for staff orientation and education for the management and care of patients. Comments focused on the degree of specificity and prescriptiveness. The respondents claimed that the proposed rule is unnecessary and impractical and that the contents of such plans must necessarily reflect patient mix and acuity levels, which will vary from facility to facility. The Department maintains that there is a need for orientation and on-going education which promote the well-being of patients. However, N.J.A.C. 8:43B-8.3(a)8i was deleted and vi was rewritten, in recognition of the problems in regulating attitudes toward care and of the impracticality of the latter rule in situations in which immediate emergency treatment is required. The rewritten rule outlines the general content to be included in the staff orientation and education plan and allows individual facilities to determine the specific content based on the needs of their patients and staff.

As a result of suggestions and recommendations, the proposed rule, N.J.A.C. 8:43B-8.3(a)9 was rewritten and N.J.A.C. 8:43B-8.3(a)9i through N.J.A.C. 8:43B-8.3(a)10v were deleted. N.J.A.C. 8:43B-8.3(a)9 was rewritten as requested so as to allow the facility to outline the contents of prenatal classes, counseling, and education, if the facility provides such services. Patient care will not be jeopardized by this reduction in specificity because the Department added a phrase requiring that the services be in accordance with the guidelines of the AAP/ACOG. A footnote was also added to the rule indicating where copies of the guidelines may be obtained.

Some respondents recommended deletion of N.J.A.C. 8:43B-8.4, concerning patient rights. Though commentors were unanimous in their belief in the need for patient rights, no respondent thought it necessary to include them in the licensure regulations. The proposed rule was not deleted or rewritten since N.J.A.C. 8:43B does not address patient rights. The Department contends that the proposed rules will foster patient health and safety. The Department responds to a question regarding "Baby Doe" principles by stating that the proposed rules were not intended to address the "Baby Doe" situation specifically. The rules do not mandate the specific policies and procedures related to the "Baby Doe" situation. The facility would have to establish appropriate policies and procedures based upon the outcomes of the legislative process and court proceedings.

Editorial changes were made in the proposed rule, N.J.A.C. 8:43B-8.5, in order to correct the titles of the logbooks. Based upon a comment received in reference to the proposed rule (see below), N.J.A.C. 8:43B-8.16(a)8, a footnote was added to N.J.A.C. 8:43B-8.5, for the convenience of providers, indicating where the logbooks may be obtained. The Department often receives telephone calls requesting this information. The proposed rule was also expanded so as to allow the facility the flexibility of using either the logbooks or their equivalent for providing information to the Department.

Three comments were received in response to the proposed rules, N.J.A.C. 8:43B-8.6 and 8.7 stating that the proposed regulations are duplicative of existing hospital infection control procedures. N.J.A.C. 8:43B does not contain a subchapter on infection control. The Department has indicated that the infection control rules of a general nature contained in the

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proposed rules, N.J.A.C. 8:43B-8.6 and 8.7, will eventually be incorporated into a new subchapter of N.J.A.C. 8:43B when revision has been completed. The Department does not agree with a comment that the proposed rule, N.J.A.C. 8:43B-8.7(a)1, is a means of regulating the hospital communication system. The Department is not regulating the hospital communication system since the mechanism for reporting is not mandated. The rule, as proposed, allows maximum flexibility in the administration of services while providing patient protection.

A technical change was made as requested in the proposed rule, N.J.A.C. 8:43B-8.7(a)5. The term "epidemics" and the phrase "infections due to pathogens" were deleted in order to avoid redundancy.

As a result of recommendations received, the proposed rules, N.J.A.C. 8:43B-8.7(a)10 and 11, were rewritten in such a way that the rules regarding infection control are in conformance with the guidelines established by AAP/ACOG. The term "segregation" was also added, as requested, to N.J.A.C. 8:43B-8.7(a)10 for the purpose of clarification. The revised rule allows the facility to use the technique of segregation in accordance with the facility's policies and procedures and the AAP/ACOG guidelines.

The Department received two comments concerning the proposed rule N.J.A.C. 8:43B-8.7(a)10v, recommending that the phrase "excepting fever due to pyelonephritis" be deleted and replaced with the phrase "with cause." The phrase was deleted, as requested, but the recommended phrase was not added. The Department maintains that each instance of elevated fever is the result of a causal process. In the absence of evidence to the contrary, each case of elevated temperature should be a suspected case of infection.

A number of comments were received concerning N.J.A.C. 8:43B-8.7(a)11. One commentator requested clarification of the term "isolation." The Department asserts that N.J.A.C. 8:43B-8.7(a)10 allows the facility to establish the method of isolation through its policies and procedures in accordance with AAP/ACOG guidelines. Specific requirements for managing patients with infectious disease are dependent upon the isolation category and the disease.

The proposed rules, N.J.A.C. 8:43B-8.7(a)11ii and iv, were deleted since they are duplicative of N.J.A.C. 8:43B-8.7(a)10iii and iv. The requested linguistic changes with respect to N.J.A.C. 8:43B-8.7(a)11iv were not made since the proposed rule was deleted. The rules, as revised, do not preclude the use of segregation. An editorial change was made in N.J.A.C. 8:43B-8.7(a)11v for the purpose of clarification. The terms "room" and "area" have been omitted. The rewritten rule allows the mother and newborn to be isolated together or separately. The need for the proposed rule, N.J.A.C. 8:43B-8.7(a)11vi, was questioned. The rule is intended to ensure that specific nursing personnel are designated as being responsible for patients in isolation.

One commentator thought it was unusual to require a policy regarding transportation of patients in the facility as required by the proposed rule, N.J.A.C. 8:43B-8.7(a)13. The Department regards the rule as being conducive to patient safety because patients may need to be transported from the obstetric-newborn service to the radiological service or the laboratory service. The proposed rule, N.J.A.C. 8:43B-8.7(a)14, was rewritten in response to a comment regarding the proposed rule, N.J.A.C. 8:43B-8.34(a)5. The commentator indicated that the two proposed rules were inconsistent and needed clarification. The proposed rule, N.J.A.C. 8:43B-8.34(a)5, was deleted and incorporated into N.J.A.C. 8:43B-

8.7(a)14, allowing the facility to establish its own policies and procedures.

One commentator noted that considerable difficulties would be experienced in complying with the proposed rule, N.J.A.C. 8:43B-8.7(a)22, which requires accountability for the disposal of used needles and syringes. The Department maintains that a system of accountability is necessary, and its implementation should not result in a significant hardship for facilities, since this requirement is already in effect for hospitals. An editorial change was made in the proposed rule so as to render it consistent with the existing regulations, N.J.A.C. 8:43B-10.4(a)26.

One commentator, with regard to N.J.A.C. 8:43B-8.8, questioned the Department's authority to require the governing authority to designate an administrator. The Department maintains that the authority to promulgate the regulation is derived from Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto. Another commentator questioned the qualifications for the administrator. The Department maintains that the rule allows flexibility since specific requirements or qualifications are not mandated.

Commentors regarded the proposed rule, N.J.A.C. 8:43B-8.9(a), relating to the physician-director's responsibilities, as being tantamount to a job description. The respondents noted that the responsibility of a department chairman is set forth in the hospital bylaws. Consequently, a statement regarding the hospital bylaws was added to the proposed rule, N.J.A.C. 8:43B-8.9(a). Commentors further questioned the appropriateness of the requirement pertaining to evaluation criteria, peer review, and audit in the proposed rule, N.J.A.C. 8:43B-8.9(a)4, as well as the participation of the physician-director in fiscal planning, as specified in N.J.A.C. 8:43B-8.9(a)5. The Department maintains that the rules are not intended to constitute a job description. The rules allow for the physician-director's duties to be described by the facility in its bylaws. The Department maintains that peer review and fiscal planning are legitimate areas for inclusion in licensure regulations as they bear directly upon patient well-being; specification of the physician-director's participation in these functions, however, is the responsibility of the facility. The requirement for reporting to the Department the occurrence of mortality and morbidity in the obstetric and newborn service was deleted from the proposed rule, N.J.A.C. 8:43B-8.9(a)6.

The Department did not accept requests for the revision of the proposed rules, N.J.A.C. 8:43B-8.10(a) and 8.11, and for the deletion of the proposed rules, N.J.A.C. 8:43B-8.10(a)1 through 13, regarding the responsibilities of the nursing supervisor and charge nurse. Questions were raised concerning specific types of nursing administration within facilities, such as decentralization, and the specifications in the proposed rule which were claimed to represent a job description and an intrusion upon the internal management of the facility. The proposed rules were not rewritten. The Department contends that the appointment of a person to fulfill these functions does not preclude decentralization but, rather, is necessary to ensure adequate organization of the nursing service. The person performing the functions may be given any title chosen by the facility. The proposed rules do not preclude the facilities from adopting primary nursing or modular nursing practices. The rules are intended to identify areas of functioning of nursing personnel rather than to specify job descriptions, which, in fact, are specified by the facility. The Department acknowledges the fact that particular facilities may have specific concerns regarding staffing requirements which may be

addressed through the waiver process. A request to change proposed rule, N.J.A.C. 8:43B-8.10(a)7, regarding the initiation of nursing care plans, was not granted. The proposed rule is consistent with the policies of the New Jersey State Board of Nursing and is similar to rules pertaining to other types of health care facilities (see N.J.A.C. 8:39-8.2(a)9).

The proposed rules, N.J.A.C. 8:43B-8.11(a)4 and 5, regarding the involvement of the charge nurse in staff orientation and educational programs for nursing services, were regarded as interfering with the internal management of the nursing department and as being "a financial burden." The Department contends that the rule are in keeping with the registered professional nurse's professional training and scope of practice. Moreover, these responsibilities are currently included in the charge nurse's role and, thus, will not lead to an increase in costs.

The Department did not comply with a request to delete the proposed rule, N.J.A.C. 8:43B-8.12(a), which was considered to be an interpretation of the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq. The Department maintains that the rule does not unreasonably interpret the Nurse Practice Act. The intent of the rule, N.J.A.C. 8:43B-8.12, is to outline broad areas of nursing responsibility.

Commentors misinterpreted the proposed rules, N.J.A.C. 8:43B-8.12(a)2, 5, and 6, concerning the assessment of each patient and the functions of licensed practical nurses. The Department holds that the first rule is intended to limit the initial assessments to registered professional nurses, in conformity with New Jersey State Board of Nursing policy. The functions described in the proposed rule, N.J.A.C. 8:43B-8.12(a)5, are to be performed by registered professional nurses as determined by the New Jersey State Board of Nursing; however, as the rule states, the licensed practical nurse may reinforce the functions. N.J.A.C. 8:43B-8.12(a)6, as written, does not prevent licensed practical nurses from being involved in the development of nursing care plans.

One commentor requested a definition of the term "substitute nursing personnel," which appears in the proposed rule, N.J.A.C. 8:43B-8.13. The rule allows the facility to develop its own method for providing back-up, or "substitute," personnel to act during the absence of assigned personnel. A reference to a physical plant term was deleted from the proposed rule, N.J.A.C. 8:43B-8.13.

A question, based upon a misinterpretation, was asked regarding the proposed rule, N.J.A.C. 8:43B-8.14(a). The question concerns the amount of time which a social worker must devote to the obstetric-newborn services. The Department maintains that the rule does not specify a time requirement for the social worker.

Some commentors did not object to the requirement for the availability of a dietitian and a social worker, as specified in the proposed rule, N.J.A.C. 8:43B-8.14, but did request the deletion of the responsibilities listed in the proposed rule. Commentors further questioned the enforceability or surveyability of the proposed rules, N.J.A.C. 8:43B-8.14(a)1 through 6. The proposed rules were not rewritten. The Department maintains that the availability of a social worker and a dietitian is necessary for patient health and safety. The proposed rules allow the facility to determine the manner in which these specialized services are to be provided. The Department further maintains that the proposed rules are surveyable and enforceable. One commentor objected to the proposed rule, N.J.A.C. 8:43B-8.14(a)1, insofar as it appeared to require the dissemination of the social work procedure manual to individual nursing units. The comment is

based upon a misinterpretation of the proposed rule. The rule, as written, does not specify the location of the social work procedure manual.

Commentors objected to the specification in the proposed rule, N.J.A.C. 8:43B-8.15, of time limits within which personnel must be able to arrive in the facility. In particular, one commentor claimed that the 30-minute arrival time requirement for laboratory, blood bank, and radiological service personnel, as stated in the proposed rule, N.J.A.C. 8:43B-8.15(a)2, is arbitrary, unenforceable, and unmeasurable. The time requirements were not changed. The Department contends that, in addition to being reasonable and necessary for patient safety, the arrival time requirements are measurable by virtue of their specificity.

The Department received comments regarding the distinction between internal and external fetal monitoring. The distinction was the basis for the suggestion that the proposed rule, N.J.A.C. 8:43B-8.15(a)3, not require a physician's order for the use of fetal monitoring equipment. The Department agreed to rewrite the rule so that fetal monitoring may be used in accordance with the facility's policies and procedures.

Nine commentors remarked that the proposed rule, N.J.A.C. 8:43B-8.15(a)4, is not sufficiently stringent insofar as it requires cesarean section capability within one hour of decision. In conformance with a majority of the recommendations, the specified time was reduced to 30 minutes in the interest of patient safety.

The Department accepted two recommendations to delete the term "respiration" from the proposed rule, N.J.A.C. 8:43B-8.15(a)6. Deletion of the term augments the scope of the rule in such a way as to enhance its effectiveness. In addition, an editorial change was made replacing the word "equipment" with "facilities." In contrast, the Department did not accept recommendations to delete the proposed rule, N.J.A.C. 8:43B-8.15(a)7, since the rule is based upon the AAP/ACOG guidelines and is currently followed by facilities in New Jersey.

One commentor noted that "home health services should be required as directed by the needs of the individual institution and its patients." The proposed rule, N.J.A.C. 8:43B-8.15(a)8, was not revised because the rule, as proposed, is consistent with the commentor's statement.

A number of respondents questioned the need for, and the feasibility of, the requirement that a social worker be assigned at least one-quarter time to the obstetric service. The Department concluded that it is sufficient for patient well-being that social work services be provided, and the proposed rule, N.J.A.C. 8:43B-8.15(a)9, was revised so as to allow the facility to assign the social worker on the basis of patient need.

One commentor objected to the reference to a particular set of criteria for the identification of high risk patients in the proposed rule, N.J.A.C. 8:43B-8.16(a)1. Since the form cited in the rule is offered simply as a model of acceptable criteria, the rule was not revised. The Department reaffirms, for the sake of clarity, that the facility may establish its own criteria for the identification of high risk patients.

It was suggested that N.J.A.C. 8:43B-8.16(a)2, which requires that a current roster of physicians be kept in each nursing unit, be revised so as to allow more flexibility. The rule was not rewritten. The Department maintains that the roster should be kept in the nursing unit to facilitate physician availability in routine and emergency situations.

Based on a comment, the proposed rule, N.J.A.C. 8:43B-8.16(a)4, was clarified by adding the words "if offered" regarding birthing alternatives.

One commentor objected to the specification in the proposed rule, N.J.A.C. 8:43B-8.16(a)8, of the source of the logbooks to be maintained. The rule was deleted since it is duplicative of the revision of N.J.A.C. 8:43B-8.5, which specifies the source of logbooks in a footnote. The address is included because most facilities do utilize these particular logbooks and the Department receives inquiries regarding its availability. However, these specific logbooks are not required in the revised rules.

A new rule was added to this section which requires policies and procedures for reporting to the Department all congenital defects, in accordance with N.J.S.A. 26:8-40.20 et seq. This new rule complements the identically phrased proposed rule, N.J.A.C. 8:43B-8.24(a)17, by applying to situations in which the newborn service is not involved.

Comments were received with respect to N.J.A.C. 8:43B-8.16(a)10 in general and to its subparagraphs in particular. Recommendations to delete the subparagraphs in their entirety were not accepted. These rules, which conform to AAP/ACOG guidelines, designate broad areas for which policies and procedures for the care of patients during labor and delivery are required and contain minimal staffing standards. The Department maintains that these staffing requirements are necessary and are not excessive. The term "Maternity Service Records" was deleted from N.J.A.C. 8:43B-8.16(a)10i since N.J.A.C. 8:43B-8.16(a)8 was deleted (see above). The rule does not require documentation in the patient's medical record. Three respondents objected to the provision in N.J.A.C. 8:43B-8.16(a)10ii which limits the extension of the term "available," in the case to which the rule is pertinent. One of the objections, however, appears to have been based on a misinterpretation of the rule. The rule was not rewritten. The Department contends that the physician in the operating room cannot leave the patient in order to attend to another patient to whom an oxytocic agent has been administered. Tocolytic agents were added to N.J.A.C. 8:43B-8.16(a)10ii and the rule was revised so as to accommodate this addition. In response to a recommendation, N.J.A.C. 8:43B-8.16(a)10iii was rewritten for the sake of clarity. The Department did not accept a recommendation to relocate the proposed rules, N.J.A.C. 8:43B-8.16(a)10iii and iv, since the suggested alteration is strictly editorial in nature. In recognition of the correctness of one comment, the Department revised the proposed rule, N.J.A.C. 8:43B-8.16(a)10vii, so as to allow a certified nurse-midwife to be present during delivery. One respondent questioned the provision in N.J.A.C. 8:43B-8.16(a)10vii which permits the assignment of a licensed nurse, rather than a registered professional nurse, to the delivery room. The Department maintains that the rule represents a minimum standard and that the facility may choose to assign a registered professional nurse to be present in the delivery room at the time of delivery. This rule and N.J.A.C. 8:43B-8.16(a)10iii were clarified through the use of the new term "labor-delivery-recovery area." With regard to the proposed rule, N.J.A.C. 8:43B-8.16(a)10viii, one respondent suggested that a provision for training in resuscitation procedures be added. Another commentor criticized the equation of the levels of competency of the physician and the registered professional nurse. The rule was not rewritten. The requirement for education is specified in the proposed rule, N.J.A.C. 8:43B-8.3(a)8. N.J.A.C. 8:43B-8.16(a)10viii is not intended to imply that a registered professional nurse and a physician have identical levels of competency but, rather, that both have professional technical skills and expertise, the use of which depends upon the facility's policies and procedures and upon

the respective practice acts. A recommended rewording of the rule, which the Department considers to be less specific and less measurable than the proposed rule, was not accepted.

The Department received comments claiming that it is improper for licensure regulations to treat the issue of parental contact with the newborn. The rule, N.J.A.C. 8:43B-8.16(a)11, was rewritten so as to maximize flexibility in policy development. The facility may establish a policy which affirms the primacy of the decision of the parents and the physician. The Department maintains that the sensitivity of the issue demands that policies and procedures be considered and established in anticipation of circumstances requiring their use.

Two respondents recommended the deletion of the proposed rules, N.J.A.C. 8:43B-8.16(a)12i through vi. The rules were not deleted. These rules specify areas which the facility is required to address in its policies and procedures. The Department considers these areas to be important for newborn health and safety. One commentor remarked that N.J.A.C. 8:43B-8.16(a)12iii is medically unnecessary and excessively restrictive. The rule was not rewritten. The rule is to be interpreted as permitting prophylaxis against ophthalmia to be performed elsewhere than in the delivery room provided that it is performed within one hour of delivery.

Several commentors suggested that the proposed rules, N.J.A.C. 8:43B-8.16(a)13i and ii, be deleted. Since the Department maintains that these rules require the facility to develop specific policies and procedures regarding important aspects of newborn transport after delivery, the rules were not deleted. The Department agrees with a comment to the effect that many newborns do not need to be transported to the nursery in apparatus specified in the proposed rule, N.J.A.C. 8:43B-8.16(a)13i. The rule was rewritten accordingly.

It was claimed by one commentor that the proposed rule, N.J.A.C. 8:43B-8.16(a)14, improperly regulates hospital staffing policy. The rule, however, is intended to ensure that patients are adequately monitored and receive professional care following delivery. The facility is to determine how to staff so as to meet the requirement. The Department replaced the term "suite" with the term "area." Also, specification of a minimum observation period in the recovery area was deleted as recommended since the Department agrees that the specified period is not always required. Although two commentors stated that the licensed nurse is capable, under the supervision of a registered professional nurse, of performing the observation, the Department contends that only the registered professional nurse can perform the initial assessment of patients. The rule, however, does not prevent the licensed practical nurse from assisting the registered professional nurse.

The Department did not accept recommendations to delete the proposed rules, N.J.A.C. 8:43B-8.16(a)15i through vi. These rules delineate categories of policies and procedures. The specific content of the policies and procedures is to be determined by the facility. It was suggested that the phrase "within 24-72 hours of delivery" be deleted from N.J.A.C. 8:43B-8.16(a)15vi. The phrase was replaced by the phrase "less than 48 hours after delivery" since some patients in the early discharge program are discharged within 24 hours of delivery. The same respondent recommended that the rule require that a home visit be arranged rather than provided. The Department agrees, and the rule was rewritten as requested. Arrangement of a home visit fulfills the objective of the proposed rule.

It is apparent from the many comments received regarding the proposed rule, N.J.A.C. 8:43B-8.16(a)16, that the inclusion of the phrase "before discharge" in the rule was a source of confusion. The phrase was deleted for the purpose of clarification.

The Department did not accept recommendations to delete the proposed rules, N.J.A.C. 8:43B-8.16(a)17i and ii. The Department maintains that these rules pertain to matters which affect patient well-being and continuity of care and, therefore, should be addressed in the facility's policies and procedures. Two commentors indicated possible problems of implementation and verification with regard to the proposed rule, N.J.A.C. 8:43B-8.16(a)17i. Nevertheless, the Department affirms the importance of the early detection of potential parenting difficulties for the prevention of child abuse and other parenting problems.

Two respondents suggested that the proposed rule, N.J.A.C. 8:43B-8.16(a)18, be relocated for the sake of order. The rule was relocated as a result of these comments. Another commentor objected that the proposed rule is excessively prescriptive. The rule, as revised, concerns the referral for, rather than the provision of, information on family planning and pregnancy alternatives upon request.

Several commentors stated that a regulation which discriminates between adolescents and other segments of the patient population with respect to counseling and education is improper. Other commentors suggested the deletion of subparagraphs N.J.A.C. 8:43B-8.16(a)19i through iii only. The rules were not deleted. Adolescents represent an identified high-risk group with special needs. A sharp rise in adolescent pregnancies has been well-documented. The Department maintains that this population requires special supportive services intended to reduce subsequent problems of mothers and infants and that the areas addressed in the rules are valid areas for inclusion in requirements regarding the provision of basic services to adolescent parents. On the basis of comments received, the words "and education" were deleted from proposed rule 8:43B-8.16(a)19. On the basis of one comment received, the proposed rule, N.J.A.C. 8:43B-8.16(a)19iii, was qualified by the addition of the clause "if needed."

Two commentors considered the proposed rule, N.J.A.C. 8:43B-8.17, regarding medical records, to be duplicative, burdensome, and unnecessary. The Department did not delete the rule. As mentioned above, N.J.A.C. 8:43B, specifically N.J.A.C. 8:43B-7, is currently under revision. (See 16 N.J.R. 1433(a) and 16 N.J.R. 2284(b).) When the revision is completed, the general medical record requirements will be deleted from N.J.A.C. 8:43B-8.17 and incorporated into N.J.A.C. 8:43B-7, the subchapter on medical records of the Manual of Standards for Hospital Facilities. An editorial change was made in the proposed rule, N.J.A.C. 8:43B-17(a), replacing "Section" with "Subchapter," which is the correct term.

A number of commentors voiced their disapproval of the proposed rules, N.J.A.C. 8:43B-17(b)5i through vi, regarding reports of laboratory, radiological, and other tests, and recommended their deletion. The respondents charged that the rules excessively regulate the practice of medicine. One commentor asserted that promulgating additional regulations which encourage more diagnostic testing is not prudent fiscal policy, particularly in these cost conscious times. Another respondent questioned the absence of time frames for submission of reports of radiological and other tests performed prior to admission. In response to the above comments, the Department has rewritten, but has not deleted, the proposed rules. The Department maintains that these tests are necessary to

ensure the adequate monitoring of pregnancy for a safe outcome, based upon AAP/ACOG guidelines. Such tests are especially important if not performed prior to admission. The time frame is determined by facility policy. The rewritten rules, N.J.A.C. 8:43B-5 and 6, differentiate between tests to be performed upon admission and tests to be performed in the event that they were not performed previously during pregnancy. One commentor questioned the use of the term "high risk" in the proposed rule, N.J.A.C. 8:43B-8.17(b)5i, to designate patients on whom sickle cell preparation tests should be performed. The Department responded by rewriting the rule so as to read "at risk" instead of "high risk." The Department contends that it is the facility's responsibility to determine which patients are "at risk" and in need of sickle cell testing. Commentors challenged the technical validity of the proposed rules, N.J.A.C. 8:43B-8.17(b)5v and vi, regarding rubella titers, blood groups and Rh determination. The proposed rules, N.J.A.C. 8:43B-8.17(b)5v and vi, were rewritten based upon the comments and recommendations received concerning the technical viability of the rules. The rewritten rules require rubella antibody titer if immunity has not been determined and a record of blood type and past titers and documentation of past Rho (D) immune globulin (human) administration.

The proposed rules, N.J.A.C. 8:43B-8.17(b)6i through x, were rewritten on the basis of several comments which indicated objections to the level of specificity in the proposed rules. The rewritten rules are in accordance with AAP/ACOG guidelines. A commentor remarked that the actual entries to be made by professionals into a medical record should be determined by hospital policies and procedures or by the individual patient situation, rather than by the Department. The Department maintains that the rules represent minimal requirements essential to patient health and safety. The rules, as rewritten, certainly do not prevent a hospital from establishing additional policies and procedures or specific policies and procedures based upon individual patient situations.

With regard to the proposed rule, N.J.A.C. 8:43B-8.17(b)10, one respondent questioned the advisability of a hospital's endorsement of signed informed consents. The Department asserts that informed consent is currently required by N.J.A.C. 8:43B-7.1(c)1. Specific aspects regarding implementation are to be determined by the facility in its policies and procedures.

The proposed rule, N.J.A.C. 8:43B-8.17(b)12iii, was rewritten on the basis of a commentor's claim that it is unreasonable. Patient care and safety will not be jeopardized because the revised rule requires documentation of the patient evaluation after the patient's recovery from anesthesia.

Two commentors recommended deletion of the proposed rule, N.J.A.C. 8:43B-8.17(b)13, concerning reports of accidents and incidents, on the grounds that these reports are currently made in accordance with hospital policy. The rule was rewritten so as to allow the facility to determine the method of recording information.

A commentor criticized the proposed rule, N.J.A.C. 8:43B-8.17(b)18, for seeming to indicate that only licensed nurses could administer medications when, in fact, the anesthesiologist and/or surgeon may administer medications as well. The Department rewrote the rule by adding the term "M.D."

The proposed rule, N.J.A.C. 8:43B-8.17(b)20, was not rewritten as requested. The facility determines the form of the discharge summary in accordance with N.J.S.A. 26:8-5 et. seq. An editorial change was made in the proposed rule, N.J.A.C. 8:43B-8.17(c), for the sake of clarity.

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Commentors requested the deletion of the proposed rules, N.J.A.C. 8:43B-8.18 and 8.19, because they "are part of general facilities standards." The proposed rules, N.J.A.C. 8:43B-8.18 and 8.19, concern transfer of medical records and storage and retrieval of medical records respectively. The proposed rules were not deleted. When N.J.A.C. 8:43B-7, the subchapter regarding medical records of the Manual of Standards for Hospital Facilities, is revised, the general medical record requirements of N.J.A.C. 8:43B-8 will be incorporated, as stated above.

A comment was received to the effect that the proposed rule, N.J.A.C. 8:43B-8.20, is duplicative of general surgical policies and procedures. N.J.A.C. 8:43B does not contain a subchapter devoted specifically to surgical services. All general surgical rules will be incorporated into a single specialized subchapter of N.J.A.C. 8:43B when such a subchapter is written. In response to a comment, the Department indicated that N.J.A.C. 8:43B-8.20(a)10 is not duplicative since the information required by this rule is entered into the surgical register. N.J.A.C. 8:43B-8.17(b), in contrast, concerns information to be entered into the individual patient's medical record.

Respondents questioned the need for a pediatrician to be present in the delivery room whenever a high risk delivery is being performed, as required by the proposed rule, N.J.A.C. 8:43B-8.20(c). Commentors stated that the rule is impractical, excessive, not in accordance with standard practice, and potentially costly for hospitals. The proposed rule was not rewritten. In the case of a high risk delivery, the Department maintains that the presence of a pediatrician is important for the safety of the mother and newborn. The facility determines which patients are "high risk" through its definition of "high risk." The proposed rule, therefore, is not unduly restrictive.

Commentors recommended the deletion of the proposed rule, N.J.A.C. 8:43B-8.20(d), which requires that a physician-director be available to the obstetric surgical service. Commentors challenged the time frame specified by the Department and considered the rule as being an inappropriate interference with the practice of medicine. The Department maintains that the deletion of the time requirement would render the rule unmeasurable. Moreover, the Department maintains that the requirement for the availability of the physician-director is reasonable and necessary to ensure patient safety, and does not impinge inappropriately on the physician's patient care responsibilities.

A respondent commented unfavorably upon the proposed rule, N.J.A.C. 8:43B-8.20(e), because it appeared to constitute a job description for physicians. Another commentor indicated that a registered professional nurse should be responsible for authorizing the transfer of patients from the recovery room. The Department views the proposed rule not as a job description, but, rather, as a minimal measure for ensuring accountability in the interest of patient safety. Also, the proposed rule does not prohibit a registered professional nurse from discharging a patient from the recovery room in accordance with the facility's policies and procedures and with the relevant practice acts.

A commentor requested deletion of the proposed rule, N.J.A.C. 8:43B-8.21, for reasons stated in reference to the proposed rules, N.J.A.C. 8:43B-8.8, 8.9, 8.10, and 8.15. The aforementioned rules were not deleted, and, for similar reasons, the proposed rule, N.J.A.C. 8:43B-8.21, was not deleted.

The majority of comments received by the Department in regard to the proposed rule, N.J.A.C. 8:43B-8.22, are indica-

tive of an apparent desire for rules which address the three levels of obstetric and newborn care that may be rendered by hospitals in response to patient need. Many respondents felt that there should be more stringent staffing requirements than are found in the proposed rules, N.J.A.C. 8:43B-8.22(a)1 through 6. Some commentors, on the other hand, recommended that these rules be deleted in their entirety. In a few cases, commentors stated that the proposed rules would add to the costs of providing care. The Department emphasizes the fact that the proposed rules apply to Level I obstetric and newborn services and, consequently, prescribe minimum levels of staffing. The Department maintains and reaffirms that the specified minimum levels of staffing are in conformance with N.J.A.C. 8:33C. An editorial change was made in the proposed rule, N.J.A.C. 8:43B-8.22(a), so as to clarify the minimal nature of the specified staffing patterns. The Department acknowledges the fact that staffing should be based upon the acuity of patient care needed; however, no generally accepted methodology has emerged to date. The proposed rules do not prevent hospitals from augmenting the specified staffing requirements in accordance with the acuity of patient care needed. Since these staffing ratios are, in the Department's view, neither excessive nor unusual, their financial impact is not expected to be significant.

Linguistic changes were made in the proposed rule, N.J.A.C. 8:43B-8.22(a)4, so as to render the rule consistent with N.J.A.C. 8:43B-8.16(a)10iii. Similarly, the proposed rule, N.J.A.C. 8:43B-8.22(a)5, was clarified so as to be consistent with the existing professional nurse to act as a circulating nurse for cesarean deliveries. The proposed rule, N.J.A.C. 8:43B-8.22(a)5, which provides a formula for determining the minimum number of licensed nursing personnel to be assigned to the labor, delivery, and recovery rooms, was not deleted as requested by a commentor. Staffing patterns currently being implemented by facilities are based upon this formula, and the Department is not aware of any problems.

The Department received a comment, in regard to the proposed rule for newborn services, N.J.A.C. 8:43B-8.23, which addressed the omission of specified staffing requirements for special and intensive care nurseries. The Department maintains that the proposed subchapter, N.J.A.C. 8:43B-8, includes provisions for staffing for Level I services only at this time.

Two commentors registered their concerns regarding the excessive degree of specificity exhibited by the proposed rule, N.J.A.C. 8:43B-8.23(a)1, which requires that facilities have the capability of immediate resuscitation of the newborn using specific equipment and methods. The Department did not rewrite the rule because it deems the full content of the rule to be a necessary means of ensuring the safety of newborns. One commentor sought clarification of the term "short-term ventilation." Rather than providing a definition, the Department suggests that the facility develop policies and procedures in consultation with the medical staff.

The Department added a rule to N.J.A.C. 8:43B-8.23 on the basis of a recommendation that the rule requires procedures and equipment for the identification of hyperbilirubinaemia in the interest of patient safety. The Department did not accept a recommendation to add a rule requiring the laboratory service to be capable of performing microanalyses. The Department assumes that a facility with laboratory services has the capability of performing microanalyses on micro blood samples. One commentor claimed that the proposed rule, N.J.A.C. 8:43B-8.24(a)1, regarding criteria for the identification of high risk patients, is duplicative of N.J.A.C.

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8:43B-8.16(a)1. The proposed rule, N.J.A.C. 8:43B-8.24(a)1, however, applies to the identification of high risk newborns, where as N.J.A.C. 8:43B-8.16(a)1 refers to the identification of high risk mothers; thus, they are not duplicative. An editorial change was made in the proposed rules, N.J.A.C. 8:43B-8.24(a)1 and N.J.A.C. 8:43B-8.24(a)12, so that the rules correctly refer to the AAP/ACOG guidelines.

It was suggested that the proposed rule, N.J.A.C. 8:43B-8.24(a)2, which requires that a current roster of physicians be kept in each nursing unit in the newborn service, be revised so as to allow more flexibility. It was also suggested that the rule is duplicative in nature. The rule was not rewritten. The Department maintains that the roster should be kept in the nursing unit to facilitate physician availability in routine and emergency situations.

Three commentors recommended the deletion of the proposed rule, N.J.A.C. 8:43B-8.24(a)4, on the grounds that it is duplicative of N.J.A.C. 8:43B-8.16(a) 12i through vi. The rule was deleted as requested. Two commentors proposed the deletion of the phrase "including care of the skin and umbilical cord" from the proposed rule, N.J.A.C. 8:43B-8.24(a)5. The rule was not rewritten. The proposed rule designates a broad area, and the facility maintains the flexibility to determine the specific contents of the policies and procedures.

The Department did not grant a request to delete the proposed rules, N.J.A.C. 8:43B-8.24(a)6i and ii. The Department asserts the need for rules to address newborn assessment, including the documentation and the professional staff required, in the interest of patient well-being and safety. Comments were also received to the effect that N.J.A.C. 8:43B-8.24(a)6i equates the competency of the registered professional nurse with that of the physician with respect to newborn assessment. The intent of the rule is not to equate nurse competency with physician competency. Both professionals, however, have the technical skills and expertise necessary for newborn assessment.

The Department accepted recommendations to revise the proposed rule, N.J.A.C. 8:43B-8.24(a)7, so as to require a physical examination of the newborn prior to discharge from the nursery. Another commentor stated that the frequency of performing a newborn physical examination should be determined by medical decision, rather than by the Department. The Department affirms the fact that many neonatal problems become manifest within 72 hours after birth. The rule establishes a minimum standard in the interest of health and safety. It does not prohibit a physician from increasing the frequency of newborn physical examination with respect to the specified minimum.

Comments were received in reference to the proposed rules, N.J.A.C. 8:43B-8.24(a)8i through v, regarding infant warming devices, resuscitation areas, growing nurseries, and isolation areas. The proposed rules, which are essentially physical plant regulations were deleted. Physical plant requirements will be contained in a separate subchapter of N.J.A.C. 8:43B, as discussed above.

The Department deleted the reference to commercial advertisement from the proposed rule, N.J.A.C. 8:43B-8.24(a)9, as recommended by seven commentors.

The proposed rule, N.J.A.C. 8:43B-8.24(a)11i, a physical plant requirement, was deleted. The Department received recommendations to delete the rules regarding the preparation and use of formula which were based upon the commentor's belief that the rules are superfluous and directed toward an outmoded practice. The Department maintains that the rules

are not restrictive since the facility is to determine where and under which circumstances special formulas may be prepared.

The prepared rule, N.J.A.C. 8:43B-8.24(a)13, was deleted since it is duplicative of the proposed rules, N.J.A.C. 8:43B-8.7(a)11i through vi. In the interest of safe patient care, recommendations to delete the proposed rules, N.J.A.C. 8:43B-8.24(a)14i through iv, were not accepted by the Department. The Department maintains that the rules are necessary in order to protect newborns and to prevent the spread of infection. Prevention and control of infection of newborns require a multifaceted approach, which includes careful attention to patient care techniques as well as control of the facility's environment.

The proposed rule, N.J.A.C. 8:43B-8.24(a)15, was rewritten as requested through the addition of the term "physician." The Department did not accept a recommendation to rewrite the proposed rule, N.J.A.C. 8:43B-8.24(a)15, in such a way as to include brainstem auditory testing as opposed to routine audiometric testing. The rule, as written, is consistent with the current state legislation, N.J.S.A. 26:2-101 et seq. The recommendation, however, was forwarded to the Maternal and Child Health Program of the Department for further review. The rule was revised so as to correctly identify the Special Child Health Services Program of the Department.

An editorial change was made in the proposed rule N.J.A.C. 8:43B-8.24(a)16, in deference to the intent of the existing statute, N.J.S.A. 26:2-110 through 112. The revised rule specifically refers to the three biochemical disorders, hypothyroidism, galactosemia, and phenylketonuria which are named in the statute. This rule is currently in effect and has not been a source of problems. Despite recommendations for change, the rule was not rewritten. (See 15 N.J.R. 311 (a) and 15 N.J.R. 923 (b).) A technical change was made in the proposed rule, N.J.A.C. 8:43B-8.24(a)17, as a result of the revision of N.J.S.A. 9:13-5 to N.J.S.A. 26:8-40.20.

The Department accepted recommendations to revise the proposed rule, N.J.A.C. 8:43B-8.24(a)18, regarding house-keeping. The rules were rewritten so as to allow greater flexibility by permitting the facilities to establish time frames for cleaning scales and equipment, mopping floors, washing walls and ceilings, and cleaning incubators and bassinets in the nursery. A physical plant requirement was deleted from the proposed rule, N.J.A.C. 8:43B-8.24(a)18iv.

In response to comments regarding the prescriptive nature of the proposed rule, N.J.A.C. 8:43B-8.24(a)19, the rule was revised. The rewritten rule allows greater flexibility in determining the amount of nursery linen to be retained by the facility and stored at each infant care station.

The proposed rule, N.J.A.C. 8:43B-8.25, a physical plant requirement, was deleted as noted above. The proposed rule, N.J.A.C. 8:43B-8.26, was renumbered accordingly.

Commentors questioned the proposed rule, N.J.A.C. 8:43B-8.26, regarding newborn medical records, for reasons similar to those stated in reference to the proposed rules, N.J.A.C. 8:43B-8.16 and N.J.A.C. 8:43B-8.17(b)6i through x. The proposed rule was not deleted. The rules which apply specifically to newborns will remain in this subchapter; general medical record requirements will be incorporated into N.J.A.C. 8:43B-7 when N.J.A.C. 8:43B-7 is revised. The Department maintains that documentation of the mother's course of labor provides information about the newborn status and that N.J.A.C. 8:43B-8.26(a)1 and 2 are essential for the provision of continuity of care to the newborn. (See the discussion of the comments received regarding N.J.A.C.

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8:43B-8.16 and N.J.A.C. 8:43B-8.17(b)6i through x.) Editorial changes were made in the proposed rule, N.J.A.C. 8:43B-8.26(a)2, so that the revised rule allows eye prophylaxis to be performed in a place other than the delivery room, as recommended by a commentator. In addition, an editorial change was made through substitution of the term "time" for the term "hour" in order to render the rule more technically accurate and to enhance its effectiveness. The proposed rule N.J.A.C. 8:43B-8.26(a)4, was misinterpreted by a commentator as implying that both the registered professional nurse and the physician have identical levels of competency, rather than that both have technical skills and expertise, as noted in the above discussion regarding the proposed rule, N.J.A.C. 8:43B-8.16(a)10viii.

Clarification of the content of the physical examination was requested by a commentator with respect to the proposed rule, N.J.A.C. 8:43B-8.26(a)7. The Department maintains that the rule does not specify the content of the physical examination but, rather, allows the facility to determine the content through the development of policies and procedures, as well as the location of the documentation in the medical record.

One commentator questioned the Department's authority to promulgate N.J.A.C. 8:43B-8.27, which requires that at least one pediatrician be available at all times in the facility, or by telephone and able to arrive in the facility within 30 minutes of being called. Another commentator stated that decisions concerning hospital staffing policies should be beyond the mandates of the regulation. Still another commentator considered the time frame for the availability of the pediatrician and the staffing ratios in N.J.A.C. 8:43B-8.28 to be "restrictive." The rules were not rewritten since the Department contends that its authority to promulgate regulations for minimum staffing is derived from Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto. The Department further contends that the staffing ratios are based upon AAP/ACOG guidelines as well as upon the planning guidelines contained in N.J.A.C. 8:33C. However, the rules do not prevent the hospital's board of trustees from going beyond the minimum staffing requirements, if it so wishes. Two commentators requested substitution of the phrase "physician with pediatric privileges" for the term "pediatrician" in N.J.A.C. 8:43B-8.27. The Department did not comply with the request since the definition of "pediatrician" in N.J.A.C. 8:43B-8.1 allows such a substitution in accordance with the policies established by the facility.

Numerous comments were received concerning the proposed rule, N.J.A.C. 8:43B-8.28(a), which delineates the responsibilities of the nursing supervisor of newborn services with respect to nursing staffing requirements. One commentator provided a list of nurse to patient staffing ratios and termed the proposed rules "too confusing" and an attempt to "dictate nursing and medical practice." Another commentator regarded the staffing requirements "impractical" and "costly" and as discrediting "the judgement of the Nursing Director to assess appropriate staffing needs." The same commentator inquired about the previous planning guidelines which mandated a 1:8 nurse to patient staffing ratio for the newborn nursery. Two commentators suggested that the rule be revised so as to eliminate specification of the staffing patterns delineated in the proposed rules, N.J.A.C. 8:43B-8.28(a)1 and 2. Two other commentators suggested that different levels of care be taken into account in the staffing ratios.

The Department contends that these rules do not represent an attempt to dictate nursing and medical practice. The rules are neither capricious nor arbitrary because they are derived

from AAP/ACOG guidelines and from N.J.A.C. 8:33C. The Department emphasizes the fact that the rules concern Level I staffing (see 16 N.J.R. 189). The proposed rule, N.J.A.C. 8:43B-8.28(a), was revised in order to clarify the fact that the specified staffing ratios are minimum ratios.

The applicability of the rules in relation to DRG reimbursement was questioned. The DRG reimbursement procedures do allow for staffing at the specified level.

It should be noted at this point that many of the comments submitted appear to be the result of a misunderstanding of the scope of the proposed rules on the part of the commentators. The staffing requirements contained in N.J.A.C. 8:43B-8 pertain to the provision of Level I services and, consequently, specify minimum levels of staffing. The fact that staffing for Level II and Level III services is not specifically addressed by N.J.A.C. 8:43B-8 does not prevent each facility from establishing staffing levels for Levels II and III services which properly exceed the minimum standards set forth in N.J.A.C. 8:43B-8. The rules do not preclude the realization of the recommendations of the respondents for higher levels of staffing as required by patient need.

A commentator stated that N.J.A.C. 8:43B-8.28(a)1 and 2 "did not provide for flexibility for physical layout and newborn acuity needs." The Department, in response, indicates that if the physical plant of the facility hinders adherence to the rules, then the facility may request a waiver from the Director of the Licensing Certification and Standards program of the Department.

The phrase "separate from the admission/observation area" was deleted from the proposed rule, N.J.A.C. 8:43B-8.28(a)2, since the spatial relation of the newborn nursery to the admission/observation area is a topic for physical plant regulations.

The Department did not accept a recommendation to change the proposed rules, N.J.A.C. 8:43B-8.28(a)1 through 3, by indicating that licensed nurses be "under the responsibility of a registered professional nurse." The rule requires the presence of at least one registered professional nurse for each shift for the admission/observation area and for the newborn nursery. The charge nurse who is a registered professional nurse is responsible for supervising all nursing personnel. The repeated allegation that the ratios do not take into consideration acuity of patient need is incorrect because the rules allow the facility the flexibility to increase the nurse to patient ratios in case of need.

One respondent misinterpreted the rules, N.J.A.C. 8:43B-8.28(a)2 and 3, as precluding the use of nursing assistants. The rules do not preclude the use of nursing assistants.

Two commentators recommended the addition of two new rules: one requiring the assignment of a licensed nurse to the isolation nursery when it is occupied by a newborn; the other relating to the staffing ratio with regard to high risk newborns. One commentator also pointed out the absence of a staffing ratio for birthing rooms in the proposed rules. The Department does not acknowledge the necessity of adding the suggested rules. The rule, N.J.A.C. 8:43B-8.28(a)2, regarding the nurse to newborn staffing ratio in the nursery, is applicable to the isolation nursery also. As the rules address only one level of care, the nurse to patient staffing ratio for high risk newborns is not specified. However, the rules do not prohibit the facility from exceeding the minimum staffing ratios required by the rules in order to meet the needs of patients. Since the birthing room functions alternately as a labor room and a delivery room, staffing requirements for labor and delivery rooms are applicable to the birthing room.

A number of respondents recommended that all or part of the proposed rule, N.J.A.C. 8:43B-8.29, be deleted. The reasons offered for these recommendations range from a perception of excessive restriction to opposition in principle to any attempt by the Department to regulate the ambience in a facility. One commentator stated that N.J.A.C. 8:43B-8.29(c) might impede the facility room from determining "who may be admitted to observe a delivery in the Birthing Room." The proposed rule, N.J.A.C. 8:43B-8.29, was deleted in its entirety since it would more properly constitute part of the subchapter devoted to physical plant regulations which is in the process of being proposed and adopted independently of Subchapter 8.

The Department received recommendations to delete the proposed rule, N.J.A.C. 8:43B-8.30. One commentator remarked that it is unnecessary that there be separate policies for the birthing room since, as a delivery area, the birthing room is subject to the rules which pertain to delivery areas in general. The Department contends that birthing rooms represent a departure from conventional labor and delivery rooms and thus require separate consideration. N.J.A.C. 8:43B-8.30 is intended to give direction to facilities regarding development of policies and procedures for this concept in obstetrical care. The rule was not deleted, although it was revised. A respondent stated that the rule should not "require statements of philosophies." The proposed rule, N.J.A.C. 8:43B-8.30(a)1, which was not deleted, requires a statement of the philosophy, goals, and objectives for the use of the birthing room but does not specify the content of this statement. The Department does not expect that the deletion of the rule regarding choice of position for delivery, N.J.A.C. 8:43B-8.30(a)4iii, as recommended, will adversely affect patient health or safety. One respondent questioned the need for a list of equipment and supplies to be maintained in the birthing room, as required by the proposed rule, N.J.A.C. 8:43B-8.30(a)5. Since birthing rooms differ from conventional delivery rooms, the rule was not deleted. The rule, however, was rewritten so as to allow the facility greater flexibility in the determination of the contents of the birthing room.

With regard to the proposed rules, N.J.A.C. 8:43B-8.30(a)9 and 10, the Department received recommendations which appear to have as an objective the simplification of the proposed rules. In fact, N.J.A.C. 8:43B-8.30(a)9 was rewritten in combination with N.J.A.C. 8:43B-8.30(a)8 in such a way that the recommended simplification was attained. The revised rule requires specification of conditions requiring the transfer of the mother and/or newborn to the postpartum unit, nursery, or other area. N.J.A.C. 8:43B-8.30(a)10, regarding discharge of the mother and newborn, was also simplified and renumbered. While one commentator noted that, in N.J.A.C. 8:43B-8.30(a)11i, specification of a "home visit" and omission of the term "physician" unduly restrict the rule, other commentators suggested the deletion of the rule. The Department agrees with the former commentator, and the rule was revised. The revised rule permits the mother and newborn to be seen by a physician and permits the required activity to take place in the patient's home, in the facility, or in the physician's private office. The Department maintains that the mother and newborn need to be seen by a public health nurse, a certified nurse-midwife, or a physician following discharge because of the importance of the first 36 hours following birth.

It was suggested that the proposed rule, N.J.A.C. 8:43B-8.30(a)15, be revised so as to address handwashing practices in addition to gowning and attire, since the commentator main-

tains that handwashing "is the more important means of preventing transmission of infection." Due to the fact that the subject of handwashing is addressed in the proposed rule, N.J.A.C. 8:43B-8.7(a)19, the rule was not revised in the manner requested.

The Department received comments that the proposed rule, N.J.A.C. 8:43B-8.31, regarding the designation of a coordinator of the birthing room program, is either unnecessary or impractical. The Department disagrees and emphasizes the fact that the coordinator may hold another position and perform other duties while serving as the coordinator of the birthing room program. Since a current member of the staff may be designated coordinator, the facility should incur no additional expense.

Commentors stated that the proposed rule, N.J.A.C. 8:43B-8.34(a)1i, is incapable of being followed or enforced. The rule is intended to ensure the establishment of a mechanism designed to prevent the exclusion of obstetric patients from the obstetric service. Review of documentation provides a means by which adherence to the rule can be monitored. The rule was not deleted. One respondent suggested the exclusion of urinary tract infection from the scope of the proposed rule, N.J.A.C. 8:43B-8.34(a)1iv. The Department maintains that the rule, as proposed, will promote the safety of patients through the reduction of nosocomial infection. The basis for the proposed rule, N.J.A.C. 8:43B-8.34(a)1v, was questioned. The Department maintains that patients suffering from substance abuse or misuse or mental illness usually require special care and treatment which cannot be provided in the obstetric service. The rule, however, does not prevent obstetric patients suffering from substance abuse or misuse or mental illness from being admitted to the obstetric service.

A commentator noted that it is reasonable to permit the isolation in the obstetric service of nonobstetric patients exhibiting signs of morbidity or infection because obstetric patients exhibiting similar signs and presenting similar risks are isolated in the obstetric service. The proposed rules, N.J.A.C. 8:43B-8.34(a)2i through iii, were not revised. Isolation of obstetric patients in the obstetric service offers the advantage of allowing the mother and the newborn to remain together in the same area. Nonobstetric patients who would require isolation if admitted to the obstetric service may not otherwise require isolation. Unnecessary isolation is accompanied by unnecessary cost and negative psychological effects. A suggested technical modification of the proposed rule, N.J.A.C. 8:43B-8.34(a)2ii, was not made since the suggested revision would not change the meaning of the rule. In response to comments questioning the restriction of patients with diagnosed malignancies, N.J.A.C. 8:43B-8.34(a)2iv was deleted. The Department maintains that the presence in the obstetric service of a patient with a diagnosed malignancy does not necessarily endanger the health of neighboring patients in a direct manner. The facility, however, may choose to restrict the admission and retention of nonobstetric patients with diagnosed malignancies, in accordance with its policies and procedures.

It was suggested by one respondent that the proposed rule, N.J.A.C. 8:43B-8.34(a)5, be clarified, since it appears to be in conflict with the proposed rule, N.J.A.C. 8:43B-8.7(a)14. The rule was deleted from N.J.A.C. 8:43B-8.34 and incorporated into the revision of N.J.A.C. 8:43B-8.7(a)14. The apparent inconsistency was eliminated by this measure.

With regard to the proposed rule, N.J.A.C. 8:43B-8.34(a)7, one commentator claimed that a requirement for two temperature readings per day would be adequate. The recommended

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revision was made in such a way that patient health and safety will not be jeopardized.

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

SUBCHAPTER 8. OBSTETRIC AND NEWBORN SERVICES

8:43B-8.1 Definitions and/or qualifications

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

“Adolescent” shall mean a person in the period of life extending from puberty through the teen years to the legal age of majority (18 in New Jersey).

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

“Anesthetist” shall mean an anesthesiologist, a certified registered nurse anesthetist, or a physician who has been granted privileges by the facility to administer anesthesia.

“Antepartum” shall mean the period of time extending from conception until the onset of labor.

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

“Bassinet” shall mean a crib used for a newborn.

“Care plan” shall mean a written plan documenting an assessment of the individual patient, goals, and care and treatment to be provided for each service the patient receives.

“Certified Nurse-Midwife” shall mean a person who is licensed to practice nurse-midwifery by the New Jersey Board of Medical Examiners.

“Certified Registered Nurse Anesthetist” (CRNA) shall mean a registered professional nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor, is certified as a nurse anesthetist by the Council on Certification of Nurse Anesthetists, and has training and experience in obstetric and neonatal anesthesiology and resuscitation as specified in the facility’s policy and procedure manual(s).

“Charge nurse” (head nurse) shall mean a registered professional nurse who has at least 12 months of full-time, or full-time equivalent, nursing experience in a health care facility and three months of full-time, or full-time equivalent, experience in an obstetric and newborn service.

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

“Clinical note” shall mean a written, signed, and dated notation by each member of the health care team who renders a service to the patient, including a description of signs and symptoms, treatments and/or medications given, the patient’s reaction, and any changes in physical or emotional condition. Clinical notes are written into the patient’s medical record the day service is rendered.

“Communicable” shall mean relating to a specific infectious agent or its toxic products and occurring through transmission of that agent or its products from a reservoir to a susceptible host.

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

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

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

“Dietitian” (dietary consultant) shall mean a person who:

1. Is registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association; or

2. Has a bachelor’s degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and has completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association; or has one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; ***[and]* *or***

3. Has a master’s degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; and

4. Participates annually in continuing dietary education.

“Discharge summary” shall mean a written summary prepared by each service rendering care to the patient, and including treatment provided and results, reason for discharge, preparation of the patient for discharge, and continuity of care.

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

“Epidemic” shall mean the occurrence or outbreak in the facility of one or more cases of an illness in excess of normal expectancy for that illness ***[, and derived from a common or propagated source]*.**

“Full-time” shall mean a time period established as a full working week by the facility, as defined in its policy and procedure manual.

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

“Health care facility” shall mean a facility so defined in Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

“Incubator” (isolette) shall mean an apparatus for maintaining a newborn infant in a controlled environment.

“Infant” shall mean a child in the first twelve months of life.

“Infant care station” shall mean the equipment designated for the exclusive use of the newborn to whom it is assigned, and shall include an individual bassinet or incubator and at least a supply of clothing, bed pads, sheets, blankets, diapers, and a thermometer.

“Intrapartum” shall mean the period of time extending from the onset of labor through the delivery of the placenta and membranes.

“Job description” shall mean a written list developed for each position in the facility, containing the qualifications, duties and responsibilities, and accountability required of personnel in that position.

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

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

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

“Monitor” shall mean to directly observe, watch, or check.

“Newborn” shall mean a liveborn infant during the first 27 days, 23 hours, and 59 minutes of life.

“Nosocomial infection” shall mean an infection acquired by a patient while in the facility.

“Nursing supervisor” shall mean a registered professional nurse who has at least 12 months of full-time, or full-time equivalent, experience in nursing and 12 months of full-time, or full-time equivalent, experience in administration in the obstetric service (for the obstetric nursing supervisor) or in the newborn service (for the newborn nursing supervisor).

“Obstetrician” shall mean a physician who is a member of the facility’s medical staff, and who is certified or eligible for certification by the American Board of Obstetrics and * [certification by the American Board of Obstetrics and] * Gynecology, Inc., *or the American Osteopathic Board of Obstetrics and Gynecology,* or who has been granted privileges by the facility to provide services equal to or higher than those provided by a Board-certified or Board-eligible physician.

“Obstetric patient” shall mean any woman who is pregnant, parturient, or recovering from parturition. * [(A patient delivering a fetus weighing less than 500 grams is considered a nonobstetric patient.)]*

“Pediatrician” shall mean a physician who is a member of the facility’s medical staff, and who is certified or eligible for certification by the American Board of Pediatrics, Inc., *or the American Osteopathic Board of Pediatrics,* or who has been granted privileges by the facility to provide services equal to or greater than those provided by a Board-certified or Board-eligible physician.

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

“Physician-director” shall mean a physician who is a member of the facility’s medical staff. The physician-director of the obstetric service shall be an obstetrician. The physician-director of the newborn service shall be a pediatrician.

“Postpartum” shall mean occurring after childbirth (that is, after delivery of the placenta and membranes).

“Public health nurse” shall mean a person licensed as a registered professional nurse, who has completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or postbaccalaureate study which includes content approved by the National League for Nursing for public health nursing preparation.

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

“Rooming-in” shall mean an arrangement which allows the mother and her newborn to be cared for together in the same room.

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

“Shift” shall mean a period of time established as a full working day, as defined in the hospital policy and procedure manual.

“Signature” shall mean the full name and title of a person legibly written with his or her own hand.

“Social work designee” shall mean a person with a bachelor’s degree in psychology, sociology, or another field related to social work, and at least one year of full-time, or full-time equivalent, social work experience in a health care facility under the supervision of a social worker.

“Social worker” shall mean a person who has a master’s degree in social work from a graduate school of social work accredited by the Council on Social Work Education, and at least one year of full-time, or full-time equivalent, social work experience in a health care facility.

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

“Staff orientation plan” shall mean a written plan for the orientation of each new employee to the duties and responsibilities of the service to which he or she has been assigned, as well as to the personnel policies of the hospital. * [Orientation for each new employee shall be provided prior to or within one week of employment.]*

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

“Tertiary care” shall mean specialized inpatient care.

8:43B-8.2 General requirements

* [(a)]* The provisions of this subchapter shall apply to all hospitals providing obstetric and newborn services. The obstetric and newborn services shall be administered by the governing authority responsible for the management, control, and operation of the hospital.

* [(b)]* The obstetric and newborn services shall be physically separate from all other services.]*

8:43B-8.3 Policy and procedure manual

(a) A policy and procedure manual, * **which may** * supplement * [ing] * the hospital policy and procedure manual, for the organization and operation of the obstetric and newborn services shall be developed and implemented. It shall be reviewed, signed, and updated as specified in the facility’s policies and procedures. The manual shall include at least the following:

1. Criteria * [and priorities] * for * [acceptance] * * **admission** * of patients;
2. Functions and responsibilities of physicians and personnel;
3. Training and experience requirements for all obstetric and newborn service personnel;
4. A procedure by which medical and nursing staff in the obstetric and newborn services shall be encouraged to participate in hospital staff committees or their equivalents, including, but not limited to, those relating to patient care policies, evaluation, pharmacy and therapeutics, discharge planning, and infection control;
5. Provisions for services to adolescent parents, in accordance with the facility’s policies and procedures;

6. Policies and procedures regarding the ***taking and*** recording of vital signs (temperature, pulse, respiration, and blood pressure), including frequency;

7. Policies and procedures for the use of home health services and social services;

8. A plan for staff orientation and education for the management and care of patients, including, but not limited to, the following:

[i. Knowledge and recognition of psychological needs and rights of mothers, fathers, newborns, and siblings;]

*[ii.]****i.*** Understanding of the physiology of the pregnant and postpartum woman and of the newborn;

*[iii.]****ii.*** Specialized nursing procedures for obstetric and newborn patients;

*[iv.]****iii.*** Labor support and coaching techniques;

*[v.]****iv.*** Maternal and newborn assessment and resuscitation;

*[vi.]****v.*** Parent/newborn contact *[immediately after birth and]* during hospital stay; and

*[vii.]****vi.*** Medications relating to obstetric and neonatal care***[.]**;** **and***

9. Policies and procedures for making available to patients, if requested, information on prenatal classes, counseling, and education. If the facility offers these services, they shall *[include, but not be limited to, the following:]* ***be in accordance with the "Guidelines for Perinatal Care" of the American Academy of Pediatrics/American College of Obstetricians and Gynecologists.**^{1*}

*[i. Signs of pregnancy, and its physiological and psychological processes;

ii. Nutrition and enhancement of health, and their relationship to fetal development;

iii. Avoidance of alcohol, tobacco, environmental and other contaminants, and avoidance of radiological examinations and medications unless prescribed by a physician;

iv. Childbirth, including anatomy, physiology, psychological states, the stages of labor and delivery, and parent-newborn bonding;

v. The pregnant woman's responsibility for her own care;

vi. Rights of expectant parents, including informed consent;

vii. Self-help techniques for pregnancy, labor, and delivery (including childbirth and breathing exercises), and postpartum recovery;

viii. Physical fitness, including promotion of muscle tone, tension control, and relaxation;

ix. Support and coaching techniques during labor for the father or other chosen companion;

x. Options in childbirth procedures and environment;

xi. The role of health care providers in labor, delivery, and the postpartum period;

xii. Preparation for parenting, including its emotional and practical aspects, such as infant care, breast- and bottle-feeding, immunization, child development, nutrition, and effects of parenthood upon family relationships and sexuality; and

xiii. Community resources, including childbirth education associations; support groups for cesarean delivery, breast-feeding, and postpartum adjustment; women's health groups; physical fitness-classes; social, welfare and community services; food stamp and nutrition programs (for example, Women, Infants, and Children Food Supplement Program-WIC); and

10. High risk pregnancy and delivery, including:

i. Indications for prenatal diagnostic testing, such as ultrasound, amniocentesis, testing of fetal lung maturity, and oxytocic challenge test;

ii. The indications, procedures, and postpartum recovery for cesarean deliveries;

iii. Indications for use of fetal monitoring and other equipment and procedures;

iv. The parents' role in the care of a newborn placed in intensive care; and

v. The physical environment of the obstetric and newborn services. Classes shall include a tour of the obstetric and newborn services.]*

Copies of the "Guidelines for Perinatal Care" are available from the American Academy of Pediatrics, P.O. Box 1034, Evanston, Illinois 60204, or the American College of Obstetricians and Gynecologists, 600 Maryland Avenue, SW, Suite 300 East, Washington, D.C. 20024.

8:43B-8.4 Patient rights

(a) The facility shall establish written policies and procedures regarding parents' rights, and shall be responsible for developing and adhering to procedures implementing such policies and procedures. The policies and procedures shall be available to patients, staff, and the public. Parents' rights shall include, but not be limited to, the following:

1. The right to education concerning the importance of nutrition and the avoidance of drugs and alcohol, smoking, and other contaminants;

2. The right to childbirth education; and

3. The right to informed consent.

8:43B-8.5 Summary information report

The obstetric and newborn services shall provide to the Maternal and Child Health Program of the Department a quarterly summary report of the information in the Newborn *[Record]* ***Service*** Logbook and Maternity Service *[Records]* ***Logbook, or the equivalent of the information in the logbooks.**^{2*}

2 The Newborn Service Logbook and the Maternity Service Logbook are available from the Medical Society of New Jersey, 2 Princess Road, Lawrenceville, New Jersey 08648.

8:43B-8.6 Infection control committee

The facility's Infection Control Committee or its equivalent shall establish, implement, and review written policies, procedures, and methods for the obstetric and newborn service.

8:43B-8.7 Policies and procedures ***for infection control***

(a) Policies and procedures shall include, but not be limited to, the following:

1. Reporting of findings and recommendations to the governing authority, administration, medical staff, and director of nursing services;

2. Development of definition(s) of nosocomial infections;

3. Establishment of criteria for maternal and newborn morbidity;

4. In conformance with Chapter 2 of the New Jersey State Sanitary Code, N.J.S.A. 26:1A-7 et seq., development and implementation of a system for investigating, reporting, evaluating, and maintaining records of infections and reportable diseases among patients and personnel, including respiratory, gastrointestinal, surgical wound, skin and urinary tract infections, and septicemias;

5. Assignment of responsibility for the continuous collection and analytic review of data, including determinations of nosocomial infections, *[epidemics,]* ***all other infections, and*** clusters of infections*[, and infections due to pathogens]*;

6. Assignment of responsibility for corrective action;

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7. Development and/or approval of all forms used for collection and collation of data about infections;

8. Data to be recorded on all infections, including identification and location of the patients or personnel, date of admission or employment, date of onset of infection, type of infection, cultures taken and their results, any antibiotics or other medications administered, and name of the physician responsible for the care of the patients or personnel;

9. Initiation, review, and corrective action for cultures of patients, personnel, or the environment required by the facility, the medical staff, or Federal, State, or local agencies or regulations;

10. Written criteria for isolation*/**segregation*** of mothers and/or newborns; ***in accordance with the "Guidelines for Perinatal Care" of the American Academy of Pediatrics/American College of Obstetricians and Gynecologists,*** to include at least the following categories:

- i. Birth prior to admission to the facility;
- ii. Birth within the facility but prior to admission to the labor and delivery *[suite]* ***area***;
- iii. Readmission to the service after transfer or discharge;
- iv. Presence of infection;
- v. Elevated temperature ***[(excepting fever due to pyelonephritis)]***; and
- vi. Presence of rash, diarrhea, or discharging skin lesions;

11. Written policies and procedures for the isolation of patients, ***in accordance with the "Guidelines for Perinatal Care" of the American Academy of Pediatrics/American College of Obstetricians and Gynecologists,*** including, but not limited to, the following:

i. Ensuring that a physician orders and documents in the patient's medical record the placement of a mother and/or newborn in isolation;

[ii. Admission and management of patients who exhibit signs of infection in antepartum, delivery, and postpartum rooms or units;]

[iii.]ii.*** Ensuring that at least one labor room is available for use by a patient requiring isolation;**

[iv. Ensuring that a mother and/or newborn transferred from another facility or readmitted to the service from home is and/or isolated until examined by a physician;]

[v.]iii.*** Provision for the isolation of a mother and newborn together ***[in the same room]*** (rooming-in) or ***[in separate rooms]* ***separately*****; and**

[vi.]iv.*** Policies and procedures for assigning nursing personnel to care for patients in isolation.**

12. Policies and procedures for cleaning of equipment, linens, and rooms following use by an infected patient;

13. Transportation of patients outside the obstetric and newborn services for treatments and procedures elsewhere in the facility;

14. Control of traffic, including personnel and visitors. ***[Personnel leaving the obstetric and newborn services to work in another unit may return to the obstetric and newborn services within the same 24-hour period only in accordance with the facility's policies and procedures]* ***Policies and procedures shall be established in the event that personnel from other services must work in the obstetric and newborn services and/or personnel from the obstetric and newborn services must work on other services*****;

15. Determination of the health status of personnel, and control of personnel with symptoms of communicable infectious disease;

16. Orientation of all new employees to the infection control program, and documented inservice education;

17. Infection prevention, surveillance, and control procedures relating to sterilization and disinfection practices, central supply service, housekeeping, laundry, engineering and maintenance, food sanitation, and waste management;

18. Review of cleaning procedures, agents, and schedules in use in the obstetric and newborn services, and review of any changes;

19. Techniques of patient care, including handwashing and the use of protective clothing such as gowns, masks, and gloves;

20. Selection, storage, and use of disposable and nondisposable patient care items and disposition of disposable patient care items. Disposable items shall not be reused;

21. Procedures for care of equipment and devices that provide a portal of entry for pathogenic microorganisms;

22. Selection, storage, use, and disposition of ***[hypodermic]*** needles and syringes, in accordance with ***[N.J.S.A. 2A:170-25.17]* ***the laws of the State of New Jersey and amendments thereto*****. There shall be a system of accountability for the disposal of used needles and syringes which shall not necessitate the counting of individual needles and syringes after they are placed in the container for disposal; and

23. Establishment of procedures to ensure that medical records include the final diagnosis and infections occurring during hospitalization.

8:43B-8.8 Administrator's appointment

The governing authority shall designate an administrator or administrators for the obstetric and newborn services, who may serve as administrator for other services, but who shall be available full-time. An alternate shall be designated in writing to act in the absence of the administrator.

8:43B-8.9 Physician-director's appointment and responsibilities

(a) The facility shall appoint a physician-director for the obstetric service and a physician-director for the newborn service who shall be responsible for the direction, provision, and quality of medical care provided. Each physician-director*, **in accordance with the bylaws of the facility,*** shall be responsible for, but not limited to, the following:

1. Delineating the responsibilities of physicians on the obstetric service and newborn service;

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

3. Participating in the development and implementation of staff orientation and educational programs;

4. Ensuring the development of a system of patient care evaluation, including peer review and audit, based upon the Guidelines for Perinatal Study Conferences, Subcommittee on Newborn Records, Medical Society of New Jersey;

5. Participating in the fiscal and budgetary planning for the service, and in the preparation of required reports if specified in the facility's policies and procedures;

6. Ensuring that statistical reporting of mortality and morbidity occurring in the obstetric and newborn services, including a review of each fetal, neonatal, and maternal death, is performed and documented at least on a quarterly basis ***[and sent to the Maternal and Child Health Program of the Department]***. A report of each maternal death shall be sent to the County Medical Examiner and to the Maternal and Child Health Program of the Department; and

7. Designating in writing an alternate physician to act in his or her absence.

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(a) A full-time nursing supervisor shall be appointed for the obstetric and newborn services, or to each service. He or she shall be responsible for the direction, provision, and quality of nursing care provided, including, but not limited to, the following:

1. Developing and maintaining written objectives, philosophy, policies, a procedure manual, and an organizational and evaluation plan for the nursing service;
2. Participating in planning and budgeting for the nursing service, including recommending the number and levels of nursing personnel to be employed;
3. Coordinating and integrating the nursing service with other patient care services in the hospital;
4. Ensuring representation of nursing personnel in meetings of hospital staff committees or their equivalents, at least on a consultative basis;
5. Ensuring that nursing staffing patterns are implemented;
6. Developing and maintaining written job descriptions for nursing personnel, and assigning duties based upon education and training;
7. Ensuring that a registered professional nurse initiates an individual nursing care plan for each patient, assesses and reassesses the nursing needs of each patient, and writes clinical notes and a nursing summary;
8. Ensuring that nursing care is consistent with nursing care plans;
9. Ensuring supervision and evaluation of nursing personnel performance;
10. Assisting in the development of, and participating in, orientation of staff to the service;
11. Determining staff educational needs, and planning and organizing staff educational programs;
12. Ensuring that licensed nursing personnel enter in the patient's medical record:
 - i. The nursing care plan (prepared by a registered professional nurse);
 - ii. Clinical notes;
 - iii. The nursing discharge summary; and
 - iv. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature and title (R.N. or L.P.N.) of the licensed nurse administering the drug; and
13. The nursing supervisor shall not be included in computation of the nurse/patient ratio.

8:43B-8.11 Charge nurse designation and responsibilities

(a) A charge nurse shall be designated in writing for each shift. The charge nurse shall be responsible for, but not limited to, the following:

1. Supervising and evaluating all nursing personnel and activities related to the nursing service;
2. Assigning duties and delegating responsibility to nursing personnel for provision of nursing care;
3. Evaluating the outcomes of nursing care provided;
4. Assisting in the organization and implementation of staff orientation and educational programs for nursing personnel; and
5. Assisting the nursing supervisor in developing and maintaining written objectives, philosophy, policies, a procedure manual, and an organizational and evaluation plan for the nursing service.

8:43B-8.12 Nursing personnel responsibilities

(a) In accordance with written job descriptions, licensed nursing personnel shall be responsible for, but not limited to, the following:

1. Providing nursing care in accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq.;
2. Assessing the nursing needs of each patient and developing, reviewing, revising, and implementing nursing care plans for meeting those needs;
3. Observing and monitoring the patient's response to treatment and nursing care;
4. Coordinating nursing care with other patient care services;
5. Consulting with, teaching, and supervising the patient, family, and staff regarding methods of meeting the nursing care needs of the patient (registered professional nurses only shall perform these functions which may be reinforced by licensed nursing personnel); and
6. Entering in the patient's medical record:
 - i. The nursing care plan (prepared by a registered professional nurse);
 - ii. Clinical notes;
 - iii. The nursing discharge summary; and
 - iv. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature and title (R.N. or L.P.N.) of the licensed nurse administering the drug.

8:43B-8.13 Substitute nursing personnel

The obstetric and newborn services *[(including the obstetrical surgical recovery room)]* shall each have a plan for substitute nursing personnel to act in the absence of assigned nursing personnel.

8:43B-8.14 Social worker's or social worker's designee and dietitian's responsibilities

(a) A social worker, or a designee who receives consultation from a social worker, and a dietitian shall be available to patients, and shall be responsible for, but not limited to, the following:

1. Implementing written objectives, philosophy, policies, a procedure manual, and an organizational and evaluation plan for social or dietary services to obstetric patients and newborns, developed by the hospital social service and dietary departments, respectively;
2. Providing consultation to the hospital social service or dietary department in planning and budgeting for social or dietary services provided to obstetric patients and newborns, and providing guidance and consultation to other personnel caring for such patients;
3. Coordinating and integrating the social or dietary service with other patient care services;
4. Assessing the social service or dietary needs of the patient in accordance with the facility's policies and procedures, preparing an individual care plan, and assessing the patient's response to services provided;
5. Providing services as specified in the care plan; and
6. Entering in the medical record of each patient receiving the service:
 - i. The care plan, which shall be kept current;
 - ii. Clinical notes; and
 - iii. The social service or dietary discharge summary.

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8:43B-8.15 Obstetric services

(a) The obstetric inpatient serviced shall include, but not be limited to, the following:

1. Identification and management of high risk patients, as defined in the policy and procedure manual;
2. Clinical laboratory, blood bank, and radiological services and personnel, available at all times. Personnel shall be able to arrive in the facility within 30 minutes of being called;
3. Fetal monitoring equipment, to be used **[only upon order of a physician]** ***in accordance with the facility's policies and procedures***;
4. Cesarean section capability within **[one hour]** ***30 minutes*** of decision;
5. Anesthesia service and personnel who are available at all times, and able to arrive in the facility within 30 minutes of being called;
6. **[Equipment]** ***Facilities*** for immediate resuscitation of the newborn, and capability to stabilize ***the*** newborn **[respiration]** until transfer or admission to specialized care;
7. Ability to monitor neonatal blood pressure, heart rate, and respiration, with the capability to regulate temperature and monitor oxygen flow;
8. As described in the policy and procedure manual, home health services provided directly or by referral;
9. **[At least one social worker, who shall be assigned at least one-quarter time to the obstetric service]** ***Social work services***;
10. Genetic counseling services provided directly or by referral; and
11. A system of communication, consultation, and written agreements or their equivalents, for secondary and tertiary obstetrical services.

8:43B-8.16 Policies and procedures for the obstetric service

(a) Policies and procedures for the obstetric service shall include those for the obstetric and newborn services, in addition to the following:

1. Criteria as established in the policy and procedure manual for the identification of high risk patients, such as the Medical Perinatal Risk Scoring Sheet, Form MCH-13, page 2a, of the Maternal and Child Health Program of the Department;
2. A current roster of physicians, with a delineation of their obstetrical privileges. This roster shall be kept in each nursing unit;
3. An on-call schedule to ensure that a physician with obstetrical privileges is available at all times;
4. Policies and procedures regarding birthing alternatives*, **if offered***;
5. Monitoring, with or without the use of electronic equipment, of patients and procedures during antepartum, labor, delivery, recovery, and postpartum periods;
6. Policies regarding the presence of fathers and/or chosen companions during labor, delivery, recovery, and postpartum periods;
7. Policies and procedures, including safety precautions, governing the use of radiological and electronic services for the obstetric patient;
8. **[Policies and procedures for maintaining the Newborn Record Logbook and Maternity Service Records, current editions (both available from the Medical Society of New Jersey, 2 Princess Road, Lawrenceville, New Jersey 08648)]** ***Policies and procedures for reporting to the Department all congenital defects, in accordance with N.J.S.A. 26:8-40.20 et seq.***;

9. Policies and procedures for completion of birth certificates;

10. Policies and procedures for the care of patients during labor and delivery. These shall include, but not be limited to, the following:

- i. Policies and procedures regarding administration of Rh immune globulin to Rh negative mothers who have met eligibility criteria, with documentation in the **[Maternity Service Records and the]** patient's medical record;
- ii. Policies for the use of oxytocic ***and tocolytic*** agents **[for the induction or stimulation of labor]**, including a requirement that a physician with obstetrical privileges be available within the facility. A physician engaged in surgery on another patient within the facility shall not be considered available for the purposes of this standard;
- iii. Assignment of **[a]** ***at least one*** registered professional nurse to the **[labor, delivery, and recovery rooms,]** ***labor-delivery-recovery area*** for each shift*. **One registered professional nurse may be assigned to all three areas***;
- iv. Assignment of licensed nursing personnel so that no patient is without an assigned nurse;
- v. Aseptic surgical techniques;
- vi. Safety techniques and attire required;
- vii. Assignment of at least one licensed nurse and a physician ***or certified nurse-midwife*** to be present in the delivery room at the time of delivery. The registered professional nurse assigned to the **[labor and delivery suite]** ***labor-delivery-recovery area*** may substitute for the licensed nurse if there is no other patient in the **[labor, delivery, and recovery rooms]** ***labor-delivery-recovery area***;
- viii. Assignment of a registered professional nurse or physician to the newborn resuscitation area of the delivery room if the newborn requires resuscitation. The registered professional nurse or physician shall have no other responsibilities until the newborn has left the newborn resuscitation area; and
- ix. Policies and procedures for the use of anesthesia;
11. Policies and procedures regarding parental contact with the newborn **[in the delivery room immediately after birth, and during the hospital stay. This shall include policies and procedures for cesarean births,]** **including newborns delivered by cesarean section, and*** premature, sick, congenitally malformed, and dying newborns*, and their parents]*;
12. Policies and procedures for the postdelivery care of the newborn in the delivery room, including, but not limited to, the following:
 - i. Maintaining the newborn's airway, respiration, and body temperature;
 - ii. Assessing the newborn and recording the one-minute and five-minute Apgar scores;
 - iii. Performing prophylaxis against ophthalmia by instillation of a 1.0 percent solution of silver nitrate aqueous solution, erythromycin, or tetracycline ointment or solution, to be performed within one hour of delivery, with documentation entered in the newborn's medical record;
 - iv. Clamping or tying of the umbilical cord, and collecting a sample of cord blood;
 - v. Performing Rh and Coomb's tests for every newborn born to an Rh negative mother or with a family history of blood incompatibility. If such a qualitative test is performed, the results shall be documented in the newborn's medical record; and
 - vi. Prior to leaving the delivery room, a means of identification shall be used to identify each newborn with two identification bands fastened on the newborn and one identification band fastened on the mother, as specified in the policy and procedure manual;

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13. Policies and procedures for newborn transport to the nursery, including, but not limited to, the following:

- i. A heated bassinet equipped with oxygen, transport incubator, or similar device shall be available *[to transport the newborn from the delivery room]*; and
- ii. The newborn's medical record shall accompany him or her in transport from the delivery room;

14. Policies and procedures for the care of patients in the recovery room (or recovery area within the labor and delivery *[suite]* ***area***) to ensure that each postpartum patient is under the observation of a registered professional nurse *[for at least one hour following delivery, and a registered professional nurse]* ***who*** observes and assesses the patient, and documents in the medical record the patient's vital signs, condition of the uterus, blood loss, and any complications, before transfer to the postpartum unit;

15. Policies and procedures for the care of patients in the postpartum unit, including, but not limited to, the following:

- i. Assignment of licensed nursing personnel;
- ii. Identification and management of postpartum complications;
- iii. Laboratory procedures, if any, to be performed before discharge;
- iv. Physical care, including care of the perineum and breasts, and ambulation;
- v. Policies and procedures regarding complete (24-hour) and modified rooming-in; and
- vi. Policies regarding length of stay, discharge planning, and early discharge ***[(within 24-72 hours of delivery)]* ***[less than 48 hours after delivery]***. A home visit by a public health nurse or certified nurse-midwife shall be ***[provided]* ***arranged*****, if requested by the patient;**

16. Policies and procedures to ensure that every patient receives a physical examination ***[before discharge]***;

17. Policies and procedures for the instruction of patients during the postpartum phase in self-care (nutrition, rest, breast and perineal care, restoration of muscle tone, and physical fitness), newborn care, feeding including breastfeeding, parenting, accident prevention, and use of infant car safety restraints; and referral for information on family planning and pregnancy alternatives, if requested;

[17.]*18.*** Policies and procedures for the posthospital care or referral of patients, including, but not limited to, the following:**

- i. Identification of parents with potential difficulties in parenting; and
- ii. Referrals to a licensed home health agency*, **if requested by the patient***; ***and***

[18. Policies and procedures for the instruction of patients during the postpartum phase in self-care (nutrition, rest, breast and perineal care, restoration of muscle tone, and physical fitness), newborn care, feeding including breastfeeding, parenting, accident prevention, and use of infant car safety restraints; and provision of information on family planning and pregnancy alternatives, if requested; and]

19. Policies and procedures for the counseling ***[and education]*** of adolescents, including:

- i. Counseling regarding opportunities to continue the education and referral to special educational programs for adolescent parents (when available);
- ii. Counseling or referral regarding adjustment to pregnancy and parenthood; and
- iii. Referral to social and legal services*, **if needed***.

8:43B-8.17 Obstetric medical records

(a) The facility shall maintain a complete medical record for each patient, in accordance with ***[Section]* ***Subchapter*** Seven of the Manual of Standards for Hospital Facilities (see N.J.A.C. 8:43B).**

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

1. Patient identification data;
2. Names of the patient's physician;
3. A physician's signed and dated admission note, medical and surgical history and report of physical examination, completed within 24 hours of admission. Updating of the prenatal record fulfills this standard;
4. A completed Prenatal Record, i.e., Form MCH-13 of the Maternal and Child Health Program of the Department, pp. 1, 2, 2a, 3, and 3a, or another form that includes the same information, entered in the medical record prior to or at the time of admission;

5. Documentation of complete blood count and dipstick urinalysis including protein and sugar upon admission;

[5.]* ***6. Reports of laboratory, radiological, and other tests done prior to admission. The following tests shall be performed if they have not been performed previously during the pregnancy:**

- *[i. Complete blood count, including smear and differential, with sickle cell preparation for high risk patients;
- ii. Dipstick urinalysis, including protein, sugar, and ketones;]*

i. Sickle cell preparation for patients at risk;

[iii.]* ***ii. Chest x-ray on specific indication;**

[iv.]* ***iii. Serologic test for syphilis;**

[v. Rubella titer or record of previous titer; and]

iv. Rubella antibody titer if immunity has not been determined; and

[vi.]* ***v. Blood group and Rh determination. ***[If Rh is negative, a record of antibody titer performed at 24-28 weeks of gestation and repeated at 32-36 weeks of gestation; and a notation as to whether Rh₀ (D) Immune Globulin (Human) was or was not indicated; if indicated, whether it was or was not administered;]* ***If maternal Rh is negative, a record of blood type and past titers and documentation of past Rh₀ (D) immune globulin (human) administration;*******

[6.]* ***7. Documentation of the course of labor, delivery, and the immediate postpartum period, ***[at intervals]* ***as*** specified in the policy and procedure manual, including but not limited to:****

- *[i. Station;
- ii. Dilatation;
- iii. Effacement, and fetal presentation and position;
- iv. Heights of fundus;
- v. Location and condition of the cervix;
- vi. Pelvic assessment;
- vii. A record of maternal temperature, pulse, respiration, and blood pressure in the labor room; and a record of maternal blood pressure and pulse in the delivery room, and after delivery until the patient's condition is stable, as documented in the patient's medical record;
- viii. A record of maternal fluid intake and output;
- ix. A record of frequency, duration, and intensity of contractions; and
- x. A record of fetal heart status during the progress of labor, at intervals specified in the policy and procedure manual;]*

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***i. Pelvic assessment;**
ii. Station, dilation, and effacement;
iii. Fetal position, presentation, and heart rate;
iv. A record of maternal temperature, pulse, respiration, and blood pressure in the labor room and immediately after delivery until the patient's condition is stable, as documented in the patient's medical record;

v. A record of maternal fluid intake and output if the patient receives intravenous therapy; and

vi. A record of frequency, duration, and intensity of contractions;*

[7.] *8.* All orders for the patient, written, signed, and dated;

[8.] *9.* Documentation of the patient's vital signs, condition of the uterus, blood loss, and any complications, prior to transfer to the postpartum unit;

[9.] *10.* A nursing care plan;

[10.] *11.* Signed informed consents, as specified in the facility's policy and procedure manual;

[11.] *12.* An operative report, if surgery has been performed, recorded by the physician who performed the surgery, including a description of the technique used, surgical procedures, tissue removed or altered, sponge count, condition of the patient upon leaving the operating or delivery room, estimated blood loss, postoperative diagnosis, and the names of the physician-in-charge and assistants;

[12.] *13.* For patients receiving anesthesia:

i. A preanesthesia record, including at least drug history, anesthesia history, and potential anesthetic problems;

ii. An anesthesia record, describing at least induction and maintenance of anesthesia, including volume, route of administration, patient's vital signs, duration of anesthesia, any complications of anesthesia or analgesia management, and drugs, intravenous fluids, blood, and/or blood components administered; and

iii. A postanesthesia note by the anesthetist *[immediately after surgery, describing any postoperative abnormalities or complications and documenting the blood pressure, pulse, presence or absence of swallowing reflexes, cyanosis, and ability to move extremities]* ***describing the presence or absence of anesthesia-related complications, recorded after the patient's recovery from anesthesia***;

[13. Reports] *14. Documentation* of accidents and incidents, if any;

[14.] *15.* A record of any treatment, medication, or service refused by the patient, including a physician's visit;

[15.] *16.* Documentation of any medication released to the patient upon discharge;

[16.] *17.* Progress notes by the physician;

[17.] *18.* Clinical notes;

[18.] *19.* A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature and title (*M.D.*, *R.N.* or *L.P.N.*) of the *[licensed nurse]* ***person*** administering the drug;

[19.] *20.* Any referrals to outside resources;

[20.] *21.* A discharge summary; and

[21.] *22.* Page 4 of the Prenatal Record, Form MCH-13 of the Maternal and Child Health Program of the Department, or another form that includes the same information, included at the time of discharge.

(c) During labor and delivery, the patient's medical record shall be in the *[room or labor and delivery suite]* ***labor or delivery room with the patient***.

(d) All entries in the patient's medical record shall be typewritten or written in ink, legible, and dated and signed by the recording person. All typed reports shall include the dates of dictation and transcription and shall be signed by the person who dictated the report.

(e) All medical records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.

8:43B-8.18 Transfer of medical records

Upon transfer of a patient to another health care facility, a copy, summary, or abstract of the patient's medical record shall be sent to the receiving facility with the written consent of the patient. In the event of denial of permission, a copy of the written denial shall be kept in the patient's medical record at the facility. If the patient refuses to sign the denial of permission, a witnessed, written statement by a staff member to that effect shall be included in the patient's medical record.

8:43B-8.19 Storage and retrieval of medical records

If the facility ceases its operation, it shall notify the Department in writing at least 14 days before cessation of operation, regarding how and where medical records shall be stored.

8:43B-8.20 Policies and procedures for obstetric surgical services

(a) Policies and procedures for the obstetric surgical service shall include those for the obstetric and newborn services, in addition to the following:

1. Policies and procedures to ensure that a cesarean section is performed only in an operating room or in a delivery room that meets the requirements for an operating room;

2. A 24-hour schedule for all personnel required to perform and assist in surgery, available to the director of nursing, the nursing supervisor(s), and the charge nurse;

3. Delineation of surgical and anesthesia privileges;

4. Purposes and types of surgical procedures for which the delivery and operating rooms may be used;

5. Definitions of major and minor surgery, and of who is qualified to act as first assistant in both categories of surgery. The first assistant in all major surgical procedures shall meet the requirements of the New Jersey State Board of Medical Examiners;

6. Methods for taking and maintaining records of sponge counts;

7. Policies and procedures regarding operating room apparel;

8. Safety measures regarding anesthetic gases;

9. Labeling and disposition of tissue removed during the procedure, including delivery to the pathologist, filing reports in the patient's medical record, and retention and storage in the facility of microscopic sections of tissue; and

10. Policies and procedures for the maintenance of a current record of surgical procedures which shall include the following information:

i. Name and hospital identification number of the patient;

ii. Date and time of the procedure, and the number of the operating or delivery room where it was performed;

iii. Preoperative and postoperative diagnoses;

iv. Names of all physicians, assistant physicians, nurses, and surgical technicians;

v. Surgical procedures performed and anesthetic agents used;

vi. Complications of surgery, if any; and

vii. Classification of each procedure for the purpose of infection control statistics.

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(b) At least one registered professional nurse shall function as a circulating nurse in the operating room.

(c) A pediatrician shall be in the delivery room whenever a high risk delivery is being performed.

(d) The physician-director of the obstetric surgical service or his or her designee shall be available to the surgical service, including the recovery room. (Available, in this instance, shall mean able to arrive in the facility within 30 minutes of being called.)

(e) The physician-in-charge of the surgery, or an alternate, shall be available while the patient remains in the recovery room, and shall authorize the patient's transfer from the recovery room.

8:43B-8.21 Medical staffing requirements—Obstetric services

(a) The governing authority shall ensure that the following personnel are available to the obstetric service:

1. At least one obstetrician available in the facility at all times, or available by telephone and able to arrive on the obstetric service within 30 minutes of being called;

2. A pediatrician, available at all times or available by telephone and able to arrive in the facility within 30 minutes of being called; and

3. Medical and surgical specialists, available for consultation.

8:43B-8.22 Nursing staffing requirements—Obstetric services

(a) In addition to the responsibilities previously listed in this subchapter, the nursing supervisor of the obstetric service shall implement ***the following minimum*** staffing patterns to ensure that antepartum and postpartum nursing care is provided as follows:

1. On the day shift, there shall be a ratio of one registered professional nurse to no more than ten patients;

2. On the evening shift, there shall be a ratio of one registered professional nurse to no more than 15 patients;

3. On the night shift, there shall be a ratio of one registered professional nurse to no more than 20 patients;

4. At least one registered professional nurse shall be assigned to the ***[labor, delivery, and recovery rooms,]*** ***labor-delivery-recovery area*** for each shift. **One registered professional nurse may be assigned to all three areas*;**

5. The total number of licensed nursing personnel assigned to the labor, delivery, and recovery rooms on each shift shall equal not less than one-half the average number of deliveries per day for that facility based on quarterly data, to be calculated as follows: the total number of deliveries in a quarter divided by the number of calendar days in that quarter. ***[One member of the nursing staff]*** ***At least one registered professional nurse*** per shift shall be capable of acting as the circulating nurse for cesarean deliveries; and

6. In a facility that provides rooming-in and shared postpartum and nursery staffing, on each shift at least one registered professional nurse, shall be responsible for no more than five mothers and their newborns.

8:43B-8.23 Newborn services

(a) The newborn services shall provide care which includes at least the following:

1. Capability of immediate, resuscitation of the newborn (including short-term ventilation with laryngoscope, endotracheal tube, and bag-valve-mask), oxygen administration, intravenous therapy, temperature control, and infusion equipment;

2. Capability to maintain at least short-term newborn ventilation;

3. Laboratory, radiological, and blood bank services available at all times;

4. Care of newborns transferred from secondary and tertiary care services; ***[and]***

5. A system of communication, consultation, and written agreements, or their equivalents, for secondary and tertiary newborn services^[.] ***; and***

6. Procedures and equipment for the identification of hyperbilirubinemia.

8:43B-8.24 Policies and procedures for newborn service

(a) Policies and procedures for the newborn service shall include those for the obstetric and newborn services, in addition to the following:

1. Criteria for the identification of high risk patients, as defined in the Prenatal Record, Form MCH-13 of the Maternal and Child Health Program of the Department, p. 2a; or another form that includes the same information, ***[as specified in the current Standards and Recommendations for Hospital Care of Newborn Infants, American Academy of Pediatrics]*** ***in accordance with the "Guidelines for Perinatal Care" of the American Academy of Pediatrics/American College of Obstetricians and Gynecologists*;**

2. A current roster of physicians, with a delineation of their pediatric privileges. This roster shall be kept in each nursing unit on the newborn service;

3. An on-call schedule, established to ensure that a physician with pediatric privileges is available at all times. This roster shall be kept in each nursing unit on the newborn service;

[4. Policies and procedures for the care of the newborn in the delivery room, as specified in N.J.A.C. 8:43B-8.16(a)12i through vi;]

[5.] ***4.*** Policies and procedures for the care of the newborn after delivery, including care of the skin and umbilical cord;

[6.] ***5.*** Policies and procedures for the admission/observation area, including, but not limited to, the following:

i. A registered professional nurse or a physician shall perform an assessment of the newborn in the admission/observation area, and shall document the assessment in the newborn's medical record; and

ii. If the hospital has a policy that permits the newborn and mother to remain together in the recovery room, the newborn may be assessed in the recovery room;

[7.] ***6.*** A policy that a physician shall perform and document a physical examination of the newborn within 24 hours of birth or upon admission to the newborn nursery, and at least every three days thereafter while the newborn remains in the nursery, **and prior to discharge from the nursery*;**

***[8. Designation of the following, with provision of an infant warming device for each:**

i. A resuscitation room or area, separate from or adjacent to the nursery, for resuscitation and stabilization of newborns immediately after birth;

ii. A newborn nursery;

iii. An admission/observation area, which may be a part of the newborn nursery or a separate nursery;

iv. A growing nursery, which may be either a part of the newborn nursery or a separate nursery. Growing nursery, in this instance, shall mean an area for newborns and infants whose condition is stable and who are placed or remain in this area for the purpose of gaining weight prior to discharge; and

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v. An isolation area, which shall be a separate room used for no other purpose. Based on the facility's policies and procedures, the facility may also make provisions for the isolation of newborns within the newborn nursery;]*

[9.] *7.* Procedures to ensure that every bassinet and incubator in the nursery bears the identification of the newborn to whom it is assigned. Identification shall include at least the newborn's last name, sex, date and time of birth, the mother's first and last names, and the physician's name* [. The means of identification shall not bear commercial advertising]*;

[10.] *8.* Provision of individual supplies and equipment for each newborn;

[11.] *9.* Policies and procedures for the preparation and use of formula, including, but not limited to, the following:

i. If formula preparation is necessary, formula shall be stored, prepared, and assembled in a clean area on the obstetric or newborn service;]*

[ii.] *i.* Feeding units shall be distributed immediately after assembly;

[iii.] *ii.* Prepared formula shall be used within the time period designated on the package; and

[iv.] *iii.* Except in an emergency, as defined in the facility's policies and procedures, only presterilized formula shall be used;

[12.] *10.* Management of breast-feeding mothers and their newborns, *[in compliance with the current edition of the American Academy of Pediatrics' standards and recommendations for hospital care of newborn infants]* ***in accordance with the "Guidelines for Perinatal Care" of the American Academy of Pediatrics/American College of Obstetricians and Gynecologists***;

*[13. Policies and procedures for isolation of newborns, in accordance with N.J.A.C. 8:43B-8.7(a)1 i through vi and the following:

i. A newborn born outside the facility or outside the labor and delivery suite or returning from another facility shall be isolated for at least 12 hours, alone or rooming-in with his or her mother, until the physician caring for the newborn and the physician-director order and document in the medical record his or her transfer to the newborn nursery; and

ii. A newborn or infant discharged to home and readmitted is isolated until the physician caring for the newborn or infant or the physician-director order and document in the medical record his or her transfer to the newborn nursery;]*

[14.] *11.* Policies and procedures for infection control, including, but not limited to, the following:

i. In the event of an epidemic, as determined by the medical staff and the Department, control measures, including closing of the nursery if indicated, shall be instituted immediately;

ii. A newborn shall be assigned to a clean incubator or bassinet at least every seven days;

iii. If newborns are weighed on a common scale, an impervious cover that completely covers the surface of the scale pan shall be used and changed after each newborn is weighed; and

iv. Provisions for gowning in the isolation area and isolation nursery;

[15.] *12.* Policies and procedures for screening newborns for high risk factors associated with hearing impairment, in accordance with N.J.S.A. 26:2-101 et seq. A ***physician or*** registered professional nurse shall screen the newborn using the Newborn Hearing Screening Report Form of the New Jersey Hearing Evaluation Council and the *[Ma-

ternal and Child Health]* ***Special Child Health Services*** Program of the Department. The facility shall send copies of the Newborn Hearing Screening Report Form for all newborns, on a monthly basis, to the Maternal and Child Health Program of the Department;

[16.] *13.* Policies and procedures for the early detection of biochemical disorders in newborn infants *****, **including at least hypothyroidism, galactosemia, and phenylketonuria,** pursuant to N.J.S.A. 26:2-110 through 112, to include, but not be limited to, the following:

i. Collection of blood specimens from newborn infants on collection kits provided by the Department;

ii. Collection of blood specimens 24 hours after the newborn infant's first feeding or 48 hours after the newborn infant's birth or upon the newborn infant's discharge from the facility, whichever comes first;

iii. Development of a system within the facility for the submission of blood specimens to arrive at the Department's laboratory no later than 96 hours after the newborn infant's birth;

iv. Designation of a staff member(s) to be responsible for receiving verbal and written positive screening test results and documenting the results in the newborn infant's medical record; and

v. Provision of written information, provided by the Department and/or the facility, to all parents and physicians regarding the testing of biochemical disorders and the possibility of incorrect screening test results if the blood specimen is not collected in accordance with N.J.A.C. 8:43B-8.24(a)13ii above, because the infant is discharged from the facility;

[17.] *14.* Policies and procedures for reporting to the Department all congenital defects, in accordance with N.J.S.A. *9:13-5]* ***26:8-40.20 et seq.*;**

[18.] *15.* Policies and procedures for housekeeping, ***to maintain the nursery free from dust, dirt, and debris,*** including, but not limited to, the following:

i. ***Cleaning of*** *[S]**s*cales and equipment in the nursery *[shall be washed or dusted with a clean damp duster at least daily]*;

ii. ***Mopping of*** *[F]**f*loors in the nursery *[shall be wet-mopped with a disinfectant at least daily]*;

iii. ***Washing of*** *[W]**w*alls and ceilings in the nursery *[shall be washed with disinfectant at least monthly]*;

iv. Housekeeping procedures shall be performed when newborns are out of the nursery* [. Ventilation rates shall be in compliance with (HRA) 79-14500 during the cleaning process]*; and

v. An incubator or bassinet shall be cleaned with detergent and disinfectant registered by the United States Environmental Protection Agency, each time a newborn occupying it is discharged. *[If the bassinet or incubator is stored for over 72 hours, it shall be cleaned]* ***The facility shall develop policies and procedures for cleaning an incubator or bassinet*** again prior to reuse; and

[19.] *16.* Policies and procedures for laundry and linens, including, but not limited to, the following:

i. The nursery linen supply retained in the facility *[shall be at least five times the census, so that at least three sets of clean linens are]* ***and*** stored at each infant care station;

ii. The selection and use of laundering agents; and

iii. A policy that aniline oil (aminobenzene) or oil of mirbane (nitrobenzene) or other benzene derivatives shall not be used to stamp or mark any linens, clothing, or other items used in newborn care.

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***[8:43B-8.25** Infant care stations

Each nursery shall have no more than 20 infant care stations.]*

[8:43B-8.26]* *8:43B-8.25 Newborn medical records

(a) The facility shall maintain a medical record for each newborn, in accordance with this section. The newborn's medical record shall include, but not be limited to:

1. A summary of the mother's obstetric history;
2. A summary of labor and delivery, including: anesthesia, analgesia, and medications given to the mother; reasons for induction of labor and operative procedures (if performed); condition of the newborn at birth, including the one- and five-minute Apgar scores or the equivalent, time of sustained respirations, details of any physical abnormalities, and any pathological states observed and treatment given before transfer to the nursery; any abnormalities of the placenta and cord vessels; date and *[hour]* ***time*** of birth; birth weight and length; length of gestation; ***[and]*** procedures performed in the delivery room*, including* *****; **and*** verification of eye prophylaxis. This summary shall be signed by the mother's physician according to the policies and procedures of the facility;
3. The newborn's identification, as specified in the policy and procedure manual;
4. A record of newborn assessment, performed by a physician or registered professional nurse upon the newborn's admission to the newborn nursery;
5. A nursing care plan;
6. A record of the initial physical examination, dated and signed by a physician; and
7. A physical examination on discharge or transfer to another facility, including head circumference and body length (unless previously measured), signed by a physician.

[8:43B-8.27]* *8:43B-8.26 Medical staffing requirements*[*];]* ***-Newborn services**

The governing authority shall ensure that at least one pediatrician is available at all times in the facility, or by telephone and able to arrive in the facility within 30 minutes of being called.

[8:43B-8.28]* *8:43B-8.27 Nursing staffing requirements***-Newborn services***

(a) In addition to the responsibilities listed previously in these rules, the nursing supervisor of the newborn service shall ensure that ***the following minimum*** nursing staffing requirements shall be implemented as follows:

1. In the admission/observation area, there is a ratio of one licensed nurse to no more than four newborns, in addition to at least one registered professional nurse, for each shift;
2. In the newborn nursery, ***[separate from the admission/observation area,]*** there is a ratio of one licensed nurse to no more than six newborns, in addition to at least one registered professional nurse, for each shift; and
3. The number of licensed practical nurses shall not exceed the number of registered professional nurses on any shift.

***[8:43B-8.29** Provision and location of birthing room(s)

(a) If the facility provides a birthing room(s), the birthing room(s) shall be located within, or adjacent and with direct access to, the labor and delivery suite. Each birthing room shall contain at least the following:

1. A bed or chair to be used for labor, delivery, and recovery. A means of transport shall be provided from the birthing room to the delivery room, if transfer is required;
 2. Means for the patient to observe her delivery; and
 3. Furniture and other objects to create a homelike atmosphere.
- (b) Carpeting shall be prohibited in the birthing room.
- (c) There shall be a lounge for family and friends accessible to the birthing room. (This may be shared with the labor and delivery suite.)*

[8:43B-8.30]* *8:43B-8.28 Policies and procedures for birthing room services

(a) Policies and procedures for the birthing room shall include those for the obstetric and newborn services, in addition to the following:

1. A statement of the philosophy, goals, and objectives for the use of the birthing room;
 2. Criteria for eligibility to use the birthing room, including, but not limited to, requirements concerning attendance at prenatal and childbirth classes;
 3. A definition of high risk conditions which disqualify patients from using the birthing room;
 4. Policies and procedures for care in the birthing room, including, but not limited to, the following:
 - i. Definition of vital signs, the intervals at which they shall be taken, and requirements for documentation; ***and***
 - ii. Observation, monitoring, and assessment of the patient by a registered professional nurse, or certified nurse-midwife, or physician; ***[and]***
 - *[iii. A policy that the patient have a choice of position for delivery, unless contraindicated by the physician or certified nurse-midwife;]***
 5. A list of equipment and supplies to be kept in the birthing room*, including intravenous fluids and equipment for their administration, and medications, including oxytocics and epinephrine]*;
 6. Policies and procedures regarding the types of analgesia and anesthesia to be used in the birthing room;
 7. Specification of conditions of labor or delivery requiring transfer of the patient from the birthing room to the delivery room;
 - *[8. Specification of conditions in the newborn requiring transfer to the nursery;**
 9. Policies and procedures for the transfer of the mother to the postpartum unit, including, but not limited to, the following:
 - i. Conditions requiring transfer; and
 - ii. A policy concerning whether the mother is transferred to the postpartum unit, or discharged from the birthing room to home;
 10. Policies and procedures regarding patient discharge, including, but not limited to, the following:
 - i. Criteria for discharge of the mother and newborn; and
 - ii. Procedures preceding discharge for mother and newborn;
 11. Policies and procedures regarding referral for the following service for postdischarge follow-up care of mother and newborn when discharged within 36 hours after birth:
 - i. At least one home visit by a public health nurse or certified nurse-midwife;]*
- *8. Specification of conditions requiring the transfer of the mother and/or newborn to the postpartum unit, nursery, or other area;**

9. Policies, procedures, and criteria for discharge of the mother and newborn;

10. Policies and procedures regarding arrangements for the mother and newborn to be seen, following discharge, by a public health nurse, a certified nurse-midwife, or a physician within 36 hours after birth;*

[12.] ***11.*** Policies and procedures for the completion of medical records;

[13.] ***12.*** In the event that the patient is transferred to the delivery room or operating room, a policy regarding the presence of the father or chosen companion in the delivery room or operating room;

[14.] ***13.*** Policies and procedures regarding visitors, including the number of visitors allowed in the birthing room, their relationship to the mother, and the presence of the newborn's siblings; and

[15.] ***14.*** Policies and procedures for infection control, including, but not limited to, the following:

i. Gowning and attire to be worn by persons in the birthing room, upon leaving it, and upon returning.

[8:43B-8.31] ***8:43B-8.29*** Designation of a coordinator

The facility shall designate a coordinator of the birthing room program, who shall be either a registered professional nurse or a certified nurse-midwife.

[8:43B-8.32] ***8:43B-8.30*** Seeking approval to admit nonobstetric patients to the obstetric and newborn services

(a) A facility seeking approval to mix obstetric and nonobstetric patients in the obstetric and newborn services shall request permission in writing from the Department. Such a written request shall be submitted to:

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

(b) The written request shall include a narrative justifying the continuation of the facility's obstetric service and the admission of nonobstetric patients to the obstetric and newborn services.

[8:43B-8.33] ***8:43B-8.31*** Committee for mixing of obstetric and nonobstetric patients

The facility shall establish a committee, or its equivalent, for the mixing of obstetric and nonobstetric patients in the obstetric and newborn services. The committee, or its equivalent, shall consist of at least the physician-directors of the obstetric and newborn services, the nursing supervisor of the obstetric and newborn services, and the administrator or his or her designee. A representative of the Infection Control Committee, or its equivalent, shall be available for consultation.

[8:43B-8.34] ***8:43B-8.32*** Policies and procedures for mixing of obstetric and nonobstetric patients

(a) The committee, or its equivalent, shall establish and implement policies and procedures for mixing nonobstetric patients with obstetric patients. These policies and procedures shall be reviewed as specified in the facility's policies and procedures. Such policies and procedures shall include, but not be limited to, the following:

1. Criteria for the admission of patients, in conformity with these rules and ensuring that a nonobstetric female patient:

i. Is not admitted to the obstetric service if an obstetric patient would thereby be excluded;

ii. Is admitted to the obstetric service only if the number of empty beds available for obstetric patients exceeds the average number of deliveries per day for the facility based on data in the quarterly reports;

iii. Does not share a room with an obstetric patient;

iv. Is free of infection;

v. Is not suffering from substance abuse or misuse and is not mentally ill;

vi. If requiring surgery, the type(s) of surgery has been approved by the committee, or its equivalent; and

vii. Is admitted to the obstetric service only if approved by the physician-director of the obstetric service and with physician's written orders in accordance with the admission criteria established by the committee, or its equivalent, on the mixing of obstetric and nonobstetric patients.

2. Restrictions to the admission and retention of nonobstetric patients, to ensure that a nonobstetric patient is not admitted to or retained in the obstetric and newborn services if the patient:

i. Exhibits signs of morbidity;

ii. Morbidity in a nonobstetric patient shall mean a temperature of 100.4°F. or higher on any two successive days of the first ten postoperative days, exclusive of the first 24 hours following surgery;

iii. Has any sign of infection, including infection discovered at the time of surgery;

[iv. Has a diagnosed malignancy;]

[v.] ***iv.*** Requires a hemorrhoidectomy or other bowel surgery; and

[vi.] ***v.*** Received antibiotics other than prophylactic antibiotics or was admitted to a hospital during the two-week period prior to admission;

3. Policies regarding restrictions to the use of antibiotics to ensure that they are administered only in one or more of the following situations:

i. Local application of antibiotics such as bladder irrigation or local vaginal preparation;

ii. Preoperative sterilization of the bowel when negligible amounts of the antibiotic will be absorbed from the gastrointestinal tract;

iii. Administration of perioperative prophylactic antibiotics in a patient undergoing surgery. Such antibiotics shall not be administered more than six hours prior to surgery nor continued for more than 72 hours following surgery; and

iv. Administration of antibiotics if a patient requires an indwelling catheter or develops a urinary tract infection, as proven by a positive urinalysis of more than 10 WBC/HPF prior to the administration of the drug. If the urinalysis shows less than 10 WBC/HPF, administration of the drug shall be justified by a physician in the patient's medical record and approved by the physician-director of the obstetric service;

4. Procedures for visitors, to ensure that the same visiting privileges apply to both obstetric and nonobstetric patients;

[5. Staffing patterns, to ensure that nursing personnel from other services are not assigned to the obstetric and newborn services during the same tour of duty;]

[6.] ***5.*** A policy that if surgery is required for nonobstetric patients, it shall be performed in the operating room;

[7.] ***6.*** Procedures for temperature readings. Oral temperature readings shall be taken at least *[four times]* ***twice***

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a day on all nonobstetric patients*, or more frequently if indicated*;

[8.] *7.* Written protocols for the culture(s) of nonobstetric patients, including the type of culture(s), when it/they shall be performed, and under what circumstances; and

[9.] *8.* Policies and procedures for medical records and collection of data, including:

i. A policy that the medical record of each nonobstetric patient admitted to the obstetric service include a completed Admission Check-Sheet and Questionnaire form of the Department, or its equivalent;

ii. Review of the medical record of each patient transferred from the mixed obstetric service, including the reason for transfer and the organisms found in the culture(s) of any patient transferred because of morbidity or infection;

iii. Review of the medical record of each obstetric patient and newborn or infant with morbidity, including the causes of morbidity and the reasons for and results of cultures; and

iv. Maintenance of a logbook for nonobstetric patients admitted to the obstetric service, including, but not limited to, the following information: patient's name, age, date of admission, date of discharge, date of surgery, if performed, length of hospital stay, admission diagnosis, discharge diagnosis, type(s) of surgery performed, whether major or minor surgery, major or minor associated procedures (incidental appendectomy not included), morbidity and cause, transfer or discharge (use T or D), reason for transfer, hospital day of transfer, postoperative day of transfer, and surgeon's name.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual Utilization of Insurance Benefits

Adopted Amendments: N.J.A.C. 10:49-1.7 and 10:56-1.11

Proposed: July 16, 1984 at 16 N.J.R. 1933(a).
Adopted: January 2, 1985 by George J. Albanese, Commissioner, Department of Human Services.
Filed: January 3, 1985 as R.1985 d.7, **without change**.
Authority: N.J.S.A. 30:4D-7.1c and 42 CFR 433.146.
Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order 66(1978): N.J.A.C. 10:49-1, April 30, 1985; N.J.A.C. 10:56-1, July 9, 1986.

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

Full text of the adoption follows.

10:49-1.7 Utilization of Insurance Benefits

(a) Medicaid benefits are last-payment benefits. All health and accident insurance benefits, including Medicare, workers' compensation and no-fault auto insurance shall be used first and to the fullest extent in meeting the medical needs of the covered person. Since Medicare covers aged and certain disabled persons, providers should inquire about Medicare eligi-

bility when rendering Medicare covered services to a person with program code 10, 20, or 50. Supplementation of available benefits shall be as follows:

1. Title XVIII (Medicare): For those individuals who are covered under Medicare, responsibility for payment by the New Jersey Medicaid Program will be limited to the unsatisfied deductible to the extent that the payments do not exceed the maximum allowable under the program in the absence of other coverage. (Exception: Co-insurance is reimbursable for hospital billings, long term care facility billings, durable medical equipment and supplies, and prosthetic and orthotic devices to the extent that the payments do not exceed the maximum allowable under the program in the absence of other coverage.)

2. Workers compensation: No program payments shall be made for a patient covered by workers compensation.

3. Other health insurance: When a covered person has other health insurance, the program requires that such benefits be used first and to the fullest extent. Supplementation may be made by the program, but the combined total paid shall not exceed the amount payable under the program in the absence of other coverage. The program will not supplement covered services rendered by a participating or contracting practitioner with any private health coverage program where the private plan calls for the practitioner to accept said plan's payment as payment in full. When other health insurance is involved, supplementation claims shall not be filed with the program unless accompanied by a statement of payment or denial from the other carrier. Attachment of such information will expedite Medicaid claim processing. For exceptions, see paragraph 1 of this subsection.

4. Claims collectible under New Jersey no-fault law: No program payments will be made for services that are payable under the New Jersey Automobile Reparation Reform Act., P.L. 1972, c.70 or the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984, P.L. 1983 c.362. This includes claims payable under the Unsatisfied Claim and Judgment Fund where no private automobile insurance policy exists.

5. When a covered person has benefits available to him/her, such as those described in paragraph 1. through 3., or from any other liable third party, an approved Medicaid provider is authorized to sign an insurance claim form for the Commissioner, based on the third party assignment of rights, in order to receive direct payment from the insurer. This is done pursuant to N.J.S.A. 30:4D-7.1(c). The following language is to be used by the provider when completing insurance claim forms: "(signature of authorized provider), Assignee for the Commissioner, New Jersey Department of Human Services".

6. When recovery of benefits is sought by the New Jersey Medicaid program from a liable third party, the Commissioner authorizes the Director or his designee(s) to sign the recovery demand.

10:56-1.11 Basis of Payment

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

(g) When other health or liability insurance is available, the Medicaid program requires that such benefits be utilized first and to the fullest extent. See New Jersey Administrative Code 10:49-1.7 Utilization of Insurance Benefits for further information. Supplementation may be made by the Medicaid program up to the provider's customary and usual fee, but the combined total shall not exceed the amount payable under the Medicaid program.

1.-3. (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**Home Energy Assistance
Cost of Living Increases, Fair Hearings,
Automatic Payments, Increase in Benefits
Issued to Renters, Payment Schedules, and
Overpayments**

**Readopted Amendments: N.J.A.C.
10:89-1.1, 2.2, 2.3, 3.1, 3.2, 3.3, 3.4, 3.5,
3.6, 4.1 and 5.3**

Proposed: November 19, 1984 at 16 N.J.R. 3217(a).
Adopted: December 31, 1984 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: January 2, 1985 as R.1985 d.5, **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.

Effective Date: January 2, 1985.

Expiration Date pursuant to Executive Order 66(1978):
November 10, 1985.

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

Summary of Changes Subsequent to Proposal:

The following are technical corrections of publication errors:

- 10:89-2.2(a) The word "to" has been changed to "of".
- 2.3(g) The word "allowable" has been deleted since it was printed in duplicate.

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

10:89-1.1 Fair hearings

(a) Any household is entitled to, and upon request will receive an administrative review or a fair hearing if any of the following occurs:

- 1.-4. (No change.)

(b) Each household requesting a hearing will receive an initial review on the papers available to DPW. The results of this administrative review will be conveyed to the household in writing, whereupon the household may either accept the findings of the DPW as the final decision or indicate its desire to proceed with a fair hearing.

(c) The fair hearings process will be in accordance with established Aid to Families with Dependent Children (AFDC) program fair hearings procedures contained in N.J.A.C. 10:81-6.

10:89-2.2 Eligibility requirements

(a) The household members shall be residents ***[to]* *of*** New Jersey.

1. Household defined: The term "household" means any individual or group of individuals who are living together as one economic unit for whom home energy is customarily provided in common or who make undesignated payments for energy in the form of rent.

- 2. (No change in text.)
- 3. Illegal aliens are ineligible for Home Energy Assistance benefits.
- (b)-(d) (No change.)

10:89-2.3 Income eligibility

(a) (No change.)
(b) Regardless of income eligibility, the following households are not eligible for program benefits:

- 1. (No change.)
- 2. Persons receiving a rent subsidy which includes all heating costs; Renumber 2.-4. as 3.-5. (No change in text.)
- (c)-(e) (No change.)

(f) Income computation: Countable gross monthly earned and unearned income, as defined in (c) and (d) above, and verified in accordance with N.J.A.C. 10:89-4.1(d), shall be added to determine the household's total gross monthly income. Cents shall be rounded to the nearest dollar. If the household's total gross monthly income is equal to or less than the gross income limit for the household size, the household is income eligible for Home Energy Assistance.

- 1.-3. (No change.)
- 4. Roomer-boarders residing with an applicant household are not to be included in the household size and the income of such individuals is not to be considered in the eligibility determination. However, in accordance with N.J.A.C. 10:82-4.3(c) in the Assistance Standards Handbook, any income to the household in excess of \$96.00 per month shall be considered in determining the household's gross monthly income.

i. The only exception to (f)4 above will occur if the roomer-boarder is a spouse, parent, child, brother or sister of a household member. In such instances, the roomer-boarder shall be included in the household size and his or her gross monthly income considered as part of the household's income in determination of eligibility.

- 5. (No change.)
- (g) Gross Income Eligibility Limits for Home Energy Assistance:

Household Size	Monthly *[Allowable]* Gross Income Limit
1	\$ 519
2	700
3	881
4	1062
5	1243
6	1424
7	1605
8	1786
9	1967
10	2148
Each Additional Member	+ 181

10:89-3.1 Automatic payments to certain households

(a) Recipient households:
1. Certain households eligible for and receiving AFDC or non-public assistance (NPA) Food Stamps (FS) will receive automatic payments based on the information regarding income, household size, heating arrangement and fuel type contained in computer records maintained by the Division of Public Welfare. Where the household receives FS as a public assistance (PA) household and the PA FS household is greater than the AFDC eligible unit, the automatic payment shall be based on the PA FS household size. This information will be collected from the head of the household at each application, reapplication or recertification for AFDC or FS and will be updated whenever the household reports a change. However, once a household becomes eligible for automatic payments, the entitlement cannot be adjusted.

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- i. (No change.)
 - ii. The entitlement will be paid in two installments to households found eligible for automatic payments prior to December 31. New cases found eligible after December 31 shall receive the entitlement in a single payment through February.
 - iii. (No change in text.)
2. Eligible households which heat by electricity or natural gas will receive the automatic payment(s) in the form of a two party check, payable to the head of household and the generic copayee "your heating utility".
3. (No change in text.)

10:89-3.2 Special energy assistance

- (a)-(e) (No change.)
- (f) Households responsible for heating costs:
 - 1. Households which are responsible for primary fuel costs associated with residential heat shall receive a benefit based on the appropriate benefit level in Schedule A, B, C or D of this chapter for the household's size, income, fuel type, and heating region.

2. For program purposes a household's benefit will be determined as follows:

- i. If the household is directly responsible to the fuel vendor for payment the benefit will be based on Schedule A, B or C of this chapter, as appropriate;
- ii. If the household is otherwise directly responsible for payment of the fuel charge (e.g., the landlord bills the household as a separate charge from rent for fuel use although the landlord remains responsible to the fuel vendor) the benefit will be based on Schedule C of this chapter; or
- iii. If heat is included in a single monthly rental charge the benefit will be based on Schedule D.

- 3. (No change.)
- 4. A household directly responsible to a public utility or participating fuel supplier for payment of heating costs will receive the special energy benefit in the form of a two party check. The check will be payable to the head of household and the name of the fuel supplier or, if the heating fuel is electricity or natural gas, the copayee shall be designated "your heating utility".
- 5. (No change.)

10:89-3.3 Cooling assistance

- (a) (No change.)
- 1.-2. (No change.)
- 3. The following households are not eligible for cooling assistance payments:
 - i.-iv. (No change.)

10:89-3.4 Emergency energy assistance

- (a) Emergency energy assistance is available to income eligible households and is subject to the following conditions:
 - 1.-2. (No change.)
 - 3. The amount of any emergency assistance shall be the lowest amount charged for the service performed by the household's energy supplier or for the purchase of fuel, but shall not exceed \$200.00 for the purchase of fuel oil, \$150.00 for the purchase of electricity or natural gas, \$100.00 for the purchase of bottled gas, kerosene, wood or coal, or \$50.00 for the restoration of utility service.
 - 4.-6. (No change.)
 - (b)-(f) (No change.)

10:89-3.5 Maximum program benefit

- (a) (No change in text.)

(b) Cooling assistance payments in accordance with N.J.A.C. 10:89-3.3 and emergency temporary rehousing payments in accordance with N.J.A.C. 10:89-3.4(e) are not counted toward the maximum program benefit.

10:89-3.6 Payment schedule

(a) (No change.)

(b) Schedule B: Natural Gas:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Region Designation						
Monthly Income						
\$0- \$417.00	408	356	546	474	654	570
\$417.01 - \$667.00	340	298	454	396	546	474
\$667.01 - \$917.00	274	238	364	318	436	380
\$917.01 - \$1167.00			272	238	328	284
\$1167.01 - \$1583.00			182	158	218	190
Over \$1583.00					110	94

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(c) Schedule C: All other fuel:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Region Designation						
Monthly Income						
\$0- \$417.00	322	280	430	372	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.

(d) Schedule D: Renters:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Region Designation						
Monthly Income						
\$0- \$417.00	266	232	354	308	426	370
\$417.01 - \$667.00	220	194	296	258	354	308
\$667.01 - \$917.00	178	154	236	206	284	246
\$917.01 - \$1167.00			176	154	214	184
\$1167.01 - \$1583.00			118	102	142	124
Over \$1583.00					72	62

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

10:89-4.1 Opportunity and decision to apply

(a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Applicants will be informed about eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined. Upon completion of the application process, the application shall be transmitted to DPW in accordance with (e) below.

- 1. (No change.)
- (b) (No change.)
- (c) Households desiring HEA assistance must complete a separate Form EP-1, Home Energy Assistance Application. The application must be completed and signed at sites designated by the CWA of the county in which the household resides. The application shall be signed by the household member responsible for payment of heating or cooling costs

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or by his or her authorized representative and by the CWA worker and supervisor.

1.-5. (No change.)

(d) At the time of application, the CWA shall advise the household of all program eligibility requirements and the method by which assistance will be provided. Additionally, the CWA shall assist the household in completing the application and explain what elements of eligibility must be verified. The CWA must advise the household what verification is required and explain that the case will be denied if verification is not provided.

1. Verification requirements: The CWA shall assist the household in obtaining the required verification.

i. Required documentation: The following must be verified, documented and retained in the case record by the CWA prior to transmitting the application to DPW:

(1)-(3) (No change.)

(4) Heating fuel type and supplier. The client shall present a bill or contract from the fuel supplier (the CWA may, with the consent of the household, contact the supplier for verification);

(5)-(10) (No change.)

ii. (No change.)

(e) The CWA shall transmit application data to DPW via computer terminal for each Form EP-1 within four working days of receipt of the completed application and retain a copy in the case record.

1. Form EP-1 shall be screened by the CWA prior to data entry to ensure that it is complete and coded correctly.

2. Each CWA will receive a listing of its cases which were rejected upon data entry. All cases on this report must be corrected and retransmitted to DPW.

(f) In certain instances, the CWA may not be able to submit Form EP-1 for data entry because the household has not completed the application or it has not provided or refuses to provide verification which the CWA cannot otherwise obtain. In such instances, the CWA shall advise the household of the consequences of its noncooperation and hold the application, including mail applications, until the last working day before the expiration of the 30 day limit for action on the application to give the household an opportunity to cooperate. Form EP-1 shall then be appropriately coded and transmitted to DPW. The CWA must record the specifics of the situation requiring this action.

1. Once the CWA has clearly established either that the household will not cooperate further or that the household believes it has provided sufficient verification, the application should be appropriately coded and transmitted to DPW. The household must receive a notice of denial and may contest this denial at a fair hearing. Renumber (h)-(k) as (g)-(j) (No change in text.)

10:89-5.3 Recoupment of overpayments

(a) "Overpayments" shall include the following:

1. Households which received more than \$750.00 in HEA benefits during any program year prior to October 1, 1982, or \$900.00 during any program year thereafter shall be considered to have been overpaid.

2. Households which receive benefits which are duplicative, i.e., households receiving more than one full automatic and/or special energy entitlement during any program year, shall be considered to have been overpaid.

3. Households which receive any amount of HEA benefits that the CWA determines to have been issued inappropriately

by virtue of fraud, misrepresentation of fact or administrative error, shall be considered to have been overpaid.

(b) All households determined to have been overpaid shall be required to repay the excess benefit. Upon discovery of the overpayment, the CWA shall take action in accordance with the procedures in this subsection.

1. The amount of the overpayment shall be the difference between the total HEA benefit paid to the household and \$750.00 or \$900.00 as appropriate, or the amount determined by the CWA to have constituted the overpayment.

2. Immediately upon discovery of an overpayment, the CWA shall inform the household in writing of amount overpaid, how the overpayment was calculated and request repayment.

3. If the household makes repayment the amount recovered shall be treated in accordance with procedures established by DPW's Bureau of Business Services.

4. If the household refuses to repay, does not respond to the repayment request or fails to make scheduled repayments it shall be advised that the amount will be recovered from any future HEA benefits to which the household may be entitled.

5. The CWA shall institute action to recover the full amount of the overpayment by reducing the household's HEA entitlement in the succeeding program year.

6. Recoupment of overpayments from future HEA benefits is subject to adequate notice in accordance with N.J.A.C. 10:89-5.2.

CORRECTIONS

(a)

DIVISION OF ADULT INSTITUTIONS

Adult County Correctional Facilities

Adopted New Rule: N.J.A.C. 10A:31

Proposed: December 3, 1984 at 16 N.J.R. 3284(a).

Adopted: January 4, 1985 by William H. Fauver, Commissioner, Department of Corrections.

Filed: January 10, 1985 as R.1985 d.17, **without change.**

Authority: N.J.S.A. 30:1-15 and 30:1B-10.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): February 4, 1990.

Summary of Public Comment and Agency Responses:
No comments received.

Full text of the adopted rule appears in the New Jersey Administrative Code at N.J.A.C. 10A:31.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service Standards and Procedures to be Used by Licensed Reinspection Centers

Adopted Amendments: N.J.A.C. 13:20-33.1 and 33.50

Proposed: December 3, 1984 at 16 N.J.R. 3288(a).
Adopted: January 3, 1985 by Clifford W. Snedeker,
Director, Division of Motor Vehicles.
Filed: January 14, 1985 as R.1985 d.20, **without
change.**

Authority: N.J.S.A. 39:8-26.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 25, 1989.

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

Full text of the adoption follows.

- 13:20-33.1 General provisions; Class I and II licensees
 - (a)-(p) (No change.)
 - (q) Class I and II "full service" licensed reinspection centers shall be required to conduct initial motor vehicle inspections for a period of three years ending May 31, 1986, pursuant to the regulations and procedures for conducting reinspections.
 - (r)-(u) (No change.)
- 13:20-33.50 General information; Class III licensees
 - (a)-(m) (No change.)
 - (n) Class III licensed reinspection centers shall be required to conduct initial motorcycle inspections for a period of three years ending May 31, 1986, pursuant to the regulations and procedures for conducting reinspections.
 - (o)-(r) (No change.)

(b)

DIVISION OF MOTOR VEHICLES

Executive and Administrative Services Overhang Standards

Adopted New Rule: N.J.A.C. 13:20-38

Proposed: November 19, 1984 at 16 N.J.R. 3176(a).
Adopted: January 3, 1985 by Clifford W. Snedeker,
Director, Division of Motor Vehicles.
Filed: January 11, 1985 as R.1985 d.23, **without
change.**

Authority: N.J.S.A. 39:3-84a(10).

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): February 4, 1990.

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

Full text of the adoption follows:

SUBCHAPTER 38. DIMENSIONAL STANDARDS FOR AUTOMOBILE TRANSPORTERS

13:20-38.1 Vehicle combination lengths
No vehicle or combination of vehicles designed, built and utilized solely to transport other vehicles when operated on the highways of this State shall exceed 65 feet in overall length, excluding the load.

13:20-38.2 Load overhang automobile transporters
(a) A vehicle or combination of vehicles designed, built and utilized solely to transport other vehicles when operated on the highways of this State may have a load overhang of no more than three feet to the front and/or no more than four feet to the rear.

(b) Vehicles designed, built and utilized solely to transport other vehicles shall be exempt from the overhang standards set forth at N.J.A.C. 13:18-8.1.

13:20-38.3 Number of vehicles; overall length
(a) Pursuant to N.J.S.A. 39:4-54 no more than two vehicles may be drawn by a motor vehicle.
(b) No vehicle or combination of vehicles operated in a saddlemount or fullmount operation shall exceed 65 feet in overall length, inclusive of load.

(c)

BOARD OF ARCHITECTS AND CERTIFIED LANDSCAPE ARCHITECTS

Fees

Adopted Amendment: N.J.A.C. 13:27-3.13

Proposed: November 19, 1984, at 16 N.J.R. 3176(b).
Adopted: December 27, 1984 by New Jersey Board of
Architects and Certified Landscape Architects, M.
Lisbeth DeCotiis, President.
Filed: January 11, 1985 as R.1985 d.22, **without
change.**

Authority: N.J.S.A. 45:3A-9.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): July 5, 1988.

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

Full text of adoption follows.

13:27-3.13 Fees

- (a) (No change.)
- (b) The following fees shall be charged by the Board of Architects for Landscape Architect Certification matters. Unless otherwise provided herein, all fees are non-refundable.
 1. Application for certification under the grandfather clause of L. 1983, c.337, § 17: \$50.00. If an applicant under the grandfather clause is found not qualified for certification under that provision, the \$50.00 fee may be applied toward the examination fee in paragraph 3, below.
 2. Application to sit for examination: \$100.00.
 3. Examination fee: Such fee as is charged by the Council of Landscape Architectural Review Board (CLARB) for the Uniform National Examination. Such proportion of the examination fee as may be established by CLARB shall be subject to refund, upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.
 4. License fee for newly certified landscape architects (New Jersey residents), including seal and certificate: \$140.00. Such fee shall be subject to refund upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.
 5. License fee for newly certified landscape architects (non-New Jersey residents), including seal and certificates: \$140.00. Such fee shall be subject to refund upon request, if the applicant is determined to be ineligible for examination, withdraws his application, or fails to appear for examination.
 6. The fee for biennial renewal of certification shall be \$100.00.
 7. The fee for reinstatement of certification shall be \$50.00 in addition to the fee for biennial renewal of certification.
 8. A fee for late registration: \$10.00.
 9. The fee for reissuing a certificate to any certified landscape architect who attests that the original certificate has been lost, mislaid or destroyed shall be \$15.00.
 10. The fee for reissuing a seal to any certified landscape architect who attests that the original has been lost, mislaid or destroyed shall be \$25.00.
 11. The fee for transmittal of an applicant or certificate holder's examination grades to another state shall be \$15.00.
 12. The fee for a roster of certified landscape architects shall be \$8.00.

(a)

OFFICE OF THE STATE ATHLETIC COMMISSIONER

Scoring of Boxing Contests

Adopted Amendments: N.J.A.C. 13:46-8.19 and 10.7

Proposed: July 16, 1984 at 16 N.J.R. 1956(a).
 Adopted: December 27, 1984 by Robert W. Lee, Acting State Athletic Commissioner, and by Irwin I. Kimmelman, Attorney General of New Jersey.
 Filed: January 14, 1985 as R.1985 d.21, **without change.**

Effective Date pursuant to Executive Order No. 66(1978): January 7, 1990 for 13:46-8.19; February 4, 1990 for 13:46-10.7.

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

Full text of the adoption follows.

- 13:46-8.19 Round system scoring; supplemental point system
 - (a) The round system of scoring shall govern the decision and be rendered by three judges.
 - (b) The judges must mark their scorecards in ink or indelible pencil at the end of each round, with the symbols of W or L or E; a capital W in a boxer's column indicates the win of that round, a capital L, the loss of that round, and a capital E that the round was even.
 - (c) At the conclusion of the bout, the boxer who has won the most number of rounds on the scorecards is the winner.
 - (d) At the end of each round, the judges will use ten points to supplement their scorecard.
 - 1.-4. (No change.)
 - (e) If a referee penalizes a boxer a round for a foul:
 1. (No change.)
 2. The offender loses the round, with a score of four points or less.
 3. The referee shall notify the judges and the announcer of the same, and the announcer shall declare it to the public at the end of that round.
 - (f) (No change.)
 - (g) At the conclusion of each round, the judges shall submit their scorecards including the point supplementation, to the Commissioner or his representative. At the conclusion of the bout, the rounds shall be tallied by the Commissioner or his representative and given to the announcer who shall announce the decision from the ring.
 - (h) In all boxing contests, the announcer shall call out the rounds credited to a boxer by the judges, and when it becomes necessary, rounds and points credited to a boxer.
 - (i) (No change.)

13:46-10.7 Announcement of the decision

At the conclusion of a boxing bout, the announcer shall obtain the decision from the Commissioner or his representative and shall announce the decision from the ring. The manner of the announcement shall be directed by the Commissioner.

(b)

OFFICE OF THE STATE ATHLETIC COMMISSIONER

Exclusivity and Reservation of Dates

Adopted Amendments: N.J.A.C. 13:46-18.15

Proposed: May 7, 1984 at 16 N.J.R. 1030(a).
 Adopted: December 27, 1984 by Robert W. Lee, Acting State Athletic Commissioner, and by Irwin I. Kimmelman, Attorney General of New Jersey.
 Filed: January 14, 1985 at R.1985 d.19, **without change.**

Authority: N.J.S.A. 5:2-5.

Effective Date: February 4, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): August 16, 1987.

ADOPTIONS

TRANSPORTATION

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

Full text of the adoption follows.

13:46-18.15 Exclusivity and reservation of dates

(a) The Commission shall permit no more than one boxing program on any day within a 20-mile radius of the site of that program. Nevertheless, the Commissioner may permit more than one such program within the specified geographical area during a particular day under circumstances indicating to his satisfaction that the programs will not unduly compete with each other for the same audience. In determining whether the programs will not unduly compete with each other the Commission shall consider the location of each program, the identity, number and ranking of the participants and whether either of the programs will be televised.

(b) A licensed promoter may reserve a date for a boxing program as follows:

1. He may tentatively reserve a date by submitting to the Commission in writing form (letter, telegram, telex, and so forth) the names of the fighters for the main event contest, the date and time of the contest and the city where the contest is to occur.

2. Within five business days of forwarding to the Commissioner the written communication tentatively reserving the date, the promoter shall confirm with the Commission the site of the bout and shall submit to the Commission signed contracts of the boxers for the main event or telegraphic acceptance of the contract by the boxers of their respective managers. The promoter may also submit evidence of a commitment to televise a boxing program which the Commission in its discretion may accept in lieu of signed contracts or telegraphic acceptance as the basis for a final reservation of the date provided the signed contracts of the boxers are submitted within a two week period prior to holding of the program.

3. Upon the promoter's complying with the foregoing requirements, the Commission shall finally reserve the date, time and site location by issuing a permit to the promoter.

4. With respect to programs scheduled for Saturdays and Sundays, a promoter may tentatively and finally reserve not more than three days within a three-month period, unless special application is made to the Commissioner. The Commissioner in his discretion may permit reservation of more than three such dates upon condition that a forfeiture fee of not more than \$10,000 for each bout in excess of three is posted with the Commission within 45 days of each of those scheduled bouts. In the event that any date is not utilized by the promoter and a forfeiture fee has been posted, such fee shall be refunded to the promoter if the date was relinquished by the promoter at least 31 days before the main event.

5. A promoter may not reserve the same day of the week in the same municipality for a period greater than three months.

TRANSPORTATION

(a)

**Speed Limits For State Highways
Route 21, 21 Freeway and 21 Service Road
(River Drive)**

Adopted Amendment: N.J.A.C. 16:28-1.47

Proposed: November 19, 1984 at 16 N.J.R. 3185(a).

Adopted: December 21, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: January 8, 1985 as R.1985 d.13, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66 (1978):
November 7, 1988.

Summary of Public Comments and Responses:
No comments received.

Full text of adoption follows.

16:28-1.47 Route 21, 21 Freeway and 21 Service Road (River Drive)

(a) The rate of speed designated for the certain parts of State highway Routes 21, 21 Freeway and 21 Service Road (River Drive) described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

2. Along Route 21 Service Road (River Drive) in Passaic City, Passaic County:

i. For northbound traffic:

(1) 40 miles per hour between 250 feet north of Terhune Avenue and 150 feet north of Van Houten Avenue.

11. For southbound traffic:

(1) 40 miles per hour between 150 feet north of Van Houten Avenue and 250 feet north of Terhune Avenue.

(a)

**Restricted Parking and Stopping
Routes U.S. 1, 9, 17, 27, 28, 88 and 168**

**Adopted Amendments: N.J.A.C.
16:28A-1.1, 1.7, 1.9, 1.18, 1.19, 1.44 and
1.51**

Proposed: November 19, 1984 at 16 N.J.R. 3186(a).
Adopted: December 21, 1984 by Jarrett R. Hunt, As-
sistant Chief Engineer, Traffic and Local Road De-
sign.

Filed: January 8, 1985 as R.1985 d.11, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1,
39:4-139 and 39:4-199.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
November 7, 1988.

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

Full text of adoption follows.

16:28A-1.1 Route U.S. 1

(a) (No change.)

(b) The certain parts of State Highway Route U.S. 1 de-
scribed in 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 per-
mission is granted to erect appropriate signs at the following
established bus stops:

1. Along the northbound (easterly) side in South Bruns-
wick Township, Middlesex County:

i. Near side bus stop:

1. Whispering Woods Boulevard (105 feet).

2. Along the southbound (westerly) side in South Bruns-
wick Township, Middlesex County:

i. Near side bus stop:

1. Wynwood Drive (105 feet).

16:28A-1.7 Route US 9

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 de-
scribed in this subsection 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 granted to erect appropriate signs at the follow-
ing established bus stops:

1.-2. (No change.)

3. Along the northbound (easterly) side in Freehold Town-
ship, Monmouth County:

i. Far side bus stops:

(1) (No change.)

(2) Craig Road—Beginning at the northerly curb line of
Craig Road and extending 205 feet northerly therefrom.

ii. Near side bus stops:

(1) (No change.)

(2) Three Brooks Road—Beginning at the southerly curb
line of Three Brooks Road and extending 105 feet southerly
therefrom.

iii. Mid-block bus stops:

(1) (No change.)

(2) Schibanoff Road—Beginning at a point 180 feet north
of the northerly curb line of Schibanoff Road and extending
135 feet northerly therefrom.

4. Along the southbound (westerly) side in Freehold Town-
ship, Monmouth County:

i. Mid-block bus stops:

(1) (No change.)

(2) Schanck Road—Beginning at a point 2,555 feet south
of the southerly curb line of Schanck Road and extending 135
feet southerly therefrom.

ii. Far side bus stop:

(1) Elton-Adelphia Road (Co. Rd. 524)—Beginning at the
southerly curb line of Elton-Adelphia Road (Co. Rd. 524) and
extending 200 feet southerly therefrom.

iii. Near side bus stops:

(1) Craig Road—Beginning at the northerly curb line of
Craig Road and extending 105 feet northerly therefrom.

(2) Schibanoff Road—Beginning at the northerly curb line
of Schibanoff Road and extending 105 feet northerly there-
from.

5.-24. (No change.)

25. Along the northbound (easterly) side in Lakewood
Township, Ocean County:

i. Far side bus stops:

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

ii. Near side bus stop:

(1) John Street—Beginning at the southerly curb line of
John Street—and extending 105 feet southerly therefrom.

26. Along the southbound (westerly) side in Lakewood
Township, Ocean County:

i. Near side bus stop:

(1) (No change.)

ii. Far side bus stop:

(1) John Street—Beginning at the prolongation of the
southerly curb line of John Street—and extending 100 feet
southerly therefrom.

27.-29. (No change.)

30. Along the southbound (westerly) side in Eagleswood
Township, Ocean County:

i. Far side bus stop:

(1) Holly Road (100 feet).

31. Along the northbound (easterly) side in Eagleswood
Township, Ocean County:

i. Mid-block bus stop:

(1) Holly Road: Beginning at a point 100 feet north of the
prolongation of the northerly curb line of Holly Road ex-
tended and extending 135 feet northerly therefrom.

32. Along the southbound (westerly) side in Little Egg Har-
bor Township, Ocean County:

i. Far side bus stop:

(1) Mathistown Road: Beginning at the prolongation curb
line of Mathistown Road and extending 105 feet southerly
therefrom.

ii. Near side bus stop:

(1) Gifford Road: Beginning at the northerly curb line of
Gifford Road and extending 105 feet northerly therefrom.

33. Along the northbound (easterly) side in Little Egg Har-
bor Township, Ocean County:

i. Near side bus stop:

(1) Mathistown Road: Beginning at the southerly curb line
of Mathistown Road and extending 105 feet southerly there-
from.

ADOPTIONS

TRANSPORTATION

16:28A-1.9 Route 17

- (a) (No change.)
- (b) The certain parts of State Highway Route 17 described in 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 granted to erect appropriate signs at the following established bus stops:
 - 1.-5. (No change.)
 - 6. Along (Rutherford Avenue) eastbound on the southerly side thereof in Lyndhurst Township, Bergen County:
 - i. Near side bus stop:
 - (1) Orient Way—Beginning at the westerly curb line of Orient Way and extending 105 feet westerly therefrom.

16:28A-1.18 Route 27

- (a) The certain parts of State Highway Route 27 described in this section shall be designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.
 - 1.-15. (No change.)
 - 16. No stopping or standing in Metuchen Borough, Middlesex County:
 - i. Along both sides:
 - (1) From a point 310 feet east of the easterly curb line of Lake Avenue.
 - ii. Along the northbound (east) side:
 - (1) From a point 500 feet east of the easterly curb line of Grove Avenue to a point 260 feet west of the westerly curb line of Grove Avenue.
 - iii. Along the southbound (west) side:
 - (1) From a point 300 feet east of the easterly curb line of Grove Avenue to a point 500 feet west of the westerly curb line of Grove Avenue.
 - (b)-(d) (No change.)

16:28A-1.19 Route 28

- (a) The certain parts of State Highway Route 28 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
 - 1.-7. (No change.)
 - 8. No stopping or standing in Somerville Borough Somerset, County:
 - i. Along the eastbound side:
 - (1)-(5) (No change.)
 - (6) Beginning at the easterly curb line of Mountain Avenue Extension and extending 128 feet easterly therefrom.
 - (7) Beginning at the westerly curb line of Mountain Avenue Extension and extending 158 feet westerly therefrom.
 - (8) Beginning at a point 110 feet from the easterly curb line of South Doughty Avenue and extending 67 feet easterly therefrom.
 - (9) West End Avenue—Beginning at the westerly curb line of (West Main Street)-Somerset Street and extending 115 feet westerly therefrom.
 - ii. Along the westbound side:
 - (1)-(3) (No change.)
 - (4) Beginning at the easterly curb line of Mountain Avenue and extending 160 feet easterly therefrom.

- (5) Beginning at the westerly curb line of Mountain Avenue and extending 130 feet westerly therefrom.
- (6) Beginning from a point 90 feet from the westerly curb line of North Doughty Avenue and extending 109 feet westerly therefrom.
- (7) Beginning at the easterly curb line of North Doughty Avenue and extending 60 feet easterly therefrom.
- 9. No stopping or standing in Bridgewater Township, Somerset County.
 - i. Along the northbound side (Union Avenue):
 - (1) Between Adamsville Road and Fairmount Avenue.
 - ii. Along the north side from a point 100 feet west of Van Buren Street and along the south side from Rehill Avenue easterly to and including all ramps and connections which are under the jurisdiction of the Commissioner of Transportation at Interstate highway Route 287.
 - 10.-13. (No change.)
 - (b)-(e) (No change.)

16:28A-1.44 Route 88

- (a) The certain parts of State Highway Route 88 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
 - 1.-5. (No change.)
 - (b) The certain parts of State Highway Route 88 described in 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 granted to erect appropriate signs at the following established bus stops:
 - 1. (No change.)
 - 2. Along the westbound (northerly) side thereof in Lakewood Township, Ocean County:
 - i. Far side bus stop:
 - (1) New Hampshire Avenue: beginning at the westerly curb line of New Hampshire Avenue and extending 200 feet westerly therefrom.

16:28A-1.51 Route 168

- (a) The certain parts of State Highway Route 168 described in this section are designated and established as "no parking" zones where stopping is prohibited at all times except as provided in N.J.S.A. 39:4-139.
 - 1.-5. (No change.)
 - 6. No stopping or standing in Gloucester Township, Camden County:
 - i. Along both sides:
 - (1) Black Horse Pike from Marshall Road to Asyla both sides, sometimes referred to as Lakewood Road.
 - (b) The certain parts of State Highway Route 168 described in 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 granted to erect appropriate signs at the following established bus stops:
 - 1.-4. (No change.)

(a)

**Restricted Parking and Stopping
Routes 38 in Mount Laurel Township and 70
in Pennsauken Township**

**Adopted Amendments: N.J.A.C.
16:28A-1.27 and 1.37**

Proposed: November 19, 1984 at 16 N.J.R. 3188(a).
Adopted: December 21, 1984 by Jarret R. Hunt, Assist-
ant Chief Engineer, Traffic and Local Road Design.
Filed: January 8, 1985 as R.1985 d.10, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1,
39:4-139 and 39:4-199.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order 66(1978):
November 7, 1988.

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

Full text of adoption follows.

16:28A-1.27 Route 38

(a) The certain parts of State highway Route 38 described
in this section are designated and established as "no parking"
zones where stopping or standing is prohibited at all times
except as provided in N.J.S.A. 39:4-139.

- 1.-2. (No change.)
- 3. No stopping or standing in Maple Shade Township,
Burlington County:
 - i. Along Buttonwood Avenue—both sides:
 - (1) Between Route 38 and Rudderow Avenue.
- 4. No stopping or standing in Mount Laurel Township,
Burlington County:

i. Along both sides:
(1) From the westerly curb line of Ark Road to a point 250
feet westerly therefrom.

(b) The certain parts of State highway Route 38 described
in 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, permis-
sion is granted to erect appropriate signs at the following
established bus stops:

- (1) (No change.)

16:28A-1.37 Route 70

- (a) (No change.)
- (b) The certain parts of State highway Route 70 described
in 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 permis-
sion is granted to erect appropriate signs at the following
established bus stops:
 - 1. Along the southerly (eastbound) side in Pennsauken
Township, Camden County:
 - i. Near side bus stop:
 - (1) McClellan Drive (170 feet).

(b)

**Restricted Parking and Stopping
Routes U.S. 322 in Harrison Township and
109 in Lower Township**

**Adopted Amendment: N.J.A.C. 16:28A-1.93
Adopted New Rule: N.J.A.C. 16:28A-1.101**

Proposed: November 19, 1984 at 16 N.J.R. 3189(a).
Adopted: Deember 21, 1984 by Jarrett R. Hunt, Assist-
ant Chief Engineer, Traffic and Local Road Design.
Filed: January 8, 1985 as R.1985 d.12, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and
39:4-139.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order 66(1978):
November 7, 1985.

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

Full text of adoption follows.

16:28A-1.93 Route U.S. 322

(a) The certain parts of State Highway Route U.S. 322
described in this section shall be designated and established as
"no parking" zones where stopping or standing is prohibited
at all times except as provided in N.J.S.A. 39:4-139.

- 1. No stopping or standing in Harrison Township,
Gloucester County:
 - i. (No change.)
 - ii. Along the west side from the northerly curb line of
Route 45 to a point 100 feet northerly therefrom.
- 2.-3. (No change.)

16:28A-1.101 Route 109

(a) The certain parts of State highway Route 109 described
in this section shall be designated and established as "no
parking" zones where stopping or standing is prohibited at all
times except as provided in N.J.S.A. 39:4-139.

- 1. No stopping or standing in Lower Township, Cape May
County:
 - i. Along both sides:
 - (1) Between Route U.S. 9 and City of Cape May—Lower
Township corporate line, including all ramps and connections
under the jurisdiction of the Commissioner of Transporta-
tion.

(c)

**No Passing Zones
Routes 38, 53, 71, 72, 88, 169, 173 and 182**

**Adopted Amendment: N.J.A.C. 16:29-1.26
Adopted New Rules: N.J.A.C. 16:29-1.39,
1.40, 1.41, 1.42, 1.43, 1.44 and 1.45**

Proposed: November 19, 1984 at 16 N.J.R. 3189(b).
Adopted: Deember 21, 1984 by Jarrett R. Hunt, Assist-
ant Chief Engineer, Traffic and Local Road Design.
Filed: January 8, 1985 as R.1985 d.9, **without change**.

ADOPTIONS

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-201.1.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
November 7, 1988.

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

Full text of adoption follows:

16:29-1.26 Route 72

(a) The following certain parts of State highway Route 72 shall be designated and established as "No Passing" zones:

1. (No change.)

2. That part in Woodland Township, Burlington County and described in drawing number HNPZ-064, dated April 7, 1983.

16:29-1.39 Route 53

(a) The following certain parts of State highway Route 53 shall be designated and established as "No Passing" zones:

1. That part in Morris Plains Borough, Parsippany-Troy Hills and Denville Townships, Morris County and described in drawing number HNPZ-039A, dated February 29, 1984.

16:29-1.40 Route 38

(a) The following certain parts of State highway Route 38 shall be designated and established as "No Passing" zones:

1. That part in Mount Laurel, Hainesport, Lumberton and Mount Holly Townships, Burlington County and described in drawing number HNPZ-061, dated April 11, 1983.

16:29-1.41 Route 88

(a) The following certain parts of State highway Route 88 shall be designated and established as "No Passing" zones:

1. That part in Lakewood and Brick Townships and Point Pleasant Borough, Ocean County and described in drawing number HNPZ-067, dated April 28, 1984.

16:29-1.42 Route 169

(a) The following certain parts of State highway Route 169 shall be designated and established as "No Passing" zones:

1. That part in Jersey and Bayonne Cities, Hudson County and described in drawing number HNPZ-073, dated August 9, 1984.

16:29-1.43 Route 173

(a) The following certain parts of State highway Route 173 shall be designated and established as "No Passing" zones:

1. That part in Bloomsbury Borough, Clinton, Bethlehem and Union Townships and the Town of Clinton, Hunterdon County and described in drawing number HNPZ-074, dated August 14, 1984.

2. That part in Greenwich Township, Warren County and described in drawing number HNPZ-075, dated August 4, 1984.

16:29-1.44 Route 182

(a) The following certain parts of State highway Route 182 shall be designated and established as "No Passing" zones:

1. That part in the Town of Hackettstown, Warren County and described in drawing number HNPZ-076, August 9, 1984.

TRANSPORTATION

16:29-1.45 Route 71

(a) The following certain parts of State highway Route 71 shall be designated and established as "No Passing" zones:

1. That part in Brielle, Manasquan, Sea Girt, Spring Lake Heights, Belmar, Avon-By-The-Sea, Bradley Beach, Al-lenhurst, Deal, West Long Branch, Oceanport and Eatontown Boroughs; Wall, Neptune and Ocean Townships, Asbury Park, Long Branch and the Village of Loch Arbor Cities, Monmouth County and described in drawing number HNPZ-051, dated August 31, 1984.

NOTE: Drawings are on file in Department's Bureau of Traffic Engineering & Safety Programs, 25 Scotch Road, Trenton, New Jersey 08625, and the Office of Administrative Law.

(a)

CONSTRUCTION AND MAINTENANCE

Contract Administration

Distribution and Sale of Construction Plans and Supplementary Specifications; Requirements

Adopted Amendment: N.J.A.C. 16:44-3.2

Proposed: October 1, 1984 at 16 N.J.R. 2515(a).

Adopted: November 7, 1984 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations.

Filed: January 3, 1985 as R.1985 d.6, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1-1.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
July 5, 1988.

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

Full text of the adoption follows.

16:44-3.2 Requirements

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

(e) Requests from outside the NJDOT for distribution of plans, or for any portion thereof, or for any individual sheet or sheets therefrom, shall be honored during the advertised period. However, distribution under such requests will only be made after one of the following:

1. The Department cashier has furnished a receipt indicating that the proper remittance (\$.60 per sheet not to exceed the scheduled price for a complete set of black line prints) has been submitted; or

2.-3. (No change.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Administration Minimum Adjustments to Members' Accounts

Adopted Amendments: N.J.A.C. 17:1-1.10

Proposed: November 19, 1984, at 16 N.J.R. 3192(a).
Adopted: December 12, 1984, by Douglas R. Forrester,
Director, Division of Pensions.
Filed: January 7, 1985 as R.1985 d.8, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order 66(1978):
May 15, 1988.

Summary of Public Comments and Agency Responses:
No comment received.

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

17:1-1.10 Minimum adjustments

(a) In order to facilitate the reconciliation of members' accounts upon death, withdrawal, loans and arrearages, no rebates or additional contributions shall be made if such adjustments involve amounts of \$10.00 or less. ***[At the end of the quarter in which the withdrawal or death number is posted to the member's account, all bad balances of \$10.00 or less will be removed by the Withdrawal or Death Sections within the \$10.00 tolerance.]*** ***All bad balances of \$10.00 or less will be written off.***

(b) No rebates or additional contributions shall be made for retired members if the adjustments involve amounts of \$5.00 or less. ***[At the end of the quarter in which the retirement number is posted to the member's account, all bad balances of \$5.00 or less will be removed by the Retirement Section within the \$5.00 tolerance. A member's retirement benefits will be recalculated if the total salary used for computing retirement benefits changes by more than \$100.00.]*** ***All bad balances of \$5.00 or less will be written off. A member's retirement benefits will be recalculated if the total salary used for computing retirement benefits changes by more than \$100.00.***

(c) Audit differences of \$2.00 or less in a member's pension or insurance payments during a quarter will not require a cash adjustment.

(d) Audit differences of \$8.00 or less in a member's pension or insurance payments covering a calendar year are not subject to cash adjustments.

(b)

DIVISION OF PENSIONS

State Health Benefits Commission Annual Enrollment Period

Adopted Amendments: N.J.A.C. 17:9-2.3

Proposed: September 17, 1984, at 16 N.J.R. 2422(a).
Adopted: December 19, 1984, by the State Health Benefits Commission, Gaius Mount, Acting Secretary.
Filed: January 11, 1985 as R.1985 d.18, **with substantive changes** not requiring additional notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): May 16, 1988.

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

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*).

17:9-2.3 Annual enrollment period

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

(c) The State Health Benefits Commission may, at its discretion ***in order to optimize benefits***, establish a special enrollment period at any time it deems necessary to do so.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

Sales and Use Tax Urban Enterprise Zones; Special Tax Rates for Certified Vendors

Adopted Amendment: N.J.A.C. 18:24-31.4

Proposed: November 19, 1984 at 16 N.J.R. 3193(a).
Adopted: January 14, 1985 by John R. Baldwin, Director, Division of Taxation.
Filed: January 14, 1985 as R.1985 d.31, **without change.**

Authority: P.L. 1983, c.303, section 22 (N.J.S.A. 52:27H-81) and N.J.S.A. 54:32B-24.

Effective Date: February 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 12, 1988.

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

Full text of the adoption follows.

ADOPTIONS

OTHER AGENCIES

18:24-31.4 Partial exemption for retail sales of tangible personal property by a certified vendor

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

(e) All sales made by a qualified and certified vendor must be made from his place of business within an enterprise zone. Only receipts from sales which originate and are completed by the purchaser in person at the vendor's place of business within an enterprise zone qualify for the reduced rate of sales tax; provided, however, that after a sale has been completed within an enterprise zone, the vendor may deliver the tangible personal property to the purchaser at a location outside an enterprise zone.

1. Receipts from mail order, telephone, telex and similar sales transactions are subject to sales tax at the regular rate where delivery is made to a location within this State.

(a)

DIVISION OF TAXATION

Savings Institution Tax

Readoption: N.J.A.C. 18:36

Proposed: November 19, 1984 at 16 N.J.R. 3194(a).
Adopted: January 14, 1985 by John R. Baldwin, Director, Division of Taxation.

Filed: January 14, 1985 as R.1985 d.32, **without change.**

Authority: P.L. 1979, c.160, section 4, N.J.S.A. 54:10D-14, 54:10D-12 and 54:50-1.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): February 4, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 18:36.

OTHER AGENCIES

(b)

NEW JERSEY HIGHWAY AUTHORITY

**Garden State Parkway
Emergency Service**

Adopted Amendment: N.J.A.C. 19:8-2.12

Proposed: December 3, 1984 at 16 N.J.R. 3299(a).
Adopted: January 3, 1985 by George P. Zilocchi, Executive Director, New Jersey Highway Authority.
Filed: January 8, 1985 as R.1985 d.14, **without change.**

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18, and 27:12B-24.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1988.

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

Full text of the adoption follows.

- 19:8-2.12 Emergency service
 - (a) (No change.)
 - (b) Rules on road service for all vehicles are as follows:
 - 1. Service charge: 24 hours per day, \$11.00;
 - 2.-3. (No change.)
 - (c) Rules on towing cars and campers up to a registered maximum gross weight of 6,999 lbs. are as follows:
 - 1. Towing charge: \$30.00 plus \$1.75 per mile or fraction thereof;
 - 2. (No change.)
 - (d) Rules on towing trucks and buses (two-axle) and cars and campers registered gross weight 7,000 lbs to 14,999 lbs are as follows:
 - 1. Towing charge, \$45.00 plus \$2.00 per mile or fraction thereof;
 - 2. (No change.)
 - (e)-(f) (No change.)

(c)

NEW JERSEY HIGHWAY AUTHORITY

**Garden State Parkway
Tolls**

Adopted Amendment: N.J.A.C. 19:8-3.1

Proposed: December 3, 1984 at 16 N.J.R. 3300(a).
Adopted: January 3, 1985 by George P. Zilocchi, Executive Director, New Jersey Highway Authority.
Filed: January 8, 1985 as R.1985 d.15, **without change.**

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18, and 27:12B-24.

Effective Date: February 4, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): Exempt.

Summary of Public Comments and Agency Responses:

- Seventeen persons attended the hearing. Of these, seven spoke. The comments received were as follows:
 - 1. The recommendation that the program be revenue-neutral by establishing a \$.50 toll for buses as opposed to the \$1.00 proposal.
 - 2. A suggestion that a related New Jersey Highway Resolution No. 84-237 be modified to eliminate the terms, "for the purpose of carrying passengers on daily work-related trips", with the further suggestion that New Jersey Transit should not be the arbiter in determining those bus operations qualifying for the \$.50 discount price and finally, that the definition of regular route contained in the aforementioned Resolution be deleted.
 - 3. Concern for the manner in which interstate bus companies would be regarded in relation to the proposal.

OTHER AGENCIES

ADOPTIONS

4. A question as to whether the toll increase would be restricted to buses.

5. A question as to the method for determining present toll rates at different toll locations for buses.

Initially, all persons in attendance at the meeting were advised that their comments and the minutes of the Hearing would be referred to the Commissioners of the New Jersey Highway Authority at that agency's regular monthly meeting the following day, December 20, 1984. The Transcript and Summary of the Hearing were presented to the Commissioners as indicated.

With reference to the specific recommendations, this agency's response is as follows:

1. A study had been conducted prior to the implementation of the uniform toll program and a \$.50 toll for buses had been considered and disregarded as insufficient to meet the cost of implementing the token program. These costs included the purchase of new equipment, the updating of existing equipment, and the maintenance of all equipment which would be required for the program's implementation.

2. Resolution 84-237 will be modified to include the Department of Transportation as an agency to assist in determining bus operations eligible for the discount purchase.

3. Under the proposal, interstate bus companies will be treated and regarded equally with non-ICC-regulated companies.

4. The toll increase is restricted to buses. The toll program was developed to meet the problem of traffic congestion related to bus passage through toll locations. In line with the use relationship toll schedules, the toll increase would be restricted to buses.

5. The existing toll structure for buses is determined by location and length of trip between locations.

It might be noted that of the comments received at the Public Hearing, only comment #1 requesting a \$.50 toll as opposed to a \$1.00 toll related directly to the proposal. The other comments, while they do not deal directly with the proposed amendment, have an indirect relationship.

Full text of the adoption follows.

19:8-3.1 Tolls

(a) (No change).

(b) Tolls shall be paid by currency, coin, or authorized Authority token or scrip for the passage of all vehicles on the Parkway in amounts and at the locations designated in the following schedule.

ADOPTIONS

OTHER AGENCIES

TOLL AREA AND TYPE		CAR (2 AXLES)	CAR WITH SEMI-TRAILER (3 AXLES)	CAR WITH FULL-TRAILER (4 AXLES)	OMNIBUS	** TRUCKS 3½—5 TON 2 AXLES, 4 WHEELS	** TRUCKS OVER 5 TON 2 AXLES, 6 WHEELS	** TRUCK OR TRACTOR & SEMITRAILER 3 AXLES	** TRUCK OR TRACTOR & FULL TRAILER 4 OR MORE AXLES
Hillsdale	B	.25	.35	.50	1.00	...	...	...	...
Paramus	R	.10	.15	.20	1.00	...	...	...	...
Bergen	B	.25	.35	.50	1.00	...	...	...	...
Saddle Brook	R	.25	.35	.50	1.00	...	...	...	...
Clifton	R	.10	.15	.20	1.00	...	...	...	...
Passaic	R	.10	.15	.20	1.00	...	...	...	...
Watchung	R	.25	.35	.50	1.00	...	...	...	...
Essex	B	.25	.35	.50	1.00	...	...	...	...
Bloomfield	R	.10	.15	.20	1.00	...	...	...	...
East Orange	R	.10	.15	.20	1.00	...	...	...	...
Irvington	R	.10	.15	.20	1.00	...	...	...	...
Union	R	.25	.35	.50	1.00	...	...	...	...
Union	B	.25	.35	.50	1.00	...	...	...	...
Raritan N/S	B	.25	.35	.50	1.00	...	...	...	...
Matawan	R	.15	.20	.30	1.00	...	...	...	...
Keyport-Hazlet	R	.15	.20	.30	1.00	...	...	...	...
Holmdel	R	.15	.20	.30	1.00	...	...	...	...
Red Bank	R	.20	.30	.40	1.00	...	...	...	...
Eatontown	R	.25	.35	.50	1.00	...	...	...	...
Asbury Park	B	.25	.35	.50	1.00	.35	.50	.75	1.00
Belmar-Wall	R	.15	.20	.30	1.00	.20	.30	.45	.60
Lakewood-Brick	R	.15	.20	.30	1.00	.20	.30	.45	.60
Lakehurst	R	.15	.20	.30	1.00	.20	.30	.45	.60
Toms River	B	.25	.35	.50	1.00	.35	.50	.75	1.00
Barnegat	B	.25	.35	.50	1.00	.35	.50	.75	1.00
New Gretna	B	.25	.35	.50	1.00	.35	.50	.75	1.00
Somers Point	R	.15	.20	.30	1.00	.20	.30	.45	.60
Great Egg	B	.25	.35	.50	1.00	.35	.50	.75	1.00
Cape May	B	.25	.35	.50	1.00	.35	.50	.75	1.00
Wildwood	R	.10	.15	.20	1.00	.15	.20	.30	.40

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

MISCELLANEOUS NOTICE

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect/Engineer Selection Board Meetings

In accordance with Chapter 231, Laws of 1975, known as the "Open Public Meetings Act", this office announces the Architect/Engineer Selection Board meeting schedule for

1985. Each Wednesday at 9:00 A.M., except December 25, 1985, the meetings will convene at the following location:

Conference Room #1 (8th Floor)
Taxation Building
50 Barracks Street
Trenton, N.J. 08625

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

(The research supplement to the New Jersey Administrative Code)

The new Register Index of Rule Proposals and Adoptions combines the original Index of Proposed Rules and Index of Adopted Rules into a single listing published in every Register. In addition to simplifying research of State agency rulemaking, this important step refines the index in substance and form. *Rule adoptions promulgated in this issue already appear in the Index, and all adoptions in subsequent Registers will appear in the Index of the Register of promulgation.* Formerly, adoptions were not entered in the index listing until the month following adoption. This new feature will facilitate rule research by showing you at a glance all adopted rule changes in any rulemaking area since the most recent update to the Administrative Code.

Further improvements in the Index include the definition of key terms and abbreviations and the addition of an N.J.R. Citation Locator. The locator quickly leads you to the text of a proposal or adoption by converting an N.J.R. citation into the date of the Register in which the rule was published.

HOW THE INDEX WORKS

The Register Index of Rule Proposals and Adoptions is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes to a given rule, scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the December 3, 1984 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
16 N.J.R. 173 and 292	February 6, 1984	16 N.J.R. 2027 and 2184	August 6, 1984
16 N.J.R. 293 and 404	February 21, 1984	16 N.J.R. 2185 and 2318	August 20, 1984
16 N.J.R. 405 and 470	March 5, 1984	16 N.J.R. 2319 and 2390	September 4, 1984
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2391 and 2474	September 17, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 779 and 940	April 16, 1984	16 N.J.R. 2709 and 2864	October 15, 1984
16 N.J.R. 941 and 1130	May 7, 1984	16 N.J.R. 2865 and 3066	November 5, 1984
16 N.J.R. 1131 and 1294	May 21, 1984	16 N.J.R. 3067 and 3240	November 19, 1984
16 N.J.R. 1295 and 1406	June 4, 1984	16 N.J.R. 3241 and 3336	December 3, 1984
16 N.J.R. 1407 and 1634	June 18, 1984	16 N.J.R. 3337 and 3518	December 17, 1984
16 N.J.R. 1635 and 1832	July 2, 1984	17 N.J.R. 1 and 140	January 7, 1985
16 N.J.R. 1833 and 2026	July 16, 1984	17 N.J.R. 141 and 236	January 21, 1985
		17 N.J.R. 237 and 338	February 4, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)		
1:2-2	Civil Service cases: readopt conference hearings	16 N.J.R. 3338(a)		
1:2-3	Motor Vehicle cases: readopt hearings on the papers	16 N.J.R. 3339(a)		
1:10	Public welfare hearings	16 N.J.R. 3068(a)		
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)		
1:11-1.1, 15.1	Insurance filing cases	16 N.J.R. 2866(a)		
(TRANSMITTAL 10, dated December 17, 1984)				
AGRICULTURE—TITLE 2				
2:24-1.1, 1.2	Bee diseases: acarine mite quarantine	Emergency	R.1984 d.592	17 N.J.R. 118(a)
2:32-2	Sire Stakes Program	17 N.J.R. 3(a)		
2:52-2.1, 3.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)		
2:53-4.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)		
2:76-3.12	Farmland preservation: deed restrictions	16 N.J.R. 2867(a)	R.1984 d.596	17 N.J.R. 63(a)
2:76-4.11	Municipally-approved farmland preservation	16 N.J.R. 2869(a)	R.1984 d.597	17 N.J.R. 64(a)
2:76-6.15	Acquisition of development easements	16 N.J.R. 2871(a)	R.1984 d.595	17 N.J.R. 65(a)
2:90-3	Water conservation project cost sharing	17 N.J.R. 7(a)		
(TRANSMITTAL 27, dated December 17, 1984)				
BANKING—TITLE 3				
3:1-9.2-9.5	Home mortgage disclosure	16 N.J.R. 2872(a)		
3:30-2.1	Savings associations and Federal reserve requirements	17 N.J.R. 142(a)		
(TRANSMITTAL 25, dated December 17, 1984)				
CIVIL SERVICE—TITLE 4				
4:1-1.1-1.10	Purpose and application of rules	16 N.J.R. 1132(a)	R.1984 d.603	17 N.J.R. 66(a)
4:1-2.1	Words and phrases defined	16 N.J.R. 2187(a)	R.1984 d.604	17 N.J.R. 67(a)
4:1-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)		
4:1-14.6	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:1-20.2	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:2-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:2-14.1	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:2-20.7	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:3-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:3-14.2	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:3-15.1	Repeal rule concerning transfer of county caseworkers	16 N.J.R. 3073(a)		
4:3-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		

(TRANSMITTAL 21, dated October 15, 1984)

COMMUNITY AFFAIRS—TITLE 5

5:12	Homelessness Prevention Program	Emergency	R.1984 d.570	16 N.J.R. 3497(a)
5:18, 18A, 18B	Uniform Fire Code; Fire Code Enforcement; High Level Alarms	16 N.J.R. 3339(b)		
5:22	Readopt tax exemption rules for improvements to residential dwellings	16 N.J.R. 2191(b)	R.1984 d.590	17 N.J.R. 71(a)
5:23-2.4, 2.6, 2.17A	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:23-3.8A	UCC: products in violation	16 N.J.R. 3074(a)		
5:23-5.4	UCC: trainee suspension, fire protection trainees	16 N.J.R. 3372(a)		
5:27-1.5	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:27-5.1	Fire safety in rooming and boarding houses	16 N.J.R. 3242(a)		
5:27-5.3	Fire safety in rooming and boarding houses	16 N.J.R. 299(a)		
5:31	Local Finance Board: local authorities	16 N.J.R. 1835(a)	R.1984 d.601	17 N.J.R. 72(a)
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)		
5:80-7	Housing and Mortgage Finance Agency: housing sponsor's role	16 N.J.R. 2178(a)		

(TRANSMITTAL 24, dated November 19, 1984)

EDUCATION—TITLE 6

6:3-1.2	Board of school estimate	17 N.J.R. 143(a)		
6:8-6.2	Evaluation and certification of school districts	17 N.J.R. 143(b)		
6:11-4.3	Emergency certification	16 N.J.R. 3075(a)		
6:20-3	Readopt rules on Tuition Public Schools	17 N.J.R. 144(a)		
6:20-3.1	Tuition public schools: determining rates	Emergency	R.1984 d.589	17 N.J.R. 119(a)
6:20-6	Readopt rules on Purchase and Loan of Textbooks	17 N.J.R. 148(a)		
6:20-8	Readopt rules on Public School Contracts	16 N.J.R. 3372(b)		
6:26-3	Readopt rules on Elementary School Summer Sessions	16 N.J.R. 2715(a)		
6:27-3	Readopt rules on Secondary School Summer Sessions	16 N.J.R. 2717(a)		
6:29-7.1	Readopt Family Life Education Programs	16 N.J.R. 3377(a)		
6:30-2.5	Adult high school graduation requirements	16 N.J.R. 2719(a)	R.1984 d.614	17 N.J.R. 188(a)
6:31	Readopt Bilingual Education rules	16 N.J.R. 2721(a)		
6:70	Library network services	16 N.J.R. 3076(a)		

(TRANSMITTAL 26, dated December 17, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)		
7:7F-1, 3	Shore Protection Program; local government grants	16 N.J.R. 2881(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)		
7:10-14.7	Interim safe drinking water periodic testing requirements	16 N.J.R. 2396(a)	R.1984 d.582	16 N.J.R. 3431(a)
7:11-2.3, 2.5, 2.8-2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)		
7:12	Shellfish-growing water classification	16 N.J.R. 3112(a)		
7:12-2.1, 2.2, 2, 3, 2.4	Correction: Shellfish-growing water classification	16 N.J.R. 3379(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)	R.1985 d.24	17 N.J.R. 275(b)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1	Paulins kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(c)31	Project MR floodway delineations in Warren, Hunterdon, Sussex and Morris counties	16 N.J.R. 1863(a)	R.1984 d.542	16 N.J.R. 3307(a)
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)		
7:19-5	Small water company takeover	16 N.J.R. 3380(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)		
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)		
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)		
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		
7:25-12.1	Preservation of sea clams	16 N.J.R. 2885(b)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18.4	Spearfishing in marine waters	16 N.J.R. 2478(a)	R.1984 d.609	17 N.J.R. 79(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)		
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)		
7:26-10.7	Hazardous waste incinerators	16 N.J.R. 2046(a)	R.1984 d.581	16 N.J.R. 3432(a)
7:26-12.2	Hazardous waste rules: permit application	16 N.J.R. 2478(b)	R.1984 d.543	16 N.J.R. 3308(a)
7:26-14	Resource recovery grants and loans	16 N.J.R. 3385(b)		
7:26-16.3, 16.6, 16.13	Solid and hazardous waste industry licensing	16 N.J.R. 2480(a)	R.1984 d.541	16 N.J.R. 3310(a)
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-8	Air pollution control: permits and Certificates	16 N.J.R. 1671(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-14	Diesel-powered motor vehicles: air pollution control	16 N.J.R. 2887	R.1985 d.1	17 N.J.R. 188(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15	Gas-fueled motor vehicles: air pollution control	16 N.J.R. 2889	R.1985 d.2	17 N.J.R. 190(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)	R.1985 d.25	17 N.J.R. 277(a)
7:27B-4	Air Test Method 4 for motor vehicles	16 N.J.R. 2894	R.1985 d.3	17 N.J.R. 194(a)
7:28-24	Readopt Nuclear Medicine Technology rules	17 N.J.R. 22(a)		
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 25, dated November 19, 1984)

HEALTH—TITLE 8

8:20-1	Birth Defects Registry	16 N.J.R. 3118(a)		
8:21-2.40	Baby foods and ethylene dibromide level	16 N.J.R. 2897(a)		
8:21A	Good drug manufacturing practices	16 N.J.R. 3248(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31A	Readopt SHARE Guidelines	16 N.J.R. 2898(a)		
8:31A-7.3, 7.4	SHARE: 1985 Rate Review Guidelines	16 N.J.R. 2727(a)	R.1984 d.599	17 N.J.R. 80(a)
8:31B-2	1985 uniform bill-patient summary	16 N.J.R. 2728(a)	R.1984 d.610	17 N.J.R. 80(b)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-3.26, App. II	Hospital reimbursement: economic factor	17 N.J.R. 153(a)		
8:31B-3.45	Hospital rate setting	16 N.J.R. 2733(c)	R.1984 d.598	17 N.J.R. 83(a)
8:31B-5.2	Diagnosis Related Groups: outliers	16 N.J.R. 3119(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33A-2	Surgical facilities: planning and need review	17 N.J.R. 154(a)		
8:33E-2	Cardiac surgical centers	16 N.J.R. 3120(a)	R.1985 d.28	17 N.J.R. 281(a)
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F	Renal Disease Services: readopt Planning and Certification rules	16 N.J.R. 3124(a)	R.1985 d.29	17 N.J.R. 284(a)
8:39-2.1	All health care facilities: certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:40-1.1	Licensure of invalid coach and ambulance services	16 N.J.R. 3127(a)		
8:42-1	Home health agencies: readopt licensure standards	16 N.J.R. 3250(a)		
8:42-1.2	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:42A-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:42B-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43-1.5	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43A-1.3	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43B-1	Licensure of hospital facilities	16 N.J.R. 3275(a)		
8:43B-6	Hospital facilities: readopt Medical Staff rules	16 N.J.R. 3152(a)	R.1985 d.27	17 N.J.R. 285(b)
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:43F	Medical day care facilities: readopt licensure standards	16 N.J.R. 3277(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:59-1.3, 4.1, 5.1, 5.5, 6.1, 6.2, 6.3, 7.2, 7.5, 8.5	Worker and Community Right to Know Act	16 N.J.R. 2735(a)	R.1984 d.626	17 N.J.R. 196(a)
8:65-7	Prescription requirements for controlled dangerous substances	16 N.J.R. 2327(a)	R.1984 d.607	17 N.J.R. 83(b)
8:65-10.1, 10.2	Controlled dangerous substances: rescheduling of Sufentanil	16 N.J.R. 2900(a)		
8:65-10.4	Controlled dangerous substances: add Triazolam to Schedule IV	16 N.J.R. 2901(a)		
8:65-10.4	Controlled dangerous substances: additions to Schedule IV	16 N.J.R. 3390(a)		
8:65-10.8	Controlled dangerous substances: exempt chemicals	16 N.J.R. 3280(a)		
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a)), 2673(a))	16 N.J.R. 202(a)	R.1984 d.613	17 N.J.R. 200(a)
8:71	Generic drug list additions (see 16 N.J.R. 2672(b))	16 N.J.R. 1436(a)	R.1984 d.612	17 N.J.R. 200(b)
8:71	Generic drug list additions	16 N.J.R. 2483(a)	R.1984 d.615	17 N.J.R. 201(a)
8:71	Additions to generic drug list	17 N.J.R. 158(a)		

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HIGHER EDUCATION—TITLE 9

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)		
9:7-3.1	Tuition Aid Grant Award Tables	17 N.J.R. 23(a)		
9:7-4.2	Garden State Scholars: award amounts	16 N.J.R. 3281(a)		
9:7-5.1, 5.4, 5.10	Public Tuition Benefits Program	17 N.J.R. 24(a)		
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)		

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HUMAN SERVICES—TITLE 10

10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled: Supportive Living Programs	16 N.J.R. 1438(a)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:51-1, App.B, C, D, E	Pharmaceutical Services: appendix changes	16 N.J.R. 2739(a)	R.1984 d.583	16 N.J.R. 3435(a)
10:51-1.17	Pharmacy Manual: legend drug dispensing fee add-ons	16 N.J.R. 2738(a)	R.1984 d.574	16 N.J.R. 3436(a)
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:52-2	Hospital Services: readopt Admission and Billing Procedures	16 N.J.R. 3159(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:55-1	Prosthetic and orthotic services	17 N.J.R. 26(a)		
10:55-1.5, 1.8, 3.1	Shoes and shoe appliances: provider reimbursement	17 N.J.R. 162(a)		
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-3	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:63-1.23	Long-term care: final audited rate calculation	16 N.J.R. 2335(a)	R.1984 d.572	16 N.J.R. 3436(b)
10:63-3	Long-term care: readopt Cost and Rate Guideline rules	16 N.J.R. 2484(a)	R.1984 d.573	16 N.J.R. 3437(a)
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:67-1, 2.6	Readopt Psychologist's Services Manual	16 N.J.R. 3163(a)		
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:69A-6.9	PAAD: authorization to release prescription information	16 N.J.R. 2050(a)	R.1984 d.617	17 N.J.R. 201(b)
10:69A-7.1	Pharmaceutical assistance: recovery of benefits correctly made	16 N.J.R. 2051(a)	R.1984 d.571	16 N.J.R. 3439(a)
10:81-1.6, -3, 4.10, 7.30, 7.32, 8.22	PAM: Federally-required AFDC revisions	16 N.J.R. 2833(a)	R.1984 d.569	16 N.J.R. 3439(b)
10:81-3.9, 3.17, 3.40	PAM: support rights; continued absence	16 N.J.R. 3282(a)		
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)		
10:81-8.22	PAM: eligibility for medical assistance	16 N.J.R. 2740(a)	R.1984 d.618	17 N.J.R. 202(a)
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)		
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)		
10:82-1.2, 1.3, -2, -3, -4	ASH: Federally-required AFDC revisions	16 N.J.R. 2837(a)	R.1984 d.568	16 N.J.R. 3442(b)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:85-3.1	GAM: household size	17 N.J.R. 37(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3, 12	GAM: medical care eligibility; repeal income standards rules	16 N.J.R. 3165(a)		
10:85-5.3	GAM: outpatient facility services	16 N.J.R. 2488(a)	R.1984 d.593	17 N.J.R. 90(a)
10:85-7	GAM: readopt Notices and Hearings rules	16 N.J.R. 2221(a)	R.1984 d.578	16 N.J.R. 3447(a)
10:85-8	GAM: readopt Referral to Other Agency Programs	16 N.J.R. 3166(a)		
10:87-1.14	Food Stamps: release of case file information	17 N.J.R. 166(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:87-2.16, 2.17, 8.2	Food Stamps: quality control case review	17 N.J.R. 167(a)		
10:87-2.19, 3.17-3.20	Food Stamp Program: work registration and voluntary quit	Emergency	R.1985 d.4	17 N.J.R. 215(a)
10:87-12.1, 12.2	Food Stamps: income deductions; coupon allotments	16 N.J.R. 2844(a)	R.1984 d.567	16 N.J.R. 3450(a)
10:89-1.1, 2.2, 2.3, 3.1-3.6, 4.1, 5.3	Home Energy Assistance	16 N.J.R. 3217(a)	R.1985 d.5	17 N.J.R. 310(a)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)		
10:94-5.4-5.7	Medicaid Only: eligibility computation amounts	16 N.J.R. 2845(a)	R.1984 d.566	16 N.J.R. 3451(a)
10:94-5.6	Medicaid Only: health insurance premiums	17 N.J.R. 39(a)		
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)		
10:100-App. A	Supplemental Security Income payment levels	16 N.J.R. 2846(a)	R.1984 d.565	16 N.J.R. 3453(a)
10:123-3.2	Residential health care: personal needs allowance	17 N.J.R. 39(b)		

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CORRECTIONS—TITLE 10A

10A:31	Adult county correctional facilities	16 N.J.R. 3284(a)	R.1985 d.17	17 N.J.R. 312(a)
10A:32	County juvenile detention centers	17 N.J.R. 40(a)		
10A:71	State Parole Board rules	16 N.J.R. 3391(a)		

(TRANSMITTAL 8, dated July 16, 1984)

INSURANCE—TITLE 11

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-10	Repeal rules on Licensing of Financial Institutions, Subsidiaries and Affiliates	16 N.J.R. 2919(a)		
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-10.1	Repeal Personal Lines Insurance rule	16 N.J.R. 2920(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-7	Readopt Automobile Reparation Reform Act rules	17 N.J.R. 43(a)		
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-11.1	Moped insurance	16 N.J.R. 3285(a)		
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-8	Charitable annuities	16 N.J.R. 3172(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16.8	Medicare Supplement Coverage: disclosure standards	16 N.J.R. 2944(a)		
11:4-20	Insuring of handicapped	17 N.J.R. 168(a)		
11:4-23	Medicare Supplement Policies and Contracts	16 N.J.R. 2945(a)		
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.19	Real estate branch offices	16 N.J.R. 2228(a)		
11:5-1.24	Closing or transfer of real estate brokerage	16 N.J.R. 2228(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:5-1.32	Residential rental referral agencies	16 N.J.R. 2952(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)		
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:14-1.3	Correction: auto body repair facilities	16 N.J.R. 3453(b)		
11:15-2	Joint insurance funds for local government units	16 N.J.R. 1164(a)	R.1984 d.540	16 N.J.R. 3310(b)
11:15-2.15	Payment of joint fund assessments by local governments	Emergency	R.1984 d.616	17 N.J.R. 218(a)
11:16	Provider verification of services	17 N.J.R. 47(a)		
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LABOR—TITLE 12				
12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:16	Contributions, records, reports	16 N.J.R. 2488(b)		
12:19	Contributions, records, reports	16 N.J.R. 2488(b)		
12:90	Boilers, pressure vessels and refrigeration systems: safe operation	16 N.J.R. 1172(a)	R.1984 d.557	16 N.J.R. 3454(a)
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COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A				
12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
LAW AND PUBLIC SAFETY—TITLE 13				
13:2-17	ABC: readopt rules on Appeals	16 N.J.R. 2954(a)	R.1984 d.608	17 N.J.R. 91(a)
13:2-19	ABC: readopt rules on Disciplinary Proceedings	16 N.J.R. 2957(a)	R.1984 d.606	17 N.J.R. 92(a)
13:2-23.16, -24, -35	ABC proposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-31	ABC: readopt rules on Seizure Hearings	16 N.J.R. 2959(a)	R.1984 d.602	17 N.J.R. 92(b)
13:13	Discrimination against handicapped persons	16 N.J.R. 838(a)		
13:18-6.1	DMV: notification of liability coverage termination	16 N.J.R. 3174(a)		
13:19-10	Point System and Driving During Suspension: 25-day waiver of expiration of rules	16 N.J.R. 502(a)		
13:20-28	New car inspection	16 N.J.R. 2500(a)	R.1984 d.622	17 N.J.R. 203(a)
13:20-32.14	Reinspection centers: mechanic certification	16 N.J.R. 3175(a)	R.1984 d.619	17 N.J.R. 204(a)
13:20-33.1, 33.50	Licensed reinspection centers	16 N.J.R. 3288(a)	R.1985 d.20	17 N.J.R. 313(a)
13:20-34	Motor vehicle registration identifying marks	16 N.J.R. 2743(a)		
13:20-37	Motor vehicles with modified chassis height	16 N.J.R. 2501(a)		
13:20-38	Maximum length for auto transporters	16 N.J.R. 3176(a)	R.1985 d.23	17 N.J.R. 313(b)
13:21-1.3, 1.4, 1.5	Driver's licenses and social security numbers	16 N.J.R. 2746(a)		
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:22	Motor vehicle race tracks	16 N.J.R. 2503(a)	R.1984 d.591	17 N.J.R. 93(a)
13:25-3.15, 3.16, 3.17	Motorized bicycle operator license	17 N.J.R. 48(a)		
13:27-3.13	Certification of landscape architects: fee schedule	16 N.J.R. 3176(b)	R.1985 d.22	17 N.J.R. 313(c)
13:27-8	Certified landscape architects	17 N.J.R. 169(b)		
13:28-1	Readopt Beauty Culture Industry rules	17 N.J.R. 49(a)		
13:28-2	Readopt rules on Beauty Culture Schools	17 N.J.R. 172(a)		
13:29-3	Accountancy: readopt rules of professional conduct	16 N.J.R. 3418(a)		
13:33-1.38	Eyeglass standards and tolerances	16 N.J.R. 3288(b)		
13:33-4.1	Readopt Dispensing of Contact Lenses rule	16 N.J.R. 2513(a)		
13:35-2.4	Chiropractic licensure	16 N.J.R. 3177(a)		
13:35-2.13	Graduate physician pending licensure: privileges and conditions	16 N.J.R. 216(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:35-6.1	Medical practice identification	16 N.J.R. 3178(a)		
13:35-6.6	Requirement for issuing prescriptions	16 N.J.R. 2415(a)	R.1984 d.600	17 N.J.R. 102(a)
13:35-6.14	Therapeutic treatment by unlicensed Medical aides	16 N.J.R. 2065(a)		
13:36-1.6	Mortuary Board fees and charges	17 N.J.R. 50(a)		
13:37-1,8	Schools of professional nursing	17 N.J.R. 51(a)		
13:37-2-6	Nursing licensure	16 N.J.R. 3179(a)		
13:38-2	Readopt rules of optometric practice	16 N.J.R. 3289(a)		
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)		
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)		
13:46	Boxing rules	16 N.J.R. 2241(a)	R.1984 d.611	17 N.J.R. 103(a)
13:46	Boxing Rules	16 N.J.R. 2962(a)		
13:46-4.20, 5.26, -23	Boxing and wrestling standards of conduct	17 N.J.R. 55(a)		
13:46-8.19, 10.7	Scoring of boxing contest; announcement of decision	16 N.J.R. 1956(a)	R.1985 d.21	17 N.J.R. 314(a)
13:46-18.15	Scheduling of boxing programs	16 N.J.R. 1030(a)	R.1985 d.19	17 N.J.R. 314(b)
13:70-2	Thoroughbred rules: readopt Definitions	16 N.J.R. 2976(a)	R.1984 d.621	17 N.J.R. 204(b)
13:70-3.46	Thoroughbred rules: horsemen's bookkeeper account	17 N.J.R. 173(a)		
13:70-12	Thoroughbred Racing: readopt Claiming rules	17 N.J.R. 57(a)		
13:70-14A	Thoroughbred racing: medication and testing procedures	16 N.J.R. 3180(a)		
13:70-14A.13, 14A.15	Thoroughbred rules: breathalyzer tests for jockeys and track personnel; urine tests	16 N.J.R. 1457(a)		
13:71-4	Harness rules: readopt Definitions	16 N.J.R. 2976(a)	R.1984 d.621	17 N.J.R. 204(b)
13:71-7.7	Harness racing applications	17 N.J.R. 57(b)		
13:71-14	Harness Racing: readopt Claiming rules	17 N.J.R. 57(a)		
13:71-19.4	Harness Racing: safety helmets	16 N.J.R. 2977(a)	R.1984 d.620	17 N.J.R. 204(c)
13:71-23	Harness Racing: medication and testing procedures	16 N.J.R. 3182(a)		

(TRANSMITTAL 26, dated November 19, 1984)

PUBLIC UTILITIES—TITLE 14

14:3-4.7	Adjustment of charges for inaccurate billings	16 N.J.R. 511(a)		
14:3-7.12, 7.13	Discontinuance of service for non-payment of combined utilities	16 N.J.R. 2747(a)		
14:3-8.1, 8.2	Suggested formulae for extension of utility service	17 N.J.R. 174(a)		
14:3-10.9	Petitions by solid waste collectors	16 N.J.R. 3292(b)		
14:9-6	Small water company takeover	16 N.J.R. 3419(a)		
14:17-18.1-18.3	CATV: common tariff rules	16 N.J.R. 2978(a)		
14:18-14	Pre-proposal: landlord compensation for installation of cable TV	16 N.J.R. 2069(a)		

(TRANSMITTAL 20, dated October 15, 1984)

ENERGY—TITLE 14A

14A:3-4.4	Energy Subcode: thermal efficiency standards	16 N.J.R. 2748(a)		
14A:20-1	Energy conservation planning and evaluation	16 N.J.R. 3293(a)		

(TRANSMITTAL 14, dated October 15, 1984)

STATE—TITLE 15

(TRANSMITTAL 14, dated January 3, 1984)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
TRANSPORTATION—TITLE 16				
16:20A, 20B	1984 Trust Fund Authority Act: county and municipal aid Emergency	16 N.J.R. 2456(a)	R.1984 d.552	16 N.J.R. 3470(a)
16:28-1.25, 1.72	Speed rates for Route 23 in Wayne and U.S.206 in Somerset County	17 N.J.R. 176(a)		
16:28-1.47	Speed rate on River Drive in Passaic	16 N.J.R. 3185(a)	R.1985 d.13	17 N.J.R. 315(a)
16:28A-1.1, 1.7, 1.9, 1.18, 1.19, 1.44, 1.51	Parking on Routes US 1, 9, 17, 27, 28, 88 and 168	16 N.J.R. 3186(a)	R.1985 d.11	17 N.J.R. 316(a)
16:28A-1.7, 1.46	Bus stops on U.S.9 in Ocean County and U.S.130 in Salem County	17 N.J.R. 177(a)		
16:28A-1.18, 1.31	Parking on Route 27 in Linden and Route 45 in West Deptford	17 N.J.R. 58(a)		
16:28A-1.19, 1.26	Parking on Routes 28 in Middlesex and 36 in Union Beach	16 N.J.R. 2513(b)	R.1984 d.551	16 N.J.R. 3476(a)
16:28A-1.25	Trolley stops on Route 35, Ocean County	16 N.J.R. 2691(a)	R.1984 d.588	17 N.J.R. 114(a)
16:28A-1.27, 1.37	Parking on Route 38 in Mt. Laurel and Route 70 in Pennsauken	16 N.J.R. 3188(a)	R.1985 d.10	17 N.J.R. 318(a)
16:28A-1.28, 1.85, 1.103	Parking on Routes 40, 161, and 140	16 N.J.R. 3296(a)		
16:28A-1.31	Parking on Route 45 in Harrison Township	16 N.J.R. 2749(a)	R.1984 d.555	16 N.J.R. 3477(a)
16:28A-1.32	Parking on US46 in Bergen County	16 N.J.R. 3419(b)		
16:28A-1.32, 1.33, 1.102	Parking on Routes 46, 47, and 48	16 N.J.R. 3297(a)		
16:28A-1.93, 1.101	Parking on US 322 in Harrison Twp. and Route 109 in Lower Twp.	16 N.J.R. 3189(a)	R.1985 d.12	17 N.J.R. 318(b)
16:28A-1.100	Parking on Route 50 in Egg Harbor	16 N.J.R. 2750(a)	R.1984 d.556	16 N.J.R. 3477(b)
16:29-1.4, 1.46, 1.47, 1.48	No passing zones: Routes 31, 324, 15, and 159	17 N.J.R. 59(a)		
16:29-1.26, 1.39-1.45	Passing on Routes 38, 53, 71, 72, 88, 169, 173 and 182	16 N.J.R. 3189(b)	R.1985 d.9	17 N.J.R. 318(c)
16:30-2.8	Stop intersection, Rote 23 in Wayne	16 N.J.R. 3420(a)		
16:30-6.3	Weight limits on Route 173, Greenwich Twp	16 N.J.R. 2750(b)	R.1984 d.554	16 N.J.R. 3478(a)
16:32-2	Trucks exempted from Federal bridge formula	16 N.J.R. 2072(a)		
16:41B	Newspaper dispensers on State highways	16 N.J.R. 225(a)		
16:41B	Public hearing: Newspaper dispensers on State highways	16 N.J.R. 1957(a)		
16:44-3.2	Distribution and sale of construction plans and specifications	16 N.J.R. 2515(a)	R.1985 d.6	17 N.J.R. 319(a)
16:44-5.1	Receipt of bids: requirements	16 N.J.R. 3191(a)		
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