

NEW JERSEY REGISTER



THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 20 NUMBER 24

December 19, 1988 Indexed 20 N.J.R. 3047-3182

(Includes adopted rules filed through November 28, 1988)

0100328
000
9
STATE LIBRARY
SERIALS CLERK
CN 520
TRENTON NJ 08625
INTER-OFFICE

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: OCTOBER 17, 1988

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT NOVEMBER 21, 1988

RULEMAKING IN THIS ISSUE

RULE PROPOSALS

Interested persons comment deadline	3048
ADMINISTRATIVE LAW	
Emergency fair hearings concerning AFDC and General Assistance: transmittal of notices and initial decisions	3049(a)
COMMUNITY AFFAIRS	
Council on Affordable Housing: mediation process	3050(a)
Council on Affordable Housing: initial pricing of units	3051(a)
ENVIRONMENTAL PROTECTION	
Redelineation of Bound Brook within South Plainfield and Edison	3051(b)
Volatile organic substance emissions and ozone concentrations	3052(a)
HEALTH	
Hospital reimbursement: DRG classification of newborns ..	3057(a)
Hospital reimbursement: newborn DRGs: outlier categories	3057(b)
Licensure of alcoholism treatment facilities	3059(a)
Interchangeable drug products	3078(a)
HIGHER EDUCATION	
Managerial employees at State colleges: annual salary increases	3079(a)
HUMAN SERVICES	
Requirements for child care centers	3079(b)
INSURANCE	
Automobile coverage: policy constants	3104(a)
LABOR	
Vocational rehabilitation services	3107(a)
LAW AND PUBLIC SAFETY	
Continuing professional education for accountants: public hearing and comment period	3114(a)
Thoroughbred racing: testing for illegal devices	3114(b)

PUBLIC UTILITIES

Telecommunications: Alternative Operator Service (AOS) providers	3115(a)
---	---------

TRANSPORTATION

Speed limits along Route 94 in Sussex County	3116(a)
Parking along Route 179 in Lambertville	3117(a)
Use restrictions on bridges along highway system	3117(b)
Turn restrictions along Route 21 in Newark	3120(a)

CASINO CONTROL COMMISSION

Jobs compendium information: assistant casino manager position	3120(b)
---	---------

RULE ADOPTIONS

COMMUNITY AFFAIRS

Fire safety in hotels and multiple dwellings, rooming and boarding houses	3122(a)
Limited dividend and nonprofit housing projects: payment in lieu of taxes	3123(a)
Congregate Housing Services Program: service subsidy formula	3123(b)
Affordable housing council rules	3123(c)
Council on Affordable Housing: correction to N.J.A.C. 5:92-12.4	3127(a)

EDUCATION

School facility lease purchase agreements	3127(b)
---	---------

ENVIRONMENTAL PROTECTION

Replacement of contaminated wellfields	3129(a)
Allocation of costs for emergency water supply projects ...	3135(a)
Coastal wetlands maps for Gloucester County	3135(b)
NJPDES permit requirements: discharges of dredged and fill material into freshwater wetlands and open waters	3135(c)

(Continued on Next Page)

INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **January 18, 1989**. 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. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

RULEMAKING IN THIS ISSUE—Continued

<p>HEALTH Nuclear Magnetic Resonance (NMR)/Magnetic Resonance Imaging (MRI) demonstration period 3136(a) Licensing of nursing home administrators 3136(b) Residential health care facilities: hot water temperature 3136(c)</p> <p>HUMAN SERVICES Vision Care Manual 3147(a) Lifeline Credit/Tenants Lifeline Assistance programs 3153(a)</p> <p>CORRECTIONS Institutional search plan 3155(a) Municipal cell equipment 3155(b)</p> <p>INSURANCE Medicare Supplement insurance coverage, benefits and premiums 3155(c)</p> <p>LABOR Debarment from contracting: conflicts of interest 3137(a) Ski lift safety 3138(a) Uninsured Employers' Fund and Second Injury Fund: surcharge collection 3139(a)</p> <p>LAW AND PUBLIC SAFETY Audiology and speech-language pathology: correction to N.J.A.C. 13:44C-10.1 3140(a)</p> <p>PUBLIC UTILITIES Interest on customer deposits 3140(b) Collection activity on disputed charges: interest on overpayments 3141(a)</p> <p>TREASURY-GENERAL Consolidated Police and Firemen's Pension Fund 3142(a) Prison Officers' Pension Fund 3142(b)</p> <p>TREASURY-TAXATION Real property defined 3142(c)</p> <p>CASINO CONTROL COMMISSION Billing rates for Commission and Gaming Enforcement services: special assessment 3146(a)</p> <p style="text-align: center;">PUBLIC NOTICES</p> <p>PERSONNEL Proposed new rules concerning "Layoffs:" change of public hearing dates 3171(b)</p>	<p>ENVIRONMENTAL PROTECTION Departmental regulatory agenda 3168(a) Atlantic County water quality management: Egg Harbor ... 3168(b) Northeast water quality management: Wyckoff 3169(a) Tri-County water quality management: Monroe 3169(b)</p> <p>HEALTH Juvenile Post Residential Continuing Care: grant program for care of alcoholic and drug-abusing youth 3169(c)</p> <p>HUMAN SERVICES Shelters accepting juveniles: corrections to N.J.A.C. 10:124-1.2, 4.11, 5.2, 6.5 3169(d) Residential child care facilities: corrections to N.J.A.C. 10:127-4.10, 4.19, 5.1, 5.3 3170(a)</p> <p>LAW AND PUBLIC SAFETY Contract carrier applicant 3170(b)</p> <p>TREASURY-GENERAL Architect-Engineer Selection Board meeting schedule for 1989 3170(c)</p> <p>TREASURY-TAXATION 1989 sanitary landfill tax rates 3171(a)</p> <p>INDEX OF RULE PROPOSALS AND ADOPTIONS 3172</p> <p style="text-align: right;">Filing Deadlines</p> <p>January 17 issue: Adoptions December 22</p> <p>February 6 issue: Proposals January 6 Adoptions January 13</p> <p>February 21 issue: Proposals January 20 Adoptions January 27</p> <p>March 6 issue: Proposals February 2 Adoptions February 9</p>
---	---

NEW JERSEY REGISTER

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

Material published in the New Jersey Register is the property of the State of New Jersey. However, it may be copied, reproduced or republished by any person for any purpose whatsoever without permission, providing that no such reproduction or republication shall bear the title "New Jersey Register" or "Official Rules Publication" without the written permission of the Director, Office of Administrative Law.

The New Jersey Register (ISSN 0300-6069) is published the first and third Mondays (Tuesday, if Monday is a holiday) of each month by OAL Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6606. Subscriptions, payable in advance, are one year, \$75 (\$150 by First Class Mail); back issues when available, \$8 each. Make checks payable to OAL Publications.

POSTMASTER: Send address changes to: New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid in South Plainfield, New Jersey.

The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by OAL Publications of the Office of Administrative Law. Subscription rates for this 42-volume, regularly updated set of State administrative rules are available on request. The Code is sold either in the full set or in one to four volumes depending on the Department coverage desired.

RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Special Hearing Rules

Public Welfare Hearings; Emergency Fair Hearings

Proposed Amendment: N.J.A.C. 1:10-12.2

Authorized By: Ronald I. Parker, Acting Director, Office of Administrative Law.

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

Proposal Number: PRN 1988-632.

Submit comments by January 18, 1989 to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
CN 049
Quakerbridge Plaza, Building 9
Quakerbridge Road
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 1:10-12.2(a)4 requires that after an emergency fair hearing "[t]he judge shall file an initial decision by mailgram . . . no later than the day following the date of the hearing." The purpose of the rule is to insure that these hearings are completed within time frames set by Federal guidelines. Thus, the rule was drafted to require that initial decisions be issued by mailgram so that they would be received by parties as soon as possible after the hearing. In addition, other parts of N.J.A.C. 1:10-12.2 require that certain notices be issued by telephone in order to eliminate any delay in scheduling these hearings.

The Office of Administrative Law (OAL) has found that the mailgram decisions do not necessarily reach the parties the day following the hearing, as had been anticipated, and that the condition of the mailgrams is sometimes very poor. Also, mailgram service is more expensive than other next-day delivery services that are now readily available.

The charge for mailgrams is \$12.95 for the first 50 words and \$3.95 for each group of 50 words thereafter. A review of several mailgram decisions sent by the OAL in 1987 showed that the charge varied from \$35.00 to \$60.00. By contrast, the next-day delivery of an eight-ounce letter by Federal Express costs less than \$15.00 (the price varies depending on whether the letter is picked up by Federal Express or delivered to a Federal Express office). The post office guarantees next day delivery of an eight-ounce letter for \$8.75; a two-pound letter for \$12.00. Therefore, it appears that significant savings are possible by using other delivery services.

By using Federal Express or overnight mail, the OAL will also have more control over the accuracy and appearance of the initial decision. Whereas mailgrams are dictated over the telephone and typed without opportunity for proofreading, when decisions are sent by other next-day services, the OAL can mail decisions that are produced by OAL staff rather than telephone personnel and checked for accuracy by the OAL.

In order to determine if the other services will be more efficient in terms of cost and timeliness, the OAL plans to conduct a test comparing the use of mailgrams with the use of other next-day services. This can be done only after the proposed amendment is adopted. When it is determined which method is most effective, the OAL will use that method for fair hearing decisions.

The rule itself will not be amended to require any particular method of delivery even after the OAL determines which methods to use. This will permit the OAL to experiment with new methods as they become available. For example, as more offices obtain fax machines, it may become more efficient for the OAL to transmit some decisions by fax. At this time, not all county welfare offices have fax equipment.

Another proposed change in N.J.A.C. 1:10-12.2(a)4 clarifies the initial decision time frames. As presently worded, the rule requires that the Division of Public Welfare (DPW) and the parties receive the initial decision the day following the hearing. This is sometimes impossible, such as when the hearing occurs late in the afternoon. In actual practice, it was understood that the administrative law judge had 24 hours to file the initial decision with the agency and that the decision would be sent

to the parties immediately thereafter in a manner such as a mailgram, which would put the decision in the hands of the parties not later than the next day. The proposed amendment, therefore, also clarifies the time frames for initial decisions in emergency fair hearings.

Similarly, the OAL is proposing to remove language from other sections of N.J.A.C. 1:10-12.2 which dictates that certain notifications be made by telephone. By retaining the time frame requirements but eliminating the method to be used, the rule as amended will permit the use of new, more efficient means of communication as they become available. It is anticipated at this time that notices of hearing request and notices of hearing will continue to be made by telephone. However, the rule will not require that method, so long as notice is provided within the required time frame.

No change is proposed in N.J.A.C. 1:10-12.2(a)5, which states that exceptions may be made by telephone. In that case, the OAL believes the rule provides necessary information for litigants as to how to file exceptions within the time allowed.

The Division of Public Welfare has been consulted about the use of other next-day delivery methods and is amenable to having the OAL explore alternatives.

Social Impact

The proposed amendment will enable the OAL to experiment with distribution alternatives and thereafter to use more efficient methods of delivery for initial decisions in emergency fair hearings.

Economic Impact

The proposed amendment should result in reduced hearing costs, and, therefore, taxpayer savings, since preliminary OAL research indicates that initial decisions in emergency fair hearings can be sent by next-day delivery methods other than mailgram at considerably less cost.

Regulatory Flexibility Statement

The proposed amendment will not affect small businesses since it does not impose reporting, recording or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not necessary.

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

1:10-12.2 Emergency fair hearings in AFDC or General Assistance cases

(a) When DPW determines that a request for hearing should be scheduled as an emergency fair hearing:

1. DPW shall notify the Office of Administrative Law [by telephone] of the hearing request on the same day as the request is received. The Clerk of the Office of Administrative Law shall prepare the Office of Administrative Law transmittal form based upon the [telephone call] **information provided by DPW.**

2. The case shall be scheduled by the Office of Administrative Law for a hearing within three days after [the phone call is received] **notification of the hearing request is received.**

3. Notice of the time, date and place of the hearing shall be transmitted [by telephone] to DPW within one day after the Office of Administrative Law is notified of the hearing request. DPW shall notify the CWA or MWD, the petitioning applicant/recipient or the petitioner's representative of the scheduled hearing [by telephone] **on the day that it receives notification of the hearing time and place.**

4. The judge shall [file] **issue** an initial decision [by mailgram with the Director of the DPW and the parties] no later than the day following the date of the hearing. **A copy of the decision shall be transmitted to the Director of the DPW and the parties by an expeditious method designed to ensure receipt no later than the day following the date of the decision.**

5. The petitioning applicant/recipient, his or her representative or the CWA or MWD may, by telephone, make exception or objection to the initial decision, to the DPW no later than the first day following the issuance of the initial decision.

6. The Director of the DPW shall issue a final decision no later than three days following the date the initial decision is received

which shall accept, reject or modify the initial decision. On the date the final decision is issued, the DPW shall notify the CWA or MWD, the Office of Administrative Law and the petitioner or the petitioner's representative [by telephone] of the final decision and any relief ordered shall be provided on the date notice of the decision is received.

COMMUNITY AFFAIRS

COUNCIL ON AFFORDABLE HOUSING

The following proposals are authorized by the New Jersey Council on Affordable Housing, James L. Logue III, Chairman.

Submit comments by January 18, 1989 to:

Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
CN 813
Trenton, New Jersey 08625

(a)

Procedural Rules: Mediation

Proposed New Rule: N.J.A.C. 5:91-5.2

Proposed Amendments: N.J.A.C. 5:91-6.2, 7.1 and 7.3

Authority: N.J.S.A. 52:27D-301 et seq.

Proposal Number: PRN 1988-343.

The agency proposal follows:

Summary

The Council on Affordable Housing is proposing a new rule, N.J.A.C. 5:91-5.2, and a series of amendments to its procedural rules at N.J.A.C. 5:91-6.2, 7.1 and 7.3, that protect the rights of property owners designated as providers of housing in a municipal housing element and fair share plan; limit the number of people that can represent any one party in the Council's mediation process; provide for a public comment period after a Council report is forwarded to the municipality that has petitioned for certification; and provide for post mediation procedures including public notice, a comment period and the possibility of reopening mediation.

Social Impact

The proposed new rule and amendments will have a positive impact in that they protect the interests of those directly affected by the implementation of the municipal housing element. They also create additional opportunities for the public to comment on the municipal plan as it proceeds through the Council's process.

Economic Impact

The proposed new rule and amendments require the municipality to bear the cost of providing public notice. The amendments also create the possibility of the Council reopening mediation, which may mean that the parties in mediation will have to bear additional expenses to compensate experts necessary to participate in the Council's process.

Regulatory Flexibility Statement

As the proposed new rule and amendments relate to future proceedings, the Council is unable to ascertain what number of small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will be parties to mediation. While mediation may necessitate a party to employ legal, planning and engineering professionals, such employment is necessary for the proper functioning of the process.

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

5:91-5.2 Owners of record

(a) Owners of record of sites that have been designated for low and moderate income housing in a municipality's adopted housing element shall receive objector status if mediation and review is initiated.

(b) The municipality shall be responsible for providing the names and addresses of all such owners of record to the Council at the time of petitioning for substantive certification.

5:91-6.2 Conference

(a) In conducting [its] the review of a petition for substantive certification, the Council may meet with the municipality.

(b) There shall be a Council report forwarded to the municipality prior to the Council's action regarding substantive certification.

(c) There shall be a 14 day comment period commencing on the date of receipt of the Council report.

5:91-7.1 General

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

(c) Each party to mediation shall have no more than three representatives.

5:91-7.3 Review of mediation

[(a) Before the conclusion of the 60-day mediation period, if such mediation was conducted by a mediator designated by the Council, the mediator shall prepare a report and recommendation to the Council, detailing the following factors:

1. The progress of the mediation proceedings; and
2. The issues in dispute between the parties; and
3. The stipulation or other agreements between the parties; and
4. A recommendation that the Council either grant, deny, or conditionally deny substantive certification, and the reasons therefor, or a recommendation that the matter be referred to the Office of Administrative Law for adjudication as a contested case.

(b) The Council shall determine whether to grant, deny or conditionally deny substantive certification, or to refer the matter to the Office of Administrative Law for adjudication as a contested case.]

(a) At the end of mediation, the mediator shall prepare a written report to the Council detailing the following factors:

1. An overview of the mediation proceedings;
2. The issues in dispute between the parties;
3. The stipulations or other agreements between the parties;
4. Any unresolved issues among the parties; and
5. If there are unresolved issues, a recommendation on whether the issues shall be transferred to the Office of Administrative Law for adjudication as a contested case.

(b) The mediator shall also serve all parties to mediation with a copy of the written mediation report.

(c) If, as a result of mediation, there are no amendments to the adopted housing element, the parties to mediation shall have a 14 day comment period commencing on the date of receipt of the mediation report.

(d) If, as a result of mediation, there will be amendments to the adopted housing element, the municipality shall publish notice to that effect within five days after receiving the mediation report, in a newspaper of general circulation within the municipality and the county.

(e) A municipality shall make available for public inspection within the municipality, during business hours, copies of the mediation report, and shall include in its notice pursuant to (d) above, the times and places within the municipality at which the mediation report will be made available for public inspection.

(f) There shall be a 14 day comment period from the date of publication of the notice for the submittal of comments to the Council.

(g) If during 14 day comment period, set forth in (f) above, an objection is filed to an amendment to the adopted housing element, pursuant to N.J.A.C. 5:91-5.1, then the Council may, upon a determination of the objection filed, re-open mediation for a period not to exceed 30 days. This period may be extended by the Council for good cause shown.

(h) The re-opened mediation shall include the original mediation representatives in addition to the new objector.

(i) If, following mediation, there still remain unresolved issues, the Council shall determine whether to refer the issues to the Office of Administrative Law for adjudication as a contested case.

[(c)](j) If the matter is referred to the Office of Administrative Law, the parties shall be bound by any agreements entered into during mediation.

(a)

Substantive Rules: Initial Pricing

Proposed Amendment: N.J.A.C. 5:92-12.4

Authority: N.J.S.A. 52:27D-301 et seq.

Proposal Number: PRN 1988-633.

The agency proposal follows:

Summary

N.J.A.C. 5:92-12.4 requires that housing units be priced so that after a downpayment of 10 percent, a low and moderate income purchaser's monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Concern has been expressed regarding escalating condominium fees imposed shortly after the sale of lower income units that have a negative impact on their continued affordability. Therefore, the Council is proposing an amendment to N.J.A.C. 5:92-12.4 to regulate increases on condominium fees. The amendment is designed so that low and moderate income homebuyers pay an established share of required increases in condominium fees.

Social Impact

The proposed amendment will have a positive social impact. The amendment requires all parties that buy into an inclusionary development to pay a specific percentage of condominium fees. Lower income purchasers pay their share, yet have protection from overburdensome increases.

Economic Impact

The proposed amendment should have a positive economic impact. By requiring that lower income fees be set at a constant percentage over time, developers and municipal officials should have the incentive to ensure that low and moderate income households are contributing enough to the maintenance of a housing development that large increases in condominium fees should not normally be necessary shortly after the initial sale of housing units.

Regulatory Flexibility Statement

The proposed amendment imposes no reporting, record keeping or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not necessary.

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

5:92-12.4 Initial pricing

(a) Municipalities shall require that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of [ten] **10** percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. **Municipalities shall, by ordinance, require that master deeds of inclusionary development regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at a specific percentage of those paid by market purchasers. Once established within the master deed, the percentage shall not be amended without prior approval from the Council.**

(b) Municipalities shall require that rents, excluding utilities, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit (as contained in the Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

(c) The following criteria shall be considered in determining rents and sale prices:

1. Efficiency units shall be affordable to one person households;
2. One bedroom units shall be affordable to two person households;
3. Two bedroom units shall be affordable to three person households;
4. Three bedroom units shall be affordable to five person households; and
5. Four bedroom units shall be affordable to seven person households.

[(b)](d) Municipalities that petition for certification after August 1, 1988 shall require that rents, including an allowance for utilities consistent with the personal benefit expense allowance for utilities as defined by HUD or a similar allowance approved by the Council, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size as outlined in [(a)](b) above.

[(c)](e) Housing units that satisfy the criteria in (a)[1] through [5] (d) above shall be considered affordable.

[(d)](f) Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD, as defined in subchapter I (see Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF COASTAL RESOURCES

Redelineation of Bound Brook

Proposed Amendment: N.J.A.C. 7:13-7.1

Authorized By: Christopher J. Daggett, Acting Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3 and N.J.S.A. 58:16A-50 et seq.

DEP Docket Number: 045-88-11.

Proposal Number: PRN 1988-642.

A **public hearing** concerning this proposed amendment will be held on January 10, 1989 at 1:30 P.M. at:

Division of Coastal Resources
5 Station Plaza, First Floor
501 East State Street
Trenton, New Jersey

Submit written comments by January 18, 1989 to:

Suzanne Dice-Goldberg, Esq.
Division of Regulatory Affairs
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) proposes to amend N.J.A.C. 7:13-7.1, Delineated floodways, at subsection (d) by revising the existing floodway and flood fringe area delineation along Bound Brook, from 1,240 feet downstream of Dismal Road Woodbrook Road upstream to the Conrail-Reading Railroad Bridge, within South Plainfield Borough and Edison Township, Middlesex County.

This amendment to redelinate the aforementioned portion of Bound Brook is based upon a stream encroachment application for construction of the Talmadge Road causeway bridge over Bound Brook. Plans and hydraulic data, submitted by Schoor & DePalma on behalf of Edison Township, show a narrower floodway with a one-foot reduction in the 100-year and State flood hazard area profiles.

This amendment would amend the original floodway and flood hazard area delineation of Bound Brook within South Plainfield (prepared by URS Engineers), and Edison Township (by Anderson-Nichols & Company Consultants). The revised delineation is based upon modifications of the hydraulic data from the updated Flood Insurance Study (F.I.S.) of Edison Township, performed by Richard Brown Associates (RBA Group).

The proposed 100-year and New Jersey flood hazard area flood limits reflect the lower flood levels and topographic mapping used in the stream encroachment application. While the size of the flood fringe is larger, the overall size of the New Jersey Flood Hazard Area is predominately the same as that indicated in the original delineation.

The proposed redelineation will require no change in the text of N.J.A.C. 7:13-7.1(d), since only a revision of the flood hazard area delineation map is required. Review of maps and profiles associated with this revision is recommended.

Social Impact

Regulation of delineated flood hazard areas is intended to preserve the flood carrying capacity of the waterway and its surroundings, while minimizing the threat to the public safety, health and general welfare. By delineating streams and rivers, the Department identifies the area(s) subject to the New Jersey Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., (FHACA) and the rules promulgated pursuant thereto, N.J.A.C. 7:13.

As part of the stream encroachment application, the engineer re-evaluated the present floodway limits and accurately located those which are herein proposed. Accordingly, since the proposed revision satisfies the State's 0.2 foot rise criteria and shows a reduction of the flood profiles, no additional social impact is expected beyond that which was reasonably foreseeable at the time of the original delineation.

Economic Impact

Since the proposed redelineation applies to a specific project, a positive economic impact is expected to result in favor of the applicant. However, no other economic impact will likely occur since this amendment clearly defines the floodway and flood hazard area(s), thereby restricting future development in the flood hazard area(s) and requiring elevated construction in the flood fringe area(s).

Environmental Impact

The purpose of this proposed redelineation is to more accurately define the flood hazard area of Bound Brook. The scope of permissible development is restricted within the delineated area, thereby preventing and minimizing potential flood damage. This amendment is not expected to have any adverse environmental impact.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that this amendment would not impose compliance, reporting or recordkeeping requirements on small businesses.

AGENCY NOTE: Maps and associated flood profiles, showing the location of the redelineated flood hazard areas, may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey; and at the Department of Environmental Protection, Bureau of Flood Plain Delineation, 5 Station Plaza, 501 E. State Street, Trenton, New Jersey. In addition, maps of the proposed redelineation have been sent to the Town Clerks of the Borough of South Plainfield and Edison Township and to the Middlesex County Planning Board.

(a)

DIVISION OF ENVIRONMENTAL QUALITY**Control and Prohibition of Air Pollution by Volatile Organic Substances****Proposed Amendments: N.J.A.C. 7:27-16.1, 16.2, 16.5 and 16.6**

Authorized By: Christopher J. Daggett, Acting Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3, 26:2C-1 et seq., specifically N.J.S.A. 26:2C-8.

DEP Docket Number: 044-88-11.

Proposal Number: PRN 1988-643.

Public hearings concerning these proposed amendments will be held on:

January 19, 1989 at 10 A.M.
New Jersey Records Storage Center
2300 Stuyvesant Avenue
Trenton, New Jersey 08625

January 23, 1989 at 10 A.M.
Herman Lewis Labor Education Center Auditorium
Ryderson Lane
Cook College Campus
Rutgers University
New Brunswick, New Jersey 08903

Submit written comments by January 27, 1989 to:

Gary J. Brower, Esq.
Division of Regulatory Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(CITE 20 N.J.R. 3052)

NEW JERSEY REGISTER, MONDAY, DECEMBER 19, 1988

Copies of this notice and of the proposed amendments are being deposited and will be available for inspection during normal office hours until January 27, 1988 at:

Atlantic County Health Department
201 South Shore Road, Room 4378
Northfield, New Jersey 08225

Middlesex County Air Pollution Control Program
280 Hobart Street
Room 518

Perth Amboy, New Jersey 08861
Warren County Health Department
108 West Moore Street
Hackettstown, New Jersey 07840

New Jersey Department of Environmental Protection
Division of Environmental Quality
401 East State Street
Second Floor
Trenton, New Jersey 08625

New Jersey Department of Environmental Protection
Bureau of Enforcement Operations
Northern Regional Office
1259 Route 46
Parsippany, New Jersey 07054

New Jersey Department of Environmental Protection
Bureau of Enforcement Operations
Southern Regional Office
20 East Clementon Road
3rd Floor North
Gibbsboro, New Jersey 08026

New Jersey Department of Environmental Protection
Bureau of Enforcement Operations
Metropolitan Regional Office
2 Babcock Place
West Orange, New Jersey 07052

New Jersey Department of Environmental Protection
Bureau of Enforcement Operations
Central Regional Office
Twin Rivers Professional Building
Route 33
East Windsor, New Jersey 08520

These amendments will become operative 60 days after adoption by the Commissioner (see N.J.S.A. 26:2C-8).

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (the Department) is proposing amendments to N.J.A.C. 7:27-16, hereinafter referred to as subchapter 16. This subchapter controls the emission of volatile organic substances (VOS) to the atmosphere. The Department is proposing changes that will affect a variety of sources. The requirements for storage tanks with floating roofs will be tightened, causing more to install secondary seals. The lowering of the exclusion rates for surface coating and manufacturing sources will require smaller sources to comply with the existing provisions. In addition, automobile refinishers will be required to control emissions of VOS. Also, amendments are being proposed to incorporate revised compliance dates. These controls are proposed as part of the Department's continuing effort to attain the National Ambient Air Quality Standard (NAAQS) for ozone.

Volatile organic substances, in the presence of sunlight, participate in the formation of ozone and other reactive pollutants. Ozone is a known respiratory irritant seriously affecting those with chronic respiratory illnesses. Further, it significantly reduces the yield of important food crops and causes serious degradation of plastics and rubber. Control strategies for reducing atmospheric ozone concentrations are primarily directed toward the control of emissions of VOS.

The concentration of ozone in the ambient air in New Jersey during the late spring and summer often exceeds the NAAQS for ozone established by the Federal government. This standard was exceeded in New Jersey on 45 days between May and September of 1988.

Storage Tanks

One type of storage tank in common use is an external floating roof tank (EFRT) which consists of a cylindrical shell and a deck or roof floating on the surface of the stored liquid. This roof rises and falls with the liquid level. The surface of the liquid is completely covered by the

roof, except for a small annular space between the roof and the shell. One of several types of seals is attached to the roof and touches the wall of the shell, covering the remaining area. However, these seals are generally not tight and gaps exist between the seal and the wall.

Emissions due to evaporation escape from the EFRT through these gaps. These emissions can be in the range of several tons per year. The use of a second seal to cover the annular space makes the seal between the roof and the wall much tighter. This reduces emissions, often to less than a ton per year. The second seal is referred to as the secondary seal.

Table 1A at N.J.A.C. 7:27-16.2 defines which EFRTs are now required to have secondary seals. This table was derived using the equations in the U.S. Environmental Protection Agency (EPA) Group II Control Technique Guideline (CTG) entitled "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks". The CTG recommended requiring secondary seals on EFRTs of 40,000 gallons or greater containing organic liquids with a vapor pressure of 4.0 pounds per square inch absolute (psia) or greater. In New Jersey, a requirement using a combination of vapor pressure and tank capacities was adopted instead. This allowed for cost effective control of some EFRTs that otherwise would have been exempt.

The sliding scale used in Table 1A was developed using data for gasoline, which has a relatively high vapor pressure. The majority of EFRTs in use contain gasoline. Table 1A is applied under N.J.A.C. 7:27-16.2 to all EFRTs in New Jersey. Studies of EFRTs containing benzene show that the equations from the CTG are not applicable to low vapor pressure VOS. The emission rate is greater than predicted. Therefore, the requirements of N.J.A.C. 7:27-16.2 are inadequate for control of emissions of low vapor pressure VOS from EFRTs.

In order to require EFRTs containing low vapor pressure VOS to meet standards for emissions similar to those for EFRTs containing gasoline, a flat cutoff is being proposed. All EFRTs with a capacity greater than 20,000 gallons (75,700 liters) and containing organic liquids with a vapor pressure greater than 1.0 psia will be required to have secondary seals. This requirement is contained in amended N.J.A.C. 7:27-16.2(h).

Surface Coating

The application of coatings to various types of substrates is regulated by N.J.A.C. 7:27-16.5. The applicability of the emission limits contained in this section is determined by the amount of coating used in one hour. The rate of application, below which control is not required, is called the exclusion rate.

One of the extraordinary measures identified in New Jersey's 1982 State Implementation Plan (SIP) for the attainment of the ozone standard was lowering the exclusion rate for surface coating sources. This measure is needed to provide emission reductions unavailable from the adoption of all Reasonably Available Control Technologies (RACT) in the State.

The Department is proposing to halve the exclusion rates in N.J.A.C. 7:27-16.5(c). Any source using a half gallon or more of coating in an hour and two and a half gallons or more in a day will be required to control emissions. Thus, for a source using a half gallon of coating in an hour, operating for five hours a day will subject it to N.J.A.C. 7:27-16.5.

These smaller sources will have two means of compliance: use of low solvent content coatings and adding control apparatus. Low solvent content coatings can be either high in solids content or use water as a solvent. Some types of coatings can have a solvent content as low as zero. Powder coatings and ultra-violet cured coatings are two examples. Add-on control requires that the emissions from the use of the coating be captured and destroyed or recovered. Thermal oxidizers and carbon adsorbers are common control devices.

Automobile refinishing and custom topcoating are being proposed as additions to the surface coating categories covered by subchapter 16. Presently, only the application of original finishes in the factory is covered. The inclusion of automobile refinishing will require that the VOS emissions from the repainting of a damaged or worn vehicle be controlled. The inclusion of custom topcoating will require such operations to reduce VOS emissions from the application of custom finishes to vehicles.

A VOS content limit of 5.0 pounds per gallon of coating is being proposed for both refinishing and custom topcoating. This is consistent with the limit for refinishing proposed by the New York Department of Environmental Conservation in March 1988 and adopted in September 1988. The limit is lower than the present average VOS content of automobile coatings of 5.6 pounds per gallon.

Any person subject to the 5.0 pound per gallon content limit for any coating used in a refinishing or custom top coating operation must submit a compliance plan to the Department. In N.J.A.C. 7:27-16.5(i), the Department has excluded mathematical combinations as an allowable

element in a compliance plan, even though mathematical combinations have been an allowed element for other control strategies in the past. Mathematical combinations contain the potential for less stringent control of VOS emissions. In view of New Jersey's continued inability to achieve the National Ambient Air Quality Standard for ozone, it is the Department's judgment that, as VOS are precursors to ozone formation, provision for mathematical combinations could not be justified for these new source categories. In addition, the U.S. Environmental Protection Agency has indicated that New Jersey may not include mathematical combinations in new control strategies because compliance with the National Ambient Air Quality Standard for ozone has not been achieved.

Control can be achieved by two means: add-on control or low solvent coatings. For some auto body shops, the use of add-on control will also require the installation of a spray booth. The use of complying coatings may require retraining of the person applying the coating.

An exemption is included in N.J.A.C. 7:27-16.5(k) for small automobile refinishing operations and small custom topcoaters. It is based on the number of vehicles coated. A number was chosen such that those facilities emitting less than 10 tons per year of VOS are exempt. Existing provisions in subchapter 16 affect other sources down to that level. Thus, this amendment is consistent with the existing rules.

Manufacturing Sources

Sources of VOS emissions which do not fall into specific categories in subchapter 16 are subject to N.J.A.C. 7:27-16.6. The exclusion rates below which control is not required range from seven pounds per hour down to zero pounds per hour. The exclusion rate for a given source is dependent on the vapor pressure of the VOS being emitted and the concentration of the VOS in the exit stream.

Since August 1985, in order to implement the legislative mandate for advances in the art of air pollution control (see N.J.S.A. 26:2C-9.2(c)), new sources that fall into the categories covered by N.J.A.C. 7:27-16.6 have been required to control emissions of VOS based on exclusion rates that are half the rate in Table 4. These lower exclusion rates will now be extended to existing sources.

The types of control that can be used for VOS sources affected by N.J.A.C. 7:27-16.6 are as varied as the sources. Condensers, carbon adsorbers, thermal oxidizers and absorbers are some types of control. Factors influencing the choice of control include possible reuse of the VOS and costs. For the use of condensers, the availability of excess cooling medium will be a factor. Excess capacity in an existing control device, such as a thermal oxidizer or carbon adsorber, will also be a factor.

Social Impact

These proposed amendments will have a positive social impact by contributing to the attainment of the NAAQs for ozone. In the spring and summer, ambient concentrations of ozone often exceed the NAAQs, affecting the health of residents of New Jersey.

Ozone is a powerful oxidant, and as such reacts readily with a wide range of substances. In humans, ozone irritates the respiratory system and reduces lung function. This causes symptoms such as chest pain, coughing and wheezing. Laboratory studies have shown that ozone affects the lungs' ability to resist infections, and accelerates the lung's aging process. Thus, violation of the NAAQs is considered a serious public health concern. A reduction of the ambient ozone concentration in New Jersey will produce a corresponding reduction of respiratory problems associated with exposure to current ozone concentrations.

Economic Impact

The cost of compliance with these amendments will fall on a wide variety of businesses. Storage terminals, surface coaters, auto body shops, and many types of chemical manufacturers will be affected. The economic impact will depend on different factors for different facilities.

Approximately 80 EFRTs will be required to install secondary seals. This retrofit will incur capital costs for cleaning the tank, and costs for labor and materials for installing the secondary seal. Costs will be dependent on the size of the storage tank. Capital costs will range from \$9,000 to \$145,000 in 1988 dollars. Operating costs include maintenance, taxes and insurance, and will range from \$900.00 to \$20,000 per year. Annualized costs, after recovery credit, range from a credit of \$460.00 per ton of VOS controlled to a cost of \$6,000 per ton of VOS controlled. The average annualized cost is \$1,560 per ton, with the median being \$280.00 per ton.

Costs for surface coating operations will depend upon the choice for control. Add-on control will be more costly than reformulation. The most commonly used add-on control is thermal oxidation. However, the con-

trol of small volumes of solvent emitted in high gas volumes is expensive. There are new types of systems available which concentrate VOS emissions into more easily controlled, more concentrated streams. Also, since the emissions from small volume usage sources are often intermittent, existing control devices can be used. Costs, therefore, can fall in a wide range.

Two types of control were considered for small surface coating sources in a 1987 report "Economic, Social, and Environmental Effects of VOS Controls for Sources Affected by the Lower Exclusion Rates" prepared for the State by Radian Corporation. Two situations were also considered: installing new controls, and ducting to an existing control. The two model plants considered use one gallon of coating an hour (Model A) and one half gallon per hour (Model B).

Carbon adsorption was the first control considered. For new control apparatus, total capital costs in 1987 dollars for both Model A and Model B are \$139,000. The operating costs were slightly different, being \$15,900 for Model A and \$14,700 for Model B. Net annualized costs, after credit for VOS recovered, are close, with Model A being \$38,400 and Model B being \$38,500. However, the cost effectiveness is quite different. For Model A it is \$21,900 per ton of VOS removed, while for Model B it is \$43,500 per ton.

Ducting to existing control apparatus makes a large difference in the cost. Capital costs for both model plants for this scenario are \$4,100. The operating costs are also the same for both, about \$160.00. The net annualized costs, after credit for VOS recovered, is \$300.00 for Model A and \$500.00 for Model B. The cost effectiveness is then \$200.00 and \$600.00 per ton of VOS removed.

The second type of control considered was thermal oxidation. For catalytic incineration with heat recovery, the capital costs for new equipment for Models A and B are \$242,000. The annual operating costs are \$45,000. The net annualized costs for both model plants is \$84,500. The cost effectiveness for the two is very different being \$45,700 for Model A, and \$90,900 for Model B.

Again, ducting to existing control greatly reduces the cost. Total capital costs in both instances are \$4,100, and total annual operating costs in both instances are \$11,400. The net annualized costs are \$12,100 for Model A and Model B. For Model A, the cost effectiveness is \$6,500 per ton, while for Model B it is \$13,000 per ton.

The use of a system that concentrates the VOS emissions will reduce the capital and operating costs for control. By increasing the concentration of the VOS in the air stream to be controlled, the control apparatus can be downsized and energy requirements will decrease. Manufacturers of these systems estimate that net annualized costs can be reduced by as much as 70 percent with their use.

Complying coatings exist for nearly every application. The costs involved with the use of a complying coating include running tests on coatings to determine which will be best for a given application and perhaps the purchase and installation of new application equipment. These capital costs are expected to be less than \$15,000. Annual costs will be the difference in cost between the original coating and the new, complying coating. Any cost increase will be partially offset by lower costs for waste handling, insurance, and/or cleanup.

Automobile refinishing and custom topcoating are forms of surface coating. Therefore, costs will be similar to those already discussed for new equipment. In general, costs will be somewhat less because the sources being controlled are larger than those considered in the surface coating cost analysis. However, for facilities that need to install a spray booth, there will be an additional capital cost of approximately \$25,000.

The 1987 Radian study also considered costs involved in controlling small manufacturing sources. Two types of control were considered for these sources under two scenarios, one requiring new equipment and the other using existing control. A source running one hour a day (Model 1) and one running 17 hours a day (Model 2) were used to determine costs.

The first type of control considered was a condenser. For both Model 1 and Model 2, the total capital costs for new control equipment are \$72,000 in 1987 dollars. The total annual operating costs for Model 1 are \$10,100, and for Model 2 are \$21,400. After credit for VOS recovered, the net annualized costs are \$22,000 for Model 1 and \$33,000 for Model 2. The cost effectiveness is then \$46,000 per ton of VOS removed for Model 1 and \$3,000 per ton of VOS removed for Model 2.

The use of existing equipment reduces the capital costs for both model plants to \$90.00. Operating costs become \$20.00. The net annualized costs show credits for \$100.00 for Model 1 and \$3,000 for Model 2. The cost effectiveness is then a credit of \$200.00 per ton for Model 1 and a credit of \$300.00 per ton for Model 2.

The second type of control considered was thermal oxidation. The total capital costs for both model plants is \$40,000. Annual operating costs for Model 1 are \$89,000 and for Model 2 are \$24,000. The net annualized costs are \$15,000 for Model 1, and \$30,000 for Model 2. The cost effectiveness is \$3,000 per ton for Model 1 and \$300.00 per ton for Model 2.

Utilizing existing equipment again decreases the cost of control. The total capital costs for both model plants is \$900.00, and annual operating costs for both are \$50.00. The net annualized costs for both are \$200.00, and the cost effectiveness is less than \$100.00 per ton.

A Statewide estimate of costs and cost effectiveness is impossible due to the multitude of factors influencing capital and operating costs. The estimated cost effectiveness is in the range of a credit of \$460.00 per ton of VOS to a cost of \$90,900 per ton of VOS.

Environmental Impact

The reductions in VOS emissions that will result from the implementation of these amendments will provide significant progress toward attainment of the NAAQS for ozone. This will alleviate the effects of exposure to elevated ambient concentrations of ozone on the environment of New Jersey.

Foliar damage to sensitive plants is one of the earliest and most obvious manifestations of ozone injury in the environment. Subsequent effects include reduced plant growth and decreased crop yield. A reduction in the ambient ozone concentration will help relieve damage to plants and thereby improve agricultural productivity and support healthier growth of both natural vegetation and ornamental plantings.

Materials such as rubber, textiles, dyes, and paints are susceptible to ozone degradation. The damaging effect of ozone is due to its oxidizing ability. For example, natural rubbers and synthetic polymers become hard and brittle at a faster rate by oxidation at high ozone concentrations than by oxidation by atmospheric oxygen. Attainment of the ozone ambient air quality standard is expected to mitigate the increased rate of degradation of natural and man-made materials.

When the stricter requirement on EFRTs goes into effect, approximately 790 tons of VOS will be prevented from entering the atmosphere each year. This is based on applying these requirements to the inventory of EFRTs maintained in the Department's data base.

Approximately 13 percent of automobile refinishers and custom topcoaters accounting for 37 percent of the emissions from such sources will be affected by the proposed amendments. When the emission limits on these source categories go into effect in June 1990, approximately 550 tons per year of VOS will be prevented from entering the atmosphere. This is based on a survey performed for the Department by Radian Corporation in 1987.

The number of small surface coating sources that will be affected by the proposed amendments has been estimated to be 600. The emission reductions of VOS expected from the control of these sources will be 550 tons per year.

It has been estimated that 2,000 sources will be affected by the halving of the exclusion rates in N.J.A.C. 7:27-16.6. Approximately 6,300 tons of VOS per year will be prevented from reaching the atmosphere when full compliance is reached in June, 1990.

Regulatory Flexibility Statement

These proposed amendments will apply to storage terminals, surface coaters, auto body shops, and manufacturing operations. Virtually all auto body shops are small businesses. The very small facilities have been exempted under N.J.A.C. 7:27-16.6(k). More than 50 percent of surface coating facilities in general are small businesses. The majority of storage terminals are owned and operated by major oil companies or national terminal companies. The majority of manufacturing sources are owned and operated by major companies. It is estimated that less than five percent of affected EFRTs and approximately 30 percent of N.J.A.C. 7:27-16.6 affected sources are owned and operated by "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and will be impacted.

In order to comply with these proposed amendments, the small business will need to install control equipment or reformulate surface coatings dependent on the type of source. Small surface coating operations are expected to use reformulation as the means of compliance. To do so, small businesses may need to retain the services of a consultant, or perform studies. In some cases, new application equipment may be needed. Capital costs are expected to be approximately \$15,000. The annual cost of compliance using reformulation will be negligible. Auto body shops can be considered to be small surface coating operations.

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

Small businesses owning EFRTs will be required to purchase and install control equipment consisting of a secondary seal. The capital costs will range from \$9,000 to \$145,000, with the annual cost of compliance ranging from \$900.00 to \$20,000. Emissions of VOS from EFRTs is based on the size of the EFRT, not the size of the company. An exemption based on company size could exempt a sizeable emissions source.

Manufacturing sources owned by small businesses will most likely use add-on controls to achieve compliance. This means they will have to purchase and install equipment. Capital costs can range from \$900.00 to \$72,000, with the annual cost of compliance ranging from \$50.00 to \$33,000.

The effectiveness of these amendments depends on applying them on a source by source basis. An exemption based on the size of the business owning and operating the source could leave between 30 and 50 percent of the affected sources exempt from this subchapter. The Department has balanced the need to protect the environment against the economic impact of these rules and has determined that to minimize the impact of the rules would endanger the environment, public health and public safety and, therefore, no further exemption from coverage is provided.

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

7:27-16.1 Definitions

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

...
“Refinishing of automobiles and light duty trucks” means the recoating of the main body or other exterior areas of any worn or damaged passenger car or passenger car derivative capable of seating 15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed primarily for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans.
 ...

...
“Surface coating of automobiles and light-duty trucks” means the application, flashoff, and curing of prime, topcoat and repair coat on main body and other exterior sheet metal of any passenger car or passenger car derivative capable of seating [12]15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed primarily for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans.
 ...

7:27-16.2 Storage of volatile organic substances

(a)-(g) (No change.)

[h) No person shall cause, suffer, allow, or permit the storage of a VOS in any stationary storage tank having a maximum capacity of 40,000 gallons (151,400 liters) or greater and equipped with an external floating roof unless such stationary storage tank is equipped with control apparatus as determined in accordance with the procedure for using Table 1A or as approved by the Department as

being equally or more effective in preventing the emission of VOS into the outdoor atmosphere.]

(h) **No person shall cause, suffer, allow, or permit the storage of a VOS in any stationary storage tank equipped with an external floating roof, unless:**

1. **Prior to June 15, 1990, any such storage tank having a maximum capacity of 40,000 gallons (151,400 liters) or greater is equipped with control apparatus as determined in accordance with the procedure for using Table 1A or as approved by the Department as being equally or more effective in preventing the emission of VOS into the outdoor atmosphere.**

2. **As of June 15, 1990 and continuously thereafter, any such storage tank containing a VOS having a vapor pressure of 1.0 pounds per square inch absolute (50 millimeters of mercury) or greater at standard conditions and having a maximum capacity of 20,000 gallons (75,700 liters) or greater is equipped with a double seal-envelope combination or equipment approved by the Department as being equally or more effective in preventing the emission of VOS into the outdoor atmosphere.**

Procedure for Using Table 1A
 (No change.)

TABLE 1A
 (No change.)

(i) **Prior to June 15, 1990, [N]no person shall cause, suffer, allow, or permit the storage of a VOS having a vapor pressure of greater than 1.5 pounds per square inch absolute (75 millimeters of mercury) at standard conditions in any stationary storage tank having a maximum capacity of greater than 40,000 gallons (151,400 liters) and equipped with an external floating roof having a vapor-mounted primary seal unless such tank is equipped with a second seal-envelope combination. The gap area of gaps exceeding one-eighth inch (0.32 centimeters) in width between the secondary seal and the tank wall shall not exceed 1.0 square inch per foot of tank diameter (6.5 square centimeters per 0.3 meters of tank diameter).**

(j)-(m) (No change.)

7:27-16.5 Surface coating and graphic arts operations

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

(c) The provisions of (a) and (b) above and (f), (g), and (h) below shall not apply to any individual surface coating or graphic arts operation in which the total surface coating formulations containing VOS are applied:

1. **Prior to June 15, 1990, [A]at rates not in excess of one gallon per hour and five gallons per day; [or]**

2. **As of June 15, 1990 and continuously thereafter, at rates not in excess of one half gallon per hour and two and one half gallons per day; or**

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

(d) Any person subject to the emission standards specified in Table 3A pertaining to spray prime and spray topcoat surface coating formulations may, as an alternative to the maximum allowable emissions set forth in Table 3A, comply with the provisions of Table 3C.

TABLE 3A
 MAXIMUM ALLOWABLE EMISSIONS FOR AUTOMOBILE
 AND LIGHT DUTY TRUCK SURFACE COATING OPERATIONS

Type of Operation	Maximum Allowable Emissions Per Volume of Coating (Minus Water)		Final Compliance Date
	Pounds Per Gallon	Kilograms Per Liter	
Prime			
Electrophoretic dip prime	1.2	0.14	December 31, 1982
Spray prime	2.8	0.34	December 31, 1984
Topcoat			
Spray topcoat	2.8	0.34	December 31, 1986
Repair	4.8	0.58	December 31, 1986
Custom Topcoating	5.0	0.60	June 15, 1990
Refinishing	5.0	0.60	June 15, 1990

ENVIRONMENTAL PROTECTION

PROPOSALS

Table 3B-Table 3E (No change.)

(e)-(h) (No change.)

(i) Any person subject to an emission limitation for custom topcoating or refinishing set forth in Table 3A [or Table 3C of this Section] of N.J.A.C. 7:27-16.5 shall comply with the following schedule:

1. By [January 1, 1981] **July 1, 1989**, a plan must be submitted to the Department for approval describing the measures which will be applied in order to achieve compliance. The plan submittal shall include:

i. (No change.)

[ii. Completed applications, if relevant, for the mathematical combination of source gases as provided for in N.J.A.C. 7:27-16.6(c)4; and]

Renumber existing iii. and iv. as **ii. and iii.**

2. By [January 1, 1981] **July 1, 1989**, and by the first day of every fourth month thereafter, persons using surface coating reformulation as a measure for complying with the provisions of (a) above shall submit detailed reports describing the progress being made with specific surface coating manufacturers and suppliers toward the development of suitable formulations.

3. By no later than [12] **six** months prior to the applicable final compliance date set forth in Table 3A, construction or installation of equipment and control apparatus, in accordance with the approved plan, shall commence.

4. (No change.)

(j) (No change.)

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

1. The surface coating of aircraft and marine vessel exteriors, exclusive of parts coated prior to installation or assembly; [and]

2. The refinishing of automobiles, **if production is less than 25 vehicles per week**; [and]

3. The customized topcoating of automobiles and trucks, if production is less than [35] **four** vehicles per day; and

4. (No change.)

7:27-16.6 Source operations other than storage tanks, transfers, open top tanks, surface cleaners, surface coaters and graphic arts operations

(a) No person shall cause, suffer, allow, or permit VOS to be emitted into the outdoor atmosphere from any source operation not subject to the provisions of [Sections] N.J.A.C. 7:27-16.2, 16.3, 16.4, 16.5, 16.7, and 16.8 [of this subchapter,] in excess of the maximum allowable emission rate as determined in accordance with the procedure for using Table 4.

Procedure for Using Table 4

1.-4. (No change.)

[5. The maximum allowable emission rate shall be the pounds (kilograms) per hour (or per batch cycle hour) equivalent to the percent of the process emissions shown in Column 2 or the Exclusion Rate shown in Column 3, whichever is greater.]

5. The maximum allowable emission rate shall be the pounds (kilograms) per hour (or per batch cycle hour) equivalent to the percent of the process emissions shown in Column 2 or:

i. Prior to June 15, 1990, the Exclusion Rate shown in Column 3, whichever is greater.

ii. As of June 15, 1990 and continuing thereafter, the Exclusion Rate shown in Column 4, whichever is greater.

TABLE 4

MAXIMUM ALLOWABLE EMISSIONS FOR VOS FROM SOURCE OPERATIONS

Column 1 Range Determined From Table 5	Column 2 Maximum Allowable Emissions, Percent of Process Emissions by Weight	Column 3		Column 4	
		Exclusion Rates Prior to June 15, 1990		Exclusion Rates As of June 15, 1990	
		Continuous or Batch Cycle Emission		Continuous or Batch Cycle Emission	
		Pounds Per Hour	Kilograms Per Hour	Pounds Per Hour	Kilograms Per Hour
Range A	15	7	3.18	3.5	1.59
Range B	15	6	2.72	3	1.36
Range C	15	5	2.27	2.5	1.14
Range D	12	4	1.82	2	0.91
Range E	10	3	1.36	1.5	0.68
Range F	8	2	0.91	1	0.46
Range G	2	1	0.45	0.5	0.23
Range H	0.3	0	0	0	0
Range I	15	7	3.18	3.5	1.59

TABLE 5
(No change.)

(b) (No change.)

(c) For the purpose of this section:

1. (No change.)

2. Source operations normally falling within the category subject to the provisions of this section but used for research or development purposes are exempt from compliance with (a) above provided they do not exceed the hourly exclusion rates for their ranges, as set forth in Table 4, Column 3 or Column 4, as applicable; or provided:

i. No more than two times the applicable hourly exclusion rate set forth in Table 4, Column 3 or Column 4 is emitted in any one hour; and

ii. No more than three times the applicable hourly exclusion rate set forth in Table 4, Column 3 or Column 4 is emitted in any 24-hour period.

3. The maximum allowable emission rate for source gases physically combined (manifolded) for more than one source operation shall be the sum of the maximum allowable emission rates for the separate source gases as determined under N.J.A.C. 7:27-16.5(a), (f),

(g) and (h), and 16.6(a) and (b). The process emission rate shall be used as the maximum allowable emission rate of a separate source gas if it is less than the applicable exclusion rate contained in Table 4, Column 3 or Column 4;

4. (No change.)

5. The Department may approve such mathematical combining of source gases provided:

i. (No change.)

ii. The sum of the emission rates of separate gases does not exceed the sum of the maximum allowable emission rates for the separate source gases as determined under N.J.A.C. 7:27-16.5(a), (f), (g) and (h), and 16.6(a) and (b). The process emission rate shall be used as the maximum allowable emission rate of a separate source gas if it is less than the applicable exclusion rate contained in Table 4, Column 3 or Column 4;

iii.-ix. (No change.)

(d)-(l) (No change.)

HEALTH

(a)

HOSPITAL REIMBURSEMENT

Uniform Bill-Patient Summary (Inpatient)

Proposed Amendments: N.J.A.C. 8:31B-2.2 and 2.4.

Authorized By: David L. Knowlton, Acting Commissioner,
Department of Health (with approval of the Health Care
Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and
26:2H-18d.

Proposal Number: PRN 1988-638.

Submit comments by January 18, 1989 to:

Alan Rosenberg, Director
Hospital Reimbursement
New Jersey Department of Health
CN 360, Room 601
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

New Jersey has been on the Version 2 Grouper of the DRG classification system since 1982. The Department is planning to implement the Version 6 New York Grouper to update the system and be in accordance with the regulations of the Health Care Financing Administration (HCFA). The proposed amendment for the implementation of this updated Grouper will be published in future rulemaking. In addition to the HCFA Grouper, New York Grouper Version 6 incorporates two new Major Diagnostic Categories (MDCs) and a complete revision of MDC containing the newborn Diagnosis Related Groups (DRGs). The new Major Diagnostic Categories are MDC 24—Human Immunodeficiency Virus (HIV) Infections and MDC 25—Multiple Significant Trauma. The revised newborn DRGs are birthweight related and, therefore, the weight in grams must be added to the list of data items to be collected for the proper assignment of the patient to the DRG.

The hospital should begin collecting the birthweight upon the publication of this proposed amendment to ensure the proper reimbursement at the time of final reconciliation. Billing by birthweight DRGs will not begin until the Version 6 New York Grouper is implemented by final adoption and published in the New Jersey Register. These timelines are reflected in the text of the proposed amendments and are to serve as clarification of the intent of the Department.

Twenty-five acute care hospitals in New Jersey have been involved in a severity of illness demonstration study, since July 1988, on a voluntary basis. The purpose of this study is to determine if DRG payment rates, adjusted by severity, result in significant improvement in the ability of DRG rates to predict hospital costs. The demonstration study will terminate in December 1988 and a decision regarding implementation of the system will be made by the Department after an in-depth analysis has been done on the findings. The reason for inclusion in this proposal of the Severity of Illness (S.O.I.) indicators in the list of data items to be submitted for the Uniform Bill-Patient Summary (UB-PS) is to allow the industry a reasonable amount of preparation time, pending possible implementation.

These proposed amendments also correct an error in a citation reference regarding time limits for data intermediaries.

Social Impact

The collection of the birthweight in grams for the newborn will require that a conversion be done from pounds and ounces, which is the traditional recording of birthweight. This may be done at the patient care unit or in the Medical Records Department.

The Severity of Illness (S.O.I.) indicators by diagnosis code will be collected in the Medical Records Department following a patient-specific chart review, upon implementation of a system for measuring patient severity of illness. The final, indicator representing an overall severity scoring, will appear on the hard copy of the UB-PS for billing purposes.

There is no social impact to the consumer.

Economic Impact

The DRG classification of newborns by birthweight in grams will more accurately reflect the resources consumed. The hospital should be more equitably reimbursed for normal newborns and neonates with low birthweights and related conditions.

The data submission of the Severity of Illness (S.O.I.) indicators for each diagnosis code and the final rating, upon the implementation of an acceptable system of severity measurement, is labor intensive. Implementation costs will be experienced by the hospital and the Department will conduct a cost survey to determine the economic impact, following the data analysis of the demonstration study and implementation decision.

Regulatory Flexibility Statement

The proposed amendments apply to hospitals which have rates established by the Hospital Rate Setting Commission. Each of these hospitals employs more than 100 full-time employees and, therefore, are not considered in the small business category, as defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169).

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

8:31B-2.2 Implementation

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

(c) The revision to N.J.A.C. 8:31B-2 provide for the submission of sufficient patient information for reconciliation of payments consistent with N.J.A.C. 8:31B-3.71 through 3.86.

1. "Sufficient patient information" shall consist of the following for all inpatients discharged and ambulatory same day surgery outpatients treated and shall be submitted in the format specified pursuant to N.J.A.C. 8:31B-2.5(g).

i.-x. (No change.)

xi. [And all] All billing information (items 51-56, 64)[.];

xii. Birthweight (newborn inpatient) (effective for billing purposes upon implementation of the New York Grouper Version 6; effective for reporting purposes to the Department of Health upon publication of the amendment's adoption in the New Jersey Register); and

xiii. Severity of Illness (S.O.I.) indicators (inpatient) (effective upon implementation of methodology).

2. (No change.)

(d)-(e) (No change.)

8:31B-2.4 Guidelines for completion of the patient billing and abstract form

(a) (No change.)

(b) Billing timelines requirements are as follows:

1. (No change.)

2. Where claims administration and cash flow considerations would dictate a more current billing than the 30 day requirement, a preliminary version of the UB-82 containing only those items required in (a) above for the particular payer need be utilized at the time of billing and such information is sufficient to adjudicate a claim for prompt payment discount. In interim billing cases, it is necessary that the completed patient billing and abstract information noted in N.J.A.C. 8:31B-2.2(c) must be submitted to the appropriate Data Intermediary in compliance with the Data Intermediary time limits and the Department of Health Data Requirements (see N.J.A.C. 8:31B-2.[6]5(g)).

(b)

Procedural and Methodological Regulations

Proposed Amendments: N.J.A.C. 8:31B-3.19, 3.38 and 3.45

Authorized by: David L. Knowlton, Acting Commissioner,
Department of Health (approval of the Health Care
Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and
26:2H-18d.

Proposal Number: PRN 1988-639.

Submit comments by January 18, 1989 to:

Alan Rosenberg, Director
Hospital Reimbursement
New Jersey Department of Health
CN 360, Room 601
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

New Jersey has been on the Version 2 Grouper of the DRG classification system since 1982. The Department is planning to implement the Version 6 New York Grouper to update the system and be in accordance with the regulations of the Health Care Financing Administration (HCFA). The proposed amendment for the implementation of this updated Grouper will be published in future rulemaking. In addition to the HCFA Grouper, the New York Grouper Version 6 incorporates two new Major Diagnostic Categories (MDCs) and a complete revision of MDC 15 containing the newborn Diagnosis Related Groups (DRGs). The new Major Diagnostic Categories are MDC 24—Human Immunodeficiency Virus (HIV) Infections and MDC 25—Multiple Significant Trauma. The revised newborn DRGs are birthweight related and, therefore, the weight in grams must be added to the list of data items to be collected for the proper assignment of the patient to the DRG.

The hospital should begin collecting the birthweight upon the publication of this proposed amendment to ensure the proper reimbursement at the time of final reconciliation. Billing by birthweight DRGs will not begin until the Version 6 New York Grouper is implemented by final adoption and published in the New Jersey Register. These timelines are reflected in the text of the proposed amendments and are to serve as clarification of the intent of the Department.

Twenty-five acute care hospitals in New Jersey have been involved in a severity of illness demonstration study, since July 1988, on a voluntary basis. The purpose of this study is to determine if DRG payment rates, adjusted by severity, result in significant improvement in the ability of DRG rates to predict hospital costs. The demonstration study will terminate in December 1988 and a decision regarding implementation of the system will be made by the Department after an in-depth analysis has been done on the findings. The reason for inclusion, in this proposal of the Severity of Illness (S.O.I.) indicators in the list of data items to be submitted to the Department of Health, under N.J.A.C. 8:31B-3.19 and 3.45, is to be consistent with the proposed amendment to the Uniform Bill-Patient Summary (UB-PS) at N.J.A.C. 8:31B-2.2, published elsewhere in this issue of the New Jersey Register. The Procedural and Methodological Rule, N.J.A.C. 8:31B-3, defines the process for rate setting and the UB-PS rules, N.J.A.C. 8:31B-2, provide the basis for the hospital billing format.

The additional data submission requirements will be used for final reconciliation and audit adjustments.

The definitions for each of the five categories of outlier patients has now been included in N.J.A.C. 8:31B-3.38, where the outlier payment methodology is established. This proposed amendment should increase the clarity of the rule.

Social Impact

No social impact would be experienced by the hospital, payer or consumer. The new grouper will allow a more appropriate DRG assignment.

The inclusion of the definition of the five categories of outliers with their respective rate methodologies should enable the user to read the rule more efficiently in its entirety.

Economic Impact

The economic impact of the data submission requirement, for Version 6 New York Grouper, to collect the birthweight in grams of the newborn should cause the patient to be assigned to a more appropriate DRG. This should more closely reflect the resources consumed by low birthweight newborns with related conditions and give a more equitable payment rate to the hospital.

The Severity of Illness (S.O.I.) indicator, upon implementation of the system, will allow a payment split in the DRG, in accordance with the resources consumed. This should give a more equitable payment rate to the hospital, in accordance with the rating.

There should be no economic impact for the merging of the outlier patient category definitions with the rate methodology, since this is only for clarification of the rule.

Regulatory Flexibility Statement

These proposed amendments apply to hospitals which have rates established by the Hospital Rate Setting Commission. Each of these hospitals employs more than 100 full-time employees and, therefore, are not considered in the small business category, as defined in the New Jersey Regulatory Flexibility Act, (N.J.S.A. 52:14B-16 et seq.).

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

8:31B-3.19 Patient care cost findings: Direct costs per case, physician and non-physician

(a) Hospital case-mix:

1. Uniform Bill-Patient Summary (UB-PS) data pursuant to N.J.A.C. 8:31B-2.1[,] are used for determination of hospital case-mix. The appropriate patient records for the reporting period corresponding with the Financial Elements Report are classified into Diagnosis Related Groups (DRGs) (see the DRG List in N.J.A.C. 8:31B-5) using the following items as defined in the UB-PS [regulation] **rule:**

i.-v. (No change.)

vi. Discharge status[.];

vii. **Birthweight (newborn) (effective for billing purposes upon implementation of the New York Grouper Version 6: effective for reporting purposes to the Department of Health (upon publication of the adoption of this amendment in the New Jersey Register));**

viii. **Severity of Illness (S.O.I.) indicators (effective upon implementation of methodology).**

2.-4. (No change.)

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

8:31B-3.38 Derivation for Preliminary Cost Base

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

(c) Basic rate order:

1. (No change.)

2. The five outlier categories are defined below and will have rates and/or per diems included on the Schedule of Rates as follows:

i. High length of stay[—the]: **Patients assigned to a DRG, but whose Length of Stay (LOS) is longer than the high LOS trim point.**

(1) The rate is the inlier rate per case plus a per diem for each acute day from the date of admission to date of discharge. The DRG's with three or fewer high length of stay outlier cases in the base year, the standard high length of stay per diem is the rate.

ii. Low length of stay[—]: **Patients assigned to a DRG, but whose Length of Stay (LOS) is shorter than the low LOS trim point.**

(1) The billing rate is limited to either the lower of the inlier rate per case or the sum of the acute days multiplied by the low per diem. For DRG's with three or fewer low length of stay outlier cases in the base year, the standard low length of stay per diem is the rate.

iii. Low volume [(fewer than six cases)—the]: **Patients assigned to a DRG with five or fewer merged cases in the base year.**

(1) The rate is the standard rate per case and standard per diem if also a length of stay outlier (as described in (c)2i and ii above).

iv. Clinical outliers[—the]: **Patients assigned to a DRG with poorly defined clinical characteristics precluding valid comparison of patients within the DRGs.**

(1) The rate per case and per diems are based upon the hospital specific or "Historical" cost. Inlier or outlier status determines the use of the inlier rate or outlier per diem rates.

v. Transfer patients[—where]: **Patients under medical advice requiring continued acute care who are transferred from one Acute Care Facility to another Acute Care Facility.**

(1) Where a patient's discharge status is that of a transfer to another acute care facility (inpatient), the rate is limited to the lower of the inlier rate per case or the sum of the acute days multiplied by the low outlier per diem. The hospital which received the transfer patient (and that patient is subsequently a non-transfer status discharge) will receive the appropriate rate per case or per diem based upon DRG assignment and trim point status.

3. (No change.)

(d) (No change.)

8:31B-3.45 Uniform Bill—Case Mix Determination—Financial Reports

(a) (No change.)

(b) Case[-]mix and volume determinations for final reconciliation for the rate period pursuant to N.J.A.C. 8:31B-3.71 through 3.86 shall be based on the [uniform bill-patient summaries] **Uniform Bill-Patient Summaries** using the same Grouper used to establish rates subject to audit adjustments, using the following:

1.-4. (No change.)

5. Sex; [and]

6. (No change.)

7. Birthweight (newborn) (effective for billing purposes upon implementation of the New York Grouper Version 6: effective for reporting purposes to the Department of Health (upon publication of the adoption of this amendment in the New Jersey Register));

8. Severity of Illness (S.O.I) indicators (effective upon implementation of methodology).

(c) (No change.)

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

**Alcoholism Treatment Facilities
Standards for Licensure**

Proposed Repeal and New Rules: N.J.A.C. 8:42A.

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,
Department of Health (with approval of the Health Care
Administration Board).

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

Proposal Number: PRN 1988-631.

Submit comments by January 18, 1989 to:

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

The agency proposal follows:

Summary

The Department proposed a repeal and the adoption of new rules at N.J.A.C. 8:42A for the licensure of alcoholism treatment facilities. The current rules, which became effective on July 9, 1981, were readopted without change on June 12, 1986 (see 18 N.J.R. 796(a), 18 N.J.R. 1380(a)). Upon proposing in 1986 that the rules be readopted in order to avert their expiration pursuant to the "sunset" provisions of Executive Order No. 66 (1978), the Department declared its intention to revise N.J.A.C. 8:42A on the basis of recommendations of the Division of Alcoholism and of the Quality and Utilization Review Committee of the New Jersey Advisory Council on Alcoholism. The proposed new rules represent the Department's attempt to revise N.J.A.C. 8:42A in such a way as to permit the Department to more effectively fulfill its responsibilities regarding the licensing of alcoholism treatment facilities and the promulgation of licensure standards. These responsibilities derive from both N.J.S.A. 26:2B-7 et seq., the Alcoholism Treatment and Rehabilitation Act and N.J.S.A. 26:2H-1 et seq.

N.J.A.C. 8:42A pertains to all facilities which provide inpatient alcoholism treatment services, including hospitals which provide these services as a separate service. Alcoholism treatment facilities provide specialized, integrated care to patients in order to assist these individuals in reaching the functional levels of which they are capable, as well as to protect their health and safety. Care is rendered by means of a multi-disciplinary approach to treatment, requiring the active involvement of professionals, the patient, and, in some instances, family members. The continuum of care provided in each alcoholism treatment facility includes preventive, diagnostic, therapeutic and rehabilitative services. In addition, some facilities provide medical detoxification services. The aim of this chapter is to establish minimum rules to which an alcoholism treatment facility must adhere in order to obtain a license to operate in New Jersey. The current rules constitute the basis for the licensure of 23 residential alcoholism treatment facilities.

Development of the proposed rules for licensure of alcoholism treatment facilities progressed from consideration and evaluation of comments and recommendations submitted by the Quality and Utilization Review Committee of the New Jersey Advisory Council on Alcoholism to a series of meetings involving Departmental staff, including staff of the Divisions of Alcoholism and Health Facilities Evaluation, and the Quality and Utilization Review Committee. The Department maintains that the proposed rules which have emerged from this developmental process preserve and serve the intent of the current rules to protect the health and safety of patients and to ensure the provision of adequate patient care and treatment, while expressing this intent clearly and in such a way

as to allow facility administrators and health care professionals the opportunity to devise innovative, effective methods of providing alcoholism treatment services to patients.

A summary of the proposed new rules follows:

The scope and purpose of the proposed new rules are set forth in proposed N.J.A.C. 8:42A-1. The proposed rules contain definitions of technical terms, many of which are the same as those for the terms in licensure rules developed by the Department for other types of health care facilities. There are, however, terms specific to alcoholism treatment facilities which are defined for the purposes of this text and general terms which are defined from an alcoholism treatment perspective. In contrast to the current rules, which contain a definition of "acute medical detoxification", the proposed rules define "medical detoxification services". This change is intended to clarify the nature of the process of detoxification conducted in facilities which would be specifically licensed by the Department to provide medical detoxification services. A definition of "intervention" has been added to the proposed rules, in recognition of the importance of this strategy in the treatment of alcoholism. The proposed rules delineate the qualifications for health care practitioners to which the proposed rules refer. The proposed rules include, for example, specification of the qualifications of the administrator, N.J.A.C. 8:42A-1.4, the alcoholism counselors, N.J.A.C. 8:42A-1.5, and the director of alcoholism counseling services, N.J.A.C. 8:42A-1.7.

Proposed N.J.A.C. 8:42A-2, Licensure Procedures, outlines procedures for obtaining licensure, which are similar to those for other types of health care facilities. Sections of the proposed subchapter N.J.A.C. 8:42A-2 address requirements for the following: Certificate of Need; application for licensure: newly constructed or expanded facilities; surveys and temporary license; full license; surrender of license; the fee schedule for filing an application for licensure; as well as the facility's right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

General areas common to the licensure rules for many types of health care facilities are addressed by proposed subchapter N.J.A.C. 8:42A-3. Proposed N.J.A.C. 8:42A-3.4(f), in contrast to current rule N.J.A.C. 8:42A-3.5(b), more clearly delineates the requirements for direct care staff to be awake and on duty at all times in each residential building. The change in the ratio of staff to patients is consistent with the corresponding rule for drug treatment facilities, N.J.A.C. 8:42B-3.4(f), and will not jeopardize patient care. The proposed subchapter requires job descriptions for all personnel. The facility is also required to maintain written staffing schedules and to substitute staff with equivalent qualifications for absent staff members.

Proposed N.J.A.C. 8:42A-4 outlines the responsibilities of the governing authority, which retains legal responsibility for the management, operation, and financial viability of the facility. Responsibilities enumerated in the proposed rules include provision of a safe, adequately staffed and equipped physical plant.

Proposed N.J.A.C. 8:42A-5 applies to the administration of the facility. The proposed subchapter requires the appointment of a full-time administrator who shall be available on the premises of the facility at all times and of a designee to act in the absence of the administrator. The proposed subchapter also enumerates administrative responsibilities.

Requirements for patient care policies for the facility are set forth in proposed N.J.A.C. 8:42A-6. The rationale for this subchapter is to protect patient health and safety, to facilitate the delivery of appropriate patient care, and to enhance the patient's access to information. While the proposed subchapter delineates areas for patient care which require the formulation of written policies and procedures, the facility retains control over their actual content, in many instances. Many of the subject areas are the same as for other health care facilities, but the policies and procedures are to be adapted to the alcoholism treatment environment, according to the determination of the individual facility. A new rule has been added regarding the process of intervention, an important strategy in the treatment of alcoholism, requiring the facility to delineate the responsibilities of staff and the information to be documented in the intervention process. The proposed subchapter also contains a series of provisions to ensure that the patient is fully informed of all financial arrangements.

Proposed N.J.A.C. 8:42A-7, Medical Services, is the first of the proposed subchapters which discuss requirements for the specialized professional services to be offered by alcoholism treatment facilities. The proposed rules require that a medical director and medical services shall be available to all patients at all times.

The structure and rationale of proposed N.J.A.C. 8:42A-7 are shared by the proposed subchapter on nursing services, N.J.A.C. 8:42A-8. N.J.A.C. 8:42A-8 includes a requirement for a registered professional nurse to direct the nursing service. The proposed rules also stipulate that additional licensed nursing personnel and ancillary nursing personnel shall be provided in accordance with a systematic determination of nurse staffing levels on the basis of the acuity of patient need. The proposed rules allow nurse staffing decisions to be determined by relevant characteristics of the patient population, thus allowing for individualized patient care, rather than care based solely upon the number of patients in the facility. Requirements for nursing care services related to pharmaceutical services are also specified.

Proposed N.J.A.C. 8:42A-9 concerns patient assessments and treatment plans and is formulated so as to reflect the multidisciplinary approach necessary for successful alcoholism treatment, with emphasis on continuity of care. The proposed rules include a requirement for individual assessment of the patient at the time of admission. Assessments are to be used to develop a multidisciplinary patient treatment plan, which is to be reviewed and revised, based upon the patient's response to the care provided. Each health care practitioner providing services to the patient is to participate as a member of the multidisciplinary team. The importance of assessing the patient's family and relationships, including relationships characterized by co-dependency, underlies proposed N.J.A.C. 8:42A-9.1(a)iv.

The proposed rules at N.J.A.C. 8:42A-10 require that alcoholism counseling services be provided directly in the facility to patients, as specified in the patient treatment plan. Supportive services, such as vocational, legal and educational counseling, are to be available to patients. The alcoholism counselor to patient ratio is greater than in the current rules, in recognition of the importance of counseling services in the treatment of alcoholism.

The requirements for a planned, diversified program of patient activities are delineated in proposed subchapter N.J.A.C. 8:42A-11, Recreational Services.

Licensing of laboratory services and radiological services by the appropriate State agency (Departments of Health and Environmental Protection, respectively) is addressed in proposed subchapter N.J.A.C. 8:42A-12.

According to the proposed rules at N.J.A.C. 8:42A-13, pharmaceutical services must be available to all patients. Those facilities providing medical detoxification services must also adhere to N.J.A.C. 8:42A-13.5, which contains rules similar to those for hospital pharmaceutical services. N.J.A.C. 8:42A-13.5 requires facilities providing medical detoxification services to implement a unit dose drug distribution system and an intravenous infusion admixture service within three years of the effective date of the chapter. The unit dose drug distribution system promotes the safe and proper use of medications and facilitates the provision of cost-effective care.

Proposed subchapter N.J.A.C. 8:42A-14 includes requirements for dietary services. Dietary services must be provided to meet the nutritional needs of patients. In addition to a dietitian, a food service supervisor is required.

Requirements for patient rights are stated in the proposed subchapter N.J.A.C. 8:42A-15. Alcoholism treatment facilities are required to develop and implement policies and procedures regarding, for example, the following patient rights: right to appropriate treatment; freedom from discrimination or abuse; right to register complaints; and right to privacy and to security of personal possessions.

Proposed N.J.A.C. 8:42A-16, Emergency Services and Procedures, incorporate principles of fire safety and emergency planning. The facility is required by the proposed rules to develop a written emergency plan for various emergency situations, including medical emergencies, equipment breakdown, fire, and other disaster. All emergency plans are to be posted, and drills and tests are to be conducted and documented. The provisions contained in the proposed subchapter are intended to promote patient safety.

Proposed N.J.A.C. 8:42A-17 concerns discharge planning, an important part of the continuum of care in an alcoholism treatment setting. The intent of the provisions for discharge planning contained in the proposed rules is to promote the preparation of the patient for independent functioning in the community.

Requirements for medical records, including provisions for medical record maintenance, storage, contents, and confidentiality, are presented in proposed N.J.A.C. 8:42A-18. The proposed rules stipulate that a medical record shall be maintained for each patient. Proposed N.J.A.C.

8:42A-18.2 requires that the facility employ the service of a medical record practitioner, whose qualifications are specified in proposed N.J.A.C. 8:42A-1.11. These requirements are similar to those for other health care facilities.

Proposed N.J.A.C. 8:42A-19 includes requirements for infection prevention and control. While the facility is given flexibility in the management of infection control, this subchapter identifies the content areas to be addressed by the facility's infection control program.

Housekeeping, sanitation, and safety are the subject of proposed N.J.A.C. 8:42A-20. The alcoholism treatment facility is required by the proposed rules to maintain a safe, sanitary environment, managed according to policies and procedures which the facility develops.

Proposed N.J.A.C. 8:42A-21, Volunteer Services, requires facilities to specify qualifications and permitted duties of volunteers, if volunteers participate in patient care.

The requirement for a quality assurance program is established by proposed N.J.A.C. 8:42A-22. A written plan specifying a timetable and assignment of responsibility must provide for monitoring of staff and services rendered to patients.

N.J.A.C. 8:42A-23 is being reserved. Construction requirements will be proposed at a later date and will comprise this subchapter.

Social Impact

N.J.S.A. 26:2H-1 et seq., and amendments thereto, gives the Department of Health the responsibility for protecting and promoting the health of the citizens of New Jersey and also gives the Department the authority to establish rules for the licensure of health care facilities. Proposed N.J.A.C. 8:42A establishes minimum rules for the licensure of alcohol treatment facilities. The intent of the proposed rules is to ensure the quality of care provided to patients who receive alcohol treatment services.

Alcoholism continues to be a major public health problem in New Jersey, as it is throughout the United States. The broad range of physical, emotional and social consequences of alcoholism is described, and statistical data is presented, in a Department of Health report entitled "How Healthy are New Jerseyans?" (December 1984). Alcoholism is associated with liver cirrhosis, heart disease, gastrointestinal disease, cancer, and other potentially fatal diseases. Alcohol has been found to be the indirect cause of deaths from accidents, homicides, and suicides. Child abuse and marital violence are frequently related to the disease of alcoholism. Heavy alcohol use during pregnancy is associated with a cluster of distinctive physical and mental impairments known as Fetal Alcohol Syndrome.

The proposed new rules require the use of a multidisciplinary team of alcohol treatment professionals who offer individualized services to each patient, with those services integrated through joint treatment planning into a continuum of care. Requirements for a broad range of alcohol treatment services, including medical, nursing, dietary, counseling, pharmaceutical and recreational services, reflect this multidisciplinary approach. The proposed rules present the various services as an organized system which includes coordinated multidisciplinary patient assessment, goal-oriented treatment planning, ongoing reassessment, and discharge planning.

Involvement of the patient and family in patient treatment planning and discharge planning is emphasized. The proposed rules contain provisions for patient and family instruction, education, and, when possible, participation in the patient treatment planning process.

The proposed rules are designed to provide alcohol treatment facilities with the flexibility to establish policies, procedures, and means of service delivery which are best, given the facilities' individual structures and patient populations.

The proposed rules emphasize patient care evaluation through an organized quality assurance program, intended to lead to improved staff performance and patient care. Quality assurance activities are required for each patient care service as well as for facility-wide functions. The provisions for quality assurance are designed to focus the facility's efforts upon delivery of safe and effective patient care.

Persons who would be affected by the adoption of the proposed rules include providers of alcoholism treatment services and persons requiring treatment for alcoholism. Currently, there are 23 licensed alcoholism treatment facilities in New Jersey. More than 9,000 persons were admitted to residential alcoholism treatment facilities in 1985, according to a publication prepared by the Division of Alcoholism entitled "Statistical Perspectives on Alcoholism Treatment in New Jersey, 1985", published in June, 1987. The report states that admissions are expected to increase each year.

Both the Department and the alcohol treatment facilities would benefit from having these proposed rules, with their higher degree of objectivity and measurability, support the survey, licensure and enforcement processes.

Economic Impact

Alcohol treatment facilities are currently providing the services covered in the proposed new rules. The Departmental licensure and survey mechanisms already in place for alcohol treatment facilities will continue to function, at no anticipated additional cost. The proposed rules present requirements which reflect many of the current practices already instituted by the facilities.

The proposed new rules allow the facilities flexibility in management practices, such as in developing policies and procedures best suited to their individual circumstances, and in determining staffing levels to meet patient care needs. This flexibility would allow the facilities to conserve resources by determining the most efficient manner in which to utilize services and personnel. The emphasis upon continuity and coordination of care would reduce duplication and fragmentation of services. Use of a multidisciplinary team approach in patient assessment, treatment planning, and implementation of treatment plans would help to ensure that each patient benefits from a range of professional skills. This approach would foster the efficient marshalling of the facility's resources to serve the patient's total alcohol treatment needs.

The requirements for a unit dose drug distribution system and an intravenous infusion admixture service in facilities providing medical detoxification services, N.J.A.C. 8:42A-13.5(a)3 and 4, may result in increased costs to these facilities. Nevertheless, review of the literature and consideration of the compensatory benefits of the adoption of the proposed measures suggest that the rules would be cost effective over time and would actually produce long-term savings.

The proposed new rules encourage avoidance of unnecessary expenses which result from accidents and injuries by including provisions for infection prevention and control, and requirements for effective house-keeping, sanitation, and safety measures. While the primary concern of these rules is the health and safety of patients, they also aim to reduce costs by focusing upon environmental safety in all areas of the alcohol treatment facility.

The requirements for a quality assurance program, N.J.A.C. 8:42A-22, could be used to increase the cost-effectiveness of facility operations. Evaluation of patient care services, staffing, maintenance of physical plant and equipment, discharge planning services, and volunteer services is required.

Adoption of the proposed new rules would result in a savings of health care dollars by means of a savings in human potential. The Department of Health report entitled "How Healthy Are New Jerseyans?" indicates that much of the economic loss from alcoholism and alcohol misuse results from "lost production of goods and services and from expenditures for "alcohol-related health and medical services". Further loss results from crimes and accidents that occur following the misuse of alcohol. Adoption of proposed N.J.A.C. 8:42A would help alcoholism treatment facilities to deliver services capable of reducing the influence of these causative factors. Additional economic benefits would accompany the saving of those lives which might otherwise be lost as a consequence of illness or accidents directly or indirectly attributable to the use of alcohol.

Regulatory Flexibility Statement

The Department of Health has determined that compliance with proposed N.J.A.C. 8:42A is necessary for all facilities which provide alcohol treatment services. The Department acknowledges that alcohol treatment facilities presently licensed have fewer than 100 full-time employees and are, therefore, categorized as small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Changes in the rules, however, have been designed to minimize adverse economic impact on small businesses, while ensuring the provision of quality care to patients. Changes in recordkeeping and reporting requirements should have only minor economic impact, specifically, in the area of medical records consultation. Facilities which currently function without consultation from a medical record practitioner would have to obtain such consultation.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:42A.

Full text of the proposed new rules follows.

CHAPTER 42A MANUAL OF STANDARDS FOR LICENSURE OF ALCOHOLISM TREATMENT FACILITIES

SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

8:42A-1.1 Scope

The rules in this chapter pertain to all facilities which provide inpatient alcoholism treatment services, including hospitals which provide these services as a separate service. These rules constitute the basis for the licensure of alcoholism treatment facilities by the New Jersey State Department of Health.

8:42A-1.2 Purpose

Alcoholism treatment facilities provide specialized, integrated care to patients in order to assist these patients in reaching the functional levels of which they are capable as well as to protect their health and safety. The aim of this chapter is to establish minimum rules to which an alcoholism treatment facility must adhere in order to be licensed to operate in New Jersey.

8:42A-1.3 Definitions

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

"Alcoholic" means any person who chronically, habitually, or periodically consumes alcoholic beverages to the extent that such use substantially injures his or her health or substantially interferes with his or her social or economic functioning in the community on a continuing basis, or who has lost the power of self-control with respect to the use of such beverages, pursuant to N.J.S.A. 26:2B-7 et seq., and amendments thereto.

"Alcoholism treatment facility" means a facility or a distinct part of a facility which is licensed by the New Jersey State Department of Health to provide health care for the prevention and treatment of alcoholism under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

1. The alcoholism treatment facility may be a designated unit of a licensed health care facility providing any or all of the services specified in these rules.

2. The alcoholism treatment facility may provide medical detoxification services if licensed by the Department to provide medical detoxification services.

"Ancillary nursing personnel" means unlicensed workers employed to assist licensed nursing personnel.

"Available" means ready for immediate use (pertaining to equipment) or capable of being reached (pertaining to personnel), unless otherwise defined.

"Bylaws" means a set of rules adopted by the facility for governing its operation. A charter, articles of incorporation, and/or a statement of policies and objectives is an acceptable equivalent.

"Cleaning" means 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" means a written, signed and dated notation made by a health care professional who renders a service to the patient.

"Co-dependency" means behavior on the part of one or more of the patient's family which impedes the ability of the patient to achieve his or her treatment goals and which derives from the co-dependent's need to maintain the patient's dependence on alcohol.

"Commissioner" means the New Jersey State Commissioner of Health.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

"Conspicuously posted" means placed at a location within the facility accessible to and seen by patients and the public.

"Contamination" means the presence of an infectious or toxic agent in the air, on a body surface, or on or in clothes, bedding,

instruments, dressings, or other inanimate articles or substances, including water, milk, and food.

"Controlled Dangerous Substances Acts" means the Controlled Substances Act of 1970 (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act of 1970, N.J.S.A. 24:21-1 et seq.

"Current" means up-to-date, extending to the present time.

"Daily census" means the number of patients residing in the facility on a given day.

"Department" means the New Jersey State Department of Health.

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

"Documented" means written, signed, and dated.

"Drug administration" means a procedure in which a prescribed drug is given to a patient by an authorized person in accordance with all laws and rules governing such procedures.

"Drug dispensing" means a procedure entailing the interpretation of the original or direct copy of the prescriber's order for a drug and, pursuant to that order, the proper selection, measuring, labeling, packaging, and issuance of the drug to a patient or a service or unit of the facility, in conformance with all applicable Federal, State, and local rules and regulations.

"Epidemic" means the occurrence in a facility of one or more cases of an illness in excess of normal expectancy for that illness, derived from a common or propagated source.

"Family" means persons related by blood, marriage, or commitment.

"Formulary" means a list of all drugs approved for use in the facility. The formulary may also list drugs which are considered appropriate for treating specific illnesses, or may list substitutions of chemically or therapeutically equivalent drugs for trade name prescription drugs.

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

"Governing authority" means the organization, person, or persons designated to assume legal responsibility for the management, operation, and financial viability of the facility.

"Health care facility" means a facility so defined in N.J.S.A. 26:2H-1 et seq., and amendments thereto.

"Hospital" means a health care facility as defined in the Manual of Standards for Hospital Facilities, N.J.A.C. 8:43B.

"Intervention" means a planned process in which a suspected substance abuser is confronted with evidence of his or her unacceptable behavior and may be presented with a warning that certain consequences will follow unless the person agrees to take specified measures regarding evaluation and treatment.

"Intravenous infusion admixture service" means the preparation by pharmacy personnel of intravenous infusion solutions requiring compounding and/or reconstitution.

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

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

"Medical detoxification services" means treatment, prescribed by a physician and conducted under medical supervision, to reduce a patient's symptoms of withdrawal from alcohol or other chemical substances, which includes observation, monitoring, assessment, treatment, counseling, and the referral of the patient for continued care.

"Medical record" means all records in the facility which pertain to the patient, including radiological films.

"Monitor" means to observe, watch, or check.

"Multidisciplinary team" means those persons, representing different professions, disciplines, and services, who work together to provide care to the patient.

"Nosocomial infection" means an infection acquired by a patient while in the facility.

"Nursing unit" means a continuous area on one floor, approved by the Department, which includes rooms housing patients.

"Patient" means any person admitted to an alcoholism treatment facility pursuant to N.J.S.A. 26:2B-7 et seq., and amendments thereto.

"Patient treatment plan" means a written plan of patient care which contains documentation of joint planning by the multidisciplinary team.

"Prescriber" means a person who is authorized to write prescriptions in accordance with Federal and State laws.

"Progress note" means a written, signed, and dated notation summarizing information about health care provided and the patient's response to it.

"Reasonable hour" means any time between the hours of 8 A.M. and 8 P.M. daily.

"Restraint" means a physical device or chemical (drug) used to limit, restrict, or control patient movements.

"Self administration" means a procedure in which any medication is taken orally, injected, inserted, or topically or otherwise administered by a patient to himself or herself. The complete procedure of self-administration includes removing an individual dose from a previously dispensed, labeled container (including a unit dose container), verifying it with the directions on the label, and taking orally, injecting, inserting, or topically or otherwise administering the medication.

"Shift" means a time period defined as a full working day by the facility in its policy manual.

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

"Staff education plan" means a written plan which describes a coordinated program for staff education for each service, including inservice programs and on-the-job training.

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

"Sterilization" means a process of destroying all microorganisms, including those bearing spores, in, on, and around an object.

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

1. "Direct supervision" means supervision on the premises within view of the supervisor.

"Unit dose drug distribution system" means a system in which drugs are delivered to patient areas in single unit packaging.

8:42A-1.4 Qualifications of the administrator of the alcoholism treatment facility

The administrator shall have a baccalaureate degree in administration, a social science, or a related field and two years of full-time, or full-time equivalent, administrative or supervisory experience. One year of full-time, or full-time equivalent, administrative or supervisory experience may be substituted for each year of the four-year degree requirement. Four years of such administrative or supervisory experience may be used to satisfy the degree requirement.

8:42A-1.5 Qualifications of alcoholism counselors

Each alcoholism counselor shall be certified by the New Jersey Alcoholism Counselor Certification Board as a Certified Alcoholism Counselor or shall be actively pursuing certification as indicated by the documented completion of at least one-fourth of the educational and direct alcoholism counseling requirements for certification by the New Jersey Alcoholism Counselor Certification Board during the 12 months immediately preceding the licensure survey.

8:42A-1.6 Qualifications of dietitians

(a) Each dietitian shall:

1. Be registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association; or
2. Have 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 have completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association, or have one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care facility; or
3. Have 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.

8:42A-1.7 Qualifications of the director of alcoholism counseling services

(a) The director of alcoholism counseling services shall:

1. Have a master's degree in social work, psychology, guidance and counseling, or a related field, or shall be certified by the New Jersey Alcoholism Counselor/Certification Board as a Certified Alcoholism Counselor; and
2. Have one year of full-time, or full-time equivalent, supervisory experience in the provision of alcoholism counseling services.

8:42A-1.8 Qualifications of the director of nursing services

The director of nursing services shall be a registered professional nurse and shall have at least one year of full-time, or full-time equivalent, experience in nursing supervision and/or nursing administration in a health care facility.

8:42A-1.9 Qualifications of food service supervisors

(a) Each food service supervisor shall:

1. Be a dietitian; or
2. Be a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association; or
3. Be a graduate of a course, approved by the New Jersey State Department of Education, providing 90 or more hours of classroom instruction in food service supervision and have one year of full-time, or full-time equivalent, experience as a food service supervisor in a health care facility, with consultation from a dietitian; or
4. Have training and experience in food service supervision and management in a military service equivalent to the programs listed in (a) 2 or 3 above.

8:42A-1.10 Qualifications of licensed practical nurses

Each licensed practical nurse shall be so licensed by the New Jersey State Board of Nursing.

8:42A-1.11 Qualifications of medical record practitioners

(a) Each medical record practitioner shall:

1. Be eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART) by the American Medical Record Association; or
2. Be a graduate of a program in medical record science accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Council on Education of the American Medical Record Association.

8:42A-1.12 Qualifications of pharmacists

Each pharmacist shall be so registered by the New Jersey State Board of Pharmacy.

8:42A-1.13 Qualifications of physicians

Each physician shall be licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

8:42A-1.14 Qualifications of registered professional nurses

Each registered professional nurse shall be so licensed by the New Jersey State Board of Nursing.

SUBCHAPTER 2. LICENSURE PROCEDURES

8:42A-2.1 Certificate of Need

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

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

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

(c) The facility shall implement all conditions imposed by the Commissioner as specified in the Certificate of Need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:42A-2.2 Application for licensure

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

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

(b) The Department shall charge a nonrefundable fee of \$500.00 plus \$3.00 per bed for the filing of an application for licensure of an alcoholism treatment facility and for the annual renewal of the license. If alcoholism treatment services are offered by a licensed hospital as a separate service, the hospital shall be charged \$150.00 for the filing of an application for licensure of the service and \$150.00 for the annual renewal of the license.

(c) Each applicant for a license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing, Certification and Standards Program and:

Division of Alcoholism
New Jersey State Department of Health
CN 362
Trenton, New Jersey 08625-0362

8:42A-2.3 Newly constructed or expanded facilities

(a) The licensure application for a newly constructed or expanded facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction Services
Division of Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(b) An on-site inspection of the construction of the physical plant shall be made by representatives of Health Facilities Construction Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department.

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

8:42A-2.4 Surveys and temporary license

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

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

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

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

1. A preliminary conference (see N.J.A.C. 8:42A-2.2(c)) for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules pursuant thereto;

2. Written approvals are on file with the Department from the local zoning, fire, health and building authorities;

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

4. Survey(s) by representatives of the Department indicate the facility adheres to the rules in this chapter; and

5. Personnel are employed in accordance with the staffing requirements in this chapter.

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

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

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

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

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

8:42A-2.5 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the facility is operated as required by N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules pursuant thereto.

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

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

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

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

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

8:42A-2.6 Surrender of license

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

8:42A-2.7 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules in this chapter, waive sections of these rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of patients or the public.

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

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

1. The specific rule(s) or part(s) of the rule(s) for which waiver is requested;

2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon adherence;

3. An alternative proposal which would ensure patient safety; and

4. Documentation to support the request for waiver.

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

8:42A-2.8 Action against a license

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

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

(c) The provisions of (a) and (b) above shall apply to facilities with a temporary license and facilities with a full license.

8:42A-2.9 Hearings

(a) If the Department proposes to suspend, revoke, deny, or refuse to renew a license, the licensee or applicant may request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Prior to transmittal of any hearing request to the Office of Administrative Law, the Department may schedule a conference to attempt to settle the matter.

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42A-3.1 Types of services provided to patients

(a) The facility shall provide preventive, diagnostic, therapeutic, and rehabilitative services to patients in accordance with the rules in this chapter.

(b) The facility shall provide at least medical, nursing, and alcoholism counseling services directly in the facility.

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

(d) If a hospital facility licensed by the Department provides alcoholism treatment services in addition to other health care services, the facility shall adhere to the rules in this chapter and to the Manual of Standards for Hospital Facilities, N.J.A.C. 8:43B.

8:42A-3.2 Ownership

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

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

8:42A-3.3 Submission and availability of documents

The facility shall, upon request, submit in writing any documents which are required by the rules in this chapter to the Director of the Licensing, Certification and Standards Program of the Department.

8:42A-3.4 Personnel

(a) The facility shall develop written job descriptions and ensure that personnel are assigned duties based upon their education, training, and competencies and in accordance with their job descriptions.

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

(c) The facility shall maintain written staffing schedules. Provision shall be made for substitute staff with equivalent qualifications to replace absent staff members. Staffing schedules shall be implemented to ensure continuity of care.

(d) The facility shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of person(s) responsible for training. The staff education plan shall be developed at least annually and implemented throughout the year.

1. All personnel shall receive orientation at the time of employment and continuing in-service education regarding emergency plans and procedures, discharge planning, and the infection prevention and control program.

(e) At least one person trained in cardiopulmonary resuscitation in an approved course, as defined in the facility's policy and procedure manual, shall be in all patient areas when patients are present.

(f) The facility shall have awake and on duty at all times in each residential building at least two direct care staff members, as defined in the facility's policies and procedures, for 50 or fewer patients, and at least one additional staff member for each additional 50 or fewer patients, based on the daily census.

8:42A-3.5 Policy and procedure manual

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

1. A written statement of the program's treatment, philosophy, mission, and objectives, which shall include at least the following:

i. Methods for providing patients with a foundation for recovery and rehabilitation, based on personal responsibility;

ii. The concept of alcoholism having multiple causes and effects; and

iii. Provision of services for the management of signs and symptoms of withdrawal from alcohol;

2. An organizational chart delineating the lines of authority, responsibility, and accountability for the administration and patient care services of the facility;

3. A description of the modalities of treatment provided, including a listing of services and procedures which may be performed in the facility;

4. A description of the quality assurance program for patient care and staff performance;

5. Specification of business hours and visiting hours;

6. Policies and procedures for reporting all diagnosed and/or suspected cases of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq.¹, including, but not limited to, the following:

i. The designation of a staff member(s) to be responsible for coordinating the reporting of diagnosed and/or suspected cases of child abuse and/or neglect, recording the notification to the Division of Youth and Family Services on the medical record, and serving as a liaison between the facility and the Division of Youth and Family Services;

ii. The development of written protocols for the identification of diagnosed and/or suspected cases of child abuse and/or neglect and the treatment of abused and/or neglected children; and

iii. The provision of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of child abuse and/or neglect and regarding the facility's policies and procedures on at least an annual basis;

7. Policies and procedures for the maintenance of personnel records for each employee, including at least his or her name, previous employment, educational background, credentials, license number with effective date and date of expiration (if applicable), certification

(if applicable), verification of credentials, records of physical examinations, job description, and evaluations of job performance;

8. Policies and procedures, including content and frequency, for physical examinations upon employment and subsequently for employees and persons providing direct patient care services through contractual arrangements or written agreement. Such policies and procedures shall ensure that:

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

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

(2) Each employee's personnel record shall contain documentation of all tests performed and the results; and

(3) A list shall be maintained of all employees who are seronegative and unvaccinated, to be used in the event that an employee is exposed to rubella and a determination is needed as to whether or not the employee may continue to work;

9. A written plan for informing persons in need of alcoholism treatment services, co-dependents, the public, and health care providers of the availability of the facility's services, including designation of staff responsible for implementation of the plan; and

10. Policies and procedures for making information about alcohol use and misuse available to the public.

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

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

8:42A-3.6 Patient transportation

The facility shall develop and implement a method of patient transportation for services provided outside the facility which shall include plans for security and accountability for the patient and his or her personal possessions, as well as transfer of patient information to and from the provider of the service.

8:42A-3.7 Written agreements

(a) The facility shall have a written agreement, or its equivalent, for services not provided directly by the facility. The written agreement, or its equivalent, shall specify that the facility retain administrative responsibility for services rendered and require that services be provided in accordance with the rules in this chapter.

(b) The facility shall have in effect a written agreement with one or more hospitals such that emergency care, inpatient hospital care, and other hospital services are available to the facility's patients.

8:42A-3.8 Reportable events

(a) The facility shall notify the Department immediately by telephone at 609-588-7725 (609-392-2020 after business hours), followed within 72 hours by written confirmation, of the following:

1. Interruption or cessation of services listed in the rules in this chapter;

2. Termination of employment of the administrator, and the name and qualifications of his or her replacement;

3. Occurrence of epidemic disease in the facility;

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

5. All alleged or suspected crimes committed by or against patients, which shall also be reported at the time of occurrence to the local police department in accordance with Federal laws regarding confidentiality (42 CFR Part 2).

(b) The facility shall complete for each patient the Alcoholism—Intake Record and Alcoholism—Termination Record forms provided by the Department. The patient care information so collected shall be submitted to the Department on a monthly basis.

8:42A-3.9 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility between 8:00 A.M. and 8:00 P.M. daily to patients and the public:

1. All waivers granted by the Department;
2. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable), and the list of deficiencies from any valid complaint investigation during the past 12 months;
3. Policies and procedures regarding patient rights;
4. Visiting hours (including at least the time between the hours of 8:00 A.M. and 8:00 P.M. daily) and business hours of the facility, including the policies of the facility regarding limitations and activities during these times; and
5. The names and addresses of the members of the governing authority.

8:42A-3.10 Information reportable to State Board of Medical Examiners

(a) In compliance with N.J.S.A. 26:2H-12.2, the facility shall establish and implement written policies and procedures for reporting information to the New Jersey State Board of Medical Examiners in writing on forms provided by the Department, within 30 days of the proceeding or action, request, settlement, judgment or award. Forms shall be submitted to the New Jersey State Board of Medical Examiners, 28 West State Street, Trenton, New Jersey 08608. (Questions may be directed to the Board office at 609-292-4843.) The information to be reported shall include, but not be limited to, the following:

1. A disciplinary proceeding or action taken by the governing body against any physician or surgeon licensed by the Board when the proceeding or action results in a physician's or surgeon's reduction or suspension of privileges or removal or resignation from the medical staff, including:
 - i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was the subject of governing authority action which resulted in the reduction or suspension of privileges, or the removal or resignation of the physician or surgeon from the medical staff;
 - ii. Nature and grounds of proceedings;
 - iii. Date(s) of precipitating event(s) and of official action taken;
 - iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;
 - v. Pendency of any appeal; and
 - vi. Other information relating to the proceeding or action as may be requested by the Board; and
2. A medical malpractice liability insurance claim settlement, judgment or arbitration award in which the facility is involved, including:
 - i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was involved in the medical malpractice liability insurance claim settlement, judgment or arbitration award;
 - ii. Nature and grounds of proceedings;
 - iii. Date(s) of precipitating event(s) and of official action taken;
 - iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;
 - v. A copy of the complaint, response, and settlement order, judgment, or award; and
 - vi. Other information relating to the settlement, judgment, or arbitration award as may be required by the Board.

8:42A-3.11 Maintenance of records

(a) The facility shall maintain a chronological listing of patients admitted and discharged, including the destination of patients who are discharged.

(b) The facility shall maintain and submit to the Department statistical data as required by the Department.

8:42A-3.12 Financial reports

(a) Upon development of a uniform cost reporting system approved by the Health Care Administration Board, the facility shall adopt and maintain the uniform system of cost reporting, from which reports will be prepared to meet the requirements of the Commissioner as stated in N.J.S.A. 26:2H-1 et seq., and amendments thereto.

(b) An annual financial report shall be submitted to the Department and shall include a statement of income and expenditure by unit of service.

SUBCHAPTER 4. GOVERNING AUTHORITY

8:42A-4.1 Responsibility of the governing authority

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

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

SUBCHAPTER 5. ADMINISTRATION

8:42A-5.1 Appointment of administrator

(a) The governing authority shall appoint a full-time administrator who shall be available on the premises of the facility at all times. An alternate shall be designated in writing to act in the absence of the administrator.

(b) If an administrator has both administrative and other functions, written documentation of the administrator's time spent in the other functions shall be maintained.

(c) The administrator's time spent in administrative functions shall not be included in computation of staffing levels for nursing or counseling services.

8:42A-5.2 Administrator's responsibilities

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

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

2. Planning for, and administration of, the managerial, operational, fiscal, and reporting components of the facility;
3. Participating in the quality assurance program for patient care;
4. Ensuring that all personnel are assigned duties based upon their education, training, competencies, and job descriptions;
5. Ensuring the provision of staff orientation and staff education; and
6. Establishing and maintaining liaison relationships, communication, and integration with facility staff and services and with patients and their families.

SUBCHAPTER 6. PATIENT CARE POLICIES

8:42A-6.1 Patient care policies and procedures

(a) Written patient care policies and procedures shall be established, implemented, and reviewed at intervals specified in the policies and procedures. Each review of the policies and procedures shall be documented. Policies and procedures shall include, but not be limited to, policies and procedures regarding the following:

1. Patient rights;
2. The determination of staffing levels on the basis of patient need;
3. The referral of patients to other health care providers, including medical consultants and specialists, in order to provide a continuum of patient care;
4. Emergency care of patients, including notification of the patient's family; care of patients during an episode of communicable disease; and care of patients with tuberculosis which is not communicable following initiation of chemotherapy, or is nonpulmonary and therefore not transmissible;
5. Obtaining written informed consent and the circumstances under which written informed consent shall be obtained;
6. Patient instruction and health education, including the provision of printed and/or written instructions and information for patients, with multilingual instructions as indicated;
7. The control of smoking in the facility in accordance with N.J.S.A. 26:3D-1 et seq. and N.J.S.A. 26:3D-7 et seq.;
8. Discharge, termination by the facility, transfer, and readmission of patients, including criteria for each;
9. The care and control of pets if the facility permits pets in the facility or on its premises;
10. Patients leaving the facility, including delineation of the person(s) who shall accompany the patient and permitted destinations;
11. Provision of clothing suitable for the climate and weather conditions, of proper size, and compatible with that worn by the patient's peers, in the event that clothing is provided by the facility;
12. The housekeeping activities which a patient may perform as part of his or her patient treatment plan, as documented in the patient's medical record; and
13. Care of deceased patients, including, but not limited to, policies and procedures regarding the following:
 - i. Pronouncement of death: The patient's family shall be notified at the time of death. The deceased shall not be discharged from the facility until pronounced dead and the death documented in the patient's medical record;
 - ii. Removal of the deceased from rooms occupied by other patients; and
 - iii. Transportation of the deceased in the facility, and removal from the facility, in a dignified manner.

8:42A-6.2 Financial arrangements

- (a) The facility shall:
1. Inform patients of the fees for services and supplies (where a fee is charged);
 2. Maintain a written record of all financial arrangements with the patient and/or his or her family, with copies furnished to the patient;
 3. Assess no additional charges, expenses, or other financial liabilities in excess of the daily, weekly, or monthly rate included in the admission agreement, except:
 - i. Upon written approval and authority of the patient and/or his or her family, who shall be given a copy of the written approval;
 - ii. Upon written orders of the patient's physician, stipulating specific services not included in the admission agreement;

iii. Upon 15 days' prior written notice to the patient and/or his or her family of additional charges, expenses, or other financial liabilities due to the increased cost of maintenance and/or operation of the facility; or

iv. In the event of a health emergency involving the patient and requiring immediate special services or supplies to be furnished during the period of the emergency:

4. Describe for the patient agreements with third-party payors and or other payors and referral systems for patients' financial assistance; and
5. Describe sliding fee scales and any special payment plans established by the facility.

8:42A-6.3 Intervention

The facility shall participate in the process of intervention. Written policies and procedures shall specify, at least, the responsibilities of staff and the information to be documented with respect to the process of intervention.

8:42A-6.4 Admission and retention of patients

(a) The administrator or the administrator's designee shall conduct an interview with the patient and the patient's family prior to or at the time of the patient's admission. The interview shall include at least orientation of the patient to the facility's policies, business hours, fee schedule, services provided, patient rights, and criteria for admission, treatment, and discharge. A summary of the interview shall be documented in the patient's medical record.

(b) Each patient admitted shall be placed under the supervision of a physician.

(c) Each patient, upon admission, shall be certified by a physician to be free of communicable disease, mobile under his or her own power with or without assistive devices, and able to leave the building by himself or herself, except in a facility licensed by the Department to provide medical detoxification services.

(d) Unconscious persons shall not be admitted to the facility, unless the facility is licensed by the Department to provide medical detoxification services. Such persons who are not admitted shall be immediately transferred to a hospital.

(e) Patients requiring medical detoxification shall be admitted only to facilities licensed by the Department to provide medical detoxification services.

(f) Patients under 18 years of age shall be admitted only to an area within the facility approved for such occupancy by the Department.

(g) A patient who manifests such a degree of behavioral disorder that he or she is a danger to himself or herself or others, or whose behavior interferes with the health or safety of other patients, shall not be admitted or retained.

(h) If the facility is not of fire-resistive construction, patients who are blind or who can walk independently assisted by crutches shall be housed on the first floor.

(i) Patients who require wheelchairs shall be restricted to the first floor of the facility. A facility which has been granted any physical plant waiver by the Department shall not admit a patient requiring a wheelchair.

(j) If an applicant, after applying in writing, is denied admission to the facility, the applicant and/or his or her family shall be given the reason for such denial in writing, signed by the administrator, within 15 days.

(k) Each patient shall be admitted or retained only upon his or her own volition.

8:42A-6.5 Involuntary discharge

(a) Written notification by the administrator shall be provided to a patient of a decision to involuntarily discharge the patient from the facility. The notice shall include the reason for discharge and the patient's right to appeal. A copy of the notice shall be entered in the patient's medical record.

1. The patient shall have the right to appeal to the administrator any involuntary discharge from the facility. The appeal shall be in writing and a copy shall be included in the patient's medical record with the disposition or resolution of the appeal.

8:42A-6.6 Verbal and telephone orders

Verbal and telephone orders shall be written into the patient's medical record by the person accepting them and countersigned by the prescriber within 24 hours. Verbal and telephone orders shall be limited to emergency situations, as defined in the facility's policies and procedures.

8:42A-6.7 Notification of family

The patient's family shall be notified in the event that the patient sustains any injury requiring medical care, any accident or incident occurs, the patient is transferred from the facility, or the patient expires, in accordance with the facility's policies and procedures. Such notification shall be given and then documented in the patient's medical record, at the time of occurrence.

8:42A-6.8 Use of restraints

(a) The facility shall not use any physical, chemical, or other type of restraint, unless the facility is licensed by the Department to provide medical detoxification services.

1. If restraints are used, the facility shall develop and implement policies and procedures regarding their use including, as a minimum:

i. Specification of the uses of restraints and types of restraints permitted, specification of the frequency with which a patient placed in restraint shall be monitored and of the personnel responsible for monitoring the patient, and specification of the required documentation;

ii. Prohibition of the use of locked restraints and confinement of a patient in a locked or barricaded room, and prohibition of the use of restraints for punishment or for the convenience of facility personnel;

iii. Specification that restraints be used so as not to cause physical injury or discomfort to the patient and only when authorized for a specified period of time. Opportunity for motion and exercise shall be provided for a period of not less than 10 minutes during each one-hour period in which a physical restraint is employed, to ensure opportunity for elimination of body wastes, good body alignment, circulation, and change of position; and

iv. A requirement that a physical restraint be used only when authorized in writing by a physician except when necessitated by an emergency, in which case it shall be approved by the medical director or the director of nursing services or his or her designee.

8:42A-6.9 Calibration of instruments

All instruments of measurement shall be calibrated in accordance with manufacturers' instructions.

8:42A-6.10 Interpretation services

The facility shall provide interpretation services if the patient population is non-English-speaking and for patients who are blind or deaf.

SUBCHAPTER 7. MEDICAL SERVICES

8:42A-7.1 Provision of medical services

Medical services shall be available to all patients 24 hours a day, seven days a week.

8:42A-7.2 Appointment of medical director

(a) The governing authority shall appoint a physician to serve as medical director.

(b) The medical director or the medical director's alternate, who shall be a physician, shall be available to patients 24 hours a day, seven days a week. Available, in this instance, means capable of being reached and able to be present at the facility within 30 minutes.

(c) If the facility is licensed to provide medical detoxification services, the medical director or the medical director's alternate shall be on the facility's premises daily, seven days a week.

8:42A-7.3 Medical director's responsibilities

(a) The medical director shall be responsible for the direction, provision, and quality of medical services provided to patients. The medical director shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the medical service;

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

3. Coordinating and integrating the medical service with other patient care services to provide a continuum of care for the patient;

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

5. Developing, implementing, and reviewing written medical policies in cooperation with the medical staff, including, but not limited to, the following:

i. Medical staff bylaws or their equivalent;

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

iii. A mechanism for establishing and implementing procedures relating to credentials review, delineation of qualifications, medical staff appointments and reappointments, evaluation of medical care, and the granting, denial, curtailment, suspension, or revocation of medical staff privileges.

8:42A-7.4 Responsibilities of physicians

(a) The physician responsible for providing care to the patient shall document in the patient's medical record:

1. An admission, medical, alcoholism, and drug history, a diagnosis, and a report of a physical examination upon the patient's admission;

2. Certification that the patient requires the level of care provided by the facility;

3. Orders for laboratory tests including at least the following:

i. Complete blood count and differential;

ii. Serological test for syphilis as needed;

iii. Routine and microscopic urinalysis;

iv. Smear and culture for gonorrhea as appropriate;

v. A Mantoux tuberculin skin test with five tuberculin units of purified protein derivative;

(1) If the Mantoux tuberculin skin test reaction is less than 10 millimeters (mm) of induration (not significant) between 48 and 72 hours after administration, the test shall be repeated one to two weeks later;

(2) If the first or second Mantoux tuberculin skin test reaction is 10 or more mm of induration (significant), a chest X-ray shall be performed and, if not compatible with tuberculosis, shall be followed by chemoprophylaxis therapy, when prescribed by a physician. If the chest X-ray is compatible with tuberculosis, then the patient shall be referred for additional medical tests, clinical evaluation, and chemotherapy;

(3) Patients who have had two Mantoux tuberculin skin tests within the six-month period immediately prior to admission shall not be required to have another Mantoux tuberculin skin test upon admission. Patients who have had one Mantoux tuberculin skin test within the six-month period immediately prior to admission shall be required to have only one additional Mantoux tuberculin skin test. Patients who are readmitted to the facility shall be tested with a frequency of once per year;

(4) Patients who have had a significant reaction to a Mantoux test prior to admission shall have a chest X-ray performed if one has not been performed and documented since the time of the reaction or if the patient is symptomatic for tuberculosis. If the chest X-ray is compatible with tuberculosis, then the patient shall be referred for additional medical tests, clinical evaluation, and chemotherapy;

(5) Patients who have had a significant reaction to Mantoux test prior to admission and who have completed at least six months of chemoprophylaxis or chemotherapy may be exempted from receiving a chest X-ray, unless symptomatic for tuberculosis;

vi. Drug screening as appropriate; and

vii. Multiple screening tests related to the medical consequences of the patient's substance abuse;

4. The medical portion of the patient treatment plan;

5. Progress notes; and

6. All initial and subsequent orders for services to be provided to the patient, including frequency and modality of treatment.

(b) The physician shall participate as part of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan.

SUBCHAPTER 8. NURSING SERVICES

8:42A-8.1 Provision of nursing services

(a) Nursing services shall be available to all patients 24 hours a day, seven days a week.

(b) The facility shall have at least one licensed nurse on duty at all times. Additional licensed nursing personnel and ancillary nursing personnel shall be provided in accordance with the facility's patient care policies and procedures for determining staffing levels on the basis of acuity of patient need.

(c) A facility providing medical detoxification services shall provide at least one registered professional nurse on each nursing unit 24 hours a day, seven days a week, in addition to having at least one licensed nurse on duty at all times in the facility. Additional licensed nursing personnel and ancillary nursing personnel shall be provided in accordance with the facility's patient care policies and procedures for determining staffing levels on the basis of acuity of patient need.

8:42A-8.2 Appointment of director of nursing services

(a) A registered professional nurse shall be appointed in writing as the full-time director of nursing services. A registered professional nurse shall be designated in writing to act in the director's absence.

(b) Computation of nurse staffing levels shall not include the hours of the director of nursing services unless the facility does not provide medical detoxification services and has 30 or fewer beds.

8:42A-8.3 Responsibilities of director of nursing services

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

1. Developing and implementing a nursing philosophy, written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the nursing service;

2. Participating in planning and budgeting for the nursing service;

3. Coordinating and integrating the nursing service with other patient care services to provide a continuum of care for the patient;

4. Assisting in developing and maintaining written job descriptions for nursing and ancillary nursing personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

5. Ensuring that nursing services are provided to the patient as specified in the nursing portion of the patient treatment plan, which shall be initiated upon the patient's admission, and that nursing personnel are assigned to patients in accordance with the facility's patient care policies and procedures for determining staffing levels on the basis of acuity of patient need.

8:42A-8.4 Responsibilities of licensed nursing personnel

(a) In accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., as interpreted by the New Jersey State Board of Nursing, and written job descriptions, licensed nursing personnel shall be responsible for providing nursing care, including, but not limited to, the following:

1. Care of patients through health promotion, maintenance, and restoration;

2. Care toward prevention of infection, accident, and injury;

3. Assessing the nursing care needs of the patient, preparing the nursing portion of the patient treatment plan based upon the assessment, providing nursing care services as specified in the nursing portion of the patient treatment plan, reassessing the patient, and revising the nursing portion of the patient treatment plan. The initial assessment shall be performed by a registered professional nurse. Each of these activities shall be documented in the patient's medical record;

4. Teaching, supervising, and counseling the patient, family, and staff regarding nursing care and the patient's needs. Only a registered professional nurse shall initiate these functions, which may be reinforced by licensed nursing personnel;

5. Participating as part of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan; and

6. Writing clinical notes and progress notes.

8:42A-8.5 Nursing care services related to pharmaceutical services

(a) Nursing personnel shall be responsible for, but not limited to, ensuring the following:

1. All drugs administered are prescribed in writing and the order signed and dated by the prescriber. The complete procedure of administration includes removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the prescriber's orders, giving the individual dose to the patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration. ("Drug" means a substance as defined in the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39.) Drugs shall be administered in accordance with all Federal and State laws and rules by the following licensed or authorized nursing personnel:

- i. Registered professional nurses;

- ii. Licensed practical nurses who are trained in drug administration in programs approved by the New Jersey State Board of Nursing;

- iii. Nurses with a valid temporary work permit issued by the New Jersey State Board of Nursing; and

- iv. Student nurses in a school of nursing approved by the New Jersey State Board of Nursing, under the supervision of a nurse faculty member;

2. Vital signs, as defined in the facility's policies and procedures, are measured prior to drug administration in situations specified in the facility's policies and procedures;

3. Drugs are not pre-poured. Drugs shall be administered promptly after the dose has been prepared, and by the individual who prepared the dose, except when a unit dose drug distribution system is used;

4. The patient is identified prior to drug administration. Drugs prescribed for one patient shall not be administered to another patient;

5. A record of drugs administered is maintained. After each drug administration, the following shall be documented by the nurse who administered the drug: name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the nurse who administered the drug;

6. All drugs are kept in locked storage areas, except intravenous infusion solutions which shall be stored according to a system of accountability, as specified in the facility's policies and procedures. Drug storage and preparation areas shall be kept locked when not in use. Drugs requiring refrigeration shall be kept in a separate, locked box in the refrigerator, in a locked refrigerator, or in a refrigerator in the locked medication room. The refrigerator shall have a thermometer to indicate temperature in conformance with U.S.P. (United States Pharmacopoeia) requirements;

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

8. Needles and syringes are procured, stored, used, and disposed of in accordance with 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

9. Drugs are stored and verified according to the following:

- i. Drugs in Schedules III and IV of the Controlled Dangerous Substances Acts and amendments thereto shall be stored under lock and key. Drugs in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto shall be stored in a separate, locked, permanently affixed compartment within the locked medication cabinet, medication room, refrigerator, or mobile medication cart. The key to the separate, locked compartment for Schedule II drugs shall not be the same key that is used to gain access to storage areas for other drugs (except that drugs in Schedule II in a unit dose drug distribution system shall be kept under double lock and key, but may be stored with other controlled drugs);

- ii. The keys for the storage compartments for drugs in Schedules II, III, and IV shall be retained by one of those persons listed in (a)1 above; and

- iii. Except in a unit dose drug distribution system, a declining inventory of all drugs in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto shall be made at the ter-

mination of each tour of duty wherever these drugs are maintained. This record shall be signed by both the outgoing and incoming nurses listed in (a)1 above. The following shall be recorded: name of the patient receiving the drug, prescriber's name, name and strength of the drug, date received from the pharmacy, date of administration, dosage administered, method of administration, signature of the licensed nurse who administered the drug, amount of drug remaining, amount of drug destroyed or wasted (when appropriate), and the signature of the nurse who witnessed the destruction or wasting of the drug (when appropriate).

(b) Licensed practical nurses who are trained in drug administration in programs approved by the New Jersey State Board of Nursing may calculate and administer drug doses in accordance with facility policy and the rules of the New Jersey State Board of Nursing.

SUBCHAPTER 9. PATIENT ASSESSMENTS AND TREATMENT PLAN

8:42A-9.1 Patient assessment

(a) Each patient shall have a written patient treatment plan. The patient treatment plan shall be developed from the assessments of each service participating in the patient's care and shall be entered in the patient's medical record. Treatment planning shall be initiated upon the patient's admission.

1. The patient assessment shall include, but not be limited to, assessment of the medical, psychological, social, recreational, legal, and vocational and educational needs of the patient, including the following:

- i. A medical, alcoholism, and drug history, a record of interventions, if any, and a record of a physical examination;
- ii. Histories of drinking and psychological problems or treatment, and a determination of the patient's current psychological status;
- iii. A psychiatric assessment, if ordered by a physician;
- iv. A social assessment of the patient's family and relationships, including relationships characterized by co-dependency, of legal proceedings involving the patient, and of the patient's current living situation;
- v. A recreational assessment, including assessment of at least the patient's interests and physical abilities and limitations; and
- vi. A vocational and educational assessment, including assessment of at least the following:

- (1) Current work skills and potential for improving those skills or developing new ones;
- (2) Educational background;
- (3) Aptitudes, interests, and motivation;
- (4) Physical abilities and any handicaps or disabilities; and
- (5) Relationship with co-workers and supervisors.

2. Health care practitioners in each of the services participating in the patient's care shall develop the portion of the patient treatment plan which pertains to that service. Each portion of the patient treatment plan shall include care to be provided based upon the patient assessment.

3. The patient treatment plan shall include, but not be limited to, the following:

- i. Orders for treatment or services, medications, and diet;
- ii. The patient's goals for himself or herself;
- iii. The specific goals of treatment or services;
- iv. The time intervals at which the patient's response to treatment or services will be reviewed;
- v. Anticipated time frame(s) for the accomplishment of the goals;
- vi. The measures to be used to assess the effects of treatment or services;
- vii. Plans for discharge; and
- viii. The person(s) responsible for implementation of the plan.

4. The patient and, if indicated, family members shall participate in the development of the patient treatment plan, including the discharge plan. Participation shall be documented in the patient's medical record.

i. If the patient's participation in the development of the patient treatment plan is medically contraindicated, as documented by a physician in the patient's medical record, a designated member of the multidisciplinary team shall review the treatment plan with the

patient prior to implementation, and the family shall be informed of the treatment plan. These activities shall be documented in the patient's medical record.

8:42A-9.2 Implementation of treatment plans

(a) Each health care practitioner participating in the patient's care shall provide services in accordance with the patient treatment plan.

(b) Health care practitioners providing services to the patient shall establish criteria to measure the effectiveness and outcome of services provided and shall assess and reassess the patient to determine if services provided meet the established criteria. Assessment and reassessment shall be documented in the patient's medical record.

(c) Health care practitioners providing services to the patient shall participate as members of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan.

1. The multidisciplinary team shall review and revise the patient treatment plan based upon the patient's response to the care provided by each of the participating services and upon the patient's abilities and disabilities. The patient's medical record shall indicate review and revision of the patient treatment plan.

SUBCHAPTER 10. ALCOHOLISM COUNSELING SERVICES AND SUPPORTIVE SERVICES

8:42A-10.1 Provision of alcohol counseling and supportive services

(a) Alcoholism counseling services shall be provided directly in the facility to meet the needs of patients.

(b) Staffing, equipment, and space for the provision of alcoholism counseling and supportive services shall be provided.

(c) Each patient shall be assigned to an alcoholism counselor who shall be responsible for ensuring that alcoholism counseling services and supportive services are provided in accordance with the patient treatment plan.

(d) There shall be a ratio of at least one alcoholism counselor for every eight patients, calculated on the basis of the daily census.

(e) The facility shall provide to each patient at least 10 hours of counseling per week, utilizing individual and/or group counseling techniques, on at least five separate occasions.

(f) The facility shall provide to each patient at least 10 didactic alcoholism sessions per week. Each session shall be one to two hours in duration.

(g) The facility shall provide family counseling, including counseling of family members exhibiting co-dependent behavior, in accordance with the patient treatment plan.

(h) A facility providing medical detoxification services shall provide alcoholism counseling as ordered by a physician, who shall specify in the patient's medical record when to initiate counseling and the frequency of counseling.

8:42A-10.2 Appointment of director of alcoholism counseling services

(a) The facility shall appoint a director of alcoholism counseling services who shall be responsible for the direction, provision, and quality of alcoholism counseling services. The director of alcoholism counseling services shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the alcoholism counseling service;

2. Participating in planning and budgeting for the alcoholism counseling service;

3. Ensuring that services are provided as specified in the patient treatment plan and are coordinated with other patient care services to provide a continuum of care for the patient;

4. Assisting in developing and maintaining written job descriptions for alcoholism counseling personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

5. Participating in staff education activities and providing consultation to facility personnel.

8:42A-10.3 Responsibilities of alcoholism counseling personnel

(a) In accordance with written job descriptions, each alcoholism counselor shall be responsible for providing patient care, including, but not limited to, the following:

1. Assessing the counseling needs of the patient, preparing the counseling portion of the patient treatment plan based on the assessment, providing services as specified in the counseling portion of the patient treatment plan, reassessing the patient, and revising the counseling portion of the patient treatment plan. Each of these activities shall be documented in the patient's medical record;

2. Participating as part of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan; and

3. Writing clinical notes and progress notes.

8:42A-10.4 Supportive services

(a) The following supportive services shall be available to patients:

1. Vocational and educational counseling; and

2. Legal services by an attorney, who practices law pursuant to Article 6, Section 2, and Paragraph 3 of the Constitution of the State of New Jersey, and New Jersey Court Rule 1:21-1 et seq., when such services are related to the patient's treatment.

(b) The administrator shall assign responsibility for the coordination and delivery of supportive services to one or more persons, in accordance with written job descriptions, the written organizational plan, and the facility's policies and procedures.

(c) All supportive services shall be provided in accordance with the patient treatment plan.

1. All supportive services shall be documented in the patient's medical record by the person(s) providing the service(s).

(d) Each patient and the patient's family, including those family members exhibiting co-dependent behavior, shall be informed of the desirability of participating in self-help and support groups such as Alcoholics Anonymous, Al-Anon, and Alateen. The facility shall further ensure that literature and representatives of support groups are available to patients and their families. Patients and their families shall have access to meetings of support groups.

SUBCHAPTER 11. RECREATIONAL SERVICES

8:42A-11.1 Provision of recreational services

(a) A planned, diversified program of recreational activities shall be provided for patients, including individual and/or group activities.

(b) Diverse physical, social, intellectual, cultural, and recreational activities shall be available.

(c) Indoor and outdoor recreational activities shall be provided.

8:42A-11.2 Administrator's responsibility for recreational services

(a) The administrator or the administrator's designee shall be responsible for the direction, provision, and quality of the recreational service. The administrator shall be responsible for, but not limited to, the following:

1. Developing and implementing written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the recreational service;

2. Ensuring that recreational services are provided as specified in the patient treatment plan and are coordinated with other patient care services to provide a continuum of care for the patient. All recreational services shall be documented in the patient's medical record;

3. Assisting in developing and maintaining written job descriptions for recreational service personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

4. Posting a current weekly recreational activities schedule where it can be read by patients and staff.

SUBCHAPTER 12. LABORATORY AND RADIOLOGICAL SERVICES

8:42A-12.1 Provision of laboratory and radiological services

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

(b) All laboratory services shall be provided by facilities licensed or approved by the Department.

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

SUBCHAPTER 13. PHARMACEUTICAL SERVICES

8:42A-13.1 Provision of pharmaceutical services

Pharmaceutical services shall be available to patients 24 hours a day, seven days a week. If the facility has an institutional pharmacy, the pharmacy shall be licensed by the New Jersey State Board of Pharmacy and operated in accordance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and shall possess a current Drug Enforcement Administration registration and a Controlled Dangerous Substance registration from the Department in accordance with the Controlled Dangerous Substances Acts.

8:42A-13.2 Pharmacy and Therapeutics Committee

(a) A multidisciplinary Pharmacy and Therapeutics Committee shall be appointed by, and accountable to, the governing authority. The committee shall be responsible for, but not limited to, the following:

1. Development of policies and procedures, approved by the governing authority, and documentation of their review. These policies and procedures shall govern evaluation, selection, obtaining, dispensing, storage, distribution, administration, use, control, accountability, and safe practices pertaining to all drugs used in the treatment of patients;

2. Development and at least annual review and approval of a current formulary; and

3. Review of medication errors and adverse drug reactions, as part of the facility's quality assurance program.

8:42A-13.3 Policies and procedures for drug administration

(a) The facility's policies and procedures shall ensure that the right drug is administered to the right patient in the right amount through the right route of administration and at the right time. The complete procedure of administration includes removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the prescriber's orders, giving the individual dose to the patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration. Policies and procedures shall include, but not be limited to, the following:

1. Methods for procuring drugs on a routine basis, in emergencies, and in the event of disaster;

2. Policies and procedures, approved by the Pharmacy and Therapeutics Committee and in accordance with these rules, regarding emergency kits and emergency carts, including the following:

i. Approval of their locations and contents;

ii. Determination of the frequency of checking contents, including expiration dates;

iii. Approval of the assignment of responsibility for checking contents; and

iv. A requirement that emergency kits be secure, but not be kept under lock and key;

3. Policies and procedures, approved by the medical staff of the facility, to ensure that all drugs are ordered in writing, that the written order specifies the name of the drug, dose, frequency, and route of administration, that the order is signed and dated by the prescriber, and that all drugs are administered in accordance with the laws of the State of New Jersey;

4. Policies and procedures for drug administration, including, but not limited to, establishment of the times for administration of drugs prescribed;

5. If facility policy permits, policies and procedures regarding self-administration of drugs, including, but not limited to, the following:

i. A requirement that self-administration be permitted only upon a written order of the prescriber;

ii. Storage of drugs;

iii. Labeling of drugs;

iv. Methods for documentation in the patient's medical record of self-administered drugs;

v. Training and education of patients in self-administration and the safe use of drugs; and

vi. Establishment of precautions so that patients do not share their drugs or take the drugs of another patient;

6. Policies and procedures for documenting adverse drug reactions, medication errors, and drug defects:
- Allergies shall be documented in the patient's medical record and on its outside front cover; and
 - Drug product defects shall be reported in accordance with the USP-FDA (United States Pharmacopoeia, Food and Drug Administration) Drug Product Defect Reporting System;
7. Policies and procedures for ensuring the immediate delivery of stat. doses. Stat. (statim) means immediately:
8. If facility policy permits, policies and procedures for the use of floor stock drugs. "Floor stock" means a supply of drugs provided by the pharmacist to a service or unit in a labeled container in limited quantities, as approved by the Pharmacy and Therapeutics Committee of the facility. A list shall be maintained of floor stock drugs and their amounts stored throughout the facility:
9. Policies and procedures for discontinuing drug orders, including, but not limited to, policies and procedures for the following:
- The length of time drug orders may be in effect, for drugs not specifically limited as to duration of use or number of doses when ordered, including intravenous infusion solutions; and
 - Notification of the prescriber by specified personnel and within a specified period of time prior to the expiration of a drug order to ensure that the drug is discontinued if no specific renewal is ordered;
10. Policies and procedures regarding the purchase, storage, safeguarding, accountability, use, and disposition of drugs, in accordance with New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and the Controlled Dangerous Substances Acts and amendments thereto:
11. Policies and procedures for the procurement, storage, use, and disposition of needles and syringes in accordance with the laws of the State of New Jersey and amendments thereto. There shall be a system of accountability for the purchase, storage, and distribution of needles and syringes. There shall be a system of accountability for the disposal of used needles and syringes which shall not necessitate the counting of individual needles and syringes after they are placed in the container for disposal:
12. Policies and procedures regarding the control of drugs subject to the Controlled Dangerous Substances Acts and amendments thereto, in compliance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and all other Federal and State laws and regulations concerning procurement, storage, dispensing, administration, and disposition. Such policies and procedures shall include, but not be limited to, the following:
- Provision for a verifiable record system for controlled drugs;
 - Policies and procedures to be followed in the event that the inventories of controlled drugs cannot be verified or drugs are lost, contaminated, unintentionally wasted, or destroyed. A report of any such incident shall be written and signed by the persons involved and any witnesses present; and
 - In all areas of the facility where drugs are dispensed, administered, or stored, procedures for the intentional wasting of controlled drugs, including the disposition of partial doses, and for documentation, including the signature of a second person who shall witness the disposition;
13. Policies and procedures for the maintenance of records of prescribers' Drug Enforcement Administration numbers for New Jersey:
14. Specification of the information on drugs, their indications, contraindications, actions, reactions, interactions, cautions, precautions, toxicity, and dosage to be provided in each nursing unit. Authoritative, current antidote information and the telephone number of the regional poison control center shall also be provided in each nursing unit. Current Federal and State drug law information shall be available to the pharmaceutical service;
15. A list of abbreviations, metric apothecary conversion charts, and chemical symbols, approved by the medical staff, to be kept in each nursing unit; and
16. Policies and procedures concerning the activities of medical and pharmaceutical sales representatives in the facility.

8:42A-13.4 Storage of drugs

(a) All drugs, except intravenous infusion solutions, shall be kept in locked storage areas. Drug storage and preparation areas shall be kept locked when not in use. (The word "medication" is used interchangeably with the word "drug" in this subchapter. "Drug" means a substance as defined in the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39.)

(b) All drugs shall be stored in accordance with manufacturers' instructions. Drugs requiring refrigeration shall be kept in a separate, locked box in the refrigerator, in a locked refrigerator, or in a refrigerator in the locked medication room, at or near the nursing unit. The refrigerator shall have a thermometer to indicate temperature in conformance with U.S.P. (United States Pharmacopoeia) requirements.

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

(d) Drugs for external use shall be kept separate from drugs for internal use.

8:42A-13.5 Facilities providing medical detoxification services

(a) Facilities licensed by the Department to provide medical detoxification services shall adhere to the following:

1. At intervals specified in the policy and procedure manual, a pharmacist shall inspect all areas in the facility where drugs are dispensed, administered, or stored and shall maintain a record of such inspections;

2. A pharmacist shall be appointed as director of pharmaceutical services or as consultant pharmacist and shall be responsible for the direction, provision, and quality of pharmaceutical services. The pharmacist shall be responsible for, but not limited to, the following:

i. Together with the Pharmacy and Therapeutics Committee, developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the pharmaceutical service;

ii. Participating in planning and budgeting for the pharmaceutical service;

iii. Coordinating and integrating the pharmaceutical service with other patient care services to provide a continuum of care for the patient;

iv. Assisting in developing and maintaining written job descriptions for pharmacy personnel, if any, and assigning duties based upon education, training, competencies, and job descriptions;

v. Participating as part of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan;

vi. Maintaining a means of identifying the signatures of all prescribers authorized to use the pharmaceutical service for prescriptions; and

vii. Maintaining records of the transactions of the pharmaceutical service, as required by Federal, State, and local laws, to ensure control and accountability of all drugs. This shall include a system of controls and records for the requisitioning and dispensing of pharmaceutical supplies to all services of the facility;

3. The facility shall have a unit dose drug distribution system within three years of the effective date of this chapter. "Unit dose drug distribution system" means a system in which drugs are delivered to patient areas in single unit packaging. Each patient has his or her own receptacle, such as a tray, bin, box, cassette, drawer, or compartment, labeled with his or her first and last name and room number, and containing his or her own medications. Each medication is individually wrapped and labeled with the generic name, trade name (if appropriate), strength of the drug, lot number or reference code, expiration date, and manufacturer's or distributor's name, and ready for administration to the patient.

i. At least one exchange of patient medications shall occur every three days. The number of doses for each patient shall be sufficient for a maximum of 72 hours. No more than a 72-hour supply of doses shall be delivered to or available in the patient care area at any time;

ii. Cautionary instructions and additional information, such as special times of administration, regarding dispensed medications shall be transmitted to the personnel responsible for the administration of the medications;

iii. If the facility repackages medications in single unit packages, the facility's policies and procedures shall indicate how such packages shall be labeled to identify the lot number or reference code and the manufacturer's or distributor's name;

iv. Policies and procedures shall specify the drugs which will not be obtained from manufacturers or distributors in single unit packages and will not be repackaged as single units in the facility; and

4. The facility shall have an intravenous infusion admixture service operated by the pharmaceutical service within three years of the effective date of this chapter. If the preparation, sterilization, and labeling of parenteral medications and solutions are performed in the exempt areas within the facility, as specified by facility policy, but not under direct supervision of a pharmacist, the pharmacist shall be responsible for providing written guidelines and for approving the procedures. Policies and procedures for the use of intravenous infusion solutions shall include, but not be limited to, the following:

i. Safety measures for the preparation, sterilization, and admixture of intravenous infusion solutions. These shall be prepared under a laminar air flow hood, except in patient care areas specified by facility policy;

ii. Quality control procedures for laminar air flow hoods, including cleaning of the equipment used on each shift, microbiological monitoring as required by the infection prevention and control policies and procedures of the facility, and documented checks at least every 12 months for operational efficiency; and

iii. Policies and procedures for the labeling of intravenous infusion solutions, such that a supplementary label is affixed to the container of any intravenous infusion solution to which drugs are added. The label shall include the patient's first and last name and room number; the name of the solution; the name and amount of the drug(s) added; the date and time of the addition; the date, time, and rate of administration; the name or initials of the pharmacy personnel who prepared the admixture; the name, initials, or identifying code of the pharmacist who prepared or supervised preparation of the admixture; supplemental instructions, including storage requirements; and the expiration date of the solution.

SUBCHAPTER 14. DIETARY SERVICES

8:42A-14.1 Provision of dietary services

The facility shall provide dietary services to meet the daily nutritional needs of patients.

8:42A-14.2 Appointment of dietitian

(a) The facility shall appoint a dietitian who shall be responsible for the direction, provision, and quality of the dietary service. If a dietitian is appointed on a consultant basis, the dietitian's hours shall be scheduled at different hours of the day for successive visits. The dietitian shall be responsible for, but not limited to the following:

1. Developing and implementing written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the dietary service;

2. Participating in planning and budgeting for the dietary service;

3. Ensuring that dietary services are provided as specified in the dietary portion of the patient treatment plan and are coordinated with other patient care services to provide a continuum of care for the patient;

4. Assisting in developing and maintaining written job descriptions for dietary personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

5. Participating in staff education activities and providing consultation to facility personnel.

8:42A-14.3 Food service supervisor

The facility shall appoint a full-time food service supervisor who functions under the direction of a dietitian. A dietitian and/or food service supervisor shall be on duty seven days a week.

8:42A-14.4 Responsibilities of dietary personnel

(a) In accordance with written job descriptions, dietary personnel shall be responsible for providing dietary care, including, but not limited to, the following:

1. Assessing the dietary needs of the patient, preparing the dietary portion of the patient treatment plan based on the assessment, providing dietary services to the patient as specified in the dietary portion of the patient treatment plan, reassessing the patient, and revising the dietary portion of the patient treatment plan. Each of these activities shall be documented in the patient's medical record;

2. Participating as part of the multidisciplinary team in developing, implementing, reviewing, and revising the patient treatment plan; and

3. Writing clinical notes and progress notes.

8:42A-14.5 Requirements for dietary services

(a) Dietary personnel shall be scheduled for a continuous period of at least 12 hours daily.

(b) The dietary service shall adhere to the provisions of N.J.A.C. 8:24.

(c) A current diet manual shall be available in the dietary service and in each nursing unit.

(d) Meals shall be planned, prepared and served in accordance with, but not limited to, the following:

1. Menus shall be prepared with regard for the nutritional and therapeutic needs, cultural backgrounds, food habits, and personal food preferences of patients;

2. Written, dated menus shall be planned at least 14 days in advance for all diets. The same menu shall not be used more than once in one week;

3. Current menus with portion sizes and any changes in menus shall be posted in the food preparation area. Menus, with changes, shall be kept on file in the dietary service for at least 30 days;

4. Diets served shall be consistent with the diet manual and in accordance with physicians' orders;

5. Food shall be prepared by cutting, chopping, grinding, or blending to meet the needs of each patient;

6. At least three meals or their equivalent shall be prepared and served daily to patients. At least two meals shall contain three or more menu items, one of which shall be or shall include a high quality protein food such as meat, fish, eggs, or cheese. Each meal shall represent no less than 20 percent of the day's total calories, and at least 10 percent of the day's total calories shall be provided by protein;

7. Nutrients and calories shall be provided for each patient, as ordered by a physician, based upon current recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, adjusted for age, sex, weight, physical activity, and therapeutic needs of the patient;

8. Between-meal nourishments shall be provided and beverages shall be available at all times for each patient, unless medically contraindicated as documented by a physician in the patient's medical record;

9. Substitute foods and beverages of equivalent nutritional value shall be available to all patients; and

10. No more than 14 hours shall elapse between an evening meal and breakfast the next morning.

SUBCHAPTER 15. PATIENT RIGHTS

8:42A-15.1 Policies and procedures regarding patient rights

(a) The facility shall establish and implement written policies and procedures regarding the rights of patients. These policies and procedures shall be available to patients, staff, and the public and shall be conspicuously posted in the facility.

(b) The staff of the facility shall be trained to implement policies and procedures regarding patient rights.

(c) The facility shall adhere to all applicable State and Federal statutes and rules concerning patient rights.

8:42A-15.2 Rights of each patient

(a) Patient rights, policies, and procedures shall ensure that, at a minimum, each patient admitted to the facility:

HEALTH

PROPOSALS

1. Is informed of these rights, as evidenced by his or her written acknowledgment prior to or at the time of admission, and receives an explanation, in terms that he or she can understand, and a copy of the patient rights;
2. Is informed of services available in the facility, of the names and professional status of the personnel providing and/or responsible for his or her care, and of fees and related charges, including the payment, fee, deposit and refund policy of the facility and any charges for services not covered by sources of third-party payment or not covered by the facility's basic rate;
3. Is assured of treatment and medical care in accordance with the patient treatment plan, is informed of the patient treatment plan and of his or her condition, unless medically contraindicated as documented by a physician in the patient's medical record, is informed of the risks associated with the use of any drugs and/or procedures, and has the opportunity to participate in the planning of his or her treatment, to refuse medication and treatment, and to refuse to participate in experimental research;
4. Is informed of the alternatives for care and treatment;
5. Is transferred or discharged only for medical reasons or for his or her welfare or that of other patients, upon the written order of a physician, or for nonpayment for the patient's stay (except as prohibited by sources of third-party payment), and such actions are documented in the patient's medical record, except in an emergency situation, in which case the administrator shall notify the physician and the family immediately and document the reason for the transfer in the patient's medical record. If a transfer or discharge on a nonemergency basis is requested by the facility the patient and his or her family shall be given at least 10 days advance notice of such transfer or discharge;
6. Has access to and/or may obtain a copy of his or her medical record, in accordance with the facility's policies and procedures and with applicable Federal and State laws and rules;
7. Is free from mental and physical abuse and free from the use of chemical and physical restraints, except those restraints used in accordance with N.J.A.C. 8:42A-6.8. Drugs and other medications shall not be used for punishment, for convenience of facility personnel, or in quantities that interfere with a patient's rehabilitation or living activities;
8. Is assured confidential treatment of his or her records and disclosures, in accordance with State and Federal statutes and rules;
9. Is treated with courtesy, consideration, respect, and recognition of his or her dignity, individuality, and right to privacy, including, but not limited to, auditory and visual privacy and confidentiality concerning patient treatment and disclosures. Privacy of the patient's body shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for patient safety or assistance;
10. Is not required to perform work for the facility unless the work is part of the patient treatment plan. Such work shall be in accordance with local, State and Federal laws and rules;
11. May associate and communicate privately with persons of his or her choice, in accordance with the patient treatment plan, may send and receive personal mail, and, upon his or her request, is given assistance in the reading and writing of correspondence;
12. May participate in facility activities and meet with, and participate in activities of, social, religious, and community groups, in accordance with the patient treatment plan. Arrangements shall be made, at the patient's expense, for attendance at religious services of his or her choice, when requested;
13. Is allowed to leave the facility in accordance with the patient treatment plan. A signout sheet shall record the patient's whereabouts at these times;
14. Is assured security in retaining and using personal clothing and possessions as space permits, unless to do so would be unsafe or would infringe upon the rights of other patients. If the patient has property on deposit with the facility, he or she shall have daily access to such property during specific periods established by the facility;
15. Is allowed visiting time at reasonable hours in accordance with the patient treatment plan and, if critically ill, is allowed visits from his or her family at any time, unless medically contraindicated as

documented by a physician in the patient's medical record. Members of the clergy shall be notified by the facility at the patient's request and shall be admitted at the request of the patient and/or family at any time;

16. Is allowed to conduct private telephone conversations at a reasonable hour in accordance with the patient treatment plan;

17. Is assured that if restrictions are placed on visitations, telephone calls, and/or other forms of communication, as documented in the patient's medical record, such restrictions shall be evaluated at least every seven days by the director of counseling services, who shall document the evaluation in the patient's medical record;

18. Is assured of civil and religious liberties, including the right to independent personal decisions: No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any patient;

19. Is not the object of discrimination with respect to participation in recreational activities, meals, or other social functions because of age, race, religion, sex, nationality, or ability to pay. The patient's participation may be restricted or prohibited if recommended by a physician in the patient's medical record and consented to by the patient;

20. Is not deprived of any constitutional, civil, and/or legal rights solely because of admission to the facility or because he or she is an alcoholic; and

21. Is encouraged and assisted, throughout the period of stay, to exercise rights as a patient and as a citizen, may voice grievances on behalf of himself or herself or others, and has the right to recommend changes in policies and services to facility personnel and/or to outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination, or reprisal.

(b) The administrator shall provide all patients and/or their families with the name, address, and telephone number of the following office where complaints may be lodged:

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

This telephone number shall be conspicuously posted in the facility at every public telephone and on all bulletin boards used for posting public notices.

SUBCHAPTER 16. EMERGENCY SERVICES AND PROCEDURES

8:42A-16.1 Emergency plans and procedures

(a) The facility shall have a written emergency plan which shall include plans and procedures to be followed in case of medical emergencies, equipment breakdown, fire, or other disaster.

(b) Emergency medical services shall be provided directly in the facility to patients requiring these services. The facility shall have a written plan for emergency transportation of patients to another facility for care.

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

(d) The emergency plans and all emergency procedures shall be conspicuously posted throughout the facility. Personnel shall be trained in the location and use of emergency equipment in the facility.

8:42A-16.2 Drills and tests

(a) Simulated drills of emergency plans shall be conducted on each shift at least four times a year (a total of 12 drills) and documented, including the date, hour, description of the drill, participating staff, and signature of the person in charge. The four drills on each shift shall include at least one drill for emergencies due to fire and one drill for emergencies due to another type of disaster, such as storm, flood, other natural disaster, bomb threat, or nuclear accident.

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

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

8:42A-16.3 Emergency care policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding the provision of emergency care, which shall include, but not be limited to, the following:

1. Criteria for determining a patient's need for emergency care, based upon an assessment of physical, psychological and social needs;
2. Assignment of responsibility for assessing a patient's need for emergency care and determining the services to be provided; and
3. Criteria, approved by a physician, for determining a patient's need for a medical evaluation in the event of an emergency.

SUBCHAPTER 17. DISCHARGE PLANNING SERVICES

8:42A-17.1 Discharge plan

(a) The facility shall provide discharge planning services to patients.

(b) Each patient shall have a written discharge plan. Discharge planning shall be initiated upon admission.

(c) The patient and, if indicated, family members shall participate in developing the patient discharge plan. Participation shall be documented in the patient medical record.

8:42A-17.2 Discharge planning policies and procedures

(a) Written policies and procedures shall be established and implemented for discharge planning services, which shall describe:

1. The functions of the person or persons responsible for planning, providing, and/or coordinating discharge planning services, including, but not limited to, the following:
 - i. Interviewing each patient, and evaluating needs and developing goals for aftercare services for each patient;
 - ii. Making referrals to community agencies and resources for aftercare services not provided directly by the facility to provide a continuum of care for the patient;
 - iii. Requesting representatives of support groups, such as Alcoholics Anonymous, to accompany patients to support group meetings following discharge; and
 - iv. Assessing the outcome of aftercare services planned for each patient;
2. The time period for completing each patient's discharge plan;
3. The time period that may elapse before a reevaluation of each patient's discharge plan is performed;
4. Use of the multidisciplinary team in discharge planning;
5. Criteria for patient discharge;
6. Methods of patient and family involvement in developing the discharge plan; and
7. Criteria for termination of aftercare services.

8:42A-17.3 Patient and family education

(a) Discharge planning services shall include education of the patient and his or her family. The facility shall provide information regarding at least the following:

1. Alcoholism, and the symptoms, effects, and treatment of alcoholism;
2. Co-dependency and its effect on the treatment of alcoholism;
3. Implementation of self-care and rehabilitation measures following discharge;
4. Community agencies and resources available for aftercare services, including outpatient alcoholism treatment services, halfway houses, health care facilities, vocational rehabilitation centers, legal and social agencies, and rehabilitation programs; and
5. Support groups, including Alcoholics Anonymous, Al-Anon, and Alateen, and their availability.

SUBCHAPTER 18. MEDICAL RECORDS

8:42A-18.1 Maintenance of medical records

(a) A current medical record shall be maintained for each patient and shall contain documentation of all services provided.

(b) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for medical record services shall be developed and implemented.

(c) A record system shall be maintained in which the patient's complete medical record is filed as one unit in one location within the facility.

8:42A-18.2 Assignment of responsibility

Responsibility for the medical record service shall be assigned to a full-time employee who, if not a medical record practitioner, functions in consultation with a person so qualified.

8:42A-18.3 Contents of medical records

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

1. Patient identification data, including name, date of admission, address, date of birth, race (optional), religion (optional), sex, referral source, marital status, and the name, address, and telephone number of the person to be notified in an emergency;
2. Copies of the Alcoholism-Intake Record and Alcoholism-Termination Record forms;
3. The patient's signed acknowledgment that he or she has been informed of, and given a copy of, patient rights;
4. A summary of the admission interview;
5. Documentation of the medical history and physical examination, signed and dated by the physician;
6. A patient treatment plan, signed and dated by the physician;
7. Clinical notes, which shall be entered on the day service is rendered;
8. Progress notes;
9. Documentation of the patient's participation in the development of his or her treatment plan, or documentation by a physician that the patient's participation is medically contraindicated;
10. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person who administered the drug;
11. A record of self-administered medications, if the patient self-administers medications, in accordance with the facility's policies and procedures;
12. Documentation of allergies in the medical record and on its outside front cover;
13. The results of laboratory, radiological, diagnostic, and/or screening tests performed;
14. Reports of accidents;
15. A record of referrals to other health care providers;
16. Summaries of consultations;
17. A record of the clothing, personal effects, valuables, funds, and other property deposited by the patient with the facility for safekeeping, signed by the patient or his or her family and substantiated by receipts given to the patient or his or her family;
18. Any signed written informed consent forms;
19. A record of any treatment, drug, or service offered by personnel of the facility and refused by the patient;
20. Instructions given to the patient and/or the patient's family for care following discharge;
21. The discharge plan; and
22. The discharge summary, in accordance with N.J.S.A. 26:8-5 et seq.

8:42A-18.4 Requirements for entries

(a) All orders for patient care shall be prescribed in writing and signed and dated by the prescriber.

(b) All entries in the patient medical record shall be legible and signed and dated by the persons entering them.

(c) The patient medical record shall be completed within 15 days following the patient's discharge.

8:42A-18.5 Medical records policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding medical records including, but not limited to, policies and procedures for the following:

1. The protection of medical record information against loss, tampering, alteration, destruction, or unauthorized use. The patient's consent shall be obtained for release of medical record information;

2. The transfer of patient information when the patient is transferred to another health care facility, or if the patient becomes an outpatient at the same facility; and

3. The provision of copies of the patient's medical record to the patient and/or the patient's authorized representative. Such written policies and procedures shall include, but not be limited to, the following:

i. Establishment of a fee schedule for obtaining copies of the patient's medical record;

ii. Policies and procedures regarding the patient's access to his or her medical record during business hours;

iii. Policies and procedures regarding availability of the patient's medical record to the patient's authorized representative if it is medically contraindicated, as documented by a physician in the patient's medical record, for the patient to have access to or obtain copies of the record; and

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

8:42A-18.6 Preservation, storage, and retrieval of medical records

(a) All medical records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.

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

SUBCHAPTER 19. INFECTION PREVENTION AND CONTROL

8:42A-19.1 Administrator's responsibility

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

8:42A-19.2 Infection prevention and control policies and procedures

(a) Written policies and procedures shall be established and implemented regarding infection prevention and control, including, but not limited to, policies and procedures for the following:

1. A definition of nosocomial infection;

2. In accordance with N.J.A.C. 8:57, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility, and maintaining records for all patients or personnel having these infections, diseases, or conditions;

3. Exclusion from work, and authorization to return to work, for personnel with communicable diseases;

4. Surveillance techniques to minimize sources and transmission of infection;

5. Techniques to be used during each patient contact, including handwashing before and after caring for a patient;

6. The prevention of decubitus ulcers;

7. Isolation of patients, including criteria for isolation;

8. Sterilization, disinfection and cleaning practices and techniques used in the facility, including, but not limited to, the following:

i. Care of utensils, instruments, solutions, dressings, articles, and surfaces;

ii. Selection, storage, use, and disposition of disposable and non-disposable patient care items. Disposable items shall not be reused;

iii. Methods to ensure that sterilized materials are packaged, labeled, processed, transported, and stored to maintain sterility and to permit identification of expiration dates; and

iv. Care of urinary catheters, intravenous catheters, respiratory therapy equipment, and other devices and equipment that provide a portal of entry for pathogenic microorganisms; and

9. The collection, storage, handling, and disposition of all pathological and infectious wastes within the facility, and for the collection, storage, handling, and disposition of all pathological and infectious wastes to be removed from the facility;

i. Needles and syringes shall be destroyed in accordance with N.J.S.A. 2A:170-25.17, and amendments thereto;

ii. Solid, sharp, or rigid items shall be placed in a puncture-resistant container and incinerated or compacted prior to disposal;

iii. In facilities licensed to provide medical detoxification services, all solid waste shall be collected in three mil plastic bags or equivalent and disposed of in a sanitary landfill approved by the New Jersey State Department of Environmental Protection; and

iv. Fecal matter and liquid waste, such as blood and blood products, shall be flushed into the sewerage system.

(b) Each service in the facility shall develop written infection prevention and control policies and procedures for that service.

SUBCHAPTER 20. HOUSEKEEPING, SANITATION, AND SAFETY

8:42A-20.1 Provision of services

(a) The facility shall provide and maintain a sanitary and safe environment for patients.

(b) The facility shall provide housekeeping, laundry and pest control services.

(c) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for housekeeping, sanitation and safety services shall be developed and implemented.

8:42A-20.2 Housekeeping

(a) A written work plan for housekeeping operations shall be established and implemented, with categorization of cleaning assignments as daily, weekly, monthly, or annually within each area of the facility.

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

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

8:42A-20.3 Patient care environment

(a) The following housekeeping, sanitation and safety conditions shall be met:

1. The facility and its contents shall be free of dirt, debris, and insect and rodent harborages;

2. Nonskid wax shall be used on all waxed floors;

3. All rooms shall be ventilated to help prevent condensation, mold growth, and noxious odors;

4. All patient areas shall be free of noxious odors;

5. Throw rugs or scatter rugs shall not be used in the facility;

6. All furnishings shall be clean and in good repair, and mechanical equipment shall be in working order. Equipment shall be kept covered to protect from contamination and accessible for cleaning and inspection. Broken or worn items shall be repaired, replaced, or removed promptly;

7. All equipment shall have unobstructed space provided for operation;

8. All equipment and materials necessary for cleaning, disinfecting, and sterilizing shall be provided;

9. Thermometers shall be maintained in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

10. Pesticides shall be applied in accordance with N.J.A.C. 7:30;

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

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

13. Unobstructed aisles shall be provided in storage areas;

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

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

16. Solid or liquid waste, garbage, and trash shall be stored or disposed of in accordance with the rules of the New Jersey State Department of Environmental Protection and the New Jersey State Department of Health. Solid waste shall be stored in insectproof,

rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers. Procedures and schedules shall be established and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage, and trash, in accordance with N.J.A.C. 8:24;

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

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

19. Latex foam pillows shall be prohibited;

20. The temperature of the hot water used for showers, bathing, and handwashing shall not exceed 110 degrees Fahrenheit (43 degrees Celsius); and

21. The temperature in the facility shall be kept at a minimum of 70 degrees Fahrenheit (21 degrees Celsius) during the day and a minimum of 65 degrees Fahrenheit (18 degrees Celsius) at night. "Day" means the time between sunrise and sunset.

8:42A-20.4 Linen and laundry services

(a) Written policies and procedures shall be established and implemented for linen and laundry services, including, but not limited to, policies and procedures regarding the following:

1. The storage, transportation, and laundering of linen and personal laundry;

2. Accessibility of a laundry room which patients may use for washing their clothes;

3. The frequency of laundering linen and personal laundry;

4. The frequency of changing bed linen, towels, and washcloths;

5. Provision of a supply of clean linen, including at least sheets, pillow cases, blankets, towels, and washcloths;

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

7. Storage of soiled linen and laundry in a ventilated area separate from any other supplies. Soiled linen and laundry shall not be stored, sorted, rinsed, or laundered in patient rooms, bathrooms, areas of food preparation and/or storage, or areas in which clean linen, material, and/or equipment are stored; and

8. Protection of clean linen from contamination during processing, transporting, and storage.

SUBCHAPTER 21. VOLUNTEER SERVICES

8:42A-21.1 Provision of volunteer services

(a) The facility may provide volunteer services as an integral part of the facility's services.

(b) Volunteers shall not provide services in lieu of staff.

(c) Volunteers shall not administer medications.

(d) Volunteers shall receive orientation at the time of employment and continuing in-service education regarding at least emergency plans and procedures, discharge planning, and the infection prevention and control program.

(e) If volunteers have access to patient medical records, confidentiality shall be maintained in accordance with the facility's policies and with all applicable laws and rules.

(f) Volunteers shall not receive gifts or gratuities from patients.

8:42A-21.2 Volunteer policies and procedures

(a) If the facility provides volunteer services, the facility shall establish and implement written policies and procedures including, but not limited to, policies and procedures regarding the following:

1. Acceptance and retention in, and exclusion from, the volunteer service, including at least the following criteria:

i. Minimum age and physical examination requirements for volunteers; and

ii. The minimum period of time during which former substance abusers (alcohol and/or drugs) shall be continuously substance free before serving as volunteers;

2. Methods for obtaining information regarding each volunteer, including, at least, education, work experience, and arrests or convictions, if any;

3. Assignment of volunteers to patients, including criteria for assignment; and

4. Functions which volunteers may perform. Volunteer services shall be provided under the supervision of staff and in accordance with patient treatment plans, so as to ensure continuity of care.

8:42A-21.3 Administrator's responsibility for volunteer services

(a) The administrator or the administrator's designee shall be responsible for the direction, provision, and quality of the volunteer services provided. The administrator shall be reasonable for, but not limited to, the following:

1. Developing and implementing written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the volunteer service;

2. Participating in planning and budgeting for the volunteer service;

3. Coordinating and integrating the volunteer service with other patient care services to provide a continuum of care for the patient; and

4. Assisting in developing and maintaining written job descriptions for all paid staff of the volunteer service and volunteers, and assigning duties based upon education, training, competencies, and job descriptions.

SUBCHAPTER 22. QUALITY ASSURANCE PROGRAM

8:42A-22.1 Quality assurance plan

The facility shall establish and implement a written plan for a quality assurance program for patient care. The plan shall specify a timetable and the person(s) responsible for the quality assurance program and shall provide for ongoing monitoring of staff and patient services.

8:42A-22.2 Quality assurance activities

(a) Quality assurance activities shall include, but not be limited to, the following:

1. At least annual review of staff and physician qualifications and credentials;

2. At least annual review of staff orientation and staff education;

3. Evaluation of patient care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, patient care statistics, emergency services, discharge planning services, and volunteer services;

4. Evaluation by patients of care and services provided by the facility;

5. Audit of patient medical records (including those of both active and discharged patients) on an ongoing basis to determine if care provided conforms to criteria established by each patient care service for the maintenance of quality of care; and

6. Establishment of a patient care outcome assessment system for evaluation of the patient care provided by each service.

8:42A-22.3 Measures for corrections and improvements

(a) The results of the quality assurance program shall be submitted to the governing authority at least annually and shall include at least deficiencies found and recommendations for corrections or improvements. Deficiencies which jeopardize patient safety shall be reported to the governing authority immediately. The administrator shall, with the approval of the governing authority, implement measures to ensure that corrections or improvements are made.

(b) The administrator shall evaluate written reports of State and local sanitary inspections and shall take necessary corrective action.

SUBCHAPTER 33. (RESERVED)

(a)

**DRUG UTILIZATION REVIEW COUNCIL
Interchangeable Drug Products
Proposed Amendments: N.J.A.C. 8:71**

Authorized By: Drug Utilization Review Council, Sanford Luger, Chairman.

Authority: N.J.S.A. 24:6E-6(b).

Proposal Number: PRN 1988-629.

A public hearing concerning the proposed amendments will be held on January 10, 1989 at 3:00 P.M. at the following address:

Board Room, Room 103
First Floor
Department of Health
Health-Agriculture Bldg.
Trenton, New Jersey 08625-0360

Submit comments by January 18, 1989 to:
Thomas T. Culkin, PharmD, MPH
Executive Director
Drug Utilization Review Council
New Jersey Department of Health
Room 108, CN 360
Trenton, New Jersey 08625-0360
609-984-1304

The agency proposal follows:

Summary

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant savings to consumers.

For example, the proposed erythromycin ethylsuccinate tablets, if adopted, could then be used as a less expensive substitute for E.E.S. 400, a branded prescription medicine. Similarly, the proposed cyclobenzaprine tablets could be substituted for the more costly branded product, Flexeril.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency" any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found to be in compliance with the U.S. Food and Drug Administration's regulations.

Social Impact

The social impact of these proposed amendments would primarily affect pharmacists, who would need to either place in stock, or be prepared to order, those products ultimately found acceptable.

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable Drug Products. These proposed additions would expand the pharmacist's supply options.

Physicians and patients are not adversely affected by this proposal because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the prescriber or the patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

Economic Impact

The proposed amendment will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the saving to consumers cannot be estimated because pharmacies vary in their prices for both brands and generics.

Some of the economies occasioned by these proposed amendments accrue to the State through the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. This saving also cannot be estimated accurately.

Regulatory Flexibility Statement

The proposed amendments impact many small businesses: specifically, over 1500 pharmacies and several small generic drug manufacturers which employ fewer than 100 employees.

However, there are no reporting or recordkeeping requirements for pharmacies, and small generic drug manufacturers have minimal initial reports, and no additional ongoing reporting or recordkeeping requirements. Further, these minimal requirements are offset by the increased economic benefits accruing to these same small generic businesses due to these proposed amendments.

Full text of the proposal follows:

Amiloride HCl tabs 5 mg	PharmBasics
APAP/Codeine tabs 15, 30, 60 mg	LuChem
Allopurinol tabs 100, 300 mg	Superpharm
Amoxicillin caps 250, 500 mg	TEVA
Amoxicillin for susp. 125/5, 250/5 ml	Novopharm
Baclofen tabs, 10, 20 mg	Zenith
Benzotropine mesylate tabs 0.5, 1, 2 mg	Par
Betamethasone dipropionate lotion 0.05%	Thames
Butalbital, APAP, and caffeine tabs	Mikart
CPM/pyrilamine/PE tannates 2/12.5/5 tabs	LuChem
Carbetapentane, CP, ephedrine, PE susp	Mikart
Carbetapentane/CP/ephedrine/PE tann. susp.	LuChem
Carisoprodol tabs 350 mg	Vitarine
Carisoprodol tabs 350 mg	PharmBasics
Cephalexin caps 250, 500 mg	Lab A
Cephalexin monohydrate tabs 250, 500, 1000	Vitarine
Chlordiazepoxide caps 5, 10, 25 mg	Superpharm
Chlorpropamide tabs 100, 250 mg	Charlotte
Chlorthalidone tabs 25, 50 mg	Danbury
Chlorzoxazone tabs 500 mg	Par
Clindamycin HCl caps 75, 150 mg	Vitarine
Clonidine tabs 0.1, 0.2, 0.3 mg	Cord
Clorazepate tabs 3.75, 7.5, 15 mg	Danbury
Cyclobenzaprine tabs 10 mg	Danbury
Diazepam tabs 2, 5, 10 mg	Ferndale
Erythromycin base EC tabs 500 mg	Barr
Erythromycin ethylsuccinate tabs 400 mg	Mylan
Ethchlorvynol caps 500, 750 mg	Banner
Fenoprofen tabs 600 mg	Danbury
Fenoprofen tabs 600 mg	Lederle
Fluphenazine tabs 1, 2.5, 5, 10 mg	Mylan
Flurazepam caps 15, 30 mg	Superpharm
Haloperidol tabs 10, 20 mg	Cord
Hydrocodone/APAP tabs 5/500	LuChem
Hydrocodone/APAP tabs 5/500	Mikart
Ibuprofen tabs 400, 600, 800 mg	ALRA
Imipramine tabs 25, 50 mg	Vitarine
Indomethacin caps 25, 50 mg	Vitarine
Indomethacin caps 50 mg	Watson
Iodinated glycerol solution 50 mg/ml	LuChem
Isosorbide dinitrate tabs 20 mg	Cord
Lithium carbonate caps 300 mg	Par
Lithium carbonate caps 300 mg	PharmBasics
Lorazepam tabs 0.5, 1, 2 mg	Mepha
Lorazepam tabs 0.5, 1, 2 mg	Cord
Maprotiline tabs 25, 50, 75 mg	Mylan
Meclofenamate caps 50, 100 mg	Barr, Vitarine
Methocarbamol/Aspirin tabs 400/325	Par
Methyldopa tabs 250, 500 mg	Pharbita
Methyldopa/HCTZ tabs 250/15, 500/30	Danbury
Minoxidil tabs 2.5 mg	PharmBasics
Nalidixic acid tabs 250, 500, 1000 mg	Barr
Naphazoline/antazoline 0.05%/0.5% ophth	Steris
Norethindrone/ethinyl estradiol tabs 1, 35	Gedeon-Richter
Orphenadrine, ASA, caffeine tabs SS, DS	Vitarine
Oxycodone/APAP caps 5, 500	Halsey
Phenylephrine/pyrilamine, CP tannate soln	Mikart
Phenylephrine/pyrilamine/CPM tannate tab	Mikart
Potassium bicarbonate efferv. tabs 25 mEq	CIMA
Prazosin caps 1, 2, 5 mg	Cord, Par, Lederle, Zenith
Procainamide ER tabs 250, 750 mg	Danbury
Propranolol/HCTZ tabs 40/25, 80/25	Danbury

Quinidine gluconate ER tabs 324 mg
 Quinine sulfate tabs 260 mg
 SMZ/TMP tabs 80/400, 160/800
 SMZ/TMP susp. 200/40/5 ml
 Sulfacetamide sodium ophth soln 10%
 Temazepam caps 15, 30 mg
 Thioridazine tabs 100 mg
 Thyroid tabs 32, 64, 120 mg
 Timolol maleate tabs 5, 10, 20 mg
 Tolazamide tabs 100 mg
 Trazodone tabs 150 mg
 Trazodone tabs 50, 100 mg
 Yohimbine HCl tabs 5.4 mg

Par
 Cord
 PharmBasics
 Barr
 Steris
 Danbury
 Mutual
 LuChem
 Par, Lederle
 Cord
 Amer. Ther.
 Mylan
 LuChem

9:6A-4.3 Annual salary increases for managerial employees
 (a) The anniversary date of all managerial employees shall be July 1 of each fiscal year commencing on July 1, 1988 [except as provided in (b) below].
 (b) Any managerial employee who is not at the maximum of his or her salary range as of the effective date of this section shall retain his or her current anniversary date until he or she reaches the maximum of the salary range or until he or she moves to a new salary range.
 (c) A managerial employee under (b) above who reaches the maximum of his or her salary range or moves to a new salary range shall have his or her anniversary date adjusted to the next succeeding July 1.]

HIGHER EDUCATION

(a)

**BOARD OF HIGHER EDUCATION
 State College Personnel System
 Annual Salary Increases for Managerial Employees
 Proposed Amendment: N.J.A.C. 9:6A-4.3**

Authorized By: Board of Higher Education,
 T. Edward Hollander, Chancellor and Secretary.
 Authority: N.J.S.A. 18A:3-14h and 18A:64-6h.
 Proposal Number: PRN 1988-630.

Submit comments by January 18, 1989 to:
 Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 20 West State Street
 CN 542
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Board of Higher Education is statutorily authorized to set salary and personnel policies for employees at the State colleges. In setting these policies the Board of Higher Education, on November 20, 1987, approved the adoption of rules creating a new personnel structure for unclassified and non-aligned employees at the State colleges which cover compensation primarily for managerial employees. The modifications to those rules that are contained in this proposed amendment will enable the colleges to implement a performance-based system for compensating managerial employees. The State college presidents have approved the concept of a performance-based compensation system and the State colleges will adopt and distribute performance criteria to their respective board of trustees on which the presidents will rely to evaluate these employees. This system will eliminate any distinction between increments and across-the-board increases and would eliminate automatic salary increases.

Social Impact

This proposed amendment changes the system used in the past to provide increments to managerial employees at the State colleges. Under the proposed system, all increases to managerial salaries would be based solely upon an annual assessment of performance and would be made at the discretion of the president. Merit increases eliminate automatic salary increases and allow the institution to increase salaries based upon performance.

Economic Impact

This proposed amendment will eliminate increases based upon length of service and across the board increases. Managerial employees at the State colleges will now receive salary increases based upon an annual assessment of performance.

Regulatory Flexibility Statement

The proposed amendment does not require a regulatory flexibility analysis since it does not impose any requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and only affects personnel policies at the State colleges.

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

[(d)](b) All managerial employees hired subsequent to the effective date of this section shall be assigned an anniversary date of July 1. The college may adjust the starting salary to reflect the difference in the period of time before the next salary increase.

[(e)](c) A managerial employee shall not be eligible for an annual salary increase unless he or she has been in active pay status in his or her current salary range for more than six months within the preceding fiscal year. Exceptions to this requirement may be made by the president of the college.

[(f) Annual salary increases for managerial employees based upon length of service and performance shall not exceed one step in the salary range for the title except when there is a determination by the president of outstanding performance.]

(d) Each year, the Board of Higher Education shall establish the percentage increase applicable to managerial employees' salaries and notify the colleges of that amount.

(e) By June 30 of each fiscal year, each college shall report to the Chancellor the total salary figure for all managerial employees at the college.

HUMAN SERVICES

(b)

**DIVISION OF YOUTH AND FAMILY SERVICES
 Manual of Requirements for Child Care Centers
 Proposed Repeal and New Rules: N.J.A.C. 10:122.**

Authorized By: Drew Altman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12 and 30:5B-1 through 15, especially 30:5B-5.

Proposal Number: PRN 1988-641.

Submit comments in writing by January 18, 1989 to:
 J. Patrick Byrne, Chief
 Bureau of Licensing
 Division of Youth and Family Services
 CN 717
 One South Montgomery Street
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Child Care Center Licensing Law, N.J.S.A. 30:5B-1 to 15, requires the licensing of publicly and privately operated child care centers serving six or more children below six years of age. Currently, there are approximately 1,900 licensed child care centers operating in New Jersey. The Division proposes the repeal of existing N.J.A.C. 10:122 and the adoption of new rules. As part of the adoption, the Division is also proposing to change the chapter name to "Manual of Requirements for Child Care Centers" in lieu of "Manual of Standards for Child Care Centers", as it currently appears in the New Jersey Administration Code. The Division believes that the term "requirements" more precisely denotes mandatory expectations to be met in order to qualify for State regulatory approval, whereas the term "standards" refers to recommended state-of-the-art practices, such as those that are contained in higher-level model or accreditation guidelines.

In 1986, the Division of Youth and Family Services (Division) began a process of revising these rules in order to simplify and clarify the existing Manual. To that end, the proposed revision structurally groups related requirements in the same section or subchapter, ensures the objective measureability of each provision through observation, documentation or interview and ensures clarity of language, so that both licensees and the licensing agency staff members are better able to understand and achieve rule compliance. In addition, the proposed revision updates, improves and strengthens the current Manual in order to accommodate the varied and changing needs of families in New Jersey. The goal has been to ensure the basic care, safety, protection, and proper development of children served in licensed centers without imposing unreasonable administrative or economic burdens on centers themselves. To that end, the Division designed and has utilized an extensive community participation process for involving child care center directors, the public-at-large, child advocates, and representatives of the child care, early childhood education, health, building safety and other allied fields in developing these proposed new rules.

This participatory process has included: a series of meetings over an 11-month period with an Ad Hoc Citizens Advisory Committee, consisting of 40 members drawn primarily from the private child care, advocacy community; consultation with working groups of professionals from both the public and private sectors with relevant experience and expertise in child care and related subjects; information mailings on various drafts of proposed regulations to all child care center directors and child care advocacy organizations for review and comment; special meetings with every major child care organization in the State; three public hearings at different geographic locations in New Jersey, to which all center directors and child care community leaders were invited; and close collaboration with the State Child Care Advisory Council, which formally endorsed a next-to-final draft of the proposed new rules earlier this year.

Through this outreach process, the Division has gained the broadest possible range of government and community comment and reaction, which has helped produce a document that seeks to promote the concept of quality, affordable and accessible child care for the families of New Jersey.

Subchapter 1 (N.J.A.C. 10:122-1) expands the definition of "child care center" beyond that of the present Manual to reflect new and varied kinds of programs that have developed in recent years, such as centers serving sick children, and recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency. The definition also excludes children who are residents of a sponsor's home from the count of children when determining whether a center operated in a sponsor's home meets the threshold of six children to require licensure. This exclusion is consistent with the provisions of the Family Day Care Provider Registration Act, N.J.S.A. 30:5B-16 et seq., which provides for the voluntary registration of family day care providers caring for up to five children for a fee in a private residence, excluding the provider's own children.

Subchapter 2 (N.J.A.C. 10:122-2) specifies for the first time the particular approvals needed from the municipality in which the center is located, lists for the first time the criteria used by the Bureau of Licensing to determine exemptions from licensure, and describes more detailed procedures for licensing multi-site child care centers and child care centers located in multi-use facilities. In order to encourage continuing compliance with regulations, a requirement has been added specifying a one-year time period before a center whose license has been denied, revoked or not renewed may re-apply for licensure.

Subchapter 3 (N.J.A.C. 10:122-3) specifies for the first time the length of time that center records must be kept and the types of records that must be open to public review. It calls for the Information to Parents document, which is now required to be given to parents, also to be given to staff members as a means of guaranteeing that all staff members are familiar with the requirements in this document.

Subchapter 4 (N.J.A.C. 10:122-4) expands the requirements for staff qualifications and job responsibilities. Qualifications have been strengthened for the director in terms of the amounts and types of experience and education required, specifying a wide range of options that require more years of experience for individuals with less advanced education. The job responsibilities for the sponsor, director and head teacher are detailed for the first time. For example, the director must supervise all staff members, develop and implement policies and procedures for the day-to-day operation of the center, and designate a staff member to carry out the director's responsibilities in his or her absence.

Subchapter 4 also specifies a wider range of education and experience criteria for head teacher and group teacher qualifications. For example, head teachers who hold teaching certification in a field other than elementary education, nursery school or teacher of the handicapped must have either six college credits in early childhood education/child development and four years of experience in a group program for children below six years of age, or nine college credits in those fields and three years of such experience. Head teachers who have a master's degree in education must have six college credits in those fields and one year of such experience. Further, recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency may utilize, as head teachers and group teachers, staff members who have specific types of certifications from the New Jersey Department of Community Affairs' Board of Recreation Examiners or the National Recreation and Park Association. In contrast, the present Manual requires centers to hire head teachers (except in infant, Montessori, drop-in or night centers) who have teacher certification in nursery school and two years of experience in a group program for children below six years of age; no other education and experience options are permitted.

Subchapter 4 also specifies new staffing requirements. For the first time, group teachers (staff members with specified early childhood education and experience) are required in centers serving more than 60 children. For the first time, centers will be required to assign children to groups of no more than 20, except for certain large-group activities, based on national child care research showing that group size is a major indicator of program quality for all age groups. Specifically, a group is defined as the number of children occupying an individual room or a specific area within a large room or engaged together in a particular activity at any given time. Also, existing staff members must be re-deployed by assigning a specific staff member to each group of four infants or seven toddlers, based on national child care research showing that consistency of care is a major indicator of quality care for infants and toddlers.

This subchapter also retains the existing staff/child ratios but strengthens them by changing the method of calculating those ratios. The computation will be based on an exact application of the ratio, rather than using the current "averaging" method. Specifically, an additional staff member will be required when the computational result is any fraction over a whole number, while the present Manual requires an additional staff member when the computational result is .5 or above. For example, when a staff/child ratio of 1:10 is required, the new Manual will require an additional staff member to be present as soon as the eleventh child is present. The present Manual requires an additional staff member as soon as the fifteenth child is present.

Subchapter 4 also requires staff to be trained in specific areas of the Manual, including: implementing the center's discipline policy; recognizing and reporting child abuse; neglect; supervising children; implementing health practices; evacuating the center; using the fire extinguisher and fire alarms; implementing the center's release policy; planning and providing for age-appropriate activities; and requiring centers to give staff members a copy of the Information to Parents document that is already required to be given to parents.

Subchapter 5 (N.J.A.C. 10:122-5) specifies new physical and environmental requirements for new centers, particularly those that serve at least 16 children, for lighting, monitoring methods, use and location of toilet facilities, and other features to minimize the risk of child abuse/neglect. All newly constructed centers will be required to submit architectural drawings to the Bureau of Licensing for review, comment and approval.

Centers in newly constructed buildings that will serve at least 16 children and that begin operating on or after the operative date of the new Manual must install either two-way mirrors or uncovered glass panels in walls, while centers in existence prior to the operative date of the new Manual and those new centers that will serve up to 15 children may choose less expensive monitoring methods, such as intercom systems or leaving a door open. Centers that will serve at least 16 children and that begin operating on or after the operative date of the new Manual must have 35 square feet of floor space per child, instead of 30 square feet, which continues to be required for centers of all sizes in existence prior to the operative date of the new Manual and for those new centers that will serve up to 15 children. In addition, centers that will serve at least 16 children and that begin operating on or after the operative date of the new Manual will be required to have a toilet facility on each floor level used by children, while centers of all sizes in existence prior to the operative date of the new Manual and those new centers that will serve up to 15 children may have toilet facilities located one floor above or

below the levels used by children. Centers that begin operating on or after the operative date of the new Manual and that will be located in newly constructed buildings will be required to have at least one sink located in each toilet facility, while centers in existence prior to the operative date of the new Manual and those new centers that will open in existing buildings may have all sinks located in other rooms. In addition, all centers that serve children who are not toilet trained will be required to locate the diapering area within 15 feet of a sink that is not used for food preparation.

Subchapter 6 (N.J.A.C. 10:122-6) specifies in greater detail than the present Manual the amount and types of activities and equipment for age-appropriate programming. Opportunities for parent involvement and information sharing have been expanded to include enrollment conferences, semi-annual staff/parent meetings, and an annual open house. The definitions of the kinds of trips away from the center and requirements for parental permission for trips have been clarified.

Subchapter 7 (N.J.A.C. 10:122-7) contains requirements governing health and sanitation issues affecting staff and children. It consolidates and clarifies health and sanitation requirements in one comprehensive subchapter, rather than dispersing them in various subchapters, as in the current Manual. For the first time, centers that primarily serve well children will be allowed to admit and retain mildly ill children whose illnesses, symptoms of illness and diseases do not exceed a prescribed level, without having to meet the additional requirements of centers that choose to serve sick children. The subchapter includes a list of illnesses, symptoms of illness and diseases below which a child may remain at a center serving well children. Criteria to permit, but not require, the admission of children with HIV, the virus that causes AIDS, are specified for the first time. Requirements for environmental sanitation, personal hygiene, administration of medication and maintenance of health records are specified in greater detail than are those in the current Manual.

Subchapter 8 (N.J.A.C. 10:122-8) is a new subchapter that specifies requirements for the first time for centers serving sick children, a type not addressed in the current Manual. This subchapter allows centers the option of serving more seriously ill children by meeting new requirements specifically designed to meet the needs of sick children. Requirements are delineated for center policy, admission criteria, staff qualifications and responsibilities, physical facility, recordkeeping, and staff/child ratios. Differential requirements are specified for centers that serve only sick children and for those that primarily serve well children, but have sick care components.

Subchapter 9 (N.J.A.C. 10:122-9) specifies driver requirements, safety practices, and vehicle types for centers that provide transportation. The provisions are expressed in clearer, more precise terms than those in the present Manual, which generally refers the user to the appropriate motor vehicle requirements.

Special requirements to prevent child abuse/neglect have been added at several points throughout the Manual. Specifically, Subchapter 4 (N.J.A.C. 10:122-4) provides for the removal of a sponsor, director or staff member by the Division during an investigation of an allegation of child abuse/neglect, if the person has been found by the Division's Institutional Abuse Investigation Unit to pose a risk of harm to children, has committed an act of child abuse or neglect, as substantiated by the Unit, or has been convicted of such acts. Subchapter 4 also requires the director or his or her designee to make daily unannounced visits on a random daily time schedule to each group of children. Subchapter 5 (N.J.A.C. 10:122-5) requires that all rooms and/or areas used by the center must be specifically approved for such use by the Bureau of Licensing. The Bureau may require the use of additional staff members in rooms that are remote or isolated from centrally located areas of the center. Subchapter 6 (N.J.A.C. 10:122-6) differentiates between punishment and discipline in order to promote positive methods of guiding children's behavior. Subchapter 9 (N.J.A.C. 10:122-9) requires an adult in addition to the driver to remain on or within sight of a vehicle transporting specified numbers of children until the last child is picked up or discharged. The second adult is now required only when specified numbers of children remain in the vehicle.

Social Impact

The proposed revision will have a positive social impact by improving the quality of care of children in child care centers. Several new provisions throughout the Manual will minimize the risk of child abuse or neglect. Broadening the qualifications for staff members will help ease the current staff shortage in the child care field by enabling centers to fill staff vacancies more easily. Strengthening the physical facility requirements in

new centers that serve at least 16 children will afford more space for children's activities and more convenient access to toilet facilities in these centers, without imposing economic burdens on existing centers of all sizes and on smaller new centers. The increased clarity and specificity of the requirements will help centers understand, achieve and maintain compliance with licensing requirements and facilitate the uniformity of inspections by the Bureau of Licensing.

The care of mildly ill and of sick children will be allowed and regulated for the first time, helping to meet the needs of parents who must work when their children are ill. Permitting the admission and retention of mildly ill children to centers primarily serving well children will allow such children to be cared for in a familiar environment with minimal disruption to the center's operations. Permitting the admission of sick children, either exclusively or in a sick care component of a center that primarily serves well children—will provide appropriate care for children whose illnesses or diseases call for specialized attention and care. In both instances, the parents of such children would not be obliged to leave or be absent from work. New requirements for environmental sanitation and personal hygiene will minimize the spread of infectious disease among children and staff members.

Economic Impact

Certain physical facility and staffing provisions of the proposed new rules will have an economic impact on some centers. However, the Division has minimized this impact by specifying alternative means for compliance with many provisions of the Manual.

Further, the proposed new rules limit the applicability of certain provisions either to larger centers, to centers that begin operating on or after the operative date of the new Manual, or to centers that will be located in newly constructed buildings, so that relatively few centers will be affected by them. In addition, the Division has determined through surveys that most centers are already in compliance with certain new or revised provisions of the new Manual, thus further reducing the economic impact of the new rule.

Specifically, proposed changes in staffing and group size requirements will have limited economic impact. A random sample survey conducted by the Division has found that more than half of the centers surveyed already comply with the proposed new method of calculating staff/child ratios. For those centers that would need additional staff members, most would need only one staff member, who could be an unpaid volunteer. Also, the new requirement for group teachers in centers serving more than 60 children will not apply to most centers, since fewer than one-third of existing centers are licensed to serve that many children. The new requirement assigning children to groups of no more than 20 may be met by re-deploy existing staff members without having to hire additional staff members. Since the group size requirement allows for more than one group of children in separate areas of existing rooms, this provision does not obligate centers to expand or remodel existing facilities at additional expense. The new requirements for experience and education qualifications for center directors include a wider range of options (requiring more years of experience for individuals with less advanced education), so that centers should find it easier to recruit qualified individuals. In existing centers serving more than 30 children, some directors who have a high school diploma may be unable to meet the requirement for four years of managerial or supervisory experience; however, in these centers, the head teacher may be assigned to serve as director while the present director accumulates the required experience in another managerial or supervisory position in the center. Further, directors of centers serving 30 or fewer children need only two years of non-managerial experience in a group program for children.

In addition, new requirements for physical facilities have been limited in most cases to new centers that will serve 16 or more children, thereby eliminating or minimizing expenses for existing centers of all sizes and smaller new centers. For example, new requirements for increased floor space and for location of toilet facilities on the same floor level as that used by children will apply only to centers that will serve at least 16 children and that begin operating on or after the operative date of the new Manual. Options for required monitoring methods to reduce the risk of child abuse/neglect allow inexpensive methods, such as leaving a door open, to be selected by centers of all sizes located in existing buildings and by centers that will serve up to 15 children in newly constructed buildings. Centers that will serve 16 or more children in newly constructed buildings will be able to incorporate the required glass panels or two-way mirrors into their construction plans at little cost. Centers of all sizes in newly constructed buildings will be required to have a sink located

in each toilet facility, a feature that is normally included in most new construction. Centers located in existing buildings need not meet this requirement and, thus, will be spared the expense of installing new sinks. Centers in newly constructed buildings and some existing centers will also be required to designate one toilet facility for adult use only; this provision is already required by the New Jersey Uniform Construction Code (NJUCC) for newly constructed centers and, thus, will have no impact on such new facilities. Further, this requirement will not apply to existing centers that have only one toilet facility or that have counted all toilets in determining the maximum number of children who can be served.

Some economic impact will result from the new requirements for sanitation and for the care of sick children. Centers may need to purchase items such as disinfectants, disposable gloves, and plastic liners for diaper pails, but the cost of these items is not prohibitive. More extensive staffing and physical facility requirements governing centers serving sick children will have an economic impact on such centers; however, centers will not be required to serve sick children and will have the option of excluding sick children from care. On the other hand, the new rules will allow centers that primarily serve well children to admit and retain mildly ill children whose illnesses, symptoms of illness and diseases do not exceed a prescribed level, without having to meet the additional requirements of centers that choose to serve sick children. This option, which is not permitted under the existing rules, will have a positive economic and social impact on both centers and the parents who use them. The Division believes that New Jersey is only the third state in the nation to adopt specific licensing rules for the care of sick children in licensed child care centers.

Regulatory Flexibility Statement

These proposed new rules affect child care centers, all of which fall within the definition of a small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Furthermore, the Manual provides differential requirements based on enrollment to assist smaller centers in meeting the requirements for licensure. For instance, centers serving fewer than 16 children may utilize a group teacher instead of a head teacher, and centers serving 16 to 30 children may utilize a consulting (part-time and/or volunteer) head teacher instead of a full-time head teacher. New centers serving fewer than 16 children are permitted to meet the physical and environmental requirements for existing centers in several areas even when additional requirements have been imposed on larger new centers.

In addition, the Division is preparing, for the first time, a "How-To Handbook," which will assist sponsors and directors of licensed centers in complying with the Manual of Requirements. This technical assistance publication, which will parallel and serve as a companion document to the licensing Manual, will be made available to all licensed centers. It contains sample forms that can be utilized to comply with the record-keeping requirements; useful information on professional organizations, resource and referral services, colleges and universities with early childhood degree programs, educational equipment companies, and resource materials; as well as clear-cut instructions, explanations, suggestions, management techniques and alternative means for complying with Manual provisions.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:122.

Full text of the proposed new rules follows.

CHAPTER 122 [MANUAL OF STANDARDS FOR CHILD CARE CENTERS] MANUAL OF REQUIREMENTS FOR CHILD CARE CENTERS

SUBCHAPTER 1. GENERAL PROVISIONS

10:122-1.1 Legal authority

(a) This manual is promulgated pursuant to the Child Care Center Licensing Law, N.J.S.A. 30:5B-1 to 15.

(b) Under N.J.S.A. 30:5B-1 to 15, the Department of Human Services is authorized to:

1. License certain public and private child care centers that are maintained for the care, development or supervision of six or more children under six years of age for less than 24 hours a day;

2. Inspect and examine the physical plant or facilities and program of a child care center and inspect all documents, records, files or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and

3. Request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine a center's compliance with State and local ordinances, codes and regulations. The inspections shall be conducted and the results reported to the Department within 60 days after the request.

(c) Under N.J.S.A. 18A:70-1 et seq., the Department of Human Services is authorized to issue a physical facility and life/safety approval to a center that was operating prior to May 16, 1984 and that was exempt from the provisions of N.J.S.A. 18A:70-1 et seq. because it was operated by an aid society of a properly organized and accredited church. Such centers are not required to be licensed pursuant to N.J.S.A. 30:5B-1 to 15; under N.J.S.A. 18A:70-1 et seq., they are required to comply with all physical facility and life/safety provisions of this manual of requirements, as specified in N.J.A.C. 10:122-5.1 to 5.3.

(d) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agency that it complies with all applicable provisions of this manual of requirements.

(e) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) to (c) above and with provisions of this manual is delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing.

(f) When a person intends to care for six or more children under six years of age, he or she shall apply for and secure from the Bureau a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this manual, even if the number and/or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 10:122-1.2(a).

10:122-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under six years of age who attend for less than 24 hours a day. For a facility that is located in a sponsor's home, the Bureau shall not count the children residing in the sponsor's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

(b) The term, child care center, shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation and/or park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth.

(c) The term, child care center, shall not include the following programs since they do not meet the definition of a child care center:

1. A program serving fewer than six children who are below six years of age;

2. A program, such as that located in a bowling alley, health spa or other facility, in which:

i. Each child attends on a drop-in basis for no more than two hours; and

ii. The parent of each child attending the program is in the same building, is readily accessible at all times on an on-call basis, and is able to resume control of the child immediately;

3. A child care program operating within a geographic area, enclave or facility that is owned and/or operated by the Federal government; and

4. A family day care home that is registered pursuant to the Family Day Care Provider Registration Law, N.J.S.A. 30:5B-16 et seq.

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

(d) The following programs are exempt from licensure pursuant to N.J.S.A. 30:5B-1 to 15:

1. Foster homes, group homes, and other types of in-home children's residential facilities or institutions, whether public or private, providing live-in care on a 24-hour basis. To qualify for an exemption from licensing under this provision, a facility must provide board, lodging or care for children on a 24-hour live-in basis;

2. Programs operated by and whose employees are paid by a public school district;

3. Programs operated by and whose employees are paid by a private school which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth;

4. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this provision, a center or special class must:

(1) Be an integral part of a bonafide church or religion;

(2) Serve only children who are two years of age or older;

(3) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories and/or teachings; and

(4) Operate and provide religious instruction for not more than two hours on any day; or

ii. For the temporary care of children while persons responsible for such children are attending religious services. To qualify for an exemption from licensing under this provision, a center or special class must:

(1) Provide care only for the children of participants in religious services that are an integral part of a bonafide church or religion;

(2) Be arranged by and responsible to the church or religion; and

(3) Provide child care only for the duration of time the services are in progress;

5. Special activities programs for children, including athletics, hobbies, art, music, dance, or craft instruction, which are supervised by an adult, agency or institution. To qualify for an exemption from licensing under this provision, a program must:

i. Provide activities that are supervised on a full-time basis by an adult; and

ii. Provide only a single instruction or activity program to children for not more than two hours on any day;

6. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health. A youth camp sponsor who also operates a child care center shall also secure a license from the Bureau for the center; or

7. Day training centers operated by the Division of Developmental Disabilities within the Department of Human Services. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a day training center by the Division of Developmental Disabilities, pursuant to N.J.S.A. 30:4.1 et seq.

10:122-1.3 Definitions

The following words and terms, when used in this manual, shall have the following meanings:

"Bureau" means the Bureau of Licensing, Division of Youth and Family Services, Department of Human Services.

"Child" means any person under six years of age.

"Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Bureau of an initial license or Certificate of Life/Safety Approval, for which a center has applied.

"Department" means the New Jersey Department of Human Services.

"Director" means the on-site staff member responsible for the daily operation and management of the center.

"Division" means the Division of Youth and Family Services, Department of Human Services.

"Manual of Requirements for Child Care Centers" or "Manual" means the provisions contained in N.J.A.C. 10:122-1.1 to 9.9. These provisions constitute minimum baseline requirements below which no center is legally permitted to operate.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Refusal to renew a license or a Certificate of Life/Safety Approval" means the non-issuance of a license or a Certificate of Life/Safety Approval by the Bureau to a center after its existing license or Certificate of Life/Safety Approval has expired.

"Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in full compliance with the physical facility and life/safety provisions of this manual, as specified in N.J.A.C. 10:122-5.1 to 5.3.

"Regular license" means a document issued by the Bureau to a center indicating that the center is in full compliance with all applicable provisions of this manual.

"Revocation of a license or a Certificate of Life/Safety Approval" means a permanent removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Shall" denotes a provision of this chapter that a center must meet to qualify for a license.

"Should" denotes a recommendation reflecting goals towards which a center is encouraged to work.

"Sponsor" means any person owning or legally responsible for operating a center. When the sponsor of a center is an entity owned or operated by two or more individuals, the sponsor shall designate one of those individuals to represent the interests and act on behalf of the sponsor.

"Staff member" or "staff" means any person(s) employed by or working for or at a center on a regularly scheduled basis. This includes full-time, part-time, voluntary, substitute, contract or consulting personnel, whether compensated or not.

"Suspension of a license or a Certificate of Life/Safety Approval" means a temporary removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in substantial compliance with the physical facility and life/safety provisions of this manual, as specified in N.J.A.C. 10:122-5.1 to 5.3, provided that no serious or imminent hazard affecting the children exists in the center.

"Temporary license" means a document issued by the Bureau to a center that is in substantial compliance with the applicable provisions of this manual, provided that no serious or imminent hazard affecting the children exists in the center.

10:122-1.4 Hours of care

(a) Centers operating during the normal waking hours shall not care for a child on a regular basis for more than 12 hours within a 24-hour period.

(b) Centers operating during the normal sleeping hours shall not care for a child on a regular basis for more than 16 hours within a 24-hour period.

SUBCHAPTER 2. LICENSING PROCEDURES

10:122-2.1 Application for a license

(a) No person shall operate a center without first securing a license from the Bureau. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the Child Care Center Licensing Law, is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial or renewal license to operate a center shall submit a completed application form to the Bureau

HUMAN SERVICES**PROPOSALS**

at least 45 days prior to the anticipated opening of the center or to the expiration of its existing regular license.

(c) An applicant for an initial or renewal license shall submit with the completed application form a \$75.00 licensing fee, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

1. If the application is denied, or the center does not open, the Bureau will, upon request, refund the licensing fee to the applicant.

2. The licensing fee will not be refunded once the Bureau issues the center a license.

10:122-2.2 Issuance of a license

(a) The Bureau shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this manual.

(b) If the Bureau determines that a center is in substantial compliance with but does not meet all applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of the children, the Bureau shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license.

(c) A temporary license may be issued for a period not to exceed six months. The Bureau may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Bureau shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Bureau shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center.

(f) A center shall not make claims contrary to its license either in advertising or in any written or verbal announcement or presentation.

(g) A facility or program caring for children shall not claim in advertising or in any written or verbal announcement or presentation to be a licensed center unless it has secured a license from the Bureau.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Human Services, or that it is accredited by any State department.

10:122-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor, the sponsor shall apply to the Bureau for either:

1. A separate license for each center in each building; or
2. A single license covering all the buildings that comprise a single center, provided that:
 - i. The buildings are on the same or contiguous properties;
 - ii. The programs have the same director; and
 - iii. The Bureau determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Bureau to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. Prior to approving the site, the Bureau shall determine that the multi-use site does not pose a serious risk to the health, safety or well-being of the children.

3. The Bureau may require the center to:

- i. Operate in a separate room, floor and/or section of the building;
- ii. Have or use a separate entrance and/or toilet facility; and/or
- iii. Meet any other physical plant, staffing, program or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location.

4. The sponsor of a center that has been approved to be located in a multi-use building shall notify the Bureau of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

10:122-2.4 Denying, suspending, revoking or refusing to renew a license

(a) The Bureau may deny, suspend, revoke or refuse to renew a license for good cause, including, but not limited to, the following:

1. Failure or refusal to comply with all applicable provisions of the Child Care Center Licensing Law and of this manual;

2. Violation of the terms and conditions of a license;

3. Use of fraud or misrepresentation in obtaining a license or in the subsequent operation of the center;

4. Refusal to furnish the Division with files, reports or records, as required by this manual;

5. Refusal to permit an authorized representative of the Division to gain admission to the center and/or to conduct an inspection or investigation during the center's operating hours;

6. Any activity, policy or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor or staff member(s) to operate a center;

7. Failure to provide developmental activities that meet the physical, social, emotional and cognitive needs of the children served; or

8. Failure by the sponsor to secure and maintain on file criminal conviction disclosures, as specified in N.J.A.C. 10:122-4.1(b) and (c).

(b) The Bureau shall provide written notice to the sponsor if it intends to deny, suspend, revoke or refuse to renew its application for a license. The notice shall specify the Bureau's reasons for such action.

(c) If the Bureau suspends a center's license to prevent the imminent risk of harm to children served by the center, the Bureau may reinstate the suspended license upon the center's compliance with all applicable provisions of this manual.

(d) If the Bureau denies, revokes or refuses to renew a center's license, as specified in (a) above, the center shall be prohibited from reapplying for licensure for one year from the date of license denial, revocation or refusal to renew. After the one-year period has elapsed, the center may submit to the Bureau a new application for a license.

(e) Each license issued by the Bureau to a center is the property of the State of New Jersey. If the Bureau suspends or revokes a license, the center shall return the license to the Bureau immediately.

10:122-2.5 Administrative hearings

(a) If a center fails to comply with all applicable provisions of this manual or if the Bureau seeks to deny, suspend, refuse to renew or revoke a center's license, the Bureau shall afford the center an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules N.J.A.C. 1:1.

(b) As long as the Division determines that the children are not at risk and no serious or imminent hazards exist, the Bureau may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

10:122-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this manual, the Bureau shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Bureau shall notify the sponsor in writing of the results of the investigation, pursuant to the State Public Records Law, N.J.S.A.

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(c) Whenever the Division, through its Bureau of Licensing, Institutional Abuse Investigation Unit or District Offices, conducts complaint investigations, the center shall cooperate with all Division investigators.

10:122-2.7 Public access to the Bureau's licensing records

Licensing files maintained by the Bureau are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Bureau, except when public access to records is restricted, in keeping with the State Public Records Law or other applicable statutes.

10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval for centers operated by an aid society of a properly organized and accredited church prior to May 16, 1984, pursuant to N.J.S.A. 18A:70-1 to 9

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Bureau by 10:122-5.1 to 5.3 and 10:122-2.1 to 2.8, except for N.J.A.C. 10:122-2.1(c).

(b) The applicant shall submit to the Bureau a \$50.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey", along with the completed application for a Certificate of Life/Safety Approval.

(c) The Bureau shall review the application form and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all provisions of N.J.A.C. 10:122-5. If the center is found to be:

1. In full compliance with such provisions, the Bureau shall issue a Regular Certificate of Life/Safety Approval to the center; or

2. In substantial compliance with such provisions, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Bureau shall issue a Temporary Certificate of Life/Safety Approval.

SUBCHAPTER 3. CENTER ADMINISTRATION

10:122-3.1 Administrative responsibility

The sponsor shall be legally responsible and held accountable by the Bureau for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this manual.

10:122-3.2 Reporting requirements

(a) The center shall notify the Bureau verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1. Injury or illness that results in the admittance to a hospital or death of a child, as specified in N.J.A.C. 10:122-7.10(b);

2. Occurrence of a reportable disease, as specified in N.J.A.C. 10:122-7.10(a);

3. Change in use by other occupants of a multi-use building in which the center is located, as specified in N.J.A.C. 10:122-2.3(d);

4. Permanent closing of the center;

5. Damage to the premises of the center caused by fire, accident or the elements;

6. Proposed use of emergency space including re-location or use of rooms not approved by local municipal officials or by the Bureau, as specified in N.J.A.C. 10:122-5.2(r); and

7. Any conviction(s) or guilty plea(s) of the sponsor, director or any staff member, as specified in N.J.A.C. 10:122-4.1(b)iii or (c)2.

(b) The center shall notify the Bureau verbally, within three working days, of any change(s) to the licensing information previously submitted to the Bureau on the completed application form, including but not limited to changes in location. The center shall notify the Bureau in writing within 30 calendar days of any such change(s).

10:122-3.3 Center records

(a) General requirements for center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Bureau:

2. The center's records shall be open for inspection by authorized representatives of the Division's Institutional Abuse Investigation Unit (IAIU) and, provided that they may only secure information about children under the Division's supervision, Division caseworkers.

(b) Requirements for administrative records are as follows:

1. The administrative records specified in (b)2 and 3 below shall be maintained by the center until the end of the current licensing period.

2. The following records shall be maintained in files located either at a central administrative office or at the center:

i. Comprehensive general liability insurance, as specified in N.J.A.C. 10:122-3.4;

ii. A record of:

(1) Monthly fire drills, as specified in N.J.A.C. 10:122-5.2(n)2iii; and

(2) Training sessions for staff members on the use of fire extinguishers and fire alarms and evacuation procedures, as specified in N.J.A.C. 10:122-5.2(p); and

iii. If the center provides transportation:

(1) Vehicle insurance, as specified in N.J.A.C. 10:122-9.6; and

(2) Transportation records, as specified in N.J.A.C. 10:122-9.7.

3. The following records shall be maintained in files located at the center:

i. A current manual;

ii. The Life/Safety and Program Inspection/Violation and Complaint Investigation Summary reports from the Bureau, as well as any letters of enforcement or other actions taken against the center, that cover the current licensing period;

iii. The documents providing information to parents, as specified in N.J.A.C. 10:122-3.6(a) and 10:122-7.11;

iv. A record of each parent's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a) and (b);

v. Documentation of the director's or designated staff member's daily, unannounced visits to each group of children, as specified in N.J.A.C. 10:122-4.4(b)2i;

vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:122-5.2(b)8;

vii. Signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events involving transportation of children away from the center, as specified in N.J.A.C. 10:122-6.8(e) to (g);

viii. A written policy on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(d);

ix. A written policy on the toilet training of children, if applicable, as specified in N.J.A.C. 10:122-7.7(b)3;

x. A written plan on the feeding schedules, formulas, and nutritional needs of children under 18 months of age, if served by the center, as specified in N.J.A.C. 10:122-6.3(b);

xi. A written policy on the release of children to parents or authorized person(s), as specified in N.J.A.C. 10:122-6.5(a);

xii. A record of an annual meeting to which all parents and staff members are invited, as specified in N.J.A.C. 10:122-6.8(a)3;

xiii. A written policy providing for the direct involvement of parents of enrolled children in the center's operation and activities, as specified in N.J.A.C. 10:122-6.8(b); and

xiv. A written outline of the center's daily activities, as specified in N.J.A.C. 10:122-6.1(d).

(c) The requirements for staff records are as follows:

1. The staff records specified in (c)2 and 3 below shall be maintained by the center for one year after the staff member has stopped working at the center.

2. The following records for the sponsor, director and all staff members shall be maintained in files located either at a central administrative office or at the center:

i. Applications for employment, as specified in N.J.A.C. 10:122-4.1(b)1 and (c);

ii. References on the director and staff members, as specified in N.J.A.C. 10:122-4.1(b)2;

HUMAN SERVICES

PROPOSALS

iii. A record of each staff member's signature attesting to the receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(e);

iv. A record of each staff member's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(b); and

v. Health information for staff members, as specified in N.J.A.C. 10:122-7.4.

3. The following staff records shall be maintained in files located at the center:

i. Staff attendance sheets, as specified in N.J.A.C. 10:122-4.4(b)3i; and

ii. For centers using a consulting head teacher to meet staffing requirements, a record of the consulting head teacher's two monthly visits to the center, as specified in N.J.A.C. 10:122-4.4(i).

(d) The requirements for children's records are as follows:

1. The children's records specified in (d)2 below shall be maintained by the center for one year after the child is no longer enrolled at the center.

2. The following records for each child shall be maintained in files located at the center:

i. A signed application for enrollment, as specified in N.J.A.C. 10:122-6.8(b)3i;

ii. Daily attendance records for children, as specified in N.J.A.C. 10:122-4.4(b)3ii;

iii. Records of the occurrence of any unusual incidents involving a child, as specified in N.J.A.C. 10:122-4.8(c);

iv. For a non-custodial parent:

(1) If applicable, written authorization from the custodial parent to allow visits by or releases to the non-custodial parent, as specified in N.J.A.C. 10:122-6.5(a)2; and

(2) If applicable, a court order denying access, or granting limited access by a non-custodial parent to his or her child;

v. Health information for children, as specified in N.J.A.C. 10:122-7.3; and

vi. Accident and injury records, as specified in N.J.A.C. 10:122-7.6(b).

10:122-3.4 Comprehensive general liability insurance

The sponsor shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy.

10:122-3.5 Telephone requirements

The center shall have its own telephone or accessibility to a telephone located in the same building in which the center is located so that staff members can receive incoming calls and make outgoing calls in a timely manner.

10:122-3.6 Special requirements to prevent child abuse/neglect

(a) The center shall give to the parent(s) of every enrolled child and to every staff member a written document indicating that the center is required to:

1. Be licensed by the Bureau of Licensing, Division of Youth and Family Services;

2. Comply with all applicable provisions of the Manual of Requirements for Child Care Centers;

3. Post its license in a prominent location within the center;

4. Retain a current copy of the Manual and make it available for parents' review;

5. Indicate how parents can secure a copy of the Manual from the Bureau;

6. Make available for parents' review the Bureau's Life/Safety and Program Inspection/Violation and Complaint Investigation Summary report(s) on the center, as well as any letters of enforcement or other actions taken against the center during the center's current licensing period.

7. Post a listing or diagram of those rooms and/or areas that have been approved by the Bureau for children's use;

8. Comply with the inspection/investigation functions of the Division, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director any questions or concerns about the policies

and procedures of the center or whether the center is in compliance with all applicable provisions of the Manual;

10. Advise parents that if they believe or suspect that the center is violating any requirement of the Manual, they may report such alleged violations to the center sponsor or director or to the Bureau;

11. Afford parents of enrolled children an opportunity to participate in the center's operation and activities;

12. Afford parents of enrolled children the opportunity to visit the center at any time during the center's hours of operation to observe its operation and program activities without having to secure prior approval;

13. Provide parents with advance notice of any field trip, outing or special event involving the transportation of children away from the center and, for each event, secure the written consent of the parent(s) before taking a child on such a field trip, outing or special event;

14. Post a copy of the center's written statement of policy on the disciplining of children by staff members in a prominent location within the center, and make a copy of it available to parents upon request;

15. Indicate through this document that any person who has reasonable cause to believe that a child has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment, or any other kind of child abuse, neglect or exploitation by any adult, is required by State law to report such allegations to the Division's Office of Child Abuse Control or any district office immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse/neglect from the Division;

17. Inform parents of the center's policy to release children only to parent(s) or authorized person(s);

18. Inform parents of the center's policy on dispensing medication; and

19. Provide parents with a copy of the center's policy on management of communicable diseases.

(b) The center shall comply with the requirements specified in (a) above by:

1. Providing the document to every parent upon enrollment of each child, and to every person upon becoming a staff member; and

2. Securing and maintaining on file a record of the parent's and staff member's signature attesting to receipt of the document.

SUBCHAPTER 4. STAFF REQUIREMENTS

10:122-4.1 General requirements for sponsor, director, and all staff members

(a) The sponsor, director, and every staff member shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and

3. Possess skills, attributes, and characteristics conducive to and suitable for sponsoring a center or dealing with young children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center for at least 20 percent of the center's weekly operating hours, the sponsor and director, respectively, shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number; education and work experience; and disclosure of the presence or absence of criminal conviction(s). The employment application shall be updated to indicate the reason for discontinuance of employment, if applicable; and

2. Two written and/or verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience and/or education and who can attest to the individual's suitability to work with children under the age of six. The verbal references shall be documented in writing by the sponsor or director.

PROPOSALS

Interested Persons see Inside Front Cover

HUMAN SERVICES

(c) Prior to hiring or utilizing a staff member who will be working at the center for less than 20 percent of the center's weekly operating hours, the director shall secure and maintain on file, the applicant's:

1. Name, address and telephone number;
2. Signed statement disclosing the presence or absence of criminal convictions; and
3. References, as specified in (b)2 above.

(d) The sponsor shall:

1. Maintain on file for himself or herself the information specified in (c)1 and 2 above; and
2. Disclose to the Bureau, in writing, information about and circumstances surrounding any previous denial, suspension, revocation or non-renewal of a license to own or operate a center either by the Bureau or by the licensing agency of another state.

(e) Failure by a sponsor, director or other staff member to comply with the requirements specified in (a) to (d) above and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor, director or other staff member from his or her position;
2. Reassignment to other duties that do not involve contact with children;
3. Termination from the center; and/or
4. Denial, refusal to renew, suspension or revocation of the center's license.

(f) Evidence of conviction for crimes of violence, anti-social behavior and/or child abuse/neglect shall be among those actions that are considered in determining an individual's fitness and suitability to serve as sponsor, director or staff member.

(g) Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as sponsor, director or staff member or from working in the center and shall not automatically result in the removal or termination of a sponsor, director or staff member. Such decisions, to be made on a case by case basis, shall be proposed by the center to the Bureau, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

(h) Evidence of a previous denial, suspension, revocation or non-renewal of a license, as specified in (d)2 above, shall not in and of itself result in an automatic disqualification of the prospective sponsor or sponsor to secure a license for another or the same center, but shall constitute grounds for the Bureau to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

10:122-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A sponsor, who may also serve as the director and/or as one of the staff members specified in (a)3 below;
2. A director, who may also serve as one of the staff members specified in (a)3 below; and
3. Based on center size, one or more head teachers, group teachers and/or consulting head teachers, as specified in the chart below; and

TYPES OF STAFF MEMBERS REQUIRED AT THE CENTER

Licensed Capacity	Head Teacher(s)	*Group Teacher(s)	Consulting Head Teacher
6- 15	1	or 1	or 1
16- 30	1	or (1	and 1)
31- 60	1		
61-120	1	and 1	
121-180	1	and 2	

181-240	2	and	2
241-300	2	and	3
301-360	3	and	3
361-420	3	and	4
421-480	4	and	4
481-540	4	and	5

*A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 10:122-4.5(b), may be utilized for a required group teacher.

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3.

(b) As an exception to the requirements of (a) above, centers with a licensed capacity of from six to 30 children, 50 percent or more of whom have special needs as a result of a cognitive, socio-emotional or physical handicap or disorder, shall have a head teacher.

10:122-4.3 Staff/child ratios

(a) The children shall be supervised by a staff member at all times, including during toileting procedures and walking through hallways.

(b) A minimum of two staff members, one of whom shall be at least 18 years of age, shall be on the premises and involved in the care of the children, when:

1. At least six children are present; or
2. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age and/or children with special needs, require two staff members.

(c) There shall be a minimum of two staff members accompanying children on any walk, field trip, outing or special event away from the center, even when the appropriate staff/child ratios allow fewer than two staff members.

(d) The following staff/child ratios shall apply, except as specified in (c) above and (e) to (g) below:

Age	Staff/Child Ratio
Under 18 months	1:4
18 months to 2½ years	1:7
2½ years to 4 years	1:10
4 years	1:15
5 years	1:15

(e) The following staff/child ratios shall apply during rest or sleep when the criteria listed in (e)1, 2 and 3 below are met:

Age	Staff/Child Ratio
Under 2½ years	1:10
2½ years to 6 years	1:20

1. At least one staff member shall be physically present in the room or area in which children are napping and shall be able to summon other staff members without leaving the room or area.

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the staff/child ratios specified in (d) above.

3. Naptime preparations shall have been completed and all children above 12 months of age shall be resting or sleeping, while all children 12 months of age or below shall be sleeping.

(f) The following staff/child ratios shall apply for centers serving children, 50 percent or more of whom have special needs, as a result of a cognitive, socio-emotional or physical handicap or disorder:

Age	Staff/Child Ratio
Under 2½ years	1:3
2½ years of age and over (non-ambulatory)	1:3
2½ years of age and over (ambulatory)	1:5

(g) Centers serving children who are sick shall comply with the variation on staff/child ratios for sick children, as specified in N.J.A.C. 10:122-8.3(c).

(h) In computing the required number of staff, the center shall apply the applicable staff/child ratios, as specified in (d) to (g) above, to the actual number of children in attendance at the center. The total number of staff members required for a center shall be the sum total of staff members required per room or area. The number of staff members per room or area shall be computed by dividing the number of children in attendance per room at any given time by the staff/child ratio required for the age of the children served. When this resulting figure is any fraction above a whole number, an additional staff member shall be required.

(i) When children of mixed ages requiring different staff/child ratios are in one room, the center shall compute the staff/child ratios applicable for each age group separately to the nearest tenth decimal. If the resulting cumulative figure for all age groups is any fraction above a whole number, an additional staff member shall be required.

(j) For purposes of determining whether a required staff/child ratio is met, only those staff members who are involved in the direct care and supervision of children shall be counted.

(k) Staff members who are 14 years of age or older may be counted for purposes of computing the staff/child ratio. However, staff members below 16 years of age shall only be utilized when school is not in session or, if school is in session, only if they are participating in a school/work program.

(l) Staff members who are under 18 years of age must be directly supervised by and visible to a staff member who is 18 years of age or older.

10:122-4.4 Staff responsibilities

(a) The sponsor shall:

1. Be responsible for hiring or appointing a director; and
2. Ensure that the director operates the center in compliance with all applicable provisions of this manual.

(b) The director shall be responsible for ensuring:

1. That the center complies with all applicable provisions of this manual;
2. The supervision of all staff members, including:
 - i. Daily unannounced visits by the director or his or her designee, on a random daily time schedule, to each group of children; and
 - ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 10:122-5.3(c)1i, observation of such a system, on a random daily time schedule, by the director or his or her designee;
3. The development and implementation of policies and procedures for the day-to-day operation of the center, including:
 - i. Maintenance of staff attendance sheets indicating daily hours worked; and
 - ii. Maintenance of children's daily attendance sheets, including the daily time of arrival and departure for children who attend on an irregular, unscheduled drop-in basis;
4. The orientation of staff members to the operation of the center,

including physical layout, job descriptions, and daily policies and procedures:

5. The training of staff members, as specified in N.J.A.C. 10:122-4.7;

6. The development and maintenance on file of administrative, staff and children's records; and

7. The establishment and maintenance of a staff member substitute system.

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

(d) When the director or any head teacher or required group teacher is away from the center for six or more weeks, the sponsor or director shall hire and/or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 10:122-4.5, to assume the applicable responsibilities of the position, as specified in this section.

(e) The director or his or her designee(s) shall be on the premises at all times when the center is operating.

(f) The head teacher(s) shall:

1. Ensure the development and implementation of the center's child development and activities program;
2. Ensure the appropriateness of program activities according to both the age and developmental level of the child, as specified in N.J.A.C. 10:122-6.1(a); and
3. Be scheduled to work for at least 75 percent of the center's daily operating hours, or at least six hours a day, whichever is less.

(g) The group teacher(s) shall:

1. Be responsible for supervising a specific group(s) of children;
2. Assist the head teacher in implementing the center's child development and activities program; and
3. Assist the head teacher in ensuring that the program activities are appropriate to both the age and developmental level of the children served, as specified in N.J.A.C. 10:122-6.1(a).

(h) The group teacher, when used in lieu of a head teacher for centers having a capacity of up to 30 children, as specified in N.J.A.C. 10:122-4.2(a)3, shall fulfill the responsibilities for head teacher, as specified in (f) above.

(i) The consulting head teacher shall make two on-site visits to the center during each month the program is operating for the purpose of:

1. Conducting staff training;
2. Observing the center's program; and
3. Ensuring that the provisions specified in (f)1 and 2 above are met.

(j) The center shall maintain on file a written record of the date, purpose and nature of each visit by the consulting head teacher.

10:122-4.5 Staff qualifications

(a) The director shall meet the qualification requirements specified in one of the following six options set forth in the chart below for education and experience:

1. For centers licensed to serve more than 30 children, the options in the chart below apply:

OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS

Option	Educational Credentials	and Experience Requirements
A	Master's Degree in: —early childhood education; or —child development/psychology; or —business administration; or —any other field related to young children or business.	(N/A)
B	Bachelor's Degree	One year of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.
C	Child Development Associate (CDA) or Group Teacher Approval Certificate	Two years of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.

D	Six college credits in: —early childhood education; or —child development.	Three years of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.
E	Six college credits in business administration/management	Three years of managerial or supervisory experience in a child care program, educational institution or business, of which one year shall be in a field related to children.
F	High School Diploma or General Education Development (GED) Diploma	Four years of managerial or supervisory experience in a child care program, educational institution or business, of which two years shall be in a field related to children.

2. For centers licensed to serve 30 or fewer children, the following qualifications apply:

i. One of the six options specified in the chart in (a)1 above; or

ii. A high school diploma or GED diploma and:

(1) Two years of managerial or supervisory experience in business and/or recreation fields; or

(2) Two years of experience in a group program for children.

(b) The head teacher or consulting head teacher shall meet the qualification requirements specified in one of the six options set forth in the chart below for education and experience:

1. For all centers, the options in the chart below apply:

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS

Option	Educational Credentials	and College Credits and Experience
A	Master's Degree in Education	Six credits and one year of experience
B	Master's Degree in any field other than Education	Nine credits and one year of experience
C	Bachelor's Degree in Education, Psychology, Health Care, Nursing, or any other field related to Child Growth and Development	Six credits and two years of experience
D	Bachelor's Degree in any field other than those listed in Option C	Nine credits and three years of experience OR Six credits and four years of experience
E	Teaching Certification from Department of Education in Elementary Education, Nursery School or Teacher of the Handicapped	Six credits and two years of experience
F	Teaching Certification from Department of Education in a field other than those listed in Option E	Nine credits and three years of experience OR Six credits and four years of experience

i. The credits specified in the chart above shall be college credits in early childhood education and/or child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).

ii. For conditional approval, the center shall submit to the Bureau documentation of enrollment in courses leading to the credits specified in the chart above. This conditional approval shall be valid for a maximum of nine months, at which time the center shall submit to the Bureau a transcript indicating completion of these credits.

iii. The years of experience specified in the chart above shall be full time experience in a group program for children under six years of age. This experience may include supervised practice teaching and/or student teaching.

2. For centers approved either by the American Montessori Society (AMS) as an affiliated center or by the American Montessori International (AMI-USA) as a recognized or associated center:

i. One of the options specified in the chart in (b)1 above; or

ii. A Montessori Pre-Primary Credential (AMS) or a Montessori Diploma (AMI-USA) and two years of full time experience in a group program for children under six years of age;

3. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency:

i. One of the options specified in the chart in (b)1 above; or

ii. Certification as a Recreation Administrator or a Recreation Supervisor from the New Jersey Department of Community Affairs, Board of Recreation Examiners (BRE) and two years of recreation experience; or

iii. Certification as a Recreation Professional from the National Recreation and Park Association (NRPA) and two years of recreation experience.

(c) The group teacher shall possess the following qualifications:

1. Educational requirements as follows:

i. An associate's degree in early childhood education or child development; or

ii. Fifteen college credits, of which a minimum of six credits shall be in early childhood education or child development. The remaining credits shall be from the areas of education, psychology, health care, nursing or any other field related to child growth and development. For conditional approval, the center shall submit to the Bureau documentation of the following:

(1) When the individual meets the experience requirement in (c)2i below, 12 college credits in the areas in (c)2 above and documentation of enrollment in a course(s) leading to the remaining three credits. This conditional approval shall be valid for a maximum of nine months, at which time the center shall submit to the Bureau documentation showing that the individual has acquired the three additional credits; or

(2) When the individual has three years of teaching experience in a group program for children under six years of age, six college credits in early childhood education or child development. This conditional approval shall be valid for a maximum of two years, at which time the center shall submit to the Bureau, documentation showing that the individual has acquired the nine additional credits;

iii. A Child Development Associate (CDA) credential; or

iv. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency, certification as a Recreation Technician from the NRPA, or the educational requirements specified in (c)lii or iii above:

2. Experience requirements as follows:

i. One year of teaching experience in a group program for children under six years of age, which may include supervised practice teaching and/or student teaching, for those group teachers who meet the requirements specified in (c)li, ii or iii above;

ii. For centers meeting the requirements in (c)liv above, one year of recreation experience may be substituted for the experience specified in (c)2i above.

(d) The center shall submit to the Bureau documentation of the applicable education and experience, as specified in (a) to (c) above.

10:122-4.6 Grouping of children

(a) A group shall consist of the number of children:

1. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition or any other room divider or separation having a height above the eye level of the children who will use that area; or

2. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

(b) Each group shall be limited to a maximum of 20 children except during meals, naptime, outdoor activities, specially scheduled events (for example, parties, community speakers, films, etc.), and daily information sharing sessions (for example, "circle time"), which shall not exceed 15 minutes in duration.

(c) For children under 2½ years of age, in addition to (a) and (b) above, a particular staff member shall be assigned to a specific group of children, in accordance with applicable staff/child ratios, as specified in N.J.A.C. 10:122-4.3.

10:122-4.7 Staff training and development

(a) The director shall ensure that all staff members are trained in the following:

1. Understanding center operations, policies and procedures, as specified in N.J.A.C. 10:122-4.4(b)4;

2. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 10:122-6.6;

3. Recognizing and reporting child abuse/neglect, as specified in N.J.A.C. 10:122-4.8;

4. Supervising all children, as specified in N.J.A.C. 10:122-4.3(a);

5. Implementing health practices, as specified in N.J.A.C. 10:122-7.1 to 7.11;

6. Evacuating the center, as specified in N.J.A.C. 10:122-5.3(1)1;

7. Using the fire extinguisher and fire alarms, as specified in N.J.A.C. 10:122-5.2(p);

8. Implementing the center's release policy, as specified in N.J.A.C. 10:122-6.5; and

9. Planning for and providing age appropriate activities, as specified in N.J.A.C. 10:122-6.1.

10:122-4.8 Special requirements to prevent child abuse and/or neglect

(a) The sponsor, director or any staff member shall verbally notify the Division's Office of Child Abuse Control or district office immediately whenever there is reasonable cause to believe that a child has been subjected to abuse and/or neglect by a staff member(s), or any other person, pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14).

(b) For centers serving children under the Division's supervision, the sponsor, director or any staff member shall report any suspected abuse or neglect of the child by his or her parent(s) or other family members to the Division caseworker assigned to the family.

(c) In addition to the reporting requirements specified in (a) above, the sponsor, director or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse and/or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not

limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(d) The Division, during the course of investigating an allegation of child abuse and/or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor, director or staff member has been found by the Division's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; and/or

2. The sponsor, director or staff member has committed an act of child abuse and/or neglect, as substantiated by the IAIU; and/or

3. The sponsor, director or staff member has been convicted of such acts.

(e) Whenever the Division makes a determination that corrective action is necessary to protect the children, the sponsor shall carry out the Division's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor, director or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the sponsor, director or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

(f) Such suspension, removal or reassignment, as specified in (e)1 and 2 above, shall remain in effect until the results of the Division's investigation have been determined, and a final decision in the matter has been rendered by the Bureau.

(g) Substantiation of the child abuse and/or neglect allegation by the Division's IAIU shall not, in itself, automatically result in the termination of the accused sponsor, director or staff member(s) from his or her position in the center, but shall constitute grounds for possible termination if the person's continued employment at the center would place the children at risk. Such determination shall be made by the Bureau after considering information provided by the sponsor, the affected staff member(s), the IAIU and law enforcement authorities, as applicable and available.

SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

10:122-5.1 State, county and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Bureau, for one of the following use group classifications:

i. E (Educational) for buildings accommodating children 2½ years of age and/or older and having a total occupancy of 50 or more children;

ii. B (Business) for buildings accommodating children 2½ years of age and/or older and having a total occupancy of more than five and fewer than 50 children; or

iii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age.

2. Plan reviews for centers to be located in newly constructed buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor that plans to construct a new or renovate an existing building for use as a center shall submit preliminary and/or final architectural drawings to the Bureau for review and approval prior to beginning construction.

ii. The sponsor shall submit to the Bureau revised final architectural drawings containing all Bureau-required items listed in the plan review, if any, and secure final approval from the Bureau prior to beginning construction.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already E, B or I-2 and that have not had major alterations or renovations since receipt of the CO, the center shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's E, B or I-2 use group classification. The center shall submit a copy of the building's CO to the Bureau.

4. For existing buildings whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a center and that have not had major alterations or renovations, the center shall obtain a Certificate of Continued Occupancy (CCO), or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a center. The center shall submit a copy of the building's CCO to the Bureau.

5. The center shall obtain a new CO issued by the municipality in which the center is located, and submit a copy to the Bureau, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, whenever the center:

- i. Changes the building's use group classification to one other than the one prescribed on its original CO;
- ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises in which the center is located;
- iii. Increase the floor area or the number of stories to the building or premises in which the center is located; or
- iv. Relocates to another site.

6. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Bureau may accept such variation(s) as meeting the applicable requirement(s) of this manual.

(b) An applicant seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A and 18B and hereinafter referred to as the NJUFC. The center shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the center's compliance with all applicable provisions of the NJUFC. The center shall submit a copy of the building's fire safety inspection certificate to the Bureau.

(c) The center shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The center shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the center complies with applicable provisions of local, county and State health codes and poses no health hazard to the children served. The center shall submit a copy of the certificate or statement of satisfactory health approval to the Bureau.

(d) An applicant seeking the renewal of a license or of a Certificate of Life/Safety Approval to continue operating a center shall obtain a fire safety inspection certificate for the building and a certificate or statement of satisfactory health approval for the center. The center shall submit copies of the building's fire safety inspection certificate and certificate or statement of satisfactory health approval to the Bureau.

(e) A center that qualifies for a Certificate of Life/Safety Approval shall meet the provisions of N.J.A.C. 10:122-2 and 5.

(f) A center that plans to locate or is already located in a hospital or other health care facility, as defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., shall obtain a letter from the Department of Health, indicating that department's approval. The center shall submit a copy of the approval letter to the Bureau.

10:122-5.2 Physical plant requirements

(a) All electrical outlets that are accessible to the children shall have protective covers.

(b) Indoor maintenance and sanitation requirements are as follows:

1. The center shall be free of moisture resulting from water leaks or seepage.

2. All lally columns in areas used by the children shall have protective padding placed around them from the floor to a height of at least 48 inches.

3. Floors, carpeting, walls, window coverings, ceilings, and other surfaces shall be kept clean and in good repair.

4. Stairways shall be free of tripping hazards, such as toys, boxes, loose steps, uneven treads, torn carpeting, raised strips, or uneven risers.

5. Carpeting shall be securely fastened to the floor.

6. Garbage receptacles shall be:

- i. Made of durable, leakproof and nonabsorbent materials;
- ii. Covered in a secure manner;
- iii. Emptied to the outdoor garbage receptacle when filled; and
- iv. Maintained in a sanitary manner.

7. Food waste receptacles shall be lined and maintained in clean and sanitary condition.

8. The center shall be free of rodent or insect infestation and shall take immediate action to remove any infestation that should occur. The center shall maintain on file a record documenting the use of extermination services.

9. Toilets, wash basins, kitchen sinks, and other plumbing shall be maintained in good operating and sanitary condition.

10. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.

11. All windows and other glass surfaces that are not made of safety glass and that are located within 36 inches above the floor shall have protective guards.

12. Ventilation outlets shall be clean and free from obstructions, and filters shall be replaced when saturated.

13. Walls shall be painted or otherwise covered whenever there is evidence of:

- i. Excessive peeling or chipped paint; or
- ii. Heavily soiled conditions.

14. All shelving shall be secured and not overloaded.

(c) Outdoor maintenance and sanitation requirements are as follows:

1. The building, land, walkways, and outdoor play area shall be free from any hazards to the health, safety or well-being of the children.

2. The outdoor play area shall be graded and provided with drains to dispose of surface water.

3. The building structure shall be maintained to prevent:

- i. Water from entering;
- ii. Excessive drafts or heat loss; and
- iii. Infestation from rodents and insects.

4. The railings of balconies, landings, porches, or steps shall be maintained in safe condition.

5. Garbage receptacles shall be:

- i. Made of durable, leakproof and nonabsorbent materials;
- ii. Covered in a secure manner and located in an outdoor area; and
- iii. Maintained in a sanitary manner.

6. Centers that provide outdoor space shall maintain in proper condition all fencing or other natural or man-made barriers or enclosures.

(d) Lighting requirements are as follows:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During program activities, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by center occupants at night shall be illuminated to provide safe entrance to and egress from the center.

(e) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all rooms used by the children.

2. Steam and hot water pipes, radiators, and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

3. The center shall not use portable liquid fuel-burning or wood-burning heating appliances.

(f) Ventilation requirements are as follows:

1. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

2. All floor or window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering.

(g) Toilet facility requirements are as follows:

1. All centers shall comply with the following:

i. A supply of hot tap water not exceeding 110 degrees Fahrenheit and cold running water shall be provided.

ii. A supply of soap, toilet paper, and individual hand towels or disposable paper towels shall be provided.

iii. Mirrors, dispensers, and other equipment shall be fastened securely.

iv. Platforms shall be available for use by the children when adult size toilets, and/or sinks, and/or urinals are used by the children.

2. For centers that began operating or changed their use group on or after January 1, 1988, there shall be a 1:15 toilet/child ratio for all children served, regardless of the ages of the children served.

3. For centers in operation prior to January 1, 1988 that serve children 18 months of age and older:

i. The minimum number of toilets and sinks required in the center shall be determined in accordance with the following table:

Number of Children	Number of Toilets	Number of Sinks
6- 15	1	1
16- 35	2	2
36- 60	3	3
61- 80	4	4
81-100	5	5
101-125	6	6
126-150	7	7
151-175	8	8
176-200	9	9
201-225	10	10
226-250	11	11
251-275	12	12
276-300	13	13
301-325	14	14
326-350	15	15
351-375	16	16
376-400	17	17
401-425	18	18
426-450	19	19

ii. Urinals may be counted in determining the number of toilets that the center must have, provided that:

(1) At least two toilets are available at the center; and

(2) Two urinals are counted as one toilet towards determining the maximum occupancy of the center.

4. For centers in operation prior to January 1, 1988 that serve children below 18 months of age:

i. In centers serving 15 or fewer children, there shall be at least one toilet and one sink.

ii. In centers serving more than 15 children, there shall be at least two toilets and two sinks.

5. For centers in operation prior to January 1, 1988 that serve a mix of children ranging from birth through five years of age, the center shall either:

i. Meet the toilet and sink requirements specified in (g)3 above, based on the total number of children being served at the center,

provided that all toilets and sinks are utilized by children of all ages; or

ii. Determine the number of children above and below 18 months of age and meet the toilet and sink requirements for the number of children being served in each age category, as specified in (g)3 and 4 above.

6. The location of toilet facilities shall be as follows:

i. Toilet facilities and sinks shall be located no more than one floor above or below the floor level(s) used by the children in centers that:

(1) Began operating prior to the effective date of this manual; or

(2) Began operating on or after the effective date of this manual and serve fewer than 16 children;

ii. At least one toilet facility and sink shall be located on each floor level(s) used by children in centers that began operating on or after the effective date of this manual and serve 16 or more children:

iii. There shall be at least one sink located in each toilet facility in centers to be located in newly constructed buildings.

(h) Kitchen facility requirements are as follows:

1. A center utilizing a kitchen facility and/or food preparation area shall ensure that:

i. The cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24;

ii. The kitchen facility and/or food preparation area is separated from other areas of the center by a door, gate, screen or other barrier to prevent accidental access by children.

2. The kitchen may be used for children's program cooking activities only when it is not being used for preparation of meals for consumption by enrolled children.

(i) Lead paint precautions are as follows:

1. The center shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a center, or on any furniture, toys, or other equipment used therein, in accordance with provisions of the State Lead Paint Law, pursuant to N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, as specified in N.J.A.C. 8:51-7.

2. When lead paint is found in areas of a center not specified in N.J.A.C. 8:51-7, the Bureau shall determine whether the lead paint is hazardous to the health, safety and well-being of the children served and, if considered to be hazardous, the center shall remove the lead paint hazard.

(j) Asbestos precautions are as follows:

1. Coatings containing asbestos shall not be sprayed on any interior or exterior surfaces of a building used as a center, or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2.

2. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the sponsor shall follow the recommendation of the State Health Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination.

(k) Wading and swimming pool requirements are as follows:

1. Pools that are at least 24 inches in depth shall be defined as swimming pools and subject to the requirements specified in (k)3 below. Pools that are less than 24 inches in depth shall be defined as wading pools.

2. For wading pools that do not have water filtration systems, the center shall change the water after each use by a group of children.

3. The center shall ensure that any swimming pool or natural bathing place used by the children complies with provisions of the Public Recreational Bathing Rules as specified in N.J.A.C. 8:26.

4. The center shall ensure that the children using swimming pools or natural bathing facilities are supervised in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

5. If a child defecates in the swimming pool, all solid wastes shall be removed and the pool shall be super-chlorinated and not used until the chlorine level returns to levels identified as acceptable in the Public Recreational Bathing Rules, N.J.A.C. 8:26.

- (l) Emergency evacuation instruction requirements are as follows:
1. The center shall prepare written emergency evacuation instructions delineating:
 - i. The location of the first aid kit and any additional first aid supplies;
 - ii. The name, address and telephone number of the physician retained by the center or of the health facility to be used in emergencies;
 - iii. The procedure for obtaining emergency transportation;
 - iv. The hospital and/or clinic to which injured or ill children will be taken;
 - v. The telephone numbers of the local police and fire departments and ambulance service;
 - vi. The location of written authorization from parent(s) for emergency medical care for each child;
 - vii. A diagram showing how the center is to be evacuated in case of emergency; and
 - viii. The location of fire alarms and fire extinguishers.
 2. The emergency evacuation instructions shall be posted in a prominent location on every floor within the center.
- (m) Supplemental evacuation requirements are as follows:
1. Cribs, beds, playpens, cots or mats shall be placed at least one foot apart and shall be arranged so as to provide access to a three-foot-wide aisle that leads to an unobstructed exit.
 2. To assure the safe and timely evacuation of the children from the center during a fire or other emergency, centers required to secure a Certificate of Life/Safety Approval shall meet the minimum staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3(d).
- (n) Fire prevention requirements are as follows:
1. The center shall conduct fire drills at least once a month.
 2. Centers serving sick children shall comply with the fire drill variation provisions specified in N.J.A.C. 10:122-8.4(f).
 3. The center shall maintain on file a record of each fire drill, which record shall include:
 - i. The date and time of day of the drill;
 - ii. The weather condition at the time of evacuation;
 - iii. The number of participating children and staff members; and
 - iv. The total amount of time taken to evacuate the center.
 4. All fire extinguishers shall be serviced and tagged at least once a year and recharged, if necessary.
- (o) First aid requirements are as follows:
1. A staff member who has current certified basic knowledge of first aid principles and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross), should be in the center during periods of operation.
 2. The following equipment shall be placed in a location that is convenient and accessible to staff members:
 - i. A standard first aid kit, which is fully re-stocked within 24 hours of use; and
 - ii. The American Red Cross First Aid Manual or its equivalent.
- (p) All staff members shall be instructed in the use of fire extinguishers, alarms, and the emergency evacuation information specified in (l)1 above. The center shall maintain on file a record of the training sessions.
- (q) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic and free of hazards.
- (r) Space and room requirements are as follows:
1. All space and rooms within the center to be used by children shall be inspected and approved by the Bureau prior to their use. In making its determination, the Bureau shall consider whether the space is too far removed, remote or isolated from other areas of the center to be used by children.
 - i. For those rooms or areas that are too far removed, remote or isolated from other centrally located rooms or areas of the center, the Bureau may require the use of additional staff members, above those required for staff/child ratios, before granting approval.
 - ii. Rooms or areas of the center that are not Bureau-approved for use by children shall be locked and shall not be used by any children. The sponsor shall ensure that the keys to such locked, unapproved

- rooms or areas are kept in a safe and secure place, accessible only to the sponsor or director.
2. At no time shall a center allow more children in attendance than the number specified on its license or Certificate of Life/Safety Approval.
3. Indoor space requirements for play rooms/sleep rooms are as follows:
 - i. The minimum square footage of usable activity indoor floor space shall be determined by excluding the space used in or by hallways, toilet facilities, offices, storage rooms, staff rooms, furnace rooms, kitchen areas, lockers, closets, and any other stationary equipment or areas that children do not use for sleep or play.
 - ii. There shall be a minimum of 30 square feet of usable activity indoor floor space for each child in centers that:
 - (1) Began operating prior to July 1, 1989 or;
 - (2) Began operating on or after July 1, 1989 and serve fewer than 16 children.
 - iii. There shall be a minimum of 35 square feet of usable activity indoor floor space for each child in centers that began operating on or after July 1, 1989 and serves 16 or more children.
 - iv. Centers serving sick children shall comply with the variation provisions on determining net indoor floor space per child, as specified in N.J.A.C. 10:122-8.4(a).
 - v. The center shall identify all rooms of the center that have been approved by the Bureau. This identification shall consist of numbers, letters, names or any other means of identification and shall be located either inside or directly outside each room.
4. Separate room or area requirements for children who become ill are as follows:
 - i. There shall be a room, section of a room, or a separate area in the center to which children who are exhibiting those illnesses, symptoms of illness, and diseases specified in N.J.A.C. 10:122-7.1(c) shall be taken and where they shall be cared for until they can return home, be suitably cared for elsewhere, or be diagnosed as posing no health risk to themselves or others.
 - ii. The separate room, section or area shall be furnished with sleeping equipment and sheets, blankets or other coverings.
 - iii. Centers serving only sick children shall comply with the variation provision for separating ill children, as specified in N.J.A.C. 10:122-8.4(b) and (g)2.
5. Outdoor space requirements for children over the age of 10 months are as follows:
 - i. For children in attendance for three or more consecutive hours, the center shall provide a minimum of 150 square feet of net outdoor space. When more than five children are using such a space at one time, there shall be 30 square feet of net outdoor space for each additional child in addition to the required minimum of 150 square feet.
 - ii. The outdoor area shall be adjacent to, within close proximity or in the same neighborhood of the center and available for use by the children.
 - iii. Outdoor areas located near or adjacent to hazardous areas determined by the Bureau to be unsafe (including, but not limited to, streets, roads, driveways, parking lots, railroad tracks, swimming pools, rivers, streams, steep grades, cliffs, open pits, high voltage boosters or propane gas tanks) shall be fenced or otherwise protected by a natural or man-made barrier or enclosure.
 - iv. If a center can demonstrate to the satisfaction of the Bureau that it cannot meet the outdoor space requirement, the center shall provide, in addition to space for play rooms, a minimum of 150 square feet of net indoor floor space. When more than five children are using such space at one time, there shall be 30 square feet of net indoor floor space for each additional child in addition to the minimum of 150 square feet. The indoor floor space may be either on the site of the center or at another nearby indoor facility, such as a gymnasium, exercise room or other recreational facility.
 - v. Center serving only sick children shall comply with the variation provisions for outdoor space, as specified in N.J.A.C. 10:122-8.4(g)1.
- (s) All balconies, rooftops, verandas and/or all floor levels used by children that are above the first floor and subject the children

to an open drop or atrium shall be protected by barriers consisting of safety glass, plexiglass or any other materials approved by the Bureau. Such barriers shall extend at least five feet above the floor level.

(t) In addition to all of the above requirements, the Bureau may also require the center to take whatever steps are necessary to correct any conditions in the building or center that may endanger in any way the health, safety, and well-being of the children served.

10:122-5.3 Special physical facility and monitoring requirements to prevent child abuse and/or neglect

(a) At least five-foot candles of natural or artificial light shall be provided in all rooms used by children during naptime. The illumination shall be measured three feet above the floor at the farthest point from the light source.

(b) Doors in all interior rooms designated for use by children shall remain unlocked.

(c) Monitoring requirements for rooms and/or areas used by children are as follows:

1. Except as noted in (c)2 below, the center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and/or audibility:

- i. A centrally supervised audio or visual monitoring system;
- ii. Uncovered and unobstructed glass panels and/or two-way mirrors that comprise at least 10 percent of the square footage of one interior wall, provided that such panels/mirrors are not in conflict with applicable provisions of the NJUCC and/or the NJUFC;
- iii. Security mirror(s) in hallways that reflect actions in the room(s) used by children;

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC and/or the NJUFC:

- (1) Be left open;
- (2) Have uncovered and unobstructed windows or cutouts;
- (3) Be of the dutch door variety, with the top half open; or
- (4) Be removed; or

v. Any other Bureau-approved monitoring system or equipment.

2. Centers that seek to serve 16 or more children and that are to be located in newly constructed buildings shall equip every room designated for use by children, except for kitchen and toilet facilities, with either uncovered and unobstructed glass panels or two-way mirrors that comprise at least 10 percent of the square footage of at least one interior wall in order to promote maximum visibility in such rooms.

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all the toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and/or other adults who use the toilet facility for their own toileting needs do so only:

- i. When children are not in it; and
- ii. After the staff member and/or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Bureau that it lacks the authority to meet the lock/latch provisions noted in (d)1 ii above, the Bureau may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

- i. One toilet facility is reserved and designated for the exclusive use of staff members and/or other adults; and
- ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members and/or other adults.

SUBCHAPTER 6. PROGRAM REQUIREMENTS

10:122-6.1 Activities

(a) The center shall develop and provide a variety of children's planned daily activities, geared to the age and developmental level of the children served, that:

1. Promote the development of language, thinking and problem-solving skills, curiosity, exploration, large and small muscles, social competence, self-esteem, and positive self-identity; and
2. Are relevant to the cultural background of the children and foster intercultural awareness.

(b) The staff member(s) specified in N.J.A.C. 10:122-4.4 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. Time frames for each activity are geared to the age and developmental level of each child served and are flexible enough to accommodate spontaneous occurrences or children's suggestions and inquiries;
2. Children have opportunities to choose materials freely;
3. Children are presented with and encouraged to participate in a mixture of active and quiet experiences;
4. Both staff-directed and child-selected activities are provided; and

5. Children are:

- i. Encouraged, but not required, to participate in every group activity; and

ii. Provided with the time and space within the area to be apart from the group and to participate in an alternate activity if they choose to do so.

(c) Outdoor experiences shall be provided as follows:

1. Children who are at the center for more than four consecutive hours shall be taken outdoors daily.

2. Children who are at the center for four or fewer consecutive hours shall be taken outdoors at least once a week.

3. A center may depart from the requirements specified in (c)1 and 2 above during inclement weather or for another reason that affects the health, safety or well-being of the children or any individual child.

(d) Centers serving children less than 18 months of age shall provide:

1. At least four of the following types of children's daily activities: sensory; language/dramatic play; manipulative; building; large muscle; music; or other comparable activities; and

2. At least four types of supplies and/or equipment for each activity area chosen by the center, as specified in (d)1 above, as listed below:

i. Sensory activities: crib mobiles; teething toys; busy boxes; baby mirrors; rattles; melody chimes; squeeze toys; or other comparable supplies or equipment.

ii. Language/dramatic play activities: picture books; toy telephones; records; hand puppets; stuffed animals; soft washable dolls; photographs; or other comparable supplies or equipment.

iii. Manipulative activities: squeeze and grip toys; boxes; sorting and stacking toys; three and/or four piece wooden inlay puzzles; puzzle blocks; simple threading toys; mobile pull toys; balls; or other comparable supplies or equipment.

iv. Building activities: soft lightweight blocks; toy cars, trains and/or boats; figures of animals and people; stacking rings and/or cups; nesting toys; or other comparable supplies or equipment.

v. Large muscle activities: low climbers; slides; riding/rocking toys; foam or soft plastic balls; gym mats; play tunnels; or other comparable supplies or equipment.

vi. Music activities: rhythm instruments; record player and records; toys equipped with musical tones; musical mobiles and/or busy boxes; drums, xylophones, and/or pianos; or other comparable supplies or equipment.

3. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of children who are awake and being cared for in cribs, playpens or other Bureau-approved sleeping equipment.

4. Staff members shall carry non-ambulatory infants around the center periodically.

5. Staff members shall provide all children who are developmentally able with opportunities to leave their cribs, playpens or other Bureau-approved sleeping equipment to crawl, toddle, walk, and play.

(e) Centers serving children 18 months of age and older shall provide:

1. At least five of the following types of children's daily activities: language, science and mathematics; manipulative; large muscle; building; art; music, drama; or other comparable activities; and

2. At least five types of supplies and/or equipment for each daily activity chosen by the center, as listed below:

i. Language activities: books; flannel board; upper and lower case letters; pictures for discussion; materials for recognition, identification and/or classification; poetry; puppets; audio-visual materials; show and tell items; or other comparable supplies or equipment.

ii. Science and math activities: plants and gardening equipment; aquarium with fish and/or other appropriate live animals; water table and supplies; sand table and supplies; cooking supplies; weather chart and/or thermometer; counting equipment; or other comparable supplies or equipment.

iii. Manipulative activities: puzzles; pegs and pegboards; lacing boards; table top building toys; stencils; dominoes; pounding bench; lotto games; or other comparable supplies or equipment.

iv. Large muscle activities: rocking boat; wheel toys; climbers; slides; balance beam; barrels and/or large cartons; parachute; balls and beanbags; outdoor play equipment; gym mats; or other comparable supplies or equipment.

v. Building activities: unit blocks (minimum of four sizes); transportation toys; farm animals and/or play people; work bench and tools; table top building toys; building logs; or other comparable supplies or equipment.

vi. Art activities: crayons; tempera paint, large brushes and newsprint; finger paint and finger paint paper; construction paper in assorted colors; paste or glue; blunt scissors; collage materials; non-toxic felt tip markers; easels; clay or playdough; or other comparable supplies or equipment.

vii. Music activities: record player and records; piano and/or organ; guitar; rhythm sticks; drums; cymbals and bells; tape recorder; or other comparable supplies or equipment.

viii. Dramatic activities: toy dishes; ironing board; telephones; occupational props and/or uniforms; dress-up clothes; housekeeping area (stove, sink, refrigerator); cradle or doll bed; doll carriage and dolls; puppets; grocery store, post office or hospital; or other comparable supplies or equipment.

(f) Centers that operate during evening hours shall ensure that the activity level for children is reduced in preparation for sleep and shall provide a selection of toys or other materials for quiet activities.

(g) Centers serving sick children shall comply with the variation on developing and providing children's activities, as specified in N.J.A.C. 10:122-8.5(a).

(h) The staff member(s) specified in (b) above shall prepare and maintain on file a written outline of the center's daily activities, as specified in (a) to (g) above.

10:122-6.2 Program equipment for children's daily activities

Centers shall provide a supply of program equipment including play equipment, child-size furniture and supplies that are sufficient to meet the daily activity needs of the children and the program.

10:122-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1. Food served to children who are present during normal mealtime hours or required snack periods, as specified in (c) below, shall be provided either by the child's parent or by the center.

2. If the center chooses to provide food, the center shall ensure that all food served to children is prepared by either:

i. The center on-site or off-site; or
ii. A caterer who is licensed, registered, certified or otherwise approved, as appropriate, by the local, county, or State Department of Health, as applicable.

3. If the center chooses to have parents provide food, the center shall have a supply of food at the center for any child whose parent forgets.

4. If the center provides food, the center shall ensure that the food is stored, prepared, and served in a sanitary manner.

5. Centers operating for more than three consecutive hours shall have a working refrigerator.

6. Food brought from outside the center for a child shall be inspected by a staff member for spoilage before it is served.

7. Staff members shall advise parents of any repetitive feeding problems experienced by their child.

8. Staff members shall not force-feed or coerce a child to eat against his or her will.

(b) Feeding requirements for centers serving children less than 18 months of age are as follows:

1. The center shall develop mutually with each child's parent(s) and follow a written plan regarding the feeding schedule, specific formula, nutritional needs, and introduction of new food for each child.

2. The written plan shall be:

i. Maintained on file; and

ii. Made available to each staff member responsible for feeding each child.

3. All food served to a child shall be appropriate to the child's developmental eating ability.

4. Each child's bottle(s) shall be labeled with the child's name.

5. A child who is too young to use a feeding chair or other seating apparatus shall be held when fed.

6. A child who, because of age or developmental readiness, no longer needs to be held for feeding shall be provided with an infant seat, high chair with safety strap, or other age-appropriate seating apparatus.

7. When a child is feeding, the bottle shall not be propped at any time.

(c) Mealtime and snack requirements for centers serving children 18 months of age and above and those children younger than 18 months of age who are developmentally ready to eat regular meals and snacks are as follows:

1. The center shall serve:

i. Breakfast for all children who have not eaten breakfast and are present from 7:00 A.M. to 9:00 A.M.;

ii. Lunch for all children who have not eaten lunch and are:

(1) Present during 11:00 A.M. to 1:00 P.M.; and

(2) Under the center's care for at least five consecutive hours;

iii. Dinner for all children who:

(1) Have not eaten dinner;

(2) Are present from 5:00 P.M. to 7:00 P.M.; and

(3) Remain for the night program; and

iv. A snack for all children who are under the center's care for at least three consecutive hours.

2. Centers that provide meals shall ensure that:

i. Breakfast includes the following:

(1) Fruits or vegetables or full-strength fruit or vegetable juice; and

(2) Enriched or whole grain bread, a bread product or cereal and/or a protein alternative;

ii. Lunch and dinner each include the following:

(1) Meat, poultry, fish or a protein alternative;

(2) Fruits or vegetables;

(3) Bread or bread products; and

(4) Milk, juice or water;

iii. The snack includes one full-strength juice, milk or fruit and one food supplement selected from the lunch and dinner choices specified in (c)2ii above, except on special occasions, such as holidays and birthdays;

iv. Milk is served at least once a day;

v. Drinking water is made available to the children;

vi. For children on special diets (for example, due to health reasons, religious belief or parental request), an alternate choice of food is provided by either the center or the child's parent; and

vii. Individualized written diets and feeding schedules, if submitted to the center by the child's parent(s) or physician, are posted in a

location that is accessible to staff members caring for the children, and followed.

10:122-6.4 Rest and sleep

(a) For centers serving children 12 months of age and younger, the following shall apply:

1. The center shall provide opportunities for daily rest and sleep for each child according to the child's individual physical needs.

2. The center shall provide each child with a crib, playpen or other Bureau-approved sleeping equipment for use during rest and sleep.

i. Each crib or playpen shall be equipped with:

(1) A waterproof, snugly fitting mattress;

(2) A clean sheet or other covering and blanket;

(3) Top rails that are at least 19 inches above the mattress; and

(4) Slats that are not more than 2 $\frac{3}{8}$ inches apart.

ii. Any locks or latches on the drop side of a crib shall be safe and secure from accidental release.

(b) For centers serving children over the age of 12 months and under the age of five years, the following shall apply:

1. The center shall provide opportunities for daily rest and/or sleep for each child who:

i. Attends the center for four or more consecutive hours; or

ii. Attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center.

2. An alternative quiet activity shall be provided for those children who have rested or slept for 30 minutes and do not appear to need additional rest or sleep.

3. Each child shall be provided with a crib, playpen, cot, mat or other Bureau-approved sleeping equipment for use during rest and sleep, which shall comply with the requirements specified in (a)2 above.

i. Each cot used for children between 13 and 18 months of age shall not exceed 14 inches above floor level.

ii. Each cot or mat used for rest and sleep shall be covered with a sheet, blanket or other covering. An additional covering shall be provided for use as a covering for each child.

iii. Each mat used for rest and sleep shall be:

(1) Placed on a surface that is warm, dry, clean, and draft-free;

(2) Water-repellent;

(3) At least one inch thick; and

(4) Stored so that there is no contact with the sleeping surface of another mat, or disinfected after each use, as specified in N.J.A.C. 10:122-7.7(a)1.

(c) Centers serving children in attendance for three hours or less after 7:00 P.M. shall meet the sleeping requirements, as specified in (a) and (b) 3 above.

(d) Centers serving children in attendance for more than three hours after 7:00 P.M. shall:

i. Establish bedtime schedules for each child in consultation with the parent(s);

ii. Ensure that any Bureau-approved sleeping equipment, other than a bed or mat, has been fitted with a minimum one-inch thick water-repellent mat or mattress; and

iii. Ensure that each child is changed into sleeping garments.

(e) Sheets, blankets and other coverings shall be:

1. Changed when wet, soiled or damaged; and

2. Changed before use by another child.

(f) When cribs, playpens, cots, mats or other Bureau-approved sleeping equipment are stored with sheets, blankets or other coverings as single units, at least one item of each unit shall be labeled with child-identifying information.

(g) When sheets, blankets and other coverings are not stored with sleeping equipment, each of these items shall be:

1. Labeled for each child; and

2. Stored separately for each child.

(h) During rest and sleep periods, only one child shall occupy a crib, playpen, cot, mat or other Bureau-approved sleeping equipment at one time.

10:122-6.5 Policy on the release of children

(a) The center shall maintain on file a written policy on the release of children, which shall include:

1. The provision that each child may be released only to the child's custodial parent(s) or person(s) authorized by the custodial parent(s), as specified in N.J.A.C. 10:122-6.8(c)3i(3), to take the child from the center and to assume responsibility for the child in an emergency if the custodial parent(s) cannot be reached;

2. The provision that a child shall not be visited by or released to a non-custodial parent unless the custodial parent specifically authorizes the center to allow such visits or releases in writing. This written authorization, including the name, address and telephone number of the non-custodial parent(s), shall be maintained on file. If a non-custodial parent has been denied access, or granted limited access, to the child by a court order, the center shall secure documentation to this effect and maintain a copy on file;

3. Written procedures to be followed by staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, fails to pick up a child at the time of the center's daily closing. The procedures shall require that:

i. The child is supervised at all times;

ii. Staff members attempt to contact the parent(s) or person(s) authorized by the parents; and

iii. An hour or more after closing time, and provided that other arrangements for releasing the child to his or her parent(s) or authorized person(s) have failed and the staff member(s) cannot continue to supervise the child at the center, the staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child until the parent(s) or person(s) authorized by the child's parent(s) is able to pick up the child; and

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically and/or emotionally impaired to the extent that, in the judgment of the director and/or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i. The child may not be released to such an impaired individual;

ii. Staff members attempt to contact the child's other parent or an alternate person(s) authorized by the parent(s); and

iii. If the center is unable to make alternative arrangements, as noted in (a)4ii above, a staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child.

10:122-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1. Be positive;

2. Be consistent with the age and developmental needs of the children; and

3. Lead to the child's ability to maintain self control.

(b) Staff members shall not discipline children for failing to eat or sleep or for soiling themselves.

(c) Children may be removed from a group activity to another area, provided that the child so removed is either under the supervision of another staff member or continuously visible to a staff member.

(d) The center shall maintain on file a written policy on the disciplining of children by staff members. The policy shall:

1. Reflect the provisions specified in (a) through (c) above and include the acceptable actions that a staff member may take when disciplining a child (that is, discussion with the child, time-out, etc.);

2. Be distributed to every staff member; and

3. Be posted in a prominent location within the center.

(e) The center shall secure and maintain on file each staff member's signature, attesting to receipt of the policy on the disciplining of children by staff members.

10:122-6.7 Special requirements to prevent child abuse and/or neglect and inappropriate staff behaviors toward children

(a) Staff members shall not use hitting, shaking or any other form of corporal punishment of children.

(b) Staff members shall not use abusive language, ridicule, harsh, humiliating or frightening treatment or any other form of emotional punishment of children.

(c) Staff members shall not engage in or inflict any form of child abuse and/or neglect.

(d) Staff members shall not withhold from children food, emotional responses, stimulation, or the opportunities for rest or sleep.

(e) Staff members shall not require a child to remain silent or inactive for an inappropriately long period of time for the child's age.

10:122-6.8 Parent and community participation

(a) The center shall adopt at least one of the following options to ensure the participation of the parents of enrolled children in the activities and operations of the center:

1. A governing board responsible for approving, reviewing, and monitoring the center's policies, budget, staff recruitment and selection, physical environment, and program activities;

2. An advisory committee that offers advice and counsel to the center on its policies, staff recruitment and selection, physical environment, and program activities; or

3. An annual meeting to which all parents and staff members are invited for the purpose of sharing goals, recommendations, and concerns. The center shall maintain on file a record of this meeting.

(b) Centers choosing the options specified in either (a) 1 or 2 above shall ensure that the board or committee includes the parents of enrolled children and representatives from the civic, business, educational and/or child care communities. The board or committee shall meet at least quarterly during the center's operating year and the center shall maintain on file a listing of current members of the board or committee and documentation indicating that the board or committee is functioning.

(c) The center shall adopt, implement, and maintain on file a written policy providing for the direct involvement of parents of enrolled children in the center's operation and activities. This policy shall include the following:

1. An opportunity for parents to volunteer to help in the center's program;

2. An annual open house to which parents are invited for the purpose of observing the program;

3. A parent/staff conference at the time of the child's enrollment for the following purpose(s):

i. To obtain a signed application for enrollment, including:

(1) The child's name, address, birth date, and date of enrollment;

(2) The parent's name, home and work address, and home and work telephone number;

(3) The name, address, and telephone number of any person(s) authorized by the parent(s) to visit the child at the center and/or to take the child from the center, as specified in N.J.A.C. 10:122-6.5(a)1;

(4) The name, address, and telephone number of the child's physician; and

(5) Written authorization from the parent(s) for emergency medical treatment;

ii. To inform parents about the center's days and hours of operation;

iii. To discuss the individual child's habits, dietary and sleep needs, activities, behavior and development;

iv. To discuss the center's policies on releasing children, toilet training children, and dispensing medication;

v. To discuss and distribute the center's policy on the management of communicable disease, as specified in N.J.A.C. 10:122-7.11; and

vi. To discuss and distribute an Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a); and

4. Parent/staff conferences held semi-annually and upon request of the parent and/or staff member(s).

(d) The center shall allow the parent(s) of enrolled children to visit the center at any time during the center's hours of operation to observe its operation and program activities without requiring the parent(s) to secure prior approval.

(e) The center shall provide the parents of prospective enrollees the opportunity to visit the center to observe its operation and program activities, but may require that such visits are arranged in advance and at the convenience of the center director.

(f) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s) or special event(s) involving the transportation of children away from the center. Before taking

a child on such a field trip, outing or special event, the center shall either:

1. Secure individual written consent slips signed by a parent for his or her child(ren) for each proposed field trip, outing or special event;

2. Post a notice of a proposed individual field trip, outing or special event in a place of prominence within the center, on which the parent must sign consent for his or her child to attend; or

3. Issue to every parent a written schedule of all field trips, outings or special events to be taken during any given time frame (that is, weekly, monthly, yearly). A parent must sign this schedule, indicating his or her consent for any or all field trips, outings or special events listed.

(g) The center may utilize a blanket permission slip for taking children on walks only if:

1. Walks are within the center's neighborhood;

2. The center makes arrangements for the handling of visits or telephone calls from parents either by:

i. Having someone remain at the center; or

ii. Utilizing a telephone answering machine and posting a notice on the entrance door of the center to inform parents of the children's location;

3. The route of the walk involves no safety hazards; and

4. The walk involves no entrance into a facility unless the facility has been indicated on the blanket permission slip.

(h) The center shall maintain on file a record of signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events.

(i) The center should promote the involvement of representatives of the community to enhance the staff members' and the children's knowledge of community services, programs and resources.

SUBCHAPTER 7. HEALTH REQUIREMENTS

10:122-7.1 Health requirements for all centers

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 10:122-8.

(b) Under no circumstances shall any center serve or admit any child who has any illnesses, symptoms of illness or diseases that a physician has determined require the child to be:

1. Confined to home under a physician's immediate care; or

2. Admitted to a hospital for medical care and treatment.

(c) The following provisions relate to illnesses and/or symptoms of illness:

1. A center serving well children shall not permit a child who has any of the illnesses, symptoms of illness or diseases specified below to be admitted to the center on a given day unless medical diagnosis from a licensed physician, which has been communicated to the center in writing, or verbally with a written follow-up, indicates that the child poses no serious health risk to himself or herself or to other children. Such illnesses or symptoms of illness shall include, but not be limited to, any of the following:

i. Severe pain or discomfort;

ii. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours;

iii. Two or more episodes of acute vomiting within a period of 24 hours;

iv. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;

v. Sore throat or severe coughing;

vi. Yellow eyes or jaundiced skin;

vii. Red eyes with discharge;

viii. Infected, untreated skin patches;

ix. Difficult or rapid breathing;

x. Skin rashes, excluding diaper rash, lasting more than one day;

xi. Weeping or bleeding skin lesions that have not been treated by a physician or nurse;

- xii. Swollen joints;
 - xiii. Visibly enlarged lymph nodes;
 - xiv. Stiff neck; or
 - xv. Blood in urine.
2. Once the child is symptom-free, or a licensed physician indicates that the child poses no serious health risk to himself or herself or to other children, the child may return to the center.
3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room/area, as specified in N.J.A.C. 10:122-5.2(r)4, until:
- i. He or she can be taken from the center; or
 - ii. The director or his or her designee has communicated verbally with a licensed physician, who indicates that the child poses no serious health risk to himself or herself or to other children, at which time the child may return to the group.
- (d) The following provisions relate to excludable communicable diseases:
- 1. The center shall not permit a child or staff member with an excludable communicable disease, as specified in the table below, to be admitted to or remain at the center, until:
 - i. A note from the child's or staff member's licensed physician states that the child or staff member, respectively, has been diagnosed and presents no risk to himself, herself or to others; or
 - ii. The center has contacted the State Department of Health's Communicable Disease Program or local health department pediatric health consultant and is told the child or staff member poses no health risk to others.

TABLE OF EXCLUDABLE COMMUNICABLE DISEASES

Respiratory illnesses	Gastro-intestinal illnesses	Contact illnesses
Chicken Pox	Giardia Lamblia*	Impetigo
German measles*	Hepatitis A*	Lice
Hemophilus influenzae*	Salmonella*	Scabies
Measles*	Shigella*	
Meningococcus*		
Mumps*		
Strep throat		
Tuberculosis*		
Whooping Cough*		

*Reportable diseases, as specified in N.J.A.C. 10:122-7.10(a).

- 10:122-7.2 Attendance by children and/or staff members known to be infected with Human Immunodeficiency Virus (HIV)
- (a) The center should admit a child known to be infected with HIV (also known as HTLV-III or LAV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center, except when:
- 1. The child is not toilet-trained or is incontinent;
 - 2. The child is unable to control drooling;
 - 3. The child has a documented history of biting or exhibits biting behaviors; or
 - 4. The child exhibits or exceeds any of the conditions specified in N.J.A.C. 10:122-7.1(c) and (d).
- (b) If a child known to be infected with HIV is excluded because of any of the conditions specified in (a) above, the center should permit the enrollment and/or attendance of the child once the condition or behavior is no longer present, as documented in writing by the child's licensed physician.
- (c) The center should not exclude a child known to be infected with HIV in order to protect him or her from possible exposure to the infectious diseases of other persons at the center.
- (d) The center should not exclude a child solely for the reason that such individual lives with or is related to a person known to be infected with HIV.
- (e) The director shall maintain the confidentiality of any child or staff member known to be infected with HIV.
- (f) The center shall not require the routine medical screening of children or staff members in centers to detect the presence of HIV.

- 10:122-7.3 Health and immunization requirements for children
- (a) Each child shall have had a health examination performed by a licensed physician within:
- 1. Six months prior to admission, for children who are 2½ years of age or younger; or
 - 2. One year prior to admission, for children above 2½ years of age.
- (b) The center shall maintain on file at the center a record of the health examination documented by the physician. The record shall include:
- 1. The name and address of the examining physician;
 - 2. The child's medical history indicating, when applicable:
 - i. Information on any condition or handicap affecting the child's health; and
 - ii. Any recommendations for needed medical treatment, and/or program or environmental modifications, which the center shall follow, including special requirements as to diet, rest allergies, avoidance of certain activities, and other care; and
 - 3. An up-to-date immunization record appropriate to the child's age, or documentation that the child is under a prescribed medical program to obtain immunizations, in accordance with the provisions of N.J.A.C. 8:57-4.
- (c) The center shall ensure that the record specified in (b) above has been submitted to the center, either:
- 1. Upon the child's admission; or
 - 2. Within 30 days of the child's admission, if the parent cannot obtain prior documentation, provided that upon the child's admission, the parent provides a written statement:
 - i. Indicating that the requirements in (a) and (b)3 above have been met; and
 - ii. Giving the information required in (b)2 above, when applicable.
- (d) If immunizations are contraindicated for medical reasons, the center shall require the parent to submit to the center a written statement from a licensed physician attesting to the following:
- 1. The reason the immunization is medically contraindicated; and
 - 2. The specific time period that the immunization is medically contraindicated.
- (e) Any child whose parent objects to a physical examination, immunization or medical treatment for his or her child on grounds that it conflicts with the tenets and practice of a recognized religion of which the parent(s) or child is an adherent or member shall be exempt from complying with such requirements, provided that the parent(s) submits to the center upon the child's admission a signed written statement that the physical examination, immunization or medical treatment interferes with the free exercise of the child's religious rights.
- (f) The immunization exemption may be suspended by the Bureau during the existence of a health emergency, as determined by the State Commissioner of Health.
- (g) Centers operated by a county or municipal government recreation and/or park department or agency whose sessions last four weeks or less shall, upon the child's admission, obtain a written statement from the child's parent:
- 1. Indicating that the requirements specified in (a) and (b)3 above have been met; and
 - 2. Giving the information required in (b)2 above, when applicable.
- 10:122-7.4 Health requirements for staff members
- (a) Within one year prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and/or x-ray.
- 1. If the Mantoux tuberculin test result is insignificant (0 to 9 millimeters (mm) of induration), no further testing shall be required. The Bureau or center may at any time require a staff member to retake the Mantoux tuberculin test if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows significant results, the staff member shall not come in contact with the children unless she or he submits to the center a written statement from a licensed physician certifying that he or she poses no threat of tuberculosis contagion.

(b) Prior to beginning work, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall submit a written statement from a licensed physician, indicating that he or she is in good health and poses no health risk to persons at the center. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's working at the center.

(c) The center shall maintain on file the results of each staff member's:

1. Mantoux tuberculin test and/or chest x-ray when indicated; and
2. Physical examination.

(d) The sponsor or director shall exclude a staff member who:

1. Exhibits the illnesses or symptoms of illness or diseases specified in N.J.A.C. 10:122-7.1(c)1 and (d); or
2. Appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety, and well-being of a child while the child is in the staff member's care. The director shall document the action taken to exclude the staff member and maintain such documentation on file. The center shall not permit the staff member to return to the center until the condition is no longer present.

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor shall take the necessary action specified above.

(f) When the affected staff member specified in (d) above is the sponsor, then the Bureau shall take the necessary action specified above.

10:122-7.5 Administration and control of prescription and non-prescription medicines

(a) Centers that choose not to administer medication to a child shall inform the parents of this policy during the enrollment conference.

(b) For centers that choose to administer prescription and non-prescription medication to a child, the following shall apply:

1. Medication shall be administered only after receipt of written approval from the child's parent(s).

2. The director shall designate those staff members who are authorized to administer medication to those children whose parent(s) have authorized it.

3. All medication shall be kept either in a locked cabinet or in an area that is inaccessible to the children.

4. The director shall ensure that the staff member(s) responsible for administering medication are informed of every child's medication needs.

5. Any prescription medication for a child shall be:

- i. Prescribed in the name of and specifically for the child; and
- ii. Stored in its prescription container, which has been labeled with the child's name, the name of the medication, the date it was prescribed or updated and directions for its administration.

6. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age and/or weight of the child, as indicated on the label:

- i. Antihistamines/decongestants;
- ii. Acetaminophens (aspirin substitutes);
- iii. Cough suppressants; and
- iv. Topical ointments

7. The center may permit the dispensing of non-prescription medication other than those listed in (b)6 above if the child's physician authorizes it in writing.

8. Unused medication shall be returned to the parent(s) when no longer being administered.

9. The center shall maintain on file a record of the following:

- i. The child's name and parental authorization for the center to administer medication;

- ii. The name of the medication;
- iii. The condition for which the medication is being issued;
- iv. The instructions for administration, including the dosage and frequency;
- v. The time and by whom medication was administered to a child; and
- vi. Any adverse effect the medication can have or has had on the child.

10:122-7.6 Accident and injury to a child while in the center's care

(a) When an accident or injury occurs to a child while in the center's care, the center shall take immediate necessary action to protect the child from further harm and immediately notify the child's parent(s) verbally.

(b) The center shall maintain on file a record of accidents and injuries sustained by a child while under the center's supervision. The accident and injury record shall include the following:

1. The name of the child involved in the accident or injury;
2. The date, time, and location of the accident or injury;
3. A written description of the following:
 - i. The accident;
 - ii. The injury to the child;
 - iii. The names of witnesses to the accident or injury; and
 - iv. The follow-up action taken by the center, including:
 - (1) Application of first aid; and
 - (2) Consultation or treatment by a licensed physician, if applicable.

(c) Upon request of the child's parent, the center shall provide a written description of the accident and/or injury by the end of the next operating day.

10:122-7.7 Environmental sanitation requirements

(a) Disinfectants shall be used as follows:

1. The center shall disinfect those items specified in (a)3 below with a solution that shall be either:

- i. A commercially prepared disinfectant that indicates it kills bacteria, viruses, and parasites. This solution shall be used in accordance with label instructions; or
- ii. A self-made solution consisting of one-quarter cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container.

2. All areas to be disinfected shall first be washed with soap and water.

3. The schedule for disinfecting shall be as follows:

i. The following equipment items or surfaces shall be washed and disinfected after each use:

- (1) Toilet training chairs that have first been emptied into a toilet;
- (2) Sinks and faucets used for rinsing a toilet training chair;
- (3) Diapering surfaces;
- (4) Toys mouthed by infants and toddlers before being given to another child;
- (5) Mops used for cleaning;
- (6) Washcloths made of fabric when used for cleaning children;
- (7) Thermometers;
- (8) Bottles, nipples and other feeding equipment;
- (9) Items used by a child who becomes ill while at the center; and
- (10) Mats that are not stored separately.

ii. The following items shall be washed and disinfected at least daily:

- (1) Toilets and toilet seats;
- (2) Diaper pails and lids;
- (3) Sinks and sink faucets;
- (4) Drinking fountains;
- (5) Water table and water play equipment;
- (6) Play tables; and
- (7) Smooth surfaced non-porous floors in areas used by children.

iii. The following items shall be washed and disinfected at least weekly:

- (1) Cribs, cots, mats, playpens or other Bureau-approved sleeping equipment; and
- (2) Sheets, blankets or other coverings.

iv. Tables used by the children for eating shall be washed and disinfected before each meal.

(b) Centers that toilet train children shall:

1. Utilize non-porous toilets, child-size toilets, toilet training chairs (potties) or children's toilet seats for children being toilet trained;

2. Ensure that toilet training chairs are not used in kitchens or in the immediate area where meals are being served; and

3. Advise parents of the center's toilet training policy.

(c) Centers that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

(2) The sand is maintained in a safe and sanitary manner.

(d) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:

i. Domesticated and non-aggressive;

ii. Free from disease;

iii. Vaccinated, if applicable, as prescribed by law or local ordinance. The record of the vaccinations shall be maintained on file, along with the name and address of the licensed veterinarian providing care for the pet(s);

iv. If sick, removed from the area(s) occupied by children, until the pet has been examined by a licensed veterinarian and has been diagnosed as presenting no risk to the children;

v. Effectively controlled by leash, command or cage; and

vi. Prohibited from the following areas:

(1) Areas/surfaces used for food preparation, storage and/or service;

(2) Areas used for cleaning or storing of food utensils and dishes; and

(3) Toilet facilities.

2. Animal waste shall be disposed of in sealed plastic bags in the outdoor garbage receptacle.

(e) The director shall ensure that smoking is prohibited in all rooms and outside play areas while such rooms and areas are occupied by children.

(f) Poisonous plants shall not be kept in the center or in the outside play area used by the children.

10:122-7.8 Personal hygiene requirements

(a) Handwashing requirements are as follows:

1. The center shall ensure that children wash their hands with soap and running water and dry them with paper towels or with cloth towels designated solely for the individual child's use:

i. Before intake of food;

ii. Immediately after using the toilet or having diapers changed;

iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions; and

iv. Immediately after coming in contact with an animal's body secretions.

2. Staff members shall wash their hands with soap and running water immediately:

i. Before preparing or serving food;

ii. After diapering a child;

iii. After toileting;

iv. After assisting a child in toileting;

v. After caring for a child who appears to be sick;

vi. After coming in contact with an animal's body secretions; and

vii. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions.

(b) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood or vomit.

(c) Diapering requirements for centers serving children who are not toilet trained are as follows:

1. Staff members shall ensure that:

i. Each child's diaper is changed when wet or soiled; and

ii. Each child's bottom is washed and dried during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes.

2. Diapering area and surface requirements are as follows:

i. Diapering shall not take place in an area or on a surface used for food preparation, service or eating.

ii. The diapering area shall be within 15 feet of a sink that is not used for food preparation.

iii. The diapering surface shall be flat, smooth, clean, dry, non-absorbent, and in good repair.

3. Diapering supply requirements are as follows:

i. A supply of clean diapers shall always be available.

ii. Diapering supplies, including diapers, shall be stored in an area out of the children's reach but easily accessible to staff members during a diaper change.

iii. Equipment used for cleaning the diapering surface shall be restricted for use in this area only and shall be disposable or laundered in hot soapy water.

iv. Staff members who use disposable rubber gloves during a diaper change shall dispose of these gloves after each use and shall wash their hands.

4. Soiled diapers shall be disposed of as follows:

i. Soiled disposable diapers shall be placed in a closed container that is lined with a leakproof or impervious lining. Such diapers shall be removed from the center daily and placed in a closed garbage receptacle outside the building.

ii. Soiled non-disposable diapers shall be:

(1) Placed in a sealed plastic container that has been labeled with the child's name; and

(2) Returned to the child's parent at the end of that day.

(d) Clothing requirements are as follows:

1. A child's clothing shall be changed when wet or soiled.

2. The center shall ensure that a change of clothing is provided for each child.

3. Soiled clothes shall be:

i. Placed in a sealed plastic container that has been labeled with the child's name and returned to the child's parent at the end of that day for laundering; or

ii. Laundered at the center in a washing machine.

4. For clothing soiled with fecal matter, the stool shall be emptied into the toilet.

(e) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes to prevent the toothbrushes from touching each other during storage.

10:122-7.9 Illness log

(a) The center shall maintain on file a log of the initial illnesses, symptoms of illness or diseases that are exhibited by each child, as specified in N.J.A.C. 10:122-7.1(c). This illness log shall include:

1. The child's name;

2. The date and time the illnesses, symptoms of illness or diseases were observed at the center, or the date and time the center was notified of the child's illnesses, symptoms of illness or diseases by the parent;

3. A description of the symptoms of illness manifested by the child;

4. The action taken by the center to assist:

i. The child who is demonstrating symptoms of illness; and/or

ii. The director in determining if exclusion of the child from the center is necessary;

5. Any significant change in the child's symptoms of illness;

6. The date, if applicable, that:

i. The child was removed from the center;

ii. The child returned to the center with a licensed physician's note attesting to the child's admissibility to the center and recovery from a reportable disease, as specified in N.J.A.C. 8:57; or

iii. The child returned to the center symptom-free.

10:122-7.10 Reporting of illnesses, injuries, and reportable diseases

(a) The director, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 10:122-7.1(d), shall report this knowledge by the next working day to the following:

1. The local health department; and

2. The Bureau of Licensing.

(b) The director shall report the occurrence of any injury or illness that results in the admittance to a hospital or death of a child while under the center's supervision to the Bureau by the next working day after the center learns of the occurrence.

(c) The director, having knowledge that a child has been injured by a dog, cat or other animal that is kept by or located at the center and when no physician attends such child, shall within 12 hours of the injury report the name, age, sex, and address of the child to the local health department.

10:122-7.11 Information to parents regarding the management of communicable diseases

(a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:

1. The list of illnesses/symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 10:122-7.1(c);

2. The list of diseases for which a child will not be re-admitted to the center unless accompanied by a statement from the child's licensed physician, as specified in N.J.A.C. 10:122-7.1(d); and

3. Assurance that during any outbreak of an excludable disease at the center, as specified in N.J.A.C. 10:122-7.1(d), each parent whose child may have been exposed to the disease, shall receive a written notice of the outbreak.

(b) A copy of the center's policy on the management of communicable diseases shall be given to the parent of each child enrolled in the center.

(c) Centers serving children who are sick shall comply with the variation on information to parents, as specified in N.J.A.C. 10:122-8.5(b).

SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN

10:122-8.1 Requirements for all centers serving sick children

(a) The provisions of this subchapter shall apply to any center that chooses to serve the following:

1. Only children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d); or

2. Some children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d), as part of a sick child care component of a center primarily serving well children.

(b) A center as set forth in (a) above shall also comply with all applicable provisions of this chapter.

(c) The center shall maintain on file written policies and procedures governing its operation, including:

1. Those categories of illness for which the center will provide care;

2. The ages of children who will be served;

3. The center's infection control procedures;

4. The center's admission criteria, which shall include provisions for conducting either:

i. A medical evaluation of arriving children by a New Jersey licensed physician; or

ii. A physical assessment, known as a triage, of arriving children by a registered nurse;

(1) The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature; pulse; respiration; skin; eyes; nose; throat; mouth; chest; abdomen; and/or extremities;

5. A provision encouraging the parents, before bringing the child to the center, to call the center each day to:

i. Describe the child's illnesses, symptoms of illness or diseases; and

ii. Determine if the center has an opening for the child;

6. For centers using a registered nurse as the admitting staff member, the physical assessment criteria that are used to determine:

i. Appropriateness of a child's attendance at the center on that day; or

ii. A child's need to be examined by a licensed physician, prior to being admitted to the center on that day;

7. The criteria and procedures for caring for or releasing children whose illnesses, symptoms of illness or diseases have worsened:

8. Methods and frequency of identifying and recording symptomatic changes throughout the day;

9. The preparation, frequency and serving of meals that are appropriate for the child's illnesses, symptoms of illness or diseases; and

10. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness or diseases.

(d) The center shall arrange for a New Jersey-licensed physician to serve as its consulting physician, providing medical advice and assistance on an on-call basis.

(e) The center shall have a governing board or an advisory board to oversee the development of and to approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners; and/or

2. A registered nurse licensed by the New Jersey State Board of Nursing; and/or

3. A local health official.

(f) If the governing board or advisory board specified in (e) above does not include a New Jersey-licensed physician, the consulting physician specified in (d) above shall approve in writing the policies and procedures developed by the governing board or advisory board.

10:122-8.2 Admission criteria

(a) The center shall not admit a sick child below three months of age unless the child has been seen and diagnosed by his or her licensed physician and the physician indicates in writing that the child can be admitted.

(b) The center shall require that a parent or an adult authorized by the parent accompany each child during admission to the center.

10:122-8.3 Requirements for additional staff for centers serving sick children

(a) The staff requirements for centers serving sick children are as follows:

1. In addition to the staff members required in N.J.A.C. 10:122-4.2, the center shall ensure that a physician licensed by the New Jersey Board of Medical Examiners or a registered nurse licensed by the New Jersey State Board of Nursing is at the center during the hours children are in attendance.

2. The staff member specified in (a)1 above may also serve as the head teacher or group teacher, where applicable, provided that:

i. The person meets the staff qualification requirements for such positions, based on center size and type, as specified in N.J.A.C. 10:122-4.5(b) and (c); or

ii. The person has two years of work experience with children under six years of age.

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center immediately at all other times, provided that the following conditions are met:

i. The physician or registered nurse is present at all times when children are being admitted to the center;

ii. Sick care is provided only to children who are regularly enrolled in the center's program serving well children;

iii. No more than eight children are served in the sick care component at any one time;

iv. Children under six months of age are not admitted to the sick child care component at any time;

v. A child must have attended the center's program serving well children for at least 20 days before being allowed admission to the sick care component;

vi. The physician or registered nurse assesses that no child will be placed at risk during the time when the physician or registered nurse is absent; and

vii. The on-call physician or nurse does not serve as the center's head teacher.

4. In centers specified in (a)3 above, the provisions specified in (a)3i to vii above need not be met if the physician or registered nurse remains at the center during all hours the children are in attendance.

(b) The responsibilities of the staff physician or registered nurse are as follows:

1. The physician or registered nurse, as specified in (a)1 above, shall be responsible for developing and implementing the center's medical program, including:

- i. Conducting the daily admission assessment of each child, as specified in N.J.A.C. 10:122-8.1(c)4;
- ii. Maintaining records on each child, as specified in N.J.A.C. 10:122-8.7(a); and
- iii. Reviewing and administering medication, as specified in N.J.A.C. 10:122-7.5(b), as applicable for each child.

(c) The following staff/child ratios shall apply:

Age of Child	Staff/Child Ratio
Birth to 3 months of age	1:1
3 months to 18 months of age	1:3
18 months to 2½ years of age	1:5
2½ years to 6 years of age	1:7

(d) Grouping of children shall be as follows:

1. The center shall group children according to the illnesses categorized below:

- i. Upper-respiratory;
- ii. Gastro-intestinal;
- iii. Chicken pox; and
- iv. Any other illness that has been included in the center's admission policy.

(e) Additional staff training shall be provided as follows:

1. The center shall provide training for each new staff member upon beginning work at the center and for all staff members annually.

2. Such training shall include:

- i. Basic knowledge of first aid principles;
- ii. Recognizing the symptoms of illness;
- iii. Feeding sick children;
- iv. When and how to call for medical advice;
- v. Taking children's temperatures;
- vi. Any other care that may be required for admissible illnesses and conditions;
- vii. Infection control;
- viii. Review of center policies and procedures;
- ix. Child development, including activities for children who are sick; and
- x. Communicating with parents concerning a child's illness.

10:122-8.4 Requirements for additional physical facilities for centers serving sick children

(a) There shall be a minimum of 50 square feet of net indoor floor space for each child.

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness or diseases.

(c) Centers whose policies allow for the care of children who have chicken pox or other illnesses that require isolation shall provide an isolation room for these children. Each isolation room shall have the following:

- 1. Continuous barriers that are floor to ceiling in height; and
- 2. Its own toilet facility, unless children using the isolation room can reach and use another toilet facility without coming into contact with other children.

(e) The center shall provide soap for handwashing from a liquid soap dispenser.

(f) The center shall conduct monthly fire drills that may, but are not required to, involve children. The drills must simulate closely the procedures to be followed during an emergency evacuation.

(g) Centers that serve only sick children shall not be required to have the following:

1. An outdoor space for the children's physical activities or its equivalent, as specified in N.J.A.C. 10:122-5.2(r)5; and

2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 10:122-5.2(r)4.

(h) Centers that have a sick child care component, as specified in N.J.A.C. 10:122-8.1(a)2, shall use separate play rooms/areas and separate toilet facilities for sick and well children.

10:122-8.5 Program requirements for centers serving sick children

(a) The center shall develop and provide a variety of children's planned daily activities that are appropriate for the needs and the condition of children who are sick.

(b) The center shall make available to prospective parents information in writing on the center's program, including:

- 1. Illnesses, symptoms of illness or diseases for which the center will provide care;
- 2. The center's admission criteria; and
- 3. The center's daily admitting procedures.

10:122-8.6 Sanitation and infection control

(a) The center shall ensure that all washable items of play equipment, supplies and toys that one group of sick children, as specified in N.J.A.C. 10:122-8.3(d), have contacted are washed with soap and water and disinfected before allowing them to be used by another group of sick children.

(b) The center shall ensure that all personal items belonging to a child are returned to the parent each day.

10:122-8.7 Requirements for additional records for centers serving sick children

(a) The center shall maintain on file the following additional records:

- 1. Admission assessment information on each child, as specified in N.J.A.C. 10:122-8.1(c)4;
- 2. The written policies and procedures developed by the center, as specified in N.J.A.C. 10:122-8.1(e);
- 3. The written approval of policies and procedures by either the center's governing board or advisory board, or the consulting physician, as specified in N.J.A.C. 10:122-8.1(e) and (f);
- 4. Documentation of the training provided to all staff members, as specified in N.J.A.C. 10:122-8.3(e); and
- 5. The information to parents document, as specified in N.J.A.C. 10:122-8.5(b).

SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

10:122-9.1 Scope; use of private passenger vehicles

(a) The provisions of this subchapter shall apply to:

1. Any center that provides or arranges for the provision of transportation for children:

i. To or from their homes or other prearranged sites and the center; and/or

ii. In connection with an activity (such as a field trip) conducted by or through the auspices of the center; and

2. Any person or agency other than the center that provides or arranges for the provision of transportation for compensation for children to or from their homes and a center.

(b) Any center, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Division of Motor Vehicles law, pursuant to N.J.S.A. 39:1-1 et seq. and the rules promulgated thereunder, as specified in N.J.A.C. 13.

(c) The center may authorize staff members and/or parents of enrolled children to utilize their own private passenger vehicles to transport children from the center to and from scheduled center field trips, outings or special events (such as visits to the zoo, library, museum) or to transport children from the center to a hospital, clinic or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1. However, staff members and/or parents may be authorized to do so only if:

- 1. The vehicle has a capacity of eight or fewer persons;
- 2. The driver possesses a valid automobile driver's license issued by the New Jersey Division of Motor Vehicles, hereinafter referred to as DMV;

3. The vehicle has a valid motor vehicle inspection sticker issued by DMV;

4. The vehicle owner possesses vehicle liability insurance at least at the minimum amounts required by New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a;

5. The center maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 10:122-9.7(b); and

6. The center ensures that the driver and/or additional adults apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) to (d) and (g) to (i).

10:122-9.2 Vehicle definitions

(a) A Type I School Bus means a bus with a capacity of 17 to 58 passengers, as indicated by the vehicle manufacturer.

(b) A Type II School Bus means a bus with a capacity of 10 to 16 passengers, as indicated by the vehicle manufacturer.

(c) A Type II School Vehicle means a vehicle with a capacity of nine or fewer passengers, as indicated by the vehicle manufacturer, and a minimum of three side entry doors.

10:122-9.3 Vehicle requirements

(a) The following requirements shall apply to vehicles utilized by a center that provides or arranges for the transportation of enrolled children to and from the center, as specified in N.J.A.C. 10:122-9.1(a).

(b) Each Type I School Bus shall:

1. Be equipped with school vehicle Type I, "S1" designated license plates and a valid School Bus inspection sticker issued by DMV; and

2. Meet the specifications for Type I School Buses prescribed by New Jersey Department of Education rules, as specified in N.J.A.C. 6:21-5, and that were applicable at the time the bus was manufactured.

(c) Each Type II School Bus shall:

1. Have school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by DMV;

2. For Type II School Buses manufactured prior to April 1, 1977, meet the specifications prescribed by New Jersey Department of Human Services rules that were applicable at the time the bus was manufactured; and

3. For Type II School Buses manufactured after April 1, 1977, be painted in the color of uniform national school bus yellow and meet the specifications prescribed by New Jersey Department of Education rules, as specified in N.J.A.C. 6:21-5.

(d) Each Type II School Vehicle shall:

1. Have school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by DMV;

2. Have a maximum seating occupancy that does not exceed the number of seat belts installed;

3. Have a minimum seat width allowance of 12 inches per child;

4. Have seats and back rests securely fastened and facing forward;

5. Allow exiting from any seat in the vehicle with a minimum unobstructed clearance of 10 inches;

6. Have no seat that requires the folding of any seat ahead of it in order to permit exiting. Seats that are not facing forward or that require the folding of any seat ahead of them in order to permit exiting shall be removed or bolted down;

7. Have seats upholstered with springs or foam rubber;

8. Have padding around exposed metal bars in the vehicles to prevent child impact;

9. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and

10. Be equipped with the following:

i. Three triangular portable red reflector warning devices;

ii. A fully charged fire extinguisher, with a gauge and with a minimum underwriters' rating of 2A 10BC, which shall be located at the front and securely mounted to the right of the driver in a way that does not constitute an obstruction or hazard to the passengers;

iii. All-weather radial or snow tires from November 15 to April 1; and

iv. A removable, moisture-free and dust-proof first-aid kit, which shall be located in an accessible place within the vehicle. A sign indicating its location shall be placed on the dashboard. The first-aid kit shall contain the following items:

(1) Two single units, one inch by 2½ yards adhesive tape;

(2) Two single units, sterile gauze pads, three inch by three inch (12 per unit);

(3) One single unit, ¾ inch by three inch adhesive bandage (100 per unit);

(4) One single unit, two inch bandage compress (12 per unit);

(5) One single unit, three inch bandage compress (12 per unit);

(6) Two single units, two inch by six yards sterile gauze roller bandage;

(7) Two single units, nonsterile triangular bandage, approximately 40 inch by 36 inch by 54 inch with two safety pins;

(8) Three single units, sterile gauze, 36 inch by 36 inch (U.S.P. 2428 count);

(9) Three single units, sterile eye pad (one per unit);

(10) One pair of scissors; and

(11) A pad and sharpened pencil.

10:122-9.4 Driver licensing requirements

(a) The driver of a Type I School Bus shall possess a valid New Jersey Type I School Bus driver's license issued by DMV, or an out-of-State equivalent license, as approved by DMV.

(b) The driver of a Type II School Bus or School Vehicle transporting from one to 16 passengers shall possess either a valid Type I or Type II School Bus driver's license issued by DMV, or an out-of-State equivalent license, as approved by DMV.

10:122-9.5 Vehicle-related safety practices

(a) Children shall never be left unattended in a vehicle.

(b) Children shall be accepted and discharged from the curbside of the vehicle.

(c) The interior and exterior of each vehicle shall be maintained in clean and safe condition, with clear passage to operable doors.

(d) All vehicles that are utilized to transport children below 18 months of age shall be equipped with car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards, in accordance with provisions of DMV law, pursuant to N.J.S.A. 39:3-76.2a.

(e) The driver shall not transport more persons, including children and adults, than:

1. The occupancy of the Type I School Bus, as indicated by the vehicle manufacturer; or

2. The occupancy of the Type II School Bus or School Vehicle, as determined by the number of operable seat belts.

(f) The driver of and/or additional adult(s) on the Type I School Bus shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and

2. All passengers below 18 months of age are secured in the proper restraint system, as specified in (d) above, when the bus is in motion.

(g) The driver of and/or additional adult(s) on the Type II School Bus, School Vehicle and private passenger vehicle shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and

2. All passengers are secured in an operable seat belt or proper restraint system, as specified in (d) above, when the vehicle is in motion.

(h) The driver or additional adult(s) shall ensure that each child discharged from the vehicle is received by his or her parent or person designated by the child's parent.

(i) There shall be no standees in any vehicle transporting children.

(j) The driver shall conduct two emergency evacuation drills each year for all passengers who ride the Type I or Type II School Bus.

(k) The driver shall conduct a daily check of the vehicle, which shall include all safety equipment, to ensure that the vehicle is in sound operating condition.

(l) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left on the vehicle.

10:122-9.6 Vehicle insurance

Each center or person providing transportation services, as specified in N.J.A.C. 10:122-9.1(a), shall secure and maintain vehicle liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident.

10:122-9.7 Transportation records

(a) The center shall maintain on file a record of children transported, the name and address of each driver, a photostatic copy of his or her valid School Bus driver's license and the year, make and model of each school bus or school vehicle used.

(b) For center-authorized drivers providing periodic transportation in private vehicles, the center shall maintain on file a checklist indicating that the provisions specified in N.J.A.C. 10:122-9.1(c)1 to 4 have been met.

(c) The center shall maintain on file the names and addresses of the person(s) designated as the additional adult(s) and the license numbers of the school bus or vehicle(s) to which they are assigned.

(d) The center shall maintain on file inspection and maintenance records for each school bus or school vehicle used by the center to transport children. Such records shall include:

1. The vehicle's New Jersey registration number, make, serial number, and the number of ply and size of all tires;
2. The nature and date of every vehicle inspection and repair; and
3. For vehicles that have been leased or otherwise contracted for, the name and address of the leaser or contractor furnishing the vehicle.

(e) The records specified in (d) above shall be retained in the center's files for the life of the vehicle.

(f) Documentation of emergency evacuation drills for all passengers who ride the Type I or Type II School Bus shall be maintained in a log book containing the following information:

1. The date of the drill;
2. The number of passengers;
3. The time taken to evacuate the bus; and
4. The signature of the person conducting the drill.

(g) If transportation services are provided by the center, or by a firm under contract to or other arrangement with the center, the center shall maintain on file a copy of its own vehicle liability insurance, or of that firm's name and vehicle liability insurance coverage in the amount(s) specified in N.J.A.C. 10:122-9.6.

10:122-9.8 Special requirements for physically handicapped, non-ambulatory children

(a) For centers providing or arranging for transportation services for physically handicapped children who are non-ambulatory, the following additional requirements shall be met:

1. A ramp device or a hydraulic lift shall be provided with a lift minimum pay load of 600 pounds;
2. Wheelchairs shall be securely fastened and face forward;
3. The arrangements of the wheelchairs shall not impede access to the emergency or exit door;
4. If a ramp device is installed, it shall:
 - i. Have a non-skid surface;
 - ii. Be securely stored and protected from the elements when not in use; and
 - iii. Have at least three feet of length for each foot of incline;
5. Seat belts or other restraints approved by DMV shall be installed for each passenger, including those seated in wheelchairs; and
6. Any aisle leading from a wheelchair position to the emergency or exit door shall be a minimum width of 30 inches.

10:122-9.9 Special requirements to prevent child abuse and/or neglect

(a) When seven or more children who are 2½ years of age or older are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(b) When between four and 12 children who are below 2½ years of age are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(c) When 13 or more children who are below 2½ years of age are being transported, there shall be two adults in addition to the driver

who remain in the vehicle when it is in motion, and who remain within sight of the vehicle when it has stopped to accept or discharge children, until fewer than 13 children remain, at which time one adult in addition to the driver shall remain until the last child has reached his or her destination.

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Policy Constants

Reproposed New Rules: N.J.A.C. 11:3-24

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6, and 17:29A-37.1.

Proposal Number: PRN 1988-644.

Submit comments by January 18, 1989 to:

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

The agency proposal follows:

Summary

On October 17, 1988 proposed new rules were published in the New Jersey Register (see 20 N.J.R. 2508(a)) to establish guidelines for identifying the specific types of motor vehicles which are subject to flat charges known as "policy constants". Policy constants are flat dollar charges which are applied to various types of automobile insurance policies on a per car per coverage basis. The purpose of these reproposed new rules is to clarify and expand upon, and to supersede as proposed new rules, the provisions contained in the October 17 proposal.

Policy constants were initially authorized by the Commissioner of the Department of Insurance (hereafter "Commissioner") by letter dated November 14, 1980, which approved filings for rate increases for the New Jersey Automobile Insurance Plan (hereafter "Plan"), effective November 18, 1980 for new business, and January 1, 1981 for renewal business. This letter approving policy constants permitted a subscriber company to the Plan to include them in the voluntary market when the company, or the rating bureau representing the company, made an appropriate filing with the Department of Insurance (hereafter "Department") for prior approval of the manner and effective date it wished to implement the inclusion of the policy constants. It should be noted that the Commissioner's 1980 letter authorizing the imposition of policy constants did not expressly address the issue of the types of vehicles subject to them. Neither was this issue addressed when, in 1984, the Plan was superseded by the New Jersey Full Automobile Insurance Underwriting Association (hereafter "Association"), created by N.J.S.A. 17:30E-1 et seq., with respect to the provision of a personal lines residual market to provide private passenger automobile coverages to individuals who are unable to obtain coverage in the voluntary market. Pursuant to N.J.S.A. 17:29A-37, which became effective on January 1, 1984, all policy constants authorized by the Commissioner and collected on a per car per coverage basis on automobile insurance policies written in both the voluntary and residual market are transferred to the Association for its use to carry out its purposes.

N.J.S.A. 17:29A-37.1 was amended twice in 1987 to include certain commercial and self-insured motor vehicles to which the policy constants apply, and also to grant the Commissioner the authority to include or exclude other types of vehicles. In response to this legislation, by order dated January 30, 1987, the Department directed that policy constants be charged on "private passenger type automobiles" insured in the commercial as well as personal lines markets. As a result, it has come to the Department's attention that, because of the absence of specific guidelines necessary to carry out the purposes of N.J.S.A. 17:29A-37.1, there may be a lack of uniformity in the types of motor vehicles to which these policy constants apply.

The October 17, 1988 proposed new rules were designed, in part, to correct these deficiencies and also to extend the applicability of policy

constants to certain vehicles in the self-insured market. In order to ensure that the same types of vehicles receive policy constants in the personal and commercial markets, the Department, by these rules, makes provision for their specific identification. Because these rules extend the application of policy constants to self-insured private passenger type vehicles, uniformity in the imposition of policy constants is also ensured in the self-insured market. A summary of the repropoed new rules follows:

N.J.A.C. 11:3-24.1 sets forth the purpose and scope of the repropoed new rules.

N.J.A.C. 11:3-24.2 contains the definitions of terms used throughout the repropoed new rules.

N.J.A.C. 11:3-24.3 sets forth collection and remittance requirements for those insurers and self-insurers to which the repropoed new rules apply.

N.J.A.C. 11:3-24.4 contains the types of motor vehicles that satisfy the definition of "private passenger automobile" to which the repropoed new rules apply.

N.J.A.C. 11:3-24.5 sets forth verification requirements for those insurers and self-insurers to which the repropoed new rules apply.

N.J.A.C. 11:3-24.6 provides for the possible imposition of penalties for failure to comply with the provisions of the repropoed new rules.

Social Impact

The repropoed new rules will assist the Association in remaining a viable and stabilizing influence in the automobile market and to continue to service and pay the claims on which it becomes or remains liable. The repropoed new rules will also ensure that all motor vehicles of a private passenger type, as defined by the Commissioner in accordance with the intent of the Legislature, are subject to the policy constants regardless of whether the motor vehicle is self-insured or insured by the voluntary or residual markets. In addition, the application of the policy constants to the broadest possible base of insureds is consistent with the above-mentioned objectives of the Association.

Economic Impact

The procedural requirements of the repropoed new rules will not result in any significant adverse economic impact upon insurers or self-insurers. Insurers, already subject to these requirements, may experience a minimal increase in costs by having to adjust their surcharge systems to comport with the uniform definition of what type of motor vehicles are charged. Self-insurers will also experience a minimal increase in costs by remitting the collected policy constants to the Association and filing certain specified information annually and quarterly with the Department and the Association.

The substantive requirements of the repropoed new rules will, however, result in a significant adverse economic impact upon insureds (if not already subject to policy constants) and self-insurers in that the imposition of the policy constants will result in having each insured and self-insurer responsible for a reflective increase in premiums and certificate of self-insurance filing fees. The Department estimates that approximately 200,000 additional motor vehicles (above the estimated 4,000,000 motor vehicles currently charged) will be affected, at an estimated \$15,000,000 additional charge to the motor vehicle population.

The Department does not expect to incur any significant additional expenses as a result of the repropoed new rules.

Regulatory Flexibility Statement

Some insurers and self-insurers affected by the repropoed new rules may be small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The compliance requirements imposed upon insurers, including small businesses, are that they collect a policy constant along with the policy premium, remit it to the Association within 10 days after the close of each month of receipt thereof, and annually file with the Department and the Association specified information regarding the collected and remitted charges. None of the above requirements is expected to have any significant adverse economic impact on insurer small businesses. In addition, the compliance requirements for self-insurers, that is, forwarding the full amount of the policy constant to the Association before receiving a certificate of self-insurance from the Department and maintaining a daily log and filing quarterly reports of the number and types of motor vehicles covered, will have no significant adverse economic impact on self-insurer small businesses. To provide for uniform and consistent applicability of these rules, and to avoid granting any advantage to insurers or self-insurers which are small businesses, no differential treatment is accorded to them by these repropoed new rules.

Full text of the repropoal follows:

SUBCHAPTER 24. POLICY CONSTANTS

11:3-24.1 Purpose and scope

(a) This subchapter provides guidelines for the identification of the types of private passenger automobiles as defined in this subchapter which are insured under private passenger or commercial automobile policies, or self-insured pursuant to N.J.S.A. 39:6-52, upon which flat charges known as policy constants shall be imposed pursuant to N.J.S.A. 17:29A-37.1. This subchapter also establishes procedures for the collection of policy constants and for their transmission to the New Jersey Automobile Full Insurance Underwriting Association (Association).

(b) This subchapter is applicable to all private passenger automobile insurers that insure, in the voluntary and residual markets in this State, private passenger automobiles as defined in this subchapter; to all commercial automobile insurers that insure, in the voluntary and residual markets in this State, automobiles of a private passenger type; and to all self-insurers which own or lease under contract, for a continuous period of at least three months, self-insured automobiles of a private passenger type registered with the Division of Motor Vehicles under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52.

11:3-24.2 Definitions

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

"Classic automobile" means a motor vehicle which otherwise satisfies the definition of private passenger automobile as defined herein and which is also 10 or more years old, is used on a regular basis, and has a value significantly higher than the average value of other private passenger automobiles of the same make and model year.

"Owned" means to have legal title to such private passenger automobile as defined in this subchapter. This definition shall include a private passenger automobile leased under contract for a continuous period of at least three months.

"Policy constants" mean flat charges imposed on the following, but in no event shall be deemed to include a residual market equalization charge levied pursuant to N.J.S.A. 17:30E-8:

1. Private passenger automobiles as defined by this subchapter, written on private passenger automobile insurance policies in the voluntary and residual markets;
2. Private passenger automobiles as defined by this subchapter, written on commercial automobile policies in the voluntary and residual markets; and
3. Private passenger automobiles as defined by this subchapter, which are self-insured under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52.

"Principally garaged" means located within the boundaries of the State of New Jersey for a total time period of at least three months per year, whether consecutive or non-consecutive.

11:3-24.3 Collection of flat charges; remittance

(a) All private passenger and commercial automobile insurers and self-insurers which are subject to the provision of this subchapter shall collect policy constants, pursuant to N.J.S.A. 17:29A-37.1, on private passenger automobiles as defined in N.J.A.C. 11:3-24.4 on a per car per coverage basis unless otherwise indicated elsewhere in this subchapter, in the following annual amounts:

Bodily Injury Liability	\$12.00
Property Damage Liability	4.00
Personal Injury Protection	28.00
Collision	8.00
Comprehensive	18.00

(b) The policy constants which have been collected by an insurer subject to the provisions of this subchapter shall be transferred to the New Jersey Automobile Full Insurance Underwriting Association (Association) within 10 days after the close of each accounting month.

INSURANCE

PROPOSALS

1. All monies collected from the policy constants, net of a pro rata portion of any producer commissions, and all premium taxes payable thereon, shall be transferred to the Association. No other expenses shall be payable to or deductible from the policy constants transferred to the Association.

2. In the case of policy premiums paid pursuant to a payment plan or installment plan, the insurer shall, within 10 days after the close of each month of receipt thereof, transfer to the Association a proportionate share of the total policy constant on the policy, based on the payment schedule or amount of payment received.

3. The charges shall be collected, where applicable, on all private passenger automobile liability and physical damage policies, and all commercial automobile liability and physical damage policies that insure automobiles of a private passenger type, issued or renewed in the voluntary and residual market with an effective date on or after December 24, 1987.

(c) The policy constants applicable to a self-insurer subject to the provisions of this subchapter shall be forwarded to and received by the Association before the Department of Insurance shall issue an annual certificate of self-insurance.

1. The policy constants shall be collected, where applicable, for all coverages required by law, on all self-insured, private passenger automobiles as defined in this subchapter, which are intended to be covered under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52. The policy constants shall also be collected, where applicable, for all coverage not required by law but for which an accounting entry has been made in the financial records or statements of the self-insurer for possible future repairs to such self-insured vehicle. The charges shall be collected on all vehicles self-insured on or after December 24, 1987.

2. Self-insurers subject to the provisions of this subchapter shall keep a daily log of the number and types of private passenger automobiles as defined in this subchapter and report to the Department and the Association on a calendar year quarterly basis, within a time frame and on a form provided by the Commissioner, the number and types of such motor vehicles added to or deleted from the self-insurer's inventory as of the 15th day of the last month of each quarter, with the exception of the last quarter of the calendar year. Upon receipt of the quarterly report, the Association shall, in the case of a net addition to the self-insurer's inventory, send the self-insurer a bill in the amount of pro rata charges due. In the case of a net deletion from the self-insurer's inventory, a credit in the amount of the pro rata charges unearned will be made toward the renewal fee for the certificate of self-insurance, provided, however, that if the self-insurer does not renew the certificate of self-insurance, the Association shall remit the amount of the pro rata charge unearned to the self-insurer within 30 days after January 1 of the renewal year.

11:3-24.4 Definition of private passenger automobile

(a) "Private passenger automobile" means an automobile, principally garaged in the State of New Jersey or principally garaged in another state if insured through the New Jersey Automobile Full Insurance Underwriting Association, of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; or a motor vehicle with a pick-up body, a van, a delivery sedan, a panel truck or a motorized camper type vehicle, principally garaged in the State of New Jersey or principally garaged in another state if insured through the New Jersey Automobile Full Insurance Underwriting Association, and owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile. All motor vehicles owned by a governmental entity, agency or instrumentality thereof shall not be considered a private passenger automobile for the purposes of this subchapter.

(b) The following motor vehicles which otherwise meet the definition of private passenger automobile for the purposes of this subchapter shall also be subject to assessment of the policy constant:

1. A pickup, panel truck, or van used in the business of the United States Government, by an employee of the Government, which shall be considered a private passenger automobile, if:

i. It is owned by an individual or by a husband and wife who are residents of the same household;

ii. It is customarily used in any other occupation, profession or business of the insured other than farming or ranching; and

iii. Liability coverage is limited in accordance with the Federal employee's use of the automobile in government business endorsement.

2. A motor vehicle issued a certificate of self-insurance by the Department of Insurance pursuant to N.J.S.A. 39:6-52, as authorized by N.J.S.A. 17:29A-37.1;

3. A dune buggy, but only if it is registered for street use;

4. A classic automobile as defined in this subchapter;

5. An electric powered automobile;

6. An amphibious vehicle;

7. A motor vehicle which shares its license plate(s) with an inventory of other motor vehicles for eventual sale by a person engaged in the business of selling such motor vehicles. For purposes of this subparagraph, the policy constants shall be imposed on a per-plate per-coverage basis;

8. A motor vehicle in which the insurance policy covering the lender's and borrower's interest in the motor vehicle has lapsed and is reissued to the lender pursuant to the financing agreement between such lender and borrower;

9. A motor vehicle, owned by a corporation, which is assigned to one or more corporate officers or employees; and

10. Any other motor vehicle, as determined by the Commissioner, which is available for private passenger use and not wholly related to business use.

11:3-24.5 Verification statement

(a) On December 31 of each year, all private passenger automobile insurers, commercial automobile insurers and self-insureds under which the provisions of this subchapter apply shall provide to the Commissioner of the Department of Insurance, and to the Manager of the Association, a certified statement containing the name, title, address and telephone number of the individual responsible for certifying and sending policy constants to the Association.

(b) The statement shall be sent to:

Actuarial Services
State of New Jersey
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

11:3-24.6 Penalty

Failure to comply with the provisions of this subchapter may result in the imposition of sanctions by the Department including, but not limited to, sanctions set forth pursuant to N.J.S.A. 17:33-2 and N.J.S.A. 17:29A-37.1.

LABOR

(a)

DIVISION OF VOCATIONAL REHABILITATION SERVICES

Procedures and Standards

Proposed Repeals: N.J.A.C. 12:45 through 12:49.

Proposed New Rules: N.J.A.C. 12:45-1.

Authorized By: Charles Serraino, Commissioner, Department of Labor.

Authority: N.J.S.A. 34:1-20; 34:1A-3(e), 34:16-20 et seq., 29

U.S.C.A. §701 et seq., and 34 CFR §361.1 et seq.

Proposal Number: PRN 1988-640.

Submit comments by January 18, 1989 to:

Alfred B. Vuocolo, Jr.

Chief Legal Officer

New Jersey Department of Labor

Office of the Commissioner

CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

On June 6, 1988, the Department of Labor (Department) readopted with amendments N.J.A.C. 12:45 through 12:49 concerning the Division of Vocational Rehabilitation Services.

Upon further review of the readoption with amendments, the Department has decided to propose a repeal of N.J.A.C. 12:45 through 12:49 and propose new rules concerning vocational rehabilitation services. The purpose of the proposed repeal and new rules is to more closely follow the language and intent of the Federal law and regulations and State law governing vocational rehabilitation services.

N.J.A.C. 12:45-1.1 sets forth the purpose and scope of the rules.

N.J.A.C. 12:45-1.2 sets forth definitions. This section is substantially similar to 34 CFR §361.1.

N.J.A.C. 12:45-1.3 sets forth the State's standards and procedures which assure expeditious and equitable handling of applications and referrals for vocational rehabilitation services. This section is required by 34 CFR §361.30.

N.J.A.C. 12:45-1.4 sets forth the eligibility requirements for vocational rehabilitation services. This section is substantially similar to 34 CFR §361.31.

N.J.A.C. 12:45-1.5 sets forth the standards and procedures used during the preliminary diagnostic study. This section is substantially similar to 34 CFR §361.32.

N.J.A.C. 12:45-1.6 sets forth the standards and procedures used during the thorough diagnostic study. This section is substantially similar to 34 CFR §361.33.

N.J.A.C. 12:45-1.7 sets forth the standards and procedures used during an extended evaluation to determine vocational rehabilitation potential. This section is substantially similar to 34 CFR §361.34.

N.J.A.C. 12:45-1.8 sets forth the standards and procedures used to certify eligibility for vocational rehabilitation services. This section is substantially similar to 34 CFR §361.35.

N.J.A.C. 12:45-1.9 sets forth the standards and procedures to be followed in selecting groups of individuals with handicaps to be provided vocational rehabilitation services at any time when these services cannot be provided to all eligible individuals. This section is substantially similar to 34 CFR §361.36.

N.J.A.C. 12:45-1.10 sets forth the requirements for the contents of the case record. This section is substantially similar to 34 CFR §361.39.

N.J.A.C. 12:45-1.11 sets forth the procedures for initiating and updating the individualized written rehabilitation program. This section is substantially similar to 34 CFR §361.40.

N.J.A.C. 12:45-1.12 sets forth the requirements for the contents of the individualized written rehabilitation program. This section is substantially similar to 34 CFR §361.41.

N.J.A.C. 12:45-1.13 sets forth the scope of vocational rehabilitation services for individuals. This section is substantially similar to 34 CFR §361.42.

N.J.A.C. 12:45-1.14 sets forth the standards for determining whether an individual is rehabilitated. This section is substantially similar to 34 CFR §361.43.

N.J.A.C. 12:45-1.15 sets forth the State's policies covering the determination of financial need and the types of vocational rehabilitation services for which the State has established a needs test. This section satisfies the requirements of 34 CFR §361.47.

N.J.A.C. 12:45-1.16 sets forth the standards and procedures used to protect personal information. This section is substantially similar to 34 CFR §361.49.

The Department, however, has clarified a vague provision in the Federal regulations concerning the release of harmful information to a representative. Under 34 CFR §361.49(c)(1), the State must release harmful medical and psychological information through the client's representative or a physician or licensed or certified psychologist. The purpose of such a requirement is to protect the client from the harmful information by releasing it to a person who is qualified to evaluate the impact of the harmful information on the client. Obviously, a physician or a licensed or certified psychologist is qualified to evaluate whether or not certain information will prove harmful to a client. However, a representative may not be qualified to evaluate the impact of harmful information on a client. The Federal regulation does not provide any guidance as to the definition of a representative.

Consequently, the Department has defined the conditions for release of harmful information to a representative, parent or guardian. If harmful medical or psychological information is involved, the parent, guardian or representative must be qualified, in the opinion of the agency, to properly deal with the review of such information. If the agency determines that the parent, guardian or representative is not qualified, the agency may release a summary of the case record.

It should be noted that the Department is not denying the parent, guardian or representative any access to the individual's file. The unqualified parent, guardian or representative must obtain a qualified physician or licensed or certified psychologist to evaluate the impact of the harmful information on the client.

N.J.A.C. 12:45-1.17 sets forth the procedures for appealing any agency action or inaction. This section is substantially similar to the requirements of 34 CFR §361.49.

Social Impact

The proposed repeal and new rules will benefit individuals with handicaps and individuals with severe handicaps by providing them with notice of the services available through the Division. The proposed repeal and new rules also benefit these individuals by setting forth the application procedures for services and the criteria and standards used by the Division in determining eligibility for services and participation in paying for the cost of services. Finally, the proposed new rules benefit these individuals by setting forth the standards for protecting the client information and the procedures for appealing any agency action or inaction.

The proposed repeal and new rules will benefit the Department in that the standards and procedures used for the provision of vocational rehabilitation services will be clearly identified in rules.

Economic Impact

The proposed repeal and new rules will not have any direct impact on individuals who seek vocational rehabilitation services and the Department since these rules merely reflect standards, procedures and services that were already available under the Federal law and rules, and State law, rules and policies.

Regulatory Flexibility Statement

The proposed repeals and new rules do not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Thus, a regulatory flexibility analysis is not required.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 12:45 through 12:49.

Full text of the proposed new rules follows:

CHAPTER 45

DIVISION OF VOCATIONAL REHABILITATION SERVICES

SUBCHAPTER 1. PROCEDURES AND STANDARDS

12:45-1.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the procedures, standards, and criteria used by the Division of Vocational Rehabilitation Services to rehabilitate individuals with handicaps.

(b) This subchapter applies to every individual who is seeking rehabilitation services in the State of New Jersey.

12:45-1.2 Definitions

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

"Act" means the Rehabilitation Act, 29 U.S.C. §§701 et seq.

"Competitive work", as used in the definition of "supported employment", means work that is performed on a full-time basis or on a part-time basis, averaging at least 20 hours per week for each pay period, and for which an individual is compensated in accordance with the Fair Labor Standards Act, 29 U.S.C. §§201 et seq.

"Division" means the Division of Vocational Rehabilitation Services (DVRS), New Jersey Department of Labor.

"Eligible" or "eligibility", when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

1. An individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment; and

2. Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"Employability" means a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, or, if appropriate, part-time employment, consistent with the capacities or abilities of the individual in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; home-based employment; supported employment; or other gainful work.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case:

1. A preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services;

2. A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability;

3. Any other goods or services, including rehabilitation engineering services, necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability;

4. Referral to other agencies or organizations, when appropriate; and

5. The provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is an individual with handicaps for whom a vocation goal is feasible.

"Extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

"Family member" or "member of the family" means any relative by blood or marriage of an individual with handicaps and any other individual living in the same household with whom the individual with handicaps has a close interpersonal relationship.

"Impartial hearing officer" means an individual:

1. Who is not an employee of a public agency that is involved in any decision regarding the furnishing or denial of rehabilitation services to a vocational rehabilitation applicant or client. An individual

is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer;

2. Who has not been involved in previous decisions regarding the vocational rehabilitation applicant or client;

3. Who has background and experience in, and knowledge of, the delivery of vocational rehabilitation services; and

4. Who has no personal or financial interest that would be in conflict with the individual's objectivity.

"Individual with handicaps" means an individual:

1. Who has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment; and

2. Who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of vocational rehabilitation potential is necessary to determine whether the individual might reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

"Individual with severe handicaps" means an individual:

1. Who has a severe physical or mental disability which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability;

2. Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

3. Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, and end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

"Integrated work setting," as used in the definition of "supported employment," means job sites where:

1. Most co-workers are not handicapped, and individuals with handicaps are not part of a work group of other individuals with handicaps; or

2. Most co-workers are not handicapped, and if a job site described in paragraph 1 above is not possible, individuals with handicaps are part of a small work group of not more than eight individuals with handicaps; or

3. If there are no co-workers or the only co-workers are members of a small work group of not more than eight individuals, all of whom have handicaps, individuals with handicaps have regular contact with non-handicapped individuals, other than personnel providing support services, in the immediate work setting.

"Physical and mental restoration services" means:

1. Medical or corrective surgical treatment;

2. Diagnosis and treatment for mental or emotional disorders by a physician skilled in the diagnosis and treatment of such disorders or by a psychologist licensed or certified in accordance with State laws and regulations;

3. Dentistry;

4. Nursing services (in conjunction with other medical and health-care services and upon recommendation of a physician);

5. Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

6. Convalescent or nursing home care (in conjunction with other medical and health-care services and upon recommendation of a physician);

7. Drugs and supplies;

8. Prosthetic, orthotic or other assistive devices including hearing aids, essential to obtaining or retaining employment;

9. Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses,

and other special visual aids, prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

10. Podiatry (in conjunction with other medical and healthcare services and upon recommendation of a physician);

11. Physical therapy;

12. Occupational therapy;

13. Speech or hearing therapy;

14. Psychological services;

15. Therapeutic recreation services;

16. Medical or medically related social work services;

17. Treatment of either acute or chronic medical complications and emergencies which are associated with or arise out of the provision of physical and mental restoration services; or which are inherent in the condition under treatment;

18. Special services for the treatment of individual suffering from endstage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

19. Other medical or medically related rehabilitation services that would contribute to the reduction or elimination of barriers to employment including art therapy, dance therapy, music therapy and psychodrama.

"Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

"Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing the obtaining, retaining, or preparing for employment consistent with the individual's capacities and abilities.

"Supported employment" means:

1. Competitive work in an integrated work setting with on-going support services for individuals with severe handicaps for whom competitive employment:

i. Has not traditionally occurred; or

ii. Has been interrupted or intermittent as a result of severe handicaps; or

2. Transitional employment for individuals with chronic mental illness.

"Vocational rehabilitation services" means time-limited services that are dedicated to the reduction or elimination of the barriers to employment.

1. When provided to an individual, also means those services listed in N.J.A.C. 12:45-1.13.

2. When provided for the benefit of groups of individuals, also means:

i. The establishment of a rehabilitation facility;

ii. The construction of a rehabilitation facility;

iii. The provision of other facilities and services, including services provided at rehabilitation facilities, which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one individual with handicaps;

iv. The use of existing telecommunications systems; and

v. The use of services providing captioned films or video cassettes for deaf persons.

12:45-1.3 Processing applications and referrals

(a) Each individual seeking vocational rehabilitation services shall complete an application which can be obtained from any local Division office. If the individual is a referral, the person or agency making the referral may complete the application on behalf of the individual. If the individual is incapable of completing an application, the individual's parent, guardian or representative may complete the application.

(b) Each individual or representative shall submit the application and any medical or psychiatric records relating to disability to the nearest Division office. If possible, the individual or representative shall also submit a recently completed General Basic Medical Examination form to expedite the application process. Forms for the General Basic Medical Examination can be obtained from any local Division office.

(c) Upon reviewing the application, a Division counselor shall arrange an appointment for the individual at the nearest local Division office. If the individual cannot travel, the counselor may visit the individual.

(d) Each individual referred for vocational rehabilitation services shall be interviewed by a counselor as soon as possible after referral.

12:45-1.4 Eligibility for vocational rehabilitation services

(a) An individual shall be eligible for vocational rehabilitation services if the counselor determines that the following exists:

1. A physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

2. A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

(b) Each counselor shall apply the eligibility requirements without regard to sex, race, age, creed, color or national origin of the individual applying for service.

(c) No group of individuals shall be excluded or found ineligible solely on the basis of the type of disability.

(d) No upper or lower age limit shall be established which will in and of itself, result in a finding of ineligibility for any individual with handicaps who otherwise meets the eligibility requirements set forth in (a) above.

1. The individual with handicaps shall be of age to work in New Jersey at the conclusion of services.

(e) No residence requirement, durational or other, shall be established which excludes from services any individual who is present in the State.

(f) Aliens who possess a green card may be provided with vocational rehabilitation services if they will be available to complete an individualized written rehabilitation program which includes a suitable vocational goal. When individuals cannot legally accept employment, then such individuals would not be eligible.

(g) Illegal aliens are not eligible for vocational rehabilitation services.

(h) Each counselor shall advise his or her client, at least once annually, of the prohibitions against discrimination set forth in (b) above.

12:45-1.5 Evaluation of vocational rehabilitation potential: preliminary diagnostic study

(a) In order to determine whether any individual is eligible for vocational rehabilitation services, the counselor shall conduct a preliminary diagnostic study to determine:

1. Whether the individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment; and

2. Whether vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, or whether an extended evaluation of vocational rehabilitation potential is necessary to make this determination.

(b) The preliminary diagnostic study shall include:

1. An appraisal of the current general health status of the individual based, to the maximum extent possible, on available medical information; and

2. An evaluation by appropriate medical specialist when necessary to determine the current status of the disorder.

(c) In all cases of mental or emotional disorder, an examination shall be provided by a physician skilled in the diagnosis and treatment of such disorders, or by a psychologist licensed in accordance with the laws and rules of the State of New Jersey. In cases of mental retardation, reports from school psychologists may be used to document the disability.

LABOR

PROPOSALS

(d) If appropriate, an individual may select his or her own physicians to conduct the necessary medical examinations provided the physician will accept DVRS fees.

12:45-1.6 Evaluation of vocational rehabilitation potential; thorough diagnostic study

(a) Upon determination of eligibility, the counselor shall conduct a thorough diagnostic study to determine the nature and scope of services needed by the individual.

(b) The thorough diagnostic study includes in all cases to the degree needed, an appraisal of the individual's:

1. Functional capacities and limitations;
2. Personality;
3. Intelligence level;
4. Educational achievement;
5. Work experience;
6. Personal, vocational and social adjustment;
7. Employment opportunities;
8. Patterns of work behavior;
9. Ability to acquire occupational skill;
10. Capacity for successful job performance;
11. Employability;
12. Need for rehabilitation engineering services; and
13. Other pertinent data.

12:45-1.7 Extended evaluation to determine vocational rehabilitation potential

(a) Eligibility for vocational rehabilitation services under a plan for extended evaluation shall be determined only upon:

1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

2. An inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine vocational rehabilitation potential.

(b) The extended evaluation period shall begin on the date of certification for extended evaluation to determine rehabilitation potential.

1. Only one 18-month maximum period shall be permitted during the time that the case is open.

2. If a case has been closed because of a determination that the individual's needs have changed, the case may be re-opened and a subsequent evaluation of vocational rehabilitation potential may be carried out.

(c) Vocational rehabilitation services, authorized after the expiration of the extended evaluation period, shall be provided only if the certification of eligibility has been executed by the counselor.

(d) The individual's progress during the extended evaluation plan shall be assessed as frequently as necessary but at least once every 90 days. This assessment shall include periodic reports from the facility or person providing the services and be used to determine whether the individual may be eligible or ineligible.

(e) The extended evaluation shall be terminated at any time before the end of the 18-month extended evaluation when:

1. The individual is found ineligible for vocational rehabilitation services, since there is a reasonable assurance that he or she can be expected to benefit in terms of employability from vocational rehabilitation services; or

2. The individual is found ineligible for any additional vocational rehabilitation services, since it has been determined on the basis of clear evidence that he or she cannot be expected to benefit in terms of employability from vocational rehabilitation services.

12:45-1.8 Certification: eligibility; extended evaluation to determine vocational rehabilitation potential; ineligibility

(a) Before or at the same time that an individual with handicaps is accepted for vocational rehabilitation services, there shall be a certification that the individual has met the basic eligibility requirements as set forth in N.J.A.C. 12:45-1.4.

1. The certification of eligibility shall be dated and signed by the counselor.

(b) Before and as a basis for providing an extended evaluation to determine vocational rehabilitation potential, there shall be a certification that the individual has met the requirements in N.J.A.C. 12:45-1.8.

1. The certification for extended evaluation shall be signed and dated by the counselor.

(c) Whenever the counselor determines on the basis of clear evidence that an applicant or recipient of vocational rehabilitation is ineligible for services, the counselor shall sign and date a certification.

1. The certification shall contain the following:

i. The reasons for the ineligibility determination;

ii. A statement that the determination is made only after full consultation with the individual or, as appropriate, the individual's parent, guardian, or other representative, or after giving a clear opportunity for this consultation; and

iii. When appropriate, a detailed explanation of the availability of the resources within a client assistance project established under section 112 of the Act, and a statement that referral is made to other agencies and facilities, including, when appropriate, the State's independent living program.

(d) The ineligibility determination shall be reviewed within 12 months.

1. A review of an ineligibility determination shall not be conducted in situations where the individual has refused the review, the individual is no longer present in the State, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal.

(e) The counselor may close a case without any determination of eligibility when an applicant is unavailable during an extended period of time to complete an evaluation of vocational rehabilitation potential and the counselor has made repeated efforts to contact the individual and to encourage his or her participation.

12:45-1.9 Order of selection for services

(a) In the event a shortage of funds precludes the provision of services to all eligible clients, the Director shall invoke an order of selection of individuals to receive services. The order of selection shall be as follows:

1. Clients classified as severely handicapped;
2. Public safety officers disabled in the line of duty;
3. Employed clients requiring service to maintain employment; and
4. All other clients.

(b) When imposed, the order of selection shall not preclude:

1. Delivery of any services listed on an Individual Written Rehabilitation Plan for clients certified as eligible prior to the imposition of the order of selection;

2. Diagnostics necessary to establish a client's eligibility; or

3. Any non-purchased services such as counseling, guidance, placement, referral services, coordination of similar benefits and/or third party payments to eligible individuals.

(c) Imposition of an order of selection shall result in an automatic suspension of exempting the first \$2,500 (or any amount currently exempt) of case service expenditures from the financial need analysis for any services not already committed. The suspension shall only be lifted when the order of selection is lifted.

12:45-1.10 Case record for the individual

(a) Each counselor shall maintain for each applicant for, and recipient of, vocational rehabilitation services a case record which shall include, to the extent pertinent, the following information:

1. Documentation concerning the preliminary diagnostic study supporting the determination of eligibility, the need for an extended evaluation of vocational rehabilitation potential, and, as appropriate, documentation concerning the thorough diagnostic study supporting the nature and scope of vocational rehabilitation services to be provided;

2. In the case of an individual who has applied for vocational rehabilitation services and has been determined to be ineligible, documentation specifying the reasons for the ineligibility determination.

PROPOSALS

Interested Persons see Inside Front Cover

LABOR

tion, and noting a review of the ineligibility determination carried out not later than 12 months after the determination was made;

3. Documentation supporting any determination that the individual's handicaps are severe;

4. Documentation as to periodic assessment of the individual during an extended evaluation of vocational rehabilitation potential;

5. An individualized written rehabilitation program;

6. In the event that physical and mental restoration services are provided, documentation supporting the determination that the clinical status of the individual with handicaps is stable or slowly progressive unless the individual is being provided an extended evaluation of rehabilitation potential;

7. Documentation supporting any decision to provide services to family members;

8. Documentation relating to the participation by the individual with handicaps in the cost of vocational rehabilitation services if the State unit elects to condition the provision of services on the financial need of the individual;

9. Documentation relating to the eligibility of the individual for any similar benefits, and the use of any similar benefits;

10. Documentation that the individual has been advised of the confidentiality of all information pertaining to his or her case, and documentation and other material concerning any information released about the individual with handicaps with his or her written consent;

11. Documentation as to the reason for closing the case including the individual's employment status and, if determined to be rehabilitated, the basis on which the employment was determined to be suitable;

i. In the case of an individual who has been provided vocational rehabilitation services under an individualized written program but who has been determined after the initiation of these services to be no longer capable of achieving a vocational goal, documentation of any reviews of this determination shall be included in the record;

12. Documentation of any plans to provide post-employment services after the employment objective has been achieved, the basis on which these plans were developed, and a description of the services provided and the outcomes achieved; and

13. Documentation concerning any action and decision involving the individual's request for review of rehabilitation counselor or coordinator determinations.

12:45-1.11 Individualized written rehabilitation program: procedures

(a) When a counselor determines that an individual is eligible for vocational rehabilitation services or that a period of extended evaluation is necessary to determine rehabilitation potential, an individualized written rehabilitation program shall be prepared for the individual.

(b) The counselor shall develop the individualized written rehabilitation program with the participation of the client or his or her parent, guardian or other representative.

(c) The counselor shall monitor the individualized written rehabilitation program to assure that services are being provided in accord with the written program.

(d) The counselor shall provide a copy of the written program and any amendments to the client or his or her parent, guardian or other representative including other suitable professional and informed advisors.

(e) The counselor shall inform the individual of all the requirements affecting the development, initiation and review of the individualized written rehabilitation program.

(f) The counselor shall review the individualized written rehabilitation program as often as necessary but at least on an annual basis.

1. Each individual with handicaps or, as appropriate, that individual's parent, guardian, or other representative, shall be given an opportunity to review the program and, if necessary, jointly redevelop, and agree to its terms.

12:45-1.12 Contents of the individualized written rehabilitation program

(a) The written rehabilitation program shall be based on a determination of employability designed to achieve the vocational objective of the individual and shall be developed through assessments of the individual's particular rehabilitation needs. Each individualized written rehabilitation program shall, as appropriate, include, but not be limited to, statements concerning:

1. The basis on which a determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of vocational rehabilitation potential is necessary to make a determination of eligibility;

2. The long-range and intermediate rehabilitation objectives established for the individual based on an assessment determined through an evaluation of rehabilitation potential;

3. The specific rehabilitation services to be provided to achieve the established rehabilitation objectives including, if appropriate, rehabilitation engineering services;

4. An assessment of the expected need for post-employment services;

5. The projected dates for the initiation of each vocational rehabilitation service, and the anticipated duration of each service;

6. A procedure and schedule for periodic review and evaluation of progress toward achieving rehabilitation objectives based upon objective criteria, and a record of these reviews and evaluations;

7. A reassessment, prior to case closure, of the need for post-employment services;

8. The views of the individual with handicaps, or, as appropriate, that individual and a parent, guardian, or other representative, including other suitable professional and informed advisors, concerning the individual's goals and objectives and the vocational rehabilitation services being provided;

9. The terms and conditions for the provisions of vocational rehabilitation services, including responsibilities of the individual with handicaps in implementing the individualized written rehabilitation program, the extent of client participation in the cost of services, if any, and the extent to which comparable services and benefits are available to the individual under any other program;

10. An assurance that the individual with handicaps has been informed of that individual's rights and the means by which the individual may express and seek remedy for any dissatisfaction, including the opportunity for a review of rehabilitation counselor or coordinator determinations;

11. An assurance that the individual with handicaps has been provided a description of the availability of a client assistance program established under section 112 of the Act;

12. The basis on which the individual has been determined to be rehabilitated; and

13. The plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which those plans are developed, and, if appropriate for individuals with severe handicaps, a statement of how these services will be provided or arranged through cooperative agreements with other service providers.

(b) Each individualized written rehabilitation program shall also contain, for individuals with severe handicaps for whom a vocational objective of supported employment has been determined to be appropriate:

1. A description of the time-limited services, not to exceed 18 months in duration, to be provided by the State; and

2. A description of the extended services needed, an identification of the State, Federal, or private programs that will provide the continuing support, and a description of the basis for determining that continuing support is available.

12:45-1.13 Vocational rehabilitation services for individuals

(a) The following vocational rehabilitation services shall be available:

1. Evaluation of vocational rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of, services to be provided;

LABOR

PROPOSALS

2. Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship throughout the program of services for an individual with handicaps, referral necessary to help individuals with handicaps secure needed services from other agencies, and advising clients and client applicants about client assistance programs under 34 CFR Part 370;

3. Physical and mental restoration services, necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive;

4. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this paragraph unless maximum efforts have been made by the counselor to secure grant assistance in whole or in part from other sources;

5. Maintenance, including payments, not exceeding the estimated cost of subsistence and provided at any time after vocational rehabilitation services have begun through the time when post-employment services are being provided. Maintenance covers an individual with handicap basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessary to support and derive the full benefit of the other vocational rehabilitation services being provided;

6. Transportation, including necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting individuals with handicaps and their attendants or escorts for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective;

7. Services to members of an individual with handicaps family when necessary to the vocational rehabilitation of the handicapped individual;

8. Interpreter services and notetaking services for the deaf;

9. Telecommunications, sensory and other technological aids and devices;

10. Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, other appropriate public service employment, and occupations which are designated as indicative of having significant career growth and employment potential;

11. Placement in suitable employment;

12. Post-employment services necessary to maintain or regain other suitable employment. "To maintain or regain other suitable employment" shall not be construed to mean an upgrade of services;

13. Occupational licenses, including any license, permit or other written authority required by a State, city or other governmental unit to be obtained in order to enter an occupation or enter a small business, tools, equipment, initial stocks (including livestock) and supplies;

14. Rehabilitation engineering services; and

15. Other goods and services that can reasonably be expected to benefit an individual with handicaps in terms of employability.

12:45-1.14 Individuals determined to be rehabilitated

(a) In order to be determined rehabilitated, an individual must have been, as a minimum:

1. Determined to be eligible under N.J.A.C. 12:45-1.4;

2. Provided an evaluation of vocational rehabilitation potential, and counseling and guidance as essential vocational rehabilitation services;

3. Provided appropriate and substantial vocational rehabilitation services in accordance with the individualized written rehabilitation program; and

4. Determined to have achieved and maintained a suitable employment goal for at least 60 days.

(b) After an individual has been determined to be rehabilitated, the individual shall receive post-employment services if necessary to assist an individual to maintain or regain other suitable employment.

12:45-1.15 Participation by individuals with handicaps in the cost of vocational rehabilitation services.

(a) The financial needs of an individual shall be considered for determining participation in the cost of all vocational rehabilitation services other than the following:

1. Evaluation of rehabilitation potential, except for services other than diagnostic services that are provided under an extended evaluation of rehabilitation potential;

2. Counseling, guidance and referral;

3. Placement; and

4. On-the-job training.

(b) The Division shall determine the financial need of an individual in regard to all services other than those set forth in (a) above based on the individual's current family income and assets. Family income for the purpose of this section shall mean the income and assets of the individual, the individual's spouse, and any other relative upon whom the individual is dependent.

1. In each case, the first \$2,500 of services (may be adjusted periodically) shall be exempt from the financial need analysis. The \$2,500 exemption shall be applied only once during a Federal fiscal year.

i. The Division shall seek similar benefits as the first dollar resource prior to the application of the \$2,500 exemption.

ii. The financial need analysis shall apply to all case expenditures in excess of the \$2,500 exemption.

2. The current family income allowance (may be adjusted periodically) shall be as follows:

i. Family of one: \$289.00 per week;

ii. Family of two: \$377.00 per week;

iii. Family of three: \$465.00 per week;

iv. Family of four: \$555.00 per week;

v. Family of five: \$644.00 per week;

vi. Family of six: \$732.00 per week;

vii. Family of seven: \$820.00 per week; and

viii. Family of more than seven: \$820.00 plus \$30.00 for each additional individual.

3. The current liquid asset allowance (may be adjusted periodically) shall be \$20,000 for one individual and \$2,000 for each additional family member.

4. The Division shall apply the "Reasonable Time and/or Dollar Schedule" as set forth in Appendix A, incorporated herein by reference, for specified case services.

5. The Division shall seek an individual's voluntary participation in the cost of needed vocational rehabilitation services which shall be documented in the case record.

6. The Division shall review an individual's financial status if vocational rehabilitation funds are utilized beyond the \$2,500 exemption.

7. Each individual who is seeking vocational rehabilitation services shall submit to his or her counselor a copy of his or her most recently filed Internal Revenue Service (IRS) Form 1040, and his or her family's IRS Form 1040, if applicable (that is the individual is a dependent).

i. When an individual does not have a copy of the appropriate tax forms, the counselor may provide interim services until a true copy of the tax forms can be submitted if the counselor determines that there will be an undue delay in achieving the rehabilitation objective and the individual has signed a certification of his or her present financial status.

(c) Any client who is the recipient of SSI (Supplemental Security Income) funds shall not be subject to the financial participation test. If the client has parents who are 55 years of age or older, the financial income of the parents shall not be considered in the financial needs determination for the client.

(d) Full consideration shall be given to any similar benefits available to an individual with handicaps or to members of the individual's family under any program to meet, in whole or in part, the cost of any vocational rehabilitation services. Similar benefits shall be utilized insofar as they are adequate and do not interfere or cause delay in achieving the rehabilitation objective of the individual. Services for which the consideration of similar benefits is not required are:

1. Evaluation of vocational rehabilitation potential except in cases where an individual with handicaps is provided with an extended evaluation of vocational rehabilitation potential;

2. Counseling, guidance and referral services;

3. Vocational and other training services, books, tools and other training materials that are not provided in institutions of higher education;

4. Placement;

5. Rehabilitation engineering services; and

6. Post-employment services consisting of the services listed in (d) through 5.

(e) Full consideration shall be given to any similar benefits available under any other program to an individual with handicaps to meet in whole or in part the cost of physical and mental restoration services and maintenance unless it would significantly delay the provision of services to any individual who is at extreme medical risk. A determination of extreme medical risk shall be based upon medical evidence provided by an appropriate licensed medical professional.

(f) Counselors shall assist clients whenever possible to locate other funding sources for the following services which the Division does not provide.

(g) Any DVRS client whose disability was the result of an accident and who has received a monetary judgment or settlement shall reimburse DVRS for the cost of services provided.

12:45-1.16 Protection: use and release of personal information

(a) The agency shall hold as confidential all information concerning persons applying for or receiving vocational rehabilitation services, given or made available to the agency, its representatives or its employees, in the course of the administration of the vocational rehabilitation program.

(b) The use of such information shall be limited to purposes directly connected with the administration of the vocational rehabilitation program.

(c) Information shall not be disclosed directly or indirectly, except:

1. In the administration of the vocational rehabilitation program or the provision of vocational rehabilitation services; or

2. With the informed, written consent of the client or applicant, or of the client's or applicant's parent or legal guardian, in the event the client or applicant is not competent to give such consent.

(d) The requirements for release of information are as follows:

1. Upon written request of the client or applicant, the agency shall release information to the client or applicant, or, if appropriate, to the client's or applicant's parent, guardian or other representative. This shall be subject to the limitation that, in the case of medical or psychological information the knowledge of which may be harmful if disclosed to the client or applicant, such information shall be released to the parent, guardian or other representative, or to a physician or licensed psychologist for review with the client or applicant.

i. If medical or psychological information, the knowledge of which may be harmful if disclosed to the client or applicant, is involved, the parent, guardian or representative shall be qualified, in the opinion of the agency, to properly deal with the review of such information with the client or applicant.

ii. If the agency determines that the parent, guardian or representative is not qualified to properly deal with the review of medical or psychological information that is harmful to the client or applicant, the agency may provide a summary of the case record.

2. The agency may release information to other individuals, agencies or organizations, only if the conditions for disclosure of information set forth in (c) above are met, and the agency receives prior satisfactory written assurance that the information will be used for the purpose for which it was provided and that it will not be released to any other party. Organizations engaged in the research shall be further subject to the following conditions:

i. Information provided shall not be released to persons not directly connected with the study; and

ii. The final product of the research will not reveal any information that might identify any person about whom the information has been obtained, without the written consent of such person and the agency.

3. The agency must release information in response to investigations in connection with law enforcement, fraud or abuse (except where expressly prohibited by Federal or State laws or regulations) and in response to judicial order.

4. The agency may release personal information in order to protect the individual or others when the individual poses a threat to his or her safety or the safety of others.

12:45-1.17 Appeal of vocational rehabilitation applicant or recipient

(a) Review procedure: Applicants/clients for vocational rehabilitation shall be advised of their right to a review in the event that they are dissatisfied with any action with regard to the furnishing or denial of vocational rehabilitation services.

1. A review must be requested in writing by the applicant or client. This written request should be submitted to the office manager.

2. The review shall be held at a time and place convenient for the applicant or client.

3. The applicant or client will be notified of the date, time, and place of the review. The notification will be sent in advance of the review and provide enough time for the applicant or client to prepare for the review.

4. The applicant or client may be represented by counsel, friend, Client Assistance Program located in the Department of the Public Advocate, parent, guardian or self. If he or she chooses to represent himself or herself, he or she must be an adult, 18 years of age or older.

5. The applicant or client and his or her representative, if he or she desires to have one, will be given an adequate opportunity for cross examination and to present evidence on his or her behalf during the review.

6. The review shall be held before an impartial hearing officer within 45 days of the request by the applicant or client for a review.

7. The impartial hearing officer shall render a decision in writing and provide a full written report of his or her findings and the grounds for the decision to the client or his or her representative and to the DVRS Director within 30 days of the completion of the review.

8. Within 20 days of the mailing of the impartial hearing officer's decision to the applicant or client and the Director, the Director shall notify the applicant or client in writing of his or her intention to review the initial decision.

9. If the Director fails to notify such individuals within 20 days, the decision of the impartial hearing officer will be considered final.

10. If the Director decides to review the decision, such individuals may submit to the Director additional evidence and information relevant to a final decision within 15 days of the receipt of the Director's notice of intention to review.

11. A final decision shall be made in writing by the Director within 30 days of the mailing of the notice of intention to review and shall include a full report of the findings and the grounds for such decision. A copy of such decision shall be provided to such individuals.

Appendix A

Reasonable Time and/or Dollar Schedule

I. Training

A. College Training

1. Tuition and Fees—up to \$1,600 per year.

2. Room and Board—up to \$1,400 per year.

3. Length of College Training—beyond the baccalaureate level—no training provided.*

*Exceptions will be made based on the severity of the disability or other extenuating circumstances. Minimum credits allowed shall be nine per semester. Dollar allowance shall be pro-rated based on full schedule.

B. Vocational Training—Private Trade School

1. Maximum of \$6,400 for the entire program.

C. Skill Training—Rehabilitation Facility

1. Length as per Facility Contract, but must be authorized in segments of up to 65 days.

LABOR

D. On-The-Job Training

1. Length—up to one year.
2. Cost—up to 50 percent of entry level wage paid for the particular occupation.

II. Therapy**

- A. Cardiac Therapy—up to 39 sessions.
- B. Psychotherapy—up to 39 sessions.
- C. Physical Therapy—up to 39 sessions.
- D. Occupational Therapy—up to 39 sessions.
- E. Speech Therapy—up to 39 sessions.
- F. Cognitive Retraining—up to 110 days.
- G. Cognitive Structured Vocational Trail Phase—up to 100 days.
- H. Substance Abuse Personal Adjustment Training—up to 28 days in-patient treatment at a maximum per diem of \$117.30.

**In all therapies, maximums include any previous therapy received within the preceding 12 calendar months for the same or similar condition, whether it be from within or outside of the agency.

III. Prosthetic Devices

- A. Prosthetics and Orthotics—up to Fee Schedule maximums.
- B. Hearing Aids:
 1. Monaural—up to manufacturer's cost plus Dispensing Fee of \$194.00.
 2. Binaural—up to manufacturer's cost plus Dispensing Fee of \$322.00.
- C. Wheelchairs—up to one and one-half times the manufacturer's invoice cost.
- D. Eyeglasses—up to \$50.00 for frames.
- E. Dentures—up to \$350.00 for either full upper or full lower denture.

IV. Miscellaneous

- A. Maintenance***
 1. Client living alone—up to \$40.00 per week.
 2. Client living as a member of a family group—up to \$25.00 per week.

***Authorization for maintenance must be issued in weekly segments of up to four per authorization.

B. Transportation

1. Up to \$17.50 per day, round trip, or \$.35 per mile not to exceed daily allowance.

C. Residence Modification

1. Up to \$2,500 per residence.

D. Hand Controls

1. Up to \$500.00.

E. Vehicle Modification

1. Determined by equipment prescribed and the fee for that equipment.

F. Tools and Supplies

1. Up to \$750.00.

G. Equipment

1. Up to \$1,500.00

H. Hospitals Record Request Fee

Up to \$10.00****—(consider requesting "Discharge Summary" in lieu of hospital records).

****Present rates, new rates being negotiated.

V. Facilities

- A. Admission Processing Fee—up to \$25.00.
- B. Vocational Evaluation—One to 50 days for initial authorization.—One to 50 days for additional reauthorization if productivity rate and circumstances warrant extension.
- C. Minimum Productivity Rates
 1. Evaluation—Nine percent to warrant continued evaluation. 12% percent to warrant Work Adjustment Training.

2. Work Adjustment—15 percent to 20 percent to warrant continued Work Adjustment Training.

- a. 20 percent to warrant Extended Employment.
- b. 40 percent to warrant continued Work Adjustment Training for Competitive Employment.

VI. Out of State Facilities

A. Rehabilitation Hospital—up to per diem rate at Kessler Institute of Rehabilitation (KIR).

B. Workshop—up to pre-vocational or Work Activity Training (WAT) per diem rate at a New Jersey Facility.

NOTE: Time and/or cost schedule for other services not listed in this appendix are available to the individual upon request.

LAW AND PUBLIC SAFETY

(a)

BOARD OF ACCOUNTANCY

Notice of Public Hearing and Comment Period Extension

Continuing Professional Education

Proposed New Rules: N.J.A.C. 13:29-6

Take notice that the Board of Accountancy will discuss the proposed new rules regarding continuing professional education, N.J.A.C. 13:29-6, published in the October 17, 1988 New Jersey Register at 20 N.J.R. 2532(a), at a **public hearing** on Tuesday, January 10, 1989, at 10:00 A.M. in the Bureau of Securities Hearing Room, 8th Floor, Gateway Two, Newark, New Jersey.

Interested persons wishing to provide comment at the public hearing should contact, by January 3, 1989:

John J. Meade, Executive Director
Board of Accountancy
1100 Raymond Boulevard
Room 507-A
Newark, New Jersey 07102
(201) 648-3240

The Board of Accountancy is also extending the **public comment period** on these proposed new rules until January 10, 1989. Comments should be submitted to John C. Meade, Executive Director, at the address set forth in the preceding paragraph.

(b)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules

Illegal Devices

Proposed Amendment: N.J.A.C. 13:70-14.5

Authorized By: New Jersey Racing Commission,

Charles K. Bradley, Deputy Director.

Authority: N.J.S.A. 5:5-10.

Proposal Number: PRN 1988-637.

Submit comments by January 18, 1989 to:

Charles K. Bradley, Deputy Director
New Jersey Racing Commission
CN 088, 200 Woolverton Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 13:70-14.5 would allow the Racing Commission to conduct non-invasive tests for illegal electrical, mechanical, or other devices through the use of a metal detector. The amendment provides for penalties to be imposed against the licensee in the event they are found to be in possession of such device or if they fail to cooperate.

Social Impact

The proposed amendment would enhance the Racing Commission's ability to regulate the industry and ensure the integrity of the race. The amendment also would be a protection for the participants in a race, as well as horses performing in the race, for the illegal use of a device to shock horses to exert them to greater efforts which may be dangerous to the animal and other participants in the race.

Economic Impact

The proposed amendment would have a minimal economic impact on the Racing Commission's budget as it would merely necessitate the purchase of metal detectors to be utilized at the various racing associations. There will be no economic impact on licensees acting in compliance with Commission rules.

Regulatory Flexibility Statement

There are no reporting or recordkeeping requirements in this amendment, as it deals with the non-invasive testing for illegal devices. The only compliance requirement is for the licensee to submit to the non-invasive test. As the amendment provides for the testing for illegal devices in a manner designed to have the minimal impact possible, no distinction between small and large businesses licenses can be provided which would permit the amendment's effectiveness to remain intact.

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

13:70-14.5 Illegal devices

(a) No electrical, mechanical, or other appliance or device, other than the ordinary whip, shall be applied to a horse at any time, anywhere on the grounds of any licensed racetrack. Any person so offending shall be suspended by the stewards and referred to the Commission for license revocation. Possession of any such device at any time, anywhere on the grounds of any licensed racetrack, may be punished by fine and/or suspension.

(b) Any licensee at any licensed racetrack may be subjected to a non-invasive test for illegal electrical, mechanical, or other appliances or devices through the use of a metal detector. Any person who refuses to submit to a metal detection test when requested to do so by the New Jersey Racing Commission, a steward or both may be subject to the penalties provided in N.J.A.C. 13:70-31.

(c) If the metal detector records a positive reading on a person, that individual will be asked to remove the metal object which caused the positive reading and then be retested in the manner described in (b) above. Any licensee who refuses to remove a metallic object causing a positive reading may be subject to the penalties provided in N.J.A.C. 13:70-31.

(d) Should any licensee be found to be in possession of illegal electrical, mechanical, or other appliances or devices, or should a licensee refuse to submit to a test for such devices as outlined in (b) and (c) above, he or she will be requested to appear before the stewards on the following day for a hearing on the matter.

(e) Should any jockey be found to be in possession of illegal electrical, mechanical, or other appliances or devices, or should a jockey refuse to submit to a test for such devices as outlined in (b) and (c) above, that jockey will be taken off of any remaining mounts and he or she will be requested to appear before the stewards on the following day for a hearing on the matter.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Telephone

Regulation of Alternative Operator Service (AOS) Providers

Proposed New Rules: N.J.A.C. 14:10-6.

Authorized By: Board of Public Utilities, Christine Todd Whitman, President.

Authority: N.J.S.A. 48:2-13 et seq.

BPU Docket Number: TE87060523.

Proposal Number: PRN 1988-636.

Submit comments by January 18, 1989 to:

Ida Marie Englehardt, Esq.

Regulatory Officer

New Jersey Board of Public Utilities

Two Gateway Center

Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed new rules attempt to provide end users with a choice of operator service providers and will permit Alternative Operator Service (AOS) providers to operate on an intrastate interLATA basis. AOS customers would be allowed to utilize "0" to access an AOS provider. The Board's previously ordered intraLATA ban would remain in effect. These rules shall remain in effect for 24 months after publication of their adoption.

Social Impact

The proposed new rules have been formulated to allow the AOS industry to operate on an interLATA basis with as few restrictions as necessary. However, this is to be done with the expectation that the industry will provide a competitively priced quality service in the public interest. At the expiration of 24 months of these rules being in effect the Board will review the impact of these rules, to determine if AOS providers have abided by the code of conduct that the Board would view as being in the public interest.

The proposed new rules will allow the effects of interLATA competition in the provision of operator services to be more quickly realized by customers in New Jersey.

Economic Impact

The proposed new rules may result in a greater choice of operator service providers for customers in New Jersey.

Regulatory Flexibility Statement

No AOS providers located in New Jersey, to the Board's knowledge, are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, no regulatory flexibility analysis is necessary.

Full text of the proposal follows:

SUBCHAPTER 6. REGULATION OF ALTERNATIVE OPERATOR SERVICE (AOS) PROVIDERS

14:10-6.1 Scope

(a) The rules contained in this subchapter shall apply to the provision of Alternative Operator Service (AOS) as defined in N.J.A.C. 14:10-6.3, for any AOS provider or its agent in New Jersey other than a transmission or distribution facilities-based carrier.

(b) Federal regulatory policy in the telecommunications industry, as evidenced by the AT&T divestiture and other FCC decisions, has fostered competition in many segments of the telecommunications industry. New companies and technologies have arisen which were not contemplated when existing utility statutes and regulations were set in place. The Board has authorized competition in areas where it believes the benefits of competition will be flowed through to customers in New Jersey. A new area in which competition has recently arisen is in the provision of operator assistance. These rules

PUBLIC UTILITIES**PROPOSALS**

may allow the benefits of the competitive marketplace to be more quickly flowed to consumers while ensuring that appropriate Board oversight and regulation is maintained.

14:10-6.2 Construction and amendment

This subchapter shall remain in effect for 24 months. The Board will revisit the matter at the end of 24 months to review and evaluate the effectiveness of these rules to determine if they should be continued, or to make any changes as are deemed necessary, including more stringent regulation.

14:10-6.3 Definitions

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

"Alternative Operator Service Provider" or "AOS" means any non-traditional telephone company operator service provider. This does not include AT&T, New Jersey Bell or any other tariffed transmission or distribution facilities-based carrier.

"Board" means the New Jersey Board of Public Utilities.

"LEC" means local exchange company.

14:10-6.4 Board regulation of AOS providers

(a) AOS providers may complete intrastate interLATA operator assisted calls over their network.

(b) AOS providers shall be subject to Board regulation on the basis of complaints from their customers. The Board or its staff may investigate the conduct of any AOS provider and take appropriate action as required.

(c) AOS providers and their agents shall not be considered resellers, except for AOS competitors providing intraLATA service in accordance with the provisions of this subchapter. In those instances, AOS providers are, in addition to the requirements of this subchapter, also subject to all the provisions contained in the Board's Orders in Docket Nos. 8112-1051 and 823-242.

(d) The AOS provider or its agent is responsible for conformance with all rules and regulations that apply to the provision of this service and the Board may take action against the AOS provider or its agent as is necessary to rectify any non-conformance with such rules, or to protect the general public interest. The Board's actions may include any necessary restrictions concerning billing and collection activities subject to its regulation.

(e) The AOS provider must place dialing instructions on instruments to which they provide service which detail AOS dialing procedures. These dialing instructions must include and be located in close proximity to dialing instructions for access to the local exchange company (LEC) operator.

(f) The AOS provider is responsible for including written notification of the carrier on or in close proximity to the telephone instrument, and branding must be provided for all operator assisted calls.

14:10-6.5 Access to AOS and other operator service providers

Free access to all other operator service providers must be made available from all instruments connected to an AOS. 10XXX access is to be made available from all Customer Provided Pay Telephone Service (CPPTS) instruments as well as other instruments, where technically capable. Otherwise, other reasonable access codes will be acceptable. In addition, the AOS will connect end users to their carrier of choice upon request.

14:10-6.6 Emergency call handling

All "0-" calls, that is calls, originated by dialing "0" and no other digits within four seconds, and "00" dialed calls, are to be sent promptly and directly to the LEC operator serving that area. In addition, an AOS provider may petition the Board to provide emergency call completion. If an individual AOS can certify that it is capable of handling emergency calls, following a petition to the Board detailing how the service will be provided, it shall be granted permission to do so. Each petition will be reviewed separately on its merits.

14:10-6.7 Completion of intraLATA calls

Completion of intraLATA calls is prohibited unless accomplished by a reseller of intraLATA LEC facilities, and completed entirely over resold intraLATA LEC facilities alone.

14:10-6.8 AOS Acknowledgment Forms

(a) An AOS Acknowledgment Form, similar to that completed by resellers, must be filed with New Jersey Bell (Company). This form shall contain all the rules contained in this subchapter as well as the following statements:

—**Authorized Alternate Operator Services (AOS) Provider**—
Denotes a communications competitor who has applied to the Company, and advises the Company of its intention to provide operator services in the State of New Jersey and via this signed "Letter of Acknowledgment" agrees to abide by the regulations set forth in such "Letter".

—The AOS shall acknowledge that only proper call measurement procedures will be used and that calls will be billed consistent with existing Company practice, that is, calls which are not completed are not billed.

—The AOS shall acknowledge that penalties for violations of the conditions of AOS may result in the imposition of penalties as stated in N.J.S.A. 48:2-42. The law provides that any person who willfully violates a Board of Public Utilities Order shall be guilty of a misdemeanor.

—The AOS shall notify the Company when it is no longer an intrastate AOS provider.

(b) The Company shall formulate an AOS Acknowledgment Form containing all AOS rules contained in this subchapter as outlined in (a) above.

14:10-6.9 Customer billing

LECs that provide billing and collection services to AOS providers shall include a statement on the AOS portion of each customer's bill advising the customer that the competitive operator service provider is not affiliated with the LEC and the charges contained on the pages are not regulated by the Board.

TRANSPORTATION**TRANSPORTATION OPERATIONS**

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by January 18, 1989 to:

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

(a)**Speed Limits****Route N.J. 94 in Sussex County****Proposed Amendment: N.J.A.C. 16:28-1.79**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Proposal Number: PRN 1988-628.

The agency proposal follows:

Summary

The proposed amendment will establish speed limit zones along Route 94 in Hardyston and Vernon Townships, Sussex County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local governments, and in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of speed limit zones along Route 94 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.79 based upon the requests from local governments and the traffic investigation.

Social Impact

The proposed amendment will establish speed limit zones along Route 94 in Hardyston and Vernon Townships, Sussex County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being

of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zones signs. Motorist who violate the rule will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The amendment primarily affects the motoring public.

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

16:28-1.79 Route 94

(a) The rate of speed designated for the certain part of State highway Route 94 described in this subsection shall be established and adopted as the maximum legal rate or speed [thereat]:

1. For both directions of traffic:

i.-xii. (No change.)

xiii. In Sussex County:

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

(3) Hardyston Township:

(A)-(B) (No change.)

(C) 45 miles per hour between the Hamburg Borough-Hardyston Township line and 2,600 feet [west] south of Old Coach Road (mileposts [36.10] **35.92** to [36.87] **36.78**); thence

(D) [40] **35** miles per hour between 2,600 feet [west] south of Old Coach and the Hardyston Township-Vernon Township line (mileposts [36.87] **36.78** to [37.22] **37.11**); thence

(4) (No change.)

(5) Vernon Township:

(A) [40] **35** miles per hour between the Hardyston Township-Vernon Township line and **1,000 feet north of** [Old] Rudetown Road (**County Road 517**) (mileposts [37.22] **37.11** to [37.95] **38.57**); thence

[(B) 35 miles per hour between Old Rudetown Road and 900 feet west of Rudetown Road (Route 517) (mileposts 37.95 to 38.35); thence]

[(C)] (B) [45] **40** miles per hour between [900] **1,000** feet [west] north of Rudetown Road ([Route] **County Road 517**) and **400 feet south of Sand Hill Road** (mileposts [38.35] **38.57** to [40.07] **39.87**); thence

[(D)] (C) [40] **35** miles per hour between **400 feet south of Sand Hill Road** and [400] **600** feet [west of Giveans Road (mileposts 40.07 to 41.20)] north of Vernon Crossing Road (**County Road 644**) mileposts **39.87 to 41.75**); thence

[(E)] (D) [35] **45** miles per hour between [400 feet west of Giveans Road and] **600 feet north of Vernon Crossing Road** (County Road 644) and the New York State line (mileposts [41.20] **41.75** to [41.80] **45.71**); thence

Redesignate existing (F) and (G) as (E) and (F)

2.-3. (No change.)

(a)

**Restricted Parking and Stopping
Route N.J. 179 in Hunterdon County**

Proposed Amendment: N.J.A.C. 16:28A-1.53

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138(g), and 39:4-199.

Proposal Number: PRN 1988-635.

The agency proposal follows:

Summary

The proposed amendment will establish time limit parking zones along Route N.J. 179 in the City of Lambertville, Hunterdon County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local government in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of time limit parking zones at times and dates indicated were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.53 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish time limit parking zones along Route 179 in the City of Lambertville, Hunterdon County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The local government will bear the costs for "time limit parking" zones signs. Motorists who violate the rule will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The amendment primarily affects the motoring public.

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

16:28A-1.79 Route 179

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

(c) **The certain parts of State highway Route 179 described in this subsection shall be designated and established as "time limit 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 time limit parking zones:**

1. In the City of Lambertville, Hunterdon County:

i. Along both sides:

(1) Two hours time limit parking along Route 179 from Lambert Lane to Route 29 from 10:00 A.M. to 6:00 P.M. Monday to Saturday;

(2) Two hours time limit parking along Route 29 from Lambert Lane to Route 29 from 1:00 P.M. to 5:00 P.M. Sunday.

(b)

Drawbridge Usage

Routes U.S. 1 and 9, N.J. 7, and I-280 in Essex and Hudson Counties; N.J. 3 in Passaic and Bergen Counties; U.S. 9 in Burlington and Atlantic Counties; N.J. 13, N.J. 37, N.J. 35, N.J. 70, and N.J. 88 in Ocean County; U.S. 30, U.S. 40, and N.J. 52 in Atlantic County; U.S. 30 in Camden County; N.J. 35, N.J. 36, N.J. 70, and N.J. 71 in Monmouth County; N.J. 35 in Middlesex County; N.J. 44 and U.S. 130 in Gloucester County; N.J. 46 in Bergen County; N.J. 47, N.J. 50, N.J. 52, and N.J. 147 in Cape May County; N.J. 49 and U.S. 130 in Salem County.

**Proposed Amendments: N.J.A.C. 16:30-9.1 and 9.2
Proposed New Rules: N.J.A.C. 16:30-9.3 through 9.22**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-17, and 39:4-198.

Proposal Number: PRN 1988-627.

The agency proposal follows:

Summary

The proposed amendments and new rules will establish restrictions along bridges along Routes U.S. 1 and 9, N.J. 7, and I-280 in Essex and Hudson Counties; N.J. 3 in Passaic and Bergen Counties; U.S. 9 in Burlington and Atlantic Counties; N.J. 13, N.J. 37, N.J. 35, N.J. 70 and

TRANSPORTATION

PROPOSALS

N.J. 88 in Ocean County; U.S. 30, U.S. 40 and N.J. 52 in Atlantic County; U.S. 30 in Camden County; N.J. 35, N.J. 36, N.J. 70, and N.J. 71 in Monmouth County; N.J. 35 in Middlesex County; N.J. 44 and U.S. 130 in Gloucester County; N.J. 46 in Bergen County; N.J. 47, N.J. 50, N.J. 52 and N.J. 147 in Cape May County; and N.J. 49 and U.S. 130 in Salem County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local governments, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of restrictions along the various bridges along the highway system depicted in the towns, boroughs and townships of the counties was warranted.

The Department, therefore, proposes to amend N.J.A.C. 16:30-9.1 and 9.2 and add new rules N.J.A.C. 16:30-9.3 through 9.22 based upon the requests from the local governments and the traffic investigations.

Social Impact

The proposed amendments and new rules will establish restrictions along bridges along Routes U.S. 1 and 9, N.J. 7, and I-280 in Essex and Hudson Counties; N.J. 3 in Passaic and Bergen Counties; U.S. 9 in Burlington and Atlantic Counties; N.J. 13, N.J. 37, N.J. 35, N.J. 70, and N.J. 88 in Ocean County; U.S. 30, U.S. 40, and N.J. 52 in Atlantic County; U.S. 30 in Camden County; N.J. 35, N.J. 36, N.J. 70, and N.J. 71 in Monmouth County; N.J. 35 in Middlesex County; N.J. 44 and U.S. 130 in Gloucester County; N.J. 46 in Bergen County; N.J. 47, N.J. 50, N.J. 52, and N.J. 147 in Cape May County; and N.J. 49 and U.S. 130 in Salem County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the general public.

Economic Impact

The Department will incur direct and indirect costs for mileage, personnel and equipment requirements, and will bear the costs for "no jumping, diving, crabbing, fishing or loitering" signs. Those persons who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments and new rules do not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The amendments and new rules primarily affect the general public.

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

16:30-9.1 Route 35

(a) The certain parts of State highway Route 35 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the **entire length of bridges and waterways listed**: [Morgan Bridge over the Cheesequake Creek for the bridge's entire length in Old Bridge Township and Sayreville Borough, Middlesex County.]

i. Middlesex County:

(1) **Morgan Bridge over the Cheesequake Creek in Old Bridge Township and Sayreville Borough;**

(2) **Victory Bridge over the Raritan River in Perth Amboy City and Sayreville Borough;**

ii. Monmouth County:

(1) **Bridge over the Manasquan River in Brielle and Point Pleasant Boroughs;**

(2) **Bridge over the Shark River in Belmar Borough and Neptune Township;**

16:30-9.2 Route 88

(a) The certain parts of the State highway Route 88 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along **both sides of the entire length of bridge and waterway listed**: [Veterans Memorial Bridge for the bridge's entire length within Point Pleasant Borough, Ocean County.]

i. Ocean County:

(1) **Veterans Memorial Bridge over the Point Pleasant Canal in Point Pleasant Borough.**

16:30-9.3 Route U.S. 1 and 9 (truck)

(a) The certain parts of State highway U.S. 1 and 9 (truck) described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the entire length of bridge and waterway listed:

i. Essex County:

(1) **The bridge over the Passaic River in Newark City;**

ii. Hudson County:

(1) **The bridge over the Passaic River in Kearny Town;**

(2) **The bridge over the Hackensack River in Kearny Town and Jersey City.**

16:30-9.4 Route 3

(a) The certain parts of State highway Route 3 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the entire length of the bridge and waterway listed:

i. Passaic County:

(1) **The bridge over the Passaic River in Clifton City;**

ii. Bergen County:

(1) **The bridge over the Passaic River in Rutherford Borough.**

16:30-9.5 Route 7

(a) The certain parts of State highway Route 7 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the entire length of the bridge and waterway listed:

i. Hudson County:

(1) **The Wittpen Bridge over the Hackensack River in Jersey City and Kearny Town;**

(2) **The bridge over the Passaic River in Kearny Town;**

ii. Essex County:

(1) **The bridge over the Passaic River in Belleville Town.**

16:30-9.6 Route U.S. 9

(a) The certain parts of State highway Route U.S. 9 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the entire length of the bridge and waterway listed:

i. Burlington County:

(1) **The bridge over Bass River in Bass River Township;**

ii. Atlantic County:

(1) **The bridge over Nacote Creek in Galloway Township.**

16:30-9.7 Route 13

(a) The certain parts of State highway Route 13 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No **jumping, diving, crabbing, fishing or loitering** shall be permitted along both sides of the entire length of the bridge over the waterway listed:

i. Ocean County:

(1) **The Loveland Town Bridge over the Point Pleasant Canal in Point Pleasant Borough.**

16:30-9.8 Route U.S. 30

(a) The certain parts of State highway Route U.S. 30 described in this subsection shall not be used for the purposes described herein. In

PROPOSALS

Interested Persons see Inside Front Cover

TRANSPORTATION

accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering shall be permitted along both sides of the entire length of the bridge over the waterway listed:

- i. Atlantic County:
 - (1) The bridge over Beach Thorofare in Atlantic City;
- ii. Camden County:
 - (1) The bridge over the Cooper River in Camden City;

16:30-9.9 Route 36

(a) The certain parts of State highway Route 36 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering shall be permitted along both sides of the entire length of the bridge and waterway listed:

- i. Monmouth County:
 - (1) The bridge over the Shrewsbury River in Sea Bright and Highlands Boroughs.

16:30-9.10 Route 37

(a) The certain parts of State highway Route 37 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering shall be permitted along both sides of the entire length of the bridge and waterway listed:

- i. Ocean County:
 - (1) The J. Stanley Tunney and Thomas A. Mathis Bridges over the Barnegat Bay in Dover Township.

16:30-9.11 Route U.S. 40

(a) The certain parts of State highway Route U.S. 40 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering shall be permitted along both sides of the entire length of the bridge over the waterway listed:

- i. Atlantic County:
 - (1) The bridge over the Inside Thorofare in Atlantic City.

16:30-9.12 Route 44

(a) The certain parts of State highway Route 44 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Gloucester County:
 - (1) The bridge over the Mantua Creek in Paulsboro Borough and West Deptford Township.

16:30-9.13 Route U.S. 46

(a) The certain parts of State highway Route U.S. 46 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge and waterway listed:

- i. Bergen County:
 - (1) The bridge over the Hackensack River in Little Ferry Borough and Ridgefield Park.

16:30-9.14 Route 47

(a) The certain parts of State highway Route 47 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Cape May County:
 - (1) The bridge over Grassy Sound in Lower Township.

16:30-9.15 Route U.S. 49

(a) The certain parts of State highway Route 49 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Salem County:
 - (1) The bridge over the Salem River in Salem City;
 - (2) The bridge over the Alloways Creek in Quinton Township.

16:30-9.16 Route 50

(a) The certain parts of State highway Route 50 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Cape May County:
 - (1) The bridge over the Tuckahoe River in Upper Township.

16:30-9.17 Route 52

(a) The certain parts of State highway Route 52 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Cape May County:
 - (1) The bridge over Beach Thorofare in Ocean City;
- ii. Atlantic County:
 - (1) The bridge over Ship Channel in Somers Point City.

16:30-9.18 Route 70

(a) The certain parts of State highway Route 70 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Monmouth County:
 - (1) The bridge over the Manasquan River in Brielle Borough;
- ii. Ocean County:
 - (1) The bridge over the Manasquan River in Brick Township.

16:30-9.19 Route 71

(a) The certain parts of State highway Route 71 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Monmouth County:
 - (1) The bridge over Shark River in Avon By the Sea Borough and Belmar Borough.

16:30-9.20 Route U.S. 130

(a) The certain parts of State highway Route 130 described in this subsection shall not be used for the purposes listed herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

- i. Gloucester County:
 - (1) The bridge over Raccoon Creek in Logan Township;
- ii. Salem County:
 - (1) The bridge over Oldman's Creek in Oldman's Township.

16:30-9.21 Route 147

(a) The certain parts of State highway Route 147 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

i. Cape May County:

(1) The bridge over Grassy Sound in Middle Township.

16:30-9.22 Route I-280

(a) The certain parts of State highway Route I-280 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering along both sides of the entire length of the bridge over the waterway listed:

i. Essex County:

(1) The bridge over the Passaic River in Newark City;

ii. Hudson County:

(1) The bridge over the Passaic River in Harrison Town.

(a)

Turns

Route N.J. 21 in Essex County

Proposed Amendment: N.J.A.C. 16:31-1.11

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-123, and 39:4-183.6.

Proposal Number: PRN 1988-634.

The agency proposal follows:

Summary

The proposed amendment will establish no right turn movements for trucks over four tons and buses along Route N.J. 21 in the City of Newark, Essex County, from south on McCarter Highway to west on Market Street for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local government in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of no right turn movement from south on McCarter Highway to west on Market Street for trucks over four tons and buses was warranted.

The Department therefore proposes to amend N.J.A.C. 16:31-1.11 based upon the request from local government and the traffic investigation.

Social Impact

The proposed amendment will establish no right turn movement for trucks over four tons and buses from south along Route N.J. 21 (McCarter Highway) to west on Market Street in the City of Newark, Essex County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no right turn" signs. Motorists who violate the rule will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The amendment primarily affects the motoring public.

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

16:31-1.11 Route 21

(a) Turning movements of traffic on the certain parts of State highway Route 21 described [herein below] in this subsection are regulated as follows:

1. (No change.)

2. No right turn in the City of Newark, Essex County:

i. No trucks over four tons registered gross weight and no bus shall make a right turn from south on Route N.J. 21 (McCarter Highway) to west on Market Street in the City of Newark, Essex County.

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Job Descriptions; Assistant Casino Manager Requirement

Proposed Amendments: N.J.A.C. 19:45-1.11A and 1.12

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a), 5:12-70(j), and 5:12-99.
Proposal Number: PRN 1988-626.

Submit comments by January 18, 1989 to:

Mark Neary

Assistant Counsel

Casino Control Commission

3131 Princeton Pike Office Park

Building No. 5, CN-208

Trenton, New Jersey 08625

The agency proposal follows:

Summary

These proposed amendments result from a petition for rulemaking filed by Boardwalk Regency Corporation pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:20-3.6 (see 20 N.J.R. 1002(b)). The petition was subsequently amended, which amendments are reflected in the instant proposal. Boardwalk Regency Corporation's petition for rulemaking also included a request to amend N.J.A.C. 19:45-1.11. The proposed amendments to that section will be considered in a separate proposal.

The proposed amendment to N.J.A.C. 19:45-1.11A eliminates the requirement that each job description contained in a jobs compendium include information about reporting lines, since that information is readily available from the tables of organization. Instead, each individual job description would be required to simply identify the table of organization where the position may be found and the date on which that table of organization was submitted. Moreover, when a casino licensee seeks approval of an organizational change that would not affect a job description except for this reference to a new table of organization, it would not be necessary to submit a copy of the new job description to the Commission at that time. The change in the reference to the table of organization need only be reflected on the licensee's internal copy of the job description. The updated job description would be included in the complete revised jobs compendium which must be submitted to the Commission every two years. This proposed amendment should permit a casino licensee to avoid the need to file numerous new copies of job descriptions with the Commission when it seeks to change the reporting lines within its organization.

The proposed amendment to N.J.A.C. 19:45-1.12 permits a casino licensee to operate without an assistant casino manager. Should a casino licensee choose to eliminate the position of assistant casino manager, the rules already give the casino shift manager the authority of the casino manager in the event of the latter's absence.

There are also technical changes proposed for N.J.A.C. 19:45-1.12. These concern subsection (d) which establishes the license and position endorsements required of persons to perform the functions described in the section.

Social Impact

There is no significant social impact anticipated as a result of the proposed amendments.

Economic Impact

The proposed amendments may permit casino licensees to reduce their costs by eliminating the need to file numerous copies of job descriptions in certain situations.

Regulatory Flexibility Statement

The proposed amendments will only affect casino licensees, none of which qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

PROPOSALS

Interested Persons see Inside Front Cover

OTHER AGENCIES

19:45-1.11A Jobs [/Compendium/Submission] **compendium submission**

(a) (No change.)
 (b) A jobs compendium shall include the following sections, in the order listed:

1. (No change.)
 2. A table of organization for each department and division illustrating by position title direct and indirect lines of authority within the department or division. Each table of organization shall [indicate the projected or actual number of persons to be employed in each position title and shall accurately correspond to the job description included in (b)3 below] **include on each page the date of its submission and the date of the previously submitted table of organization which it supersedes;**

3. A description of each employee position. Each position shall be listed on a separate page and shall accurately correspond to the position title as listed in the table of organization and as listed in the table of contents. Each job description shall include the following:

- i. Position title and corresponding department;
- ii. Salary range;
- iii. Job duties and responsibilities;
- iv. Direct and indirect supervisory reporting lines;
- v. Positions supervised;]
- [vi.]iv. Detailed descriptions of experiential or educational requirements;
- [vii.]v. Projected number of employees in the position;
- [viii.]vi. Equal employment opportunity class or subclass;
- [ix.]vii. Proposed registration or license endorsement consistent with the requirements of the Act and the Commission's [regulations] **rules;** [and]

[x.]viii. The date of submission of each employee position job description and the date of any prior job description it supersedes; **and**

ix. The date of submission and page number of each table of organization on which the employee position title is included.

(c) Except as otherwise provided in (d) below, any proposed amendment to a previously approved jobs compendium shall be submitted to and approved by the Commission before such amendment is implemented by the casino licensee. Unless otherwise directed by the Commission, any amendment required to be preapproved pursuant to this subsection shall be submitted to the Commission at least 90 days prior to the proposed effective date of the amendment and shall contain, at a minimum:

1. A detailed cover letter listing by department each position title to which modifications are being proposed and a brief summary of all changes which are being proposed to the jobs compendium since the last amendment was submitted, **including instructions regarding any changes in page numbers;** and

2. The actual text of the proposed changes to the information required by (b)[3] above contained on pages which may be used to

substitute for those sections of the jobs compendium previously approved by the Commission.

(d) **The following amendments to a previously approved jobs compendium shall be immediately recorded in the jobs compendium maintained by the casino licensee on its premises, but do not have to be submitted to the Commission except as otherwise provided in (e) below or upon request:**

1. Amendments to casino hotel employee registrant position titles which report to casino hotel employee registrant position titles. **Such amendments** may be implemented by a casino licensee without the prior approval of the Commission[. Such changes shall be immediately recorded in the jobs compendium maintained by the licensee on its premises, but do not have to be submitted to the Commission except as otherwise provided in (e) below or upon request.]; **provided, however,** [This] **this** subsection shall not apply to casino hotel employee registrant position titles which are departmental or divisional supervisory positions[.]; **and**

2. Amendments to individual job descriptions required by (b)3ix above.

(e)-(f) (No change.)

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) The following personnel shall be used to operate and conduct table games in an establishment:

1.-6. (No change.)

7. Casino [Shift] **shift** manager shall be the supervisor assigned to each shift with the responsibility for the supervision of table games conducted in the casino. In the absence of the casino manager and the assistant casino manager, **should the establishment have an assistant casino manager,** the casino shift manager shall have the authority of a casino manager.

[8. Assistant casino manager shall be the executive who shall supervise the overall conduct of table games in the establishment with the authority delegated by the casino manager. In the absence of the casino manager, the assistant casino manager shall have the authority of a casino manager.]

Renumber existing 9. and 10. as **8. and 9.** (No change in text.)

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

(d) Functions described in this section shall be performed only by persons [bearing the particular title and licensed to the particular position] **holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to perform such functions,** or by persons [licensed to supervise that particular position, appropriate to such functions under the Casino Control Act] **holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to supervise persons performing such functions,** subject to the limitations imposed by N.J.A.C. 19:45-1.11(b)2.

RULE ADOPTIONS

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

(a)

Hotels and Multiple Dwellings; Rooming and Boarding Houses Fire Safety

Readoption with Amendments: N.J.A.C. 5:10

Adopted Amendments: 5:27-1.3 and 1.6

Adopted Repeals: N.J.A.C. 5:10-1.17 and 25; 5:27-5

Proposed: September 6, 1988 at 20 N.J.R. 2126(a).

Adopted: September 10, 1988 by Anthony M. Villane, Jr.,

D.D.S., Commissioner, Department of Community Affairs.

Filed: November 17, 1988 as R.1988 d.572, **without change**.

Authority: N.J.S.A. 55:13A-6(e) and 7; 55:13B-4.

Effective Date of Readoption: November 17, 1988.

Effective Date of Amendments and Repeals: December 19, 1988.

Operative Date of Repeals of N.J.A.C. 5:10-25 and 5:27-5: June 16, 1989.

Expiration Date: November 17, 1993 (N.J.A.C. 5:10); June 1, 1990 (N.J.A.C. 5:27).

Summary of Public Comments and Agency Responses:

No public comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:10.

Full text of the adopted amendments follows.

5:10-1.3 Administration and enforcement

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

(d) The local enforcing agency, as the term is defined in N.J.A.C. 5:18-1.5, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:18, applicable to hotels and multiple dwellings; provided, however, that such provisions shall continue to be enforced by the Bureau in multiple dwellings and hotels that are not life hazard uses, as defined in N.J.A.C. 5:18-2.4A or 2.4B, until such time as the Bureau has been advised by the Bureau of Fire Safety that the local enforcing agency has agreed to accept responsibility for periodic fire safety inspections in such buildings.

5:10-1.6 Maintenance requirements

(a) All buildings and parts thereof shall be maintained as required by this chapter and by the Uniform Fire Code, N.J.A.C. 5:18.

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

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

1.-23. (No change.)

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

1. All retrofit work required to be done in any hotel or multiple dwelling shall be done in accordance with the Uniform Fire Code, N.J.A.C. 5:18. All buildings in compliance with the Uniform Fire

Code shall be deemed to be in compliance with all fire safety requirements set forth in this chapter.

5:10-1.10 Bureau inspections

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

(g) If, in the course of inspecting any hotel or multiple dwelling, any inspector performing inspections for the Bureau shall find a condition which is, or appears to be, in violation of the Uniform Fire Code, N.J.A.C. 5:18, the inspector shall give prompt notice of that condition to the Bureau, which shall promptly notify the Bureau of Fire Safety.

5:10-1.12 Certificate of inspection

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

(e) No certificate of inspection shall be issued for any hotel or multiple dwelling subject to inspection, pursuant to the Uniform Fire Safety Act, by a local enforcing agency, either as a life hazard use or pursuant to a notice given by the local enforcing agency to the Bureau of Fire Safety, unless and until the Bureau shall have received from the local enforcing agency a certification that the building does not have any outstanding violations of the Uniform Fire Code, N.J.A.C. 5:18.

5:27-1.3 Administration and enforcement

(a) (No change.)

(b) The Bureau may authorize any municipality or county, through its appropriate housing, health or social services agencies, to perform inspections for the Bureau. Any authorization to perform inspections given to any municipality or county shall contain such terms and conditions as the Bureau may deem necessary and proper.

(c) The local enforcing agency, as the term is defined in N.J.A.C. 5:18, authorized to enforce the Uniform Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:18, applicable to rooming and boarding houses.

1. If, in the course of inspecting any rooming or boarding house, any inspector performing inspections for the Bureau finds any condition which is, or appears to be, in violation of the Uniform Fire Code, the inspector shall promptly give notice of such condition to the Bureau, which shall notify the Bureau of Fire Safety.

2. The maintenance requirements set forth in the Uniform Fire Code, N.J.A.C. 5:18, shall supersede the standards for fire safety set forth in N.J.A.C. 5:27-5, with regard to all boarding houses *[(as of the effective date of this amendment)]*, **as of December 19, 1988*** and shall be the sole fire safety maintenance requirements applicable to all rooming and boarding houses on and after June 16, 1989.

3. Any retrofit work required to be done in any rooming or boarding house shall be done in accordance with the Uniform Fire Code, N.J.A.C. 5:18. All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the fire safety standards set forth in this chapter.

5:27-1.6 Licenses

(a)-(k) (No change.)

(l) No license to operate a rooming or boarding house shall be issued by the Bureau prior to receipt from the local enforcing agency responsible for enforcement of the Uniform Fire Code in the municipality in which the rooming or boarding house to be operated by the applicant is located of certification that the building does not have any outstanding violations of the Uniform Fire Code N.J.A.C. 5:18.

(a)

Limited Dividend and Nonprofit Housing Corporations and Associations Rents and Charges; Payments in Lieu of Property Taxes

Adopted Amendment: N.J.A.C. 5:13-1.14

Proposed: October 3, 1988 at 20 N.J.R. 2425(a).
 Adopted: November 10, 1988 by Anthony M. Villane, Jr.,
 D.D.S., Commissioner, Department of Community Affairs.
 Filed: November 17, 1988 as R.1988, d.571, **without change**.
 Authority: N.J.S.A. 55:16-11.
 Effective Date: December 19, 1988.
 Expiration Date: December 24, 1992.

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

Full text of the adoption follows.

5:13-1.14 Rents and charges

(a) The rent schedule approved by the Authority shall be adequate to pay all necessary and reasonable expenses including, but not limited to, the cost of operation and maintenance, reserves for replacement, vacancy and other contingencies, payments in lieu of taxes, mortgage interest and amortization payments, mortgage insurance premiums, and dividends on investments.

(b) The amount of payment in lieu of taxes approved by the Authority shall be the maximum amount, not exceeding the statutory maximum, that is, the greater of the tax on the property on which the project is located for the year in which the undertaking of the project is commenced or 15 percent of the annual gross shelter rents, that can be paid without endangering or impairing the viability of the project. The payment in lieu of taxes shall be in an amount less than the statutory maximum during any year in which such lesser amount is necessary for project viability.

(b)

**DIVISION ON AGING
 Congregate Housing Services Program
 Income, Program Costs, and Service Subsidy
 Formula**

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

Proposed: October 3, 1988 at 20 N.J.R. 2426(a).
 Adopted: November 17, 1988 by Anthony M. Villane, Jr.,
 D.D.S., Commissioner, Department of Community Affairs.
 Filed: November 21, 1988 as R.1988 d.576, **without change**.
 Authority: N.J.S.A. 52:27D-188.
 Effective Date: December 19, 1988.
 Expiration Date: July 9, 1992.

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

Full text of the adoption follows.

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

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

(e) Service subsidies for eligible program participants will be provided in accordance with the following formula:

1. STEP I

$$\text{NET INCOME} - \text{RENT} = \text{DISPOSABLE INCOME}$$

$$(\text{N.I.}) - (\text{R}) = (\text{D.I.})$$

2. The following STEP II formula shall become operative on January 1, 1989:

D.I. of \$0.00 to \$166.00: SERVICE SUBSIDY = 95 percent of PROGRAM COST; PARTICIPANT PAYMENT = 5 percent of PROGRAM COST (CATEGORY A.)

D.I. of \$167.00 to \$279.00: SERVICE SUBSIDY = 80 percent of PROGRAM COST; PARTICIPANT PAYMENT = 20 percent of PROGRAM COST (CATEGORY B.)

D.I. of \$280.00 to \$393.00: SERVICE SUBSIDY = 60 percent of PROGRAM COST; PARTICIPANT PAYMENT = 40 percent of PROGRAM COST (CATEGORY C.)

D.I. of \$394.00 to \$506.00: SERVICE SUBSIDY = 40 percent of PROGRAM COST; PARTICIPANT PAYMENT = 60 percent of PROGRAM COST (CATEGORY D.)

D.I. of \$507.00 to \$620.00: SERVICE SUBSIDY = 20 percent of PROGRAM COST; PARTICIPANT PAYMENT = 80 percent of PROGRAM COST (CATEGORY E.)

(f) (No change.)

(c)

**COUNCIL ON AFFORDABLE HOUSING
 Substantive Rules
 Credits; Review By County Planning Board or Other
 Designated Agency; Amount and Duration of
 Contribution; Impact of Foreclosure on Resale;
 and Accessory Apartments**

**Adopted Amendments: N.J.A.C. 5:92-6.1, 11.4, 11.5
 and 12.9**

**Adopted Repeal and New Rule: N.J.A.C. 5:92,
 Technical Appendix F**

Adopted New Rule: N.J.A.C. 5:92-16.6

Proposed: July 18, 1988 at 20 N.J.R. 1673(b).
 Adopted: November 7, 1988 by James L. Logue III, Chairman,
 New Jersey Council on Affordable Housing.
 Filed: November 14, 1988 as R.1988 d.566, **with technical changes**
 not requiring additional public notice and comment (see
 N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-301 et seq.
 Effective Date: December 19, 1988.
 Expiration Date: June 16, 1991.

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

Full text of the adoption follows.

5:92-6.1 Credits

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

(c) A municipality may receive credit for all qualified newly constructed units receiving certificates of occupancy and for all qualified rehabilitated units receiving final inspections as of the date of publication of the petition for substantive certification.

5:92-11.4 Review by county planning board or other county designated agency

(a) RCAs shall be reviewed by the County Planning Board or other county designated agency in which the receiving municipality is located, as set forth in N.J.A.C. 5:91-12.2. Such review shall be completed within 45 days after the agreement has been referred to the county planning board or other county designated agency. The Council may grant a timely request for an extension of this time period not to exceed 15 days.

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

5:92-11.5 Amount and duration of contributions

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

(e) All RCAs that include a scattered site rehabilitation program shall be structured so that the final transfer payment occurs within five years of the approval of the regional contribution agreement. All rehabilitation activity shall occur within the sending community's period of substantive certification. Rehabilitation schedules shall be structured for completion within five years of the approval of a regional contribution agreement. Rehabilitation schedules shall be subject to Council approval and shall not be structured to require

a disproportionate share of rehabilitation during the latter portion of the five year period. This rule shall apply to regional contribution agreements proposed by municipalities through executed memoranda of understanding subsequent to October 1, 1988.

5:92-12.9 Impact of foreclosure on resale

A judgment of foreclosure or a deed in lieu of foreclosure by a financial institution regulated by State and/or Federal law or by a lender on the secondary mortgage market (including but not limited to the Federal National Mortgage Association, the Home Loan Mortgage Corporation, the Government National Mortgage Association or an entity acting on their behalf) shall extinguish controls on affordable housing units provided there is compliance with N.J.A.C. 5:92-12.10. Notice of foreclosure shall allow the municipal entity administering controls on affordability to purchase the affordable housing unit at the maximum permitted sales price. Failure of the municipal entity to purchase the affordable housing unit shall result in the Council adding that unit to the municipal present and prospective fair share obligation. Failure of the financial institution to provide notice of a foreclosure action to the municipal entity administering controls on affordability shall not impair any of the financial institution's rights to recoup loan proceeds; shall not negate the extinguishment of controls or the validity of the foreclosure; and shall create no cause of action against the financial institution.

5:92-16.6 Applicability of subchapter

(a) The provisions of this subchapter shall be effective for those municipalities that have petitioned for certification prior to *[(the effective date of this rule)]* ***December 19, 1988***.

(b) Municipalities that petition for certification subsequent to

[(the effective date of this rule)] ***December 19, 1988*** shall not utilize accessory apartments in addressing their fair share obligations.

APPENDIX F
COUNTY REVIEW CHECKLIST

The Act allows a municipality to transfer up to 50 percent of its low and moderate income housing obligation to a willing receiving municipality. The terms of this transfer are determined by the individual negotiations between willing sending and receiving municipalities within the same housing region as adopted by the Council.

Recognizing the need for sound regional comprehensive planning, the Act permits the county of the receiving municipality to review the proposed RCA and submit its comments and recommendations to the Council. The Act indicates that this review shall be performed by the county planning board or other designated agency and that in its review, the county "shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the State Development Redevelopment Plan".

The Act permits the Council to establish time limits for county review and since the Council views expedient review of RCAs as crucial, it shall impose a 45 day limit for the county to complete its review. The Council may provide a 15 day extension if the county requests such an extension for legitimate reasons. If the county is unable to complete its review within the allotted time, or if there is no county planning board or designated county agency, the Council shall perform the required review.

To facilitate county review, the Council has developed a four section checklist. This checklist is to be completed as part of the county review process.

COUNTY REVIEW CHECKLIST

SECTION I: ACCESS TO EMPLOYMENT OPPORTUNITIES

A. Does the proposed agreement provide realistic housing opportunities within convenient access to employment opportunities?

Housing Site(s) Proposed:

	Location	Site #		Yes	No
1. Receiving Munic.	_____	_____	A.	_____	_____
	_____	_____	B.	_____	_____
	_____	_____	C.	_____	_____
2. Sending Munic.	_____	_____	A.	_____	_____
	_____	_____	B.	_____	_____
	_____	_____	C.	_____	_____

BRIEFLY EXPLAIN ACCESS FOR EACH SITE ON SEPARATE SHEET
INCLUDE SITE #

B. Is the proposed housing served by available transit?

Housing Site(s) Proposed:
If yes, check type(s) of service

1. Receiving Munic.	Location	#		Inter-Municipal				
				Yes	Munic	County	Inter-Co	No
1. Receiving Munic.	_____	_____	A.	_____	_____	_____	_____	_____
	_____	_____	B.	_____	_____	_____	_____	_____
	_____	_____	C.	_____	_____	_____	_____	_____
2. Sending Munic.	_____	_____	A.	_____	_____	_____	_____	_____
	_____	_____	B.	_____	_____	_____	_____	_____

C.

IF TRANSIT POSSIBLE, BRIEFLY EXPLAIN TRANSIT FOR EACH SITE ON SEPARATE SHEET

SECTION II: CURRENTLY ADOPTED AND/OR OFFICIAL LAND USE ELEMENT CONSISTENCY REVIEW (ATTACH RELEVANT PAGES OF DOCUMENTS CITED BELOW)

	Check One		
A.1. Receiving Munic. (a) Master Plan Of: _____ _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Complies In Whole Part (Explain)	Conflicts In Whole	_____

	Check One		
(b) Zoning Ordinance Of: _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Complies In Whole Part (Explain)	Conflicts In Whole	_____

	Check One		
2. Sending Munic. (a) Master Plan Of: _____ _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Complies In Whole Part (Explain)	Conflicts In Whole	_____

	Check One		
(b) Zoning Ordinance Of: _____ ; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Complies In Whole Part (Explain)	Conflicts In Whole	_____

C. Are there any future plans to serve the proposed housing with transit?

		Yes	No
1. Receiving Munic.	A.	_____	_____
	B.	_____	_____
	C.	_____	_____
2. Sending Munic.	A.	_____	_____
	B.	_____	_____
	C.	_____	_____

IF TRANSIT POSSIBLE, BRIEFLY EXPLAIN TRANSIT FOR EACH SITE ON SEPARATE SHEET

	Check One		
B.1. Receiving County Land Use Element Of: _____ _____ County; Adopted: _____ Brief Explanation (attach additional sheets as necessary)	Complies In Whole Part (Explain)	Conflicts In Whole	_____

C.I. Other Regional Plan Land Use Element(s)* Affecting: (a) Receiving Munic. _____ _____; Adopted: _____ Brief Explanation (attach additional sheets as necessary) _____ _____ _____	Complies Whole	In Part (Explain)	Conflict In Whole
_____	_____	_____	_____

D.I. State Development Redevelopment Plan (S.D.R.P.)** (a) Receiving Munic. _____ (b) Sending Munic. _____ Brief Explanation (attach additional sheets as necessary) _____ _____ _____	Complies Whole	In Part (Explain)	Conflicts In Whole
_____	_____	_____	_____

*For example, is site(s) consistent with Hackensack Meadowlands Development Commission's Adopted Land Use Element
 **Use official State Development Guide Plan until S.D.R.P. is adopted.

SECTION III: CURRENTLY ADOPTED TRANSPORTATION PLAN AND/OR PROGRAM ELEMENT CONSISTENCY REVIEW

1. Are there transportation or transit plans at any level of government which would positively or negatively affect the proposed housing and/or the proposed housing sites?

1. Within Sending Munic.

2. Within Receiving Munic.

CERTIFICATION: There are currently no transportation plans to build roadway that may invalidate sites.

SECTION IV: CURRENTLY ADOPTED WATER QUALITY MANAGEMENT PLAN (208) (ATTACH RELEVANT PAGES OF DOCUMENT)

A. Is the proposed housing consistent with the 208 plan?

Housing Site(s) Proposed:

	Location	Site #		Check One	
				Yes	No
1. Within	_____	_____	A.	_____	_____
Receiving	_____	_____	B.	_____	_____
Munic.	_____	_____	C.	_____	_____

ATTACH ADDITIONAL SHEETS IF NECESSARY TO COMPLETE ABOVE QUESTION

This review is certified by the undersigned as representing a true and accurate statement of fact.

Based on this review, it is found that the following sites are:

1. Within Receiving Munic.

Housing Site(s) Proposed Location	Site #	In Keeping With Sound Regional Comprehensive Planning	Not in Keeping With Sound Regional Comprehensive Planning
_____	_____	A. _____	_____
_____	_____	B. _____	_____
_____	_____	C. _____	_____

ADOPTIONS

EDUCATION

2. Within Sending Munic.
Location Site #

A. _____
B. _____
C. _____

CERTIFIED BY: _____
DATED: _____
TYPE NAME: _____
TITLE: _____
REPRESENTING _____
PROFESSIONAL LICENSE #: (as applicable) _____

(a)

COUNCIL ON AFFORDABLE HOUSING

Substantive Rules: Initial Pricing

Notice of Correction: N.J.A.C. 5:92-12.4

Take notice that the Office of Administrative Law has discovered errors in the text of N.J.A.C. 5:92-12.4 currently in the New Jersey Administrative Code. Language proposed and adopted by the New Jersey Council on Affordable Housing at 20 N.J.R. 1320(b) and 2376(b), respectively, was inadvertently not incorporated into the text of the Code.

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

5:92-12.4 Initial pricing

(a) Municipalities shall [consider requiring] require that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of ten percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Municipalities shall [consider requiring] require that rents, excluding utilities, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit (as contained in the Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit. The following criteria shall be considered in determining rents and sale prices:

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

EDUCATION

(b)

STATE BOARD OF EDUCATION

School Facility Lease Purchase Agreements; Approval

Adopted New Rules: N.J.A.C. 6:22A-1

Proposed: September 6, 1988 at 20 N.J.R. 2127(a).
Adopted: November 23, 1988 by Saul Cooperman, Commissioner, Department of Education; Secretary, State Board of Education.
Filed: November 28, 1988 as R.1988 d.590, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Authority: N.J.S.A. 18A:4-15 and 18A:20-4.2(f).
Effective Date: December 19, 1988.
Expiration Date: December 19, 1993.

Summary of Public Comments and Agency Responses:

Two individuals spoke at the October monthly public testimony session provided by the State Board of Education, and four letters with comments were received.

COMMENT: A commenter suggested that the rules as proposed provide authority to circumvent the statutory election process.

RESPONSE: The statute authorizes the board to enter into lease purchase agreement without a referendum.

COMMENT: The same commenter suggested that the need for the project should be documented and related to a thorough and efficient education.

RESPONSE: The proposed rules require the district board of education to document that the present educational facilities are less than 80 percent adequate, or that the relationship of the proposed lease purchase project to the district goals and objectives pursuant to P.L. 1975, c.212 has clearly been established, and the documents and information presented at the conference support the request of the district board of education for the proposed lease purchase agreement. The county superintendent is requested to be present at the review conference and endorse the need for the project.

COMMENT: A commenter requested that the word "new" be deleted from N.J.A.C. 6:22A-1.2(a), to make the rule consistent with statutory language.

RESPONSE: The Department agrees and has made the change upon adoption.

COMMENT: The same commenter requested the deletion of language in N.J.A.C. 6:22A-1.2(a) that the present facilities are less than 80 percent adequate and the insertion of language that would utilize compliance with monitoring criteria to determine the inadequacy of the present educational facilities.

RESPONSE: The Department declines to make the requested changes, as the rule language tied to capacity is similar to the statutory language used in N.J.S.A. 18A:24-26 which allows the Commissioner to approve or disapprove an extension of credit for a bond referendum. The county superintendent is requested to comment on the adequacy of the facilities at the approval conference.

COMMENT: The same commenter recommended the recodification of N.J.A.C. 6:22A-1.2(h) and (i) as N.J.A.C. 6:22A-1.3, Budget approval, and 1.4, Termination, respectively, as these subsections do not involve the agreement approval process.

RESPONSE: The Department considers the proposed language and codification proper, as the suggested change would amount to no more than the placement of subheadings within a code section, a practice not within the style standards of the New Jersey Administrative Code and unsupported by the Department.

COMMENT: The same commenter recommended that language be added at N.J.A.C. 6:22A-1.2(a) to clarify that the statute allows for a lease purchase agreement to acquire land and/or school buildings.

RESPONSE: The Department disagrees with the suggestion, since the 1986 statutory amendment authorized the transfer of land necessary for the lease purchase transactions, but did not authorize a lease purchase agreement for land only.

COMMENT: A commenter suggested that stronger language should be used in N.J.A.C. 6:22A-1.2(i) to forbid the use of funds obtained through the lease purchase agreement for anything other than outlined in the lease agreement. The commenter is concerned that the board will

transfer funds and expresses concern about funds expended by the local board which were cut by the municipal government when the school budget was rejected by the voters.

RESPONSE: The Department considers the suggested change unnecessary. The local board is authorized to spend only the amount approved by the Commissioner for the project. Since the proceeds from the sale of the certificates of participation are held by the escrow agent or agent bank, the board does not have control of the funds. The legal agreements signed by the parties to the lease purchase agreement specify the use of funds.

COMMENT: N.J.A.C. 6:22A-1.2(a) should be amended to read: A district board of education planning to acquire a site and to construct a school building and/or to make additions, alterations, renovations and improvements to existing buildings or to acquire a site and building by lease purchase agreement shall comply with the following:

RESPONSE: The Department agrees. The proposed language clarifies that it is possible to lease purchase a site with an existing building on it, and clarifies that lease purchase agreements are for the acquisition of a site and school building to be constructed or improved thereon, and not solely for the acquisition of unimproved land.

COMMENT: N.J.A.C. 6:22A-1.2(a) should be amended to read: The district board of education shall have the educational specifications, schematic plans and project cost estimate approved by the Bureau of Facility Planning Services prior to [taking any action to obtain] obtaining the Commissioner's approval of a lease purchase agreement in excess of five years.

RESPONSE: The Department agrees. The suggested change will help clarify that the Commissioner may approve the lease purchase agreement only after the Bureau of Facility Planning Services' approvals have been obtained.

COMMENT: N.J.A.C. 6:22A-1.2(c) should be amended to read: A district board of education shall adopt a resolution endorsing approval of the lease purchase concept and authorizing the chief school administrator and/or board secretary to advertise and solicit proposals for the selection of a lessor in connection with a lease purchase agreement and to request the approval of the Commissioner and the Local Finance Board in the Department of Community Affairs of a lease purchase agreement in excess of five years.

RESPONSE: The Department agrees. The proposed change would be consistent with the requirements of the statute that advertisement for proposals are required for the transfer for nominal or fair market value to the lessor of the school district property.

COMMENT: N.J.A.C. 6:22A-1.2(g) should be amended to read: Lease purchase agreements in excess of five years shall be submitted to the Local Finance Board in the Department of Community Affairs ten days prior to the Local Finance Board hearing date for approval subsequent to approval by the Commissioner together with an application in the form approved by the Local Finance Board.

RESPONSE: The suggested change is unnecessary. The proposed rule adequately addresses the process applicable to the Local Finance Board.

COMMENT: Proposed N.J.A.C. 6:22A-1.2(h) should be recodified as N.J.A.C. 6:22A-1.3 and amended to read: [A district board of education having entered into a lease purchase agreement shall include in its annual current expense budget to the full rental payments attributable to a lease purchase agreement.] The County Superintendent of Schools shall not approve the (such) budget of a district board of education that has entered into a lease purchase agreement in accordance with N.J.A.C. 6:8-4.3(a)10iii(2) when a district board of education does not include [such] a rental payment attributable to such lease purchase agreement in its current expense budget unless the Commissioner or his or her designee has consented to such approval.

RESPONSE: The suggested revision is unnecessary. The changes do not improve upon the expression of the rule's intent.

COMMENT: The following new rule is suggested:

N.J.A.C. 6:22A-1.4 Lease purchase agreements not in excess of five years involving transfers of land or rights in land.

A district board of education planning to enter into a lease purchase agreement not in excess of five years for the acquisition of a site and school building may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value to the party selected by the district board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such

lease purchase without further approval of the Commissioner of Education.

RESPONSE: The additional rule is unnecessary since the statute does not require the approval of the Commissioner and the Local Finance Board for a lease-purchase agreement of five years or less.

COMMENT: An additional proposed rule designated N.J.A.C. 6:22A-1.5 was suggested:

N.J.A.C. 6:22A-1.5 Ground lease. In connection with a lease purchase transaction involving the transfer or lease of land, or rights or interests in land including any buildings thereon, it will not be necessary to enter into a ground lease for each property being improved.

RESPONSE: The suggested rule is necessary, and the commenter submitted no justification for its addition.

The Department reads the statute as only allowing for transfer of land or lease or rights or interest in land containing project. The Department is opposed to naming schools as security where no improvements are to be made. The documents deemed necessary to fund the transaction should be determined by the school district and the lessor.

COMMENT: An additional proposed rule designated N.J.A.C. 6:22A-1.6 was suggested:

N.J.A.C. 6:22A-1.6 Leases with county improvement authorities. If a district board of education enters into a lease purchase agreement with a county improvement authority, the district board of education may transfer or lease land or rights in land including any building thereon to the county improvement authority without public advertising for proposals.

RESPONSE: The County Improvement Authorities Law specifically authorizes such land transfers, and N.J.S.A. 18A:18A-5b does not require bidding or advertising for proposals when the contract to be made or entered into is with the United States of America, the State of New Jersey, a county, municipality or any board, body, officer, agency or authority, or any other state or subdivision thereof.

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

CHAPTER 22A

SCHOOL FACILITY LEASE PURCHASE AGREEMENTS

SUBCHAPTER 1. APPROVAL OF LEASE PURCHASE AGREEMENTS

6:22A-1.1 School building definition

As used in this subchapter, "school building" means any educational facility or education support facilities necessary for a local district to achieve its goals and objectives pursuant to Chapter 212, Laws of 1975.

6:22A-1.2 Approval procedures

(a) A district board of education planning to acquire a site and ***to construct*** a ***[new]*** school building and/or ***to*** make additions, alterations, renovations and improvements to existing buildings ***or to acquire a site and building*** by lease purchase agreement shall comply with the following:

1. The district board of education shall have the site approved by the Bureau of Facility Planning Services in accordance with N.J.A.C. 6:22-1.2.

2. The district board of education shall have the educational specifications, schematic plans, preliminary plans, and final plans for a new building and/or for additions, alterations, renovations and improvements to existing buildings approved by the Bureau of Facility Planning Services in accordance with N.J.A.C. 6:22 and the State Uniform Construction Code prior to any party obtaining a construction permit.

3. The district board of education shall have the educational specifications, schematic plans and project cost estimate approved by the Bureau of Facility Planning Services prior to ***[taking any action to obtain]*** ***obtaining*** the Commissioner's approval of a lease purchase agreement in excess of five years.

(b) A district board of education planning to transfer or lease land or rights or interests therein, including any building thereon to any party as a part of a lease purchase transaction involving a lease purchase agreement in excess of five years, shall have such transfer or lease to a third party documented by a ground lease agreement,

ADOPTIONS

ENVIRONMENTAL PROTECTION

which shall be submitted to the Commissioner for approval. Such ground lease agreement shall follow a sample ground lease agreement prepared by the Commissioner.

(c) A district board of education shall adopt a resolution endorsing approval of the lease purchase concept and authorizing the chief school administrator and/or board secretary to advertise and solicit proposals for ***the selection of a lessor in connection with*** a lease purchase agreement and to request the approval of the Commissioner and the Local Finance Board in the Department of Community Affairs of a lease purchase agreement in excess of five years.

(d) A district board of education requesting the Commissioner's approval of a lease purchase agreement in excess of five years shall submit to the Commissioner and the Local Finance Board in the Department of Community Affairs an application on a form prepared by the Commissioner, a copy of the ground lease agreement, if applicable, a lease with an option to purchase agreement or similar document, an agent or trust agreement, if applicable, and any other relevant information which the Commissioner may request to justify the need for the proposed lease purchase agreement.

(e) The Commissioner or a designee shall hold a conference prior to the Commissioner approving any request for approval of a lease purchase agreement in excess of five years. All documents required and the application must be submitted in duplicate and in final form and received at least 15 days prior to the scheduled conference. At the conference the district board of education shall be required to document and discuss at a minimum the following:

1. A copy of the newspaper advertisement for the request for proposals;
2. The list of persons and/or firms to which the request for proposals was sent;
3. The responses to the request for proposals;
4. The comparative analysis of proposals showing the following:
 - i. The construction costs;
 - ii. The financing costs;
 - iii. The underwriting fees, legal fees and issuance expenses;
 - iv. If appropriate, the cost of financial insurance or a rating for the proposed issue;
 - v. The guaranteed interest rate or methodology for calculating the interest rate at the time of issuance;
 - vi. The proposal selected; and
 - vii. The proposed documents with any changes noted from the sample agreements.

(f) Within 15 days after the conference for approval of a lease purchase agreement in excess of five years, the Commissioner shall endorse his or her consent upon the application, if the Commissioner shall be satisfied that the lease purchase agreement is in the best interest of the school district, that the present educational facilities are less than 80 percent adequate, and that the planned educational facilities will be fully utilized within 10 years, or when the relationship of the proposed lease purchase project to the district goals and objectives pursuant to Chapter 212, Laws of 1975 has clearly been established and the documents and information presented at the conference support the request of the district board of education for the proposed lease purchase agreement.

(g) Lease purchase agreements in excess of five years shall be submitted to the Local Finance Board in the Department of Community Affairs for approval subsequent to approval by the Commissioner.

(h) A district board of education having entered into a lease purchase agreement shall include in its annual current expense budget the full rental payment attributable to a lease purchase agreement. The county superintendent of schools shall not approve such budget in accordance with N.J.A.C. 6:8-4.3(a)10iii(2) when a district board of education does not include such rental payment in its current expense budget unless the Commissioner or his or her designee has consented to such approval.

(i) A district board of education having entered into a lease purchase agreement in excess of five years shall not terminate, change or alter the approved lease purchase agreement and accompanying legal documents pertaining thereto, without first obtaining the written consent of the Commissioner.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Replacement of Contaminated Wellfields

Readoption of Concurrent Proposed Amendments:
N.J.A.C. 7:1A-1, 1.1, 1.2, 1.4, 1.6, 2.1, 2.2, 2.3, 2.4, 2.8, 2.10, 2.12, 2.13, 2.14, 2.15, 5.1 and 5.2.

Readoption of Concurrent Proposed New Rules:
N.J.A.C. 7:1A-7

Proposed: October 3, 1988 at 20 N.J.R. 2470(a).

Adopted: November 18, 1988 by Christopher J. Daggett, Acting Commissioner, Department of Environmental Protection.

Filed: November 18, 1988 as R.1988 d.574, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1B-3, 13:1D-9(k), N.J.S.A. 58:1A-1 et seq., particularly N.J.S.A. 58:1A-5, N.J.S.A. 12A-1 et seq., and P.L. 1988, c.106.

DEP Docket Number: 037-88-09.

Effective Date: November 18, 1988.

Expiration Date: June 5, 1992.

Summary of Public Comments and Agency Responses:

These amendments and new rules were published in the October 3, 1988 New Jersey Register as emergency rules and a concurrent proposal. The public comment period ended on November 16, 1988 and hearings were held on November 1 and 2, 1988. One written comment was received.

COMMENT: The Department is urged to reconsider the exclusion of investor-owned utilities from obtaining loans pursuant to these rules. Such an exclusion is unwise from a long range water supply planning perspective as the large investor-owned water companies in New Jersey have an established track record of safe, adequate and proper service. The current rules may foster the creation of new, small water systems which in all likelihood will be unable to sustain such a record of service.

RESPONSE: As stated in the Economic Impact statement of the rule proposal notice, at the present time the Department is uncertain as to whether a municipality may use the proceeds of a loan made pursuant to P.L. 1988, c.106 to contract with private water companies for the installation, operation or maintenance of a water supply facility. The Department has requested advice from the Attorney General's office concerning this issue. Accordingly, these rules do not permit municipalities to use the proceeds from such a loan to contract with private water companies. If the Department is advised that such use is permissible, appropriate changes will be made to the rules at that time.

The Department wishes to note an error in the text of N.J.A.C. 7:1A-5.1(a)4 as published in the New Jersey Register Notice of Emergency Adoption and Concurrent Proposal. The published first sentence of N.J.A.C. 7:1A-5.1(a)4, which was to be the second sentence of N.J.A.C. 7:1A-5.4(a)3 now in the Code, read, "The maximum loan amount for any one project shall be \$3,000.00." As now published in the Code, and as intended to be published in the Notice, that amount should be \$3,000,000." The correct amount appears as a technical change in the adoption text published herein.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:1A-1.1 Scope and construction of rules

(a) The following shall constitute the rules governing loans for State or local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly owned water supply facilities, for the interconnection of unconnected or inadequately connected water systems, and water supply facilities to address contamination problems as identified by the Department, pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the

Water Supply Bond Act of 1981, P.L. 1981, c.261, P.L. 1983, c.499; P.L. 1988, c.106, and as recommended by the New Jersey Statewide Water Supply Plan. These rules prescribe procedures, minimum standards for conduct for borrowers, and standards for obtaining loans for the rehabilitation of water supply facilities, for interconnections between water supply systems, and for water supply facilities to address contamination problems.

(b) (No change.)

7:1A-1.2 Purpose of rules

(a) These rules are promulgated for the following purposes:

1. To implement the purposes and objectives of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Supply Bond Act of 1981, P.L. 1981, c.261; P.L. 1988, c.106, and the New Jersey Statewide Water Supply Plan; and amendments.

2. To establish policies and procedures for administration of funds appropriated pursuant to the above acts for the purpose of making State loans for State or local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating water supply transmission facilities, for the interconnection of unconnected or inadequately connected water supply systems, and for water supply facilities to address contamination problems identified by the Department;

3.-6. (No change.)

7:1A-1.4 Annual budget request

(a) The Commissioner shall submit to the State Treasurer and the New Jersey Commission on Capital Budgeting and Planning with the Department's annual budget request, a plan for the expenditure of funds from the "Water Supply Fund" for the upcoming fiscal year.

(b) The plan shall include the following information:

1.-2. (No change.)

3. A copy of these rules; and

4. (No change.)

7:1A-1.6 Procedure for obtaining a water supply loan

(a) Each potential applicant for a water supply loan shall:

1. Determine if it meets the eligibility criteria of N.J.A.C. 7:1A-3.1, 4.1, 5.1, 7.3 or 7.4, as appropriate;

2. Arrange for a preapplication conference as required in N.J.A.C. 7:1A-2.3; and

3. Complete the application procedures required by N.J.A.C. 7:1A-2.4 or N.J.A.C. 7:1A-7.4(b), as applicable.

7:1A-2.1 Scope

This subchapter shall prescribe procedures and requirements of the award for State loans for projects which will effectuate the purposes of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., P.L. 1988, c.106, and Section 4 of the Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended, and as recommended by the New Jersey Statewide Water Supply Plan.

7:1A-2.2 Definitions

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

"Act" means the Water Supply Bond Act of 1981, P.L. 1981, c.261, the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., P.L. 1988, c.106, and such other acts and appropriations provided to the Department for the purposes specified in this chapter.

"Administrator" means the Assistant Director of the Water Supply Element of the Division of Water Resources of the Department of Environmental Protection.

"Bonds" means the bonds authorized to be issued, or issued under the Water Supply Bond Act of 1981, P.L. 1981, c.261 or subsequent bond acts.

"Borrower" means an applicant which has received a loan pursuant to the Act and this chapter, and which has executed a loan award document.

"Local unit" means any political subdivision of the State or agency thereof that applies for rehabilitation, interconnection or water supply replacement Type A funding under the Water Supply Bond Act of 1981.

"Maximum contaminant level" or "M.C.L." means the maximum permissible level of a contaminant in water measured at the point at which water is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water rules apply, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. Primary drinking water rules shall be applicable to individually owned wells. For the purposes of this chapter, the parameter of turbidity shall be excluded as a primary drinking water rule, except when violation of turbidity maximum contaminant levels occur as a result of other contaminants.

"Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof that applies for Type B or Type C Funding.

"Residences with contaminated wells" means residences in a residential area of more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25 percent of the wells supplying potable water to the area with contaminants at the Class II, Class III or Class IV interim action levels for hazardous contaminants in drinking water of the Department of Environmental Protection, or in excess of the maximum contaminant levels adopted by the Department pursuant to P.L. 1983, c.443 (N.J.S.A. 58:12A-12 et seq.) as may be applicable.

"Type A Funding" means loans awarded to local units out of appropriations made pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, to plan, design and construct projects to address contamination problems as identified by the Department (see this subchapter and N.J.A.C. 7:1A-5).

"Type B Funding" means loans awarded to municipalities or municipally owned public water systems as defined at N.J.S.A. 58:12A-3, out of appropriations other than appropriations made pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261 or other bond acts to plan, design and construct projects to address contamination problems as identified by the Department other than those addressed under Type C Funding (see this subchapter and N.J.A.C. 7:1A-7).

"Type C Funding" means loans awarded to municipalities, which meet the criteria set forth at N.J.A.C. 7:1A-7.4(b), out of appropriations deposited in the Water Supply Replacement Trust Fund to plan, design and construct projects to address contamination problems meeting special criteria as identified by the Department (see this subchapter and N.J.A.C. 7:1A-7).

"Water supply facilities" means and refers to the plants, structures, service and house connections, well sealings, interconnections between existing water supply facilities, machinery and equipment and other property, personal and mixed, constructed or operated, or to be constructed or operated, in whole or in part by or on behalf of the State, or of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering or transmitting of water, and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof.

7:1A-2.3 Preapplication procedures

(a) (No change.)

(b) Questions concerning the program and requests for a preapplication conference should be directed to:

Division of Water Resources
Water Supply Element
CN-029
401 East State Street
Trenton, New Jersey 08625

7:1A-2.4 Application procedures

(a) (No change.)

(b) An applicant for a water supply loan shall submit:

1.-4. (No change.)

5. A complete proposal outlining the problems, cause and effect of these problems, the proposed solution along with a discussion of alternatives to the proposed solution. In the case of loans to address water supply contamination problems, a feasibility study, as approved by the Department, shall be submitted. In the case of rehabilitation loans, measures to insure a safe, continuous and adequately protected water supply to affected project areas shall be included, as appropriate.

6.-8. (No change.)

9. An estimate of preliminary, developmental, and construction costs by unit prices for the project. Labor, equipment, materials, supplies, overhead and contractor's and consultant's profit with supporting background and summary sheets may be requested by the Department to substantiate the estimates of unit costs. Total project costs and those project costs that the applicant anticipates to be eligible for a loan shall be separately summarized:

10.-11. (No change.)

12. All documentation and other information as may be necessary for the Division to adequately determine the applicant's priority point total pursuant to N.J.A.C. 7:1A-3.2, 4.2, 5.2, or 7.4(a) as appropriate.

(c) (No change.)

(d) Applications should be submitted well in advance of the application closing date for the application period in which the applicant wishes to be awarded a loan. There shall be at least one application period in each fiscal year. For the rehabilitation loan program, the application closing date for the initial application period for each year of the program shall be October 1 of the appropriate fiscal year.

1. For the interconnections loan program, the application closing date for the initial application period shall be June 18, 1984. In the case of loans for addressing water supply contamination problems, two annual application periods will be established with closing dates of December 31 and June 30, respectively. However, applications will be received and reviewed on a continuous basis. Those projects meeting exigency standards, as defined at N.J.A.C. 7:1A-5.2(b), shall be processed for immediate funding, if available.

2.-3. (No change.)

(e) (No change.)

(f) Applications shall be sent to:

Division of Water Resources
Water Supply Element
CN-029
401 East State Street
Trenton, New Jersey 08625

7:1A-2.8 Amount and terms of loan

(a) (No change.)

(b) The interest rate for loans made pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, shall be established at a rate deemed appropriate by the Department of the Treasury, or as specified in appropriation acts.

(c) For rehabilitation and interconnection loans, the loan maturity period shall be for a period of no more than 10 years from the date payments to the borrower begin, unless a longer loan maturity period not to exceed 20 years can be justified to the satisfaction of the Department. For Type A funding the loan maturity period shall be for a period of no more than 20 years from the date that payments to the borrower begin. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.

(d) A rate schedule setting for the amounts charged for sale of water by the borrower shall be established for each rehabilitation, interconnection or water supply replacement loan. For all borrowers, a portion of receipts, as stipulated by the loan award document, shall be dedicated to a specific fund for the purpose of assuring repayment of the loan by the borrower. The Department may require additional collateral to secure to loan when deemed necessary.

1. (No change.)

(e) All other financial loan terms for loans made pursuant to the Water Supply Bond Act of 1981, P.L. 1981 c.261, shall be established by agreement between the Department and the Department of the Treasury. Loan terms shall be made available to all applicants by the Department in all cases prior to execution of any loan award document.

7:1A-2.10 Effect of loan award

(a) The loan award document shall become effective immediately after its execution by the Department and the applicant, and shall constitute an obligation of the applicable fund in the amount and for the purposes stated in the loan award document.

(b) (No change.)

7:1A-2.12 Project development phase of water supply loan program

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

(c) All applicants for water supply loans shall submit all materials required by this subsection, prepared in accordance with accepted engineering practices within the specified time period.

1. (No change.)

2. The plans for the water supply loan project shall be prepared by an engineer licensed by the State of New Jersey. Each drawing shall be signed and sealed and shall have a title block giving the name and location of the project, the scale or scales used, date, and the name of the engineer and his or her license number. Plans shall show clearly the datum to which elevations shown are referred. The National Geodetic Vertical Datum of 1929 (U.S.G.S.) should be used wherever possible or an equation converting to that datum given. The plans shall clearly reflect and label all existing and proposed features and shall include but not be limited to:

i. A vicinity map showing the location of the water supply loan project. A U.S.G.S. 7½ Minute Quadrangle map or acceptable substitute shall be used for this purpose.

ii. A profile and a plan, if required in the judgment of the Division, of the entire transmission-grid system that is to be constructed. The plan shall include, but not be limited to, an index map, water mains, service connections, fire hydrants, gage valves, blowoff valves, air relief valves, pressure reducing valves, pumping stations, surge chambers, and storage tanks. The Plan shall also include, but not be limited to, the location of all utilities and sewer lines, that is, pipelines, telegraph and telephone lines, electrical conduits, and sanitary and storm sewers that will have an effect on the project implementation.

iii.-iv. (No change.)

3.-5. (No change.)

6. A detail cost estimate of expenses related to the planning, engineering, design, and construction of the water supply loan project. The breakdown of the cost estimates shall be by unit prices covering estimated labor, equipment, materials, supplies and contractors overhead and project. Background sheets will be furnished detailing the computation of the unit prices. A summary form showing Item No., description, estimated quality, unit, unit price, and estimated amount is required.

7. (No change.)

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

7:1A-2.13 Eligible project costs

(a) Project costs shall be allowed to the extent permitted by this chapter and the loan award document. Eligible project costs shall be those costs set forth below:

1. Repair, replacement, or reconstruction of all or part of any obsolete, damaged, antiquated, or inadequately operating water supply transmission system, or any obsolete or antiquated water supply interconnection or construction of a new interconnection, or

ENVIRONMENTAL PROTECTION

ADOPTIONS

the planning, design and construction of water supply facilities to address contamination problems as identified by the Department, within the scope of the approved feasibility study, including planning costs when so approved by the Department.

2.-7. (No change.)

(b)-(g) (No change.)

7:1A-2.14 Unused loan funds

Funds saved from projects whose actual eligible implementation costs are less than the estimated eligible costs, shall be retained by the State and deposited in the applicable fund to be applied to new water supply rehabilitation, interconnection or contamination projects, as appropriate, pursuant to the act and this chapter.

7:1A-2.15 Recycling of funds

(a) Subject to Federal and/or State law, funds from repayment of loans issued under the authority of the Water Supply Bond Act of 1981 and this chapter shall be deposited in the Water Supply Fund created pursuant to the Water Supply Bond Act of 1981 and shall remain available for further disbursements as new loans to be awarded pursuant to this chapter.

(b) Funds from repayment of loans issued under the authority of acts other than the Water Supply Bond Act of 1981 or other bond acts shall be deposited in the Water Supply Replacement Trust Fund and shall remain available for further disbursement as new loans to be awarded pursuant to this chapter.

SUBCHAPTER 5. WATER SUPPLY REPLACEMENT PROJECTS (TYPE A LOANS AND TYPE B LOANS)

7:1A-5.1 Eligibility and criteria (Type A and B loans)

(a) Any local unit which has received notification from the Water Supply Element, Division of Water Resources that groundwater supply contamination problems exist within their jurisdiction which adversely affect the potable water service of at least three dwelling units is eligible for a Type A loan, provided it satisfactorily completes the loan application, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score and ranks high enough on the priority list (as applicable) to be funded. The above requirements shall also apply to any municipality or municipally owned public water system seeking a Type B loan. To receive a Type A or Type B loan the project shall meet the following criteria to the satisfaction of the Department:

1. (No change.)

2. The project shall be designed to relieve the impact caused by contaminated groundwater on existing publicly owned or individually owned residential water supplies.

3. For the purpose of determining a project area, the following criteria shall be considered by the Department:

i. Extent of pollution;

ii. Area of potential migration; and

iii. Aquifer vulnerability.

4. The maximum loan amount for any one project shall be *[\$3,000.00]* *\$3,000,000*. In awarding a water supply loan, the Department may consider project expense and the degree of environmental impact which the project may have. Any local unit, municipality, or municipally owned public water system may be eligible to apply for one loan in any application period.

Renumber existing 4. through 7. as 5 through 8. (No change in text.)

(b) (No change.)

(c) The local unit, municipality, or municipally owned public water system shall be required to pass a mandatory connection ordinance prior to issuance of the loan award agreement by the Department. The local unit, municipality, or municipally owned public water system shall be required to pass a mandatory well sealing ordinance when in the judgment of the Department such well sealings are necessary to prevent additional migration of contaminants or the potential exists for additional contamination from wells which remain unused and not sealed.

(d) In the event a local unit, municipality, or municipally owned public water system has received approval for a grant, claim, payment, award or other loans from the State for the same project funded pursuant to this chapter, said payment shall be directly credited towards pre-payment of any outstanding principal and interest of the loan to the extent of payment received. As applicable, the outstanding principal and interest on the water supply loan shall be reduced by the amount received from the borrower and a revised repayment schedule shall be issued by the Department for the remaining maturity period of the loan.

(e) In the event a local unit, municipality, or municipally owned public water system receives a grant, claim payment, award, loan or any form of payment from any government agency or receives payment for damages relating to the same loan project funded pursuant to this chapter, the local unit, municipality, or municipally owned public water system shall pre-pay, within 30 days of receipt of such grant, claim, award, loan, payment or damage payment, any outstanding principal and interest of the loan to the extent of payment received. As applicable, the outstanding principal and interest on the water supply loan shall be reduced by the amount received from the borrower and a revised payment schedule shall be issued by the Department for the remaining maturity period of the loan.

7:1A-5.2 Priority determination (Type A and B Loans)

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives, with those projects scoring the higher points preferred for funding. No project shall be assigned priority points until the project area has been defined to the satisfaction of the Department; the most cost-effective water supply replacement project, project scope, and cost have been identified; and complete priority information has been submitted.

(b) In order to be considered for funding, a project must receive a minimum score of 100 priority points. Projects which receive a minimum score of 180 points will be considered "exigent" and will be processed for funding and the remainder of the competitive priority ranking provisions shall be waived except as noted in N.J.A.C. 7:1A-5.2(c). Upon determination that a project is exigent and sufficient funds are available, the Department shall notify the applicant of eligibility for project funding.

(c) In cases where a project classified "exigent" has been issued a notification of eligibility and processed for award but a notice of intent has not been issued and another project application is received and determined to have higher priority, and sufficient funds are not available to fund all priority ranked "exigent" projects, the project of higher exigency will commence processing for funding. In cases where a project attains "exigent" standing but sufficient loan funds are not available to cover the full requested project costs, the Department may by-pass the project to fund another "exigent" status project for which sufficient funds are available. Exigent projects for which sufficient funds are not available shall be withheld and immediately ranked and processed upon availability of funds.

(d) Projects which receive the minimum priority score but do not obtain "exigent" status will be held for the next competitive ranking determination. This determination will be made twice yearly, on January 2 and July 5, respectively, or the first working day thereafter unless extended as provided by N.J.A.C. 7:1A-2.4. Upon completion of the above semi-annual ranking and upon a determination that sufficient funds are available for a non-exigent project, the Department shall notify the applicant of eligibility of the project for funding. In such cases, if a Notice of Intent to Award has not been issued and a project determined to be of higher priority is received and sufficient loan funds are not available to cover all requested project costs, the Department may by-pass the project to fund another non-exigent project for which sufficient funds are available. In such cases where sufficient funds are not available to fund a non-exigent project either upon completion of the semi-annual priority ranking or upon withholding of the project due to receipt of an exigent project, the non-exigent project shall be withheld until the next semi-annual priority ranking.

ADOPTIONS

(e) Any appropriation not committed by a notice of intent to award, or released by a recalled Notice of Intent to Award, or by failure of applicant to execute loan documents within the prescribed period, or through termination of the project shall be carried over and added to the next application period.

(f) Priority points for water supply replacement projects to address nonpublic wells with contamination problems shall be awarded based on the three factors of severity, public hardship, and population served, as indicated below:

1. The total number of dwelling units that will be serviced with potable water by the project will be calculated. The percentage of these dwelling units tested as part of a sampling program approved by the Department that have confirmed levels of contaminants at or in excess of the maximum contaminant level (M.C.L.) will be calculated. The percentage of all dwelling units tested as a part of a sampling program approved by the Department that have confirmed levels of contaminants at or above twice the M.C.L. value will also be calculated.

i. (No change.)

ii. The Federal or State standard for contaminants, whichever is lower, shall apply.

iii. For contaminants not included in the primary drinking water regulations or in (f)1.ii above, the Department may, at its discretion, set a standard for the purposes of this chapter based upon a finding that said standard is necessary for the protection of the public health. That standard shall be incorporated into applicable Departmental rules pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as soon as practicable.

2. In considering financial hardship, project costs and the relative income levels of those affected will be considered.

i. (No change.)

ii. The State Median Family Income Level and Median Family Income Level as reported in the latest census for the municipality or local unit applying for the loan shall be determined.

iii. A point system reflecting the degree of hardship will be used according to the following schedule:

Project Costs: 0 - \$200/yr/service: 0 pts.
 201- \$300/yr/service: 15 pts.
 301- \$400/yr/service: 30 pts.
 401- \$500/yr/service: 45 pts.
 over \$501/yr/service: 60 pts.

Median Family Income Level (M.F.I.L.)
 For a municipal M.F.I.L. at or greater than the State M.F.I.L. 0 pts.
 For a municipal M.F.I.L. between the State M.F.I.L. and 20 percent below the State M.F.I.L. 20 pts.
 For a municipal M.F.I.L. at or greater than 20 percent below the State M.F.I.L. 40 pts.

iv. The total priority points awarded for the financial burden will be the sum of points awarded for project costs plus those awarded for the Median Family Income Levels.

3. Points will be awarded for population served based upon the following schedule:

For a project serving less than 50 people: 0 pts.
 For a project serving less than 100 people but more than 49 people: 10 pts.
 For a project serving 100 or more people: 20 pts.

(g) Priority points to address contamination problems related to publicly owned wells shall be awarded based on the three factors of severity, public hardship and population served, as indicated below:

1. Subject to a wellfield sampling program approved by the Department, the following shall address severity:

i. The rated well pump capacity tested and found to be at or greater than the maximum contaminant level divided by the total rated well pump capacity tested multiplied by 100.

ii. The rated well pump capacity tested and found to be at or greater than two times the maximum contaminant level divided by the total rated well pump capacity tested multiplied by 100.

iii. Rated well pump capacity that may be affected in the future divided by the total system rated well pump capacity multiplied by 100.

ENVIRONMENTAL PROTECTION

iv. The above three calculated percentages will be summed and the numerical value of the total will be equal to points awarded for severity.

v. The Federal or state standard for contaminants, whichever is lower, shall apply.

vi. For contaminants not included in the primary drinking water rules, the Department may, at its discretion, set a standard for the purposes of these rules based upon a finding that said standard is necessary for the protection of the public health. That standard shall be incorporated into applicable Departmental rules pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as soon as practicable.

2. In considering financial hardship, project costs and the relative income levels of those affected will be considered.

i. The total construction cost of the project shall be estimated as near as practicable. A full project cost shall be calculated as 120 percent of this estimate. This full project cost will be assumed to be financed over a 19 year period at an interest rate to be determined by the Department. A yearly operation and maintenance (O&M) cost for the project will be estimated. An annual incremental cost per affected service will be calculated based upon the sum of O&M and amortization of full project costs.

ii. The State Median Family Income Level and Median Family Income Level as reported in the latest census for the municipality or local unit applying for the loan shall be determined.

iii. A point system reflecting the degree of hardship will be used according to the following schedule:

Incremental annual project cost per affected service:

0 —\$25/yr: 0 pts.
 \$26 —\$75/yr: 15 pts.
 \$76 —\$125/yr: 30 pts.
 \$126 —\$175/yr: 45 pts.
 over \$176/yr: 60 pts.

Affected services = Total Services x (present rated well pump capacity of wells presently contaminated plus wells anticipated to be contaminated, as estimated by the Department divided by present rated well pump capacity of total system.)

Median Family Income Levels (M.F.I.L.)

For a municipal M.F.I.L. at or greater than the State M.F.I.L. 0 pts.
 For a municipal M.F.I.L. between the State M.F.I.L. and 20 percent below the State M.F.I.L. 20 pts.
 For a municipal M.F.I.L. at or greater than 20 percent below the State M.F.I.L. 40 pts.

iv. The total priority points awarded for the financial burden will be the sum of points awarded for project costs plus those awarded for Median Family Income Levels.

3. Points will be awarded for population served based upon the following schedule:

For a project serving less than 50 people 0 pts.
 For a project serving less than 100 people but more than 49 people 10 pts.
 For a project serving 100 or more people 20 pts.

(h) For ranking purposes the total priority score shall be the sum of points awarded for each of the three categories at N.J.A.C. 7:1A-5.2(f) or (g) as applicable.

SUBCHAPTER 7. WATER SUPPLY REPLACEMENT PROJECTS (TYPE B LOANS OR TYPE C LOANS)

7:1A-7.1 Water Supply Replacement Trust Fund

(a) Funds appropriated to the Department from acts other than the Water Supply Bond Act of 1981, P.L. 1981, c.261, or other bond acts for the purpose of providing loans for alternative water supplies when contamination problems exist shall be deposited in the Water Supply Replacement Trust Fund. The funds in the Water Supply Replacement Trust Fund are specifically dedicated for the purpose of making Type B and Type C Loans to municipalities or municipally owned public water systems to plan, design and construct projects to address contamination problems as identified by the Department pursuant to this chapter.

(b) The purpose of Type C Loans is to quickly address particularly urgent projects previously recognized by legislative action. Accordingly, not over eight million dollars of the total amount appropriated for funding from sources other than from the Water Supply Bond Act of 1981 will be available for Type C Loans, the remainder being available for Type B Loans and associated costs.

(c) Funds saved from planning and constructing projects whose actual eligible implementation costs are less than the awarded estimated eligible costs shall be retained by the State and deposited in the Water Supply Replacement Trust Fund to be applied to new water supply replacement projects pursuant to this chapter.

(d) Repayment of principal and interest on loans issued from the Water Supply Replacement Trust Fund shall be made to the State of New Jersey as set forth in the loan award document and shall be redeposited in the Water Supply Replacement Trust Fund to be made available for further disbursements as new loans to be awarded pursuant to this chapter.

(e) If a project utilizes point of entry treatment devices on other than a temporary basis, provisions shall be included to assure adequate future inspection and maintenance of such devices, and to minimize liability to the State. Such provisions shall be subject to approval by the Department.

(f) Where the area of actual or anticipated contamination extends beyond the limits of a single municipality, a single plan shall be developed covering the entire area, on the basis of which the optimum plan shall be prepared, covering the entire area. Municipalities shall enter into an agreement for the joint administration of planning and/or design and construction to the extent feasible. Such agreement shall be subject to approval by the Department, and shall at a minimum, prescribe arrangements for the procurement, contracting and payment of joint debt and construction services as well as designate a single municipality to administer the planning, design and construction of the entire project.

7:1A-7.2 Amount and terms of loan

(a) Funds made available for Type B and C Loans under this subchapter shall be subject to the following conditions:

1. Such loans shall bear interest at a rate fixed by the Department of the Treasury, and shall not exceed the rate of two percent per annum. Under hardship circumstances, subject to approval by the Department of the Treasury, loans may be given at interest rates below two percent, based on the percentage of the local unit's municipal median family income level required to plan, design, construct and operate the project.

2. The loan maturity period for all Type B and C Loans issued from the Water Supply Replacement Trust Fund shall be for a period of not more than 20 years from the date disbursement of loan funds to the borrower begins. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.

3. Unless otherwise specified by the Department of the Treasury, the amortization date for all Type B and C Loans issued from the Water Supply Replacement Trust Fund shall be 90 days after the final disbursement or loan funds to the borrower. Accrued interest on all disbursements made prior to the amortization date may be capitalized as part of the principal amount of the loan. The borrower shall make equal semi-annual debt service payments to the State commencing six months after the amortization date. Debt service schedules providing for prepayment of accrued interest and/or declining debt service payments may be approved at the discretion of the Department. However, subject to approval by the Department of the Treasury, annual or semi-annual debt service payments by any utility authority, as borrower, shall become due as specified in the Loan Repayment Schedule and any amendments thereto.

4. For all borrowers, sufficient funds shall be deposited in a specific fund for the purpose of assuring timely repayment of the loan by the borrower.

7:1A-7.3 Eligibility and criteria (Type B Loans)

For Type B Funding, any municipality or municipally owned public water system, including subdivisions or agencies thereof, may be eligible to apply for one loan in any application period. The maxi-

imum loan amount awarded to any municipality or municipally owned public water system under any application for Type B Funding shall be \$3,000,000. Eligibility and criteria for Type B Funding shall be as set forth at N.J.A.C. 7:1A-5.1(a) through (e).

7:1A-7.4 Priority determination (Type B and C Loans)

(a) Priority ranking for Type B Loans shall be as set forth at N.J.A.C. 7:1A-5.2(a) through (h).

(b) For Type C Funding, a municipality having residences with contaminated wells as defined in this chapter may make application for and receive one award for a maximum of \$8,000,000 subject to meeting the following criteria to the satisfaction of the Department.

1. The municipality shall have received notification from the Water Supply Element, Division of Water Resources that groundwater contamination problems exist within its jurisdiction which adversely affects the potable water service.

2. The project shall be designed to relieve the impact caused by contaminated groundwater on existing individually owned residential water supplies. For the purpose of determining a project area, the following criteria shall be considered by the Department:

- i. Extent of pollution;
- ii. Area of potential migration; and
- iii. Aquifer vulnerability.

3. In awarding a water supply loan, the Department may consider project expense and the degree of environmental impact which the project may have.

4. The project shall not conflict with any other State project nor enforcement proceedings.

5. The application shall be accompanied by adequate explanation of how the applicant plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The applicant must comply with all standard loan provisions of the State of New Jersey.

6. The application shall be completed to the satisfaction of the Department and shall state and document how the loan will accomplish the goal set out in the application.

7. The municipality shall have a contiguous residential area containing more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25 percent of the wells supplying potable water to the area with contaminants at or above Interim Action Levels II, III or IV for hazardous contaminants in drinking water, or in excess of the maximum contaminant levels to be adopted by the Department pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., as may be applicable.

8. The potable water supply for the residential area shall have been deemed by the county board of health or department of health to be unfit for human consumption, and the governing body of the municipality shall have adopted a resolution banning new construction in the area pending connection of the area to a public water supply system; or the Department shall have determined that all or a portion of the groundwater serving the residential area to be a well-restriction area.

9. The municipality shall certify to the Department the estimated costs for extending a public water supply system to an eligible residential area that satisfies the criteria of this section.

10. In cases where the project costs exceed the \$8,000,000 maximum loan amount, the application shall be accompanied by a detailed financial assessment indicating how the applicant will finance and repay the entire project costs.

11. Compliance with other criteria as set forth at N.J.A.C. 7:1A-5.1(c) through (e).

12. Monies from a Type C Loan made hereunder are to be expended solely for the purpose of expanding the public water supply system to residences with contaminated wells as defined in this chapter.

(a)

DIVISION OF WATER RESOURCES

Allocation of Water Supply Costs for Emergency Water Supply Projects

Readoption: N.J.A.C. 7:1D

Proposed: September 6, 1988 at 20 N.J.R. 2197(a).
 Adopted: November 16, 1988 by Christopher J. Daggett, Acting Commissioner, Department of Environmental Protection.
 Filed: November 28, 1988 as R.1988 d.589, **without change**.
 Authority: P.L. 1981, c.28 and P.L. 1981, c.29
 DEP Docket Number: 034-88-08.
 Effective Date: November 28, 1988.
 Expiration Date: November 28, 1993.

Summary of Public Comments and Agency Responses:
 This proposed readoption was published in the September 6, 1988 New Jersey Register. One comment was received within the comment period which closed on October 6, 1988.

COMMENT: Water companies should be provided with a full accounting of the reimbursements that the State has received from each participating purveyor, including the extent such reimbursements are in conformance with the schedule detailed in N.J.A.C. 7:1D-1.10.

RESPONSE: As of September 30, 1988, all seven companies affected by this chapter are on schedule in repaying the costs of the emergency projects, including both principal and interest. The Department is currently in the process of compiling a complete accounting of all reimbursements received by the State pursuant to N.J.A.C. 7:1D, and as soon as it is completed, it will be forwarded to all seven purveyors affected by this chapter. Additionally, a yearly accounting will be made available throughout the reimbursement period and may be obtained upon written request to the Department.

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

(b)

DIVISION OF COASTAL RESOURCES

Wetlands Maps in Gloucester County

Adopted Amendment: N.J.A.C. 7:7-2.2

Proposed: November 16, 1987 at 19 N.J.R. 2090(b).
 Adopted: November 16, 1988 by Christopher J. Daggett, Acting Commissioner, Department of Environmental Protection.
 Filed: November 16, 1988 as R.1988 d.570, **with substantive and technical changes** not requiring additional public notice (see N.J.A.C. 1:30-4.3).
 Authority: N.J.S.A. 13:9A-1 et seq. and 13:1D-1 et seq.
 DEP Docket Number: 053-87-10.
 Effective Date: December 19, 1988.
 Expiration Date: May 7, 1989.

Notice of the proposed amendment was published on November 16, 1987 in the New Jersey Register at 19 N.J.R. 2090(b). The notice also advised that a public hearing had been scheduled for December 14, 1987 at 7:00 P.M. at the Student Center Ballroom at Glassboro State College in Glassboro, New Jersey, to afford the public an opportunity to be heard on the proposed action by the Department. One written comment was received prior to the close of the comment period. Approximately 10 persons attended the hearing, three of whom testified.

Summary of Public Comments and Agency Responses:
COMMENT: The delineation of the upper wetlands boundary on proposed wetlands maps 350-1812 and 357-1812 is incorrect based upon a survey performed by a professional land surveyor.

RESPONSE: Personnel from the Division of Coastal Resources inspected the sites on October 26, 1987 and found that the wetlands boundary had been incorrectly drawn. The maps have been changed in accordance with the comment.

COMMENT: The delineation of the inland limit of tidal influence on the South Branch tributary on wetlands map 350-1878 is incorrect.

RESPONSE: Personnel from the Division of Coastal Resources inspected the tributary on October 26, 1987 and found the delineation as proposed to be correct.

AGENCY NOTE: No change was made on adoption in the text of N.J.A.C. 7:7A-2.2 as proposed. However, the maps as proposed inaccurately classified five acres of land as wetlands subject to regulation. Therefore, maps 350-1812 and 357-1812 have been corrected to more accurately delineate the area subject to Department jurisdiction.

Full text of the adoption follows.

7:7-2.2 Wetlands

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

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetland boundary on the following wetlands maps:

1.-8. (No change.)

9. Gloucester County

AGENCY NOTE: The following maps are to be altered.

...		...
350-1824	357-1812	364-1818
350-1830	357-1818	...
...	357-1824	364-1836
357-1800	...	371-1842
357-1806	364-1806	...

AGENCY NOTE: The following maps are to be added to the list of wetlands maps for Gloucester County.

...
336-1860	350-1812	364-1848
...
343-1824	350-1860	364-1872
343-1848	350-1878	...
343-1854	...	371-1860
343-1860	357-1854	...
	357-1878	

10.-11. (No change.)

(c)

DIVISION OF WATER RESOURCES

NJPDES Permits for the Discharge of Dredged or Fill Material

Non-exempt Discharges

Adopted Amendment: N.J.A.C. 7:14A-3.1

Proposed: June 20, 1988 at 20 N.J.R. 1328(a).
 Adopted: November 22, 1988 by Christopher J. Daggett, Acting Commissioner, Department of Environmental Protection.
 Filed: November 28, 1988 as R.1988 d.588, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
 Authority: N.J.S.A. 13:1B-3, 58:10A-1 et seq., particularly 58:10A-4, 58:10A-6 and 13:9B-1 et seq.
 DEP Docket Number: 021-88-05.
 Effective Date: December 19, 1988.
 Expiration Date: June 4, 1989.

Notice of the proposed amendment was published on June 20, 1988 in the New Jersey Register at 20 N.J.R. 1328(a). The notice also advised that a public hearing had been scheduled for July 14, 1988 at 10:00 A.M. at the Division of Coastal Resources, 501 E. State Street, Trenton, New Jersey, to afford the public an opportunity to be heard on the proposed action by the Department. In addition, secondary notice of the amendment was published in the Bridgeton Evening News on June 16, 1988; in the Atlantic City Press on June 24, 1988; in the Bergen Record on June 19, 1988; in the Trenton Times on June 15, 1988; in the Newark Star-Ledger on June 17, 1988; and in the Camden Courier-Post on June 15, 1988. All notices invited written comments to be submitted on or before August 19, 1988, and announced the holding of a combined public

ENVIRONMENTAL PROTECTION

ADOPTIONS

hearing concerning this amendment and a proposed amendment to N.J.A.C. 7:7A-9, proposed at 20 N.J.R. 1327(a). All comments received were directed to the amendment of N.J.A.C. 7:7A-9. Fifteen persons attended the hearing.

Summary of Public Comments and Agency Responses:

No comments received.

Summary of Agency Initiated Changes:

As proposed, the amendment explains permit requirements for those waters for which the State could not assume jurisdiction under the Federal 404 program. No mention was made in the proposed amendment, however, of permitting requirements for other waters of the State. Therefore, a paragraph has been added to explain where to locate permitting requirements for those waters, and to clarify that, despite the amendment's location in the DSW section of the NJPDES rules, the amendment also affects the Open Water Fill and Freshwater Wetlands permit programs at N.J.A.C. 7:7A.

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

7:14A-3.1 Scope

(a) (No change.)

(b) The following discharges do not require DSW permits:

1. (No change.)

2. Discharges of dredged or fill material into waters for which the State could not be authorized to administer the section 404 program under section 404(g) of the "Federal Water Pollution Control Act Amendments of 1972," as amended by the "Clean Water Act of 1977" (33 U.S.C. §1344) and implementing regulations;

i. In those waters for which the State could be authorized to administer the section 404 program under section 404(g) of the Federal Act, a person shall not discharge dredged or fill material except in conformity with a valid NJPDES permit, issued by the Division of Coastal Resources in the Department pursuant to the provisions of N.J.A.C. 7:7A, unless the discharge is specifically exempted therein. The NJPDES permit shall be a freshwater wetlands permit or an Open Water Fill permit, rather than a DSW permit.

3.-5. (No change.)

(c) (No change.)

HEALTH

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Nuclear Magnetic Resonance (NMR)/Magnetic Resonance Imaging (MRI) Services

Adopted Amendment: N.J.A.C. 8:33J-1.3

Proposed: September 6, 1988 at 20 N.J.R. 2220(a).

Adopted: November 16, 1988 by David L. Knowlton, Acting Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: November 17, 1988 as R.1988 d.573, **without change.**

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Effective Date: December 19, 1988.

Expiration Date: May 7, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

8:33J-1.3 Demonstrations

(a) (No change.)

(b) The Statewide demonstration period will begin with the date of operation of the first NMR approved demonstration and will continue for a period of two years and six months. However, the

demonstration period can be shortened by the Commissioner of Health upon the recommendation of the NMR Advisory Panel (see N.J.A.C. 8:33J-1.4).

(c) Once the demonstration approvals, not to exceed a maximum of eight Statewide, are issued, the Department of Health shall not process any other applications for NMRs until the conclusion of the demonstration period, not to exceed two years and six months, beginning with the date of operation of the first NMR demonstration.

(d)-(f) (No change.)

DIVISION OF HEALTH FACILITIES EVALUATION

(b)

Health Care Facilities Licensure Licensing Nursing Home Administrators

Readoption: N.J.A.C. 8:34

Proposed: September 19, 1988 at 20 N.J.R. 2355(b).

Adopted: November 9, 1988 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of the Nursing Home Administrator's Licensing Board).

Filed: November 15, 1988 as R.1988 d.567, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically, N.J.S.A. 26:2H-5b, 26:2H-27 and 26:2H-28.

Effective Date: November 15, 1988.

Expiration Date: November 15, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 8:34.

Full text of the adopted amendment follows.

8:34-1.17 Registration of licenses

(a) Every licensed administrator shall be issued a two year license provided he or she meets the requirements of licensure as outlined in this chapter.

(b) Upon making an application for a new license, such licensee shall pay a registration fee every two years.

(c)-(f) (No change.)

8:34-1.27 Continuing education requirement

(a) Each licensed administrator must complete 40 hours of continuing education in health-related seminars, workshops, lectures, formal courses in the field and such other health related activities every two years. It should be noted that the above are not required to be held in a formal classroom setting. In addition, up to 10 hours of continuing education credits every two years can be allocated for attendance of business meetings of the American College of Health Care Administrators, Association of Non-Profit Homes for Aged, Association of Health Care Facilities and the Society of Nursing Home Administrators.

(b) Service on various committees would merit educational credit. An individual who has earned 50 hours of continuing education may carry hours 51-70 into the following licensure period on an hour to hour basis.

(c)

Residential Health Care Facilities Standards for Licensure

Adopted Amendment: N.J.A.C. 8:43-4.11

Proposed: September 6, 1988 at 20 N.J.R. 2221(a).

Adopted: November 17, 1988 by Molly J. Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of Health Care Administration Board).

Filed: November 22, 1988 as R.1988 d.578, **without change.**

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

ADOPTIONS

LABOR

Effective Date: December 19, 1988.
Expiration Date: January 21, 1991.

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

Full text of the adoption follows.

8:43-4.11 Sanitation

(a) An adequate and continuous supply of hot water shall be available at all times for bathing, dishwashing, laundry and general cleaning.

1. The temperature of the hot water used for showers, bathing and handwashing shall not exceed 110 degrees Fahrenheit (43 degrees Celsius).

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

LABOR

(a)

DIVISION OF ADMINISTRATIVE SERVICES

Debarment from Contracting; Conflict of Interest

Adopted Repeal and New Rules: N.J.A.C. 12:3-1

Proposed: October 17, 1988 at 20 N.J.R. 2519(a).

Adopted: November 28, 1988 by Charles Serraino,
Commissioner, Department of Labor.

Filed: November 28, 1988 as R. 1988 d.584, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-20; 34:1A-3(e); 34:11-56.37, and the Governor's Executive Orders Number 34(1976) and Number 189(1988).

Effective Date: December 19, 1988.
Expiration Date: December 19, 1993.

Summary of Public Comments and Agency Responses:

The Department did not receive any public comments on the proposed repeal and new rules at N.J.A.C. 12:3-1 concerning debarment from contracting; conflict of interest. However, upon internal review of the new rules, the Department noted a few non-substantive corrections which should be made upon adoption.

First, the Department has decided to place the administration of the rules in the Division of Administrative Services, rather than in the Division of Workplace Standards, as the latter has a debarment rule specific to its division. The change is reflected in the heading of this notice of adoption.

Secondly, two additional factors which may be considered to debar were added, namely, the failure to provide services and the failure to comply with contract specifications. The factors are based upon the causes for debarment set forth in subparagraphs 4(h) and (i) of Executive Order No. 34(1976).

Finally, the Department has added a paragraph to N.J.A.C. 12:3-1.6 which provides that ethical prohibitions shall be included in all departmental requests for proposals and all contracts executed on behalf of the Department.

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

**CHAPTER 3
CONTRACTS**

SUBCHAPTER *[3.]**1.*** DEBARMENT FROM
CONTRACTING; CONFLICT OF
INTEREST**

12:3-1.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the causes and conditions which constitute grounds for debarment and to notify individuals of the Departmental policies and procedures concerning debarment.

(b) The provisions of this subchapter shall be applicable to all persons supplying goods or services to the Department or performing contracts with the assistance of and subject to the approval of the Department.

12:3-1.2 Definitions

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

"Commissioner" means the Commissioner of the Department of Labor or his or her designee.

"Contracting" means any arrangement giving rise to an obligation to supply any thing or to perform any service for the Department, other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or services or the persons who may supply or perform the same.

"Contractor" means a person who undertakes to perform a job or piece of a contract retaining control of the means, method and manner of accomplishing the desired result. Contractor includes the officers and directors of a corporate contractor.

"Debarment" means the inclusion on a Statewide list of individuals who are prohibited from contracting within the State, on the basis of a lack of responsibility evidenced by an offense as set forth in this subchapter.

"Department" means the New Jersey Department of Labor.

"Person" means any natural person, company corporate officer or principal, firm, association, corporation, contractor, subcontractor or other entity engaged in contracting.

12:3-1.3 Cause and conditions for debarment

(a) The Commissioner may debar a person from contracting with the Department or any agency within the control or jurisdiction of the Department for a definitely stated period of time for the violation of any labor law including but not limited to wage and hour, minimum wage, discrimination in wages and child labor laws.

1. Debarment from contracting with the Department shall be made only by the Commissioner except as otherwise provided by law.

(b) A violation of the State labor laws shall not necessarily require that a person be debarred. In each case, the decision to debar shall be made at the discretion of the Commissioner unless otherwise provided by law.

(c) The Commissioner may consider the following factors as material in each decision to debar:

1. The record of previous violations by the person with the Office of Wage and Hour Compliance;
2. Previous cases of debarment by the Commissioner;
3. The frequency of violations by the person discovered in previous or still pending cases;
4. The significance or scale of the violations;
5. The existence of outstanding audit(s) or failure(s) to pay;
6. Failure to respond to a request to produce records, forms, documents, or proof of payments; ***[and]***
7. Submission of falsified or altered records, forms, documents, or proof of payment***[.]**;**
- *8. Failure to provide services; and**
- *9. Failure to comply with contract specifications.***

(d) A violation of any labor law shall be determined by the Commissioner. In the event an appeal taken from such determination results in a reversal, the debarment shall be removed unless the Commissioner determines that another cause for debarment exists.

12:3-1.4 Procedures and period of debarment

(a) When the Department seeks to debar a person, the person or persons shall be furnished with a written notice stating:

1. That debarment is being considered;
2. The specific details concerning the violations; and
3. That the person shall have the right to a hearing upon written notification to the Commissioner requesting such a hearing within 20 days of receipt of the notice of intent to debar.

LABOR

ADOPTIONS

(b) The notice of intent to debar shall be mailed, by regular mail and return receipt requested, to each corporate officer of record, partner, individual proprietor or other involved person.

(c) If, after confirmation that the person has been mailed the notice of intent to debar, the person has not requested a hearing to contest the debarment, the person shall be deemed to have forfeited the right to apply for injunctive relief in the Superior Court against the listing as a debarred person.

(d) All hearings pursuant to this section shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 54:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Where any other State Department or agency has already imposed debarment upon a party, the Commissioner may also impose a similar debarment without affording an opportunity for a hearing, provided the Commissioner furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in his or her behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(e) Debarment shall be for a period of three years.

12:3-1.5 Lists

The Department shall provide the State Treasurer with the names of all persons debarred and the effective date and period of debarment, if any.

12:3-1.6 Conflict of interest prohibited

(a) No contractor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13(b) and (e), in the Department of the Treasury or any other agency with which such contractor transacts or offers or proposes to transact business, or to any member of the immediate family as defined by N.J.S.A. 52:13D-13(i), of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13(g).

(b) The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State contractor shall be reported in writing by the contractor to the Attorney General and the Executive Commission on Ethical Standards.

(c) No contractor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such contractor to, with any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or instrumentality, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13(g). Any relationships subject to this subsection shall be reported in writing to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

(d) No contractor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of the officer or employee.

(e) No contractor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the contractor or any other person.

(f) The provisions in (a) through (e) above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with contractors

under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

(g) The prohibitions set forth in this section shall be included in all departmental requests for proposals and all contracts executed on behalf of the Department.

(a)

DIVISION OF WORKPLACE STANDARDS

Ski Lifts

Readoption with Amendments: N.J.A.C. 12:175

Proposed: October 17, 1988 at 20 N.J.R. 2521(a).

Adopted: November 28, 1988 by Charles Serraino, Commissioner, Department of Labor.

Filed: November 28, 1988 as R.1988 d.585, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-2a, 34:1A-3(e) and 34:4A-4 et seq., specifically 34:4A-4.

Effective Date: November 28, 1988 for readoption; December 19, 1988 for amendments.

Expiration Date: November 28, 1993.

Summary of Public Comments and Agency Responses:

The Department received no public comments on the proposed readoption with amendments of N.J.A.C. 12:175 concerning ski lifts. However, upon internal review of the readoption, it was noted that one standard in the chain of amendments to the original standard should be added. Thus, the Department has made this one addition upon adoption. No substantive change will result from the addition of this standard, as it is necessary for understanding and implementation of those standards proposed.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 12:175.

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

12:175-3.2 Compliance

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

(c) The Office of Safety Compliance shall order in writing, a temporary cessation of operation of a passenger tramway, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until the passenger tramway has been re-inspected by a designee of the Office of Safety Compliance and it is determined by the designee to be safe for operation.

12:175-4.2 Standards adopted by reference

(a) The standards prescribed by Passenger Tramways, ANSI B77.1-1982*, ANSI B77.1a-1986*, and B77.1b-1988 are adopted as safety standards and shall apply according to their provisions, except that the following sections and subsections shall not apply:

1.-4. (No change.)

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

12:175-6.1 Documents referred to by reference

(a) The full title and edition of each of the standards or publication referred to in this chapter are as follows:

1. (No change.)

2. ANSI B77.1a-1986 Passenger Tramways—Aerial Tramways and Lifts, Surface Lifts, and Tows.

***[2.]*3.* ANSI B77.1b-1988 Passenger Tramways—Aerial Tramways and Lifts, Surface Lifts, and Tows.**

***[3.]*4.* N.J.S.A. 34:4A-1 et seq., The Ski Lift Safety Act.**

12:175-6.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days.

ADOPTIONS

LABOR

New Jersey Department of Labor
 Division of Workplace Standards
 Third Floor, Station Plaza, Building 4,
 South Clinton Avenue and East State Street
 Trenton, New Jersey

(a)

DIVISION OF WORKERS' COMPENSATION

Surcharge Collection Procedures

Adopted New Rules: N.J.A.C. 12:235-13

Proposed: October 17, 1988 at 20 N.J.R. 2522(a).

Adopted: November 28, 1988 by Charles Serraino,
 Commissioner, Department of Labor.

Filed: November 28, 1988 as R.1988 d.586, **with technical changes**
 not requiring additional public notice and comment (see
 N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:15-94, 34:15-120.1 et
 seq., specifically 34:15-120.7, P.L. 1988, c.25 and P.L. 1988,
 c.26.

Effective Date: December 19, 1988.

Expiration Date: May 5, 1991.

Summary of Public Comments and Agency Responses:

The Department did not receive any public comments on proposed new rules N.J.A.C. 12:235-13 concerning surcharge collection procedures. However, upon review of the rules by Department personnel and the Compensation Rating and Inspection Bureau of the Department of Insurance, the Department has decided to make minor technical changes, which are designed to clarify certain language. None of the suggested changes are substantive in nature. The changes to N.J.A.C. 12:235-13.1(b) and the "policyholder" definition were made to reflect that workers' compensation and employer's liability insurance are a single type of insurance, and not two separate policies. The surcharge remittance requirement in N.J.A.C. 12:235-13.4(d) has been changed to accommodate the actual means of payment the industry can best utilize.

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

SUBCHAPTER 13. SURCHARGE COLLECTION PROCEDURES

12:235-13.1 Purpose and scope

(a) The purpose of this subchapter is to establish surcharge collection procedures to fund the Uninsured Employers' Fund and the Second Injury Fund.

(b) The surcharges shall be levied against all workers' compensation *[policyholders,]* ***and*** employer's liability ***insurance*** policyholders and self-insured employers.

12:235-13.2 Definitions

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

"Department" means the New Jersey Department of Labor.

"Director" means the Director of the Division of Workers' Compensation for the Department of Labor.

"Earned premium" means the portion of the standard premium that *[is]* ***was*** earned on a pro-rata basis of the policy term.

"Insurer" means a domestic, foreign, or alien mutual association or stock company writing workers' compensation or employer's liability insurance on risks located in this State who is subject to premium taxes pursuant to N.J.S.A. 54:18A-1 et seq.

"Policyholder" means a holder of a policy of workers' compensation *[or]* ***and*** employer's liability insurance issued by an insurer, exclusive of any workers' compensation endorsement requirement pursuant to N.J.S.A. 17:36-5.29.

"Report of compensation paid" is a report of the total amount of workers' compensation paid pursuant to N.J.S.A. 34:15-1 et seq.,

adjusted for the amounts paid for funeral expenses and for ***the compromise of*** disputed claims pursuant to N.J.S.A. 34:15-20.

"Second Injury Fund" means a fund established pursuant to N.J.S.A. 34:15-*[95]**94* which is designed to provide funds for workers who have experienced two disability injuries.

"Self-insured employer" means an employer which ***is authorized to*** self-insure*[s]* for workers' compensation or employer's liability pursuant to N.J.S.A. 34:15-77.

"Standard premium" means the premium earned after application of any experience modification and prior to the application of the expense constant, premium discounts, or retrospective rating plans.

"Uninsured Employers' Fund" means a fund to provide for the payment of awards against uninsured defaulting employers pursuant to N.J.S.A. 34:15-120.1 et seq.

12:235-13.3 Reporting compensation paid

(a) Report forms for the report of compensation paid shall be mailed by the Department to the respective insurers or self-insured employers by June 15 of each calendar year.

(b) Insurers and self-insured employers shall file the report of compensation paid for the calendar period July 1 to June 30 with the Department by July 31 following the end of the report year to be filed.

12:235-13.4 Calculation and notification of surcharge

(a) Insurers ***[will]* *shall*** include the surcharge percentages as provided by the Department of Insurance, for both the Second Injury Fund and the Uninsured Employers' Fund, respectively, on each policyholder's premium notice.

(b) The surcharge amounts shall be calculated by multiplying the surcharge rate by the standard premium.

(c) The resulting surcharge amounts shall be stated by the insurer separately on the premium notice.

(d) The surcharge shall be remitted to the insurer ***[with the first premium installment that is payable by]* *in accordance with the payment schedule established by the insurer for*** the policyholder, for the annual policy term.

(e) Self-insured employers shall be notified of their share of the surcharge by September 15 of the calendar year that precedes the year for which the surcharge applies.

12:235-13.5 Surcharge collection procedure

(a) The Department shall provide each insurer and self-insured employer with the appropriate form for calculating the surcharge remittance. The form shall contain express instructions for the completion of the items pertaining to the calculation of the surcharge remittance.

1. For insurers, the following apply:

i. The amount of the remittance shall be proportionate to the earned premium at the end of the calendar quarter of remittance, less any supplemental benefits and special adjustments that have been paid;

ii. The quarterly calculation of the surcharge amount due shall be adjusted for changes in prior quarter earned premiums, if any. For example, in 1989, the maximum number of prior quarters that may need earned premium adjustment will be three. In 1993, the maximum number of prior quarters that may need earned premium adjustment will be 19. In 1994, and thereafter, the maximum number of quarters that may need earned premium adjustment will vary from 16 to 19; and

iii. Surcharges collected shall be remitted within 30 days following the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

2. For self-insured employers, the following apply:

i. The amount of the remittance shall be equal to one-quarter of the annual surcharge, adjusted for supplemental benefits and special adjustments paid during the calendar quarter of remittance; and

ii. One-quarter of the annual surcharge shall be remitted within 30 days of the end of each calendar quarter ending March 31, June 30, September 30, and December 31.

(b) The surcharge remittance form shall be returned with the surcharge remitted to the Department.

LABOR

ADOPTIONS

12:235-13.6 Verification and audit procedures

(a) Insurers and self-insured employers shall submit a quarterly detailed report that supports the amount of credits, supplemental benefits and special adjustment payments claimed on the quarterly remittance.

1. The form and manner of completion shall be as directed by the Director.

(b) Claims for credits for supplemental benefits and special adjustment payments ***made pursuant to N.J.S.A. 34:15-94*** are subject to review and approval by the Director.

1. Any credits claimed that are not approved by the Director shall result in the insurer or self-insured employer being liable for the surcharge in the amount of the disallowed claim for credit.

(c) Insurers and self-insured employers that fail to submit the support of the credits claimed on their quarterly remittance shall be liable for the total amount of the quarterly surcharge due without credit for the amount of supplemental benefits and special adjustment payments.

(d) Earned premiums and reports of compensation paid are subject to audit and verification by the Department.

1. Adjustments resulting from incorrectly reported earned premiums or reports of compensation paid shall result in a recalculation of the surcharge due from the insurer or self-insured employer who filed the incorrect information.

(e) Any amounts of surcharges due as the result of disallowed claims for credit or incorrect reports of earned premiums or reports of compensation paid shall be subject to interest on the portion of the surcharge that is due as the result of the disallowance or adjustment made by the Department.

12:235-13.7 Earned premium notification

Insurers are required to notify the Department of Insurance of the amount of ***standard*** earned premiums for the period January 1 to December ***[30]* *31*** of each calendar year by August ***[30]* *31*** of the immediately following year. ***Such premiums shall be used in the determination of the annual policyholder surcharge rate applicable during the next policy year.***

12:235-13.8 Forms

Forms referred to in this subchapter are available from the Department, and may be requested in writing from:

Office of the Controller
Trust Fund Accounting
New Jersey Department of Labor
CN 394
Trenton, New Jersey 08625-0394

12:235-13.9 Penalties

(a) Any insurer or self-insured employer who fails to submit a completed report of compensation paid by July 31 of any calendar year shall be subject to a penalty of \$100.00 for each 30 day period that the report is delinquent, up to a maximum of \$500.00.

(b) Any insurer or self-insured employer who fails to remit a quarterly surcharge by the due date shall be subject to a penalty of one-half of one percent (0.5%) of the surcharge remittance amount for each 30 day period, or portion thereof, that the remittance is delinquent, up to a maximum of five percent.

(c) Surcharges and penalties which are delinquent are subject to collection proceedings pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1.

LAW AND PUBLIC SAFETY

(a)

**AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ADVISORY COMMITTEE**

Suspension and Revocation of License

Notice of Administrative Correction: N.J.A.C.

13:44C-10.1

Take notice that the Office of Administrative Law has discovered an error in the current text of N.J.A.C. 13:44C-10.1 appearing in the New Jersey Administrative Code. The missing word set forth below was included in the proposal text filed by the Committee, but was inadvertently omitted from the published text of the rule as proposed and adopted (see 20 N.J.R. 244(b) and 1723(b), respectively), and as published in the Code. This administrative correction is made pursuant to N.J.A.C. 1:30-2.7(a)3.

Full text of the corrected rule follows (additions indicated in boldface **thus**).

13:44C-10.1 Suspension and revocation of license

(a) (No change.)

(b) The Notice of Proposed Suspension or Revocation shall inform the licensed individual of the right to request a hearing within 10 days. The **hearing** shall be pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

(b)

**Bills and Payments for Service
Return of Deposits**

Adopted Amendment: N.J.A.C. 14:3-7.5

Proposed: April 4, 1988 at 20 N.J.R. 737(a).

Adopted: November 9, 1988 by the Board of Public Utilities, Christine Todd Whitman, President.

Filed: November 16, 1988 as R.1988 d.568, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13 and 48:2-29.5.

Effective Date: December 19, 1988.

Expiration Date: May 6, 1990.

Summary of Public Comments and Agency Responses:

Written comments concerning the proposed amendment were submitted by South Jersey Gas Company (South Jersey), American Telephone and Telegraph Company (AT&T), New Jersey Natural Gas Company (NJ Natural), Atlantic Electric Company (Atlantic), Elizabethtown Gas Company (Elizabethtown), Public Service Electric and Gas Company (PSE&G) and the Department of the Public Advocate, Division of Rate Counsel (Rate Counsel).

COMMENTS: Elizabethtown and PSE&G indicated support for the amendment as proposed.

The comments of South Jersey reflect recommendations that:

1. The applicable interest rate be rounded to the nearest quarter percent instead of half percent; and

2. Consideration be given to a minimum and maximum rate.

In an attempt to insure that affected utilities do not use inconsistent interest rates, AT&T has suggested that the Board perform the annual calculation called for by the proposed amendment and provide all utilities with that calculation.

New Jersey Natural has recommended the use of a three month average of three month Treasury Bills (an average of the third calendar quarter) as opposed to a 12 month average of 12 month Treasury Bills in order to reflect more current economic conditions.

ADOPTIONS

PUBLIC UTILITIES

The comments of Atlantic reflect recommendations that:

1. The proposed amendment be modified to use the average yields of new three and six month Treasury Bills for the 12 month period ending each September 30 as said Treasury Bills are auctioned on a weekly basis with the results thereof published immediately, while 12 month Treasury Bills are not auctioned on a regular basis and the results of those auctions are not readily available; and

2. A cap equal to the current nine percent interest rate should be included. Atlantic is concerned that in the event of a return of double digit inflation or in a situation where short-term rates exceed long-term rates, customers could perceive the placing of a deposit on their account as an unorthodox investment opportunity. If these conditions were to develop, Atlantic contends that an uncapped rate would increase overall customer rates as interest on deposits is an expense that is ultimately funded by all customers through base rate charges.

The comments of Rate Counsel are as follows:

1. As the proper rate must be high enough to eliminate incentives for the utility to maximize deposits as an inexpensive cash source, utility bond rates, and not Treasury Bill rates, are an appropriate and acceptable index:

2. An incentive for abuse is created unless the interest due on deposits exceeds the interest due on the utility's other similar obligations;

3. The Treasury Bill rate is inapplicable as it bears no relation or factual similarity to the costs of cash for the parties in the deposit transaction. In addition, the riskless nature and short term of Treasury Bills act to lower the rate of interest: and

4. The Aa-rated utility bond rate is the most realistic indicator of the value of the deposit transaction to all parties. Said rate is consistently below the bank card rate and while it may be too low to adequately compensate debtor customers for their actual cost of money, it is high enough to give them some compensation without posing an undue burden to the general body of ratepayers. The use of this index (9.92 percent at the time of the filing of the comments) would also not undermine the present interest rate on deposits set by the Board on July 19, 1979.

RESPONSE: Deposits may be required from customers when credit has not been established prior to the commencement of service or when a default in the payment of bills has occurred. The underlying purpose of customer security deposits is to provide a limited measure of protection for responsible customers against the risk of subsidizing the delinquent accounts of customers with unsatisfactory credit or a poor payment record. The intent of the Board's rule is to encourage customers to establish and maintain satisfactory credit and, at the same time, to require a reasonable rate of interest on any funds held by a utility as security.

Since August 1, 1979, the interest rate on customer deposits has been set at nine percent which, when compared to current market conditions, is relatively high. Most customers are accustomed to short-term interest earnings of six percent or less on comparable savings deposits in banking or savings institutions. The Board is therefore of the opinion that Treasury Bill rates are an appropriate and acceptable index upon which to base the interest rate on customer deposits. The Board, however, finds merit in the comment of Atlantic that auctions of three and six month Treasury Bills occur on a more regular basis with the results thereof more readily available than is the case with 12 month Treasury Bills. After consideration, the Board is of the opinion that the amendment should be modified to reflect that the interest rate for deposits shall be equal to the average yields on new six month Treasury Bills for the 12 month period ending each September 30.

The Board would note that security deposits are held on relatively few customer accounts. This is undoubtedly related to the substantial administrative costs associated with the handling and maintenance of deposit accounts. Said costs include the opening of the account, the required utility annual review of residential accounts and bi-annual review of commercial accounts, the required annual payment of interest through credits to bills and the preparation and issuance of a check at the time the deposit is refunded to the customer. Accordingly, the Board is of the opinion that the concern expressed by Rate Counsel that the proposed rule will provide an incentive to utilities to maximize deposits as an inexpensive source of cash is groundless.

The Board also finds no basis for the concern expressed by Atlantic that the failure to cap the interest rate could result in a situation where customers might perceive the placing of a deposit on their account as an unorthodox investment opportunity in that the decision to require a deposit lies with the utility and not the customer. The Board has no facts presently before it that would tend to suggest that allowing the interest

rate on deposits to fluctuate with market conditions would adversely affect or frustrate the intent of the Board's rules.

The Board, however, does find merit in AT&T's suggestion that the annual calculation by which to reflect the appropriate interest rate be performed by the Board and made available to the affected utilities in order to insure uniformity in the application of said rate. The Board is of the further opinion that the rounding of the interest rate up or down to the nearest half percent is reasonable and will avoid unnecessary changes in the rate that may be caused by using a smaller range.

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

14:3-7.5 Return of deposits

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

(c) Simple interest at a rate equal to the average yields on new *[one year]* *six month* Treasury Bills for the *[twelve]* *12* month period ending each September 30 shall be paid by the utility on all deposits held by it, provided the deposit has remained with the utility for at least three months. Said rate, which shall be rounded up or down to the nearest half percent, shall become effective on January 1 of the following year. ***The Board shall perform the annual calculation to determine the applicable interest rate and shall notify the affected public utilities of said rate.***

1. The interest based upon the average yields on new *[one year]* *six month* Treasury Bills shall be applied to all deposits received by the public utility on and after January 1, 1989.

2. Interest on deposits previously collected and held by the public utility on January 1, 1989 shall be apportioned so that the interest rate based upon the average yields on new *[one year]* *six month* Treasury Bills shall be computed beginning January 1, 1989.

3. (No change.)

(a)

Disputes as to Bills

Adopted Amendments: N.J.A.C. 14:3-7.13

Proposed: May 2, 1988 at 20 N.J.R. 963(b).

Adopted: November 9, 1988 by the Board of Public Utilities, Christine Todd Whitman, President.

Filed: November 16, 1988 as R.1988 d.569, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13 and 48:3-2.1.

Effective Date: December 19, 1988.

Expiration Date: May 6, 1990.

Summary of Public Comments and Agency Responses:

COMMENT: Comment regarding the proposed addition of two sentences to N.J.A.C. 14:3-7.13(a) was submitted by New Jersey Bell Telephone Company.

The intent of this proposed amendment to the Board's rules is to afford customers "the chance to make payment or payment arrangements on any remaining outstanding balance" after the conclusion of a formal or informal dispute.

New Jersey Bell (NJB) has contended that as to its collection practices, it affords customers adequate opportunity to pay amounts outstanding before any service is discontinued. NJB has stated that the proposed requirement for a second denial notice presents several disadvantages. Specifically, NJB has stated that the procedure would be costly and time consuming. NJB has recommended that the Board adopt a less burdensome means than requiring a second notice to advise a customer of a utility's intention to discontinue service. New Jersey Bell has further proposed that discontinuance of service be allowed after a three to five day period after determination of a dispute.

RESPONSE: The Board, while recognizing that the proposed procedure may burden the utility with an additional responsibility, is convinced that a second notice is necessary to insure a customer's knowledge of the termination of the dispute and the actual date of discontinuance, absent any payment arrangement with the utility.

PUBLIC UTILITIES

ADOPTIONS

COMMENT: Comments regarding the proposed addition of N.J.A.C. 14:3-7.13(e) were submitted by AT&T Communications of New Jersey (AT&T), South Jersey Gas Company (South Jersey) and New Jersey Bell.

In order to handle billing inquiries from its New Jersey customers, AT&T indicated that it must sometimes obtain information from NJB and other local exchange carriers who provide billing services on AT&T's behalf. As the need to obtain such information may prevent resolution in time to permit a refund within 60 days, AT&T has recommended that three billing cycles be substituted for the two billing cycles set out in the proposed amendment.

South Jersey has recommended that the time period of two billing cycles should be more clearly stated as 60 days in order to avoid a situation wherein the relationship between the date of receipt of the written notification of the error and the billing cycle affecting the customer leave the utility with an inordinately short period of time within which to investigate the matter and, if necessary, issue a refund.

NJB has indicated that while it has no objection to the proposed text, compliance with subsection (e) would require the development of not only internal practices but also procedures to coordinate with interexchange carriers in cases when NJB bills under contract. NJB further noted that because of the variety of types of billing issues which could arise, such questions should be addressed on an individual case-by-case basis.

NJB recommended, however, that the proposed subsection point to a need for accurate documentation from the customer to define the parameters of a complaint and the type of billing error being alleged.

RESPONSE: The Board is of the opinion that it lacks the flexibility and discretion to modify the "two billing cycles" designation as that time frame has been mandated by the provisions of N.J.S.A. 48:3-2.1. The Board, however, is also of the opinion that a utility should have a reasonable amount of time in which it may conduct an adequate review and, if necessary, issue an appropriate refund. As utilities bill no less than on a monthly basis, the Board believes that "two billing cycles" should reflect a period of not less than 60 days.

The Board agrees with the view that consideration of the variety of issues that may arise within the context of the proposed amendment is better suited to a case-by-case review. The Board, however, further agrees that the amendment should indicate the need for the customer to identify, describe and document the alleged error.

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

14:3-7.13 Disputes as to bills

(a) A utility shall not discontinue service because of nonpayment of bills in cases where a charge is in dispute, provided the undisputed charges are paid and a request is made to the Board for an investigation of the disputed charge. In such cases the utility shall notify the customer that unless steps are taken to invoke formal or informal Board action within five days, service will be discontinued for nonpayment. Once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease. When the Board has determined that a formal or informal dispute has been resolved, the utility is required to provide at least seven days written notice before service may be discontinued.

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

(e) A public utility shall pay or credit interest at a rate equal to that prescribed by the Board in N.J.A.C. 14:3-7.5 (Return of deposits) on any overpayment made by a residential customer due to a billing error, unless the overpayment is fully refunded or credited to the customer's account within two billing cycles after written notification by the customer to the utility *[of the error]* ***wherein the alleged error is identified, described and documented in sufficient detail***.

1. For purposes of this subsection, "billing error" shall mean a charge to a residential customer in excess of that approved by the Board for the type of service supplied to that customer or in excess of the charge due for the service supplied to that customer as measured or recorded by meter or other device: except that neither the amount of any estimated bill in and of itself, nor the amount due on a budget account installment shall constitute a billing error.

***2. The period of time constituting "two billing cycles" shall be determined by the billing practices of the public utility in place at the**

time of receipt by the utility of the written notification by the customer of the error. In no event shall such period be considered to be less than 60 days.*

*[2.]****3.*** Each public utility shall annually provide written notice of the provisions of this subsection to each of its residential customers.

TREASURY-GENERAL

DIVISION OF PENSIONS

(a)

Consolidated Police and Firemen's Pension Fund

Readoption: N.J.A.C. 17:6

Proposed: October 17, 1988 at 20 N.J.R. 2537(a).
 Adopted: November 18, 1988 by Anthony Ferrazza, Secretary,
 Consolidated Police and Firemen's Pension Fund.
 Filed: November 22, 1988 as R.1988 d.579, **without change**.
 Authority: N.J.S.A. 43:16-7.
 Effective Date: November 22, 1988.
 Expiration Date: November 22, 1993.

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

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 17:6.

(b)

Prison Officers' Pension Fund

Adopted New Rules: N.J.A.C. 17:7

Proposed: September 19, 1988 at 20 N.J.R. 2375(a).
 Adopted: November 17, 1988 by the Prison Officers' Pension
 Fund Commission, John Young, Secretary.
 Filed: November 22, 1988 as R.1988 d.577, **without change**.
 Authority: N.J.S.A. 43:7-19.
 Effective Date: December 19, 1988.
 Expiration Date: December 19, 1993.

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

Full text of the adopted new rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:7.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

Local Property Tax

Real Property Defined

Adopted New Rules: N.J.A.C. 18:12-10

Proposed: August 1, 1988 at 20 N.J.R. 1787.
 Adopted: November 17, 1988 by John R. Baldwin, Director,
 Division of Taxation.
 Filed: November 23, 1988 as R.1988 d.581, **with substantive
 changes** not requiring additional public notice and comment
 (see N.J.A.C. 1:30-4.3) and **with portions not adopted**.
 Authority: N.J.S.A. 54:4-1(b) and 54:4-1.12.
 Effective Date: December 19, 1988.
 Expiration Date: July 29, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: Comments were received which suggested that the Division of Taxation had misread the intent of the authorizing legislation, L.1986, c.117. Rather than the promotion of capital investment in New Jersey by business and industry, it was stated that chapter 117 was enacted to ensure that certain business and industrial property would not be exempt from local taxation, which, if exempt, would erode the local tax base and disproportionately shift the tax burden to other taxpayers. Further, it was proposed that the Legislature intended that chapter 117 would return to the local property tax base categories of business property traditionally and historically treated as real property for assessment purposes.

RESPONSE: The Division responded that the major purpose of chapter 117 was to provide an exemption for most machinery, apparatus, and equipment used in business or industry from assessment as real property. The proposed rules are predicated on that, and any revision which would alter the effect of chapter 117 would plainly be contrary to the Legislature's intent with respect to business property. It was also pointed out that assessment practices for business property among New Jersey's local taxing jurisdictions were as different as the standards used by local assessors in making real property determinations. Chapter 117 now provides all tax assessors with uniform criteria for making real property tax assessments. Similar property will be treated similarly in every local taxing jurisdiction. The Division therefore believes that the Legislature intended to provide the basis for uniformity in real property tax assessments for New Jersey's taxpayers through the enactment of chapter 117.

The Division believes that N.J.A.C. 18:12-10.1 accurately reflects the intent of P.L. 1986, c.117. The law was designed in such a way that the trend of the common law in the classification of business personally after *City of Bayonne v. Port Jersey*, 79 N.J. 367 (1979), was confirmed, with the exception of large tanks and certain structures. Tanks with a capacity in excess of 30,000 gallons are deemed to be real property, notwithstanding the provisions of N.J.S.A. 54:4-1a or b as amended by chapter 117, and certain property used in business, but which constitute a structure such as towers and oil refineries, are likewise classified as real property for assessment purposes. The rules as proposed in N.J.A.C. 18:12-10 amplify but only follow the provisions of the authorizing legislation.

COMMENT: A commenter stated that the proposed rules consist of a series of definitions which do not distinguish themselves from part (a) and part (b) of the statute (see N.J.S.A. 54:4-1). A distinction is essential to the application of uniform standards and property classification according to its actual characteristics based on the criteria set forth in the statute.

RESPONSE: The critical definitions follow the distinctions created by the language of the statute itself. These words and terms can easily be found and placed in the appropriate context by their location within the statute. There is no overlap. That is to say, by way of example, that the term "material injury" only appears in part (a) and the term "functionally essential" only appears in part (b). It is therefore difficult to imagine how a definition could be misapplied in practice.

COMMENT: A commenter stated that the term "functionally essential" appears only in part (b) of the statute, which addresses itself exclusively to machinery, apparatus or equipment. The proposed rules expand part (b) to include "other property". Had the Legislature intended for part (b) to encompass property other than machinery, equipment and apparatus, it would have so included same therein. It is clear that part (a) intended to address all personal property other than the enumerated items contained in part (b). By the inclusion of the term "any other property" in the proposed definition of "functionally essential", the meaning and intent of chapter 117 has been altered.

RESPONSE: The Division agrees that there is no need for the phrase "any other property" as part of the definition of functionally essential. Thus, the phrase is deleted from the rule upon adoption.

COMMENT: Comments were received which objected to the word "habitability" in the definition of functionally essential. It was stated that habitability is a concept introduced by the rules, a concept which takes the intent of chapter 117 in a direction contrary to the statute. It is unquestioned that the items listed as examples in N.J.A.C. 18:12-10.5 have always been and would continue to be taxed at the local level, that they constitute real property for local tax purposes. By the inclusion of the requirement of habitability, the rules have stripped the statute of its intent. Many situations exist where an item of machinery, apparatus or equipment is so intertwined with a building that it loses its own identity and becomes a part of the building. In short, it has become as functionally

essential to the building as are the walls, floors, heating equipment, etc. Under the proposed rules, these would not be real property as they may not be necessary for the habitability of the structure.

RESPONSE: The Division answered that Senate Bill 1858, when enacted into law as chapter 117, was very different in substance from that introduced. The institutional doctrine was omitted from the legislation in favor of standards similar to those used in the material injury test of the Business Personal Property Act before its amendment by chapter 117 (see N.J.S.A. 54:11A-2(b)(2)). From this, it is fair to conclude that the Legislature rejected the doctrine as did the Supreme Court in *City of Bayonne v. Port Jersey Corp.*, 79 N.J. 367 (1979), before it. However, since chapter 117 would apply to all property in the State, commercial, industrial or residential (other than that which is specifically treated under another state statute, such as certain utility property), section 1 of the amendatory legislation was drafted in two parts. The first part, N.J.S.A. 54:4-1a(1), (2) and (3), was meant to provide a real property bias through the criterion of whether the property so affixed was of a kind that was "ordinarily intended to be affixed permanently to real property". That it served its purpose was confirmed by the Tax Court's decision in *Chevron U.S.A. Inc. v. Perth Amboy*, 9 N.J. Tax 205 (1987).

The second part of the real property definition of section 1 of chapter 117, codified as N.J.S.A. 54:4-1b, was meant to treat business property differently than property in general under N.J.S.A. 54:4-1a to the extent any such property was neither "functionally essential to a structure" nor "constitutes a structure itself". In this regard, one indisputable purpose of N.J.S.A. 54:4-1b was to provide the business taxpayer recourse where "machinery, apparatus and equipment" is determined to have the characteristics of real property under the three prong test of N.J.S.A. 54:4-1a. Another, and certainly the dominant, purpose of chapter 117 through the vehicle of N.J.S.A. 54:4-1b, was to preclude the real property taxation of machinery, apparatus and equipment which satisfies the conditions of that subsection. If this were not the case, it would be impossible to read N.J.S.A. 54:4-1 as amended thus: "Real property taxable under this chapter means all land and improvements thereon and includes personal property affixed to the real property or an appurtenance thereto unless: . . . b. The personal property so affixed is machinery, apparatus, or equipment which is neither functionally essential to a structure the personal property is within or to which the personal property is affixed nor constitutes a structure itself." (Emphasis supplied)

The definition of "functionally essential" proposed in N.J.A.C. 18:12-10.1 is predicated on the intent of the Legislature when it enacted chapter 117. The Division believes that the Legislature did not intend that the true test of essentiality under N.J.S.A. 54:4-1b involve the concept of use or purpose for which a building or other structure was erected, designed, adapted or used. There was no intent to adopt the institutional doctrine whereby equipment used directly in business would lose its identity as personally because it was necessary to the purpose for which real property was erected or adapted by the taxpayer.

COMMENT: Comments were received which stated that the definition of structure limits the meaning of the word to a building.

RESPONSE: The definition of structure is not limited to a building by the rule. A structure is defined as more than an enclosure of some kind. The rule states, in relevant part, that a structure is "fixed in place for the primary purpose of supporting, sheltering, containing or enclosing persons or property. . . ." Without a doubt, the words "supporting" and "containing" would compel the conclusion that a structure can be things other than buildings.

COMMENT: The proposed definition of structure would never permit machinery, apparatus or equipment to be defined as a structure, thereby negating the statutory phrase, "a structure itself".

RESPONSE: The Division agreed that the structure definition is too broad as presently written. Chapter 117 makes clear that machinery, apparatus or equipment which constitutes a structure is to be treated as real property for the purposes of N.J.S.A. 54:4-1. The statute does not provide an exception to or condition in any way the assessment of equipment which is a structure itself. But that would be the result if the rule were to provide that machinery, apparatus or equipment which constitutes a structure is nevertheless exempt from taxation as real property because it is used primarily in business, manufacturing, farming, etc. Thus, this part of the structure definition will not be adopted by the Division.

COMMENT: N.J.A.C. 18:12-10.2 is written in a way which indicates that parts (a) and (b) of section 1 of chapter 117 are conjunctive when they are actually disjunctive.

RESPONSE: The Division agreed that the rule inadvertently gives the impression of a conjunctive statute. In order to avoid any possible confusion the rule may cause in its present form, the Division will change N.J.A.C. 18:12-10.2 upon adoption to clearly reflect the disjunctive in the manner of the chapter 117 itself.

COMMENT: The list of examples provided in N.J.A.C. 18:12-10.5 create more confusion than they eliminate. Since each case will turn on its own facts, the list serves no real purpose and should not be adopted.

RESPONSE: The listing of examples could, in some situations, result in the misapplication of the law by an inadvertent reliance on the list rather than reference to the tests and definitions provided in the rule. Thus, N.J.A.C. 18:12-10.5 is deleted from the rule upon adoption.

COMMENT: It was suggested that the definition of structure in N.J.A.C. 18:12-10.1 is an obvious "non sequitur" since no machinery, apparatus or equipment is fabricated from building and construction materials.

RESPONSE: The Division pointed out that in *NYT Cable TV v. Audubon*, 9 N.J. Tax 359 (1987), the metal triangular superstructure of a 250 foot high cable television antenna was the subject of real property tax litigation under N.J.S.A. 54:4-1 as amended by chapter 117. The description of the tower beginning at page 362 of the Tax Court's opinion leaves no doubt that it is "an assemblage of building or construction materials". And, further, the Court did indeed refer to the tower as equipment at one point in its decision.

COMMENT: A commenter stated that chapter 117 is retroactive to all pending litigation and that the rules should also have retroactive effect.

RESPONSE: The Division answered that tax rules can be applied retroactively in New Jersey (see *Sorensen v. Taxation Division Director*, 184 N.J. Super 393 (1981)). However, such an application is not automatic. The Court in *Sorensen* stated that the following factors can be considered in making a determination on the facts of each case: (1) comparison of the public interest with the private interest that would be overturned; (2) whether, and if so, how the conduct of the taxpayer would have differed if the rule were in effect for a prior taxable year; and (3) the extent of reliance on a former rule and the burden suffered if that reliance was frustrated. Since the retroactive application of tax rules seems to be sanctioned by the law in New Jersey only on a case-by-case basis, the Division does not believe that it can mandate retroactivity through the rules themselves.

COMMENT: One person inquired whether the provisions of the rules apply to determinations under the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq. That is, would property characterized as real property under the rules also be considered capital improvements for the purposes of N.J.S.A. 54:32B-3(b) of the Sales and Use Tax Act.

RESPONSE: N.J.S.A. 54:4-1, as amended by P.L. 1986, c.117, provides that the amendment "shall not be construed to repeal or in any way alter any exemption from, or any exception to, real property taxation or any definition of personal property otherwise provided by statutory law." Thus, the Division indicated that it does not intend to change its interpretation of what constitutes a capital improvement for sales and use tax purposes by reason of chapter 117.

COMMENT: The definition of "material injury" in N.J.A.C. 18:12-10.1 should be amended. The word "substantial" should be inserted between "any" and "change" in the sentence beginning "some of the factors which can be considered in . . ." The commenter suggested that any alteration or removal of any items from the property could in some way result in a change in market value and even if insignificant could cause problems under the definition as proposed. A change in market value does not necessarily result from serious injury or physical damage to the real property. Inclusion of the word "substantial" as suggested enables the test of reasonableness.

RESPONSE: The Division agreed that neither the law nor the rules intend that a slight or insignificant change in market value should necessarily result in a finding that there has been serious physical damage to the real property under N.J.A.C. 18:12-10.2(a)1. Thus, the rule is amended upon adoption to add the word "appreciable" to the definition.

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

SUBCHAPTER 10. REAL PROPERTY DEFINED

18:12-10.1 Definitions

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

"Affixed" means fastened or attached physically.

"Appurtenance" includes any tangible personal property affixed to land or improvements thereon.

"Functionally essential" refers to machinery, apparatus or equipment *[and any other property]* necessary for the habitability of the structure, including, but not limited to, such items as air conditioning and heating equipment or apparatus, lighting and bathroom fixtures, elevators, escalators, electrical wiring, plumbing, etc.

"Machinery, apparatus or equipment" means any machine, device, mechanism, instrument, tool or other item of property directly used in the manufacture, assembly, refining or processing of property or in the sale of services or goods in the regular course of business. The term includes, but is not limited to, that machinery, apparatus or equipment described in N.J.A.C. 18:24-4.2. The term also includes machinery, apparatus or equipment directly used in the production for sale of gas, water, steam, electricity or telecommunication services and such items directly used in the production of property on farms as defined in N.J.S.A. 54:32B-8.16.

"Material injury" in the case of real property means serious physical damage to the real property. Some of the factors which can be considered in determining whether "serious physical damage" has occurred are any *appreciable* change in the market value of the real property as a result of removal; the amount of time and the cost required to repair the condition caused by removal; and the hazard or dislocation caused by the removal.

"Material injury" in the case of property severed or removed from the real property means physical damage to the personal property sufficient to destroy its utility.

"Not ordinarily intended to be affixed permanently to real property" means that, in the custom and usage of the trade, like personal property is not intended to be permanently affixed. Indicators that personal property of a like kind is not ordinarily intended to be affixed permanently to real property include the following:

1. In the event of sale of the realty, the personal property would not ordinarily pass with title to the realty;
2. In the case of a business, the personal property ordinarily would be removed from the real property in the event of the relocation of the business;
3. Similar items of personal property are frequently resold separate from the real property.

"Structure" means any assemblage of building or construction materials fixed in place for the primary purpose of supporting, sheltering, containing, or enclosing persons or property. The term "structure" does not include machinery, apparatus or equipment which the structure is designed to hold in place, shelter, contain or enclose. *[The term structure does not include any item of machinery, apparatus or equipment used directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining.]*

18:12-10.2 Real property

(a) Real property means all lands and improvements thereon and includes personal property affixed to real property or an appurtenance thereto, unless personal property so affixed meets all of the *[following]* conditions *in (a)1 through 3 below or in (b)4 below*:

1. It can be removed or severed without material injury to the real property;
2. It can be removed or severed without material injury to the personal property itself; and
3. It is not ordinarily intended to be affixed permanently to the real property*[*]; or unless*

[(b) If the conditions of (a) above are not satisfied, nevertheless,]

4. The personal property so affixed is machinery, apparatus, or equipment which is neither functionally essential to a structure the personal property is within or to which the personal property is affixed nor constitutes a structure itself *[is personal property]*.

*[(c)]***(b)* The provisions of this section shall not be construed to repeal or alter in any way the classification of property as either real or personal where that classification is otherwise provided by statute.

ADOPTIONS

TREASURY-TAXATION

18:12-10.3 Tanks with a capacity in excess of 30,000 gallons
Any tank having a capacity of more than 30,000 gallons is deemed to be real property.

18:12-10.4 Security interests
The classification of property as real property under this subchapter shall not affect any transaction or security interest provided for in N.J.S.A. 12A:9-101 et seq.

*[18:12-10.5 Examples of real and personal property
(a) The following list is illustrative of the application of this subchapter to various items of property.

1. Real property:

Air conditioning system, central
Antenna tower, television or radio network
Banks,
Drive-up teller's booth (does not include equipment)
Barns
Billboards
Carpeting (wall to wall tacked)
Ceilings, suspended
Chimneys
Concrete pavement or flooring
Control room structure
Doors
Electric wiring
Electric generating equipment installed in shopping center
Elevators
Escalators
Fences, affixed to real property
Floors, including raised floors
Garages
Heating system, central
Henhouse or chicken coop
Hot water system, central
Lighting fixtures, wired directly to electrical system
Paneling, affixed to real property
Partitions
Paved parking areas
Plumbing and plumbing fixtures, connected to plumbing system
Silos, on a foundation
Sprinkler systems, connected to central water supply
Stables
Stairs
Windows

2. Personal property:

Banks,
Drive-up tellers' windows
Night depository facilities
Safety deposit boxes
Tellers' counters
Walk-up tellers' windows
Booths, seating
Bowling lanes
Computer peripheral equipment, including but not limited to:
card punches
card readers
card sorters
data entry devices
disc drives, packs, files
keypunches
magnetic tape feeds
mass storage units
optical character readers
paper tape equipment
printers, high speed
tape cassettes
teleprinters
terminals
Computers, personal and mainframe
Conveyors

Counters, display racks and shelves
Crane, overhead
Dry-kiln
Electrical and non-electrical machinery, equipment used to manufacture or rebuild
Food and beverage manufacturing, special handling devices, including, but not limited to:
fish processing equipment
baskets
boxes
carts
flaking trays
palletized containers
returnable pallets
Furnaces, blast
Furniture, office
Gas stations,
gasoline pumps
gasoline storage tanks (less than 30,000 gallons)
hydraulic car lift
Glass products, equipment used in production of
Glass products, manufacture of: special tools, including, but not limited to:
molds
pallets
patterns
specialty transfer and shipping devices
steel racks
Grocery counters
Milk storage refrigerators and freezers
Motor vehicles, equipment used in manufacture and assembly of
Motor Vehicles, manufacture of: special tools, including, but not limited to:
dies
fixtures
gauges
jigs
molds
patterns
specialty transfer and shipping devices
Office equipment
Plastic products, finished, equipment used in manufacture of
Plastic products, finished, manufacture of: special tools, including, but not limited to:
dies
gauges
jigs
molds
patterns
specialty transfer and shipping devices
Plumbing connections used directly with items of machinery
Printing, equipment used in
Printing presses
Production machinery
Propane gas storage tanks (less than 30,000 gallons), water heaters and water softeners (leased)
Publishing, equipment used in
Refrigeration equipment
Rubber products, equipment used in production of
Rubber products, manufacture of: special tools, including, but not limited to:
jigs and dies
lasts, mandrels, molds, patterns
specialty containers
pallets, shells, tire molds
Vending machines
Washers, coin-operated
(b) Subsection (a) above is not intended to be inclusive of all items of property required to be classified. For the specific item listed, the classification shown should be followed unless there are persuasive distinguishing facts which warrant the other classification.]*

OTHER AGENCIES**(a)****CASINO CONTROL COMMISSION****Applications; Fees**

Adopted Amendments: N.J.A.C. 19:41-9.4, 9.6, 9.7, 9.11, 9.11A, 9.12 and 9.20

Adopted Repeal: N.J.A.C. 19:41-9.18

Proposed: October 17, 1988 at 20 N.J.R. 2539(a).

Adopted: November 28, 1988 by the Casino Control Commission, Walter N. Read, Chairman.

Filed: November 28, 1988 as R.1988 d.591, **without change.**

Authority: N.J.S.A. 5:12-63(c) and (d), 5:12-69, 5:12-70(e), 5:12-139 and 5:12-141.

Effective Date: December 19, 1988.

Operative Date: January 1, 1989.

Expiration Date: May 12, 1993.

Summary of Public Comments and Agency Responses:

The only comment received was submitted by the Division of Gaming Enforcement and supported the adoption of the proposal as published.

Full text of the adoption follows.

19:41-9.4 Casino license fees

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

(e) As a component of its initial license fee or renewal fee and as a condition of casino licensure, each applicant or licensee shall be required:

1. To pay for the efforts of the Commission and the Division on matters directly related to the applicant or licensee at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

2. To reimburse any unusual costs or out of pocket expenses incurred by the Commission or the Division in regard to such matters.

(f) (No change.)

19:41-9.6 Slot machine fees

(a) (No change.)

(b) In accordance with Section 100(h) of the Act, no slot machine shall be used to conduct gaming unless it is identical to a model thereof which has been specifically tested by the Division and licensed for use by the Commission. Any person seeking to have a prototype slot machine so tested and licensed shall pay an initial minimum amount of \$500.00 which shall be applied to the total fee. Such person shall be required to pay for the efforts of the Commission and the Division on matters directly related to the examination, testing and consideration of the prototype slot machine at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division.

(c) (No change.)

19:41-9.7 Casino hotel alcoholic beverage licenses

(a) (No change.)

(b) The fee for the issuance or renewal of a casino hotel alcoholic beverage license for a casino licensee conducting alcoholic beverage activity in a casino hotel shall be assessed as follows:

1. Payment for the efforts of the Commission and the Division on matters directly related to the casino hotel alcoholic beverage license or application at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

2. (No change.)

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

19:41-9.11 Casino key employee license fees

(a) (No change.)

(b) The fee for the issuance of a casino key employee license shall be as follows:

1. (No change.)

2. Payment for the efforts of the Commission and the Division on matters directly related to the applicant at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

3. (No change.)

(c) (No change.)

19:41-9.11A Junket representative license fees

(a) (No change.)

(b) The fee for the issuance or renewal of a junket representative license shall be as follows:

1. (No change.)

2. Payment for the efforts of the Commission and the Division on matters directly related to the applicant or licensee at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

3. (No change.)

19:41-9.12 Gaming school resident director license fees

(a) (No change.)

(b) The issuance fee or renewal fee for a three-year resident director license shall be as follows:

1. (No change.)

2. Payment for the efforts of the Commission and the Division on matters directly related to the applicant or licensee at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

3. (No change.)

19:41-9.18 (Reserved)

19:41-9.20 Fees for services provided to other governmental bodies

(a) Whenever the Commission or Division is authorized by law to provide services to any State, county or municipal department, board, bureau, commission, authority or agency, and to receive compensation for the performance of such services, the Commission shall assess fees for the cost and expense of providing these services as follows:

1. Payment for the efforts of the Commission and the Division on matters directly related to other governmental bodies at the rate of \$89.00 per hour for members of the Commission, \$54.00 per hour for professional staff members of the Commission, \$27.00 per hour for inspection staff members of the Commission, and \$56.00 per hour for professional staff members of the Division; and

2. (No change.)

ADOPTIONS

HUMAN SERVICES

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Vision Care Manual
Professional Services, Optical Appliances, Billing ProceduresAdopted Repeal and New Rules: N.J.A.C.
10:62-1, 2, 3

Proposed: May 2, 1988 at 20 N.J.R. 956(c).

Adopted: November 22, 1988 by Drew Altman, Commissioner, Department of Human Services.

Filed: November 22, 1988 as R.1988 d.580, with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: December 19, 1988.

Expiration Date: March 3, 1991.

Summary of Public Comments and Agency Responses:

There were several public comments on the proposed new rules. The commenters included practicing optometrists and the New Jersey Optometric Association. The commenters' concerns included fee schedules, definitions, and prior authorization.

The agency's response to the concerns regarding fee schedules is that those fees that were increased appeared in a public notice in the August 15, 1988 issue of the New Jersey Register at 20 N.J.R. 2101(a). There are no fee increases associated with these rules.

The term "subnormal" vision was deleted from the text of the rule and replaced with the term "low" vision, which is the current terminology for patients whose vision is not completely correctable with regular prescription glasses.

The definition of physician was added and includes both ophthalmologists and optometrists acting within the scope of their license. It is more appropriate to determine the scope of practice by licensure requirements.

The definition of a complete eye examination was revised for clarity.

All findings, whether positive or negative, must be recorded unless contraindicated by the patient's condition. The amended definition was made in response to a public comment and is consistent with the statutory requirement that Medicaid providers keep an accurate record of patients treated and services rendered (see N.J.S.A. 30:4D-12).

The requirement for prior authorization for an "out-of-office" visit was deleted because this procedure was used very infrequently.

The changes discussed above were made in response to public comments and were not so substantive as to require republication. There was no additional burden placed on providers of vision care services.

Summary of Changes Between Proposal and Adoption:

The following changes were made in the text of the rules between proposal and adoption. N.J.A.C. 10:62-1.2, Definitions, was amended to delete the definitions of specialist and consultation and add the definitions of ophthalmologist and physician. The definition of optometrist was already present in the proposed text. Since the term "physician" includes both ophthalmologists and optometrists, the term practitioner was deleted and replaced with the term physician throughout the text of the rules. The rationale for this change was discussed above. The definition of consultation was removed, since this service is not reimbursable under this manual. The definition was, therefore, unnecessary and inappropriate in the Vision Care Manual. The definition of consultation is part of the Physician's Manual.

N.J.A.C. 10:62-1.4, Covered services, was amended to delete out-of-office visit. The term "subnormal" vision was replaced by the term "low" vision. The same action was taken throughout the text of the rules including N.J.A.C. 10:62-1.7 (proposed 1.8) to insure consistency. The rationale for these changes was discussed above.

N.J.A.C. 10:62-1.5, Screening examination, is being deleted by the Division on its own initiative. The reason for the deletion is that the procedure code is not being utilized. Those functions can and are included

in either a comprehensive eye examination or a routine office visit. Ophthalmologists and optometrists can and do submit claims to the New Jersey Medicaid Program for both comprehensive and routine eye examinations. Because the text of N.J.A.C. 10:62-1.5 is being deleted, the remaining sections of subchapter 1 were renumbered.

N.J.A.C. 10:62-1.5 (proposed 1.6), Comprehensive eye examination, was amended for the reasons indicated in the summary of public comments above. N.J.A.C. 10:62-1.6 (proposed 1.7), Routine office visit or follow up visit, was amended to indicate all pertinent findings should be listed on the provider's office record. The concept is the same as for comprehensive eye examinations.

With respect to N.J.A.C. 10:62-1.13 (proposed 1.14), Basis for reimbursement, the Federal regulatory citation was inserted. With respect to subchapter 2, the changes regarding terminology, such as physician and low vision, were made to be consistent with the changes in subchapter 1.

There were also some technical changes to be consistent with current vision care terminology. For example, high index lenses replaced "Hilite" lenses; optical tints were described as one and two, not A and B, the term photo-grey lenses was deleted, etc. The Division also amended N.J.A.C. 10:62-2.12, Basis for reimbursement, by deleting the \$5.00 for frames. This figure is no longer valid due to the public notice that appeared in the August 15, 1988 issue of the Register and was noted previously. The adopted text of the rule will indicate that reimbursement for frames will not exceed an allowance determined to be reasonable by the Commissioner of the Department of Human Services (reference is made to N.J.S.A. 30:4D-7).

There was an amendment to subchapter 3 and the Appendix related thereto. The Division added N.J.A.C. 10:62-3.4(b) and amended Item 26 of Appendix I to inform providers that when a patient has both Medicare and Medicaid Coverage, the box "accept assignment" should be checked on the Health Insurance Claim Form (1500 N.J.). The reason for this requirement is to insure the check is sent to the provider, not the patient. Since the claim form is used by both Medicare and Medicaid, if the box "No" is checked in Item 26 the reimbursement for the Medicare claim will go to the patient. If the box "Yes" is checked, then the Medicare payment will go to the provider.

The Division has also deleted the address of the Prudential Insurance Company which appears at N.J.A.C. 10:62-3.4 because on or about January 1, 1989, Prudential will not be the Medicare (Title XVIII) Carrier for vision care claims for New Jersey.

The Division also amended Appendix I, items 19 and 19a to indicate that the Medicaid Personal Physician Plan, or MP Plan, is now identified as the Garden State Health Plan.

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

CHAPTER 62

VISION CARE SERVICES MANUAL

SUBCHAPTER 1. EYE CARE: PROFESSIONAL SERVICES

10:62-1.1 Scope and purpose of vision care professional services manual

This subchapter delineates standards for examinations and care for vision defects and/or eye diseases provided by the New Jersey Medicaid Program for the purpose of maintaining or improving the public health of patients eligible for Medicaid in New Jersey.

10:62-1.2 Definitions

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

["Consultation" means advice or counsel of a qualified specialist, as recognized by New Jersey Medicaid Program, which is requested by the attending physician and includes a personal examination of the patient with a written report of the history, physical findings, diagnosis and recommendations of the consultant.]

****"Ophthalmologist" means fully licensed medical doctor who has been recognized by the New Jersey Medicaid Program as a specialist in ophthalmology.***

"Optometrist" means any person who is licensed by the New Jersey State Board of Optometry to engage in the practice of optometry,

HUMAN SERVICES

ADOPTIONS

or similarly licensed by a comparable agency of the State in which he ***or she*** performs such functions.

****"Physician" means a licensed health care practitioner, including ophthalmologists and optometrists, acting within their scope of licensure.***

*["Specialist" means a fully licensed physician who:

1. Is a diplomate of the appropriate American Board, or Osteopathic Board; or

2. Is a fellow of the appropriate American Specialty College or a member of an Osteopathic Specialty College; or

3. Has been notified of admissibility to examination by the appropriate American Board or Osteopathic Board, or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association; or

4. Holds an active staff appointment with specialty privileges in a voluntary or governmental hospital which is approved for training in the specialty in which the physician has privileges; or

5. Is recognized in the community as a specialist by his peers.]*

"Transfer" means the relinquishing of responsibility for the continuing care of the patient by one physician and the assumption of such responsibility by another physician.

10:62-1.3 Providers of services

(a) Within the restrictions of their respective licensure, the following are eligible providers of eye care:

1. Ophthalmologists and optometrists licensed in the State of New Jersey;

2. An ophthalmologist or optometrist in another state who is duly licensed in that state;

3. Independent outpatient health care facilities approved by the New Jersey Medicaid Program to render eye care services;

4. Hospitals meeting the definition of "approved hospital" as described in N.J.A.C. 52-1.1 of the Hospital Services Manual. *(For information on how to identify a covered person, please refer to N.J.A.C. 10:49-1.2(b)2vi).]*

10:62-1.4 Covered services

[(a)] Professional services include *[screening examination,]* comprehensive eye examination, *[office visit, out-of-office visit]* ***routine office visit, follow-up visit***, *[subnormal]* ***low*** vision examination, *[subnormal]* ***low*** vision work-up and vision training. Payment is made subject to the limitations specified under each type of service. If a service requires prior authorization, see N.J.A.C. 10:62-*[1.11]* ***1.10***.

*[10:62-1.5 Screening examination

(a) A screening examination shall consist of procedures performed to determine whether a comprehensive examination is necessary. As a minimum, the screening examination shall consist of the following:

1. External examination;

2. Visual acuity in each eye;

3. Gross muscle balance.

(b) The ophthalmologist or optometrist shall be reimbursed for either a screening examination or a comprehensive eye examination rendered to a patient, but not both. If, as a result of the screening examination, it is felt that a comprehensive examination is necessary, it shall be completed at that time or at the earliest mutual convenience of the provider and patient. The screening examination, in this instance, becomes an integral part of the comprehensive examination and the claim submitted to the program should be for a comprehensive eye examination. If, however, the screening examination reveals that no further examination is necessary, a claim shall be submitted for visual screening examination.]*

10:62-*[1.6]**1.5* Comprehensive eye examination

(a) A comprehensive eye examination may include cycloplegics and a post cycloplegic visit. *[Negatives shall be recorded in a comprehensive eye examination.]* ***All findings and data, including positive and negative, shall be clearly recorded.*** *[The following shall be included, as a minimum, in a]* ***A*** comprehensive eye examination ***shall include the following, as a minimum, where possible unless contraindicated*:**

1. Detailed case history;

2. Complete visual acuity findings;

3. External and internal (ophthalmoscopic) examination including slit lamp;

4. Refraction (objective and subjective);

5. Extra-ocular measurement (EOM);

6. Gross visual fields (central and peripheral);

7. Tonometry (when indicated for patients under 35; mandatory for all patients over 35). The specific method used should be identified and recorded (the finger palpation test is not acceptable);

8. Binocular coordination testing (distance and near), fusion, stereopsis, and color vision;

9. The diagnosis (ocular deficiency or deformity, visual or muscular anomaly, and so forth); and

10. Recommendations.

10:62-*[1.7]**1.6* ***[Office visit; out-of-office visit]**Routine office visit or follow-up visit***

(a) ***[An office visit consists of care and treatment by the physician or other practitioner and includes those procedures ordinarily performed during an office visit, dependent upon the physician's or other practitioner's discipline. The following shall be included, as a minimum, in the progress notes:]* ***Routine office visit or follow-up visit is defined as the care and treatment by a physician, which includes those procedures, ordinarily, performed during a health care visit, which is dependent upon the setting and the physician's discipline. In order to document the record for reimbursement purposes, the following shall be included, as a minimum, and documented on the provider's office record*:****

1. Purpose of visit;

2. Pertinent history obtained;

3. Pertinent physical findings including ***[pertinent]* ***positive and*** negative physical findings based on ***(a)*1*[*]** and **2*[*]** above;**

4. ***[Procedures (the provider's office record shall clearly document performance of all elements of procedure code billed)]* ***Document all procedures performed and record respective data*;****

5. Lab, x-ray and ECG, etc. ordered, with results;

6. Diagnosis(es) ***[plus treatment plan status, including drugs or other items ordered, relative to present and pre-existing illness plus pertinent recommendations and actions.]*;** **and***

7. Recommendations.

10:62-*[1.8]**1.7* ***[Subnormal]**Low* vision examination**

A ***[subnormal]* ***low*** vision examination may be performed ***[when the condition is detected. For purposes of the New Jersey Medicaid Program, subnormal vision is defined as that condition where]* ***following a comprehensive eye examination when the*** vision in the better eye is 20/70 or less with the best correction. ***[A subnormal vision examination may be done following a comprehensive eye examination.]********

10:62-*[1.9]**1.8* ***[Subnormal]**Low* vision work*-up (prior authorization required)**

A ***[subnormal]* ***low*** vision work-up requires prior authorization. ***[The subnormal vision work-up shall be documented in the patient's record.]* ***For purposes of the New Jersey Medicaid Program, a low vision work-up consists of certain testing techniques and procedures to determine what optical aids and devices can be prescribed for an individual to increase range of vision. A low vision work-up is much more detailed than a low vision examination following a complete comprehensive examination and requires a written report.*******

10:62-*[1.10]**1.9* **Vision training (prior authorization required)**

(a) Vision training requires prior authorization. For purposes of the New Jersey Medicaid Program, vision training is the use of certain procedures and modalities for the development of and/or increase in the vision capacity of the eye(s) with poor and/or inconsistent or distorted vision localization.

(b) Vision training is limited to orthoptics, with its acceptable procedures and/or modalities, and further limited to the following types of conditions to be treated by private ***[practitioners]* ***physicians*** approved for such training by the respective peer group:**

1. Strabismus;
2. Amblyopia;
3. Heterophoria; and
4. Accommodative and/or convergence anomalies.

(c) If vision training is required following the initial comprehensive eye examination, the **[practitioner]* *physician*** shall submit a written request to Vision Care Unit for prior authorization for a vision training work-up. This request shall include the preliminary findings, detailed reason(s) why it is believed a further evaluation is needed, and any history of previous vision training with the dates and the results. Upon receiving approval for a vision training work-up, the **[practitioner]* *physician*** shall then submit, within 30 days of receipt of authorization, the work-up report to the Vision Care Unit. The vision training work-up report shall consist of, but not be limited to:

1. Diagnosis;
2. Findings;
3. Interpretation;
4. Recommendations;
5. Outline of training procedures and frequency of sessions with estimated duration of treatment; and
6. Prognosis.

(d) Upon completion of an approved training program, the **[practitioner]* *physician*** shall submit a detailed progress report, listing the status of all parameters indicated in the original evaluation. No treatment plan shall exceed a period of 90 days or a total of 30 training visits, commencing with the inception of the treatment plan. Prior authorization is required for any extension of treatment and requires submission of a detailed progress report^{*}, as noted in this subsection^{*}.

(e) Vision training may be provided by the private **[practitioner]* *physician***. Vision training may also be provided, when a professional multi-disciplinary evaluating team indicates this need, in a licensed or certified health care facility or a "special clinic" approved by the New Jersey Medicaid Program.

10:62-[1.11]**1.10* Professional services requiring prior authorization

(a) Prior authorization shall be requested in writing from the Vision Care Unit, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625, for the services listed under (c) below.

(b) The written request shall be made before the service is provided and should include proper recipient identification, the diagnosis and detailed reasons why such services are being requested.

(c) The following professional services require prior authorization:

1. Vision training work-up;
2. Vision training;
- [3. Out-of-office visits, except nursing homes and emergencies;]***
- [4. Subnormal]**3. Low* vision work-up;**
- [5]**4.* All other services not specified as a covered service under N.J.A.C. 10:62-1.4.**

(d) If a request for authorization is denied, the provider shall be notified of the reason, in writing, by the Vision Care Consultant.

10:62-[1.12]**1.11* Prescription **[policy]* *policies***

(a) A patient is entitled to have a copy of his or her prescription for eye-glasses. To prevent possible recipient overutilization, the following information shall be indicated on the prescription: Name, address, HSP (Medicaid) Case Number, and date of examination.

(b) If a patient requests a duplicate prescription from a non-dispensing provider (Ophthalmologist or Optometrist), the duplicate prescription shall clearly indicate: "This is a duplicate of the original prescription". The date of the original prescription shall also be included.

(c) The dispensing provider (Ophthalmologist or Optometrist or Optician) shall retain the original prescription. If a duplicate is requested by the patient, specify on the duplicate that it is a duplicate of a prescription, indicating the date that the glasses were dispensed.

10:62-[1.13]**1.12* Record^{*}[-]*keeping policies

(a) Providers shall keep such legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Data shall include such quantitative positive and negative findings as will be meaningful in subsequent review. Check marks are not acceptable. The information shall be readily available to representatives of the New Jersey Medicaid Program, or its agents, as required.

(b) Records shall be kept and maintained by the provider for a period of at least five years from the date the service was rendered.

10:62-[1.14]**1.13* Basis for reimbursement

(a) The provider shall use his or her usual and customary charge when submitting a claim. Reimbursement for covered services furnished under the New Jersey Medicaid Program shall be made on the basis of the customary charge, not to exceed an allowance determined to be reasonable by the Commissioner of Human Services, and further limited by Federal policy ***(42 CFR 447 Subpart B)*** relative to payment of practitioners and other individual providers.

1. In no event shall the charge to the New Jersey Medicaid Program exceed the charge by the provider for identical services to other governmental agencies, private nonprofit agencies, trade unions or other individuals in the community.

2. If a patient receives care from more than one member of a partnership or corporation in the same discipline, the maximum payment allowance shall be the same as that of a single provider. For purposes of reimbursement, optometrist and/or physician, optometrist and physician groups, shared health care facility, or optometrist and physician sharing a common record shall be considered a single provider.

3. Reimbursement shall not be made for, and recipients may not be asked to pay for, broken appointments.

(b) For reimbursement purposes, when the **[optometrist or]* physician** submits a claim for the following services, the services shall have been performed personally by the **[optometrist or]* physician** submitting the claim:

1. Office visit;
2. Hospital visit;
3. Long-term care facility visit or residential health care facility visit;

4. Any and all parts of the history or eye examination^{*}, as may be required under the rules of the physician's licensing board^{*}.

(c) To qualify as documentation that the service was rendered by the **[optometrist or]* physician** during an inpatient stay, the medical record must contain the **[optometrist's or]* physician's** notes indicating that he or she personally:

1. Reviewed the patient's medical history with the patient and/or his ***or her*** family, depending upon the medical situation;
2. Performed an eye examination;
3. Confirmed or revised the diagnosis;
4. Visited and examined that patient on the days for which a claim for reimbursement is made.

(d) The billing physician's **[or optometrist's]* involvement** must be clearly demonstrated on notes reflecting his or her personal involvement with the service rendered. This refers to those occasions when these notes are written into the medical record by interns, residents, other house staff members, or nurses. A countersignature alone is not sufficient.

(e) The New Jersey Medicaid Program utilizes the Health Care Financing Administration's (HCFA) Common Procedure Coding System (HCPCS) (see N.J.A.C. 10:62-4, Subchapter 4 of this manual, for details).

1. Dates of service for each procedure code submitted for reimbursement must be indicated on the claim form and the **[practitioner's]* *physician's*** own office record.

SUBCHAPTER 2. OPTICAL APPLIANCES AND SERVICES

10:62-2.1 Scope of optical appliances and services

This subchapter covers the provision of optical appliances necessary for the correction of any eye vision defects.

10:62-2.2 Definitions

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

"Ocularist" means a provider of artificial eyes.

"Optical appliances" means those items, devices or appliances prescribed by an eligible provider and furnished by an eligible provider in order to aid or improve vision, or to replace the eye.

"Optician" means an individual licensed by the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians.

"Providers of optical appliances" mean those providers who possess ***respective*** New Jersey licensure for supplying optical appliances to the public, and are approved by the New Jersey Medicaid Program.

10:62-2.3 Providers of services

(a) Within the restrictions of their respective licensure, the following are the only providers eligible to participate in the Vision Care Program:

1. ***[Physicians recognized as specialists in ophthalmology by the New Jersey Medicaid Program in accordance with the Physician Services Manual or the Vision Care Services Manual;]* ***Persons licensed by the State of New Jersey to practice medicine and defined in N.J.A.C. 10:62-1.2 as ophthalmologists;*****

2. Persons licensed by the State of New Jersey to practice optometry;

3. Persons licensed by the State of New Jersey as ophthalmic dispensers;

4. Independent outpatient health care facilities approved by the New Jersey Medicaid Program to render eye care services;

5. Hospitals approved for New Jersey Medicaid Program participation; and

6. An ophthalmologist, optometrist or optician in another state who is duly licensed or meets the requirements of his or her own state with regard to the dispensing of optical appliances.

(b) Persons recognized as ocularists may be considered providers of artificial eyes, upon recommendation of the prescribing practitioner and prior approval by the New Jersey Medicaid Program.

10:62-2.4 Covered services

(a) The following optical appliances are covered under the New Jersey Medicaid Program:

1. Optical lenses (see N.J.A.C. 10:62-2.6);

2. Optical frames (see N.J.A.C. 10:62-2.7);

3. Repairs of optical appliances (prior authorization required for repairs above \$5.00 (see N.J.A.C. 10:62-2.5)*)*);

4. Artificial eyes (prior authorization required, see N.J.A.C. 10:62-2.5);

5. ***[Subnormal]* ***Low*** vision devices** (prior authorization required, see N.J.A.C. 10:62-2.5);

6. Vision training devices (prior authorization required, see N.J.A.C. 10:62-2.5);

7. Replacement of optical appliances (prior authorization required, see N.J.A.C. 10:62-2.5);

8. Dual pairs of glasses instead of multifocal (prior authorization required, see N.J.A.C. 10:62-2.5);

9. Contact lenses (prior authorization required, see N.J.A.C. 10:62-2.5);

10. Intraocular lenses.

10:62-2.5 Optical appliances requiring prior authorization

(a) Form MC-9 (Request for Authorization and Payment—Optical Appliances) shall be used for requesting prior authorization. The completed form, indicating clearly the reasons for requesting prior authorization, shall be submitted to the Vision Care Unit, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.

(b) Items requiring prior authorization should not be provided to the Medicaid patient until the authorization is received by the provider.

(c) Authorization becomes invalid upon termination of eligibility for the New Jersey Medicaid Program, except when the termination

occurs between the time optical appliance is ordered and the time the optical appliance is dispensed.

(d) The following optical appliances require prior authorization:

1. Contact lenses;

2. Artificial eyes;

3. ***[Subnormal]* ***Low*** vision devices;**

4. Vision training devices;

5. Repair of an optical appliance exceeding \$5.00;

6. Replacement of optical appliances;

i. The New Jersey Medicaid Program shall no longer pay for replacement of optical appliances which may have been lost, broken, damaged or stolen unless prior authorized.

ii. If prior authorization is approved due to extenuating circumstances, the replacement appliance shall be identical to the appliance being replaced.

7. Dual pairs of glasses instead of multifocal;

i. A physician's statement indicating medical necessity shall be submitted when requesting two pairs of glasses in lieu of multifocal lenses.

8. When optical appliances are requested more than once every two years for persons 19 through 59 years of age or more frequently than once a year for persons less than 19 years or over 60 years*[*]**;

i. To justify the request, all subsequent prescriptions shall have a change of at least 0.50 diopter in spherical or cylindrical power or a change in axis of five degrees or more.

9. Optical tints (except pink ***[A and B,]* ***one and two*** or gray, and brown plastic lenses 10 percent to 20 percent;**

10. ***[Hilite]* ***High index*** lenses;**

11. Special base curve; ***and***

12. All other optical appliance items not listed or requiring additional charges or not identified in N.J.A.C. 10:62-4.4, (Subchapter 4, HCPCS Code Numbers and Maximum Fee Schedule for Vision Care Appliances).

(e) If a request for authorization is denied, the provider shall be notified of the reason, in writing, by the Vision Care Consultant.

10:62-2.6 Standards and policies regarding lenses

(a) Lenses shall be first quality ophthalmic lenses meeting the requirements published by American National Standard Institute.

(b) Safety lenses shall meet impact resistant standards as set forth in United States Food and Drug Administration regulations ***(21 CFR 3.84)***.

(c) When the prescription for proper distance vision is different from the prescription necessary for normal near vision, bifocals and/or multifocal lenses are recommended. ***[It]* ***If*** two pairs of lenses are needed, see N.J.A.C. 10:62-2.5 (d)7.**

(d) For pricing purposes, all prescriptions shall be written in minus cylinder form.

(e) The total correction shall be at least 0.50 diopter in spherical or cylindrical power in the initial prescription for glasses.

(f) New lenses are reimbursable only if a change exists; that is, at least 0.50 diopter in ***[spherical]* ***spherical*** or cylinder power, or a change of five degrees or more in cylindrical axis.**

(g) Contact lenses (prior authorization required as indicated in N.J.A.C. 10:62-2.5) may be approved only when recommended for:

1. Specific ocular pathological conditions (for example Keratoconus, monocular surgical aphakia to effect binocular vision);

2. Patients whose vision cannot be improved to at least 20/70 with regular lenses but improvement of vision can be accomplished to 20/70 or better in the better eye.

(h) The policy for duplication or reproduction of the same correction is as follows:

1. A re-examination and new prescription are required if more than one year (or two years in the case of an individual between 19 and 59 years of age) has elapsed since the date of the original prescription;

2. The provider ***[must]* ***shall*** determine date and type of previous vision care service.**

(i) The New Jersey Medicaid Program will not pay for replacement of optical appliances which may have been lost, broken, damaged or stolen unless prior authorized.

(j) Prior authorization is required for individuals with significant pathological conditions requiring optical tints other than pink *[A and B]* *, one and two, or grey or brown plastic lenses 10 percent to 20 percent*.

(k) The following lenses are not covered under the New Jersey Medicaid Program:

1. Gradient tint;
2. Oversize lenses;
- *[3. Photo-gray lenses;]*
- *[4.]***3.* Photochromatic lenses;
- *[5.]***4.* Prescription sunglasses;
- *[6.]***5.* Rimless lenses; and
- *[7.]***6.* Temporary glasses.

10:62-2.7 Standards and policies regarding frames

(a) Plastic, non-flammable frames acceptable to the New Jersey Medicaid Program shall meet the following minimum criteria:

1. The manufacturer's name and the size of the frame shall be properly identifiable on the frame;
2. The temples shall be wire-reinforced;
3. A hinge rivet shall pass through the reinforcing temple wire;
4. The material shall contain no scratches, fissures or bubbles;
5. There shall be no material discoloration at the time of dispensing; and
6. The frame shall not be expanded beyond 1 *[mm.]* *millimeter* of the original size when the lenses are inserted.

(b) Replacement of a frame within two years is allowed only if the frame is lost, or broken and not repairable, and if prior authorized.

(c) Wire-metal frames are not covered under the New Jersey Medicaid Program.

10:62-2.8 Standards regarding guaranty/warranty

All rights, benefits, and services applicable to a private patient shall apply to the same extent to the Medicaid recipient.

10:62-2.9 Ocular prostheses

Artificial eyes and intraocular lenses, stock or custom-made, shall be of plastic material.

10:62-2.10 Approved fabricating laboratory

(a) For purpose*s*s* of the New Jersey Medicaid Program, an approved fabricating laboratory shall have the necessary equipment, licensed personnel and capability to completely surface and finish new optical glass or plastic lenses or *[from]* partially finished lenses.

(b) The laboratory shall be able to provide all services necessary to completely furnished eyeglasses as may be requested by an optical dispenser and is subject to approval by the New Jersey Medicaid Program. *[Provider]* *A provider* may call the Vision Care Unit (609-588-2729) to ascertain if a laboratory is Medicaid approved.

10:62-2.11 Recordkeeping policies

(a) Providers shall keep such legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Such information shall be readily available to the representatives of the New Jersey Medicaid Program or its agents as required.

(b) The records required by (a) above shall include the following data:

1. Name of the recipient;
2. Address of the recipient;
3. HSP (Medicaid) Case number;
4. Original prescription;
5. Date of the prescription received; and
6. Date of the dispensing to the recipient.

(c) Records shall be kept and maintained by the provider for a period of at least five years from the date the service was rendered.

10:62-2.12 Basis for reimbursement

(a) The reimbursement policy of the New Jersey Medicaid Program provides for payment to the provider of the actual invoice cost of the optical appliance. Providers are requested to indicate the actual invoice cost of the material when submitting a claim. Actual invoice

cost is defined as the net amount paid by the provider, reflecting all discounts or special purchase agreements. The service (dispensing) fee, to which the provider is entitled, should be indicated as a separate item.

(b) When submitting a claim for reimbursement, the fabricating laboratory invoice (see N.J.A.C. 10:62-2.10), when applicable, shall be attached to the claim form MC-9.

(c) The maximum allowable reimbursement for frames is *[\$5.00]* *not to exceed an allowance determined to be reasonable by the Commissioner, Department of Human Services*. However, providers shall only bill the New Jersey Medicaid Program for the actual invoice cost of the frame when submitting a claim for payment. Actual invoice cost is defined as the net amount paid by provider, reflecting all discounts or special purchase agreements. Frames are reimbursable only if they meet the criteria listed in N.J.A.C. 10:62-2.7.

(d) Optical appliances are reimbursable under the New Jersey Medicaid Program only when prescribed by a provider of professional eye services as defined in N.J.A.C. 10:62-1.3, that is, physicians recognized by the program as ophthalmologists, optometrists, approved independent eye clinics and hospitals, and when dispensed by a provider of optical appliances as defined in N.J.A.C. 10:62-2.2.

(e) Non-physician services and equipment/supplies furnished to hospital inpatients by outside providers shall not be billed directly to the New Jersey Medicaid Program. Providers shall submit a bill/invoice to the hospital for payment.

(f) Reimbursement by the New Jersey Medicaid Program shall be made for covered services provided to eligible recipients only; however, if the Medicaid recipient becomes ineligible between the time the optical appliance is ordered and the time the optical appliance is dispensed, the provider is still eligible for reimbursement.

(g) The cost of intraocular lenses is reimbursable to hospitals or ambulatory surgical centers where the surgery is performed or directly to the ophthalmologist.

1. Ophthalmologists can be reimbursed for the intraocular lenses*[*]**,* providing payment is not made to the hospital or the ambulatory surgical center. To be reimbursed, the ophthalmologist shall complete the MC-9 form and attach the purchase invoice, supplied by the lens manufacturer, and mail it to the Vision Care Unit, Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

SUBCHAPTER 3. BILLING PROCEDURES

10:62-3.1 General billing procedures

(a) A claim is a bill which indicates a request for payment for a Medicaid-reimbursable service provided to a Medicaid-eligible individual. The claim may be submitted hard copy or by means of a method of automated data exchange which is approved by the Division of Medical Assistance and Health Services.

(b) This subchapter contains information which informs New Jersey Medicaid Vision Care Services *[P]**p*roviders when and how to request reimbursement.

10:62-3.2 Timeliness of claim submission and claim inquiry

(a) For timeliness of claim submission and claim inquiry, see Chapter 49 of this manual, Administration, N.J.A.C. 10:49-1.12.

(b) In the case that two different dates encompassing two separate time spans occur involving optical appliances, the following shall apply:

1. From the prescribing date to the date of receipt of the prescription by the dispenser, that is, ophthalmologist or optometrist to the optician or vendors, claims for optical appliances not requiring prior authorization will be paid only when the date of receipt by the dispenser (vendor or optician) is not more than 90 days following the prescribing date;

2. Claims for optical appliances not requiring prior authorization shall be paid only when the date of receipt of the finished appliance by the eligible recipient is not more than 30 days following the date of receipt of the prescription by the dispenser;

i. If it is not possible to dispense an optical appliance within the stated time, the provider shall notify the Vision Care Unit, stating that such time limit cannot be met in a particular case, with the reason(s) why.

10:62-3.3 New Jersey Medicaid claim forms

(a) The Health Insurance Claim Form (1500 N.J.) is used for the purpose of billing for professional services, that is, diagnostic examinations, medical and/or surgical care, by physicians and optometrists. Claim form 1500 N.J. shall be completed exactly as indicated in Appendix I at the end of this manual, which is incorporated herein by reference.

(b) The Request for Authorization and Payment—Optical Appliances form (MC-9) is used for the purpose of billing for optical appliances and also for requesting prior authorization. Claim form MC-9 shall be completed exactly as indicated in Appendix II at the end of this manual, which is incorporated herein by reference.

1. When submitting a claim for reimbursement, the fabricating laboratory invoice (see N.J.A.C. 10:62-2.10, Subchapter 2)*, when applicable, must be attached to the claim form MC-9.

(c) The optometrist shall submit 1500 N.J. and MC-9 claim forms for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332

(d) The optician shall submit MC-9 claim form*s* for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332

(e) The ophthalmologist:

1. Shall submit MC-9 claim form*s* for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5107
Millville, New Jersey 08332, and

2. Shall submit 1500 N.J. claim form for reimbursement to:

The Prudential Insurance Company of America
Post Office Box 5101
Millville, New Jersey 08332

10:62-3.4 Combination Medicare/Medicaid claims

(a) Cataract lenses and/or artificial eyes are eligible for payment under supplemental medical insurance benefits (Medicare, Part B). When these specific services are rendered to or for a New Jersey Medicaid eligible patient who is also eligible for Medicare, the Health Insurance Claim Form (1500 N.J.) shall be submitted directly to the Medicare carrier*[:]**.*

*[The Prudential Insurance Company of America
Medicare B Division
Post Office Box 2222
Linwood, New Jersey 08221
Telephone: (800) 462-9306]*

(b) The provider shall record both the Health Insurance Claim (Medicare) number in item 6 and the HSP (Medicaid) Case Number in item 8 of the form 1500 N.J.

1. No prior authorization by the New Jersey Medicaid Program is required for Medicare covered services. However, the responsibility by the New Jersey Medicaid Program is limited to the payment of the unsatisfied deductible. Coinsurance shall be considered for vision care appliances only*[:]**.*

2. In submitting Medicare/Medicaid claims, providers shall indicate accepting assignment.

10:62-3.5 Group practice

(a) For purposes of billing under the New Jersey Medicaid Program, providers who are in group practice or partnership shall list themselves under one name and one provider number.

(b) The instructions in Appendix I and Appendix II, where applicable, also apply to group practice. The individual practitioner or provider rendering each service or item shall complete and sign the provider certification portion of the form (Health Insurance Claim Form (1500 N.J.), Section 25) or (Request for Authorization and Payment—Optical Appliance form (MC-9), Section 23).

OFFICE OF ADMINISTRATIVE LAW NOTE: Health Insurance Claim Form 1500 N.J. *[was submitted with the proposal, but]* ***and Request for Authorization and Payment—Optical Ap-**

pliances Form MC-9* is not reproduced herein. Copies may be obtained from the Medicaid district offices.

APPENDIX I

HEALTH INSURANCE CLAIM FORM (1500 N.J.)

ITEM 1. Copy the patient's name EXACTLY as it appears on the validation of eligibility form.

ITEM 2. Indicate patient's date of birth. Use six (6) digits (for example, September 10, 1980 is written 09/10/80). If only the year is known, enter the year as a four-digit number (for example, 1980). If the actual birthdate is unavailable, enter the patient's age.

ITEM 3. Not applicable.

ITEM 4. Indicate the patient's address and telephone number.

ITEM 5. Check the appropriate block to identify the patient's sex.

ITEM 6. Copy the patient's Health Insurance Claim number as it appears on the Medicare Health Insurance Card when the patient is covered by both Medicare and Medicaid.

ITEM 7. Not applicable.

ITEM 8. Copy the patient's New Jersey Medicaid Program HSP (Medicaid) Case number and Person number EXACTLY as they appear on the validation of eligibility form.

ITEM 8a. Not applicable.

ITEM 9. Check the appropriate block to indicate whether the patient has any other Health Insurance Coverage. If yes, you must attach a copy of the decline notice or a copy of the explanation of payment.

ITEM 10. Check as appropriate.

If the patient's illness or injury is work related.

If the patient's injury resulted from an automobile accident or other.

ITEM 11. Not applicable.

ITEM 12. Under ordinary circumstances, the patient must sign and date the claim form when services have been received.

The claim form must indicate all services rendered prior to presenting it to the patient for signature.

If the patient's signature is unobtainable, see N.J.A.C. 10:49-1.26 (Chapter 49 of this manual).

ITEMS 13-18. Not applicable.

ITEM 19. If patient was referred to you, indicate the name of the referring practitioner. If patient is enrolled in the *[Medicaid Personal Physician]* ***Garden State Health*** Plan indicate name of the Physician Case Manager.

ITEM 19a. Enter the Individual Medicaid Practitioner (IMP) number of the referring physician/practitioner you indicated in Item 19.

If patient is enrolled in the *[Medicaid Personal Physician]* ***Garden State Health*** Plan, keep the authorization form signed by the Physician Case Manager in your file.

ITEM 20. Not applicable.

ITEM 21. Write in the name of the institution if the place of service is other than doctor's office or patient's home.

To be completed in addition to Item 24b.

ITEM 21a. Not applicable.

ITEM 22. Check "No" block when laboratory work was analyzed by you. Do not bill the Medicaid Program if laboratory work was analyzed outside your office.

ITEM 23A. Enter the diagnosis using the codes listed in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) for all services identified in Item 24D.

ITEM 23B. Early and Periodic Screening, Diagnosis and Treatment Program Referral

Complete this item for recipients under 21 years of age. Ask the patient and/or referring physician or clinic if this visit is a result of an EPSDT screening. Indicate if this patient is such a referral by checking the appropriate block.

ITEM 24A. Enter the date(s) of each visit.

ITEM 24B. Identify the place of service by selecting appropriate alpha code as listed on the reverse side of form under "Place of Service" Codes.

ADOPTIONS

HUMAN SERVICES

ITEM 24C. Identify the type of service by selecting appropriate numerical codes, as listed on the reverse side of form under Type of Service Codes.

ITEM 24D. Physicians, Optometrists:

Identify the procedure by code number as listed in Subchapter 4 and insert the procedure code under 24D.

A narrative description of the procedure code is not needed if that service does not require prior authorization.

However, providers may also elect to include the narrative description, as well as the code, under the following circumstances:

1. The service is more clearly defined by the inclusion of both code and narratives;
2. The provider is unable to locate a code relevant to the service rendered.

ITEM 24E. Enter the reference numbers in (Item 23A) related to applicable diagnosis for that visit.

ITEM 24F. Not applicable.

ITEM 24G. Enter your usual and customary charge for each service or procedure.

ITEM 24H. Not applicable.

ITEM 24I. Leave blank.

ITEM 25. Carefully read the Medicaid Provider Certification on the reverse side of the form.

The Individual Practitioner who personally performed or supervised the service(s) represented on the claim must put his or her signature on each claim before submitting for payment.

If a claim covers services performed by more than one practitioner, the group member who performed the last procedure should sign the claim.

ITEM 26. *[Not applicable.]* ***Always check yes "Accept Assignment"***

ITEM 27. Enter the sum total of the individual charges.

ITEMS 28-29. Not applicable.

ITEM 30. The IMP number of the physician/practitioner who signed the form must be provided, if the services were performed by more than one group member.

ITEM 31. If not preprinted, write provider name, address, and provider number. The telephone number should also be provided.

ITEMS 32-33. Not applicable.

ITEM 34. This section should be used whenever additional information will assist in the evaluation for payment of rendered services.

APPENDIX II

REQUEST FOR AUTHORIZATION AND
PAYMENT—OPTICAL APPLIANCES (MC-9)

ITEM 1. Copy the patient's name EXACTLY as it appears on the validation of eligibility form.

ITEM 2. Indicate patient's address and telephone number.

ITEMS 3-4. Copy the patient's New Jersey Medicaid Program HSP (Medicaid) Case number and Person number EXACTLY as they appear on the validation of eligibility form.

ITEM 5. Indicate patient's date of birth. Use six (6) digits (for example, September 10, 1980 is written 09/10/80). If only the year is known, enter the year as a four-digit number (for example, 1980). If the actual birthdate is unavailable, enter the patient's age.

ITEM 6. Check the appropriate block to identify patient's sex.

ITEM 7. Check the appropriate block to indicate whether the patient has other Health Insurance or Liability Coverage. If yes, you must attach a copy of the decline notice or a copy of the explanation of payment.

ITEM 8. Check the appropriate block.

If the patient's illness or injury is work related.

If the patient's injury resulted from an automobile accident.

ITEM 9. If the form is not preprinted, write the provider name, address, and provider number. The telephone number should also be provided.

ITEM 10. EPSDT Program Referral:

Complete this item for recipients under 21 years of age. Ask the patient and/or referring physician or clinic if this visit is a result of an EPSDT screening. Indicate if this patient is such a referral by

checking the appropriate block. If the services required prior authorization, the approval must be submitted with the billing.

ITEM 11. A diagnosis is required. Where possible, indicate both a primary and secondary diagnosis. (Opticians: obtain diagnosis from the prescribing practitioner.) You may use the codes for diagnosis listed in the International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

ITEM 12A. Indicate the date of any previous examination.

ITEM 12B. Indicate the date of the current examination.

ITEM 12C. Indicate the date the optical appliance was dispensed.

ITEM 13. Prescription: A prescription for new lenses must always be given in minus cylinder.

ITEMS 14-15. Indicate the appropriate block.

ITEM 16. Indicate the appropriate lens information and fabricating laboratory.

ITEM 17. Provide a complete frame description

When HCPCS code Y5165YF is utilized, Item 17 must state "Patient's Own Medicaid Plastic Frame".

ITEM 18. The prescribing practitioner's name and IMP number must be clearly printed or typed. If the prescriber and the dispenser are the same, write the word "same". If the prescription for the appliance comes from a hospital or an eye clinic, the name of such hospital or clinic should be clearly printed or typed in item 18.

ITEM 18A. When the recipient is enrolled in the *[Medicaid Personal Physician]* ***Garden State Health* Plan**, indicate the name of assigned Physician Case Manager and Individual Medicaid Practitioner number. Keep authorization form signed by Physician Case Manager in your file.

ITEM 19. Column I (Item Code):

Identify each item provided. Use HCPCS Code as listed in Subchapter 4.

Column II (Laboratory Cost):

Indicate charge, reflecting actual lab invoice cost, for each item provided. Attach invoice from fabricating laboratory, when applicable.

Columns III, IV, V, & VI:

Leave blank (For Division Use Only).

ITEM 20. Leave blank (For Division use only).

ITEM 21. This section should be used whenever additional information will assist in the evaluation of an authorization request. It should also be used for describing any repairs to be made to existing appliances.

ITEM 22. Patient's certification: Under ordinary circumstances, the patient must sign and date the claim form when services have been received. The claim form must indicate all services rendered prior to presenting it to the patient for signature.

If the patient's signature is unobtainable, see *[Chapter 49-1.26 of this manual]* ***N.J.A.C. 10:49-1.26***.

ITEM 23. Provider's certification: Carefully read the Medicaid Provider Certification on this section.

The practitioner who personally performed or supervised the service(s) represented on the claim must put his/her signature on each claim before submitting for payment.

If a claim covers services performed by more than one practitioner, the group member who performed the last procedure should sign the claim.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH
SERVICESLifeline Credit Program/Tenants Lifeline Assistance
Program Manual

Readoption with Amendments: N.J.A.C. 10:69B

Proposed: October 3, 1988 at 20 N.J.R. 2440(a).

Adopted: November 18, 1988 by Drew Altman, Commissioner,
Department of Human Services.

Filed: November 21, 1988 as R.1988 d.575, **without change**.

Authority: N.J.S.A. 48:2-29.15, 16, 17; 48:2-29.31, 32, 33; P.L.
1987, c.221.

HUMAN SERVICES

ADOPTIONS

Effective Date: November 21, 1988 for Readoption; December 19, 1988 for Amendments.

Expiration Date: November 21, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:69B.

Full text of the adopted amendments follows.

10:69B-1.3 Definitions

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

...
 "Applicant" means an individual who applies for the Lifeline benefit either personally or through an authorized agent.

...
 "Beneficiary" means an individual who has been found eligible for the Lifeline benefit.

...
 "Lifeline Credit" means a benefit in the form of a credit in an amount established by law made to the utility account(s) of an individual who has been determined to be eligible for the Lifeline Credit Program.

...
 "Resident" means one legally domiciled within the State of New Jersey for a period of 30 days immediately preceding the date of application for inclusion in the Program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile.

...

10:69B-2.4 Agency controls

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

(c) The Bureau of Medical Care Surveillance of the Office of Program Integrity Administration within the Division of Medical Assistance and Health Services, is responsible for monitoring beneficiaries participating in the Lifeline Programs.

10:69B-4.1 Eligibility requirements

(a) (No change.)

(b) When an individual is not a residential utility customer but is a tenant, as defined in N.J.A.C. 10:69B-1.3, who has the cost of utilities included in his/her monthly rental and on July 1st or during the succeeding six months, the individual meets the eligibility requirements as outlined in N.J.A.C. 10:69B-4.1(a)1-2, the individual is eligible to receive benefits from the Tenants Lifeline Assistance Program.

10:69B-4.2 Income standards

(a) Any single, permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have an annual income of less than \$13,650 to be eligible for Lifeline.

(b) Any married permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and receiving Social Security Title II disability benefits must have a combined (applicant and spouse) annual income of less than \$16,750 to be eligible for Lifeline.

1.-2. (No change.)

(c)-(h) (No change.)

10:69B-4.3 Residency requirement

(a) (No change.)

(b) The applicant must be able to substantiate residence upon request by the Division of Medical Assistance and Health Services, and is required to submit copies of two documents showing evidence of current residence at the time of application. The following are examples of proof of residence:

1. Motor Vehicle records (for example, valid driver's license);
2. Landlord's records and rent receipts;
3. Public utility records and receipts (for example, electric bill);

4. Personal property assessment records;
 5. Records of professional people or businesses (for example, doctors, department stores, etc.);
 6. Post office records;
 7. Records of social agencies, public or private;
 8. Employment records.
- (c)-(d) (No change.)

10:69B-4.4 Age

(a) The Lifeline applicant who is 65 years of age or older must be able to document his/her age upon request of the Division of Medical Assistance and Health Services. The applicant must submit a copy of one of the following acceptable proofs of age:

- 1.-3. (No change.)
4. Social Security form number 2458 (can be obtained from the local Social Security office);
5. Railroad Retirement letter (can be obtained from the Railroad Retirement Board); or
6. Third Party Query Form (can be obtained from the local Social Security Office).

(b) If the applicant cannot supply a copy of one of the proofs of age listed in (a)1-6 above, the applicant must submit copies of any two of the following acceptable proofs of age:

- 1.-18. (No change.)

10:69B-4.6 Disability

(a) The Lifeline applicant who is under 65 and over age 18 and receiving Social Security Title II Disability benefits must be able to document his/her Social Security disability determination upon request of the Division of Medical Assistance and Health Services. The applicant must submit a copy of one of the following documents:

1. Social Security Award Certification (SSA-L30) issued by the Social Security Administration within the last six months of application; or
2. Report of Confidential Social Security Beneficiary Information (SSA-2458).

10:69B-4.8 Lifeline eligibility applications

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

(c) For those Lifeline recipients who met the qualifications for Lifeline Only in the previous year and received benefits, a preprinted form (LL-2) will be sent to them. The LL-2 form obviates the need for an applicant to again prove residency and/or age.

(d) When the Bureau of Lifeline Programs receives the completed application forms, either LL-1, LL-2 or LL-3, the Bureau will determine whether the beneficiary is eligible for Lifeline Credit or Tenants Lifeline Assistance and authorize credit/payment accordingly.

10:69B-4.9 Social Security Account Number

(a) Each applicant for the Lifeline benefit must include his/her Social Security Account Number (SSAN) on the application form. The SSAN, a unique and verifiable number, is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

(b) (No change.)

10:69B-4.10 Certification

The applicant for Lifeline benefits must certify that all answers to the questions and items on the application forms, LL-1, LL-2 and LL-3, are true and accurate to the best of his/her knowledge. This certification must be dated, signed (or marked) by the applicant and spouse (if married), and the preparer of the form (if other than the applicant), before the application can be processed.

CORRECTIONS**THE COMMISSIONER****(a)****Security and Control
Search Plan****Adopted Amendment: N.J.A.C. 10A:3-5.2**

Proposed: October 3, 1988 at 20 N.J.R. 2441(a).

Adopted: November 23, 1988 by William H. Fauver,
Commissioner, Department of Corrections.Filed: November 23, 1988 as R.1988 d.582, **with a technical change**
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3(c)).

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: December 19, 1988.

Expiration Date: October 6, 1991.

Summary of Public Comments and Agency Responses:The Department of Corrections received one comment which is ad-
dressed below.**COMMENT:** A commenter suggested that N.J.A.C. 10A:3-5.2(b) ad-
dress the rank of the Institutional Search Plan Coordinator in the Newark
and Essex Houses.**RESPONSE:** The amendment is not intended to require Adult Com-
munity and Residential Facilities to appoint an Institutional Search Plan
Coordinator.**Full text** of the adoption follows (additions indicated in boldface
with asterisks ***thus***; deletions indicated in brackets with asterisks
[thus]).

10A:3-5.2 Search plan

(a) Each correctional facility shall develop and implement a com-
prehensive written plan governing searches of facilities and inmates.
Each plan shall be submitted to the Office of the Deputy Com-
missioner for legal review and approval on or before February 15
of each year.(b) Each adult institution shall appoint an officer, at a rank no
less than captain, as Institutional Search Plan Coordinator.(c) The Institutional Search Plan Coordinator shall submit a
monthly written report, on the appropriate implementation of the
Institutional Search Plan, to the Superintendent.(d) The ***[superintendent]* *Superintendent*** of each adult institu-
tion shall submit, in the first calendar week of January and July, a
written report on the appropriate implementation of the Institutional
Search Plan to the Assistant Commissioner, Division of Adult In-
stitutions.**(b)****Municipal and County Facilities
Cell Equipment****Adopted Amendment: N.J.A.C. 10A:34-2.8**

Proposed: October 3, 1988 at 20 N.J.R. 2442(b).

Adopted: November 23, 1988 by William H. Fauver,
Commissioner, Department of Corrections.Filed: November 23, 1988 as R.1988 d.583, **without change**.

Authority: N.J.S.A. 30:1B-10.

Effective Date: December 19, 1988.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:**No comments received.****Full text** of the adoption follows.

10A:34-2.8 Cell equipment

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

Recodify existing (f) through (g) as (e) through (f) (No change in
text).**INSURANCE****(c)****DIVISION OF ACTUARIAL SERVICES****Medicare Supplement Insurance Benefits****Transitional Requirements for the Conversion of
Medicare Supplement Insurance Benefits and
Premiums to Conform to Medicare Program
Revisions****Adopted Amendments: N.J.A.C. 11:4-16.6, 16.8;
11:4-23.6, 23.8 and 11:4 Appendix, Medicare
Deductibles and Co-Payments****Adopted New Rules: Appendices to Subchapters 16
and 23 (Information Concerning Changes to the
Medicare Program Effective January 1, 1989) and
(Notice on Changes in Medicare Supplement
Insurance)**

Proposed: October 17, 1988 at 20 N.J.R. 2510(a).

Adopted: November 28, 1988 by Kenneth D. Merin,
Commissioner, Department of Insurance.Filed: November 28, 1988 as R.1988 d.587, **with substantive and
technical changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-4.3).

Effective Date: December 19, 1988.

Operative Date: January 1, 1989.

Expiration Date: December 2, 1990.

Summary of Public Comments and Agency Responses:**COMMENT:** A comment was received from Mr. Paul S. Bunkin of
Paul S. Bunkin, Inc. Mr. Bunkin suggests that the Department consider
a modification in the procedure for enrolling individuals who are about
to be eligible for Medicare. Mr. Bunkin states that Federal guidelines
require that a Medicare supplemental policy must include coverage for
existing medical problems no later than six months after the effective date
of the policy. Because of this six month limitation, many states permit
the sale of a Medicare supplemental policy prior to a person's 65th
birthday based on the individual policy's waiting period for pre-existing
conditions. Thus, a person buying a policy with a six-month waiting
period could purchase the policy at age 64½ and a person purchasing
a policy with a three month waiting period could purchase the policy
at age 64¾, and be fully covered at age 65.**RESPONSE:** This comment is not responsive to the notice of proposal
or the proposed amendments and new rules. N.J.A.C. 11:4-17(b)8
prohibits selling Medicare supplement insurance to anyone who is not
eligible for Medicare. However, neither New Jersey rules nor Federal law
require companies to include a pre-existing condition exclusion as part
of their policies. There are only rules limiting the exclusion to no longer
than six months after the effective date of coverage. Thus, the Department
suggests that those persons concerned about a possible lack of coverage
for pre-existing conditions shop around for a policy offering coverage
without any pre-existing condition limitation. This is permissible in New
Jersey.**Summary of Agency Initiated Changes:**1. In the Appendix to Subchapters 16 and 23, entitled "BRIDGING
THE MEDICARE GAPS: A GUIDE TO MEDICARE SUPPLEMENT
INSURANCE (INFORMATION CONCERNING CHANGES TO
THE MEDICARE PROGRAM EFFECTIVE JANUARY 1, 1989)",
under "MEDICARE PART B—MEDICAL INSURANCE, How much
does it pay?" the word "of" is changed to "or" in the second paragraph
to correct a typographical error.2. In the Appendix to N.J.A.C. 11:4-23, "MEDICARE DEDUC-
TIBLES AND COPAYMENTS FOR 1989", which is to be included in
the pocket part of the Buyer's Guide, the annual deductible for Part A
Hospitalization expenses is changed from \$564 to \$560. The copayment
amount of 20% for the first 8 days of care in a Skilled Nursing Facility
is changed to \$25.50 per day. Both changes are the result of Federal
updating of Medicare data.

3. The Appendix to Subchapters 16 and 23, "NOTICE ON CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT INSURANCE", which insurers are to send to their insureds at least 30 days prior to the effective date of any Medicare benefits changes, requires several changes to reflect re-calculations of Medicare data by the Federal government. Some information is moved from columns and subheading to other columns and subheadings to correct mechanical errors in the set-up of the charts, and to reduce possible misinterpretation of the benefits charts by consumers.

(a) The Notice on Changes for 1989 has the following changes:

(1) Under the heading "Medicare Benefits", in the second column labeled "Effective January 1, 1989 . . .", the annual deductible for hospitalization is changed from \$564 to \$560.

(2) Under the same heading and column, under the subheading of "POSTHOSPITAL SKILLED NURSING CARE", the co-payment amount for the first 8 days of confinement is changed from \$(____) to \$(25.50).

(b) The Notice on Changes for 1990 has the following changes:

(1) Under the heading "MEDICARE BENEFITS", in the column labeled "Medicare Now Pays Per Calendar Year", the hospital deductible and skilled nursing care co-payment are changed to reflect correct 1989 requirements.

(2) Under the same heading, same column, under the subheadings "MEDICARE PART B SERVICE AND SUPPLIES" and "PRESCRIPTION DRUGS", references to changes occurring in subsequent years are deleted, or removed to the next column, (1990), where this information properly belongs.

(3) Under the same heading, in the column labeled "Effective January 1, 1990 Medicare Will Pay Per Calendar Year", which was blank, information from the preceding column, 1989, is incorporated. This includes both Part A and Part B benefit information. No other dollar or number changes are necessary at this time.

(c) The Notice on Changes for 1991 has the following changes:

(1) Under the heading "MEDICARE BENEFITS", in the column labeled "Medicare Now Pays Per Calendar Year", under the subheading "MEDICARE PART B SERVICES AND SUPPLIES", the 1990 Medicare Catastrophic Limit of \$1370 is inserted, while references to a 1991 limit are deleted.

(2) Under the same heading and column, under the subheading "PRESCRIPTION DRUGS", the 1990 deductible amount is changed from \$600 to \$550 to reflect current Federal data. A statement concerning home intravenous drug therapy and immunosuppressive drugs is included to correct the passage. The phrase "50 percent of allowable charges for all other outpatient prescription drugs" is deleted as an inaccurate statement of 1990 benefits.

(3) Under the same heading, in the column labeled "Effective January 1, 1991 Medicare Will Pay Per Calendar Year", all of the subheadings were blank, except that of "PRESCRIPTION DRUGS". Current information has been supplied for each blank.

(4) Under the same heading, same column, under the subheading "PRESCRIPTION DRUGS", the deductible for 1991 is changed from \$652 to \$600, while the percentage of covered allowable charges is changed from 60% to 50%. Further, the predicted percentage of allowable charges for 1992 is set at 60%.

4. N.J.A.C. 11:4-16.8 requires changes which were inadvertently missed previously. The changes involve forms at N.J.A.C. 11:4-16.8(l) and (n), which are to be supplied by the insurer to the insured to explain the policy's coverage. All changes involved are only those which are necessary to bring the Outlines of Coverage at (l) and (n) into conformity with Federal laws and amended State rules.

(a) N.J.A.C. 11:4-16.8(l) is the Outline of Coverage to be issued in connection with policies meeting the standards of N.J.A.C. 11:4-16.6(j). Sections 1, 2, and 4 through 6 do not require any changes. All changes are to section 3 only.

(1) In the column labeled "Inpatient Hospital Benefits", the phrase "an unlimited number of days per calendar year" is added to "You are hospitalized for . . .". All other references to time periods are deleted. Reading across to the next column labeled "Medicare—Part A", the statement "You pay the first \$ ____ Deductible. Medicare pays balance" is correct; however, further references to varying deductible amounts based on differing time periods are deleted. Reading across to the last column labeled "Insurance Policy Pays", all references to "\$ ____ per day" or a percentage of Medicare eligible expenses are deleted.

(2) Under section 3, in the column labeled "Skilled Nursing Facility Benefits", a period is added after the word "facility", the term "trans-

ferred" is changed to "admitted", and the phrase "after a hospital stay of at least 3 days" is deleted. Federal law no longer requires a hospital stay for benefits eligibility for care in a skilled nursing facility.

(3) Under the same column, the "20" day figure is changed to "8" and the phrase "Medicare benefit period is changed to "calendar year". Reading across to the next column, "Medicare—Part A", the statements "You pay \$ ____ per day. Medicare pays balance of reasonable charges*" replaces the statements "You pay nothing. Medicare pays 100%.*" Reading across to the last column, "Insurance Policy Pays", "\$ ____" replaces "\$0".

(4) In the "Skilled Nursing Facility Benefits" column, the "80" day figure is replaced by "142". The phrase "21st-100th day" is replaced by the phrase "9th-150th day". Reading across to the next column, "Medicare—Part A", the statement "You pay nothing. Medicare pays balance.*" replaces the statement "You pay \$ ____ per day. Medicare pays balance.*" "\$ ____ per day" is deleted as unnecessary.

(5) In the "Skilled Nursing Facility Benefits" column, the "100" day figure in the phrase "after 100 days" is replaced by the figure "150".

(6) In the subsection referencing Medicare—Part B benefits, in the column labeled "Insurance Policy Pays", the phrase "Medicare eligible expenses to the extent not covered by Medicare" replaces the phrase "20% of reasonable charges".

(b) N.J.A.C. 11:4-16.8(n) is the Outline of Coverage to be issued in connection with policies not meeting the requirements of N.J.A.C. 11:4-16.6(d), (e), (f), (g), (h), (i) and (j). The Outline of Coverage is substantially the same as that of N.J.A.C. 11:4-16.8(l); specifically, N.J.A.C. 11:4-16.8(l)3 and 11:4-16.8(n)3, in which changes are required. All agency initiated changes noted in this adoption at subparagraphs 4(a)(1) through 4(a)(5) apply identically to N.J.A.C. 11:4-16.8(n)3.

For N.J.A.C. 11:4-16.8(n)3, in the subsection referencing Medicare—Part B benefits, in the column labeled "Insurance Policy Pays", the phrase "Medicare eligible expenses to the extent not covered by Medicare" replaces "20% of reasonable charges" as these statements apply to in-hospital charges deemed reasonable and necessary by Medicare (under the column labeled "Medicare—Part B"). Immediately below that, the statement "Medicare eligible expenses to the extent not covered by Medicare after you have paid \$ ____ of these charges", replaces " ____ % of reasonable charges after you have paid \$ ____ of these charges" as these statements apply to non-hospitalized medical and physician charges.

5. Compiling amendments are required for N.J.A.C. 11:4-23.8(b)3, also inadvertently left out from the original transitional rules proposal. All changes are to N.J.A.C. 11:4-23.8(b)3, notice paragraphs 4, and 6 only.

(a) In notice paragraph 4, under the column labeled "BENEFIT" and the subheading "HOSPITALIZATION", the phrase "Each calendar year" replaces all time period elements. Reading across to the next column, "MEDICARE PAYS", the dollar figure "\$(\$560)" replaces "\$(\$356)".

(b) Under the "BENEFIT" column and the subheading "POST-HOSPITAL SKILLED NURSING CARE . . .", the phrase "First 8 days" replaces the phrase "First 20 days". Reading across to the next column, the phrase "All but \$25.50 per day of reasonable costs" replaces the phrase "100% of costs".

(c) Under the same column and subheading, the phrase "Additional 142 days" replaces the phrase "Additional 80 days", and reading across to the column "MEDICARE PAYS", the phrase "100% of reasonable costs" replaces "All but (\$45) a day".

(d) Under the same subheading and column, the phrase "Beyond 150 days" replaces the phrase "Beyond 100 days".

(e) In N.J.A.C. 1:4-23.8(b)3, notice paragraph 6, the word "resist" is changed to "restrict". Resist is used improperly in this context. Also, the figure "5" replaces the figure "6" in the statement to correct a typographical error.

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

11:4-16.6 Minimum standards for benefits

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

(j) "Medicare supplement coverage" is a health insurance policy sold to a Medicare eligible person, which is designed primarily to supplement Medicare, or is advertised, marketed, or otherwise purported to be a supplement to Medicare and which meets the following minimum benefit standards and rules:

ADOPTIONS

INSURANCE

1. Policies issued prior to January 1, 1989 shall include:

- i. Coverage of the Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;
- ii. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges to the extent not covered by Medicare during use of Medicare's lifetime hospital inpatient reserve days;
- iii. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare for an additional period of not less than 365 days;
- iv. Coverage of Part A Medicare eligible expenses for skilled nursing facility confinement to the extent not covered by Medicare from the 21st day through the 100th day in any Medicare benefit period; and
- v. Coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of \$200.00 of such expenses and to a maximum calendar year benefit of at least \$5,000.

2. Policies issued on or after January 1, 1989 shall provide coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of \$200.00 of such expenses and to a maximum calendar year benefit of at least \$5,000.

3. Medicare supplement coverage shall comply with the following:

- i. Medicare supplement coverage shall not be subject to any exclusions, limitations, or reductions (other than as permitted in this section and other applicable laws and regulations) which are not consistent with the exclusions, limitations, or reductions permissible under Medicare, other than a provision that coverage is not provided for any expenses to the extent of any benefit available to the insured person under Medicare;
- ii. Medicare supplement coverage shall not indemnify losses resulting from sickness on a different basis than losses resulting from accidents;
- iii. Medicare supplement coverage shall provide that benefits designed to cover the cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount, copayment percentage factors, and out-of-pocket maximums;
- iv. Terms used in Medicare supplement coverage shall be defined at least as favorably as the corresponding Medicare terms;
- v. Notwithstanding N.J.A.C. 11:4-16.4(a)3 and 16.5(j) and (1), preexisting condition limitations shall not exclude coverage for more than six months after the effective date of coverage under the policy for a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of the coverage;
- vi. The term "Medicare eligible expenses" shall mean health care expenses of the kind covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.
- vii. At least 30 days prior to the effective dates of any Medicare benefit changes, notice shall be provided to New Jersey insureds describing the revisions to the Medicare program and the resulting modifications made to the Medicare supplement coverage to eliminate duplication of Medicare benefits, as required by N.J.A.C. 11:4-16.5(d);
- viii. The notices mandated by the Medicare Catastrophic Coverage Act of 1988 shall be in the format set forth in the Appendix to this subchapter (Notice on Changes in Medicare and Your Medicare Supplement Insurance), which is incorporated herein as part of this rule, and shall not contain or be accompanied by any solicitation.

No modifications shall be made to an existing Medicare supplement policy as the result of the Medicare Catastrophic Coverage Act of 1988 except those necessary to eliminate duplication of Medicare benefits;

ix. Existing Medicare supplement policies shall be appropriately amended or endorsed to eliminate benefit duplications with Medicare which are caused by Medicare benefit changes. Any riders or endorsements shall specify the benefits deleted, or shall otherwise result in a clear description of the Medicare supplement benefits provided by the policy. Such riders or endorsements shall be submitted to the commissioner for filing within 45 days after the effective dates of Medicare benefit changes;

x. Appropriate premium adjustments for existing Medicare supplement policies shall be made to reflect the benefit changes required by the Medicare Catastrophic Coverage Act of 1988. The revised rates shall produce loss ratios at least equal to those originally anticipated. The premium rates and supporting documentation required by N.J.A.C. 11:4-18.4 shall be submitted to the Commissioner for filing within 45 days after the effective dates of Medicare benefit changes specified in the Act. Rate revisions to reflect any other required Medicare benefit changes may be made; and

xi. Premium reductions resulting from benefit changes required by the Medicare Catastrophic Coverage Act of 1988 shall be made in the form of premium refunds or premium credits no later than 60 days after the effective date of Medicare benefit changes.

(k) (No change.)

11:4-16.8 Required disclosure provisions

(a) General: disclosure requirements are as follows:

1. (No change.)

2. Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder, exercises a specifically reserved right under the policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a policy after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term, shall be agreed to in a written instrument signed by the insured, except if the increased benefits or coverage is required by law.

3.-14. (No change.)

15. To ensure uniformity in the content, form and printing of the guide, each insurer shall comply with the following requirements:

i.-ii. (No change.)

iii. A chart entitled "Medicare Deductible and Copayments for 1989" shall be included in the back pocket of each guide. A sample copy of this chart appears as an Appendix to this chapter.

(1) To ensure uniform design, content and printing of the chart, the Department of Insurance, Division of Public Affairs will provide sample copies of the chart to insurers. Insurers must adhere exactly to the format of the chart, and must include the chart in the back pocket of each guide.

iv. Information explaining the changes to the Medicare program effective January 1, 1989, shall be included in the back pocket of each guide. A copy of this information appears as an Appendix to subchapters 16 and 23 of this chapter and is entitled: "Information Concerning Changes to the Medicare Program Effective January 1, 1989".

16. (No change.)

(b)-*[(o)]**(k)* (No change.)

*** (l) An outline of coverage regarding Medicare supplement coverage, in the form prescribed below, shall be issued in connection with policies meeting the standard of N.J.A.C. 11:4-16.6(j). The items included in the outline of coverage must appear in the sequence set forth as follows:**

(COMPANY NAME AND ADDRESS)
 (POLICY NUMBER WHEN AVAILABLE)
 MEDICARE SUPPLEMENT COVERAGE
 OUTLINE OF COVERAGE

1. **Medicare Supplement Coverage**—This type of policy is designed to help pay some or all of Medicare's deductibles and copayments. It also helps pay costs above Medicare's limits.
 2. **Read Your Policy Carefully**—This outline of coverage briefly describes the important features of your policy. (Your agent, broker, or other company representative will explain each item to you so that you fully understand what you are buying.) For more information about the costs not paid by Medicare and what to look for in policy provisions, read the (Shopper's Guide) that was given to you with this form.
 This form is not the insurance contract. Only the policy itself spells out the rights and obligations of both you and your insurance company. It is important that you **READ YOUR POLICY CAREFULLY. REMEMBER, if you are not satisfied with your policy, you have (10-30) days to return it to the company and get your money back.**

3. Annual Premium \$ _____
 Inpatient Hospital Benefits

You Pay \$ ___ per _____
 Insurance Policy Pays

Medicare—Part A

You are hospitalized for *[up to 60 days during a Medicare benefit period.]* *an unlimited number of days per calendar year.*

You pay the first \$ ___ Deductible. Medicare pays balance.

\$ _____

[You remain hospitalized for any of the next 30 days—the 61st-90th day.]

[You pay the first \$ ___ per day. Medicare pays balance.]

[\$ ___ per day]

[You continue to be hospitalized for any of the next 60 days—91st-150th day. These are Lifetime Reserve days and may be used once.]

[You pay \$ ___ per day. Medicare pays balance.]

[\$ ___ per day]

[You are still hospitalized after the Lifetime Reserve days have been used.]

[You pay full amount. Medicare pays nothing.]

[___% of eligible Medicare expenses.]

Skilled Nursing Facility Benefits

Medicare—Part A

Insurance Policy Pays

You are *[transferred]* *admitted* to a skilled nursing facility *[after a hospital stay of at least 3 days]*. You are a patient in this facility for up to *[20]* *8* days during a *[Medicare benefit period]* *calendar year*.

[You pay nothing. Medicare pays 100%.] *You pay \$ ___ per day. Medicare pays balance of reasonable charges.**

[\$0] *\$ ___*

You remain in the facility for any of the next *[80]* *142* days—*[21st-100th day]* *9th-150th day*.

[You pay \$ ___ per day. Medicare pays balance.] *You pay nothing. Medicare pays 100%.**

[\$ ___ Per day]

You remain in the facility after *[100]* *150* days of confinement.

You pay full amount. Medicare pays nothing.

\$ ___ per day

*Payment will only be made if the skilled nursing facility is approved by Medicare and if the care given is medically necessary. NEITHER MEDICARE NOR THIS POLICY WILL PAY FOR CUSTODIAL CARE OR REST HOME CARE.

Medical Service Benefits

Medicare—Part B

Insurance Policy Pays

You receive physician services, medical supplies, ambulance and other covered services.

You pay the first \$ ___ Deductible.

\$ _____

Medicare pays 80% of the remaining "reasonable and necessary" charge. You pay the remaining 20% of the "reasonable and necessary" charge.

[20% of reasonable charges] *Medicare eligible expenses to the extent not covered by Medicare* after you have paid \$ ___ of these charges.

You pay the portion of the bill that exceeds the "reasonable and necessary" charge.

___**

**Unless this space is filled in with a specific dollar amount or percentage, the policy will not pay for charges that exceed Medicare's determination of "reasonable and necessary" charges.

4. (Statement that the policy (certificate) does or does not cover the following:)

- i. Private duty nursing;
- ii. Skilled nursing home care costs (beyond what is covered by Medicare);
- iii. Custodial nursing home care costs;
- iv. Intermediate nursing home care costs;
- v. Home health care above number of visits covered by Medicare;
- vi. Physician charges (above Medicare's reasonable charge);
- vii. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
- viii. Care received outside of USA;
- ix. Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for or the cost of eyeglasses or hearing aids.

5. (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in 4 above.)
 6. (A description of policy provisions respecting renewability or continuation of coverage, including any reservation of right to change premiums.)

FOR ADDITIONAL INFORMATION ABOUT POLICY BENEFITS
 OR CLAIMS, TELEPHONE (COLLECT) (TOLL FREE)
 (LOCAL NUMBER)

(m) (No change.)

(n) An outline of coverage regarding limited benefit health-coverage sold to Medicare eligible persons, in the form prescribed below, shall be issued to Medicare eligible persons in connection with policies which do not meet the minimum standards of N.J.A.C. 11:4-16.6(d), (e), (f), (g), (h), (i) and (j). The items included in the outline of coverage must appear in the sequence set forth as follows:

(COMPANY NAME & ADDRESS)
 (POLICY NUMBER WHEN AVAILABLE)
 LIMITED BENEFIT HEALTH COVERAGE FOR MEDICARE ELIGIBLE PERSONS
 OUTLINE OF COVERAGE

1. **Limited Benefit Health Coverage**—This type of policy will provide you with limited benefits only. It is not designed to provide hospital and medical coverage for the costs not paid by Medicare.
 2. **Read Your Policy Carefully**—This outline of coverage briefly describes the important features of your policy. (Your agent, broker or other company representative will explain each item to you so that you fully understand what you are buying.) For more information about the costs not paid by Medicare and what to look for in policy provisions, read the (Shopper's Guide) that was given to you with this form. This form is not the insurance contract. Only the policy itself spells out the rights and obligations of both you and your insurance company. It is important that you **READ YOUR POLICY CAREFULLY**. **REMEMBER**, if you are not satisfied with your policy, you have (10-30) days to return it to the company and get your money back.

3. Annual Premium \$ _____ Inpatient Hospital Benefits	Medicare—Part A	You Pay \$ ___ per Insurance Policy Pays
You are hospitalized for *up to 60 days during a Medicare benefit period* *an unlimited number of days per calendar year*.	You pay the first \$ ___ Deductible. Medicare pays balance.	\$ _____
[You remain hospitalized for any of the next 30 days—the 61st-90th day.]	*[You pay the first \$ ___ per day. Medicare pays balance.]*	*[\$ ___ per day]*
[You continue to be hospitalized for any of the next 60 days—91st-150th day. These are Lifetime Reserve days and may be used only once.]	*[You pay \$ ___ per day. Medicare pays balance.]*	*[\$ ___ per day]*
[You are still hospitalized after the Lifetime Reserve days have been used.]	*[You pay full amount. Medicare pays nothing.]*	*[___% of eligible Medicare expenses.]*

Skilled Nursing Facility Benefits	Medicare—Part A	Insurance Policy Pays
You are *[transferred]* *admitted* to a skilled nursing facility*.* [after a hospital stay of at least 3 days.]* You are a patient in this facility for up to *[20]* *8* days during a *[Medicare benefit period]* *calendar year*.	*[You pay nothing. Medicare pays 100%.]* *You pay \$ ___ per day. Medicare pays balance of reasonable costs.**	*\$ ___*
You remain in the facility for any of the next *[80]* *142* days—*[21st-100th day]* *9th-150th day*.	*[You pay \$ ___ per day. Medicare pays balance.]* *You pay nothing. Medicare pays 100%.**	*[\$ ___ per day]*
You remain in the facility after *[100]* *150* days of confinement.	You pay full amount. Medicare pays nothing.	\$ ___ per day

*Payment will only be made if the skilled nursing facility is approved by Medicare and if the care given is medically necessary. **NEITHER MEDICARE NOR THIS POLICY WILL PAY FOR CUSTODIAL CARE OR REST HOME CARE.**

Medical Service Benefits	Medicare—Part B	Insurance Policy Pays
You receive physician services, medical supplies, ambulance and other covered services.	You pay the first \$ ___ Deductible. Medicare pays 80% of the remaining "reasonable and necessary" charge. You pay the remaining 20% of the "reasonable and necessary" charge while you are in the hospital. You pay the remaining 20% of the "reasonable and necessary" charge if you are not hospitalized.	\$ _____ *[20% of reasonable charges]* *Medicare eligible expenses to the extent not covered by Medicare* after you have paid \$ ___ of these charges. *[___% of reasonable charges after you have paid \$ ___ of these charges.]* *Medicare eligible expenses to the extent not covered by Medicare after you have paid \$ ___ of these charges.*
	You pay the portion of the bill that exceeds the "reasonable and necessary" charge.	___**

**Unless this space is filled in with a specific dollar amount or percentage, the policy will not pay for charges that exceed Medicare's determination of "reasonable and necessary" charges.

4. (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in 3 above.)

5. (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

FOR ADDITIONAL INFORMATION ABOUT POLICY BENEFITS OR CLAIMS, TELEPHONE (COLLECT) (TOLL FREE) (LOCAL NUMBER) _____.

(o) (No change.)

11:4-23.6 Minimum benefit standards

(a) (No change.)

(b) The following general standards apply to Medicare Supplement policies and are in addition to all other requirements of this subchapter:

1.-2. (No change.)

3. A Medicare Supplement policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amounts and copayment percentage factors and out-of-pocket maximums;

4.-5. (No change.)

6. At least 30 days prior to the effective dates of any Medicare benefit changes, notice shall be provided to New Jersey insureds describing the revisions to the Medicare program and the resulting modifications made to the Medicare Supplement coverage to eliminate duplication of Medicare benefits, as required by N.J.A.C. 11:4-23.5(d).

7. The notices mandated by the Medicare Catastrophic Coverage Act of 1988 shall be in the format set forth in the Appendix to this subchapter (Notice on Changes in Medicare and your Medicare Supplement Insurance), which is incorporated herein as part of this rule, and shall not contain or be accompanied by any solicitation. No modifications shall be made to an existing Medicare supplement policy as the result of the Medicare Catastrophic Act of 1988 except those necessary to eliminate duplication of Medicare benefits.

8. Existing Medicare supplement policies shall be appropriately amended or endorsed to eliminate benefit duplications with Medicare which are caused by Medicare benefit changes. Any riders or endorsements shall specify the benefits deleted, or shall otherwise result in a clear description of the Medicare supplement benefits provided by the policy. Such riders or endorsements shall be submitted to the commissioner for filing within 45 days after the effective dates of Medicare benefit changes.

9. Appropriate premium adjustments for existing Medicare supplement policies shall be made to reflect the benefit changes required by the Medicare Catastrophic Coverage Act of 1988. The revised rates shall produce loss ratios at least equal to those originally anticipated. The premium rates and supporting documentation shall be submitted to the Commissioner within 45 days after the effective dates of Medicare benefit changes specified in the Act. Rate revisions to reflect any other required Medicare benefit changes may be made.

10. Premium reductions resulting from benefit changes required by the Medicare Catastrophic Coverage Act of 1988 shall be made in the form of premium refunds or premium credits no later than 60 days after the effective date of Medicare benefit changes.

(c) The minimum benefit standards prescribed for Medicare Supplement policies are:

1. For policies issued prior to January 1, 1989:

i. Coverage of the Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

ii. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges to the extent not covered by Medicare during use of Medicare's lifetime hospital inpatient reserve days;

iii. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90 percent of all

Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

iv. Coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of \$200.00 of such expenses and to a maximum calendar year benefit of at least \$5,000.

2. For policies issued on or after January 1, 1989, coverage of Part B Medicare eligible expenses to the extent not covered by Medicare, subject to a maximum calendar year out-of-pocket deductible of \$200.00 of such expenses and to a maximum calendar year benefit of at least \$5,000.

11:4-23.8 Required disclosure provisions

(a) General rules concerning required disclosure provisions include the following:

1. (No change.)

2. Except for riders or endorsements by which the insurer or hospital or medical service corporation effectuates a request made in writing by the insured or subscriber, exercises a specifically reserved right under a Medicare Supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage shall require signed acceptance by the insured or subscriber. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium or subscription charge during the policy term, shall be agreed to in writing signed by the insured or subscriber, except if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth clearly.

3.-6. (No change.)

7. To ensure uniformity in the content, form and printing of the guide, each insurer shall comply with the following requirements:

i.-ii. (No change.)

iii. A chart entitled "Medicare Deductibles and Copayments for 1989" shall be included in the back pocket of each guide. A sample copy of this chart appears as an Appendix to this chapter.

(1) To ensure uniform design, content and printing of the chart, the Department of Insurance, Division of Public Affairs will provide sample copies of the chart to insurers. Insurers shall adhere exactly to the format of the chart, and must include the chart in the back pocket of each guide.

iv. Information explaining the changes to the Medicare program effective January 1, 1989, shall be included in the back pocket of each guide. A copy of this information appears as an Appendix to subchapters 16 and 23 of this chapter and is entitled: "Information Concerning Changes to the Medicare Program Effective January 1, 1989".

8.-9. (No change.)

(b) Outline of Coverage requirements for Medicare Supplement policies include:

1.-2. (No change.)

3. The outline of coverage provided to applicants pursuant to (b)1 above shall be in the form prescribed below:

(COMPANY NAME)
 OUTLINE OF MEDICARE
 SUPPLEMENT COVERAGE

1. Read Your Policy (Certificate) Carefully—This outline of coverage provides a very brief description of the important features of your Policy (Certificate). This is not the insurance (subscriber) contract and only the actual policy (contract) provisions will control. The policy (certificate) itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY (CERTIFICATE) CAREFULLY!

2. Medicare Supplement Coverage—Policies (Certificates) of this category are *[desired]* ***designed*** to supplement Medicare by covering some hospital, medical, and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare and subject to other limitations which may be set forth in the policy (certificate). The policy (certificate) does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing, and taking medicines. (Delete if such coverage is provided.)

3. (i) For Agents:

Neither (insert company's name) nor its agents are connected with Medicare.

(ii) Direct responses:

(insert company's name) is not connected with Medicare.

4. (A brief summary of the major benefit gaps in Medicare Parts A & B with a parallel description of supplemental benefits, including dollar amounts, provided by the Medicare Supplement coverage in the following order:)

SERVICE	BENEFIT	MEDICARE PAYS	THIS COVERAGE PAYS	YOU PAY
HOSPITALIZATION				
Semi-private room and board, general nursing and miscellaneous hospital services and supplies. Includes meals, special care units, drugs, lab tests, diagnostic x-rays, medical supplies, operating and recovery room, anesthesia and rehabilitation	*[First 60 days]*	All but *[((\$356)]* *(\$560)*		
	[61st to 90th day]	*[All but (\$89)]*		
	[91st to 150th day] *Each calendar year*	*[All but (178) a day]*		
	[Beyond 150 days]	*[Nothing]*		
POST-HOSPITAL SKILLED NURSING CARE				
In a facility approved by Medicare*[. you must have been in a hospital for at least three days]*.	*[First 20 days]* *First 8 days*	*[100% of costs]* *All but \$25.50 per day of reasonable costs*		
	[Additional 80 days] *Additional 142 days*	*[All but (\$45) a day]* *100% of reasonable costs*		
	[Beyond 100 days] *Beyond 150 days*	Nothing		
MEDICAL EXPENSES				
	Physician's services, inpatient and outpatient medical services and supplies at a hospital, physical and speech therapy and ambulance service.	80% of reasonable charge (after (\$75) deductible)		

5. (Statement that the policy (certificate) does or does not cover the following:)

- i. Private duty nursing;
- ii. Skilled nursing home care costs (beyond what is covered by Medicare);
- iii. Custodial nursing home care costs;
- iv. Intermediate nursing home care costs;
- v. Physician charges (above Medicare's reasonable charge);
- vi. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
- vii. Care received outside of U.S.A.;
- viii. Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for or the cost of eyeglasses or hearing aids.

6. (A description of any policy (certificate) provisions which exclude, eliminate, *[resist]* ***restrict***, reduce limit, delay or in any other manner operate to qualify payments of the benefits described in N.J.A.C. 11:4-23.8*[(6)]*(5)* above. Also*,* include conspicuous statements:

- i. That the chart summarizing Medicare benefits only briefly describes such benefits;
- ii. That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.

7. (A description of policy (certificate) provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium (subscription charge).)

8. The amount of premium (subscription charge) for the policy (certificate).

(c) (No change.)

APPENDIX TO SUBCHAPTERS 16 and 23
BRIDGING THE MEDICARE GAPS:
A GUIDE TO MEDICARE SUPPLEMENT
(INFORMATION CONCERNING CHANGES TO
THE MEDICARE PROGRAM
EFFECTIVE JANUARY 1, 1989)

BASIC STRUCTURE OF MEDICARE

Medicare is divided in two parts: Part A—hospital insurance, and Part B—medical insurance.

Part A, the hospitalization portion of Medicare, is free, and most senior citizens participate automatically.

Part B, the medical portion, is not free. It requires a monthly premium, which, for most people, is deducted from the Social Security check. You're automatically enrolled in Part B when you enroll in Medicare Part A, unless you specifically state you don't want it. If you choose not to enroll in Part B when you sign up for Medicare, you can join the program later. But if you wait, the premiums will be higher.

Medicare does not pay for all your health care costs. Each part has a deductible, an amount you have to pay before Medicare pays anything, and a co-payment, a part of each bill you're required to pay.

The deductibles and co-payments can change from year to year. The chart in the back pocket of this booklet shows this year's deductible and co-payment amounts.

MEDICARE PART A—HOSPITAL INSURANCE

The hospital insurance portion of Medicare, Part A, pays hospital room and board fees for an unlimited period of time after you pay the deductible once each year. It also pays for some goods and services (such as laboratory costs, physical therapy and drugs) while you're a patient in the hospital.

Part A also pays for three less expensive alternatives to hospitalization—skilled nursing facility care, home health care and hospice care.

Let's say you don't need the intensive care a hospital provides but you do need daily professional nursing care or rehabilitation therapy. Your doctor may refer you to a skilled nursing facility. Beginning January 1, 1989, Medicare covers most of the skilled nursing facility's bills. You have to pay 20 percent of the costs—a co-payment for each of the first eight days you're there. Medicare then pays all the bills for days 9-150 each year in a Medicare-certified facility.

Medicare also will pay for home health care to help you leave a hospital or skilled nursing facility if your condition meets certain requirements, among them a need for part-time skilled nursing care or therapy. Until January 1, 1990, Medicare will cover intermittent home health care up to four days per week for an unlimited period of time. If such care is needed five or more days per week, Medicare will cover only three weeks per illness. As of January 1, 1990, Medicare will cover up to six days a week of intermittent home health care for as long as your doctor prescribes, and up to 38 days of daily home health care.

In addition, Medicare covers hospice care for terminally ill patients who want to stay home during their final weeks of life. Hospices (special organizations which help dying patients and their families) will supply doctors' services, nursing care, home health aides, homemaker services, counseling, and medical appliances and supplies. There are some restrictions and some minimal co-payments for a few services, but Medicare will pick up the majority of the bills.

When Will Medicare Refuse to Pay?

Medicare covers time in skilled nursing facilities, which are sometimes called nursing homes. But Medicare does not cover custodial nursing home care that provides only a place to live and help with personal needs such as bathing, feeding, dressing and taking medicine.

Usually Medicare pays hospitalization, skilled nursing facility and home health agency fees only when the facility or agency is Medicare-approved. Although all New Jersey hospitals are approved, some

hospitals and treatment centers in other states may not be. And even if a skilled nursing facility or home health agency is licensed by the State, it may not be Medicare-approved.

Medicare also may refuse to pay for experimental or controversial procedures.

Except under certain very limited conditions in Canada and Mexico, Medicare will not cover care received outside the United States.

If you plan to travel, or if you're not sure whether the treatment or hospital you're considering has Medicare approval, check ahead of time with your local Social Security office to see if benefits are available.

MEDICARE PART B—MEDICAL INSURANCE

Medicare Part B, medical insurance, is the section that helps to pay your doctor, whether you are in or out of the hospital. It also serves as a catch-all for the wide range of services people use when they are not patients in hospitals—outpatient visits to hospitals, physical therapy, laboratory tests, medical equipment (like wheelchairs or oxygen), and medically necessary home health visits.

The medical insurance portion, Part B, has an annual deductible, an amount which you must pay once each year before Medicare will pay any bills related to Part B. The deductible can change, so the chart in the pocket on the back page shows the amount for this year.

How Much Does It Pay?

The medical insurance portion of Medicare was designed to pay 80 percent of the cost of most covered services. You pay the other 20 percent, which is the Part B co-payment.

You could wind up paying more than 20 percent. Fees charged by doctors, therapists, suppliers and hospitals may vary, even within one town. But Medicare has a fixed schedule of fees, known as the "approved amount," for procedures done in your area. Medicare will pay only 80 percent of the approved amount. So, if your bill from the doctor *{of}*or* hospital outpatient clinic is higher than the approved amount, you must pay the difference.

Example: Suppose the Medicare approved amount for a medical procedure is \$40, but your doctor charges you \$100. Medicare will pay 80 percent of the \$40 approved amount, or \$32; you pay the 20 percent co-payment, or \$8. But you also make up the difference between the \$100 bill and Medicare's \$40 approved amount (\$60). So the total out-of-pocket cost to you is \$68.

Some doctors "accept assignment." This means the doctor agrees to accept the Medicare-approved amount for the services provided. You still have to pay the 20 percent co-payment, or \$8.

Some doctors accept assignment some of the time, some accept it all the time, while others never accept it at all. Find out, before treatment, whether your doctor will accept assignment. Each year, doctors and medical service suppliers can sign agreements to become Medicare-participating doctors or suppliers. This means they agree in advance to accept assignment on all Medicare claims. The "Medicare-Participating Physician/Supplier Directory," which is available in Social Security offices and county Offices on Aging, gives the names and addresses of Medicare-participating doctors and suppliers. You can also get this directory from Blue Shield of Pennsylvania, the Medicare carrier of New Jersey.

Limit on Out-of-Pocket Expenses

Beginning January 1, 1990, Medicare will pay 100 percent of Part B allowable costs after your out-of-pocket expenses have reached Medicare's "catastrophic limit." The Part B deductible, 20 percent of Medicare's approved amounts and the Part B blood deductible will be applied to the catastrophic limit. None of the difference between Medicare's approved amounts and the actual amounts of bills will count toward the catastrophic limit. The limit will change each year.

Other Covered Services

The Medicare Catastrophic Coverage Act of 1988 expanded Medicare to include coverage for some items and services that Medicare has not covered in the past.

ADOPTIONS

INSURANCE

Outpatient Prescription Drugs

Beginning January 1, 1991, Medicare will cover some of the costs for all prescription drugs that you need to take when you're not in a hospital. There will be a deductible each year that you'll be required to pay before Medicare will cover a portion of the costs. After you've satisfied the deductible, Medicare will pay some of the costs and you'll pay a portion—a co-payment—for each prescription. The deductible will change each year and the percent co-payment will change until 1993.

Respite Care

If you are chronically disabled and are receiving the help of a volunteer care-giver, Medicare will pay for 80 hours per year of in-home care so the volunteer can have a rest. To be eligible for respite care coverage, you will first have to satisfy either the Part B catastrophic limit or the prescription drug deductible. This benefit will become available January 1, 1990.

Mammography Screening

Also in 1990, Medicare will help to pay for a mammography exam. Your age and medical history will determine how often Medicare will pay.

For a detailed description of the Medicare program, ask your local Social Security office for a free copy of Your Medicare Handbook.

MEDICARE SUPPLEMENT POLICIES

The phrase "Medicare Supplement" is a special term reserved in New Jersey for policies that meet minimum standards set by the state. New Jersey's minimum standards have required that Medicare supplements pay benefits to cover specific gaps in Medicare. With the enactment of the Medicare Catastrophic Coverage Act of 1988, the gaps in Medicare have changed. As a result, New Jersey's requirements for Medicare supplements must also change.

Until the state modifies its benefits requirements for Medicare supplements, insurance companies are required to eliminate benefits from existing policies that duplicate Medicare's new catastrophic benefits.

(COMPANY NAME)

NOTICE ON CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT INSURANCE—1989

Your health care benefits provided by the Federal Medicare Program will change beginning January 1, 1989. Additional changes will occur on medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies under Medicare. Because of these changes your Medicare supplement coverage provided by (Company Name) will change also. The following outline briefly describes the modifications in Medicare and your Medicare supplement coverage. Please read carefully!

(A brief description of the revisions to Medicare parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the Medicare supplement coverage in substantially the following format.)

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Now Pays Per Benefit Period	Effective January 1, 1989 Medicare Will Pay Per Calendar Year	Your 1988 Coverage Per Benefit Period	Effective January 1, 1989 Your Coverage Will Pay Per Calendar Year
MEDICARE PART A SERVICES AND SUPPLIES	First 60 days— All but \$540	Unlimited number of hospital days after *[\$564]**\$560* deductible.		
	61st to 90th day— All but \$135 a day			
	91st to 150th day— All but \$270 a day			
	Beyond 150th day— Nothing			
POSTHOSPITAL SKILLED NURSING CARE	Requires a 3 day stay and enter the facility within 14 days after hospital discharge.	There is no prior confinement require- ment for this benefit.		
	First 20 days— 100% of costs	First 8 days— All but *[()]**(\$25.50)* a day		
	21st through 100th day— All but \$67.50 a day	9th through 150th day— 100% of costs		
	Beyond 100 days— Nothing	Beyond 150 days— Nothing		

INSURANCE

ADOPTIONS

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
MEDICARE PART B SERVICES AND SUPPLIES	Medicare Now Pays Per Calendar Year 80% of allowable charges (after \$75 deductible)	In 1989 Medicare Part B Pays the Same as in 1988 NOTE: Medicare Benefits change on January, 1990 as follows: 80% of allowable charges (after \$75 deductible until an annual Medicare Catastrophic limit is met. 100% of the remainder of the calendar year. The limit in 1990 is \$1370* and will be adjusted on an annual basis.
PRESCRIPTION DRUGS	Inpatient prescription drugs only	In 1989 Medicare covers inpatient prescription drugs only Effective January 1, 1990 Per Calendar Year 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met. Effective January 1, 1991 Per Calendar Year Inpatient prescription drugs. 50% of allowable charges for all other outpatient prescription *drugs* after a \$600 *[deductible]* , (*[The]**the* deductible will change) calendar year deductible is met. Coverage will increase to 60% of allowable charges in 1992 and to 80% of allowable charges from 1993 on.

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (Company), only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office ***[of]* *or*** the Health Care Financing Administration. For information on your Medicare Supplement (Policy) contact:

(Company or for an Individual Policy—Name of Agent) (Address/Phone Number)

(COMPANY NAME)

NOTICE ON CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE—1990

Your health care benefits provided by the Federal Medicare Program will change beginning January 1, 1990; additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare Supplement coverage provided by (Company Name) will change, also. The following outline briefly describes the modification*s* in Medicare and in your medicare supplement coverage. Please read this carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the Medicare Supplement coverage in substantially the following format.)

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
	Effective January 1, 1990, Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year
	Medicare Now Pays Per Calendar Year	Effective January 1, 1990 Your Coverage Will Pay Per Calendar Year
MEDICARE PART A SERVICES AND SUPPLIES	Unlimited number of hospital days after *[\$564]**\$560* deductible.	*Unlimited number of hospital days after [\$] deductible.*
POSTHOSPITAL SKILLED NURSING CARE	There is no prior confinement requirement for this benefit. First 8 days— All but *[\$()]**(\$25.50)* a day 9th through 150th day— 100% of costs Beyond 150 days— Nothing	*There is no prior confinement requirement for this benefit.* *First 8 days— All but (\$) a day.* *9th through 150th day— 100% of costs* *Beyond 150 days— Nothing*

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
	Effective January 1, 1990, Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year
	Medicare Now Pays Per Calendar Year	Effective January 1, 1990 Your Coverage Will Pay Per Calendar Year
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible) *[until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370 and will be adjusted on an annual basis.]*	*80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met.* 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370 and will be adjusted on an annual basis.*
PRESCRIPTION DRUGS	Inpatient prescription drugs *only*. *[80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.]*	*Inpatient prescription drugs. 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.*

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(Any Additional Benefits)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (company), only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (policy) contact:

(Company or for an Individual Policy—Name of Agent) (Address/Phone Number)

(COMPANY NAME)

NOTICE ON CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE—1991

Your health care benefits provided by the Federal Medicare Program will change beginning January 1, 1991*[,]**;* additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read this carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the medicare supplement coverage in substantially the following format.)

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
	Effective January 1, 1991, Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
MEDICARE PART A SERVICES AND SUPPLIES	Unlimited number of hospital days after [\$] deductible.	*Unlimited number of hospital days after [\$] deductible.*
POSTHOSPITAL SKILLED NURSING CARE	There is no prior confinement requirement for this benefit.	*There is no prior confinement requirement for this benefit.*
	First 8 days—	*First 8 days—
	All but \$() a day	All but \$() a day*
	9th through 150th day—	*9th through 150th day—
	100% of costs	100% of costs*
	Beyond 150 days—	*Beyond 150 days—
	Nothing	Nothing*

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
	Effective January 1, 1991, Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met.*** 100% of allowable charges for the remainder of the calendar year. *[The limit in 1991 is \$[] and will be adjusted on an annual basis.]* *The limit in 1990 is \$1370 and will be adjusted on an annual basis.*	*80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met.* 100% of allowable charges for the remainder of the calendar year. The limit in 1991 is \$[] and will be adjusted on an annual basis.*
PRESCRIPTION DRUGS	Inpatient prescription drugs. *[50% of allowable charges for all other outpatient prescription drugs, until \$600]* *80% of allowable charges for home intravenous (IV) drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990)* calendar year deductible is met.	*[Inpatient prescription drugs 60% of allowable charges for all other outpatient prescription drugs, until \$652 calendar year deductible is met. Coverage will increase to 80% of allowable charges from 1993 on, and deductible will be adjusted on an annual basis.]* *Inpatient prescription drugs. In addition to the benefits provided for outpatient prescription drugs in prior years, 50% of allowable charges for all other outpatient prescription drugs after a \$600 (the deductible will change) calendar year deductible is met. Coverage will increase to 60% of allowable charges in 1992 and to 80% of allowable charges from 1993 on.*

ADOPTIONS

INSURANCE

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(Any Additional Benefits)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your medicare benefits and in your medicare supplement provided by (company), only briefly describes such benefits. For information on your medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your medicare supplement (Policy) *C]**c*ontact:

(Company or for an Individual Policy—Name of Agent) (Address/Phone Number)

**APPENDIX
MEDICARE DEDUCTIBLES AND CO-PAYMENTS FOR 1989**

MEDICARE PART A

Service	Length of Stay	You Pay	Medicare Pays
Hospitalization	Unlimited	*[\$564]**\$560* annual deductible	Balance
Skilled Nursing Facility	First 8 days	*[20% co-payment]**\$25.50 per day*	Balance
	Days 9-150	Nothing	All Costs
		*Provided all conditions are met (see Your Medicare Handbook)	
Home Health Care			
Visiting nurse; physical or speech therapist; home health aides; occupational therapy; medical social services; medical supplies and equipment	<ul style="list-style-type: none"> • Up to 4 days/week • 5 or more days/week up to 3 weeks per illness 	Nothing	All Costs
		*Provided all conditions are met (see Your Medical Handbook)	
Hospice Care			
Nursing care, physicians' services, physical/occupational therapy, medical supplies, home health aide services, counseling services (except for bereavement counseling).	Unlimited	Nothing	All Costs
		*Provided all conditions are met (see Your Medicare Handbook)	
<ul style="list-style-type: none"> • Drugs and biologicals • Respite Care 		5% co-payment	Balance
		5% co-payment	Balance
MEDICARE PART B			
Medical expenses: doctors' services; outpatient hospital care, outpatient physical therapy and speech pathology		\$75 annual deductible 20% of Medicare-approved amount after deductible	80% of Medicare approved amount after deductible

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF REGULATORY AFFAIRS

Notice of Regulatory Agenda

Take notice that the Department of Environmental Protection hereby gives notice of its Regulatory Agenda. This agenda, which will be published biannually, provides public notice of major rulemaking activities for the following six months.

The following items constitute the Department's anticipated significant rulemaking activities likely to occur by the end of June 1989.

Table I—Rule Proposals

Description	Division	Cite	Estimated NJR Date	Agency Note
Air Fees	DEQ	7:27-8	2/89	Revision
Air Penalties	DEQ	7:27-8	2/89	Revision
Radon Lab Certification	DEQ	7:18-5	1/89	Revision
Radiation Lab Fees	DEQ		1/89	Revision
Air Episode Notice	DEQ	7:27-20	2/89	New
PCB's	DHWM	7:26-8	1/89	New rule
Freshwater Wetlands: Transition Areas	DCR	7:7A	1/89	New
Freshwater Wetlands	DCR	7:7A	2/89	Requirements for Assumption
Flood Hazard Area Act Rules	DCR	7:13	1/89	Readopt
Underground Storage Tanks	DWR	7:14C	2/89	New rule; technical requirements and loans
NJPDES	DWR	7:14A	1/89	Readoption
ECRA	DHWM	7:26B	1/89	Revision
Coastal Permit Program Rules	DCR	7:7	2/89	Readoption

Table II—Rule Adoptions

Description	Division	Citation	Estimated NJR Date
Freshwater Wetlands: General Permits	DCR	7:7A	1/89
D&R Canal Commission		7:45	2/89
Hazardous Waste Facility Fees	DHWM	7:26	1/89
Barge Loading	DEQ	7:27-16	1/89
Architectural Coatings and Commercial Consumer Products	DEQ	7:27-16	1/89
Subsurface Disposal (Chapter 199)	DWR	7:9A	4/89
Water Quality Planning	DWR	7:15	4/89
Water Supply and Wastewater Operators Licenses	DWR	7:10-13	1/89
Gas Volatility	DEQ	7:27-25	5/89
Clam License Fees	DFGW	7:25	3/89
ECRA Fees	DHWM	7:26B	3/89

This notice is given as a matter of public information.

DIVISION OF WATER RESOURCES

(b)

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Atlantic County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would include the site of the Environmental Park in Egg Harbor Township in the Atlantic County Utilities Authority (ACUA) sewer service area. The Environmental Park includes a 900 tons per day Resource Recovery Facility, an ash landfill, a regional recycling center, and associated uses on 343 acres. Wastewater generation is estimated at 290,000 gallons per day. Treatment will be at the ACUA's City Island Sewerage Treatment Plant.

This notice is being given to inform the public that a plan amendment has been developed for the Atlantic County WQM Plan. All information

dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzempa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

PUBLIC NOTICES

(a)

Amendment to the Northeast Water Quality Management Plan Public Notice

Take Notice that on September 8, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules, N.J.A.C. 7:15-3.4, an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment will expand the sewer service area of Wyckoff Township, Bergen County to include the proposed Allison Village Development consisting of 14 residential lots. The development will be served by Northwest Bergen County Utilities Authority.

(b)

Amendment to the Tri-County Water Quality Management Plan Public Notice

Take Notice that on September 8, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules, N.J.A.C. 7:15-3.4, an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment is to allow the expansion of the sewer service area of the Gloucester County Utilities Authority to include the proposed Whispering Woods Development in Monroe Township. The project is partly located in the Unconsolidated Region of Gloucester County. The amendment will also allow the filling of 0.18 acres of isolated wetlands for this project.

HEALTH

(c)

DIVISION OF ALCOHOLISM Notice of Availability of Grants Alcoholism Program

Take notice that, in compliance with P.L. 1987, c.7, the Department of Health hereby publishes notice of the availability of the following grant.

NAME OF GRANT PROGRAM:

Juvenile Post Residential Continuing Care, Grant Program No. 89-67-ALC.

PURPOSE FOR WHICH THE GRANT PROGRAM FUNDS WILL BE USED:

Provide community-based post-residential continuing care to alcoholic and drug abusing youth.

AMOUNT OF MONEY IN THE GRANT PROGRAM:

The availability of funds for this program is contingent on appropriation of funds to the Department. Contact the person identified in this notice to determine whether the funds have been awarded and to receive further information.

GROUP OR ENTITIES WHICH MAY APPLY FOR THE GRANT PROGRAM:

County government.

QUALIFICATIONS NEEDED BY AN APPLICANT TO BE CONSIDERED FOR THE GRANT:

Demonstrate ability to meet standards set by the New Jersey State Department of Health. Applicants or subgrantee of applicant must possess proper license or certification for services.

PROCEDURES FOR ELIGIBLE ENTITIES TO APPLY FOR GRANT FUNDS:

Complete and submit the New Jersey Department of Health standard grant application for Health Services.

FOR INFORMATION CONTACT:

William Barstow, Chief of Planning
Alcoholism, Narcotic and Drug Abuse
Department of Health
CN 362
Trenton, NJ 08625
(609) 292-8947

DEADLINE BY WHICH APPLICATIONS MUST BE SUBMITTED:
January 10, 1989.

DATE BY WHICH APPLICANT SHALL BE NOTIFIED WHETHER THEY WILL RECEIVE FUNDS:
January 31, 1989.

HUMAN SERVICES

(d)

DIVISION OF YOUTH AND FAMILY SERVICES Standards for Shelters Accepting Juveniles Notice of Correction: N.J.A.C. 10:124-1.2, 4.11, 5.2 and 6.5

Take notice that the Department of Human Services has discovered errors in the text of N.J.A.C. 10:124-1.2, 4.11, 5.2 and 6.5 currently appearing in the New Jersey Administrative Code. The corrections of these errors set forth in this notice are derived from the rules as proposed at 14 N.J.R. 125(a) and adopted at 14 N.J.R. 761(a).

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

10:124-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings:

...
"Children's shelter home coordinator" or "shelter home coordinator" [or "juvenile family in crisis home"] means a person responsible for the recruitment, coordination, operation and management of one or more children's shelter homes.

10:124-4.11 Discipline and control

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

(e) The shelter facility or shelter home coordinator shall prohibit the following types of punishment:

- 1.-2. (No change.)
- 3. Group punishment for misbehaviors [or] of individuals;
- 4.-7. (No change.)

(f) A shelter facility shall not isolate a child in a behavior management room.

10:124-5.2 State government physical facility requirements for shelter facilities

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

(d) Exit requirements:

- 1. Exits:
 - i. (No change.)
 - ii. Exits above and below the first floor:
 - (1) (No change.)
 - (2) Exits above or below the [fire] first floor in buildings having a capacity of greater than 12 children shall provide exiting by a corridor that leads to two stairways completely enclosed in fire separation assemblies of the [first] fire resistance rating of the building's construction type, as designated by the UCC.

2. Doors:

- i. (No change.)
- ii. Every room with an occupant load of more than 50 or which exceeds 2,000 square feet in area shall have at least two [degree] egress doorways leading from the room to an exit or corridor.
- iii. (No change.)

- 3. (No change.)

4. Special requirements for shelter facilities serving nonambulatory children: The following special requirements shall be met by shelter facilities serving nonambulatory children:

i. A sufficient number of doors, corridors, ramps [of] or walkways and landings shall be provided and be wide enough to permit their being used by children utilizing wheelchairs, braces, walkers or any other prosthetic equipment or devices.

ii.-iii. (No change.)

(e)-(p) (No change.)

(q) Lead paint: Shelter facilities caring for children six years of [are] age and/or younger shall comply with the following:

1.-2. (No change.)

10:124-6.5 Insurance

(a) The shelter facility shall maintain liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident.

(b) If the shelter facility transportation services are provided by a private individual or firm under contract or other arrangement, the shelter facility shall maintain a file copy of the individual's or firm's insurance coverage in the amounts specified in (a) above and make a copy of such coverage available to the Bureau upon request.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES Manual of Standards for Residential Child Care Facilities

Notice of Administrative Correction: N.J.A.C. 10:127-4.10, 4.19, 5.1 and 5.3

Take notice that the Department of Human Services has discovered several errors in the current text of the New Jersey Administrative Code at N.J.A.C. 10:127-4.10, 4.19, 5.1 and 5.3. Pursuant to N.J.A.C. 1:30-2.7(a)3, the Department, by this notice, is administratively correcting those errors, the nature of which can be derived from the contiguous text of the rules.

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

10:127-4.10 Food and nutrition

(a) General requirements:

1.-3. (No change.)

4. The facility shall not force-feed or otherwise coerce a child to [act] eat against his or her will, except by order of a physician.

(b) (No change.)

10:127-4.19 Search and seizure requirements

(a) (No change.)

(b) Search procedure for illegal drugs or contraband:

1. (No change.)

2. A facility staff member who has reasonable suspicion that a child is in possession of illegal drugs or contraband shall request that the child voluntarily empty a garment pocket(s), a bag, a purse [of] or other such item within a child's possession or control. If the child complies with the request, the facility staff member shall inspect all items that are in plain view. The staff member shall be prohibited from conducting an exploratory search of another garment pocket(s) or other compartment(s) of a bag or a purse without the voluntary permission of the child.

3. (No change.)

(c) (No change.)

10:127-5.1 New Jersey local government physical facility requirements

(a) (No change.)

(b) An applicant seeking approval to open and operate a facility for the first time as such shall:

1. For newly constructed buildings, existing buildings whose construction code use group classification would change from that which it had been or existing buildings that require major alteration or

renovation, submit to the Bureau a copy of the building's certificate of occupancy issued by the municipality in which it is located, reflecting the building's compliance with the State Uniform Construction Code (N.J.A.C. 5:23), hereinafter referred to as UCC, for the [I-3] I-1 use group classification.

2.-3. (No change.)

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

10:127-5.3 New Jersey government physical facility requirements

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

(f) Fire protection:

1.-6. (No change.)

7. In new buildings or buildings changing their use group classification, in keeping with the adoption of the [I-3] I-1 use group classification that became effective February 22, 1983 to the UCC, shall have and maintain one of the following:

i.-ii. (No change.)

8.-16. (No change.)

(g)-(r) (No change.)

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Notice of Contract Carrier Application

Take notice that Glenn Paulsen, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of an applicant who has filed an application for a Contract Carrier Permit.

CONTRACT CARRIER (NON-GRANDFATHER)

L. Alan Maiuro Inc.

RD 1 Box 7

Mullica Hill, NJ 08062

Protests in writing and verified under oath may be presented by interested parties to the Director, Division of Motor Vehicles, 25 South Montgomery Street, Trenton, New Jersey 08666, within 20 days (January 8, 1989) following the publication of the application.

TREASURY-GENERAL

(c)

DIVISION OF BUILDING AND CONSTRUCTION

Architect/Engineer Selection Board Meeting Schedule for 1989

In accordance with Chapter 231, Laws of 1975, known as the "Open Public Meeting Act", this office announces the Architect/Engineer Selection Board meetings scheduled for 1989. Each Wednesday at 9:00 A.M., the meetings will convene at the following location:

Conference Room #1 (8th Floor)

Taxation Building

W. State and Barrack Streets

Trenton, N.J.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Sanitary Landfill Taxes 1989 Tax Rate Changes

Take notice that the owners and operators of all sanitary landfill facilities in New Jersey that accept solid waste for disposal are required to file Consolidated Sanitary Landfill Tax Returns (Form SLT-5) on a monthly basis. The five sanitary landfill taxes—the Solid Waste Recycling Tax, the Landfill Closure and Contingency Tax, the Solid Waste Services Tax, the Resource Recovery Investment Tax, and the Solid Waste Importation Tax—are reportable on this consolidated return.

This notice is to advise sanitary landfill taxpayers of the tax rate changes provided for by law effective January 1, 1989 for the sanitary landfill taxes.

Please take notice that effective January 1, 1989:

1. The Solid Waste Services Tax increases from \$.65 per ton or \$.195 per cubic yard to \$.70 per ton or \$.21 per cubic yard;
2. The Solid Waste Importation Tax increases from \$4.00 per ton or \$1.20 per cubic yard to \$6.00 per ton or \$1.80 per cubic yard;
3. The Landfill Closure and Contingency Tax remains unchanged at \$.50 per ton or \$.15 per cubic yard;
4. The Solid Waste Recycling Tax remains unchanged at \$1.50 per ton or \$.45 per cubic yard; and
5. The Resource Recovery Investment Tax remains unchanged at \$4.00 per ton or \$1.20 per cubic yard.

The tax rates for all solid waste in liquid form, reportable in gallons, remain the same for all sanitary landfill taxes. Any taxpayer who fails to comply with the new rates will be assessed tax, penalty and interest on any calculated balance of tax due.

Return packages containing the 1989 Consolidated Sanitary Landfill Tax Returns (Form SLT-5) with accompanying schedules and Instructions (Form SLT-5A) will be mailed to all taxpayers prior to January 1, 1989. Any inquiries regarding the Sanitary Landfill Taxes may be directed to: Special Audit Section, Division of Taxation, 50 Barrack Street, Trenton, NJ 08646, Telephone (609) 292-5300.

PERSONNEL

(b)

MERIT SYSTEM BOARD

Notice of Change of Public Hearing Dates Layoffs

Proposed New Rules: N.J.A.C. 4A:8
Proposed Repeals: N.J.A.C. 4:1-16.1 through 16.6;
4:1-24.2; 4:2-16.1, 4:2-16.2; 4:3-16.1 and 16.2

Take notice that the Department of Personnel has found it necessary to switch the dates of the Trenton and Pennsauken public hearings for the proposed rulemaking referenced in the heading above, notice of which was published in the December 5, 1988 New Jersey Register at 20 N.J.R. 2955(b).

The revised hearing schedule is as follows:

Thursday, January 5, 1989 at 5:30 P.M.
Office of Administrative Law
9 Quakerbridge Plaza, 1st Floor
Trenton, New Jersey

Tuesday, January 10, 1989 at 6:00 P.M.
Pennsauken Middle School
Cafeteria

8201 Park Avenue
Pennsauken, New Jersey

Thursday, January 12, 1989 at 6:00 P.M.
Essex County College
Lecture Hall 2131
303 University Avenue
Newark, New Jersey

In the event of cancellation of any of these hearings due to inclement weather, please plan to attend one of the other hearings or submit written comments. Notice of cancellation will be available through the telephone number listed below.

Please contact Ms. Dolores Carvill at 609-292-6568 if planning to be included in the list of speakers.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the November 7, 1988 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1988 d.1 means the first rule adopted in 1988.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT OCTOBER 17, 1988

NEXT UPDATE: SUPPLEMENT NOVEMBER 21, 1988

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
19 N.J.R. 2325 and 2510	December 21, 1987	20 N.J.R. 1501 and 1594	July 5, 1988
20 N.J.R. 1 and 124	January 4, 1988	20 N.J.R. 1595 and 1758	July 18, 1988
20 N.J.R. 125 and 220	January 19, 1988	20 N.J.R. 1759 and 1976	August 1, 1988
20 N.J.R. 221 and 320	February 1, 1988	20 N.J.R. 1977 and 2122	August 15, 1988
20 N.J.R. 321 and 434	February 16, 1988	20 N.J.R. 2123 and 2350	September 6, 1988
20 N.J.R. 435 and 570	March 7, 1988	20 N.J.R. 2351 and 2416	September 19, 1988
20 N.J.R. 571 and 692	March 21, 1988	20 N.J.R. 2417 and 2498	October 3, 1988
20 N.J.R. 693 and 842	April 4, 1988	20 N.J.R. 2499 and 2610	October 17, 1988
20 N.J.R. 843 and 950	April 18, 1988	20 N.J.R. 2611 and 2842	November 7, 1988
20 N.J.R. 951 and 1018	May 2, 1988	20 N.J.R. 2843 and 2948	November 21, 1988
20 N.J.R. 1019 and 1126	May 16, 1988	20 N.J.R. 2949 and 3046	December 5, 1988
20 N.J.R. 1127 and 1316	June 6, 1988	20 N.J.R. 3047 and 3182	December 19, 1988
20 N.J.R. 1317 and 1500	June 20, 1988		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-5.5	Non-lawyer representatives: consent orders and stipulations	20 N.J.R. 2845(a)		
1:1-10.4	Discovery: requests for admissions	20 N.J.R. 2845(b)		
1:1-14.3	Interpreters for hearing impaired	20 N.J.R. 2845(c)		
1:1-14.8	Proceedings on the papers: inaction by requesting party	20 N.J.R. 1979(c)	R.1988 d.517	20 N.J.R. 2749(a)
1:6-10.1	Discovery in school budget cases	20 N.J.R. 1980(a)	R.1988 d.516	20 N.J.R. 2749(b)
1:30-3.1	Regulatory flexibility analysis and proposed rulemaking	20 N.J.R. 573(a)		

Most recent update to Title 1: TRANSMITTAL 1988-4 (supplement September 19, 1988)

AGRICULTURE—TITLE 2				
2:2	Animal disease control program	20 N.J.R. 2419(a)		
2:24-2, 3	Registration and transportation of bees	20 N.J.R. 2951(a)		
2:32-2.2, 2.3, 2.10, 2.11, 2.13, 2.20, 2.22, 2.27, 2.28	Sire Stakes conditions	20 N.J.R. 2952(a)		
2:33	Agricultural fairs	20 N.J.R. 2954(a)		
2:52-1.6	Reporting by small milk dealers	20 N.J.R. 2955(a)		
2:68-1	Association standards for commercial feeds	20 N.J.R. 1671(c)	R.1988 d.528	20 N.J.R. 2749(c)
2:69	Commercial fertilizers and soil conditioners	20 N.J.R. 1673(a)	R.1988 d.527	20 N.J.R. 2750(a)
2:76-6.2, 6.5, 6.6, 6.9, 6.15, 6.16	Farmland development easements: residual dwelling sites	20 N.J.R. 1761(a)		
2:76-8	Acquisition of farmland in fee simple	20 N.J.R. 2501(a)		

Most recent update to Title 2: TRANSMITTAL 1988-7 (supplement October 17, 1988)

BANKING—TITLE 3				
3:1-16	Mortgage loan practices	20 N.J.R. 1021(b)		
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	20 N.J.R. 1025(a)	R.1988 d.524	20 N.J.R. 2750(b)
3:24-5.1	Licensed check cashing	20 N.J.R. 2353(a)		
3:38-5	Repeal (see 3:1-16)	20 N.J.R. 1021(b)		

Most recent update to Title 3: TRANSMITTAL 1988-6 (supplement October 17, 1988)

CIVIL SERVICE—TITLE 4				
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	20 N.J.R. 2955(b)		
4:2-16.1, 16.2	Repeal (see 4A:8)	20 N.J.R. 2955(b)		
4:3-16.1, 16.2	Repeal (see 4A:8)	20 N.J.R. 2955(b)		

Most recent update to Title 4: TRANSMITTAL 1988-3 (supplement September 19, 1988)

PERSONNEL—TITLE 4A				
4A:6-1.3, 1.10	Sick leave; leave without pay	20 N.J.R. 133(a)		
4A:6-1.3, 1.10	Sick leave, leave without pay: extension of comment period	20 N.J.R. 341(a)		
4A:8	Layoffs	20 N.J.R. 2955(b)		

Most recent update to Title 4A: TRANSMITTAL 1988-3 (supplement September 19, 1988)

COMMUNITY AFFAIRS—TITLE 5				
5:10	Maintenance of hotels and multiple dwellings	20 N.J.R. 2126(a)	R.1988 d.572	20 N.J.R. 3122(a)
5:10-1.3, 1.6, 1.10, 1.12, 1.17, 25	Fire safety in hotels and multiple dwellings	20 N.J.R. 2126(a)	R.1988 d.572	20 N.J.R. 3122(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance	19 N.J.R. 1777(a)	R.1988 d.521	20 N.J.R. 2752(a)
5:13-1.14	Limited dividend and nonprofit housing projects: payment in lieu of taxes	20 N.J.R. 2425(a)	R.1988 d.571	20 N.J.R. 3123(a)
5:15	Emergency shelters for the homeless	20 N.J.R. 341(b)		
5:23-3.15	Uniform Construction Code: plumbing subcode	20 N.J.R. 2846(c)		
5:23-4.3	Uniform Construction Code: assumption of local enforcement powers	20 N.J.R. 1764(a)		
5:23-4.4	Acting appointments: correction to text	_____	_____	20 N.J.R. 2823(a)
5:23-7.104, 7.116	Barrier Free Subcode: recreation standards	20 N.J.R. 1764(b)	R.1988 d.503	20 N.J.R. 2754(a)
5:23-8	Asbestos Hazard Abatement Subcode	20 N.J.R. 1130(b)		
5:27-1.3, 1.6, 5	Fire safety in rooming and boarding houses	20 N.J.R. 2126(a)	R.1988 d.572	20 N.J.R. 3122(a)
5:30	Local Finance Board rules: waiver of Executive Order No. 66 (1978) expiration provision	20 N.J.R. 1320(a)		
5:38	State intergovernmental review process for Federal programs and direct development activities	20 N.J.R. 2354(a)	R.1988 d.553	20 N.J.R. 3015(a)
5:70-6.3	Congregate Housing Services Program: service subsidy formula	20 N.J.R. 2426(a)	R.1988 d.576	20 N.J.R. 3123(b)
5:91-4.1	Council on Affordable Housing: adoption of housing element	20 N.J.R. 2613(b)		
5:91-14	Council on Affordable Housing: amending of certified municipal plan	20 N.J.R. 2613(c)		
5:92-6.1, 11.4, 11.5, 12.9, 16.6, App. F	Affordable housing council rules	20 N.J.R. 1673(b)	R.1988 d.566	20 N.J.R. 3123(c)
5:92-12.4	Initial pricing: correction to text	_____	_____	20 N.J.R. 3127(a)

Most recent update to Title 5: TRANSMITTAL 1988-10 (supplement October 17, 1988)

MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1 (supplement May 20, 1985)

EDUCATION—TITLE 6

6:2	Appeals to State Board	20 N.J.R. 2615(a)		
6:8-1.1, 4.3, 7.1	High school core proficiencies	20 N.J.R. 2619(a)		
6:11-12.5	Substance awareness coordinator	20 N.J.R. 1980(c)	R.1988 d.562	20 N.J.R. 3015(b)
6:20-2	Bookkeeping and accounting in local districts	20 N.J.R. 2502(a)		
6:20-5.7	Reimbursement to nonpublic schools for asbestos removal and encapsulation	20 N.J.R. 2505(a)		
6:22A-1	School facility lease purchase agreements	20 N.J.R. 2127(a)	R.1988 d.590	20 N.J.R. 3127(b)
6:29-4.2	Testing for tuberculosis infection	20 N.J.R. 1981(a)	R.1988 d.563	20 N.J.R. 3016(a)
6:39	High school core proficiencies	20 N.J.R. 2619(a)		
6:78-1.1, 1.2, 1.3	Marie H. Katzenbach School for the Deaf	20 N.J.R. 1678(a)	R.1988 d.534	20 N.J.R. 2754(b)

Most recent update to Title 6: TRANSMITTAL 1988-8 (supplement October 17, 1988)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1A-1.1, 1.2, 1.4, 1.6, 2.1-2.4, 2.8, 2.10, 2.12-2.15, 5.1, 5.2, 7	Replacement of contaminated wellfields	20 N.J.R. 2470(a)	R.1988 d.574	20 N.J.R. 3129(a)
7:1C-1.2, 1.5	90-day construction permits: fee structure for treatment works approvals	20 N.J.R. 135(a)		
7:1D	Allocation of costs for emergency water supply projects	20 N.J.R. 2197(a)	R.1988 d.589	20 N.J.R. 3135(a)
7:2	State Park Service: extension of comment period	20 N.J.R. 1035(a)		
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)	R.1988 d.570	20 N.J.R. 3135(b)
7:7-2.2	Coastal wetlands boundaries in Salem County	20 N.J.R. 349(b)		
7:7-2.3	Waterfront development	Emergency (expires 12-3-88)	R.1988 d.518	20 N.J.R. 2815(a)
7:7A-9.2, 9.4	Freshwater wetlands protection: Statewide general permits for certain activities	20 N.J.R. 1327(a)		
7:7E-3.46	Hudson River waterfront development	20 N.J.R. 1982(a)		
7:9-2	Repeal (see 7:9A)	20 N.J.R. 1790(a)		
7:9-4	Surface water quality standards: public hearings	20 N.J.R. 1865(a)		
7:9-4	Surface water quality standards: extension of comment period	20 N.J.R. 2427(a)		
7:9-4.4, 4.5, 4.6, 4.14, 4.15, Indexes A-G	Surface water quality standards	20 N.J.R. 1597(a)		
7:9A	Individual subsurface sewage disposal systems	20 N.J.R. 1790(a)		
7:9A	Individual subsurface sewage disposal systems: extension of comment period	20 N.J.R. 2427(b)		
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	20 N.J.R. 142(a)		
7:10-13.2, 13.10, 13.13	Industrial wastewater treatment systems: licensing of operators	20 N.J.R. 1141(b)		
7:10-16	Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water	19 N.J.R. 2228(a)		
7:14A-3.1	NJPDES permit requirements: discharges of dredged and fill material into freshwater wetlands and open waters	20 N.J.R. 1328(a)	R.1988 d.588	20 N.J.R. 3135(c)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:14A-5.12	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:14A-5.12	Closure of hazardous waste facilities	20 N.J.R. 2650(a)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)	R.1988 d.529	20 N.J.R. 2755(a)
7:15	Statewide water quality management planning	20 N.J.R. 2198(a)		
7:15-3.4	Correction to proposed new rule	20 N.J.R. 2478(a)		
7:20A	Water usage certifications for agricultural and horticultural purposes	20 N.J.R. 2663(a)		
7:22-10	Environmental assessment requirements for State-assisted wastewater treatment facilities	20 N.J.R. 1983(a)		
7:25-1.5, 8	Clam licenses	20 N.J.R. 2666(a)		
7:25-5.7	1989 Wild turkey season	20 N.J.R. 2217(a)	R.1988 d.530	20 N.J.R. 2757(a)
7:25-5.24	Bow and arrow provisions: correction to text			20 N.J.R. 2936(a)
7:25-6	1989-90 Fish Code	20 N.J.R. 1627(a)	R.1988 d.531	20 N.J.R. 2758(a)
7:25-16.1	Upstream fishing license line: administrative correction			20 N.J.R. 2936(b)
7:26-1.1, 1.4, 2.7, 2.11, 2.12, 2.13, 2A.8, 2B.4, 2B.8, 3.1-3.5, 3.7, 4.1-4.5, 4.7-4.10, 16.2, 16.3, 16.13	Solid waste facility and transporter registration fees	20 N.J.R. 2668(a)		
7:26-1.1, 1.4, 4, 4A, 7.3, 7.5, 12.2, 13A.6, 16.2, 16.3	Hazardous waste fee schedule	20 N.J.R. 1995(a)		
7:26-1.1, 1.4, 4, 4A	Hazardous waste fee schedule: extension of comment period	20 N.J.R. 2427(c)		
7:26-1.4, 1.7, 1.11, 1.12, 2.1, 2.4, 2.8, 2.13	Permit exemptions for composting facilities	Emergency (expires 12-25-88)	R.1988 d.547	20 N.J.R. 2817(a)
7:26-1.4, 7.4, 9.1, 12.1	Hazardous waste research and testing facilities: pre-proposal	20 N.J.R. 460(b)		
7:26-1.4, 9.8-9.11, 9.13, App. A, 12.3	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:26-1.4, 9.8, 9.9, 9.10, 9.11, 9.13, App. A, 12.3, 12.5	Closure of hazardous waste facilities	20 N.J.R. 2650(a)		
7:26-1.7	Exemption from registration: correction to text			20 N.J.R. 2936(c)
7:26-3A	Special medical waste	20 N.J.R. 2321(a)	R.1988 d.523	20 N.J.R. 2760(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Essex County	20 N.J.R. 1048(a)		
7:26-7.3, 7.4, 7.5, 7.6	Hazardous waste management	20 N.J.R. 867(a)		
7:26-7.4, 9.1, 12.1	Hazardous waste stored for reuse	20 N.J.R. 1329(a)		
7:26-12.9	Hazardous waste management: research, development and demonstration permits	20 N.J.R. 462(a)		
7:26B-1.10	Environmental Cleanup Responsibility Act: fee schedule	20 N.J.R. 2000(a)		
7:27-16.1, 16.3	Marine transfer of gasoline: vapor recovery program	20 N.J.R. 1866(a)		
7:27-23	Volatile organic substances in consumer products	20 N.J.R. 2002(a)		
7:27-25	Control and prohibition of air pollution by vehicular fuels	20 N.J.R. 1631(a)		
7:27-25	Control and prohibition of air pollution by vehicular fuels: extension of comment period	20 N.J.R. 2355(a)		
7:30	Pesticide Control Code	20 N.J.R. 579(a)	R.1988 d.538	20 N.J.R. 2865(a)
7:36	Green Acres Program	19 N.J.R. 2358(b)	R.1988 d.549	20 N.J.R. 2891(a)
7:45	Delaware and Raritan Canal: State Park review zone	20 N.J.R. 23(a)		
7:45	Delaware and Raritan Canal review zone: extension of comment period	20 N.J.R. 552(c)		

Most recent update to Title 7: TRANSMITTAL 1988-10 (supplement October 17, 1988)

HEALTH—TITLE 8

8:31A-7.2, 7.4, 7.5, 7.11	Reimbursement for new SHARE facilities	20 N.J.R. 1633(a)	R.1988 d.544	20 N.J.R. 2897(a)
8:31B-3.19	Hospital reimbursement: burn care unit reporting	20 N.J.R. 2541(a)		
8:31B-3.43	General acute care hospitals: implementation of proposed schedule of rates	20 N.J.R. 2542(a)		
8:31B-3.44	Hospital reimbursement: DRG outliers	20 N.J.R. 2542(b)		
8:31B-3, App. II	Hospital reimbursement: laundry and linen cost center	20 N.J.R. 2543(a)		
8:31B-4.37	Uncompensated Care Trust Fund: charity care eligibility and charges	20 N.J.R. 2219(a)		
8:31B-4.41	Hospital reimbursement: uncompensated care audit functions	20 N.J.R. 2959(a)		
8:31C	Residential alcoholism treatment: facility rate setting	20 N.J.R. 2960(a)		
8:33E-1.2, 1.11	Cardiac diagnostic facilities: pediatric patients; new facilities	20 N.J.R. 2847(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:33E-2.3, 2.4	Cardiac surgery centers: pediatric patients; surgery teams	20 N.J.R. 2848(a)		
8:33J-1.3	Nuclear Magnetic Resonance (NMR)/Magnetic Resonance Imaging (MRI) demonstration period	20 N.J.R. 2220(a)	R.1988 d.573	20 N.J.R. 3136(a)
8:34	Licensing of nursing home administrators	20 N.J.R. 2355(b)	R.1988 d.567	20 N.J.R. 3136(b)
8:39-41.3, 42.2	Long-term care facilities: excessive heat emergency plan	20 N.J.R. 2543(b)		
8:43-4.11	Residential health care facilities: hot water temperature	20 N.J.R. 2221(a)	R.1988 d.578	20 N.J.R. 3136(c)
8:43B-1.10	Hospital facilities: confidentiality of patient information	20 N.J.R. 2221(b)		
8:43B-18	Hospital anesthesiology standards	20 N.J.R. 2544(a)		
8:44	Operation of clinical laboratories	20 N.J.R. 2222(a)	R.1988 d.561	20 N.J.R. 3017(a)
8:60-2.1 (12:120-2.1)	Asbestos removal defined	20 N.J.R. 1049(a)		
8:60-2.1 (12:120-2.1)	Asbestos removal defined: extension of comment period	20 N.J.R. 1507(b)		
8:70-1.5	Interchangeable drug products: substitution of unlisted generics	20 N.J.R. 2623(a)		
8:71	Interchangeable drug products (see 20 N.J.R. 900(a), 1461(a), 1711(b))	20 N.J.R. 146(a)	R.1988 d.509	20 N.J.R. 2768(a)
8:71	Interchangeable drug products (see 20 N.J.R. 1710(b), 2376(d))	20 N.J.R. 871(a)	R.1988 d.510	20 N.J.R. 2768(b)
8:71	Interchangeable drug products	20 N.J.R. 1766(a)	R.1988 d.511	20 N.J.R. 2769(a)
8:71	Interchangeable drug products	20 N.J.R. 2356(a)		

Most recent update to Title 8: TRANSMITTAL 1988-9 (supplement October 17, 1988)

HIGHER EDUCATION—TITLE 9

9:1	Licensing and degree approval standards	20 N.J.R. 2965(a)		
9:3	Facilities planning for public colleges and universities	20 N.J.R. 1768(a)	R.1988 d.506	20 N.J.R. 2771(a)
9:4-1.5	Chargeback for disability-specific programs at county colleges	20 N.J.R. 1330(a)	R.1988 d.519	20 N.J.R. 2771(b)
9:7-3.5	Tuition Aid Grant Program: part-time students	20 N.J.R. 2007(a)	R.1988 d.533	20 N.J.R. 2772(a)
9:7-4.2, 4.3, 4.4	Garden State Scholarships	20 N.J.R. 1635(a)	R.1988 d.532	20 N.J.R. 2772(b)
9:7-6.4	Garden State Graduate Fellowships: approved programs	20 N.J.R. 2624(a)		
9:7-8.1	Vietnam Veterans Tuition Aid: eligibility	20 N.J.R. 2625(a)		
9:11	Educational Opportunity Fund Program	20 N.J.R. 2506(a)		
9:11-1.1	Educational Opportunity Fund grants: student eligibility	20 N.J.R. 1768(b)		
9:11-1.6, 1.8, 1.9, 1.20	EOF grants: eligibility procedure; refunds	20 N.J.R. 1769(a)		
9:11-1.7	EOF grants: award amounts	20 N.J.R. 1770(a)		
9:12	Educational Opportunity Fund Program	20 N.J.R. 2506(a)		
9:12-2.6, 2.9	EOF grants: eligibility procedure; refunds	20 N.J.R. 1769(a)		

Most recent update to Title 9: TRANSMITTAL 1988-6 (supplement October 17, 1988)

HUMAN SERVICES—TITLE 10

10:1-2	Public comment procedure and petitions for rulemaking	20 N.J.R. 1050(a)	R.1988 d.504	20 N.J.R. 2773(a)
10:3	Contract administration	20 N.J.R. 1771(a)	R.1988 d.513	20 N.J.R. 2898(a)
10:3-1.14	Contract administration: prohibited vendor activity	20 N.J.R. 2849(a)		
10:4	Communication with communities regarding development of group homes: extension of comment period	20 N.J.R. 149(a)		
10:14-1.4, 4.1, 6.3	Statewide Respite Care Program	20 N.J.R. 1051(a)	R.1988 d.505	20 N.J.R. 2774(a)
10:31	Mental illness screening and screening outreach programs	20 N.J.R. 2427(d)		
10:37-5.6, 5.16	Repeal (see 10:31)	20 N.J.R. 2427(d)		
10:39	Group homes for mentally ill: operating standards	20 N.J.R. 2547(a)		
10:41-2	Services to developmentally disabled: confidentiality of client records	20 N.J.R. 2435(a)		
10:41-4	Human rights committees for developmentally disabled persons	20 N.J.R. 2552(a)		
10:43	Guardians for developmentally disabled persons: determination of need	20 N.J.R. 2850(a)		
10:44A	Licensed community residences for developmentally disabled	20 N.J.R. 149(b)	R.1988 d.546	20 N.J.R. 2898(b)
10:46	Services for developmentally disabled: determination of eligibility	20 N.J.R. 2008(a)		
10:48-2	Control of viral hepatitis B among developmentally disabled	20 N.J.R. 2437(a)		
10:48-3	Lead toxicity control among developmentally disabled	20 N.J.R. 2555(a)		
10:48-3	Lead Toxicity Control Program: comment period	20 N.J.R. 2688(a)		
10:49-1.12	Timely claim submittal—pharmaceutical services	20 N.J.R. 1642(a)	R.1988 d.541	20 N.J.R. 2915(a)
10:54-4	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:54-4.5	Medicaid reimbursement for physician's services	20 N.J.R. 2558(a)		
10:56-3.7, 3.10	Medicaid reimbursement for dental services	20 N.J.R. 2558(a)		
10:58-1.2, 3	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:61-3.2	Medicaid reimbursement for independent laboratory services	20 N.J.R. 2558(a)		
10:62-1, 2, 3	Vision Care Manual	20 N.J.R. 956(c)	R.1988 d.580	20 N.J.R. 3147(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:63-1.11, 1.19	Use of personal needs allowance in long-term care facilities	20 N.J.R. 1144(a)	R.1988 d.556	20 N.J.R. 3017(b)
10:63-3.9-3.12	Reimbursement of long-term care facilities: fixed property and movable equipment	20 N.J.R. 2560(a)		
10:63-3.10	Reimbursement of long-term care facilities under CARE Guidelines: correction	20 N.J.R. 2968(a)		
10:66	Independent Clinic Services Manual	20 N.J.R. 2562(a)		
10:66-1.6, 3	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:66-3.2	Medicaid reimbursement for independent clinic services	20 N.J.R. 2558(a)		
10:69B	Lifeline Credit/Tenants Lifeline Assistance programs	20 N.J.R. 2440(a)	R.1988 d.575	20 N.J.R. 3153(a)
10:81-14	Realizing Economic Achievement (REACH) program	20 N.J.R. 2222(b)	R.1988 d.551	20 N.J.R. 2916(a)
10:82-5.10	Emergency Assistance in AFDC: temporary shelter allowances	20 N.J.R. 1147(a)		
10:83-1	Special Payments Handbook for SSI recipients	20 N.J.R. 2563(a)		
10:85-3.2	General Assistance: residency in therapeutic care facility	20 N.J.R. 2968(b)		
10:85-3.3	General Assistance: income-in-kind	20 N.J.R. 2238(a)		
10:85-3.3	Medically Needy eligibility	20 N.J.R. 2688(b)		
10:87	Food Stamp Program	20 N.J.R. 2689(a)		
10:87-12.1-12.4, 12.7	Food Stamp Program: income deductions, coupon allotment, maximum allowable income	Emergency (expires 11-29-88)	R.1988 d.512	20 N.J.R. 2592(a)
10:100-3, App. A	Special Payments Handbook for SSI recipients (Recodified to 10:83-1)	20 N.J.R. 2563(a)		
10:120	Youth and Family Services hearings	20 N.J.R. 2742(a)		
10:124-1.2, 4.11, 5.2, 6.5	Shelters accepting juveniles: corrections to text	_____	_____	20 N.J.R. 3169(d)
10:126	Registration of family day care providers	20 N.J.R. 1508(a)	R.1988 d.507	20 N.J.R. 2774(b)
10:127-4.10, 4.19, 5.1, 5.3	Residential child care facilities: corrections to text	_____	_____	20 N.J.R. 3170(a)

Most recent update to Title 10: TRANSMITTAL 1988-10 (supplement October 17, 1988)

CORRECTIONS—TITLE 10A

10A:1-11.3, 11.8	Personal property of inmates	20 N.J.R. 2746(a)		
10A:3-5.2	Institutional search plan	20 N.J.R. 2441(a)	R.1988 d.582	20 N.J.R. 3155(a)
10A:4-11.9, 12	Inmate discipline: appeal to Office of Administrative Law	20 N.J.R. 496(b)	R.1988 d.543	20 N.J.R. 2928(a)
10A:4-11.9, 12	Inmate appeals to Office of Administrative Law: public hearing	20 N.J.R. 880(b)		
10A:5-5.2	Involuntary placement to protective custody: hearing procedure	20 N.J.R. 2746(b)		
10A:9-4.6	Open charges and reduced custody status	20 N.J.R. 880(a)		
10A:16-2.9	Infirmary care	20 N.J.R. 2969(a)		
10A:16-4.1, 4.2, 4.8	Psychological services at correctional facilities	20 N.J.R. 2128(a)	R.1988 d.542	20 N.J.R. 2929(a)
10A:16-6.6	Infants born to female inmates	20 N.J.R. 2747(a)		
10A:18-2.6, 2.19, 2.20, 2.22	Inmate correspondence	20 N.J.R. 2854(a)		
10A:32-6.5	Temporary restriction of juveniles	20 N.J.R. 2442(a)		
10A:34-2.8	Municipal cell equipment	20 N.J.R. 2442(b)	R.1988 d.583	20 N.J.R. 3155(b)
10A:71-2.1, 3.4, 3.28	Parole Board rules	20 N.J.R. 2129(a)		
10A:71-3.21, 6.4	State Parole Board: juvenile inmates; conditions of parole	20 N.J.R. 2747(b)		

Most recent update to Title 10A: TRANSMITTAL 1988-8 (supplement October 17, 1988)

INSURANCE—TITLE 11

11:1-5.1	FAIR plan surcharge: repeal rule	20 N.J.R. 2507(a)		
11:1-10	Foreign and alien property and casualty insurers: admission requirements	20 N.J.R. 2130(a)		
11:2-1, 19	Repeal (see 11:17-3, 5.7)	20 N.J.R. 1152(a)		
11:2-3	Credit life and credit accident and health insurance: preproposal	20 N.J.R. 2969(b)		
11:3-13.5, 14.1, 14.3, 14.5, 14.6, 14.7, 15.1-15.8	Private passenger automobile coverage: standards for written notice to buyers	20 N.J.R. 2984(a)		
11:2-17.3, 17.10	Replacement parts for damaged automobiles	20 N.J.R. 1159(a)	R.1988 d.480	20 N.J.R. 2578(a)
11:3-16	Private passenger automobile rate filings for voluntary market	20 N.J.R. 2135(a)		
11:3-24	Automobile coverage: policy constants	20 N.J.R. 2508(a)		
11:4-16.6, 16.8, 23.6, 23.8, Appendices	Medicare Supplement insurance coverage, benefits and premiums	20 N.J.R. 2510(a)	R.1988 d.587	20 N.J.R. 3155(c)
11:4-29	Homeowners price comparison survey	20 N.J.R. 2181(a)		
11:4-30	Hospital preadmission certification programs (HPCPs)	20 N.J.R. 880(c)		
11:4-31	Term life insurance comparison survey	20 N.J.R. 2990(a)		
11:5	Real Estate Commission rules	20 N.J.R. 2184(a)	R.1988 d.555	20 N.J.R. 3019(a)
11:5-1.16	Real estate listing agreements	20 N.J.R. 2185(a)		
11:5-1.18	Supervision of real estate offices	20 N.J.R. 1160(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:5-1.23	Real estate licensee's obligation to disclose certain information concerning a property and to submit to a seller all written offers: pre-proposal	19 N.J.R. 2238(a)		
11:5-1.23	Real estate offers and broker's obligations	20 N.J.R. 2186(a)		
11:5-1.34	Discriminatory commission—split policies	20 N.J.R. 1163(a)		
11:17-3, 5.7	Insurance producer licensing: professional qualifications	20 N.J.R. 1152(a)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge	20 N.J.R. 2010(a)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: correction	20 N.J.R. 2186(b)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: public hearing	20 N.J.R. 2478(d)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: extension of open hearing record	20 N.J.R. 2855(a)		

Most recent update to Title 11: TRANSMITTAL 1988-7 (supplement October 17, 1988)

LABOR—TITLE 12

12:3-1	Debarment from contracting; conflicts of interest	20 N.J.R. 2519(a)	R.1988 d.584	20 N.J.R. 3137(a)
12:15-1.3-1.7	1989 Unemployment Compensation weekly benefit, taxable wage base, local government contribution rate, base week, and alternate earnings test	20 N.J.R. 2187(a)	R.1988 d.535	20 N.J.R. 2786(a)
12:16-21	Employer reporting of workplace and residential zip codes of employees	20 N.J.R. 2625(a)		
12:17-1.6	Unemployment insurance benefits: temporary separation from work	20 N.J.R. 1333(a)		
12:17-2.4, 2.5	Requalification for unemployment insurance benefits	20 N.J.R. 1522(a)		
12:41-1	Job Training Partnership Act: grievance procedures	20 N.J.R. 2626(a)		
12:58-4.12	Minor employees in meat industry	20 N.J.R. 2357(a)	R.1988 d.548	20 N.J.R. 2929(b)
12:60-8	Public works and EDA projects: debarment from contracting	20 N.J.R. 2520(a)		
12:100-4.2	Public employee safety and health: access to exposure and medical records	20 N.J.R. 2995(a)		
12:100-4.2, 5.2, 6.2, 7	Public employee safety and health: toxic and hazardous substances	20 N.J.R. 2013(a)		
12:100-9.18	Public employee safety and health: work in confined spaces	20 N.J.R. 2855(b)		
12:120-2.1 (8:60-2.1)	Asbestos removal defined	20 N.J.R. 1049(a)		
12:120-2.1 (8:60-2.1)	Asbestos removal defined: extension of comment period	20 N.J.R. 1507(b)		
12:175	Ski lift safety	20 N.J.R. 2521(a)	R.1988 d.585	20 N.J.R. 3138(a)
12:235-1.6	1989 Workers' Compensation maximum weekly benefit	20 N.J.R. 2188(a)	R.1988 d.536	20 N.J.R. 2786(b)
12:235-3.11-3.23	Workers' Compensation: conduct of compensation judges	20 N.J.R. 2442(c)		
12:235-13	Uninsured Employers' Fund and Second Injury Fund: surcharge collection	20 N.J.R. 2522(a)	R.1988 d.586	20 N.J.R. 3139(a)

Most recent update to Title 12: TRANSMITTAL 1988-8 (supplement October 17, 1988)

COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:12-2.10	Local Development Financing Fund program: information confidentiality	20 N.J.R. 2524(a)		
12A:60	Methodology for computing energy cost savings	20 N.J.R. 2238(b)	R.1988 d.545	20 N.J.R. 2929(c)
12A:80-1	Urban Small Business Incubator Program	20 N.J.R. 2524(b)		
12A:81-1	Urban Development Program	20 N.J.R. 2527(a)		
12A:82-1	Neighborhood Development Corporation	20 N.J.R. 2530(a)		
12A:121	Urban enterprise zone boundaries	20 N.J.R. 2358(a)	R.1988 d.565	20 N.J.R. 3020(a)

Most recent update to Title 12A: TRANSMITTAL 1988-5 (supplement September 19, 1988)

LAW AND PUBLIC SAFETY—TITLE 13

13:3-3.4, 3.5, 3.6	Amusement games: preproposal concerning player fees and value of prizes	20 N.J.R. 44(a)		
13:3-5, 6	Amusement games control: disciplinary proceedings and appeals	20 N.J.R. 2032(a)	R.1988 d.500	20 N.J.R. 2787(a)
13:4-3.4, 3.5, 8.2	Discrimination complaints: confidentiality of parties' identities	20 N.J.R. 499(a)		
13:20-39	Special motor vehicle plates for nonprofit organizations	20 N.J.R. 2033(a)	R.1988 d.537	20 N.J.R. 2788(a)
13:21-11.13	Temporary registration of motor vehicles	20 N.J.R. 176(a)		
13:21-22	Certificates of title for salvage motor vehicles	20 N.J.R. 2675(a)		
13:26	Transportation of bulk commodities	20 N.J.R. 2035(a)	R.1988 d.502	20 N.J.R. 2790(a)
13:27-5.8, 8.7, 8.8, 8.15	Certification of landscape architects	20 N.J.R. 2359(a)		
13:29-6	Practice of accountancy: continuing education	20 N.J.R. 2532(a)		
13:30-8.5	Board of Dentistry: access to complaint history of licensees	20 N.J.R. 2680(a)		
13:34	Board of Marriage Counselor Examiners	20 N.J.R. 2361(a)	R.1988 d.550	20 N.J.R. 2932(a)
13:37-1.1, 1.2	Accreditation of nursing programs	20 N.J.R. 1645(b)	R.1988 d.558	20 N.J.R. 3021(a)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:38-1, 2.1, 2.3, 2.5, 2.7, 6.1	Practice of optometry: advertising; access to optometrist; patient records	20 N.J.R. 2361(b)	
13:38-2.11	Practice of optometry: delegation of duties to ancillary personnel	20 N.J.R. 2363(a)	
13:38-2.11	Practice of optometry: public hearing on delegation of duties to ancillary personnel	20 N.J.R. 2995(b)	
13:39	Board of Pharmacy rules	20 N.J.R. 1648(a)	
13:39A-3.2	Unlawful practices and arrangements by physical therapists: preproposal	20 N.J.R. 2242(a)	
13:39A-5.1	Educational requirements for licensure as physical therapist	20 N.J.R. 2243(a)	
13:40-10.1	Professional engineers and land surveyors: contract to provide services	20 N.J.R. 2243(b)	
13:42	Board of Psychological Examiners	20 N.J.R. 2244(a)	R.1988 d.557
13:44-1.1	Qualified graduate of veterinary medicine	20 N.J.R. 2680(b)	
13:44C-10.1	Audiologist and speech-language pathologist licensure: administrative correction	_____	20 N.J.R. 3140(a)
13:44D	Public movers and warehousemen	20 N.J.R. 2364(a)	
13:44D	Public movers and warehousemen: public hearing and extension of comment period	20 N.J.R. 2681(a)	
13:45A-11.1	Advertising and sale of new merchandise	20 N.J.R. 2247(a)	
13:45A-25	Health club services	20 N.J.R. 2036(a)	R.1988 d.520
13:45A-26	Automotive dispute resolution: Lemon Law implementation	20 N.J.R. 2681(b)	20 N.J.R. 2790(b)
13:45B-4, 5	Temporary help service firms; booking agencies	20 N.J.R. 2684(a)	
13:46-1A.3	Athletic Control Board: weighing of boxers	20 N.J.R. 380(a)	
13:47B	Commercial weighing and measuring devices	20 N.J.R. 2856(a)	
13:49	State Medical Examiner rules	20 N.J.R. 2687(a)	
13:49	State Medical Examiner: standards and procedures	20 N.J.R. 2856(b)	
13:70-1.30	Thoroughbred racing: horsemen's associations and surplus funds	20 N.J.R. 2995(c)	
13:70-5	Thoroughbred racing: registration of colors	20 N.J.R. 2536(a)	
13:70-9.29	Thoroughbred racing: apprentice jockey weight allowance	20 N.J.R. 2996(a)	
13:70-9.30	Thoroughbred racing: apprentice jockey contracts	20 N.J.R. 2996(b)	
13:70-11.12	Thoroughbred racing: abusive whipping by jockey	20 N.J.R. 2038(a)	R.1988 d.559
13:70-19.22	Thoroughbred racing: determining finishing place	20 N.J.R. 2038(b)	R.1988 d.560
13:71-1.25	Harness racing: horsemen's associations and surplus funds	20 N.J.R. 2997(a)	20 N.J.R. 3025(a)
13:75-1.7	Violent crimes compensation: prosecution of offender	20 N.J.R. 736(b)	
13:78	Advocacy fund for crime victims and witnesses	20 N.J.R. 2997(b)	
13:80-1	Hazard Waste Management Information Awards	20 N.J.R. 507(b)	

Most recent update to Title 13: TRANSMITTAL 1988-9 (supplement October 17, 1988)

PUBLIC UTILITIES—TITLE 14

14:3-7.5	Interest on customer deposits	20 N.J.R. 737(a)	R.1988 d.568	20 N.J.R. 3140(b)
14:3-7.13	Collection activity on disputed charges; interest on overpayments	20 N.J.R. 963(b)	R.1988 d.569	20 N.J.R. 3141(a)
14:3-7.14	Discontinuance of residential service to tenants	20 N.J.R. 1668(a)		
14:3-9.6	Solid waste: filing contracts for service (preproposal)	20 N.J.R. 1669(a)		
14:3-10.3, 10.5, 10.15	Solid waste: out-of-state solid waste collectors (preproposal)	20 N.J.R. 1669(c)		
14:3-10.15	Annual filing of customer lists by solid waste collectors; annual reports	20 N.J.R. 2629(a)		
14:3-10.20	Solid waste: itemized billing (preproposal)	20 N.J.R. 1670(a)		
14:3-10.21	Solid waste: violations, penalties (preproposal)	20 N.J.R. 1670(b)		
14:3-10.22	Solid waste: contracts (preproposal)	20 N.J.R. 1669(b)		
14:9-4.3	Solid waste: decals for vehicles (preproposal)	20 N.J.R. 1671(a)		
14:9-4.4	Solid waste: container identification (preproposal)	20 N.J.R. 1671(b)		
14:18-15.1	Preproposal: Statewide cable TV access channel for educational and public affairs programming	20 N.J.R. 1063(a)		

Most recent update to Title 14: TRANSMITTAL 1988-1 (supplement January 19, 1988)

ENERGY—TITLE 14A

14A:14	Certificate of need for electrical facilities	20 N.J.R. 2188(b)		
14A:14	Certificate of need for electrical facilities: public hearing	20 N.J.R. 2861(a)		

Most recent update to Title 14A: TRANSMITTAL 1988-2 (supplement May 16, 1988)

STATE—TITLE 15

15:2-2, 3	Preclearance of corporation documents and adoption of corporation name	20 N.J.R. 2998(a)		
-----------	--	-------------------	--	--

Most recent update to Title 15: TRANSMITTAL 1988-2 (supplement September 19, 1988)

PUBLIC ADVOCATE—TITLE 15A

Most recent update to Title 15A: TRANSMITTAL 1987-1 (supplement April 20, 1987)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
TRANSPORTATION—TITLE 16				
16:21-1.2, 3.1	State aid to counties and municipalities	20 N.J.R. 2999(a)		
16:21A-1.3, 3.1	State aid for bridge rehabilitation	20 N.J.R. 3000(a)		
16:22-1.3, 3.1	State aid for urban revitalization, special demonstration and emergency projects	20 N.J.R. 3000(b)		
16:28-1.6, 1.14, 1.44	Speed limit zones along U.S. 40 in Salem County, Route 33 in Monmouth County, and Route 27 in Middlesex County	20 N.J.R. 2630(a)		
16:28-1.13	Speed limit zone along Route 20 in Paterson	20 N.J.R. 2631(a)		
16:28-1.41	Speed limits along U.S. 9 in Atlantic County and Ocean County	20 N.J.R. 2190(a)	R.1988 d.540	20 N.J.R. 2932(a)
16:28-1.72	School zone along U.S. 206 in Montaque Township	20 N.J.R. 2862(a)		
16:28-1.79, 1.81	Speed limit zones along Route 49 in Salem County and Route 94 in Sussex County	20 N.J.R. 2632(a)		
16:28-1.130	Speed limit zones along Route 66 in Monmouth County	20 N.J.R. 2633(a)		
16:28A-1.4, 1.11, 1.21, 1.38	Bus stop zones and no stopping or standing along Routes 4, 21, and 71, and U.S. 30	20 N.J.R. 2862(b)		
16:28A-1.7, 1.22, 1.32, 1.34	Parking restrictions along U.S. 9 in Tuckerton, Route 31 in Hopewell, U.S. 46 in Mountain Lakes, and Route 49 in Pennsville	20 N.J.R. 2633(b)		
16:28A-1.7, 1.38	Parking restrictions along U.S. 9 in Howell and Route 71 in Asbury Park and Manasquan	20 N.J.R. 2189(a)	R.1988 d.539	20 N.J.R. 2933(a)
16:28A-1.9	Bus stop zone along Route 17 in Ho-Ho-Kus	20 N.J.R. 2374(a)	R.1988 d.552	20 N.J.R. 2933(b)
16:28A-1.20	Parking restrictions along Route 29 in Lambertville	20 N.J.R. 3001(a)		
16:28A-1.21, 1.51, 1.53, 1.68	Parking restrictions along U.S. 30 and Route 168 in Camden County, Route 179 in Lambertville, and Route 93 in Leonia	20 N.J.R. 3001(b)		
16:30-3.6	Exclusive bus and HOV lanes along Routes 3 and 495 into Manhattan	20 N.J.R. 737(b)		
16:30-4.2	Bicycle restrictions along Route 88 in Point Pleasant	19 N.J.R. 2254(a)		
16:30-10.9	Middblock crosswalk along U.S. 9 in Galloway Township	20 N.J.R. 2635(a)		
16:32-3.5, 3.6, App. A	102-inch truck standard network; Route 47 access	20 N.J.R. 2536(b)		
16:44-1.2	Classification of prospective bidders for department projects	20 N.J.R. 3004(a)		
16:49-1.3, 1.5, 1.6, 2.1, App.	Transportation of hazardous materials: intrastate shipments of combustible liquids	20 N.J.R. 3005(a)		
16:51-1.3, 1.4, 1.6, 3.1, 4.3-4.7	Practice and procedure before Office of Regulatory Affairs concerning autobus operations, companies, and services	20 N.J.R. 2635(b)		
16:53D	Regular route autobus carriers: zone of rate freedom	20 N.J.R. 2374(b)		
16:54-1.4	Licensing of aeronautical facilities	20 N.J.R. 2638(a)		
16:62-1.1, 1.2, 3.2, 3.5, 5.1, 9.1, 10.1	Land use within airport hazard areas	20 N.J.R. 3007(a)		
16:62-5.1, 9.1	Land uses within airport hazard areas: preproposal	20 N.J.R. 1534(a)		
16:76	NJ TRANSIT: private carrier capital improvement	20 N.J.R. 2638(b)		
16:80	NJ TRANSIT: Section 16(b)(2) Capital Assistance Program	20 N.J.R. 2044(b)	R.1988 d.515	20 N.J.R. 2791(a)
16:81	NJ TRANSIT: Small Urban and Rural Area Public Transportation Program	20 N.J.R. 2046(a)	R.1988 d.514	20 N.J.R. 2793(a)

Most recent update to Title 16: TRANSMITTAL 1988-10 (supplement October 17, 1988)

TREASURY-GENERAL—TITLE 17

17:1-1.18	Public retirement systems: disbursement checks	20 N.J.R. 2639(a)		
17:6	Consolidated Police and Firemen's Pension Fund	20 N.J.R. 2537(a)	R.1988 d.579	20 N.J.R. 3142(a)
17:7	Prison Officers' Pension Fund	20 N.J.R. 2375(a)	R.1988 d.577	20 N.J.R. 3142(b)
17:8-3.3	Supplemental Annuity Collective Trust: lump sum distributions	20 N.J.R. 2192(a)	R.1988 d.554	20 N.J.R. 3026(a)
17:9-1.8	State Health Benefits Program: enrollment policy	20 N.J.R. 2863(a)		
17:19-10.4, 10.5, 10.7, 10.9	Architect/engineer selection procedures	20 N.J.R. 180(a)		
17:20	Lottery Commission rules	20 N.J.R. 2048(a)	R.1988 d.501	20 N.J.R. 2795(a)
17:25	Collection of delinquent educational loans from local government employees	20 N.J.R. 2537(b)		
17:27	Affirmative action and public contracts	20 N.J.R. 1780(a)	R.1988 d.522	20 N.J.R. 2795(b)
17:27	Affirmative action and public contracts: chapter expiration date			20 N.J.R. 2934(a)

Most recent update to Title 17: TRANSMITTAL 1988-9 (supplement October 17, 1988)

TREASURY-TAXATION—TITLE 18

18:6-7.13	Wholesaling of prepackaged cigarettes	20 N.J.R. 2192(b)		
18:12-10	Real property defined	20 N.J.R. 1787(a)	R.1988 d.581	20 N.J.R. 3142(c)
18:26-2.5, 2.7, 5.9, 5.17, 5.19, 6.1, 6.2, 6.3, 7.10, 8.1, 8.6,	Transfer inheritance tax rules	20 N.J.R. 2193(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8.7, 8.12, 9.4, 9.10, 12.2, App. A 18:35-1.24	Gross income tax: investment fund distributions	20 N.J.R. 742(b)		

Most recent update to Title 18: TRANSMITTAL 1988-4 (supplement September 19, 1988)

TITLE 19—OTHER AGENCIES

19:4-5.3A, 6.28	Planned development center specially planned areas (PDC-1)	20 N.J.R. 2247(b)		
19:8-10.1	Garden State Parkway: pre-employment screening	20 N.J.R. 2864(a)		
19:9-1.2	Speed limitation on constructor vehicles	20 N.J.R. 2864(b)		
19:25-1.7, 4.6, 6.1, 8.1, 9.8, 10.6, 10.8, 11.6, 11.8, 12.4, 15.14, 16.11	Reporting and record keeping	20 N.J.R. 2640(a)		
19:25-1.7, 4.7, 8.3, 9.6, 10.4, 11.9, 12.2	Campaign reporting	20 N.J.R. 3009(a)		
19:25-15.4, 15.5, 15.14, 15.16, 15.17, 15.20, 15.26, 15.46	Public financing of general election for governor	20 N.J.R. 2642(a)		

Most recent update to Title 19: TRANSMITTAL 1988-5 (supplement October 17, 1988)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

19:40-1.2	Junket activities and representatives	20 N.J.R. 2644(a)		
19:40-2	Access to information maintained by casino licensees	20 N.J.R. 1068(a)		
19:40-2	Access to information maintained by casino licensees: public hearing	20 N.J.R. 2049(b)		
19:41-9.4, 9.6, 9.7, 9.11, 9.11A, 9.12, 9.18, 9.20	Billing rates for Commission and Gaming Enforcement services; special assessment	20 N.J.R. 2539(a)	R.1988 d.591	20 N.J.R. 3146(a)
19:41-9.16	Deletion of endorsement from employee license	20 N.J.R. 2647(a)		
19:42-4.2-4.7	Exclusion of persons hearings	20 N.J.R. 2250(a)	R.1988 d.526	20 N.J.R. 2801(a)
19:44	Gaming schools: licensure and standards	20 N.J.R. 2050(a)	R.1988 d.508	20 N.J.R. 2802(a)
19:45-1.1, 1.15, 1.24, 1.24A, 1.24B	Wire transfers of funds	20 N.J.R. 3012(a)		
19:45-1.9	Junket activities and representatives	20 N.J.R. 2644(a)		
19:45-1.20	Marking baccarat vigorish	20 N.J.R. 2647(b)		
19:45-1.25	Verification of cash equivalents	20 N.J.R. 1789(a)		
19:45-1.33, 1.42, 1.43	Count times for cash and coin	19 N.J.R. 2265(a)		
19:45-1.40, 1.41	Jackpot payout and hopper fill forms	20 N.J.R. 2050(b)		
19:45-1.40B	Inspection of slot machine jackpots	20 N.J.R. 2648(a)		
19:46-1.7, 1.9	Roulette wheels	20 N.J.R. 2445(a)		
19:47-2.15	Blackjack irregularities	20 N.J.R. 3014(a)		
19:47-3.3	Marking baccarat vigorish	20 N.J.R. 2647(b)		
19:48	Exclusion of persons	20 N.J.R. 2252(a)	R.1988 d.525	20 N.J.R. 2802(b)
19:49-1.1, 1.2, 1.3, 2.1, 2.4, 3.1, 3.2, 3.5, 3.6	Junket activities and representatives	20 N.J.R. 2644(a)		
19:49-3.1, 3.2, 3.3	Junket reporting requirements	20 N.J.R. 2648(b)		
19:52-1.3	Musical entertainment	20 N.J.R. 2649(a)		
19:53-2	Set-aside goals for minority and women's business enterprises	20 N.J.R. 2446(a)		

Most recent update to Title 19K: TRANSMITTAL 1988-8 (supplement October 17, 1988)



OFFICE OF ADMINISTRATIVE LAW PUBLICATIONS

NEW JERSEY ADMINISTRATIVE CODE

- [] FULL SET (INCLUDES ALL TITLES BELOW) \$1200
INDIVIDUAL TITLES (CIRCLE TITLES DESIRED)*
- 1. Administrative Law \$ 55
 - 2. Agriculture \$ 55
 - 3. Banking \$ 55
 - 4A. Personnel (formerly Civil Service) \$ 55
 - 5. Community Affairs (two volumes) \$110
 - 5A. Military and Veterans' Affairs \$ 55
 - 6. Education (two volumes) \$110
 - 7. Environmental Protection (four volumes) \$220
 - 8. Health (four volumes) \$220
 - 9. Higher Education \$ 55
 - 10. Human Services (four volumes) \$220
 - 10A. Corrections \$ 55
 - 11. Insurance \$ 55
 - 12. Labor (two volumes) \$110
 - 12A. Commerce, Energy and Economic Development \$ 55
 - 13. Law and Public Safety (four volumes) \$220
 Volume C (Alcoholic Beverage Control and
 Amusement Games Rules) only \$ 55
 - 14/14A. Public Utilities/Energy \$ 55
 - 15. State \$ 55
 - 15A. Public Advocate \$ 55
 - 16. Transportation (two volumes) \$110
 - 17. Treasury-General \$ 55
 - 18. Treasury-Taxation (two volumes) \$110
 - 19. Other Agencies: Expressway Authority,
 Hackensack Meadowlands Commission,
 Highway Authority, Turnpike Authority,
 Public Employment Relations Commission,
 Sports and Exposition Authority, Election Law
 Enforcement Commission, Economic Development
 Authority, Public Broadcasting Authority,
 Executive Commission on Ethical Standards,
 Atlantic County Transportation Authority
 (two volumes) \$110
 - 19K. Casino Control Commission \$ 55

(Prices are in U.S. dollars and include first year of updated replacement pages.)

New Jersey Register (one year, 24 issues)

- By second class mail, \$75 []
- By first class mail, \$150 []

NEW JERSEY ADMINISTRATIVE REPORTS

- I. Full Set of NJAR. Ten hardbound volumes and quarterly update service for one year. Hardbound volumes include a table of contents for the volume. Quarterly looseleaf update service includes a cumulative listing of statutes cited; cumulative listing of rules cited; cumulative topical index, and cumulative listing of cases reported \$400
- II. Looseleaf Update Service Only: Quarterly update service and bound volume(s) of decisions issued in quarterly service for one year. Cumulative indices \$195/year
- III. Individual Hardbound Volumes (1-10) can be purchased separately. Each volume has a table of contents \$45/volume (specify volume or volumes desired)

Prepayment is required
for all subscriptions.

Please return form with your payment to:

OAL Publications
 Quakerbridge Plaza, Bldg. 9
 CN 049
 Trenton, New Jersey 08625

Name and Delivery Address:

Billing Address, if different:

Telephone Number _____

Amount Enclosed _____

*If you want multiple copies of a Title, please specify on the "Amount Enclosed" line. Example: \$110 (two copies, Title 1).