shall continue in effect for a seven-year period. The rules had been scheduled to expire on May 7, 2019. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Technical Requirements for Site Remediation, N.J.A.C. 7:26E (Technical Requirements), apply to remediations conducted at sites that are subject to the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. (ISRA), the Hazardous Discharge Site Remediation Act, N.J.S.A. 58:10B-1 et seq., the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Site Remediation Reform Act (SRRA), N.J.S.A. 58:10C-1 et seq., and provide predictable, yet flexible, procedures for investigating and remediating sites that are contaminated or at which contamination is suspected. The Technical Requirements work in tandem with the Administrative Requirements for Remediation of Contaminated Sites, N.J.A.C. 7:26C (ARRCS rules). The ARRCS rules contain the administrative requirements, and the Technical Requirements provide the framework for how site remediation projects are to be conducted. All remediations of contaminated sites in New Jersey must proceed pursuant to the ARRCS rules and the Technical Requirements.

(a)

AIR QUALITY, ENERGY, AND SUSTAINABILITY

DIVISION OF AIR QUALITY

Notice of Administrative Change and Announcement of Availability of a New General Operating Permit (GOP-002A) for Manufacturing and Materials Handling Equipment

N.J.A.C. 7:27-22.14

Take notice that the Department of Environmental Protection (Department) is announcing the availability of a new General Operating Permit GOP-002A for manufacturing and materials handling equipment each with a potential to emit less than the reporting threshold for each air contaminant for major facilities (subject to Title V of the Federal Clean Air Act). This GOP is replacing the existing general operating permit GOP-002, Small Emitter General Air Permit (SEGAP).

This new general operating permit is available beginning on April 15, 2019, and is being included in the list of sources at N.J.A.C. 7:27-22.14(c) for which general operating permits are available.

GOP-002A allows for the construction, installation, modification, and operation of single or multiple pieces of uncontrolled or controlled manufacturing and materials handling equipment each with a potential to emit less than the reporting threshold for each air contaminant.

A general operating permit is a pre-approved permit to construct and operate for major facilities, issued pursuant to N.J.A.C. 7:27-22.14, for one or more types of similar sources at a major facility. A major facility operator with a qualifying source may register for and operate under the conditions of the general operating permit, rather than submit a modification to the facility's operating permit.

The Department published notice of the proposed general operating permit in the August 20, 2018, New Jersey Register at 50 N.J.R. 1910(b), pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-9.2. The Department reviewed and evaluated the comments received, and is issuing GOP-002A as proposed.

This general operating permit is issued under the authority of N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-22.

How to Obtain a General Operating Permit

To view the requirements of any general operating permit, go to www.nj.gov/dep/aqpp/gop.html. To register for an available general operating permit, click on the online application hyperlink under the general operating permit and follow the directions.

For technical questions, please contact the Operating Permit Help Line number at 609-633-8248.

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

SUBCHAPTER 27. OPERATING PERMITS

7:27-22.14 General operating permits

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

(c) A general operating permit is available for the following sources:

[1. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, in accordance with paragraph 6 in the definition of "significant source operation" N.J.A.C. 7:27-22.1, provided the emissions of all air contaminants are less than the reporting threshold specified in the General Operating Permit. In determining the weight of the raw materials used, the weight of the following shall be excluded, in accordance with subparagraph 6ii in the definition of "significant source operation" in N.J.A.C. 7:27-22.1:

i. Air;

ii. Water;

iii. Containers, provided that the container is not consumed as part of the operation of the equipment; and

iv. Paper, metal, or plastic that is twisted, bent or folded, in the equipment, provided that the twisting, bending, or folding does not cause visible emissions or air pollution;]

1. Manufacturing and Materials Handling Equipment (GOP-002A);

2.-7. (No change.)

(d)-(f) (No change.)

INSURANCE

(b)

DIVISION OF INSURANCE

Health Benefit Plans

Readoption with Amendments: N.J.A.C. 11:22

Adopted Repeal: N.J.A.C. 11:22-5.7

Proposed: November 5, 2018, at 50 N.J.R. 2209(a).
Adopted: March 20, 2019, by Marlene Caride, Commissioner, Department of Banking and Insurance.
Filed: March 20, 2019, as R.2019 d.032, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:48H-32, 17B:27B-25, 17B:30-13.1, 17B:30-23 et seq., 17B:30-55, 17B:30-56, and 26:1A-36.11 and 36.12.

Effective Dates: March 20, 2019, Readoption;
April 15, 2019, Amendments and Repeal.
Expiration Date: March 20, 2026.

Summary of Public Comment and Agency Response:

The Department received timely written comments from the New Jersey Hospital Association and the Association of Health Plans.

1. COMMENT: One commenter stated that it supports the amendments to Subchapter 5, Minimum standards for health benefits plans, which include amendments to the Maximum Out-of-Pocket (MOOP), such that the network MOOP does not exceed the maximum annual limit on cost sharing provided under 45 CFR 156.130, and the change to the individual network per covered person annual deductible. The commenter further stated that it also supports the amendments to N.J.A.C. 11:22-5.3(a)4, which addresses the deductible for catastrophic plans offered in the individual health coverage market consistent with the requirements of 45 CFR 156.20(a)(2). The commenter noted that all three changes allow carriers to meet their continuing obligations to follow Federal standards for the Federal actuarial value calculator and to offer plans with lower premiums than would otherwise be possible without these changes. As a result, the commenter appreciates the Department making these changes.

RESPONSE: The Department appreciates the commenter's support.

2. COMMENT: One commenter stated that it would support additional changes to the minimum standards to allow greater flexibility in plan design in order to be able to offer consumers coverage options with lower premiums. The commenter contends that carriers need increased flexibility to offer plans with higher copays and deductibles above the existing caps to keep premiums and utilization in line. The commenter contends that this is especially important to ensure that plans are attractive to younger, lower-utilizing members, whose participation is crucial to broad risk pool. The commenter further stated that they understand the desire of the Department to set guardrails around coverage options to ensure that coverage is meaningful and accessible, but the dollar thresholds in the minimum standards rules appear to have been set in 2009, and in some cases may not be encouraging the use of the proper setting of care. For example, N.J.A.C. 11:22-5.5(a)5, sets a network copayment cap for emergency room visits at $100.00, which may encourage unnecessary utilization of emergency room services. The commenter stated that this is especially true in New Jersey where hospitals routinely advertise their emergency rooms for low-acuity care services on their websites and elsewhere. The commenter respectfully requests that all the caps in N.J.A.C. 11:22-5.5 be increased and/or include inflation adjustments.

RESPONSE: The Department notes that, with respect to adjusting the copay maximums in the rules to account for inflation, it invites any party interested in altering the cap amounts to present data supporting such adjustment. After necessary data is presented to support alternate limits, the Department will review the information and proceed as the Department finds appropriate.

3. COMMENT: One commenter expressed concern that the current rules found at N.J.A.C. 11:22-5.9, regarding minimum benefits for prescription drugs, prohibit closed formularies. Unlike most states and unlike the requirements for even the State Health Benefits Program, New Jersey's regulations do not allow a carrier to exclude any FDA-approved drug from coverage; a carrier may assign drugs to different cost-sharing levels, but it may not exclude a drug altogether. The commenter noted that this "unusual and strict requirement" is not required by any State law-its origins are regulatory. The commenter stated that given the role that drug pricing plays in the affordability of health coverage and given that affordability is the number one barrier to obtaining and keeping coverage, the commenter respectfully asks the Department to remove this requirement.

RESPONSE: The Department notes the commenter's concern with respect to requirements for open formularies in these rules. First, for purposes of clarification, the Department would note that, although the rule set forth at N.J.A.C. 11:22-5.9 prohibit a carrier from excluding an FDA-approved drug from coverage, such requirement only applies to FDA-approved drugs that will be utilized for a condition that is covered under the plan. Additionally, while the Department appreciates the commenter's concern regarding the requirement for open formularies, the Department believes that open formularies ensure that New Jersey consumers have access to medically necessary treatment. However, the rules do permit carriers to assign different cost tiers to various prescription drugs. Moreover, preauthorization is generally permitted, except where otherwise expressly prohibited. Regarding the comment that the requirement for an open formulary is not established by any statute but is strictly regulatory, the Department notes that the statutes authorize the Commissioner to disapprove policies and contracts that are unjust, unfair, inequitable, misleading, contrary to law or the public policy of this State and require the Commissioner to establish in regulations, standards relating to the review of policies and contracts. (see N.J.S.A 17B:27-49.g, 17:48E-13, 26:2J-8a(3)(a), and 17B:26-1).

4. COMMENT: One commenter expressed concern with N.J.A.C. 11:22-5.9, which also acts to prohibit "step therapy." The commenter stated that while the term "step therapy" is not specifically referenced in the rule, since step therapy acts as a temporary closed formulary, the Department has interpreted this rule to prohibit the use of step therapy for drugs. Again, such a rule is not compelled by any State law and step therapy is a commonly used tool to increase affordability of coverage when used in conjunction with protections to ensure access to needed medications.

RESPONSE: With respect to the commenter's concern regarding tacit prohibition of step therapy in N.J.A.C. 11:22-5.9, step therapy is based on an administrative construct that artificially defines which protocols apply to all covered persons, and not based on a clinical condition of individual members. Step therapy is not in the best interests of the individual consumer. However, preauthorization of prescription drugs, which is permitted under these rules, provides for an individualized approach. Moreover, regarding the comment that this requirement is not required by any statute but is strictly regulatory, see Response to Comment 3.

5. COMMENT: One commenter stated that it strongly supports the Department's determination that the regulations at N.J.A.C. 11:22 continue to be "necessary, reasonable, adequate, efficient and responsive for the purpose for which they were originally promulgated." In addition, the commenter recognizes the time constraints the Department faces in ensuring the rules stay in effect. The commenter stated that as the Department notes in the preamble, the filing of the readoption extended the expiration date of the regulations until March 20, 2019. Because of this, the commenter urges the Department to consider using this opportunity to update or create requirements related to the implementation of the "Consumer Protection, Transparency, Cost-Containment and Accountability Act."

RESPONSE: The Department has issued Bulletin No. 18-14, which provides guidance regarding the implementation of P.L. 2018, c. 32 (N.J.S.A. 26:2SS-1 through 20), Out-Of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act, and will codify this guidance with new rules and amendments in the near future.

Federal Standards Statement

The rules readopted with amendments and a repeal comply with the Federal Patient Protection and Affordable Care Act, Pub. Law 111-148, as amended and supplemented by the Health Care and Reconciliation Act, Pub. Law 111-152. The rules readopted with amendments and a repeal do not exceed the requirements of the Federal Patient Protection and Affordable Care Act or the Health Care Reconciliation Act. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C 11:22.

Full text of the adopted amendments follows:

SUBCHAPTER 5. MINIMUM STANDARDS FOR HEALTH BENEFITS PLANS, PRESCRIPTION DRUG PLANS, AND DENTAL PLANS

11:22-5.3 Network deductible

(a) A network deductible is permitted in a contract issued by a health maintenance organization that provides out-of-network benefits only for emergency and urgent care, in a POS contract issued by a health maintenance organization or health service corporation, and in an SCA policy providing hospital and medical coverage issued by an insurance company, provided that:

1. Effective with contracts or policies effective on or after January 1, 2019, health carriers shall use an individual network out-of-pocket limit that is no greater than the maximum annual limitation on cost sharing provided under 45 CFR 156-130 and a family network out-of-pocket limit that is no greater than two times the individual network out-of-pocket limit, unless the Commissioner issues an Order within 45 days of the issuance of final Federal rules governing benefits and payment parameters to freeze the out-of-pocket limit at the prior policy year maximum;

2. The individual network per covered person annual deductible is no greater than $2,500, except as stated in (a)3 and 4 below;

3. For a network-based bronze contract or policy available in the individual health coverage or small employer health benefits markets, meaning a plan with a 60 percent actuarial value, the network per covered person annual deductible shall not exceed $3,000;

4. For a contract or policy to be offered as a catastrophic contract or policy in the individual health coverage market, the per covered person annual deductible shall equal the greatest permissible maximum out-of-pocket as defined in 45 CFR 156.130(a)(2), except the deductible shall be waived for three physician visits per calendar year and shall not apply to preventive health services;

Recodify existing 3.-5. as 5.-7. (No change in text.)

11:22-5.4 Network coinsurance

(a) Network coinsurance is permitted in a contract issued by a health maintenance organization that provides out-of-network benefits only for emergency and urgent care, in a POS contract issued by a health maintenance organization or health service corporation, and in an SCA policy providing hospital and medical coverage issued by an insurance company, provided that:

1. The contract or policy complies with the requirements set forth in N.J.A.C. 11:22-5.3(a)1;

i. (No change.)

2.-6. (No change.)

11:22-5.7 (Reserved)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF GAMING ENFORCEMENT

Rules of the Games

5 Treasures Baccarat and Mini-Baccarat

Temporary Amendments: N.J.A.C. 13:69E-1.12 and 13:69F-3.1, 3.2, 3.3, 3.10, 7.1, 7.2, 7.3, and 7.10

Authority: N.J.S.A. 5:12-69.a, 69.e, 70.a(7), 70.a(14), 76.g, and 100.e.

Take notice that the Division of Gaming Enforcement (Division) shall, pursuant to N.J.S.A. 5:12-69.e, adopt temporary amendments for new wagers on the existing card games of baccarat and mini-baccarat, the new wagers being collectively known as 5 Treasures Baccarat. The experiment for the new wagers will be conducted in accordance with the temporary amendments, which shall be available in each participating casino and shall also be available from the Division upon request.

This experiment could begin on or after April 22, 2019, and continue for a maximum of 270 days from that date, unless otherwise terminated by the Division or any of the participating casino licensees prior to that time, pursuant to the terms and conditions of the experiment.

Should the temporary amendments prove successful in the judgment of the Division, the Division will propose the changes for final adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act and N.J.A.C. 1:30.
