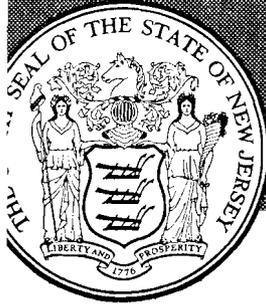


NEW JERSEY REGISTER



THE STATE'S OFFICIAL MONTHLY RULES PUBLICATION

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DIRECTOR
OFC OF INFO SERVICES
DEPT OF TRANSPORTATION
1035 PARKWAY AVE
TRENTON N J 08625

NOTICES OF RULE-MAKING ACTIVITIES OF STATE AGENCIES

(a)

AGRICULTURE

DIVISION OF ANIMAL HEALTH

Amendments on Exemption from Pseudorabies Test Requirements

On August 8, 1979, Phillip Alampi, Secretary of Agriculture and Secretary of the State Board of Agriculture, pursuant to authority of N.J.S.A. 4:5-106.2 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 2:3-2.12 concerning the exemption from pseudorabies test requirements as proposed in the Notice published July 5, 1979, at 11 N.J.R. 314(a).

An order adopting these amendments was filed and became effective on August 9, 1979 as R.1979 d.304.

Howard H. Kestin
Director
Office of Administrative Law

(b)

BANKING

THE COMMISSIONER

Proposed Amendments on Red-Lining

Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:16F-11 and 17:1-8.1, proposes to amend N.J.A.C. 3:1-9.1 et seq. concerning red-lining regulations.

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

3:1-9.1(a) This regulation is promulgated pursuant to the provisions of chapter 1, Public Laws of 1977 and N.J.S.A. 17:1-8.1 et seq. This regulation applies to depository institutions which make mortgage loans. Nothing in this regulation is intended to, nor shall it be construed to, encourage unsound lending practices or the unsound allocation of credit.

3:1-9.2 Definitions

...

"Act" means [chapter 1, Public Laws of 1977, approved January 12, 1977. () N.J.S.A. 17:16F-1 et seq. ()].

"Annual percentage rate" means the annual percentage rate of finance charge as calculated in accordance with Federal Reserve Board Regulation Z and its supplements.

"Applicant" means any person who [submits a signed, completed application form to a depository institution containing such information as required by that depository institution for reviewing a residential mortgage loan application or a home improvement loan application] files with a depository institution a written, or oral-in-person, request containing such information as is reasonably required by the depository institution for a mortgage loan as defined in this act.

"Application" means a signed, completed application form submitted to a depository institution containing such information as required by that depository institution for reviewing a residential mortgage loan request or a home improvement loan request.

...

3:1-9.3(b) Any depository institution that has neither a home office nor any branch office located in a standard metropolitan statistical area (SMSA), as defined in section 2 of this subchapter, shall be exempt from [the compilation of data and] the disclosure requirements of the Act and Section 7 of this subchapter [this regulation] until such time as [they have] it has an office in a defined SMSA. Beginning in 1981, each and every depository institution with its principal offices in New Jersey, except for those institutions exempted by subsections (a) and (d) of this section, are required to compile and file the data specified by N.J.A.C. 3:1-9.4 for the preceding year.

...

3:1-9.3(d) Any national bank with its principal offices in New Jersey shall be exempt from the compilation of data and disclosure requirements of the Act and this regulation.

3:1-9.4(a) 1. For each mortgage loan application on residential real property located within the State of New Jersey or any SMSA which encompasses portions of New Jersey, each depository institution shall list by calendar quarter the following data upon final disposition of the application by the depository institution, in the format prescribed by section 5 of this subchapter:

...

NEW JERSEY REGISTER

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3:1-9.4(a)1.xi. The purchase price of the residential real property securing the residential mortgage loan; in lieu of purchase price, the appraised or assessed value of the residential real property may be used when the purchase price is not available or not representative of value (permanent construction loans, refinancings, nominal familial transfers).

xii. The interest rate:

(1) The contract interest rate offered on each residential mortgage loan commitment that has expired; [or] established on each residential mortgage loan that has been closed; [the interest rate] requested on each denied residential mortgage loan; or

(2) The annual percentage rate offered on each home improvement loan commitment that has expired; established on each home improvement loan that has been closed; requested on each denied home improvement loan.

3:1-9.4(c) Each depository institution shall maintain a log of all oral-in-person requests for information regarding mortgage loans. The log may be in the format of subsection (d) of this section, or that of the FDIC Fair Housing Lending Home Loan Inquiry and Application Log Sheet (12 CFR Part 338.4), or that of the FHLBB Loan Application Register (12 CFR Part 528.6), or that of the OCC Fair Housing Lending Inquiry/Application Log Sheet (12 CFR Part 27).

1. The depository institution shall attempt to collect that information required in this subsection during the initial contact with the inquirer or applicant. If the inquirer or applicant refuses to furnish all or part of this information, the institution shall note the fact on the form used for recording the information.

2. The depository institution shall advise the applicant or inquirer that the information required to be logged is being requested to enable the New Jersey Department of Banking to monitor compliance with the state's geographic nondiscrimination law.

Editor's Note: N.J.A.C. 3:1-9.4(d), 3:1-9.5 and 3:1-9.6 concerns forms which are not reproduced herein. Further data on such forms may be obtained from the Department of Banking.

3:1-9.7(b) 1. Each depository institution shall make available to the public the disclosure statements required to be compiled [pursuant to this regulation,] by subsection (a) of this section, and by the dates specified in subsection (a) of this section, at its principal and at least one branch office in each [SMSA] county in which it has an office.

2. Each depository institution shall make appropriate efforts at least once each year to notify its depositors of the availability of its mortgage loan data such as by

i. Inserting a notice in a periodic account statement or other communication to depositors, and

ii. Posting a notice in the lobbies of its principal and branch offices for at least one month, or publishing a notice in a newspaper or newspapers of general circulation in the counties in which its principal and branch offices are located.

Editor's Note: N.J.A.C. 3:1-9.7(c) concerns the mortgage loan disclosure statement which is not reproduced herein.

3:1-9.8 Filing requirements; processing fee

(a) [Annual filings rules are:]

[1.] Beginning in 1979, every depository institution shall file with the Department of Banking on January 15, April

30, July 30, and October 30 the preceding [year's] calendar quarter's mortgage loan data required by section 4 of this regulation.

[2. Beginning 1979, every depository institution shall file with the Department of Banking on March 31 the preceding year's mortgage loan data required by section 7 of this section.]

1. [3.] For purposes of this section, the mortgage loan data shall be deemed to be filed if it is either delivered in person or postmarked by the above dates. All information so filed shall be submitted on forms or in the format prescribed by the Department.

(b) Failure to file the quarterly mortgage loan data by the required dates may result in a penalty of \$200 being assessed against the depository institution.

(c) A processing fee of [\$150.00] \$25.00 shall accompany each [annual] quarterly report required by section 4. The fee shall be made payable to the Treasurer, State of New Jersey.

(d) [Optional quarterly filings rules are:

A depository institution may, in lieu of required annual filings pursuant to paragraph A hereof, submit the mortgage loan data required by section 4 hereof on a quarterly basis. The reporting dates for voluntary submissions are April 30, July 30, October 30, and January 15 for the preceding calendar quarter's data. A processing fee of \$25.00 shall accompany each quarterly report when it is filed with the Department of Banking.

The Department of Banking will prepare for each institution which reports quarterly the annual public disclosure statement required by section 7 hereof and provide the respective institutions with a copy of the annual public disclosure report within ninety days of the end of the calendar year to be used for compliance with section 7 hereof as well as Federal Reserve Board Regulation C.]

[(e)] For fiscal years ending on or before December 31, 1977 copies of the public disclosure statement required by Regulation C shall be deemed compliance with the Act and this regulation. The processing fee for the submission of the 1976 and 1977 annual reports shall be \$25.00.

(e) [(f)] Mortgage loan data for fiscal year 1976 shall be submitted to the Department no later than September 30, 1977.

(f) [(g)] Mortgage loan data for fiscal year 1977 shall be submitted to the Department no later than ninety days after the end of the institution's fiscal year 1977.

(g) [(h)] All depository institutions not on a calendar fiscal year will be required to submit their mortgage loan data required by section 4 hereof for every month of their fiscal year 1978 that occurs in 1977. The data filing schedule will be established by the Commissioner after consultation with the respective institutions.

3:1-9.9 Violations of the Act

(a) No depository institution shall discriminate by intent or in effect on a basis that is arbitrary or unsupported by a reasonable analysis of the lending risks associated with the applicant for a given loan or the condition of the property to secure it, in the accepting of applications, granting, withholding, extending or renewing, or in the fixing of rates, terms, conditions, or provisions of any mortgage loan on real property located in the municipality in which a depository institution has a home or branch office, or in any municipality contiguous to such municipality, merely because such property is located in a specific neighborhood or geographical area.

(b) It shall not be a violation of the Act or this regula-

tion if the mortgage loan is made pursuant to a specific public or private program, the purpose of which is to increase the availability of mortgage loans within a specific neighborhood or geographical area.

(c) No depository institution may discourage, or refuse to allow, receive, or consider, any application, request, or inquiry regarding a mortgage loan, or discriminate in imposing conditions upon, or in processing, any such application, request, or inquiry on any basis prohibited by law.

3:1-9.10 Powers of the Commissioner; investigations and hearings

(a) In order to aid in determining whether the Act or Section 3:1-9.9A hereof has been violated by a depository institution other than a national bank, the Commissioner of Banking shall have the power to hold hearings, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him.

(b) In the case of a failure of any person to comply with any subpoena issued by the Commissioner or to testify to any matter concerning which he may be lawfully interrogated, the Commissioner may apply to the Superior Court for an order requiring the attendance of such person and the giving of testimony or production of evidence.

(c) The Commissioner will grant all written requests for hearing received from national banks. If a national bank requests a hearing and submits voluntarily to the authority of the Commissioner, the Commissioner's powers will be as specified in paragraphs A and B of this section.

3:1-9.11 [Cease and desist] Orders: grounds, content; hearing; service

(a) If [it appears to the Commissioner] the Commissioner determines [based upon his review of the data and information required to be filed under section 8 of this subchapter, or from such investigation as he shall deem necessary] that a depository institution is in violation of the Act or section 9 of this subchapter he shall

1. Order such depository institution to cease its unlawful practices as provided by N.J.S.A. 17:16F-9, or

2. Order such depository institution other than a national bank to show cause why a cease and desist order should not be issued.

(b) The order to show cause shall be returnable in not less than 20 days from the date of service hereof. The order to show cause shall contain:

1. A statement of the time and place of hearing;
2. A reference to the particular section of the statute or rule charged to have been violated;
3. A short and plain statement of the facts giving rise to the alleged statutory or rule violation.

(c) Service of the order to show cause shall be made by certified mail, return receipt requested.

(d) If upon the return of the order to show cause the Commissioner determines that a depository institution is in violation of the Act, he shall order such depository institution to cease and desist such practices.

(e) Service of the cease and desist order shall be made by certified mail, return receipt requested.

3:1-9.12 Hearings; presiding officer

Any hearing held pursuant to this regulation may be conducted by the Commissioner, Deputy Commissioner or [a hearing officer designated by the Commissioner] an Administrative Law Judge.

3:1-9.13 [Hearing] Presiding officer's powers

...

3:1-9.15 Report of the [hearing] presiding officer

...

3:1-9.16 Exceptions to report of [hearing] presiding officer

...

3:1-9.17(b)1. Adopt in toto the findings of the fact and conclusions of law of the hearing officer; or

3:1-9.18 Continued violation of Act; penalty

(a) A depository institution which continues to violate the provisions of the Act or section 9.9[(A)] hereof after being ordered by the Commissioner to cease such practices [in accordance with section 3:1-9.17 hereof] shall be liable to a penalty of \$5,000.00 for each offense. Such penalty shall be in addition to and not in lieu of any other provisions of law applicable upon a depository institution's failure to comply with an order of the Commissioner.

(b) If the Commissioner determines that a depository institution is continuing to violate the provisions of the Act or section 9.9 hereof after being ordered to cease such practices, he shall issue and serve such depository institution by certified mail, return receipt requested, an order to pay the applicable penalties assessed against the depository institution.

3:1-9.19 Notice of hearing; continued violation of Act

(a) If it appears to the Commissioner[, based upon his review of the data and information required to be filed under section 9.8 hereof, or from such investigation as he deems necessary,] that a depository institution, other than a national bank, is continuing to violate the provisions of the Act or section 9.9[(A)] hereof after being ordered to cease such practices, he shall issue and serve upon such depository institution by certified mail, return receipt requested, a notice of hearing.

[3:1-9.20 Content of notice of hearing]

(b) The notice of hearing shall include:

1. The date, time, place and nature of the hearing;
2. The legal authority and jurisdiction under which the hearing is held;
3. The particular sections of the statutes and rules involved; and
4. A copy of the detailed statement of facts constituting the basis of the alleged violation.

3:1-9.[21]20 Hearing procedure

...

3:1-9.[22]21 Administrative Procedure Act

...

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Adrenee G. Freeman
Deputy Commissioner
Division of Consumer Complaints, Legal
and Economic Research
Department of Banking
P.O. Box CN 040
Trenton, N.J. 08625

The Department of Banking may thereafter adopt rules concerning this subject without further notice.

Angelo R. Bianchi
Commissioner
Department of Banking

(a)

BANKING

THE COMMISSIONER

Notice of License Revocation

Take notice that Angelo R. Bianchi, Commissioner of Banking, revoked the motor vehicle installment sellers license of "Brother's Sales, Inc.," 1721 Pennsylvania Avenue, Linden, New Jersey 07036 on July 20, 1979.

This Notice is published as a matter of public information, is not subject to codification and will not appear in Title 3 of the New Jersey Administrative Code.

Howard H. Kestin
Director
Office of Administrative Law

(b)

BANKING

THE COMMISSIONER

Emergency Rules on Interest Charged on Other Loans

On July 26, 1979, Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of L. 1979, c. 156, and in accordance with applicable provisions of the Administrative Procedure Act, adopted new, emergency rules concerning interest rates that can be charged regarding certain loans.

Full text of the adoption follows:

3:1-1.2 Interest rates; other loans

(a) Notwithstanding any provisions of N.J.S.A. 31:1-1 or N.J.A.C. 3:1-1.1 and except as otherwise provided by law, any person may charge a rate of interest on any loan which rate does not exceed one per cent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank of New York on the date of the loan, at any time when that discount rate exceeds seven per cent. Nothing in this paragraph shall authorize any person to make any loan which is not authorized by law, nor shall anything in this paragraph apply to loans secured by a first lien on real estate on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may also be used for non-residential purposes. Additionally, nothing in this paragraph shall be applicable to the exceptions contained in N.J.S.A. 31:1-1(e) and N.J.A.C. 3:1-1.1(c).

(b) Where in any law a rate of interest applicable to loans regulated by this section is referred to as that established by N.J.S.A. 31:1-1, the rate allowable shall be as established herein.

(c) The rate established herein shall be effective for loans made on or after 12:01 A.M., July 27, 1979.

An order adopting these rules was filed on July 26, 1979, as R.1979 d.290 (Exempt, Emergency Rule) to become effective on July 27, 1979.

Howard H. Kestin
Director
Office of Administrative Law

(c)

BANKING

DIVISION OF BANKING

Amendments Concerning Approval To Exceed Ten Per Cent Limitation

On July 31, 1979, Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-62H and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 3:11-1.1 concerning approval to exceed the ten per cent limitation substantially as proposed in the Notice published July 5, 1979, at 11 N.J.R. 315(d) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Banking.

Full text of the adoption follows:

3:11-1.1 Approval to exceed ten per cent limitation

(a) Persons which may become liable to a bank or obligations in which a bank may invest in an unlimited amount subject only to the exercise of prudent banking judgment.

1. General obligations of any State of the United States or any political subdivision thereof;

2. Such other individual obligations as the Commissioner may from time to time prescribe. A list of these individual obligations shall be kept on file in the office of the Commissioner of Banking.

i. Following is the current listing of obligations subject to the provisions of 3:11-1.1(a)2.:

- (1) Banks for Cooperatives;
- (2) Commodity Credit Corporation;
- (3) Export-Import Bank (Participation Certificates or Debentures);
- (4) Farmers Home Administration;
- (5) Federal Farm Credit Banks, Consolidated System-wide Bonds and Discount Notes;
- (6) Federal Home Loan Bank System;
- (7) Federal Intermediate Credit Banks;
- (8) Federal Land Bank;
- (9) Federal National Mortgage Association;
- (10) Government National Mortgage Association;
- (11) New Jersey Health Care Facilities Financing Authority (provided that no more than 10 per cent may be invested in one obligor (individual hospital) which is responsible for the payment of the particular issue);
- (12) New Jersey Economic Development Authority (provided that no more than 10 per cent may be invested in bonds issued on behalf of one person. Such bonds, exclusive of any portion that may be guaranteed by the Authority, will be aggregated with any other obligations of that person at the bank for determining the 10 per cent limitation. The obligations should be classified as loans and will be reported as such in the Department's examination report).

An order adopting these amendments was filed and became effective on August 6, 1979, as R.1979 d.298.

Howard H. Kestin
Director
Office of Administrative Law

(a)

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Amendments to State Service Personnel Manual Subpart 7-3.105

On July 30, 1979, the New Jersey Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to Subpart 7-3.105 in the Civil Service Personnel Manual (State Service) concerning the policy for determining salary and anniversary date of an employee who has been demoted or reappointed to a title with a lower evaluation.

Full text of the adoption follows (amended text indicated in boldface thus):

Subpart 7-3.105 Policy For Determining Salary And Anniversary Date Of An Employee Who Has Been Demoted Or Reappointed To A Title With A Lower Evaluation

7-3.105a Subject:

This subpart will deal with the procedures to be applied to determine the salary and anniversary date of an employee who has been demoted, returned to a former title, or reappointed to a title with a lower evaluation than his/her immediately previous title.

7-3.105b Application:

The salary adjustment of an employee will be based upon the procedure applicable to the category of demotion or reduction involved. If it is:

1. A **Disciplinary or Deficiency Demotion** based upon unsatisfactory job performance or other deficiencies for which the employee is responsible, the salary of the employee shall be reduced by one increment* and adjusted to the same or next lower rate of the range of the title to which the employee is being reappointed. No change shall be made in the employee's anniversary date.

2. A **No Fault Demotion**, through no fault of the employee resulting from some action by the appointing authority, the Civil Service Commission or other agency having jurisdiction over an employee's status for reasons of economy, reduction in force, seniority layoff, in lieu of layoff, etc., the salary of the employee shall be reduced by one increment* and adjusted to the same or next higher rate of the range to which the employee is reappointed. No change shall be made in the employee's anniversary date. Voluntary demotions so acknowledged in writing by the employee on the CS-21, shall be processed under this procedure.

*If the employee is being demoted to the level of his/her immediately preceding title or lower, and it can be established by the reconstruction of the employee's employment record that when the employee was promoted or appointed to the higher title he/she received the equivalent of two or more promotional increments of the lower range when going from the lower to the higher title, the salary for demotion shall first be reduced by the amount he/she received before slotting into the appropriate step of the lower salary range. This shall not apply in layoff situations.

This note shall apply only in cases where the employee is returning to the same level he/she was promoted or advanced from. In cases where the employee is being demoted to a different level than that previously held, reconstruction shall be used. Reconstruction shall be treated as if employee were promoted to the intermediate title at the time of original promotion.

Example:	Range	Salary	AD
Senior Clerk Stenographer 7/1/78 promoted to Principal Clerk Steno Demoted 7/1/79 to Principal Clerk	A09	\$8079.12	10/78
Reconstruction would be: Senior Clerk Stenographer 7/1/78 promoted to Principal Clerk 10/78 Increment	A09 A11	\$8079.12 8482.64	10/78 10/78
		8906.00	10/79

7-3.105c Limitations:

1. This method shall be used only when:

a. The employee has served more than one year in the higher title, and

b. The employee has previously held the lower title, or

(1) The lower title is a lower title in the same occupation series, or

(2) The service in the higher title would be considered to have provided the employee with meaningful and significant experience and training for satisfactory service in the lower title, and this is explained and certified to by the appointing authority on the C.S. 21.

2. This method shall not be used to gain a salary advantage for the employee.

3. In no case shall an employee taking a voluntary demotion receive an increase in salary rate.

4. In no case shall an employee receive a lesser salary than he/she would have received had he/she not been promoted.

7-3.105d Alternative conditions:

In all other situations of demotion or appointment to a title with a lower evaluation not falling within the above conditions, the employee's salary in their lower title shall be arrived at by reconstructing the employee's salary based on service he/she would have had had he/she been appointed to or stayed in the lower title or in fact had been serving in the lower title on the date he/she was appointed to the higher title.

7-3.105e Rights:

For all No Fault Demotions except voluntary demotions, the employee must be given a 45 day notice of the demotion by the appointing authority.

An order adopting these amendments was filed on July 30, 1979, as R.1979 d.291 (Exempt, Procedure Rule) to become effective on August 1, 1979. Take notice that these amendments are not subject to codification and will not appear in Title 4 of the New Jersey Administrative Code.

Howard H. Kestin
Director
Office of Administrative Law

(a)

COMMUNITY AFFAIRS

OFFICE OF OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY

Proposed Amendments to the Rules of Practice and Procedure

The Office of Ombudsman for the Institutionalized Elderly in the Department of Community Affairs, pursuant to authority of N.J.S.A. 52:27G-1 et seq., proposes to amend N.J.A.C. 5:100-1.1 et seq. concerning its rules of practice and procedure.

A summary of the proposed amendments follows:

1. A procedure for receiving and classifying complaints has been established which includes priority investigation of complaints alleging physical abuse within twenty-four (24) hours of receiving such a complaint (Chapter V).

2. Procedures for follow through action on initial complaints have been delineated pursuant to the statutory alternatives available e.g. pursuit by the Ombudsman's office or referral to the appropriate agency or governmental authority.

3. If a matter under investigation is resolved between the parties, the Ombudsman shall prepare a consent agreement setting forth the terms of the settlement, responsibilities of the parties, and the effect of non-compliance with such an agreement (Chapter V (H)(1)(a)).

4. In all other matters not resolved as in (3) above the Ombudsman shall have recourse to any and all legal action necessary to comply with the public policy as set forth in the statutory mandate of the Ombudsman's Act (Chapter V (H)(2)).

5. Procedures for conducting investigations have been established (Chapter VI) and include procedures to be followed as well as safeguards pertaining to the confidentiality of information obtained, and the sources of that information.

6. The confidentiality of all information and sources of information obtained by the Office of the Ombudsman shall be maintained, and no information released to any other agency and/or person without an appropriate release from the individual concerned, or by Court Order (Chapter VI (C)(4)).

7. Written statements or recorded statements must be understood by and authorized by the person from whom they are being taken prior to their signing or recording.

8. Pursuant to statutory authority (N.J.S.A. 52:27G-8(d)(2)) the Ombudsman may hold public or private hearings to aid in the pursuit of his investigatory function. Notice requirements and procedures for the conduct of such hearings are set forth in Chapter VI D-II.

9. Notice of the convening of a hearing shall be given at least ten (10) days prior to the convening of said hearing (Chapter VI D-II (1)). All hearings shall be chaired by the Ombudsman himself, or his designated representative and the chairperson shall be the final arbitrator on all questions or disagreements.

10. All hearings shall be fact finding hearings only and confined to the scope of the notification given prior to the hearing; but the Ombudsman may, at his discretion, expand the scope of the hearing if facts are presented which warrant such action (Chapter VI D II (4)).

11. Witnesses testifying at a hearing shall have the right to have counsel present (Chapter VII D II (6)).

12. Evidentiary rules of the New Jersey Courts shall be relaxed for the purposes of obtaining as much information as possible at such hearings (Chapter VI D II (7)).

13. Subsequent Chapters of the proposed rules and regulations deal with Community Involvement and Participation (Chapter VII), Inter-Agency Communication and Cooperation (Chapter VIII), Availability to the Public (Chapter IX), Liberal Construction (Chapter X), Forms (Chapter XI), and Severability (Chapter XII).

Copies of 40 pages of the full text of the proposed revisions may be obtained from or made available for review by contacting:

John J. Fay, Jr.
Ombudsman for the Institutionalized Elderly
13 North Warren Street
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to the Office of Ombudsman for the Institutionalized Elderly at the above address.

The Office of Ombudsman for the Institutionalized Elderly may thereafter adopt rules concerning this subject without further notice.

John J. Fay, Jr.
Ombudsman for the Institutionalized Elderly
Department of Community Affairs

(b)

COMMUNITY AFFAIRS

THE COMMISSIONER

Amendments on Construction Permits

On July 31, 1979, Joseph A. LeFante, Commissioner of Community Affairs, pursuant to authority of P.L. 1975, c. 217, as amended, and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments, to be cited as N.J.A.C. 5:23-2.5(b)2.i.(1), concerning construction permits as proposed in the Notice published July 5, 1979, at 11 N.J.R. 317(c).

An order adopting these amendments was filed and became effective on August 1, 1979, as R.1979 d.292.

Howard H. Kestin
Director
Office of Administrative Law

(c)

COMMUNITY AFFAIRS

LOCAL FINANCE BOARD

Emergency Rules on Uniform Accounting System for Certain Statutory Offices in County Governments

On August 2, 1979, the Local Finance Board in the Department of Community Affairs, pursuant to authority of N.J.S.A. 52:27BB-10, 52:27BB-28 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new, emergency rules concerning a uniform accounting system for certain statutory offices in county governments.

Full text of the adoption follows:

5:30-6.1 Uniform accounting system for various statutory offices in county governments

(a) Basic sample Requirements of Audit have been

promulgated for the County Surrogate's Office and the County Probation Department which are statutory offices in county governments and all Registered Municipal Accountants should be reminded that these requirements of audit are basic requirements and should be elaborated upon whenever, in the judgment of the Registered Municipal Accountant it is required.

(b) Copies of sample Requirements of Audit may be obtained from:

Local Finance Board
Division of Local Government Services
Department of Community Affairs
P.O. Box 2768
Trenton, New Jersey 08625

An order adopting these rules was filed on August 2, 1979, as R.1979 d.294 (Exempt, Emergency Rule) to become effective on September 1, 1979.

Howard H. Kestin
Director
Office of Administrative Law

(a)

EDUCATION

STATE BOARD OF EDUCATION

Amendments to Thorough and Efficient System Of Free Public Schools (School and Community Relations)

On August 8, 1979, Fred G. Burke, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:7A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments concerning school and community relations and the thorough and efficient system of free public schools substantially as proposed in the Notice published July 5, 1979, at 11 N.J.R. 319(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Education.

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

6:8-4.6 School and community relations

(a) The district board of education shall provide parents or guardians [and], other district residents and teaching staff members opportunities through one or more public meetings of the board of education for [orientation and information] discussion regarding State regulations and local school procedures for implementation of district goals, objectives and standards. The initial meeting shall be held prior to November 30 of each year. The district board shall publish a special notice 10 days in advance of these meetings describing the purpose, listing the items to be discussed and indicating the availability of material relative to such items. The discussion at such meeting shall include, but not be limited to:

1. The annual evaluation of the district and schools;
2. The annual report of the district and schools submitted to the Commissioner by July 1, pursuant to N.J.S.A. 18A:7A-11;
3. The results of:
 - i. The Minimum Basic Skills test;
 - ii. The needs assessment conducted pursuant to N.J.A.C. 6:8-3.4(a) and (b);

iii. The needs assessment conducted pursuant to N.J.A.C. 6:8-3.8(a); and

iv. The plans and programs implemented (or to be implemented) to remediate the needs as identified through these assessments.

4. Plans including budget requirements to implement program improvements for the coming school year;

5. The above documents shall be accessible to the public for inspection at such meetings, and shall be available to citizens, upon request, at the earliest possible time, in accordance with the provisions of the public records law, N.J.S.A. 47:1A-1 et seq.;

6. Nothing in these regulations shall be deemed to modify or repeal the provisions of N.J.A.C. 6:30-1.1 et seq., regarding statewide assessment procedures.

(b) Teaching staff members, under the direction of the chief school administrator, shall identify community resources, services and needs in planning for continuous educational improvement, in consultation with parents or guardians, pupils and other district residents.

An order adopting these amendments was filed and became effective on August 8, 1979, as R.1979 d.303.

Howard H. Kestin
Director
Office of Administrative Law

(b)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Proposed Amendments Concerning 90-Day Construction Permits

Betty Wilson, Acting Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-33, proposes to amend certain rules concerning 90-day construction permits.

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

7:1C-1.2 Definitions

"DEP [Weekly] Bulletin" means an [weekly] official publication of the Department of Environmental Protection.

7:1C-1.6 DEP [Weekly] Bulletin

(a) The Department shall [each week] publish in the "DEP [Weekly] Bulletin," a report of the receipt of each new application and each agency action on applications currently before it. This publication will be distributed free of charge to all municipalities, counties, and other interested persons. Publication in the "DEP [Weekly] Bulletin" constitutes constructive notice to all interested persons of Department actions or construction permits.

...

7:1C-1.7(a)4. Following the assignment of the agency project number, the initial applications status report will be published in the "DEP [Weekly] Bulletin."

7:1C-1.8(d) If the Department fails to act within this time period the application shall be deemed to have been approved, to the extent that the application does not violate other statutes or regulations then in effect, and subject to any standard terms and conditions applicable to such permits. The Department shall promptly publish in the "DEP

[Weekly] Bulletin" a notice that the application has been deemed approved.

[7:1C-1.9] 7:1C-1.10 Appeals

7:1C-1.10(c) An interested person who considers himself aggrieved by an action of either of the above-mentioned agencies shall within 10 days of publication of notice of the decision in the "DEP [Weekly] Bulletin" request a hearing by addressing a written request for such hearing to the secretary of the Water Policy & Supply Council, P.O. Box 2809, Trenton, New Jersey 08625, or the secretary of the Natural Resource Council, P.O. Box 1889, Trenton, New Jersey 08625.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

William McCarthy
Division of Administration
Department of Environmental Protection
88 East State St.
Trenton, N.J. 08625

The Department of Environmental Protection may thereafter adopt rules concerning this subject without further notice.

Betty Wilson
Acting Commissioner
Department of Environmental Protection

(a)

ENVIRONMENTAL PROTECTION

DIVISION OF FISH GAME AND SHELLFISHERIES

FISH AND GAME COUNCIL

Proposed Amendment to 1979-1980 Game Code

The Fish and Game Council of the Division of Fish, Game and Shellfisheries in the Department of Environmental Protection, pursuant to authority delegated in N.J.S.A. 13:1B-30 et seq. proposes to adopt an amendment to the Game Code for the 1979-80 hunting season. Such amendment is known within the Department of Environmental Protection as Docket No. DEP 023-79-04(a).

Copies of the proposed amendment to the Game Code have been prepared and a summary supplied to newspapers throughout the state. The proposed amendment states that no person shall injure, destroy, kill or take a canvasback or redhead in those portions of Monmouth County or Ocean County lying east of the Garden State Parkway.

Full text of the proposal follows:

7:25-5.10(h)27. No person shall injure, destroy, kill or take a canvasback or redhead in those portions of Monmouth County or Ocean County lying east of the Garden State Parkway.

A public hearing respecting this proposed action will be held on Tuesday, October 9, 1979, at 3:30 P.M. at Colliers Mills, Wild Life Management Area, R.D., New Egypt, New Jersey.

Interested persons may present statements or arguments

in writing relevant to the proposed action on or before October 9, 1979 to:

N.J. Fish and Game Council
Division of Fish, Game and Shellfisheries
Department of Environmental Protection
P.O. Box 1809
Trenton, N.J. 08625

The New Jersey Fish and Game Council may thereafter adopt rules concerning this subject without further notice.

Harry McGarrigle, Jr.
Chairman, N.J. Fish and Game Council
Department of Environmental Protection

(b)

ENVIRONMENTAL PROTECTION

DIVISION OF ENVIRONMENTAL QUALITY

BUREAU OF AIR POLLUTION CONTROL

Notice of Effective Date of Revision to Rules Concerning Sulfur in Fuels

Take notice that the emergency amendments concerning sulfur in fuels published February 8, 1979, at 11 N.J.R. 63(c) indicated that the effective date of the amendments to N.J.A.C. 7:27-9.1 et seq. was July 12, 1979, or such earlier date as formal approval is granted. The formal federal approval occurred on June 4, 1979. Thus, the effective date of the amended rules in N.J.A.C. 7:27-9.1 et seq. should be June 4, 1979.

This Notice is published as a matter of public information.

Howard H. Kestin
Director
Office of Administrative Law

(c)

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

Notice of Public Hearing Concerning Northeast New Jersey Water Quality Management Plan

The Division of Water Resources, Office of Areawide Planning, in the Department of Environmental Protection, will hold a public hearing, pursuant to the authority of N.J.S.A. 58:11A-8 and in accordance with 40 C.F.R. 105.7, on October 23, 1979 at Wayne Public Library, Wayne, New Jersey. The hearing will be held from 7:00 p.m. until 11:00 p.m., or until the end of testimony. The hearing topic is the Northeast New Jersey Water Quality Management Plan (Department of Environmental Protection, Docket No. DEP 048-79-08) prepared pursuant to Section 208 of the Federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq. (Supp. 1978) and the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

Copies of the draft plan will be available for review, 30 days prior to the hearing, at the Division of Water Resources, Office of Areawide Planning, 1474 Prospect Street, Trenton; the New Jersey State Library, Trenton; the West Milford Public Library, West Milford; Paterson Free Public Library, Paterson; Johnson Public Library,

Hackensack; Leonia Public Library, Leonia; Montclair Public Library, Montclair; Newark Public Library - Main Branch, Newark; Jersey City Public Library, Jersey City; Morris County Library, Whippany; Morris County Daily Record Library, Parsippany; Bernards Township Library, Basking Ridge; Elizabeth Public Library, Elizabeth; and Ramapo College Library, Mahwah.

Subsequent to the public hearing, the Plan will be submitted to the Governor and the Regional Administrator of Region II of the U.S. Environmental Protection Agency for review and adoption as the official Water Quality Management Plan for the Northeast New Jersey area, pursuant to the authority of N.J.S.A. 58:11A-5 and in accordance with 40 CFR 35.1523-1 et seq.

Interested persons may present either oral or written comments at the public hearing. Written comments will also be accepted by the Department until November 6, 1979. Such written comments should be submitted to:

Steven Nieswand, Basin Manager
Division of Water Resources
Office of Areawide Planning
P.O. Box CN-029
Trenton, New Jersey 08625

This Notice is published as a matter of public information.

Howard H. Kestin
Director
Office of Administrative Law

(a)

ENVIRONMENTAL PROTECTION

DIVISION OF PARKS AND FORESTRY

Rules Concerning the New Jersey Register of Historic Places

On August 15, 1979, Betty Wilson, Acting Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1B-15.129 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 7:4-1.1 et seq., concerning the New Jersey Register of Historic Places as proposed in the Notice published May 10, 1979, at 11 N.J.R. 224(c).

An order adopting these rules was filed and became effective on August 16, 1979, as R.1979 d.328.

Howard H. Kestin
Director
Office of Administrative Law

(b)

ENVIRONMENTAL PROTECTION

DIVISION OF FISH, GAME AND SHELLFISHERIES

Amendments to 1979-1980 Game Code

On August 16, 1979, Betty Wilson, Acting Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1B-30 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to the 1979-1980 Game Code substantially as

proposed in the Notice published July 5, 1979, at 11 N.J.R. 324(b) with only inconsequential structural or language changes in the opinion of the Department of Environmental Protection.

A reference to this adoption will appear in N.J.A.C. 7:25-5.1 et seq.

An order adopting these amendments was filed and became effective on August 16, 1979 as R.1979 d.329.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

THE COMMISSIONER

Proposed Rules on the Labeling, Sales and Distribution of Cosmetics

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:5-18.1, proposes to adopt new rules concerning the labeling, sales and distribution methods for cosmetics intended for professional use only.

Full text of the proposal follows:

8:21-1.29 Labeling, sale, and distribution of cosmetics

(a) As used herein, the following terms shall have the following meanings:

1. "Cosmetic" means "cosmetic" as defined in N.J.S.A. 24:1-1h.
2. "Label" means "label" as defined in N.J.S.A. 24:1-1J.
3. "Labeling" means "labeling" as defined in N.J.S.A. 24:1-1k.
4. "Person" means an individual or firm, partnership, company, corporation, trustee, association, or any public or private entity.
5. "Professional" means an individual qualified through special training and experience and licensed by the State to perform certain beauty culture services.
6. "Retail" means sale or distribution directly to the consumer.

7. "Retail establishment" means any place used in the production, preparation, processing, manufacture, packing, storage or handling of cosmetics for sale or distribution directly to the consumer.

8. "Wholesale establishment" means any place used in the production, preparation, processing, manufacture, packing, storage, or handling of cosmetics for sale or distribution to a person other than the consumer.

(b) For the purposes of this regulation, a cosmetic labeled for professional use only which is sold, distributed, offered for sale, held in possession with intent to sell or dispose of to a retail person shall be deemed to be misbranded with the meaning of N.J.S.A. 24:5-18.1:

1. If such cosmetic requires professional skill or knowledge for its safe or effective use; or
2. If such cosmetic does not contain necessary warnings, cautions, or directions for its safe or effective use in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(c) No person shall distribute or sell, or have in his or her possession with intent to distribute or sell, any cosmetic which is misbranded within the meaning of subsection (b) of this section except to professional barbers,

professional beauticians, licensed beauty salons, licensed schools of beauty culture, other beauty culture professionals, or licensed wholesale cosmetic establishments except as hereafter provided.

(d) All personnel in a cosmetic establishment offering professional use only cosmetics for sale or distribution shall make reasonable inquiries regarding a person's professional status or affiliation as necessary to determine their qualifications to purchase such products.

(e) Professional use only cosmetics when displayed for sale in a combined retail-wholesale cosmetic establishment shall be kept separate and apart from retail merchandise. Where such cosmetics are accessible to the general public, posters measuring at least 8½ by 11 inches with lettering measuring at least ½ inch in height shall be conspicuously displayed in all such display areas and contain the following statement, "NOTICE - FOR SALE ONLY TO LICENSED BEAUTY CULTURE PROFESSIONALS." This requirement shall not apply to cosmetics labeled for professional use only which may be sold at retail under other provisions of this regulation.

(f) Cosmetics labeled for professional use only shall be exempt from the provisions of this section:

1. If such cosmetic does not require professional skill or knowledge for its safe or effective use and the manufacturer, packer or distributor of the cosmetic has a counterpart identical in name on the retail market, but which may differ in chemical composition (concentration, etc.) and packaging (size, labeling, directions, cautions, etc.) from the retail version, the seller or distributor, at the time of sale, shall deliver a cosmetic which bears the name and place of business of the manufacturer, packer or distributor and to which is affixed to its container not only directions and cautions adequate for use by the general public but by written notice that the product was not intended by its manufacturer, packer or distributor for retail sale and how it differs from its counterpart, if any, on the retail market. Such a written notice shall constitute labeling; or

2. If such cosmetic is manufactured, packed or distributed by a person who has a retail counterpart identical in name, chemical composition, packaging (size, labeling, directions, cautions, etc.).

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Donald J. Foley
Chief, Drug Control
N.J. Department of Health
1911 Princeton Ave.
Trenton, N.J. 08648

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Allen N. Koplin
Acting Commissioner
Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Amendment Concerning Dexamethasone as Therapeutic Agent

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2K-1 et seq., proposes to add

dexamethasone to the list of generic therapeutic agents to be carried on mobile intensive care units to be administered by certified paramedics.

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

8:31-25.1(a)23. Dexamethasone

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Roy Nickels
Acting Director
Emergency Medical Services
N.J. Department of Health
1911 Princeton Ave.
Trenton, N.J. 08648

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Allen N. Koplin
Acting Commissioner
Department of Health

(b)

HEALTH

THE COMMISSIONER

Proposed Rules on Hospital Reporting of Uniform Bill — Patient Summaries (Inpatient)

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to adopt new rules concerning hospital reporting of uniform bill — patient summaries (inpatient). Such rules, if adopted, will be cited as N.J.A.C. 8:31B-2.1 et seq.

The purpose of this rule is to provide the basis for a single patient data reporting system to satisfy the requirements of Chapter 83, P.L. 1978. The proposed rule is based on an expanded UB16-78, a uniform billing form developed by the American Hospital Association and other interested parties, and is designed so as to: (a) coordinate and consolidate the requirements on hospital billing systems to allow all payors to be billed through a single common format rather than the current system of different claim forms for each payor, (b) simplify claims administration and coordination of benefits of third party payors through the receipt of bills from all providers in a common format, (c) provide information relevant to appropriateness reviews required by third party payors, including PSRO required data, (d) satisfy present Department of Health reporting requirements for bills and abstracts, thereby, eliminating a costly and difficult process of combining bills and abstracts, (e) eliminate duplicative reporting to both the Department and third party payors, (f) allow for common and consistent reporting of revenues for services related to patient care used in the calculation of Preliminary Cost Bases under Chapter 83, P.L. 1978, and (g) promote uniformity and accuracy of patient data reporting. Confidentiality of individual patients and physicians shall be maintained in fulfilling the above purposes.

Uniform Bill-Patient Summaries (UB-PS) shall be used and reported for each inpatient discharged and ambulatory same day surgery outpatient treated on or after January 1, 1981 from each hospital covered under Chapter 83, P.L. 1978.

For those hospitals scheduled to have a Preliminary Cost Base established by the New Jersey Hospital Rate-Setting Commission during calendar year 1980, a plan of implementation of the UB-PS shall be developed jointly among the hospital, its UB-PS Intermediary(ies) and the Department of Health. This plan shall include (1) expedient implementation of the UB-PS as soon as possible, however, in no event later than September 30, 1980; and (2) submission on or before March 31, 1981 of all patient information required to be submitted to the Department of Health in the UB-PS format for all inpatients discharged and ambulatory same day surgery outpatients treated on or after January 1, 1980.

The reasonable cost of compliance with this Rule net of any cost savings shall be considered by the Commission in establishing a Preliminary Cost Base for a hospital. Until such time as a hospital has a Preliminary Cost Base established, a hospital shall identify in its SHARE submission (or, if necessary, in a separate submission) and the Department shall recognize the reasonable costs incurred as a direct result of compliance with this regulation at any savings incurred.

Copies of the 53 pages of the full text of the proposed rule is available from:

James R. Hub, Director
Health Economics Services
Department of Health
John Fitch Plaza
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979, to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley
Commissioner
Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Rules on Procedural and Methodological Regulations to Implement Chapter 83, P.L. 1978

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to adopt new rules concerning procedural and methodological regulations to implement Chapter 83, P.L. 1978. The proposed rules concerning the procedural regulations, if adopted, will be cited as N.J.A.C. 8:31B-3.1 et seq.; the proposed rules concerning methodological regulations, if adopted, will be cited as N.J.A.C. 8:31B-41, et seq.

The sections of the proposed N.J.A.C. 8:31B-3.1 et seq. are summarized as follows:

1. Procedure describing how the Commissioner of Health shall propose to the Commission a hospital's Schedule of Rates as determined in the proposed Methodological Regulation.

2. Procedures for the hospital to not accept or accept and implement the Proposed Schedule of Rates.

3. Provisions for appeal for Retrospective and Prospective Exceptions concerning Operating Costs, Capital Facilities Formula Allowance and Revenue Adjustments.

4. Procedure to address issues which may affect hospitals' Schedules of Rates including legal changes, quantifiable economic benefits, differences in an institutional course of action or in patterns of medical practice affecting a given, or group of, Diagnosis Related Group(s) which is likely to affect one or more institutions.

5. Procedure and timetable for the Commission in addressing issues and making adjustments.

6. Provisions for periodic adjustments to the economic factor and any adjustments approved by the Commission.

7. Provisions made for adjustments in payments to hospitals and among payors to insure conformance of payments with actual experience and the intent of the Commission.

8. Provisions for a report, based on actual data, that monitors such things as individual management achievements and the performance of the health care delivery system as a whole in order to understand whether or not the goals set by the legislature have been met.

A summary of the proposed N.J.A.C. 8:31B-4.1 et seq. are:

1. Establish a hospital's Current Cost Base by dividing the hospitals' actual costs last reported to the New Jersey Department of Health into direct and indirect costs related to patient care, allocating these costs to patients to determine the costs of the hospital's mix of patients in the base year, and adding to such costs certain other financial elements as described in the proposed Financial Elements and Reporting regulation.

2. Establish a proposed Preliminary Cost Base by determining the reasonable direct cost per case, reasonable indirect costs, adding or subtracting net income from other sources, adjusting the base year costs for inflation (deflation) by use of an economic factor, and making adjustments to costs and other financial elements approved by the Hospital Rate-Setting Commission.

3. Establish the Schedule of Rates which is the average amount of revenue a hospital shall charge and payors shall pay per case for Services Related to Patient Care, based upon the Preliminary Cost Base.

4. Making certain automatic reconciliations and adjustments which are necessary to insure that hospital's net revenue collection align with the Schedule of Rates and that rates reflect changes in inflation.

Copies of the approximately 70 pages of the full text of this proposal may be obtained from or made available for review by contacting:

James R. Hub
Director, Health Economics Services
N.J. Department of Health
John Fitch Plaza
Trenton, N.J. 08625

A public hearing respecting this proposal will be conducted by the Health Care Administration Board on Thursday, September 13, 1979, at 10:00 A.M. in the Gymnasium of the College of Medicine and Dentistry in Newark, New Jersey. Those wishing to appear at that hearing should direct a written request to James Hub at the above address by September 10, 1979.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley
Commissioner
Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Amendments Concerning Waiver of Emergency Room Services

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend a portion of N.J.A.C. 8:43B-1.11 concerning the standards for licensure of hospital facilities regarding the right to waive emergency room services.

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

8:43B-1.11(q)7.ii. All hospitals shall provide 24-hour licensed physician coverage in the emergency department according to a plan established by the medical staff and/or approved by the governing board. There shall be a licensed physician responsible for the prompt and efficient treatment of all emergency patients. **The Commissioner or his/her designee may waive this requirement if, in his/her opinion, such waiver would not endanger the life, safety, or health of the patients, staff, or public and sufficient justification exists.**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Wanda J. Marra
Coordinator, Standards Program
N.J. Department of Health
P.O. Box 1540
Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Allen N. Koplin
Acting Commissioner
Department of Health

(b)

HEALTH

THE COMMISSIONER

Proposed Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, pro-

poses to adopt a new Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities. Such rules, if adopted, will be cited as N.J.A.C. 8:43F-1.1 et seq.

These proposed rules concern definitions; licensure procedures; general requirements; governing authority; administration; patient care policies and procedures; medical services; nursing services, pharmaceutical services; dietary services; rehabilitation services; social work services; patient activities services; dental services; laboratory, radiological and diagnostic services; patient rights; continuity of patient care; medical records; patient care statistics; financial data; housekeeping services; evaluation; infection control; emergency procedures; construction; additional requirements; and rescinding former regulations.

Copies of the 93 pages of the full text of this proposal may be obtained from or made available for review by contacting:

Wanda J. Marra
Coordinator, Standards Program
N.J. Department of Health
P.O. Box 1540
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979, to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley
Commissioner
Department of Health

(c)

HEALTH

THE COMMISSIONER

Proposed Amendments on Licensure Fees Regarding Clinical Laboratories

Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 45:9-42, proposes to amend N.J.A.C. 8:45-1.3 concerning licensure fees regarding clinical laboratories. The proposal concerns the deletion of the current text of N.J.A.C. 8:45-1.3 and the adoption of new text therein.

Full text of the proposed new rules follows:

8:45-1.3 Licensure fees

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

Total Number of Employees of Entire Laboratory*

Specialty	1-4	5-9	10-19	20-29	30-39	40-49	50-59	70-89	90 or more
Urinalysis	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60	\$65
Bacteriology	25	30	35	40	45	50	55	60	65
Mycobacteriology	25	30	35	40	45	50	55	60	65
Parasitology	25	30	35	40	45	50	55	60	65
Mycology	25	30	35	40	45	50	55	60	65
Virology	25	30	35	40	45	50	55	60	65
Serology	25	30	35	40	45	50	55	60	65
Hematology	25	30	35	40	45	50	55	60	65
Immunoematology	25	30	35	40	45	50	55	60	65

Clinical Chemistry	25	30	35	40	45	50	55	60	65
Radioimmunoassay	25	30	35	40	45	50	55	60	65
Toxicology (for example, Blood Lead and Drugs of Abuse)	25	30	35	40	45	50	55	60	65
Cytology	25	30	35	40	45	50	55	60	65
Bleeding Station	25	30	35	40	45	50	55	60	65

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

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Dr. David Kirsh
 Director, Clinical Laboratory Improvement
 N.J. Department of Health
 P.O. Box 1540
 Room 405
 Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Allen N. Koplín
 Acting Commissioner
 Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Amendments Increasing Certain Laboratory Fees

The Department of Health, pursuant to authority of N.J.S.A. 26:1A-33, proposes to amend the rules concerning laboratory fees by deleting the current text of N.J.A.C. 8:45-2.1 and 8:45-2.2 and adopt new text therein which increases certain laboratory fees.

Full text of the proposed new rules follows:

8:45-2.1 Fees; generally

(a) Commencing November 1, 1979, the following changes will be fee-for-service cost structure, Division of Laboratories and Epidemiology, New Jersey State Department of Health:

Laboratory Test	
VDRL	\$3.00
Rubella	\$4.00
Potable Water/Bact.	\$9.00
FTA-ABS*	\$3.00
Toxoplasmosis*	\$6.00

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

* Newly established fee-for service

FTA-ABS charge applies when requested individually.

8:45-2.2 Syphilis testing and rubella screening fees

(a) Commencing November 1, 1979, syphilis testing will be, on a fee-for-service basis, \$3.00 per specimen; rubella screening will be \$4.00 per specimen.

(b) New fee-for-service charges will be assessed for FTA-ABS (\$3.00 when requested individually) and toxoplasmosis (\$6.00).

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Dr. Oscar A. Ross
 Assistant Commissioner
 N.J. Department of Health
 Health-Agriculture Building
 P.O. Box 1540
 Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Department of Health
 Allen N. Koplín
 Acting Commissioner

(b)

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

Proposed Amendments Concerning Drug Evaluation and Acceptance Criteria

Sanford Luger, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-1 et seq., proposes to amend a portion of the rules concerning drug evaluation and acceptance criteria.

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

8:70-1.4 Manufacturer[, labeler] and [distributor] **repack-repackager** criteria

8:70-1.1(c)4. Manufacturer [, labeler] and [distributor] **ager** criteria

(a) The actual manufacturer of the drug product must be identified and the active ingredient(s) must be given. In addition, the manufacturer[, labeler] and [distributor, if any,] **repackager** must certify that the active and inactive ingredients, sources and the final dosage form are approved by the federal Food and Drug Administration or the New Jersey Department of Health. Products for which a manufacturer[, labeler] or [distributor] **repackager** refuses to provide this information will not be approved.

(b) The manufacturer and [labeler] **repackager** must provide verification of their compliance with the quality control standards established by the current Good Manufacturing Practices Act for the reference product.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Thomas T. Culkin
 Executive Director
 Drug Utilization Review Council
 N.J. Department of Health
 Box 1540
 Room 801-D
 Trenton, N.J. 08625

The Drug Utilization Review Council may thereafter adopt rules concerning this subject without further notice.

Sanford Luger
 Chairman
 Drug Utilization Review Council
 Department of Health

(a)

HEALTH

THE COMMISSIONER

Amendments to Guidelines and Criteria For Submission of Applications For Certificate of Need

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2J-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:33-1.1 et seq. concerning the guidelines and criteria for submission of applications for certificate of need substantially as proposed in the Notice published April 5, 1979, at 11 N.J.R. 174(a) with only inconsequential structural or language changes in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on July 20, 1979, as R.1979 d.283.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HEALTH

THE COMMISSIONER

Amendments to Economic Factor in SHARE Manual

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:31A-9.1 and deleted the current text of N.J.A.C. 8:31A-9.2 and 8:31A-10.5 concerning the economic factor in the SHARE Manual substantially as proposed in the Notice published May 10, 1979, at 11 N.J.R. 232(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on July 20, 1979, as R.1979 d.284.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

THE COMMISSIONER

Rules on Quantifiable Economic Benefits

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be

cited as N.J.A.C. 8:31B-1.1, concerning the procedure for determining quantifiable economic benefits under the diagnosis related group rate setting program substantially as proposed in the Notice published May 10, 1979, at 11 N.J.R. 233(a) with only inconsequential structural or language changes in the opinion of the Department of Health.

Full text of the adoption as follows:

8:31B-1.1 Determining quantifiable economic benefits

(a) The hospital rate setting commission, upon application, shall grant to any payor or class of payors a differential in payment rate to the extent supported by demonstrable evidence of economic benefits rendered to the institution or to the health care delivery system taken as a whole. In addition to such other benefits as the Commission may consider, it shall consider the following if found to be quantifiable:

1. Degree of promptness and volume of payments to hospitals so that hospitals are provided with funds for the current financing of their services; and
2. Broad provision of health insurance coverages which are not otherwise affordable or obtainable at premium rates which are not self-supporting.

(b) In determining the quantifiable economic benefits to which consideration shall be given in approving payment rates, the Commission may consider overall financial benefits to society which are provided by programs offered by a payor or class of payors.

(c) The Commission shall solicit comments from the hospitals, hospital payors and the public and may, in accordance with the Administrative Procedures Act (N.J.S.A. 52:143-1 et seq.) conduct public hearings on the matter.

An order adopting these rules was filed and became effective on July 20, 1979, as R.1979 d.285.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HEALTH

THE COMMISSIONER

Amendments to Standards and General Criteria For Planning and Application for Designation of Cardiac Diagnostic Facilities

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:41-1.1 et seq. concerning the standards and general criteria for planning and application for designation of cardiac diagnostic facilities as proposed in the Notice published June 7, 1979, at 11 N.J.R. 278(a).

An order adopting these amendments was filed and became effective on July 20, 1979, as R.1979 d.286.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HEALTH

THE COMMISSIONER

Amendments to Standards and General Criteria For the Planning and Certification of Need Of Regional Cardiac Surgical Centers

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:41-2.1 et seq. concerning the standards and general criteria for the planning and certification of need of regional cardiac surgical centers as proposed in the Notice published June 7, 1979, at 11 N.J.R. 278(b).

An order adopting these amendments was filed and became effective on July 20, 1979, as R.1979 d.287.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

Deletion of Non-Prescription Medicines from List of Interchangeable Drug Products

On July 19, 1979, Sanford Luger, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted a rule which deleted non-prescription medicines from the list of interchangeable drug products in N.J.A.C. 8:71-1.1 et seq. as proposed in the Notice published June 7, 1979, at 11 N.J.R. 279(b).

An order deleting these medicines was filed and became effective on July 20, 1979, as R.1979 d.288.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

THE COMMISSIONER

Amendments on Control of Laetrile

On August 1, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:6F-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:21-4.31 through 8:21-4.34 concerning the control of

Laetrile as proposed in the Notice published July 5, 1979, at 11 N.J.R. 327(b).

An order adopting these amendments was filed and became effective on August 6, 1979, as R.1979 d.299.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HEALTH

THE COMMISSIONER

Amendments to Public Health Funding And Local Health Board Standards

On July 19, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2F-1 et seq., 26:3A2-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to Chapters 48, 49 and 53 in Title 8 of the New Jersey Administrative Code concerning public health funding and local health board standards as proposed in the Notice published May 10, 1979, at 11 N.J.R. 234(b).

An order adopting these amendments was filed and became effective on August 6, 1979, as R.1979 d.300.

Howard H. Kestin
Director
Office of Administrative Law

(e)

HEALTH

THE COMMISSIONER

Emergency Amendments on Calculation Of Narcotic Content in Any Controlled Dangerous Substances Preparations

On July 26, 1979, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:21-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 8:65-10.3, 8:65-10.4 and 8:65-10.5 concerning the calculation of narcotic content in any controlled dangerous substances preparations. This emergency amendment supercedes the proposal published August 9, 1979 at 11 N.J.R. 375(a).

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

8:65-10.3(b)3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing [limited quantities of] any of the following narcotic drugs or [any] their salts [thereof:] calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

8:65-10.4(b)4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing [limited quantities of] any of the following narcotic drugs or [any] their salts [thereof:] calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

8:65-10.5(b)1. **Narcotic drugs containing non-narcotic active medicinal ingredients:** Any compound, mixture, or preparation containing any of the following [limited quantities of] narcotic drugs or their salts [thereof,] calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

An order adopting these amendments was filed on August 6, 1979, as R.1979 d.301 (Exempt, Emergency Rule).
Howard H. Kestin
Director
Office of Administrative Law

(a)

HEALTH

THE COMMISSIONER

Amendments to Standards and General Criteria for the Planning and Certification of Need of CAT Units

On August 14, 1979, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:31-9.1 et seq. concerning the standards and general criteria for the planning and certification of need of CAT units substantially as proposed in the Notice published June 7, 1979, at 11 N.J.R. 277(c) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on August 15, 1979 as R.1979 d.316.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HEALTH

THE COMMISSIONER

1980 Hospital Rate Review Guidelines

On August 14, 1979, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted 1980 hospital rate review guidelines, which will be referenced to in N.J.A.C. 8:31A-7.1 et seq., substantially as proposed in the Notice published June 7, 1979, at 11 N.J.R. 277(d) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these guidelines was filed and became effective on August 15, 1979 as R.1979 d.317.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

Amendments to List of Interchangeable Drug Products

On August 14, 1979, Sanford Luger, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-6 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to the list of interchangeable drug products in Chapter 71 of Title 8 in the New Jersey Administrative Code substantially as proposed in the Notice published June 7, 1979, at 11 N.J.R. 279(a) but with the subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on August 15, 1979, as R.1979 d.318.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HEALTH

THE COMMISSIONER

Amendments Concerning Frozen Desserts

On August 15, 1979, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 24:10-73.1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:21-7.1 et seq. concerning frozen desserts substantially as proposed in the Notice published June 7, 1979, at 11 N.J.R. 277(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on August 16, 1979 as R.1979 d.322.

Howard H. Kestin
Director
Office of Administrative Law

(e)

HIGHER EDUCATION

STATE BOARD OF HIGHER EDUCATION

Proposed Amendments Concerning Petitions from Out-of-State Institutions Desiring to Offer Courses in New Jersey

The State Board of Higher Education, pursuant to authority of N.J.S.A. 18A:3-15 and 18A:68-6, proposes to amend the rules concerning petitions from out-of-State institutions desiring to offer courses in New Jersey.

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

9:1-6.1 Review of petitions
The Board of Higher Education in its coordinating capa-

city will review all petitions from out-of-state institutions to offer credit-bearing courses or degree programs in New Jersey from a statewide perspective. The Board will approve only those offerings that in the opinion of the Board meet [minimum] State standards for program [of] quality, are fiscally viable, and serve a demonstrable need.

9:1-6.4 Department of Higher Education review procedures

(a) Petitions from out-of-state institutions invited by in-state parties to offer educational services in New Jersey:

1. Upon receipt of petition, the Department of Higher Education will provide to all New Jersey institutions of higher education a summary of the petition's content and will invite the institutions to submit their comments and to indicate whether or not they wish and are prepared to offer comparable services. Those in-state institutions that wish to offer comparable services may submit proposals to the Department within 30 days after the Department's notification regarding the out-of-state request. Proposals from in-state institutions received within this time period will be forwarded immediately by the Department to the party requesting instructional services (as well as to the out-of-state institutions).

i. Specifically with respect to a New Jersey high school seeking educational services, the high school shall inform the Department of Higher Education of its intent to seek an educational program prior to entering into negotiations for credit-bearing courses with an out-of-state institution. The notice shall contain a detailed itemization of the services desired by the high school. After receipt of the notification, the Department shall provide copies of the notice to all New Jersey institutions of higher education and shall invite these institutions to submit their comments and to indicate both to the Department and to the high school, within 30 days, whether they wish to try to meet the needs of the high school.

ii. The high school shall enter into negotiations with an out-of-state institution only after the high school has notified the Department of Higher Education which in-state institution(s) if any, the high school will be dealing with in addition to the proposed out-of-state party.

2. The Department will review all [the] full proposals (in-state and out-of-state) usually with the assistance of a consultant who is mutually acceptable to the Department and the institutions.

3. The petition and all pertinent materials will be provided to the Licensure and Approval Advisory Board (LAAB) for its review.

4. If the Department determines, in consultation with LAAB, that an in-state proposal(s) is comparable or superior to the out-of-state proposal, the Department will strongly encourage the in-State party requesting instructional services to accept an in-State proposal.

5. The in-State party requesting instructional services shall inform the Department as to its choice of institution and specify the reasons for the selection.

6. The Chancellor will make a recommendation concerning the program of course(s) to the Board of Higher Education.

(b) Petitions from out-of-state institutions seeking to offer educational services independently (without invitation) in New Jersey:

1. Upon receipt of petition, the Department of Higher Education will provide all New Jersey institutions of higher education with a summary of the petition's content and invite the institutions to submit their comments.

2. The Department will review the petitions, usually with the assistance of a consultant who is mutually acceptable to the Department and the institution.

3. The petition and all pertinent materials will be provided to LAAB for its review.

4. The Chancellor will make a recommendation concerning the program of course(s) to the Board of Higher Education.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Eric M. Perkins
Administrative Practice Officer
Department of Higher Education
225 West State St.
Trenton, N.J. 08625

The State Board of Higher Education may thereafter adopt rules concerning this subject without further notice.

T. Edward Hollander
Chancellor of Higher Education
Secretary, State Board of Higher Education

(a)

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Proposed Amendments on Residency, Dependent and Independent Students and Renewal of Grants

The Student Assistance Board in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:71-26.8 and 18A:71-48, proposes to amend N.J.A.C. 9:7-2.2, 9:7-2.6 and 9:7-3.3 concerning residency, dependent and independent students defined and renewal of grants awarded prior to March 1, 1978.

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

9:7-2.2 Residency

(a) Students must be legal residents of New Jersey for a period of not less than 12 consecutive months immediately prior to receiving a grant. The residence of a student is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he or she has the intention of returning.

1. A dependent student as defined in section 6 of this Subchapter is presumed to be a legal resident of the state which his or her parent(s) or guardian(s) is a resident. A dependent student whose parent(s) or guardian(s) is not a legal resident of New Jersey is presumed to be in the state for the temporary purpose of obtaining an education.

(b) Residence established solely for the purpose of attending a particular college cannot be considered as fulfilling the definition of domicile. When in question, a student must demonstrate proof of residence by presenting the following documents: driver's license, voter registration form, tax return(s), or other suitable proof. The Office of Student Assistance, Department of Higher Education, shall determine the state of residence for any individual whose residency is not certain. Institutions may provide information to substantiate the student's claim of legal New Jersey residence.

9:7-2.6 Dependent/independent student defined

(a) A dependent student is one who: 1. Resides with his or her parents or guardians for more than six weeks last, this, or next year; or 2. Is dependent upon them for more than \$750 in support of any kind including food,

clothing, or shelter last, this, or next year; or 3. Is claimed, or will be claimed, as dependent for income tax purposes for last, this, or next year.

(b) An independent student is one who: 1. Has not lived, and will not live, with parents or guardians for more than six weeks last, this, and next year, or a recipient of aid to dependent children who resides with parent(s); and 2. Has not received, and will not receive, financial assistance from parents of more than \$750 in support of any kind including food, clothing, and shelter last, this, and next year; and 3. Has not been claimed, and will not be claimed, as an exemption on parents' or guardians' tax return last, this, and next year; and 4. Has resources, which should be at least equal to the level of public assistance in the preceding calendar year. For 1978-79 and subsequent years, unless revised, this level is \$1,400.

(c) If circumstances have prevented the student(s) from having resources of a minimum of \$1,400 for the calendar year prior to the academic year for which aid is requested and the student(s) has qualified for independent status based on the other three criteria, then, as an alternative, in-kind support equal to at least \$1,400 must be documented and placed in the student(s) file before he or she is considered an independent student. Such documentation must be furnished to the Office of Student Assistance, Department of Higher Education, in writing, through the established appeals procedure or through the use of a properly prepared change form.

9:7-3.3 Renewal of grants awarded prior to March 1, 1978

Students receiving tuition assistance grants at New Jersey public or independent institutions prior to March 1, 1978, must annually file the New Jersey financial aid form to renew their grant as in N.J.A.C. 9:7-[2.6]2.8. Continued eligibility will be determined according to criteria in effect on September 1, 1977, unless they would receive increased aid under P.L. 1977, Chapter 344.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Eric M. Perkins
Administrative Practice Officer
Department of Higher Education
225 West State St.
Trenton, N.J. 08625

The Student Assistance Board may thereafter adopt rules concerning this subject without further notice.

Lynn Goldthwaite
Chairperson
Student Assistance Board
Department of Higher Education

(a)

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Amendments to Rules on Determination of Eligibility for and Value of Student Assistance

On August 7, 1979, Lynn Goldthwaite, Chairperson of the New Jersey Student Assistance Board, pursuant to authority of N.J.S.A. 18A:71-26.8, 18A:71-48 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 9:7-2.4 concerning the determination of eligibility for and value of student assistance substantially as proposed in the

Notice published May 10, 1979, at 11 N.J.R. 237(d) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Higher Education.

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

9:7-2.4 Determination of eligibility for and value of student assistance

Students must have demonstrated financial need through submission of a New Jersey financial aid form. The information on the financial aid form will be evaluated by employing the national uniform methodology, as represented in the College Scholarship Service system. The evaluation results in an estimate of the family or student's ability to contribute to the cost of education. This estimate is then used to determine eligibility for and value of student assistance. **Students may not receive assistance under the programs administered by the Student Assistance Board if information is made known that they owe a refund on a grant or scholarship previously received from a state or federal program through any institution or are in default on any student loan made or insured by the federal government at any institution.**

An order adopting these amendments was filed and became effective on August 15, 1979 as R.1979 d.313.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Amendments Concerning Verification of Enrollment and Academic Performance and Eligibility Requirements

On August 7, 1979, Lynn Goldthwaite, Chairperson of the New Jersey Student Assistance Board in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:71-26.8, 18A:71-48 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 9:7-2.10 and 9:7-4.1 concerning verification of enrollment and academic performance and eligibility requirements as proposed in the Notice published July 5, 1979, at 11 N.J.R. 342(a).

An order adopting these amendments was filed and became effective on August 15, 1979 as R.1979 d.314.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Hospital Services Manual

Gerald Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend certain portions of N.J.A.C. 10:52-1.6 and 10:52-1.13 of the Hospital Services Manual concerning

partial hospitalization and conditions of approval for private psychiatric hospitals.

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

10:52-1.6

(b) Partial hospitalization as defined in section 1 of this subchapter is covered as an outpatient service. Day, evening or night care (night care must include overnight stay) do not require prior authorization from the New Jersey Division of Medical Assistance and Health Services for the first 30 calendar days.

1. Prior authorization required for partial hospitalization after the first 30-days. Each authorization may be granted for a maximum period of six months.

10:52-1.13 Approved private psychiatric hospitals

(a) An approved private psychiatric hospital is one which meets [all of] the following conditions:

1. Licensed by the State of New Jersey as a psychiatric hospital and is;

2. Qualified to participate as a psychiatric hospital under the Title XVIII (Medicare) program; [and] or is

3. Accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or by the Committee on Hospitals of the American Osteopathic Association; and has

Note: JCAH Accreditation is required when psychiatric services are provided to children under 21 years of age.

4. Signed an agreement to participate and abide by rules and regulations of the New Jersey Health Services Program.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
P.O. Box 2486
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Physician's Services Manual

Gerald Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend certain portions of N.J.A.C. 10:54-1.2, 10:54-1.5 and 10:54-1.9 of the Physician's Services Manual concerning screening services, prior authorization for psychiatric services and policy on shoes.

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

10:54-1.2(a)8. Screening services other than procedure codes 5406 (vision screening) and 9580 (EPSDT) are not reimbursable.

10:54-1.5(b)2. Psychiatric services:

i. Prior authorization is required for psychiatric services exceeding \$300.00 in [charges] payments [by] to the physician in any 12-month period commencing with the patient's initial visit when provided in the physician's office setting and is cumulative within that period;]. Each authorization may be granted for a maximum period of one year.

Note: Payment for inpatient hospital psychiatric services in an acute care general hospital are excluded from calculation of the \$300.00 limit.

ii. Exception: Psychiatric services rendered in an approved hospital outpatient department to a registered clinic patient shall not require prior authorization, but in accordance with section 207 of the Hospital Manual requires a physician's certification [every 30 days] and a plan of treatment after the first 30 days. Certification and/or recertification shall consist of a typewritten statement signed by the attending physician, which shall indicate the type, amount, frequency and duration of the services that are to be furnished and must include the diagnosis and anticipated goals. The certification must be completed on a timely basis and the dates on the report must be applicable to the billing dates on the claim submitted by the hospital;

iii. When prior authorization is required, the request is to be submitted [in quadruplicate] on a "Request for authorization of psychiatric services form" (FD-07 exhibit III) to the Chief of Mental Health Services, Division of Medical Assistance and Health Services, P.O. Box 2486, Trenton, New Jersey 08625. The patient's name, home address, present address, if different than home address, H.S.P. case number, patient person number, age, sex, beginning date of requested authorization and the practitioner's name, address, and so forth, is to be inserted on the FD-07 form. Additionally, the request must include the diagnosis as set forth in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (latest edition), treatment plan and progress report, in detail, and prognosis. No post factor authorization will be granted;

iv. When a request for prior authorization is approved, the Chief of Mental Health Services shall provide the practitioner with written confirmation for continued care by signing form FD-07 (Request for authorization of psychiatric services) [and return two copies to the practitioner. The original copy of the authorization (FD-07) must be attached to the physicians and practitioners claim (MC-8) when submitting the claim for payment. The other copy is retained by the physician for his records]. Each authorization may be granted for a maximum period of six months. When a request for prior authorization is denied, the practitioner shall be notified in writing by the Chief of Mental Health Services of the reason.

10:54-1.9(b)3. When used to correct or adapt to gross foot deformities. [; and/or]

10:54-1.9(b)4. When the ankle (talo crural) joint is included in the shoe.]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
P.O. Box 2486
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Prosthetic and Orthotic Services Manual

Gerald Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend certain portions of N.J.A.C. 10:55-1.5 of the Prosthetic and Orthotic Services Manual concerning policy on shoes.

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

10:55-1.5(b)3. When used to correct or adapt to gross foot deformities. [; and/or]

[4. When the ankle (talo crural) joint is included in the shoe.]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
P.O. Box 2486
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(b)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Long Term Care Rate Review Guidelines

Gerald J. Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:63-3.18 and 10:63-3.19 of the Long Term Care Services Manual concerning rate review guidelines, relative to inflation and working capital provision and total rates.

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

10:63-3.18(e) No provision for inflation will be made with respect to [the CFA] costs for buildings, land, [and] moveable equipment, interest and leases, nor to special amortization.

10:63-3.19(a)3. This result will be multiplied by the rates developed for each class of patient to develop the working capital provision for that patient class. **This working capital provision will only be applied to LTCF's receiving a CFA rate.**

To meet the July, 1979 rate setting cycle, these changes effect rates based on the December 31, 1978, and subsequent cost report filings.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Administrative Practice Officer
Division of Medical Assistance and Health Services
P.O. Box 2486
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(c)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Psychologists Services Manual

Gerald Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend certain portions of N.J.A.C. 10:67-1.8 of the Psychologists Services Manual concerning prior authorization.

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

10:67-1.8 Prior authorization

(a) Prior authorization means approval by the Chief, Bureau of Mental Health Services, Division of Medical Assistance and Health Services, of a psychologist before the service is rendered.

[(b) Prior authorization is required for:

1. Psychological services exceeding a cost of \$300.00 in any 12-month period commencing with a patient's initial visit when provided in the outpatient setting with such services being cumulative within that period. (Prior authorization is not required for outpatient psychological services not exceeding \$300.00 under the conditions indicated):]

(b) Prior authorization is required for psychological services exceeding \$300.00 in payments to the psychologist in any 12-month period commencing with the patient's initial visit when provided in the psychologist's office and is cumulative within that period. Each authorization may be granted for a maximum period of one year.

1. [i.] Exception: Payment for any psychological serv-

ices provided to an inpatient in an acute care hospital is excluded from calculation of the \$300.00 limit.

(c) When prior authorization is required, the request is to be submitted [in quadruplicate] on a "Request for Authorization of Psychiatric Services form" (FD-07) to the Chief, Bureau of Mental Health Services, Division of Medical Assistance and Health Services, P.O. Box 2486, Trenton, New Jersey 08625.

(d) The patient's name, home address, present address (if different, Health Services Program number, patient person number, age, sex, beginning date of requested authorization and the psychologist's name, address and so forth, is to be inserted on the FD-07 form.

(e) The request must also include the diagnosis as set forth in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (latest edition), treatment plan and progress report in detail and prognosis. No post facto authorization will be granted.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
P.O. Box 2486
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments Concerning Eligibility of Applicant for AFDC-F or -N Benefits Pending Determination of Incapacity

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend a portion of the Public Assistance Manual concerning the eligibility of an applicant for AFDC-F or -N benefits pending a determination of incapacity.

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

10:81-2.7(e)2. If the applicant claims to be in immediate need and none of the factors in 2532.1 exist, he/she shall be evaluated for AFDC-[N]F or -N. (See ASH Section [123] 127.)

3. If the applicant has been receiving assistance under the AFDC-N segment and incapacity is subsequently established in accordance with the proper procedure and AFDC-C eligibility is approved, a retroactive payment shall be made to the date of the application for the dollar difference between the AFDC-N grant received and the appropriate amount of payment under AFDC-C. Such a retroactive grant shall not be considered as current income or resource. If the applicant has been receiving assistance under the AFDC-F segment, no grant adjustment is necessary.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

G. Thomas Riti
Director
Division of Public Welfare
Box 1627
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(b)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments Concerning Legally Responsible Relatives in the Public Assistance Manual and Assistance Standards Handbook

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend the Public Assistance Manual and the Assistance Standards Handbook concerning legally responsible relatives.

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

10:81-3.35(b)1. The following chart identifies relatives who are recognized as legally responsible under AFDC and Medical Assistance (MA) programs:

Legally Responsible Relative	Program	
	AFDC	MA
Spouse	X	X
Child under age 55	X	
Parent of a [dependent] child under 21	X	X
Parent under age 55 of child 21 or over	X	

10:82-3.8 Relatives as a resource

(a) The following table indicates the legally responsible relatives (LRRs) in each program to whom the policies and standards in this section apply:

Legally Responsible Relative	Program	
	AFDC	MA
Spouse	X	X
Child under age 55	X	
Any parent of a [dependent] child under 21	X	X
Parent under age 55 of a child 21 or over	X	

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

G. Thomas Riti
Director
Division of Public Welfare
Box 1627
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments Concerning Extension of Medicaid Benefits To a Newborn Child and a Cross Reference Regarding LRRs

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3 proposes to amend the Public Assistance Manual concerning the extension of Medicaid benefits to a newborn child and a cross-reference regarding LRRs.

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

10:81-8.22(b) Note: This extension also applies when increased earnings are due to new employment. New members added to the eligible unit during the four month extension period are not included under the extended coverage [...] with the exception of a child born to the family during the 4 month extension period.

10:81-8.23(c) When an individual does not live with his/her natural or adoptive parents, eligibility shall be determined for an eligible unit of one, considering only the individual's income and resources. (See Section 24 of this subchapter regarding LRRs.)

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

G. Thomas Riti
Director
Division of Public Welfare
Box 1627
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(b)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments to Portions Of the Assistance Standards Handbook

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend portions of the Assistance Standards Handbook concerning income of a full time student, establishing monthly earnings, disregard of certain earned income and treatment of irregular or nonrecurring income.

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

10:82-1.7(b)1. RSDI benefits received by an eligible child between 18 and 21 years of age who is a full time student shall be totally disregarded as income or resource in determining either initial or continuing eligibility and in calculating the amount of the grant.

10:82-2.14(b) Weekly gross earnings shall be determined by averaging earnings for any consecutive 4 weeks within the [8] 10 week period [preceding the date the grant becomes effective, subject to administrative requirements] which includes the five weeks immediately before and after the date the client signs Form PA-1J, Application and Affidavit for AFDC, MA, CRA, IRP, and Food Stamps.

1. The applicable 4 week period must be identified in the case record and the amount of earnings documented therein.

2. This regulation must be applied whenever a new PA-1J is signed (i.e., redeterminations). In addition, where changes in income occur but a new PA-1J form is not signed, the 10 week period is to include the five weeks prior to and after the date the IM worker is informed of a change in earnings, either orally or in writing.

10:82-4.6 Disregard of certain allowances and payments in AFDC (all segments)

(a) Incentive allowances of \$30 per week to AFDC recipients who are trainees in a CETA program and training allowances received by clients for their classroom attendance in the Youth Employment and Training Programs (YETP) are exempt in the determination of eligibility and grant entitlement. Additional incentive allowances, except as indicated below, are to be counted as unearned income; all other payments through CETA are earned income and shall be treated accordingly.

1. Earnings received by any youth under any of the following four programs of Title III, Part C Youth Employment and Training Act of 1973 shall be disregarded in determining the public assistance payment:

- i. The Youth Entitlement Pilot Projects;
- ii. The Youth Community Conservation and Improvement Project;
- iii. The Youth Employment and Training Programs;
- iv. The Youth Adults Conservation Corps.

10:82-4.15(a) Income which becomes available at irregular intervals or is received upon a single occasion only, unless set aside for a specific purpose, shall be applied as income in computing the assistance grant as follows:

1. If the amount is less than one full month's adjusted allowance, the next month's grant [for that month of eligibility], subject to adverse action notice requirements, shall be reduced by such amount.

2. If the amount, other than that set aside in accordance with Section 311.7f, is greater than one month's adjusted allowance but less than that for three months, the case shall be suspended until such funds are exhausted, at which time the case shall be reinstated.

3. If the amount, excluding that which is set aside in accordance with Section 311.7f, is greater than required to meet three months' needs, the case shall be closed. (See PAM Section 7100.)

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

G. Thomas Riti
Director
Division of Public Welfare
Box 1627
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments Concerning A Standard Utility Allowance In the Food Stamp Program

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4B-2, proposes to amend a portion of the rules concerning a standard utility allowance in the food stamp program.

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

10:87-5.10(d) Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the standard utility allowance (see Table I, Appendix A). Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewerage, and garbage collection fees shall not be entitled to claim the standard utility allowance. Households are permitted to switch between actual utility costs and the standard utility allowance once in a certification period. Households using the standard allowance shall not be allowed any additional utility costs toward the shelter deduction.

CHAPTER 87 APPENDIX A

TABLE I

Income Deductions

Standard Deduction	\$ 70
Child Care/Shelter Deduction	\$ 90
Standard Utility Allowance	\$189
Uniform Telephone Allowance	\$ 7.96

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

G. Thomas Riti
Division of Public Welfare
Box 1627
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly
Acting Commissioner
Department of Human Services

(b)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments to Definition of Podiatry Specialist

On July 30, 1979, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:57-1.1 concerning the definition of podiatry specialist as proposed in the Notice published May 10, 1979, at 11 N.J.R. 246(b).

An order adopting these amendments was filed and became effective on August 1, 1979, as R.1979 d.293.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments to General Assistance Manual Concerning Victims of Domestic Violence

On August 14, 1979, Gerald J. Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-4.6(a)2. and 10:85-4.6(b)1. concerning the General Assistance Manual and victims of domestic violence as proposed in the Notice published February 8, 1979 at 11 N.J.R. 73(a).

An order adopting these amendments was filed and became effective on August 16, 1979 as R.1979 d.323.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments to the Medical Supplies and Equipment Manual

On August 15, 1979, Gerald J. Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:59-1.1 et seq. concerning the Medical Supplies and Equipment Manual substantially as proposed in the Notice published May 10, 1979, at 11 N.J.R. 246(c) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed and became effective on August 16, 1979 as R.1979 d.324.

Howard H. Kestin
Director
Office of Administrative Law

(e)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments Concerning Medical Day Care

On August 15, 1979, Gerald J. Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J.

S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:65-1.1 et seq. and 10:65-2.1 et seq. and deleted N.J.A.C. 10:63-4.1 et seq. and 10:63-5.1 et seq. concerning medical day care as proposed in the Notice published June 7, 1979, at 11 N.J.R. 280(a).

An order adopting these amendments was filed and became effective on August 16, 1979 as R.1979 d.325.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments on Exemptions from Work Requirements, Resources Savings and Destruction of Records

On August 16, 1979, Gerald J. Reilly, Acting Commissioner of Human Services, pursuant to authority of N.J. S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-3.2, 10:85-3.4 and 10:85-6.7 concerning exemptions from work requirements, resources savings and destruction of records substantially as proposed in the Notice published July 5, 1979, at 11 N.J.R. 345(a) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed on August 16, 1979 as R.1979 d.326 to become effective on September 1, 1979.

Howard H. Kestin
Director
Office of Administrative Law

(b)

LABOR AND INDUSTRY

DIVISION OF WORKERS' COMPENSATION

Amendments Concerning Workers' Compensation Benefit Rates for 1980

On August 15, 1979, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 34:15-12(a) and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments concerning the workers' compensation benefit rates for 1980.

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

In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary total disability, permanent total disability, and dependency is hereby promulgated as being [\$156.00] \$164.00 per week.

This maximum compensation shall be effective as to injuries occurring in the calendar year [1979] 1980.

An order adopting these amendments was filed on Au-

gust 16, 1979, as R.1979 d.319 (Exempt, Exempt Agency) to become effective on January 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(c)

LABOR AND INDUSTRY

THE COMMISSIONER

Amended Rule Concerning Taxable Wage Base Under the Unemployment Compensation Law

On August 15, 1979, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 43:21-7(b)(3) and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 12:15-1.4 concerning the taxable wage base under the unemployment compensation law.

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

12:15-1.4 Taxable wage base under unemployment compensation law

In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the unemployment compensation law shall include the first [\$6,600] \$6,900 paid during the calendar year 1980.

An order adopting these amendments was filed on August 16, 1979, as R.1979 d.320 (Exempt, Procedure Rule) to become effective on January 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(d)

LABOR AND INDUSTRY

THE COMMISSIONER

Amendments on 1980 Maximum Weekly Benefit Rates Under Unemployment Compensation Law And Temporary Disability Benefits Law

On August 15, 1979, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 43:21-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments concerning the 1980 maximum weekly benefit rates under the unemployment compensation and temporary disability benefits laws.

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

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the unemployment compensation law, the maximum weekly benefit rate for benefits under the unemployment compensation law and the maximum weekly benefit amount for State Plan benefits under the temporary disability benefits law is

hereby promulgated as being [\$117.00] **\$123.00** per week.

(b) These maximum benefits shall be effective for the calendar year [1979] **1980** on benefit years and periods of disability commencing on or after January 1, [1979] **1980**.

An order adopting these amendments was filed on August 16, 1979 as R.1979 d.321 (Exempt, Procedure Rule) to become effective on January 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(a)

LABOR AND INDUSTRY

THE COMMISSIONER

Amendments to Establish the Contribution Rate of All Governmental Entities

On August 16, 1979, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 43:21-7.3(e) and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to establish the contribution rate of all governmental entities and instrumentalities electing to pay contributions in 1980.

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

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

(a) In accordance with the provisions of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby established as being one percent (1%), for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year of 1980. [1979.]

An order adopting these amendments was filed on August 16, 1979, as R.1979 d.327 (Exempt, Procedure Rule) to become effective on January 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(b)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposed Amendments Concerning Bus Drivers

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:3-10.1 and 39:5-30, proposes to amend N.J.A.C. 13:21-14.1 concerning bus drivers.

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

SUBCHAPTER 14. BUS DRIVERS

Delete text of N.J.A.C. 13:21-14.1 and insert new language as follows:

13:21-14.1 Purpose

(a) The purpose of this subchapter is to implement the provisions of N.J.S.A. 39:3-10.1, including the amendatory provisions pertaining thereto contained in P.L. 1977, c.25, by defining the term "bus" as including any "for-hire" motor vehicle having a carrying capacity of more than six, any school bus, and any motor vehicle having a carrying capacity of more than 16 passengers, and used for the intrastate transportation of passengers not for hire. The inclusion of "not for hire" vehicles comports with the legislative statement to P.L. 1977, c. 25 which provides in pertinent part: "As amended in committee, the bill would also require all drivers of buses, as defined by the director whether they are for hire or not, to obtain an omnibus or school bus endorsement, provided that they are not specifically excepted under existing law. The intent is to require all drivers of senior citizen buses or drivers of other forms of free transportation to obtain the special endorsement on their license."

(b) The inclusion of omnibuses with a carrying capacity of more than six passengers and school buses within the definition of the term "bus" merely restates the existing statutory and regulatory requirements relating to the issuance of special bus licenses. The existing statutory and regulatory requirements predate the amendatory provisions of P.L. 1977, c. 25. This subchapter does not impose any additional licensing requirements on drivers of omnibuses and school buses.

Delete text of N.J.A.C. 13:21-14.2 and insert new language as follows:

13:21-14.2 Definitions

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

"Bus" means: 1. Any motor vehicle used for the intrastate transportation of passengers for hire, having a carrying capacity of more than six passengers; 2. Any motor vehicle used for the intrastate transportation of passengers not for hire, having a carrying capacity of more than 16 passengers; and 3. Any "school bus" as defined in N.J.S.A. 39:1-1. The term "bus" shall exclude taxicabs, hotel buses, and omnibuses used for the transportation of passengers in interstate or foreign commerce.

Delete text of N.J.A.C. 13:21-14.3 and insert new language as follows:

13:21-14.3 Special bus license requirement

Every driver of a bus, as defined in section 1, (Definitions) of this subchapter, shall be specially licensed as a bus driver in accordance with the provisions of N.J.S.A. 39:3-10.1.

Delete text of N.J.A.C. 13:21-14.4 and insert new language as follows:

13:21-14.4 Grace period for newly-designated bus drivers

(a) Drivers of any bus, as defined in section 1 (Definitions) of this subchapter, which previously could have been driven without a special bus driver license, shall obtain the special bus driver license no later than December 1, 1979.

(b) Drivers of any bus which previously could have been driven without a special bus driver license who are holders of valid New Jersey driver licenses and who have had at least 90 days or 200 hours experience in driving omnibuses shall be eligible to receive the omnibus endorsement without completing the road test portion of the examination upon application and proof of driving experience which is satisfactory to the director; except that drivers of any

bus with a carrying capacity of 17 or more shall be eligible to receive the omnibus endorsement without completing the road test portion of the examination upon application and proof of driving experience until December 1, 1979.

Delete text of N.J.A.C. 13:21-14.5 and insert new language as follows:

13:21-14.5 Bus driver licensing regulations

(a) Applicants for bus driver licenses shall submit an application as prescribed. Applicants shall be at least 18 years of age, having a minimum of three years driving experience previously, be of good character and physically fit and possess a valid New Jersey State driver license. Fingerprinting will be required.

(b) Examinations may be conducted to determine driving ability, familiarity with the mechanism of the vehicle, knowledge of the motor vehicle laws of the State of New Jersey and adequate visual capabilities.

(c) The Director may not issue a bus driver license, or may revoke or suspend the bus driver license of any person when it is determined that the applicant or holder of such license has:

1. A driving record which established revocation or suspension for operating a motor vehicle while under the influence of intoxicating liquor, narcotics or habit-forming drugs; for operating a motor vehicle while impaired by alcohol; or, for leaving the scene of an accident which resulted in personal injury or death; or

2. Twelve or more current points under the point system; or

3. A record of at least three motor vehicle accidents within one year preceding the date of application; or

4. Failed to notify his employer of any conviction for motor vehicle violations within 30 days after such convictions; or

5. Committed a misstatement of fact or withheld material information on applications; or

6. Failed to submit proof of continuing physical fitness, good character and driver experience every 24 months. (Proof of physical fitness shall be in the form of a satisfactory medical report submitted by a New Jersey licensed physician); or

7. Failed to notify the Division of Motor Vehicles and employer immediately of any medical condition which may affect the ability to operate a motor vehicle safely; or

8. Failed to pass the prescribed driving test; or

9. Failed to satisfactorily complete a written examination proving adequate knowledge of the New Jersey motor vehicle laws and regulations and safe driving practices; or

10. Failed to submit renewal application within one year of the expiration of his last valid bus driver license; or

11. Failed to meet the medical and physical qualifications set forth in the regulations of United States Department of Transportation, Bureau of Motor Carrier Safety, 49 C.F.R. 391.41, effective January 1, 1971, and as thereafter amended; or

12. A criminal record which is disqualifying. The phrase "crime or other offense" as used hereinafter shall include crimes, disorderly persons offenses or petty disorderly persons offenses as defined in the "New Jersey Code of Criminal Justice" and any offenses defined by any other statute of this State. A driver has a disqualifying record if:

i. He has been convicted of, or forfeited bond or collateral upon, any of the following:

(1) An offense involving the manufacture, transportation, possession, sale or habitual use of a "controlled dangerous substance" as defined in the "New Jersey Controlled Substances Act."

(2) A crime or other offense involving deviate or illicit social behavior such as rape, incest, sodomy or carnal abuse;

(3) A crime or other offense involving the use of force or the threat of force to or upon a person or property, such as armed robbery, assault and arson.

(4) Any crime or other offense indicative of bad moral character;

(5) He fails to notify the Division of Motor Vehicles that he has been arrested for, charged with, indicted for, convicted of, or forfeited bond or collateral upon any crime or other offense within 14 days after the date of such event.

13. In the absence of a conviction, the Director shall refuse to issue or shall revoke or suspend the busdriver license of any person arrested for, charged with, or indicted for any crime or other offense if the Director determines that such person is of bad character or is morally unfit to retain the privilege of holding a bus driver license, or a potential danger to his passengers or to other motorists or to himself.

(d) If sufficient and reasonable grounds are established at a hearing, the Director may, not inconsistent with N.J.S.A. 39:3-10, waive any portion or portions of this subchapter. Applicants seeking such-waivers must, prior to a hearing, submit to the Director a request for such waiver and the basis of such request.

Delete text of N.J.A.C. 13:21-14.6 and insert new language as follows:

13:21-14.6 Release of privileged application information

(a) The information on any application for a bus driver license shall be considered as privileged information and shall not be available for release to any person except under the following conditions.

1. Upon receipt of a request for information, the Division will release the name, address, personal description and driver license numbers of the applicant; the name and address of the physician who conducted the physical examination and the date of the physical examination.

2. Upon receipt of written authorization from the licensee, a copy of the application will be released, either to the licensee or to a person designated by him.

3. Certified copies of applications may be issued, within the restrictions listed in this section, upon payment of the standard fee provided for by Title 39 of the New Jersey Statutes.

Delete text of N.J.A.C. 13:21-14.7 and insert new language as follows:

13:21-14.7 Drivers of empty buses

Any person having reason to drive a bus not being used for the transportation of persons need not be specially licensed in accordance with section 2 (Special bus license requirement) of this subchapter.

Delete text of N.J.A.C. 13:21-14.8 and mark section reserved.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 29, 1979 to:

John A. Waddington, Director
Division of Motor Vehicles
Department of Law & Public Safety
25 South Montgomery Street
Trenton, N.J. 08666

The Division of Motor Vehicles may thereafter adopt rules concerning this subject without further notice.

John A. Waddington, Director
Division of Motor Vehicles
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposed New Rules Concerning Motorized Bicycles

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:4-14.3a and 39:4-14.3c, proposes to adopt new rules to be cited as N.J.A.C. 13:25-8.5 and 8.6 concerning motorized bicycles.

Full text of the proposal follows:

13:25-8.5 Operation of motorized bicycles permitted on specified highways

The provisions of section 1 (Recommendations of governing bodies) and section 2 (Standards for resolution and recommendations) of this subchapter having been satisfactorily complied with by the County of Ocean, motorized bicycles may be operated on the dualized portion of County Road #7 (Long Beach Boulevard) in the Township of Long Beach.

13:25-8.6 Operation of motorized bicycles prohibited on specific highways

The provisions of section 1 (Recommendations of governing bodies) and section 2 (Standards for resolution and recommendations) of this subchapter having been satisfactorily complied with by the Commissioner of Transportation, the operation of motorized bicycles is prohibited upon that portion of State Highway 35 between the Brielle Circle and Seventeenth Avenue in the Township of Wall.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

John A. Waddington
Director, Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery St.
Trenton, N.J. 08666

The Division of Motor Vehicles may thereafter adopt rules concerning this subject without further notice.

John A. Waddington
Director, Division of Motor Vehicles
Department of Law and Public Safety

(b)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposed Amendments on Transportation of Bulk Commodities

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to the authority of N.J.S.A. 39:5E-1 et seq. proposes to amend Chapter 26, "Transportation of Bulk Commodities (N.J.A.C. 13:26-1.1 et seq.).

This proposal revises the administrative procedures for regulation of bulk commodity transportation in the State of New Jersey, including the requirements for applications, operation, certification, insurance, temporary and emergency authority, dual authority, vehicle identification and authorization, financial statements, and reports.

Copies of the 34 pages of the full text of the proposal may be obtained or is made available for review by contacting the person indicated below.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 28, 1979 to:

Joseph Monaco, Assistant Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, N.J. 08666

The Division of Motor Vehicles may thereafter adopt rules concerning this subject without further notice.

John A. Waddington
Director, Division of Motor Vehicles
Department of Law and Public Safety

(c)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF BEAUTY CULTURE CONTROL

Proposed Amendments Concerning Notice and Beauty School Student Standards and Requirements

Richard G. Griswold, Executive Secretary, Board of Beauty Culture Control in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4A-1 et seq., proposes to adopt a new rule concerning notice to be posted in beauty shops and proposes to amend rules dealing with Beauty Schools, specifically student standards and requirements, clinical work pre-requisites and limitations and the beauty culture curriculum.

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

13:28-1.54 Requirement of poster notice

Any licensed premises wherein is practiced the profession of beauty culture as defined in N.J.S.A. 45:4A-8 must post the following notice in a conspicuous place within the licensed establishment:

NOTICE

(Insert here: Name of licensee(s), types of licenses held) is (are) licensed to engage in the practice of Beauty Culture by the State Board of Beauty Culture Control, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted should notify the State Board of Beauty Culture Control at 1100 Raymond Boulevard, Newark, New Jersey 07102, or the New Jersey Division of Consumer Affairs, 1100 Raymond Boulevard, Newark, New Jersey 07102.

13:28-2.33 Curriculum

[REVISED BEAUTY CULTURE CURRICULUM -
JUNE 14, 1965
TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS
AND CLINICAL PRACTICE

	Hours of		
	Total Hours of Unit Instruction	Shops and Related Instruction	Hours of Clinical Practice
State Laws and Regulations Governing Beauty Culture	10	10	
Shop Management	10	10	
Manicuring and Pedicuring	200	100	100
Shampoos and Rinses	90	40	50
Scalp Applications	65	35	30
Finger Waving and Pincurling	150	75	75
Croquignole Iron Waving	150	65	85
Hair Straightening			
Permanent Waving	230	115	115
Hair Tapering and Shaping	105	55	50
Bleaching and Tinting	90	45	45
Facials	50	25	25
Chemistry (as Pertains to Beauty Culture)	50	25	25
	<u>1200</u>	<u>600</u>	<u>600</u>

All Subjects Must Be Taught]

REVISED BEAUTY CULTURE CURRICULUM -
JULY 19, 1978
TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS
AND CLINICAL PRACTICE

	Hours of Class		Total
	And Subject Related Instruction	Hours of Practical Instruction	
State Laws, Rules & Regulations for Beauty Culture - Administrative Shop Operations	10	0	10
Sanitation & Sterilization	3	7	10
Facials, Massage, Skin Care, Make-up, Depilatory, Eyebrow Arching	30	70	100
Shampooing - including Temporary Semi-Permanent Rinses	25	45	70
Hair & Scalp Treatments - Reconditioning Treatments	15	40	55
Haircutting, Basic Layer & Cap Cut - Razor, Scissors, Thinning Shears	40	130	170
Hairstyling - including Pin Curls, Fingerwaving, & Blow Waving	30	150	180
Hair Tinting & Bleaching including Frosting, Tipping & Streaks	35	110	145
Permanent Waving	30	100	130
Chemical Relax & Pressing	30	60	90
Thermal Curling & Waxing	15	45	60
Manicuring & Pedicuring	50	100	150
Chemistry Relating to Cosmetology	30	0	30
Total	<u>343</u>	<u>857</u>	<u>1200</u>

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 28, 1979 to:

Richard G. Griswold
Executive Secretary
Board of Beauty Culture Control
Room 311
1100 Raymond Boulevard
Newark, New Jersey 07102

The Board of Beauty Culture Control, upon its own motion or at the request of any interested party, may thereafter adopt the above rules substantially as proposed without further notice.

Richard G. Griswold
Executive Secretary
Board of Beauty Culture Control
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

Proposed Amendments to Fee Schedules

Samuel E. Furman, President of the State Board of Dentistry in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:1-3.2, proposes to delete the current text of N.J.A.C. 13:30-8.1 and adopt new text therein concerning fee schedules.

Full text of the proposed new rules follows:

13:30-8.1 Fee schedules

(a) The annual registration fees charged by the State Board of Dentistry shall be:

1. Dentists:
 - i. Active registration: \$25.00;
 - ii. Inactive registration: \$ 5.00;
 - iii. Branch office: \$ 5.00.
2. Dental hygienists:
 - i. Active registration: \$ 5.00.

(b) Except for the fees herein established, other fees prescribed by statute shall continue to be assessed by the Board in the lawful amount.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Samuel E. Furman
New Jersey State Board of Dentistry
150 East State Street
Trenton, N.J. 08608
Telephone: (609) 292-5416

The New Jersey State Board of Dentistry upon its own motion or at the request of any interested party, may thereafter adopt the above amendment substantially as proposed without further notice.

Samuel E. Furman
President, Board of Dentistry
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

Proposed Rules on Contact Lenses Dispensing

Robert Hillman, President of the Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 52:17B-41.13, proposes to adopt N.J.A.C. 13:33-4.1 concerning the dispensing of contact lenses.

Full text of the proposal follows:

SUBCHAPTER 4. CONTACT LENSES

13:33-4.1 Dispensing contact lenses

(a) Contact lenses shall not be dispensed directly to the patient; they shall be dispensed only to a licensed ophthalmologist or optometrist designated by the patient.

(b) This rule shall expire five years from the date of adoption in accordance with the terms and provisions of Executive Order No. 66.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 26, 1979 to:

Ruth Weisman, Secretary
Board of Examiners of Ophthalmic
Dispensers and Ophthalmic Technicians
1100 Raymond Boulevard
Newark, N.J. 07102

The Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians may thereafter adopt rules concerning this subject without further notice.

Robert Hillman, President,
Board of Examiners of Ophthalmic Dispensers
and Ophthalmic Technicians
Department of Law and Public Safety

(b)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF MEDICAL EXAMINERS

Proposed Amendments Concerning Contact Lenses

Edwin H. Albano, President of the State Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:9-2, proposes to adopt amendments concerning contact lenses.

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

13:35-5.2(c)1. The complete record of contact lens specifications shall be released by an ophthalmologist to another ophthalmologist, optometrist or ophthalmic dispenser licensed in New Jersey upon either the oral or written

request of the patient or the professional acting on the patient's behalf.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Edwin H. Albano
President, State Board of Medical Examiners
28 West State St.
Trenton, N.J. 08608

The State Board of Medical Examiners may thereafter adopt rules concerning this subject without further notice.

Edwin H. Albano
President, Board of Medical Examiners
Department of Law and Public Safety

(c)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF MORTUARY SCIENCE

Proposed Rules on Multiple Burials

Maurice W. McQuade, Executive Secretary of the State Board of Mortuary Science in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:7-38, proposes to adopt new rules concerning multiple burials.

Full text of the proposal follows:

13:36-8.11 Multiple burials

(a) No practitioner of mortuary science or funeral director shall place the remains, or any part of the remains, of more than one deceased person, stillborn infant, or fetus in a coffin, casket, or other container for the purpose of interment or cremation, or cause the remains, or any part of the remains, of more than one deceased person, stillborn infant, or fetus, to be interred or cremated together unless specific, written authorization to do so has been given by a person charged with the duties of interment, or by a court of competent jurisdiction.

(b) For the purposes of this section, the only persons who may authorize a licensee to perform a multiple burial are limited to the following:

1. The decedent;
2. A relative or relatives in the order of:
 - i. Surviving spouse,
 - ii. A majority of surviving children of the decedent or the surviving child if one;
 - iii. The surviving parent or parents of the decedent;
 - iv. A majority of the brothers and sisters of the decedent if no child or parent is living; or
 - v. Other next of kin according to the degree of consanguinity.
3. City or county welfare director in cases involving the indigent;
4. Chief medical examiner in cases involving unidentified or unclaimed bodies;
5. A court of competent jurisdiction.

(c) The written authorization to be obtained by the funeral director shall include the name and address, and signature of the person authorizing the multiple burial, the names, ages, and addresses of the deceased, the dates, places and times of their death, the names and addresses of the hospitals or institutions from which

(Continued on Page 462)

INTERIM INDEX FOR NEW JERSEY ADMINISTRATIVE CODE

This regular monthly listing provides an interim service for subscribers to the New Jersey Administrative Code, as a check-list of rules most recently adopted.

It includes all rules adopted from receipt of the last individual transmittals as indicated through August 16, 1979.

RULES NOT YET IN PRINT IN CODE (May be found in N.J. Register beginning with December 7, 1978):
 (Full text (in proposal form), if published, may be found in N.J. Register beginning with June 8, 1978.)

<u>N.J.A.C.</u> <u>CITATION</u>	<u>DOCUMENT</u> <u>CITATION</u>	<u>ADOPTION NOTICE</u> <u>(N.J.R. CITATION)</u>
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AGRICULTURE — TITLE 2

2:2-9.3—9.6	Fee schedule for animal health laboratory test	R.1979 d.227	11 N.J.R. 315(a)
2:3-2.5	Amend equine infectious anemia tests	R.1979 d.135	11 N.J.R. 222(c)
2:3-2.12	Amend exemption from pseudorabies test requirements	R.1979 d.304	11 N.J.R. 426(a)
2:5-2.3—2.6	Importation, movement and transfer of horses	R.1979 d.136	11 N.J.R. 233(a)
2:6-1.9	Amend reports of biological product use	R.1979 d.215	11 N.J.R. 314(b)
2:6-1.9	Amend reports of biological product use	R.1979 d.225	11 N.J.R. 314(c)
2:53-1.1(b)	Amend announcement of milk prices	R.1979 d.34	11 N.J.R. 58(a)
2:54-1.9	Amend Federal Order No. 2 (March 1, 1979)	R.1979 d.79	11 N.J.R. 162(a)
2:54-3.11	Amend Federal Order No. 4; milk handling	R.1979 d.185	11 N.J.R. 270(a)
2:69-1.11	Amend commercial values of primary plant nutrients	R.1979 d.228	11 N.J.R. 315(b)
2:71-1.39	Amend use of New Jersey map symbol on egg packages and advertising	R.1979 d.229	11 N.J.R. 315(c)
2:71-2.28	and written agreements	R.1979 d.58	11 N.J.R. 117(a)
	Amend charges for inspection or grading certification services		

(Title 2, Transmittal 14 dated January 18, 1979 includes all rules through January 4, 1979 N.J. Register.)

BANKING — TITLE 3

3:1-1.1	Amend interest rates	R.1979 d.190	11 N.J.R. 270(c)
3:1-1.2	Interest rates on other loans	R.1979 d.290	11 N.J.R. 429(b)
3:1-10	Amend restrictions on real property transactions	R.1979 d.55	11 N.J.R. 117(d)
3:6-3.1	Definition of bank officers	R.1979 d.182	11 N.J.R. 270(b)
3:6-7.1	Maximum interest rate; class II installment loan	R.1979 d.214	11 N.J.R. 316(a)
3:8-3.1	Amend non-federal reserve members' reserves	R.1979 d.44	11 N.J.R. 117(b)
3:11-1.1	Amend approval to exceed ten per cent limitation	R.1979 d.298	11 N.J.R. 429(c)
3:21	Credit unions	R.1979 d.54	11 N.J.R. 117(c)

(Title 3, Transmittal 13 dated January 18, 1979 includes all rules through February 8, 1979 N.J. Register.)

CIVIL SERVICE — TITLE 4

4:1-8.21	Amendments on make-up examinations	R.1979 d.133	11 N.J.R. 223(b)
4:1-17.24	Amend administration of payments to State employees for unused sick leave	R.1979 d.208	11 N.J.R. 316(c)

(Title 4, Transmittal 12 dated July 24, 1978 includes all rules through February 8, 1979 N.J. Register.)

COMMUNITY AFFAIRS — TITLE 5

5:10	Amend maintenance of hotels and multiple dwellings	R.1979 d.259	11 N.J.R. 366(b)
5:11-1.8	Eviction and relocation	R.1979 d.103	11 N.J.R. 167(a)
5:23-2.5(b)	Amend construction permits	R.1979 d.292	11 N.J.R. 431(b)
5:25	New Home Warranty and Builder's Registration Act rules	R.1979 d.147	11 N.J.R. 223(c)
5:30-6.1	Uniform accounting system for various statutory offices in county governments	R.1979 d.294	11 N.J.R. 431(c)
5:100	Ombudsman practices and procedures; public notice requirements	R.1979 d.166	11 N.J.R. 274(a)

Title 5, Transmittal 12 dated March 15, 1979 includes all rules through March 8, 1979 N.J. Register.)

EDUCATION — TITLE 6

6:2-1	Amend appeals to State Board and filing for stays	R.1979 d.140	11 N.J.R. 223(e)
6:3-1.3, 1.11, 1.12	Amend chief school administrators	R.1979 d.170	11 N.J.R. 274(b)
6:8-4.6	Amend school and community relations; T and E	R.1979 d.303	11 N.J.R. 432(a)

6:11-4.7	Amend county substitute certificate	R.1979 d.65	11 N.J.R. 120(b)
6:21-5.32, 6.49	Implementation of school bus chassis, bus body and equipment specifications	R.1979 d.269	11 N.J.R. 367(a)
6:22	Amend school facility planning services	R.1979 d.139	11 N.J.R. 223(d)
6:22A	Repealed (replaced by N.J.A.C. 6:22-3)	R.1979 d.139	11 N.J.R. 223(d)
6:29-4.2	Amend testing for tuberculosis testing	R.1979 d.148	11 N.J.R. 224(a)
6:29-6.2	Amend physical education procedures	R.1979 d.183	11 N.J.R. 274(c)
6:80	Rule on educational improvement centers	R.1979 d.272	11 N.J.R. 368(a)

(Title 6, Transmittal 13 dated November 20, 1978 includes all rules through February 9, 1979 N.J. Register.)

ENVIRONMENTAL PROTECTION — TITLE 7

7:4	Rules on the New Jersey Register of Historic Places	R.1979 d.328	11 N.J.R. 434(a)
7:6-7	Rules on abandoned vessels	R.1979 d.145	11 N.J.R. 230(d)
7:7D-2	Amend CAFRA rules	R.1979 d.99	11 N.J.R. 173(a)
7:9-10	Amend Central Pine Barrens water quality standards and designation as a critical area	R.1979 d.282	11 N.J.R. 374(c)
7:9-13	Amend sewer extension bans	R.1979 d.129	11 N.J.R. 230(a)
7:10	Amend implementing Safe Drinking Water Act	R.1979 d.271	11 N.J.R. 374(b)
7:11-2	Amend rate for Delaware and Raritan Canal water	R.1979 d.32	11 N.J.R. 64(c)
7:11-4.4—4.12	Amend rate for Spruce Run-Round Valley Reservoirs	R.1979 d.31	11 N.J.R. 64(b)
7:11-4.11—4.32, 5.1—5.23	Amend Raritan Basin System water sales	R.1979 d.30	11 N.J.R. 64(a)
7:12-1.3, 2.8, 2.9, 2.12	Amend condemnation of certain shellfish beds	R.1979 d.184	11 N.J.R. 276(a)
7:13-1.11(d)	Amend floodway delineations; Passaic River	R.1979 d.194	11 N.J.R. 276(e)
7:13-1.11(d)	Amend floodway delineations; Mountain Brook and Its Branch No. 2 in the Raritan River Basin	R.1979 d.195	11 N.J.R. 276(d)
7:14-8	Assessment of civil administrative penalties	R.1979 d.111	11 N.J.R. 173(c)
7:21-4	Amend procedures for hearings before the Water Policy and Supply Council	R.1979 d.142	11 N.J.R. 230(c)
7:23	Grants under Emergency Flood Control Bond Act	R.1979 d.202	11 N.J.R. 277(a)
7:25-2.14	Amend field trial activities	R.1979 d.189	11 N.J.R. 276(b)
7:25-5	Amend 1979-80 Game Code	R.1979 d.329	11 N.J.R. 434(b)
7:25-7.2	Amend oyster seed beds; 1979 season	R.1979 d.102	11 N.J.R. 173(b)
7:25-11.1(b)	Amend endangered species	R.1979 d.128	11 N.J.R. 229(a)
7:25-12.1(g)	Amend preservation of the sea clam resource	R.1979 d.201	11 N.J.R. 276(e)
7:25-15.1	Amend relay of hard clams program	R.1979 d.156	11 N.J.R. 230(e)
7:27-18	Control and prohibition of air pollution in non-attainment areas	R.1979 d.237	11 N.J.R. 327(a)
7:28-21	Rules on analytical X-Ray installations	R.1979 d.64	11 N.J.R. 123(a)
7:37	State aid to local environmental agencies	R.1979 d.134	11 N.J.R. 230(b)
7:37	Amend State aid to local environmental agencies	R.1979 d.263	11 N.J.R. 374(a)
7:50	Project review guide; Pinelands Environmental Council	R.1979 d.78	11 N.J.R. 123(b)

(Title 7, Transmittal 12 dated January 18, 1979 includes all rules through January 4, 1979 N.J. Register.)

HEALTH — TITLE 8

8:8	Amend collecting, processing, storing and distributing blood	R.1979 d.248	11 N.J.R. 376(a)
8:15	Rules on smoking in certain public places	R.1979 d.153	11 N.J.R. 237(c)
8:21-4.31—4.34	Amend control of laetrile	R.1979 d.299	11 N.J.R. 440(c)
8:21-7	Amend frozen desserts	R.1979 d.322	11 N.J.R. 441(d)
8:21-10.12	Expiration dates for fluid milk products	R.1979 d.143	11 N.J.R. 236(a)
8:25-2.2, 2.5, 3.1, 4.4, 4.5, 6.1, 6.7	Amend Youth Camp Safety Act standards	R.1979 d.199	11 N.J.R. 279(c)
8:31-9	Amend standards and general criteria for the planning of certification of need of CAT units	R.1979 d.316	11 N.J.R. 441(a)
8:31A-7	1980 hospital rate review guidelines	R.1979 d.317	11 N.J.R. 441(b)
8:31A-9.1, 9.2, 10.5	Amend economic factor in SHARE Manual	R.1979 d.284	11 N.J.R. 439(b)
8:31B-1	Quantifiable economic benefits	R.1979 d.285	11 N.J.R. 439(c)
8:31-26.2	Self locking doors in health facilities	R.1979 d.241	11 N.J.R. 331(d)
8:33	Amend guidelines and criteria for submission of applications for certificate of need	R.1979 d.283	11 N.J.R. 439(a)
8:34-1.15(c)	Amend internships and nursing home administrators	R.1979 d.200	11 N.J.R. 279(d)
8:39-1.14, 1.16, 1.18	Amend effective dates on parts of Standards for Long-Term Care	R.1979 d.243	11 N.J.R. 332(a)
8:39-1.22	Amend dental services in long-term care facilities	R.1979 d.238	11 N.J.R. 331(a)

8:41-1	Amend planning and application for designation of cardiac diagnostic facilities	R.1979 d.286	11 N.J.R. 439(d)
8:41-2	Amend planning and certification of need of regional cardiac surgical centers	R.1979 d.287	11 N.J.R. 440(a)
8:42-3	Rules on residential and in-patient alcohol abuse treatment facilities	R.1979 d.240	11 N.J.R. 331(c)
8:43A-1.16(e)	Amend standards for licensure of ambulatory care facilities	R.1979 d.116	11 N.J.R. 180(b)
8:43A-1.72	Free-standing ambulatory care facilities - drug abuse treatment services	R.1979 d.239	11 N.J.R. 331(b)
8:43B-7.2(c)10ii	Amend verbal orders accepted by physical therapist	R.1979 d.113	11 N.J.R. 179(b)
8:43B-7.2(d)	Amend authentication and countersigning of physician's order	R.1979 d.115	11 N.J.R. 180(a)
8:43B-7.4(c)	Amend availability of records	R.1979 d.114	11 N.J.R. 179(c)
8:48	Amend public health funding and local health board standards	R.1979 d.300	11 N.J.R. 440(d)
8:49	Amend public health funding and local health board standards	R.1979 d.300	11 N.J.R. 440(d)
8:53	Amend public health funding and local health board standards	R.1979 d.300	11 N.J.R. 440(d)
8:58	Rules on standards for ambulatory or outpatient tuberculosis control	R.1979 d.149	11 N.J.R. 236(b)
8:65-7.6	Amend person entitled to fill prescriptions	R.1979 d.152	11 N.J.R. 237(b)
8:65-7.7	Administering or dispensing of narcotic drugs	R.1979 d.151	11 N.J.R. 237(a)
8:65-10.3, 10.4	Amend calculation of narcotic content in any controlled dangerous substances preparations	R.1979 d.301	11 N.J.R. 440(e)
8:65-10.4	Add pentazocine to Schedule IV of Controlled Dangerous Substances	R.1979 d.150	11 N.J.R. 236(c)
8:65-10.5	Amend narcotic content in any controlled dangerous substances preparations	R.1979 d.301	11 N.J.R. 440(e)
8:65-10.8(b)	Amend chemical preparations exempt from the controlled Dangerous Substances Act	R.1979 d.244	11 N.J.R. 332(b)
8:71	List of interchangeable drug products	R.1979 d.104	11 N.J.R. 179(a)
8:71	Amend list of interchangeable drug products	R.1979 d.318	11 N.J.R. 441(c)
8:71	Deletions of non-prescription medicines from list of interchangeable drug products	R.1979 d.288	11 N.J.R. 440(b)
8:71 Preface	Deletion of distributors from list of interchangeable drug products	R.1979 d.242	11 N.J.R. 331(e)

(Title 8, Transmittal 11 dated March 15, 1979 includes all rules through March 8, 1979 N.J. Register.)

HIGHER EDUCATION — TITLE 9

9:7-2.4	Amend determination of eligibility for and value of student assistance	R.1979 d.313	11 N.J.R. 443(a)
9:7-2.5, 2.6	Amend student eligibility and award tables	R.1979 d.236	11 N.J.R. 343(b)
9:7-2.10	Amend verification of enrollment and academic performance and eligibility requirements	R.1979 d.314	11 N.J.R. 443(b)
9:7-3.1, 3.2	Amend student eligibility and award tables	R.1979 d.236	11 N.J.R. 343(b)
9:7-4.1	Amend verification of enrollment and academic performance and eligibility requirements	R.1979 d.314	11 N.J.R. 443(b)
9:11-1.4, 1.5, 1.8, 1.9	Amend financial guidelines and award tables	R.1979 d.230	11 N.J.R. 342(c)
9:12-2	Rules on summer programs	R.1979 d.235	11 N.J.R. 343(a)

(Title 9, Transmittal 12 dated March 15, 1979 includes all rules through June 7, 1979 N.J. Register.)

HUMAN SERVICES — TITLE 10

10:48-1.1	Administrative appeals procedure	R.1979 d.62	11 N.J.R. 133(a)
10:49-10	Contracting for prepaid health care services for Title XIX eligibles	R.1979 d.231	11 N.J.R. 346(b)
10:51-1.9(e), 5.33(c)	Amend pharmacy services	R.1979 d.35	11 N.J.R. 132(b)
10:52-1.2, 1.7	Amend sterilization	R.1979 d.63	11 N.J.R. 133(b)
10:52-1.16	Medicaid—reimbursed abortions	R.1979 d.245	11 N.J.R. 347(a)
10:53-1.14	Medicaid—reimbursed abortions	R.1979 d.245	11 N.J.R. 347(a)
10:54-1.20	Amend sterilization	R.1979 d.63	11 N.J.R. 133(b)
10:54-1.23	Medicaid—reimbursed abortions	R.1979 d.245	11 N.J.R. 347(a)
10:54-3, 54-4	Amend the Physician's Procedure Code Manual	R.1979 d.218	11 N.J.R. 346(a)
10:57-1.1	Amend definition of podiatry specialist	R.1979 d.293	11 N.J.R. 448(b)
10:59	Amend Medical Supplies and Equipment Manual	R.1979 d.324	11 N.J.R. 448(d)
10:62-1.5, 2.2—2.4, 2.12	Vision Care Manual	R.1979 d.60	11 N.J.R. 132(c)
10:63	Amend skilled nursing and intermediate care facilities	R.1979 d.126	11 N.J.R. 248(b)
10:63-4, -5	Delete text	R.1979 d.325	11 N.J.R. 448(e)
10:65	Amend medical day care	R.1979 d.325	11 N.J.R. 448(e)
10:65	Amend skilled nursing and intermediate care facilities	R.1979 d.126	11 N.J.R. 248(b)
10:66-1.16	Amend sterilization	R.1979 d.63	11 N.J.R. 133(c)
10:66-1.18	Medicaid—reimbursed abortions	R.1979 d.245	11 N.J.R. 347(a)

10:69A	Amend pharmaceutical assistance to the aged	R.1979 d.209	11 N.J.R. 345(b)
10:81-1.1, 1.4, 1.7, 1.8, 2.2	Amend nondiscrimination of handicap and statement of client rights	R.1979 d.278	11 N.J.R. 383(b)
10:81-2.2, 2.3	Amend updating of forms and signing of income tax waiver	R.1979 d.277	11 N.J.R. 383(a)
10:81-3.9(a)5	Amend Medicaid special and unborn children	R.1979 d.233	11 N.J.R. 346(d)
10:81-7.25, 7.26	Amend burial and funeral expenses	R.1979 d.131	11 N.J.R. 249(b)
10:81-7.26	Amend burial and funeral expenses	R.1979 d.130	11 N.J.R. 249(a)
10:81-7.36, 7.38, 7.41	Amend nondiscrimination of handicap and statement of client rights	R.1979 d.278	11 N.J.R. 383(b)
10:81-8.22—8.24	Amend Medicaid special and provisions relative to unborn children	R.1979 d.233	11 N.J.R. 346(d)
10:81-9.1	Amend glossary of terms and acronyms	R.1979 d.110	11 N.J.R. 196(e)
10:81 App. D	Amend child support and paternity program	R.1979 d.171	11 N.J.R. 283(a)
10:82-1.2	Amend AFDC allowance standards	R.1979 d.256	11 N.J.R. 382(a)
10:82-1.7, 1.8	Amend disregard of work-study income, treatment of stipends and child care payments	R.1979 d.232	11 N.J.R. 346(c)
10:82-3.2(b)	Amend work training expenses in WIN	R.1978 d.438	11 N.J.R. 75(a)
10:82-3.10, 3.12	Amend schedules used in evaluation of LRR's capacity to support	R.1979 d.108	11 N.J.R. 196(c)
10:82-5.3(h)	Amend care of unwed mother in AFDC-N	R.1978 d.438	11 N.J.R. 75(a)
10:82-5.10(d)	Amendments on victims of domestic violence	R.1978 d.415	11 N.J.R. 17(c)
10:83-3.37, 3.40	Amend resources and repayments	R.1979 d.107	11 N.J.R. 196(b)
10:85-1.1, 1.3	Amendments on SSI recipients in immediate need of assistance	R.1979 d.420	11 N.J.R. 17(d)
10:85-2.4	Amend establishment of public assistance fiscal practices	R.1979 d.281	11 N.J.R. 383(d)
10:85-2.7,	Amend reporting criminal offenses, payment of medical bills, medical care and nontransferability of funds	R.1979 d.141	11 N.J.R. 249(c)
10:85-3.2,	Amend General Assistance Manual	R.1979 d.197	11 N.J.R. 283(c)
10:85-3.2(c)	Amend Social Security numbers in the General Assistance Program	R.1979 d.280	11 N.J.R. 383(c)
10:85-3.2	Amend General Assistance Manual	R.1979 d.326	11 N.J.R. 449(a)
10:85-3.3	Amend General Assistance Manual	R.1979 d.197	11 N.J.R. 283(c)
10:85-3.4	Amend General Assistance Manual	R.1979 d.326	11 N.J.R. 449(a)
10:85-3.5, 3.6	Amend General Assistance Manual	R.1979 d.197	11 N.J.R. 283(c)
10:85-4.3	Amend General Assistance Manual	R.1979 d.141	11 N.J.R. 249(c)
10:85-4.6	Amend victims of domestic violence	R.1979 d.323	11 N.J.R. 448(c)
10:85-5.2	Amend General Assistance Manual	R.1979 d.197	11 N.J.R. 283(c)
10:85-5.3, 5.4, 5.6, 6.3	Amend General Assistance Manual	R.1979 d.141	11 N.J.R. 249(c)
10:85-6.3	Amend establishment of public assistance fiscal practices	R.1979 d.281	11 N.J.R. 383(d)
10:85-6.7	Amend exemptions from work requirements, resources, savings and destruction of records	R.1979 d.326	11 N.J.R. 449(a)
10:85-9.3—9.5	Amend schedules used in evaluation of LRR's capacity to support	R.1979 d.109	11 N.J.R. 196(d)
10:87	Amend Food Stamp Manual	R.1979 d.29	11 N.J.R. 76(a)
10:87-3.20(b)	Voluntary quit; Food Stamp Manual	R.1979 d.247	11 N.J.R. 380(c)
10:87-7.12(a)3	Amend continuation of benefit during hearing	R.1978 d.439	11 N.J.R. 75(b)
10:87 Appendix A	Amend Food Stamp Manual	R.1979 d.234	11 N.J.R. 346(e)
10:87 Appendix D	Amend Food Stamp Manual	R.1978 d.440	11 N.J.R. 75(c)
10:92	Repeal entire chapter	R.1979 d.106	11 N.J.R. 196(a)
10:94-4.33	Amend income eligibility levels	R.1979 d.257	11 N.J.R. 382(b)
10:94-5.8(a)2.	Amend deductions from institutionalized individual's income for maintenance of a dependent	R.1979 d.198	11 N.J.R. 283(d)
10:97	Amend vending facilities of Commission for the Blind and Visually Impaired	R.1979 d.146	11 N.J.R. 249(d)
10:100-1.23	Amend SSI payment schedule	R.1979 d.258	11 N.J.R. 382(c)
10:100-3	Special payments handbook	R.1979 d.172	11 N.J.R. 283(b)
10:121-4	Release of criminal history record information	R.1979 d.119	11 N.J.R. 248(a)
10:122-2.3, 2.7	Amend child care licensing rules	R.1979 d.249	11 N.J.R. 381(a)

(Title 10, Transmittal 11 dated November 20, 1978 includes all rules through December 7, 1978 N.J. Register.)

CORRECTIONS — TITLE 10A

(Title 10A, Transmittal 11 dated November 20, 1978 includes all rules to date.)

INSURANCE — TITLE 11

11:1-5.5(b), 5.6	Amend cancellation and nonrenewal of fire and casualty coverage	R.1979 d.219	11 N.J.R. 348(b)
11:3-7.8	Rules on cancellation of automobile insurance coverage	R.1979 d.155	11 N.J.R. 250(a)
11:5-1.27	Amend education requirements for licensure examination	R.1979 d.52	11 N.J.R. 142(b)

(Title 11, Transmittal 12 dated January 18, 1979 includes all rules through May 10, 1979 N.J. Register.)

LABOR AND INDUSTRY — TITLE 12

12:15-1.3	Amend maximum weekly benefit rates; unemployment compensation and temporary disability benefits	R.1979 d.321	11 N.J.R. 449(d)
12:15-1.4	Amend taxable wage base under unemployment compensation law	R.1979 d.320	11 N.J.R. 449(c)
12:15-1.5	Amend contribution rate of governmental entities and instrumentalities	R.1979 d.327	11 N.J.R. 450(a)
12:195	Amend carnival-amusement rides	R.1979 d.168	11 N.J.R. 285(a)
12:235-1.5	Amend worker's compensation rate	R.1979 d.319	11 N.J.R. 449(b)

(Title 12, Transmittal 10 dated January 18, 1979 includes all rules through May 10, 1979 N.J. Register.)

LAW AND PUBLIC SAFETY — TITLE 13

13.2	Amend alcoholic beverage	R.1979 d.138	11 N.J.R. 257(c)
13:2-23.31	Amend employment of police officers	R.1979 d.67	11 N.J.R. 146(a)
13:10-2.4	Amend filing of reports	R.1979 d.112	11 N.J.R. 203(a)
13:19-5	Amend convulsive seizures	R.1979 d.220	11 N.J.R. 356(a)
13:19-10.2, 10.3, 10.4, 10.6	Amend point system and driving during suspension	R.1979 d.84	11 N.J.R. 202(c)
13:20-33.26, 33.63	Amend miscellaneous lights	R.1979 d.193	11 N.J.R. 298(c)
13:21-5.10	Surrender of registration plates	R.1979 d.315	11 N.J.R. 466(b)
13:33-1.24	Amend applications for examination	R.1979 d.66	11 N.J.R. 145(b)
13:33-1.42	Rule on identification tags	R.1979 d.69	11 N.J.R. 146(c)
13:35-6.5	Amend pronouncement of death	R.1979 d.81	11 N.J.R. 202(a)
13:35-6.16	Uses of amphetamines and sympathomimetic amine drugs	R.1979 d.120	11 N.J.R. 257(b)
13:35-6.17	Prescribing, administering or dispensing amygdalin (laetrile)	R.1979 d.83	11 N.J.R. 202(b)
13:38-2.12	Preceptorship program	R.1979 d.276	11 N.J.R. 402(a)
13:38-5.1	Amend fee schedules	R.1979 d.158	11 N.J.R. 298(a)
13:39-4.4	Amend practical experience requirements for licensure	R.1979 d.254	11 N.J.R. 400(c)
13:39-6.8	Record of pharmacist filling prescriptions	R.1979 d.68	11 N.J.R. 146(b)
13:44-1.4, 2.4, 2.5	Repeal certain rules	R.1979 d.98	11 N.J.R. 202(d)
13:44-2.10	Amend pending emergency cases	R.1979 d.275	11 N.J.R. 401(c)
13:44A	Administrative practices and procedures; professional boards	R.1979 d.203	11 N.J.R. 353(b)
13:47B-1.9	Amend portable, self-contained vehicle scales	R.1979 d.192	11 N.J.R. 298(b)
13:47B-1.20	Amend sale and distribution of gasoline at retail	R.1979 d.268	11 N.J.R. 401(a)
13:47C-1.1, 3.4, 3.5	Rules concerning the advertising of lumber and building materials	R.1979 d.251	11 N.J.R. 400(b)
13:48	Rules concerning Charitable Fund Raising Act of 1971	R.1979 d.311	11 N.J.R. 466(a)
13:70-4.1, 4.2, 4.6, 4.19	Amend licensing requirements	R.1979 d.144	11 N.J.R. 258(a)
13:70-6.11	Amend denial of nominations or entries	R.1979 d.250	11 N.J.R. 400(a)
13:70-29.8, 29.24, 29.25, 29.27, 29.47, 29.54, 29.55	Amend pari-mutuel wagering	R.1979 d.274	11 N.J.R. 401(b)
13:71-7.1, 7.5	Amend licensing requirements	R.1979 d.144	11 N.J.R. 258(a)
13:71-8.28, 17.1, 17.7	Amend starter and starting gate rules in harness racing	R.1979 d.157	11 N.J.R. 297(a)

(Title 13, Transmittal 13 dated January 18, 1979 includes all rules through January 4, 1979 N.J. Register.)

PUBLIC UTILITIES—TITLE 14

ENERGY—TITLE 14A

14:1-1.4	Amend Board's address	R.1979 d.118	11 N.J.R. 260(b)
14:1-1.9	Amend cameras and recording devices in Board hearings	R.1979 d.211	11 N.J.R. 356(c)
14:1-6.2, 6.12, 6.21	Amend filing of petitions with the Department of Energy	R.1979 d.210	11 N.J.R. 356(b)
14:3-7.5(c)	Amend utility deposit returns	R.1979 d.117	11 N.J.R. 260(a)
14:3-7.5(c)	Amend interest paid by utility on customer accounts	R.1979 d.289	11 N.J.R. 467(a)
14A:2-3	Amend regulation and control of the sale of motor gasoline during an energy emergency	R.1979 d.176	11 N.J.R. 298(d)
14A:2-3	Amend regulation and control of sale of motor gasoline during an energy emergency	R.1979 d.252	11 N.J.R. 403(a)
14A:2-3	Amend sale of motor fuels	R.1979 d.260	11 N.J.R. 406(b)
14A:2-3.5, 3.6	Amend control and sale of gasoline during an energy emergency	R.1979 d.270	11 N.J.R. 407(a)
14A:2-3.14	Sale of motor gasoline in containers	R.1979 d.253	11 N.J.R. 406(a)
14A:3-1.4	Variances and exemptions	R.1979 d.28	11 N.J.R. 91(b)

14A:3-3.6	Amend maintenance requirements for oil-fired heating units	R.1979 d.177	11 N.J.R. 299(a)
14A:3-10	Repeal air conditioner and heat pump energy efficiency	R.1979 d.178	11 N.J.R. 299(b)
14A:9	Coastal Energy Impact Program Intrastate allocation process	R.1979 d.80	11 N.J.R. 203(b)
14A:11	Periodic reporting of energy information by suppliers of motor gasoline	R.1979 d.154	11 N.J.R. 260(c)

(Title 14, Transmittal 11 dated January 18, 1979 includes all rules through April 5, 1979 N.J. Register.)

(Title 14A, Transmittal 3 dated January 18, 1979 includes all rules through January 4, 1979 N.J. Register.)

STATE — TITLE 15

15:10-4.2	Completion requirements for civilian absentee ballot applications; authorized messengers	R.1979 d.105	11 N.J.R. 203(c)
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(Title 15, Transmittal 10 dated September 21, 1978 includes all rules through January 5, 1979 N.J. Register.)

PUBLIC ADVOCATE — TITLE 15A

(Title 15A, Transmittal 1 dated March 20, 1978 includes all rules to date.)

TRANSPORTATION — TITLE 16

16:1-2	Amend issuance and sale of DOT public records	R.1978 d.433	11 N.J.R. 93(a)
16:6-1, 2.7, 2.9	Amend relocation assistance	R.1979 d.222	11 N.J.R. 357(b)
16:16-4.3	Amend rescission of allocated, unexpended local State aid funds	R.1979 d.122	11 N.J.R. 262(b)
16:17-4.3	Amend rescission of allocated, unexpended local State aid funds	R.1979 d.122	11 N.J.R. 262(b)
16:16-4.3	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:25-12.1(a)2.	Amend utility relocations and adjustments; reimbursement	R.1979 d.43	11 N.J.R. 148(e)
16:17-43	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:26-1.1(c), 3.4(d), 3.8(b)	Amend traffic signal information and reimbursement highway lighting	R.1979 d.15	11 N.J.R. 94(c)
16:28	Recodification	R.1979 d.	11 N.J.R. 410(a)
16:28-1.2(b)	Amendments on speed zones on parts of Route I-80	R.1979 d.53	11 N.J.R. 149(a)
16:28-1.7	Amend speed limits	R.1979 d.36	11 N.J.R. 148(a)
16:28-1.18	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-1.63	Amend speed limits on parts of Route U.S. 22	R.1979 d.161	11 N.J.R. 302(a)
16:28-1.69, 1.71	Amend speed limits on parts of Routes 130, I-295, 30 and U.S. 206	R.1979 d.100	11 N.J.R. 207(a)
16:28-1.81	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-1.87	Amend speed limits	R.1979 d.100	11 N.J.R. 207(a)
16:28-1.177	Speed limits on parts of Route U.S. 46	R.1978 d.386	10 N.J.R. 565(d)
16:28-1.180	Speed limits on parts of Route 180	R.1979 d.8	11 N.J.R. 94(b)
16:28-1.181	Amend speed limits	R.1979 d.36	11 N.J.R. 148(a)
16:28-1.182	Speed limits on parts of Route 53	R.1979 d.37	11 N.J.R. 148(b)
16:28-3.59	Amend restricted parking	R.1979 d.6	11 N.J.R. 93(b)
16:28-3.95(b)2	Restricted parking on Route 27	R.1978 d.387	10 N.J.R. 566(a)
16:28-3.97	Amend restricted parking	R.1979 d.265	11 N.J.R. 410(c)
16:28-3.103	Restricted parking on Routes 49, 72 and 28	R.1979 d.6	11 N.J.R. 93(b)
16:28-3.108, 3.109	Restricted parking on parts of Routes 28 and 27	R.1979 d.38	11 N.J.R. 148(c)
16:28-3.128	Amend restricted parking	R.1979 d.6	11 N.J.R. 93(b)
16:28-3.136	Amend restricted parking: Route 35	R.1979 d.163	11 N.J.R. 303(a)
16:28-3.179 and 3.180	Restricted parking on parts of Routes 49, 72 and 28	R.1978 d.387	10 N.J.R. 566(a)
16:28-3.181	Restricted parking on parts of Route 94	R.1978 d.388	10 N.J.R. 566(b)
16:28-3.182, 3.183	Restricted parking on parts of Routes 33 and 79	R.1978 d.413	11 N.J.R. 40(a)
16:28-3.184	Route U.S. 206 in Hamilton Township, Mercer County	R.1978 d.380	10 N.J.R. 565(a)
16:28-3.185, 3.186	Amend restricted parking	R.1979 d.6	11 N.J.R. 93(b)
16:28-3.187	Amend restricted parking: Route U.S. 206	R.1979 d.163	11 N.J.R. 303(a)
16:28-3.188—3.190	Amend restricted parking on parts of Routes 147, U.S. 206 and U.S. 1 and 9	R.1979 d.162	11 N.J.R. 302(b)
16:28-3.191, 3.192	Restricted parking on parts of Routes U.S. 9 and 31	R.1979 d.163	11 N.J.R. 303(a)
16:28-3.194	Restricted parking on Route 7	R.1979 d.265	11 N.J.R. 410(c)
16:28-6.17, 6.18	No left turns on parts of Routes 71 and 23	R.1979 d.7	11 N.J.R. 94(a)
16:28-6.19	No left turns on parts of Route 35	R.1979 d.39	11 N.J.R. 148(d)
16:28-7.4	Right-hand lane use of parts of Route U.S. 9	R.1979 d.123	11 N.J.R. 262(c)
16:28-7.5	Lane use on parts of Route U.S. 9 in Middlesex County	R.1979 d.224	11 N.J.R. 357(d)
16:28-7.6	Lane usage on parts of Route 35	R.1979 d.296	11 N.J.R. 471(a)
16:28-12.77	No right turns on red signals on parts of Route 57	R.1978 d.384	10 N.J.R. 565(b)

16:28-15.9, 15.11 to 13	Amendments on no passing zones on parts of Routes U.S. 206, N.J. 94, 23 and 31	R.1978 d.389	10 N.J.R. 566(c)
16:28-15.14 through 15.23	No passing zones on parts of various state highways	R.1978 d.414	11 N.J.R. 40(b)
16:28-15.24— 15.28	Rules on no-passing zones on parts of Routes 23, 154, U.S. 46 U.S. 206 and 33	R.1979 d.164	11 N.J.R. 303(b)
16:28-15.29— 15.34	No-passing zones on parts of Routes 31, 36, 47 and 46	R.1979 d.165	11 N.J.R. 303(c)
16:28-16.2 and 16.3	Traffic control and parking on NJDOT property	R.1978 d.385	10 N.J.R. 565(c)
16:29	Recodification	R.1979 d.	11 N.J.R. 410(a)
16:29-1.20	No-passing zones on parts of Route U.S. 40	R.1979 d.264	11 N.J.R. 410(b)
16:30	Recodification	R.1979 d.	11 N.J.R. 410(a)
16:30-3.5, 3.6	High occupancy vehicle lanes on parts of Routes I-95 and 444	R.1979 d.312	11 N.J.R. 471(c)
16:31	Recodification	R.1979 d.	11 N.J.R. 410(a)
16:33-3.1	Rules on definition of substantial completion	R.1979 d.221	11 N.J.R. 357(a)
16:51-1.3	Amend exclusions; reduced fare transportation program	R.1979 d.57	11 N.J.R. 149(b)
16:53	Autobus specifications for van-type autobuses	R.1979 d.124	11 N.J.R. 263(a)
16:53A	Rules on financial and accounting conditions and criteria for bus operating assistance program	R.1979 d.302	11 N.J.R. 471(b)
16:65-1.2(n)	Amend classification of prospective bidders	R.1979 d.223	11 N.J.R. 357(c)

(Title 16, Transmittal 12 dated September 18, 1978 includes all rules through November 9, 1978 N.J. Register.)

TREASURY-GENERAL — TITLE 17

17:1-1.15, 1.21, 4.23	Amend certain rules of the Division of Pensions	R.1979 d.169	11 N.J.R. 304(d)
17:3-1.8, 2.1, 3.1, 4.11	Amend Teachers' Pension and Annuity Fund	R.1979 d.205	11 N.J.R. 359(a)
17:7-1.8(a)2.	Amend suspension of pension checks	R.1979 d.308	11 N.J.R. 476(a)
17:9-1.4, 2.11	Amend State Health Benefits Program	R.1979 d.159	11 N.J.R. 304(c)
17:9-7.2	Amend State Health Benefits Program	R.1979 d.261	11 N.J.R. 415(a)
17:12	Amend Purchase Bureau's rules	R.1979 d.132	11 N.J.R. 264(a)
17:16-5.6	Amend classification of funds, temporary reserve group	R.1979 d.204	11 N.J.R. 358(b)
17:16-5.6	Amend trust group; classification of funds	R.1979 d.305	11 N.J.R. 475(b)
17:16-42	Rules on covered call options	R.1979 d.306	11 N.J.R. 475(c)
17:16-43	Rules on mortgage backed pass-through certificates	R.1979 d.307	11 N.J.R. 475(d)
17:21-11	Lottery Derby Instant Lottery Game	R.1979 d.196	11 N.J.R. 305(d)
17:27-7.4	Amend affirmative action requirements for public contracts	R.1979 d.191	11 N.J.R. 305(c)

(Title 17, Transmittal 12 dated March 29, 1979 includes all rules through April 5, 1979 N.J. Register.)

TREASURY-TAXATION — TITLE 18

18:3	Amend alcoholic beverage tax	R.1979 d.180	11 N.J.R. 305(b)
18:4	Amend alcoholic beverage tax	R.1979 d.180	11 N.J.R. 305(b)
18:5	Amend Cigarette Tax Act	R.1979 d.92	11 N.J.R. 211(b)
18:6	Amend unfair cigarette sales	R.1979 d.86	11 N.J.R. 210(a)
18:7	Amend Corporation Business Tax Act	R.1979 d.45	11 N.J.R. 150(b)
18:8	Amend Financial Business Tax Law	R.1979 d.46	11 N.J.R. 151(a)
18:12	Amend local property tax	R.1979 d.91	11 N.J.R. 211(a)
18:12A-1.14	Amend county boards of taxation	R.1979 d.217	11 N.J.R. 359(b)
18:15	Amend farmland assessment	R.1979 d.87	11 N.J.R. 210(b)
18:15-4.5	Amend structures and the Farmland Assessment Act	R.1979 d.262	11 N.J.R. 415(b)
18:16	Amend realty transfer fee	R.1979 d.93	11 N.J.R. 211(c)
18:17	Amend assessor qualification	R.1979 d.88	11 N.J.R. 210(c)
18:18	Amend motor fuels tax	R.1979 d.137	11 N.J.R. 264(b)
18:19	Amend motor fuels tax	R.1979 d.137	11 N.J.R. 264(b)
18:20	Amend motor fuels tax	R.1979 d.137	11 N.J.R. 264(b)
18:22	Amend public utility corporations	R.1979 d.47	11 N.J.R. 151(b)
18:23	Amend railroad property tax	R.1979 d.48	11 N.J.R. 151(c)
18:23A	Amend tax maps	R.1979 d.49	11 N.J.R. 151(d)
18:24-4.4	Amend sales and use tax	R.1979 d.89	11 N.J.R. 210(d)
18:24-7.8, 7.10	Amend sales and use tax	R.1979 d.90	11 N.J.R. 210(e)
18:24-7.15	Amend Sales and Use Tax Act	R.1979 d.179	11 N.J.R. 305(a)
18:26	Amend transfer inheritance tax	R.1979 d.50	11 N.J.R. 151(e)
18:26-8.7	Amend pre-audit payment of inheritance tax	R.1979 d.295	11 N.J.R. 475(a)
18:30	Amend capital gains and other unearned income tax	R.1979 d.51	11 N.J.R. 151(f)
18:35-1.11	Time for filing information returns	R.1979 d.56	11 N.J.R. 152(a)

(Title 18, Transmittal 12 dated January 18, 1979 includes all rules through February 8, 1979 N.J. Register.)

(Continued from Page 454)

the bodies were obtained, the name and address of the cemetery or crematory where the remains are to be interred, or cremated, and the location of the grave in which any interment is to be made.

(d) Each written authorization shall bear a number corresponding to the funeral record number required by the funeral record keeping rule of this chapter, and a signed copy shall be retained by the funeral director making such arrangements for at least seven years thereafter.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 28, 1979 to:

Maurice W. McQuade, Executive Secretary
Board of Mortuary Science
1100 Raymond Blvd., Room 331
Newark, N.J. 07102

The Board of Mortuary Science may thereafter adopt rules concerning this subject without further notice.

Maurice W. McQuade
Executive Secretary
Board of Mortuary Science
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF NURSING

Proposed Rule on Foreign Nursing Applicants

Dorothy J. DeMaio, President of the Board of Nursing in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J. S.A. 45:11-24(d)19, proposes a new regulation to facilitate the processing of foreign nursing candidates.

Full text of the rule is as follows:

13:37-3.9 Commission on Graduates of Foreign Nursing Schools

The Board will accept a valid certificate issued by the Commission on Graduates of Foreign Nursing Schools in

lieu of a transcript from a foreign nursing program and the results of the Test of English as a Foreign Language (TOEFL) Examination.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 30, 1979 to:

Richard E. David, Executive Director
New Jersey Board of Nursing
1100 Raymond Boulevard, Room 319
Newark, N.J. 07102
Telephone: (201) 648-2490

The New Jersey Board of Nursing may thereafter adopt the above rule as proposed without further notice.

Dorothy J. DeMaio
President, Board of Nursing
Department of Law and Public Safety

(b)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF OPTOMETRISTS

Proposed Amendments Concerning The Release of Patient Record Of Contact Lens Specifications

Maxwell Kaye, President of the Board of Optometrists in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J. S.A. 45:12-1 et seq., proposes to amend a regulation concerning the release of the patient record of contact lens specifications.

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

13:38-6.1(b) [The contact lens specification is considered a part of the patient record and shall be given only to another optometrist or physician.] The complete record of contact lens specifications shall be released by an optometrist to another optometrist, ophthalmologist or ophthalmic dispenser licensed in New Jersey upon either the oral or written request of the patient or the professional acting on the patient's behalf.

OTHER AGENCIES — TITLE 19

19:1-4.1(a)	Repeal portions of rule on commitment applications	R.1979 d.226	11 N.J.R. 359(c)
19:8-1.14	Energy crisis motor fuel limitations	R.1979 d.246	11 N.J.R. 415(d)
19:8-2.12	Amend Emergency services on the Garden State Parkway	R.1979 d.167	11 N.J.R. 309(b)
19:9-2.1	Amend prequalification of bidders	R.1979 d.160	11 N.J.R. 308(b)
19:9-5.1	Pre-employment screening	R.1979 d.181	11 N.J.R. 309(a)
19:25-12.1(b)	Amend reporting of "street money"	R.1979 d.121	11 N.J.R. 266(a)
19:41-2	Application procedures for casino hotel facilities	R.1979 d.173	11 N.J.R. 309(c)
19:41-13	Applications (casino license conservatorship)	R.1979 d.207	11 N.J.R. 360(b)
19:43-1.2	Amend license requirements	R.1979 d.174	11 N.J.R. 309(d)
19:46-1.27	Amend aisle space	R.1979 d.82	11 N.J.R. 214(a)
19:46-1.32	Limitations on utilization of slot machines of any one manufacturer	R.1979 d.255	11 N.J.R. 420(b)
19:46-1.33	Metal tokens for use in \$1.00 slot machines	R.1979 d.175	11 N.J.R. 309(e)
19:47-1.2, 1.4, 1.5	Correct adoption relating to craps	R.1979 d.273	11 N.J.R. 420(c)
19:47-5.7	Minimum and maximum wagers	R.1979 d.206	11 N.J.R. 360(a)

(Title 19, Transmittal 12 dated January 18, 1979 includes all rules through March 8, 1979 N.J. Register.)

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Jan Flanagan, Secretary
New Jersey State Board of Optometrists
1100 Raymond Boulevard
Newark, N.J. 07102
Tel. No. (201) 648-2012

The New Jersey State Board of Optometrists upon its own motion or at the instance of any interested party, may thereafter adopt the above rule as proposed without further notice.

Maxwell Kaye
President, Board of Optometrists
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

RACING COMMISSION

Proposed Amendments Concerning Claiming Requirements

John J. Reilly, Executive Director of the New Jersey Racing Commission in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 5:5-22 et seq., proposes to adopt amendments to the rules concerning claiming requirements.

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

13:70-12.1 Restrictions; claiming privileges

Claiming privileges are restricted to those owners who have been assigned stalls on a permanent basis on the premises of a licensed New Jersey thoroughbred race-track, or who have been assigned stabling at licensed approved farms in the State of New Jersey, provided, however, that the stewards at their discretion may permit an owner racing from out-of-State to replace a horse claimed from him, provided he meets the other standards for eligibility to claim.

13:70-12.2 Claiming races on the flat

In claiming races on the flat, any horse is subject to claim for its entered price by any owner qualified under the terms of Section 1 of this subchapter, who has [started] a horse programmed to start on the flat at the meeting at which the claim is made.

13:70-12.3 Claiming races over jumps or hurdles

In claiming races over jumps or hurdles any horse is subject to claim for its entered price by any owner who has [started] had a horse programmed to start and in fact start in a steeplechase or hurdle race at the meeting at which the claim is made.

13:70-12.4 Claimed horse

(a) A claimed horse shall not [enter] start for 30 days after [being claimed in a race in which] the date upon which it was claimed in any race wherein the determining eligibility price is not less than 25 per cent more than the price for which it was claimed.

[(b) The day claimed shall not count but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so that it may start on the 31st calendar day following the claim for any claiming price.]

[(c)] (b) This provision shall not apply to starter handi-

caps in which the weight to be carried is assigned by the handicapper.

13:70-12.5 Claimed horse racing elsewhere

A claimed horse shall not race elsewhere until after the close of the meeting at which it was claimed. **Nothing in this rule shall preclude any claimed horse from entering any stake race.**

13:70-12.6 Agents

A claim may be made by [an] a licensed authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent.

13:70-12.9 Number of claims

No person shall claim more than one horse in any one race. No authorized agent, although representing several owners, shall submit more than one claim in any one race. **No person shall place or cause to be placed more than one claim form in the claim box under any circumstances.**

13:70-12.12 Intimidation

No person shall attempt by intimidation or threat of bodily harm to prevent anyone from [running] racing a horse in any claiming race for which it is entered.

13:70-12.13 Affidavits

The Stewards may, at any time, [in] at their discretion, require any person who has filed a claim to make affidavit in writing that he is claiming in accordance with the rules; and claims which are not made in keeping with the rules shall be void.

13:70-12.14 Form of claims

All claims must be made in writing, on forms and in envelopes furnished by the association. Both forms and envelopes must be filled out [completed] completely, and must be accurate in every detail, otherwise, the claim shall be void. **For purpose of compliance with this rule, the name of the horse as appearing in the program and/or Daily Racing Form shall govern.**

13:70-12.15 No money in claim box

No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have a credit balance in his account with the association's horse-men's accountant of not less than the amount of the claim, plus New Jersey sales tax. **No claimant shall deplete his account after entering a claim for any horse for a period of two hours from the time the said claim was entered.**

13:70-12.18 Opening claim envelopes

[The] Prior to off-time, the stewards, or their appointed deputy, shall open the claim envelopes for each race, and thereafter check with the horsemen's accountant to ascertain whether the proper credit balance has been established with the association. **The association shall provide an agent who shall deliver the claim box to the Steward's stand.**

13:70-12.21 Delivery to claimant

Any horse that has been claimed shall, after the race has been run, be taken to the [paddock] detention barn for delivery to the claimant.

13:70-12.23 Cooling the horse

A trainer whose horse has been claimed is responsible for cooling his horse out until after the collection of any blood and/or urine specimen and he shall sign for the witnessing thereof. **Failure to comply shall be subject to penalty.**

Editor's Note: The current text of N.J.A.C. 13:70-

12.23 and 13:70-12.24 will now be cited as N.J.A.C. 13:70-12.24 and 13:70-12.25.

[13:70-12.25] 13:70-12.26 Engagements

When a horse is claimed, the horse's [engagement] engagements are included.

[13:70-12.26] 13:70-12.27 Liens

[Any person holding a lien of any kind against a horse entered in a claiming race must record same with the racing secretary and/or the horsemen's accountant at least 30 minutes before post time for that race. If none is so recorded, it shall be assumed that none exists.]

No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder of the claim shall be filed with the racing secretary of the association conducting such claiming race.

Editor's Note: The current text of N.J.A.C. 13:70-12.27 will be cited as N.J.A.C. 13:70-12.28.

[13:70-12.28] 13:70-12.29 Right to claim

(a) An owner whose stable has been eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated, or for 30 New Jersey racing days, whichever period is longer.

(b) If the 30 day period should extend into the next succeeding meeting, the owner must obtain a certificate from the stewards of the meeting at which [he lost] his last horse was claimed, and must present this certificate when filing a claim at the next meeting.

(c) Stables eliminated by fire or other hazards may also be permitted to claim under this rule at the discretion of the stewards.

Editor's Note: The current text of N.J.A.C. 13:70-12.29 and 13:70-12.30 will now be cited as N.J.A.C. 13:70-12.30 and 13:70-12.31.

[13:70-12.31] 13:70-12.32 [Penalties] Conflict of rules

A horse claimed at a recognized meeting under rules [which are] at variance with those [of New Jersey] contained in this subchapter, shall [,] while racing in New Jersey, [pay] serve any additional penalty imposed by the rules of the state [in which it was] wherein claimed.

[13:70-12.32] 13:70-12.33 Circumvention of rules

If an owner ships away only part of his horses, the Stewards shall be free to decide whether or not a part was left behind merely to circumvent the claiming [rule] rules. If they should decide an attempt was made at circumvention of the rule, [any] the claim [involved] shall be void and the owner or stable considered an eliminated stable under Section 27 of this subchapter.

Editor's Note: The current text of N.J.A.C. 13:70-12.33 and 13:70-12.34 will now be cited as N.J.A.C. 13:70-12.34 and 13:70-12.35.

13:70-12.36 Testing

A post race urine test shall be taken in full compliance with subchapter 14 from any horse claimed in a race. The claimant shall have the right to void said claim should the forensic analysis of the sample so taken be positive for any drug.

Editor's Note: Delete existing text of N.J.A.C. 13:71-14.1 through 13:71-14.28 inclusive and substitute in place thereof the following new rules:

13:71-14.1 Restrictions: claiming privileges

Claiming privileges are restricted to those owners who have been assigned stalls on a permanent basis on the premises of a licensed harness racetrack, or who have been assigned stabling at licensed approved farms in the State of New Jersey, or who have started a horse at the race meeting. Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.

13:71-14.2 Claiming races: price and eligibility

In claiming races at any race meeting any horse is subject to claim for its entered price by any owner qualified under the terms of Rule 14.1 of this subchapter. No trainer or agent shall be permitted to enter a horse in a claiming race unless written permission of the owner is filed with the race secretary.

13:71-14.3 Claimed horse

Whenever a horse has been claimed, that horse shall not leave the grounds of the meeting of the association where claimed for 15 days following the date of the successful claim unless permission to leave is granted by the Presiding Judge or that meeting ends prior to the expiration of the 15 day time limit.

13:71-14.4 Agents

A claim may be made by a licensed authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent.

13:71-14.5 Claiming own horse

No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account.

13:71-14.6 Claimed horse: stabled

No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

13:71-14.7 Number of claims

No person shall claim more than one horse in any one race. No authorized agent, although representing several owners, shall submit more than one claim in any one race. No person shall place or cause to be placed more than one claim form in the claim box under any circumstances.

13:71-14.8 Form of claims

All claims must be made in writing, on forms and in envelopes furnished by the association. Both forms and envelopes must be filled out completely, and must be accurate in every detail, otherwise, the claim is void. For purpose of compliance with this rule the name of the horse as appearing in the program shall govern.

13:71-14.9 Stable claims

When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race.

13:71-14.10 Agreements

No person shall offer, or enter into an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race, and no owner or trainer shall make any agreement for the protection of each other's horses in a claiming race.

13:71-14.11 Intimidation

No person shall attempt by threat of bodily harm to prevent anyone from racing a horse in any claiming race for which it is entered.

13:71-14.12 Affidavits

The Judges and/or Steward may, at any time, in their discretion, require any person who has filed a claim to make affidavit in writing that he is claiming in accordance with the rules, and claims which are not made in keeping with the rules shall be void.

13:71-14.13 No money in claim box

No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have a credit balance in his account with the association's horsemen's accountant of not less than the amount of the claim, plus New Jersey sales tax. No claimant shall deplete his account after entering a claim for any horse for a period of two hours from the time the said claim was entered.

13:71-14.14 Time: claims

Claims must be deposited in the claim box at least 30 minutes before post time of each race.

13:71-14.15 Irrevocability

Claims are irrevocable.

13:71-14.16 Opening claim envelopes

Prior to off-time, the Judges, or their appointed deputy, shall open the claim envelopes for each race, and thereafter check with the horsemen's accountant to ascertain whether the proper credit balance has been established with the association. The association shall provide an agent who shall deliver the claim box to the Judge's stand.

13:71-14.17 Title in claimed horse

Every horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event, but title to the claimed horse shall be vested in the successful claimant from the word "go" and said successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured during the race or after it.

13:71-14.18 Scratched horse

The successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse, even though such claimed horse was scratched and did not start in the claiming race from which it was scratched. Such option must be executed prior to off-time. Any horse drawn into a claiming race is eligible to be claimed. Horses entered in claiming races that have been cancelled by the New Jersey Racing Commission shall not be subject to claims.

13:71-14.19 Delivery to claimant

Any horse that has been claimed shall, after the race has been run, be taken to the detention barn for delivery to the claimant.

13:71-14.20 Delivery; written authorization

A claimed horse shall not be delivered to the successful claimant until written authorization is given by the racing secretary, or his deputy.

13:71-14.21 Cooling the horse

A trainer whose horse has been claimed is responsible for cooling his horse out until after the collection of any blood and/or urine specimen and he shall sign for the witnessing thereof. Failure to comply shall be subject to penalty.

13:71-14.22 Required delivery

No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race,

and furthermore, the horse in question is disqualified until delivery is made.

13:71-14.23 Title; more than one claim

If more than one claim is filed for the same horse, title to the horse shall be determined by lot under the direction or supervision of the Judges, or their appointed deputy.

13:71-14.24 Engagements

When a horse is claimed, the horse's engagements are included.

13:71-14.25 Liens

No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder of the claim shall be filed with the racing secretary of the association conducting such claiming race.

13:71-14.26 Eliminated stables

Should any stable registered at a meeting be eliminated by sale or removal from the grounds, the right to claim is void.

13:71-14.27 Right to claim

(a) An owner whose stable has been eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated, or for 30 New Jersey racing days, whichever period is longer.

(b) If the 30 day period should extend into the next succeeding meeting, the owner must obtain a certificate from the Judges of the meeting at which he lost his last horse, and must present this certificate when filing a claim at the next meeting.

(c) Stables eliminated by fire or other hazards may also be permitted to claim under this rule at the discretion of the Judges.

13:71-14.28 Claiming price

The claiming price of each horse in a claiming race shall be printed in the official program, and all claims for said horse shall be for the amount so designated.

13:71-14.29 Sale of claimed horse

No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within 30 days after the day he was claimed except in another claiming race.

13:71-14.30 Conflict of rules

A horse claimed at a recognized meeting under rules at variance with those contained in this subchapter, shall while racing in New Jersey, serve any additional penalty imposed by the rules of the State wherein claimed.

13:71-14.31 Circumvention of rules

If an owner ships away only part of his horses, the Judges shall be free to decide whether or not a part was left behind merely to circumvent the claiming rules. If they should decide an attempt was made at circumvention of the rule the claim shall be void and the owner or stable considered an eliminated stable under Rule 12.28.

13:71-14.32 Sex of horse claimed

Notwithstanding any designation of sex appearing on the racing program or in any race publication, the claimant of a horse shall be solely responsible for determining the sex of the horse claimed.

13:71-14.33 Protests

A protest to the claim of a horse must be filed with the Judges within 48 hours of the claim. No protest will be accepted after that time.

13:71-14.34 Testing

A post race urine test shall be taken in full compliance with subchapter 23 from any horse claimed in a race. The claimant shall have the right to void said claim should the forensic analysis of the sample so taken be positive for any drug.

13:71-14.35 Optional claiming races

Optional claiming races shall not be used unless limited to horses three years old and up.

13:71-14.36 Separation of horses

Whenever possible, claiming races shall be written to separate horses, five years old and up, from young horses and to separate males from females. If sexes are mixed, mares shall be given a price allowance. Spayed mares shall not receive a price allowance allotted to other mares.

13:71-14.37 Mares in foal

Mares known to be in foal shall not be entered or started (raced) in claiming races.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 30, 1979 to:

John J. Reilly, Executive Director
c/o New Jersey Racing Commission
404 Abbingdon Drive
East Windsor, New Jersey 08520

The New Jersey Racing Commission may thereafter adopt rules concerning the subject without further notice.

John J. Reilly
Executive Director, N.J. Racing Commission
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

Rules Concerning Charitable Fund Raising Act of 1971

On August 9, 1979, Judith A. Yaskin, Acting Attorney General of the State of New Jersey, pursuant to authority of N.J.S.A. 45:17A-15 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 13:48-1.1 et seq., concerning the Charitable Fund Raising Act of 1971 substantially as proposed in the Notice published May 10, 1979, at 11 N.J.R. 257(a) but with subsequent substantive changes not detrimental to the public in the opinion of the Department of Law and Public Safety.

An order adopting these rules was filed and became effective on August 13, 1979 as R.1979 d.311.

Howard H. Kestin
Director
Office of Administrative Law

(b)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Rules Concerning Surrender of Registration plates

On August 8, 1979, John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law

and Public Safety, pursuant to authority of N.J.S.A. 39:2-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 13:21-5.10, concerning the surrender of registration plates substantially as proposed in the Notice published July 5, 1979, at 11 N.J.R. 350(a) with only inconsequential structural or language changes in the opinion of the Department of Law and Public Safety.

An order adopting these rules was filed and became effective on August 15, 1979 as R.1979 d.315.

Howard H. Kestin
Director
Office of Administrative Law

(c)

ENERGY

THE COMMISSIONER

Proposed Repeal of Rules and Notice of Preemption Concerning Ignition Devices On Gas Heating Units

Joel R. Jacobson, Commissioner of the Department of Energy, pursuant to authority of N.J.S.A. 52:27F-1 et seq., on behalf of the Division of Energy Planning and Conservation, proposes to repeal N.J.A.C. 14A:3-4.2(b) and N.J.A.C. 14A:3-4.4(b) concerning ignition devices on newly installed gas burning central heating units.

This proposal would repeal rules adopted by the Department of Energy on August 2, 1978 (10 N.J.R. 405(c)) requiring newly installed gas burning central heating units to be equipped with an electric ignition device or an acceptable alternate device designed to conserve energy. The rules concerning ignition devices on newly installed gas burning central heating units have been preempted pursuant to Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. §6297(b)) as amended by Section 424(a) of the National Energy Conservation Policy Act, P.L. 95-619. These rules will no longer be enforced by the Department of Energy.

Full text of the proposal follows:

Subsection (b) of Section 2 of Subchapter 4 of Chapter 3 of Title 14A of the New Jersey Administrative Code, N.J.A.C. 14A:3-4.2(b) and Subsection (b) of Section 4 of Subchapter 4 of Chapter 3 of Title 14A of the New Jersey Administrative Code, N.J.A.C. 14A:3-4.4(b) are repealed.

This proposal is known within the Department of Energy and should be referred to in correspondence with the Department as Docket No. DOE 005-79-04.

Interested persons may present statements or arguments in writing relevant to the proposal on or before October 5, 1979 to:

Steven J. Picco
Assistant Commissioner
Department of Energy
101 Commerce Street
Newark, N.J. 07102

The Department of Energy may thereafter repeal rules substantially as proposed concerning this subject without further notice subject to N.J.S.A. 52:27F-25 where applicable.

Joel R. Jacobson
Commissioner
Department of Energy

(a)

ENERGY

BOARD OF PUBLIC UTILITIES

Amendments Concerning Amount Of Interest to be Paid by a Utility on Customer Accounts

On July 18, 1979, the Board of Public Utilities in the Department of Energy, pursuant to authority of N.J.S.A. 48:2-12 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 14:3-7.5(c) concerning the amount of interest to be paid by a utility on customer accounts substantially as proposed in the Notice published May 10, 1979, at 11 N.J.R. 258(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Energy.

Full text of the adoption follows:

14:3-7.5(c) Simple interest at the rate of at least nine per cent per annum 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. The nine per cent interest shall be applied to all deposits received by the public utility on and after August 1, 1979. Interest on deposits previously collected and held by the public utility on August 1, 1979, shall be apportioned so that the nine per cent shall be computed beginning August 1, 1979.

An order adopting these amendments was filed on July 20, 1979, as R.1979 d.289 to become effective on August 1, 1979.

Howard H. Kestin
Director
Office of Administrative Law

(b)

TRANSPORTATION

THE COMMISSIONER

Proposed Rules on Restricted Parking On Parts of Routes 29 and 179

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-138.1, proposes to adopt new rules concerning restricted parking on parts of Routes 29 and 179.

Full text of the proposal follows:

16:28-3.201 Route 29 (Main Street) in the City of Lambertville, Hunterdon County

(a) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route 29 (Main Street) described herein below shall be, and hereby are, designated and established as No Parking Zones for cleaning purposes during certain designated days and hours except as provided in N.J.S.A. 39:4-139.

1. No parking 8:00 A.M. to 10:00 A.M., Wednesday, along the westside of Route 29 (Main Street) between Mt. Hope Street and Cherry Lane.

16:28-3.202 Route 179 (Bridge Street) in the City of Lambertville, Hunterdon County

(a) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route 179 (Bridge Street) described herein below shall be, and hereby are, designated and established as No Parking Zones for cleaning purposes during certain designated days and hours except as provided in N.J.S.A. 39:4-139.

1. No Parking 8:00 A.M. to 10:00 A.M., Thursday, along the north side of Route 179 (Bridge Street) between Route 29 (Main Street) and Lambert Lane.

2. No Parking 8:00 A.M. to 10:00 A.M., Friday, along the south side of Route 179 (Bridge Street) between Route 29 (Main Street) and Lambert Lane.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979, to:

Charles Meyers
Administrative Practice Officer
N.J. Department of Transportation
1035 Parkway Ave.
Trenton, N.J. 08625

The Department of Transportation may thereafter adopt rules concerning this subject without further notice.

Louis J. Gambaccini
Commissioner
Department of Transportation

(c)

TRANSPORTATION

THE COMMISSIONER

Proposed Rules on No Left Turns on Parts of Route 35

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-183.6, proposes to adopt new rules concerning no left turns on parts of Route 35 in the Borough of Mantoloking in Ocean County.

Full text of the proposal follows:

16:31-1.14 Route 35 in the Borough of Mantoloking, Ocean County

(a) In accordance with the provisions of N.J.S.A. 39:4-183.6, turning movements of traffic on the certain parts of State Highway Route 35, described below are regulated as follows:

1. No left turn south on Route 35 to east on Williams Place.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Charles Meyers
Administrative Practice Officer
N.J. Department of Transportation
1035 Parkway Ave.
Trenton, N.J. 08625

The Department of Transportation may thereafter adopt rules concerning this subject without further notice.

Louis J. Gambaccini
Commissioner
Department of Transportation

(a)

TRANSPORTATION

THE COMMISSIONER

Proposed Rules on Junkyards Adjacent To Interstate and Primary Highway Systems

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-1 et seq. and 27:5E-1 et seq., proposes to adopt new rules concerning junkyards adjacent to the interstate and primary highway systems.

Full text of the proposal follows:

CHAPTER 43

JUNKYARDS ADJACENT TO THE INTERSTATE AND PRIMARY HIGHWAY SYSTEMS

SUBCHAPTER 1. GENERAL PROVISIONS

16:43-1.1 Declaration of policy

The intent of this chapter is to effectuate the purposes of the New Jersey Junkyard Control Act, N.J.S.A. 27:5E-1 et seq., which are to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, and to foster the public policy of the State expressed by that Act, which is to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary highway systems within the State: further, to ensure New Jersey compliance with section 136 of Title II of the Federal Highway Beautification Act of 1965, and the provisions of Title 23 of the Code of Federal Regulations, Part 751, Junkyard Control and Acquisition.

16:43-1.2 Authority

(a) The Commissioner of Transportation is authorized pursuant to:

1. N.J.S.A. 27:5E-4, to promulgate, after public hearing, regulations defining "unzoned industrial areas," as that term is employed in the Junkyard Control Act;

2. N.J.S.A. 27:5E-5, to screen junkyards lawfully in existence on the effective date of the Junkyard Control Act (July 24, 1970) which are located within 1,000 feet of, and are visible from, any interstate or primary system highway, and which are located outside of zoned and unzoned industrial areas, and to acquire such lands, or interests in lands, as may be necessary to provide adequate screening of such junkyards;

3. N.J.S.A. 27:5E-6, to promulgate rules and regulations governing the location, planning, construction and maintenance, including the materials used, in screening or fencing required by the Junkyard Control Act;

4. N.J.S.A. 27:5E-5 and 27:5E-7, to determine whether the screening of a junkyard is feasible, and where such screening is not feasible, to pursue alternate control measures, including the relocation, removal, or disposal of such junk;

5. N.J.S.A. 27:5E-7, to acquire such interests in lands as may be necessary to secure the relocation, removal, or disposal of junkyards, and to pay for the costs of relocation, removal, or disposal thereof;

6. N.J.S.A. 27:5E-8, to apply to the Superior Court, Chancery Division for an injunction to abate public

nuisances created by junkyards which do not conform to the requirements of the Junkyard Control Act; and

7. N.J.S.A. 27:5E-10, to enter into agreements with the United States Secretary of Transportation relating to the control of junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the State to comply with the terms of such agreements.

8. N.J.S.A. 27:1A-7 to comply with all applicable rules, regulations and guidelines of the Federal Government or any agency thereof, and more specifically those regulations and guidelines promulgated by the Federal Highway Administration in the Federal-Aid Highway Program Manual, Volume 7, Chapter 6, Section 4 and codified in 23 C.F.R. Part 751, insofar as compliance with said rules, regulations, and guidelines is necessary condition for Federal participation in junkyard control projects authorized under N.J.S.A. 27:5E-1 et seq.

16:43-1.3 Definitions

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

"Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles will constitute an automobile graveyard.

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

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

"Interstate system" means that portion of the National System of Interstate and Defense Highways located within this State, as officially designated, or as may hereafter be so designated, by the Commissioner of Transportation, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23 of the United States Code.

"Junk" means old or scrap metal, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof.

"Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

"Illegal junkyard" means a junkyard which is established in violation of the Junkyard Control Act, N.J.S.A. 27:5E-1 et seq.

"Nonconforming junkyard" means a junkyard which does not comply with N.J.S.A. 27:5E-4 and which was either:

1. In actual existence on July 24, 1970, as distinguished from a contemplated use, except where a permit or similar specific governmental action was granted for the establishment of the junkyard prior to July 24, 1970, and the junkyard owner in good faith expended funds in reliance thereon; or

2. Lawfully established after July 24, 1970, but later failing to comply with N.J.S.A. 27:5E-1 et seq. because of the construction, widening, or relocation of primary or interstate highways or other changed conditions not within the junkyard owner's control, including revisions in the applicable zoning ordinances.

"Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main

traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

"Primary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Commissioner of Transportation, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23 of the United States Code.

"Sanitary fill" means a land disposal site employing an engineered method of disposal of solid waste in a manner that is intended to minimize environmental hazards, including, but not limited to the spreading of the solid waste in thin layers, compacting the waste to the smallest practical volume, and applying cover material at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

"Industrial activities" means those permitted only in industrial zones, or in less restricted zones by the nearest zoning authority within the State, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the State, except that none of the following shall be considered industrial activities:

1. Outdoor advertising structures;
2. Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, way-side fresh produce stands;
3. Activities normally and regularly in operation less than three months of the year;
4. Transient or temporary activities;
5. Activities not visible from the traffic lanes of the main traveled way;
6. Activities more than 500 feet from the nearest edge of the main traveled way;
7. Activities conducted in building principally used as a residence;
8. Railroad tracks, minor sidings, and passenger depots;
9. Junkyards, as defined in Section 136, Title 23, United States Code.

"Unzoned industrial area" means the land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within 750 feet thereof which is:

1. Located on the same side of the highway as the principal part of said activity; and
2. Not predominantly used for residential or commercial purposes; and
3. Not zoned by State or local law, regulation or ordinance.

"Zoned industrial areas" means those districts established by zoning authorities as being most appropriate for manufacturing or heavy industry, regardless of how labeled. The Commissioner of Transportation shall determine whether a local zoning classification in effect establishes a zoned industrial area for the purposes of this chapter, and such determination shall be based upon the compatibility of unscreened junkyards with the land uses permitted under the local zoning classification.

16:43-1.4 County and municipal ordinances; effect

Nothing in this chapter shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution of any county or municipality, which is more restrictive than the provisions of this chapter.

SUBCHAPTER 2. ILLEGAL JUNKYARDS

16:43-2.1 Establishment, operation and maintenance of illegal junkyards

- (a) No person shall establish, operate, or maintain a

junkyard, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, except the following:

1. Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the interstate and primary systems, or otherwise removed from sight;
2. Those located within zoned industrial area;
3. Those located within unzoned industrial areas;
4. Those which are not visible from the main-traveled way of the system.

16:43-2.2 Screening and removal of illegal junkyards

(a) The owner or owners of any junkyard, which shall be determined by the Commissioner to be established, operated or maintained in violation of this chapter shall within 90 days of receiving notice of said violation:

1. Relocate, remove, or dispose of the junk in the illegal junkyard in such a manner as to effect compliance with these regulations; or
2. With the prior approval of the Department, construct screening and fencing which conforms to the requirements of subchapter 4 of this chapter. Proposals for such screening of fencing shall be submitted by the junkyard owner to the Department for approval within 30 days of the owner's receiving notice of a violation.

16:43-2.3 Abatement of public nuisances

Junkyards which do not conform to the requirements of this chapter are declared to be public nuisances. The Commissioner may apply to the Superior Court, Chancery Division in the county in which said junkyards may be located for an injunction to abate such nuisance.

SUBCHAPTER 3. NON-CONFORMING JUNKYARDS

16:43-3.1 Screening and removal of non-conforming junkyards

(a) Any junkyard which is determined by the Commissioner to be a non-conforming junkyard under these regulations shall, within a reasonable time from the date said junkyard becomes non-conforming, be screened by the Department in accordance with subchapter 4 of this chapter, unless the Commissioner determines that such screening is not feasible.

(b) In all cases in which the screening of a non-conforming junkyard is found to be unfeasible, the Department shall relocate, remove, or dispose of said junkyard.

(c) Situations in which screening of a non-conforming junkyard may be considered unfeasible and in which junk should be removed for disposal or recycling shall include:

1. Junkyards which will be terminated within a 5-year period, including junkyards subject to termination clauses in local zoning ordinances, junkyards located in a proposed improvement project, and junkyard operations which the owner intends to abandon;
2. Junkyards which the Commissioner determines may present a hazard to public health or safety;
3. Junkyards for which the Commissioner determines that the benefits of removal far outweigh the benefits of screening, taking into account existing land uses in the area, traffic conditions, aesthetics and community preferences;
4. Junkyards for which adequate screening cannot be accomplished due to the topography of the surrounding land, or for which adequate screening would necessarily obstruct a scenic vista or significant landmark.

16:43-3.2 Acquisition of lands

When the Commissioner of Transportation determines that it is in the best interest of the State he may acquire such lands, or interests in lands, as may be necessary

to provide adequate screening of non-conforming junkyards, or when such screening is determined to be unfeasible, to secure the relocation, removal, or disposal thereof.

16:43-3.3 Just compensation and relocation assistance

(a) Just compensation shall be paid to the owner for the relocation, removal, or disposal of junkyards which are lawfully established, operated and maintained pursuant to the provisions of this chapter and which are required to be removed, relocated or disposed of pursuant to section 1 of this subchapter.

(b) No rights to compensation under this section shall accrue until a taking or removal has occurred. The conditions which establish a right to operate and maintain a non-conforming junkyard as provided in section 3.4 of this chapter must pertain at the time of the taking or removal in order to establish a right to just compensation.

(c) Owners of junkyards which are lawfully established, operated and maintained pursuant to the provisions of this chapter and which are required to be removed, relocated, or disposed of pursuant to section 1 of this subchapter may apply for relocation assistance under the provisions of the Uniform Transportation Replacement Housing and Relocation Act, N.J.S.A. 27:7-72 et seq. and the regulations adopted pursuant thereto, which are codified in chapter 6 of this Title.

16:43-3.4 Operation and maintenance of non-conforming junkyards

(a) Any non-conforming junkyard unlawfully operated and maintained after July 24, 1970, shall be deemed an illegal junkyard for the purposes of this chapter. The following requirements for the continued operation and maintenance of a non-conforming junkyard shall apply:

1. There must be existing property rights in the junkyard or junk subject to regulation under this chapter.

2. Worthless junk, or junk having no economic or resale value to the owner thereof, shall be removed, relocated, recycled or otherwise disposed of by the owner.

3. The junkyard may not be extended, enlarged or changed in use. A junkyard shall be considered to have been extended if junk is placed in areas not used for the storage of junk as of the date said junkyard became non-conforming. A junkyard shall be considered to have been enlarged if additional property is acquired for the storage or placement of junk subsequent to the date on which said junkyard became non-conforming. A junkyard shall be considered to have been changed in use when, subsequent to the date on which said junkyard becomes non-conforming, its manner of operation is so altered as to significantly increase the amount of junk visible from the main traveled way.

4. After a non-conforming junkyard has been screened, junk shall not be placed so that it may be seen above or beyond the screen or otherwise become visible from the main traveled way. In all cases in which the owner of the junkyard acquires title to the screen, the owner shall be responsible for the maintenance of the screen in accordance with the requirements of subchapter 4 of this chapter.

5. A non-conforming junkyard may continue only so long as it is not abandoned, destroyed, or voluntarily discontinued. A junkyard shall be considered abandoned when the owner thereof has neither bought nor sold junk within the last calendar year. A junkyard shall be con-

sidered to have been destroyed when for any reason the junk stored therein has lost all economic or resale value. A junkyard shall be considered to be voluntarily discontinued when the owner thereof ceases the business of buying and selling junk with the intent not to resume such business.

SUBCHAPTER 4. SCREENING AND FENCING REQUIRED BY THE JUNKYARD CONTROL ACT

16:43-4.1 Location, construction and maintenance of screening

(a) Screening and fencing required by the Junkyard Control Act shall be located, planted, constructed and maintained in the following manner:

1. Where screening or fencing is used, it must, upon completion of the screening project, effectively screen the junkyard from the main-traveled way of the highway on a year-round basis, and be compatible with the surroundings.

2. Screening or fencing may not interfere with the ability of the operator of a motor vehicle to have a clear and unobstructed view of the highway, intersecting streets, or ramps, or approaching, merging, or intersecting traffic, or of official signs, signals or traffic control devices.

3. No junk shall be deposited or placed on the highway side of the screening or fencing.

4. The junkyard entrance on a primary system must be consistent with the objectives of effective control. Any gate which provides access to a primary system highway shall provide effective control when closed. Such a gate shall be closed when the junkyard entrance is not in use. A junkyard entrance on a primary system highway may also be made through a baffle of screening arranged so as to provide effective control. Any junkyard entrance not on a primary system highway but visible from the primary or interstate system shall be closed when not in use or shall be screened through a baffle.

(b) Screening and fencing may be accomplished by use of natural objects, landscape plantings, fences, and other appropriate means, including relocating inventory on site to utilize an existing natural screen or a screenable portion of the site. Screening and fencing should be relatively maintenance free, and should be as compatible with the general area as possible. Climate, soil conditions, extent of land area available, and the availability of material are pertinent factors. Use of existing "natural" screens should be given high priority. Alternative methods of screening or fencing include:

1. Use of plant material: Trees, shrubs, etc., of a sufficient size and density to provide year-round effective screening may be used. Plants should be selected to complement the existing highway and adjacent land use and environmental conditions. Dead trees and shrubs should be replaced in order to provide continuous effective screening.

2. Earth grading: Berms, graded, shaped and recovered with topsoil and planted so as to provide a natural appearance, may be used to block visibility. Berms should be constructed of fill material or building demolition fill material of a non-contaminating nature.

3. Architectural barriers: Fences, walls, or other structural elements may be used.

(c) For the purpose of establishing a height from which to determine the effectiveness of screening, the American

Association of State Highway and Transportation Officials Standard of 3 feet 9 inches, average is to be used. This standard is to be used at the pavement centerline of the highway.

16:43-4.2 Maintenance of screening on State right-of-way
Screening established on State right-of-way shall be maintained by the Department.

16:43-4.3 Surveillance
The interstate and primary highway systems will be surveyed periodically to update the junkyard inventory. Each junkyard on the inventory will be reviewed for compliance with the provisions of the Junkyard Control Act and this chapter.

Interested persons may, in writing, present relevant statements or arguments to the proposed action on or before September 26, 1979, to Mr. Charles L. Meyers, Administrative Practice Officer, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625.

The New Jersey Department of Transportation, upon its own motion or at the instance of any interested party, may thereafter adopt these regulations substantially as proposed without further notice.

Russell H. Mullen
Assistant Commissioner, Highways
Department of Transportation

(a)

TRANSPORTATION

THE COMMISSIONER

Emergency Rules on Lane Usage On Parts of Route 35

On August 2, 1979, Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-88 and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency rules concerning lane usage on parts of Route 35 in Brick Township and Mantoloking Borough in Ocean County.

Full text of the adoption follows:

16:30-3.1 Route 35

....

(c) Pursuant to authority granted under N.J.S.A. 39:4-88 the northbound shoulder (right-hand lane or curb lane) of Route 35 may be used by buses and is reserved therefor on Sundays from 3:00 P.M. to 8:00 P.M. from Faber Lane in the Township of Brick, north to Herbert Street in the Borough of Mantoloking, County of Ocean.

1. This subsection is not intended to preclude normal use of the shoulder by other vehicles. "Normal use" is defined as: emergency stopping or driving on the shoulder for short distances to enter driveways or intersecting roadways.

An order adopting these rules was filed and became effective on August 3, 1979, as R.1979 d.296 (Exempt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(b)

TRANSPORTATION

THE COMMISSIONER

Rules on Financial and Accounting Conditions And Criteria for Bus Operating Assistance Program

On August 6, 1979, R. Keith, Assistant Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-16(d) and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 16:53A-1.1 et seq., concerning financial and accounting conditions and criteria for bus operating assistance program substantially as proposed in the Notice published June 7, 1979, at 11 N.J.R. 301(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Transportation.

An order adopting these rules was filed and became effective on August 7, 1979, as R.1979 d.302.

Howard H. Kestin
Director
Office of Administrative Law

(c)

TRANSPORTATION

THE COMMISSIONER

Emergency Rules on High Occupancy Vehicles on Parts of Routes I-95 and 444

On August 14, 1979, Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-1 et seq., 39:4-6 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new, emergency rules concerning high occupancy vehicles on parts of Routes I-95 and 444.

Full text of the adoption follows:

16:30-3.5 Route I-95

(a) A special reserved lane for buses and high occupancy vehicles only is hereby established on the Route 95 approach to the George Washington Bridge, from the base of the expressway entrance from Route 4 on the Route 95 approach to the upper level of the George Washington Bridge to the bus stop ramp under Le Moine Avenue, Borough of Fort Lee, Bergen County.

(b) This regulation shall be in effect between the hours of 7:00 A.M. and 9:30 A.M. on weekdays or as otherwise posted.

(c) For the purpose of this regulation a high occupancy vehicle (H.O.V.) is one that contains at least three persons per vehicle.

16:30-3.6 Route 444 (Garden State Parkway)

(a) The median lane in each direction of Route 444, the Garden State Parkway, under the jurisdiction of the Department of Transportation is hereby reserved exclusively for high occupancy vehicles (H.O.V.) in both northbound and southbound directions. These lanes are between milepost 129.7 and 141.7.

(b) This regulation shall be in effect between the hours of 7:00 A.M. to 9:00 A.M. and 3:00 P.M. to 6:00 P.M. weekdays or as otherwise posted.

(c) For the purpose of this regulation a high occupancy vehicle (H.O.V.) is one that contains a minimum of three persons.

An order adopting these rules was filed and became effective on August 14, 1979 as R.1979 d.312 (Exempt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

TREASURY

DIVISION OF TAXATION

Proposed Amendments to Unfair Cigarette Sales Tax

Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 56:7-18 et seq., proposes to adopt amendments to N.J.A.C. 18:6-1.1 concerning definitions and the Unfair Cigarette Sales Act.

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

18:6-1.1 Definitions

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

"Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, less all trade discounts and customary discounts for cash, plus the total face value of any stamps required by the New Jersey Cigarette Tax Act and by any municipal ordinance, now in effect or hereafter enacted, if not already included in the invoice or replacement cost. **The trade discount and customary discount for cash is deemed to be 3/4 per cent of the invoice cost or replacement cost of cigarettes.**

"Business day" means any day other than a Sunday or a legal holiday.

"Cigarette" means any roll for smoking, made wholly or in part of tobacco, or of any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material excepting tobacco.

"Cigarette Tax Act" means the Public Laws of 1948, Chapter 65 as amended and supplemented (N.J.S.A. 54:40A-1, et seq.).

["Cost of Doing Business" defined]

[1.] "Cost of doing business" means and includes without limitation, as evidenced by the standards and methods of accounting regularly employed in the allocation of overhead costs and expenses, paid or incurred:

1. [i] Labor (including salaries of executives and officers);
2. [ii.] Rent;
3. [iii.] Depreciation;
4. [iv.] Selling costs;
5. [v.] Maintenance of equipment;
6. [vi.] Delivery costs;
7. [vii.] Licenses of all types;

8. [viii.] Taxes;
9. [ix.] Insurance;
10. [x.] Advertising;
11. [2.] In the absence of the filing with the Director of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business" is to be as follows:

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
West State and Willow Streets
Trenton, N.J. 08646

The Department of the Treasury may thereafter adopt rules concerning this subject without further notice.

Sidney Glaser
Director, Division of Taxation
Department of the Treasury

(b)

TREASURY

DIVISION OF TAXATION

Proposed Amendments on Electronic Data Processing Transactions and Sales and Use Tax Act

Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:32B-1 et seq., proposes to amend N.J.A.C. 18:24-25.2 concerning the Sales and Use Tax Act and electronic data processing transactions.

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

18:24-25.2 Electronic data processing transactions

(a) Rules concerning the taxable transactions include the following:

[1. The processing of data by a service bureau constitutes a non taxable service, whether or not the customer supplies the medium.]

[2.] 1. The sale or lease of data processing equipment is taxable, except where the equipment is leased or purchased with the intention of reselling or subleasing it. Equipment which is leased with the intention to sublease it is taxable to the sublessee on the charges made to such sublessee. Incidental use of the equipment made by the lessee is subject to the use tax, based upon the same rate charges as those charged to a sublessee.

[3. Timesharing: The charges made to a customer for the use of a computer, which the customer has access to through a remote terminal device, are not deemed to be a taxable transfer of possession of the computer. The rental charge for the terminal device has been and continues to be taxable. It is not essential for a transfer of possession to include the right to move the tangible personal property which is the subject of a rental, lease or license to use.]

2. The sale or lease of terminal device has been and continues to be taxable. It is not essential for a transfer of possession to include the right to move the tangible personal property which is the subject of a rental, lease or license to use. The charges made to a customer for use of a computer (known as timesharing), which the customer has access to through a remote terminal device,

are not deemed to be a taxable transfer of possession of the computer.

i. Examples:

(1.) [i.] A corporation contracts with a computer center to use the computer on the center's premises for 10 hours weekly. The corporation provides its own operator and its own materials. During the 10 hour period, no one else may use the machine. This transaction, commonly known as the sale of raw time, constitutes a transfer of possession, pursuant to a rental, lease or license to use, which is a sale subject to tax.

(2.) [ii.] A corporation contracts with a computer center to use the computer on the center's premises for 10 hours weekly. The corporation provides its own materials and the computer center provides and directs the operator. During the 10 hour period, no one else may use the machine. In this case, there is no transfer of possession to the corporation as it has no control over the operation of the computer.

(3.) [iii.] A corporation contracts with a computer center for access time on the computer center's equipment through the use of a terminal located in the corporation's office. The terminal is connected to the computer by telephone. The corporation's access to the computer through the terminal is not deemed to be a transfer of possession of the computer subject to tax.

[4. Data conversion services by keyentry and/or key-stroke verification where the keyed output media is forwarded to the customer is taxable fabrication.]

[5. Software which meets the criteria below is deemed to be intangible personal property and not subject to sales tax; software applies to instructions and routines (programs) which, after an analysis of the customer's specific data processing requirements, are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his electronic data processing system. To be considered exempt "software" for purposes of this rule, one of the following elements must be present:

i. Preparation or selection of the customer's use requires an analysis of the program for the customer's requirements by the vendor; or

ii. The program requires adaptation, by the vendor, to be used in a specific environment that is, a particular make and model of computer utilizing a specified output device. For example, a software vendor offers for sale a prewritten sort program which can be used in several computer models. Prior to operation, instructions must be added by the vendor which specify the particular computer model in which the program will be utilized.

iii. The software may be in the form of:

(1) Systems programs (except for those instruction codes which are considered tangible personal property)—programs that control the hardware itself, and allow it to compile, assemble and process application programs. For purposes of this rule, instruction codes mean the internalized instruction code which controls the basic operations (that is, arithmetic and logical) of the computer causing it to execute instructions contained in application and system programs, and is an integral part of the computer. It is not normally accessible nor modifiable by the user. Such internal code system is considered part of the hardware and is taxable. The fact that the vendor does or does not charge separately for it is immaterial.

(2) Application programs—programs that are created to perform business functions or control or monitor processes.

(3) Pre-written programs (canned)—programs that are

either systems programs or application programs and are not written specifically for one user.

(4) Custom programs—programs created specifically for one user.

iv. Software, whether placed on cards, tape, disc pack or other machine readable media, or entered into a computer directly, is deemed to be intangible personal property for sales tax purposes, and as such its sale is exempt from New Jersey State sales and use tax. Software or programs which do not meet the criteria are subject to tax. The person selling exempt software is required to pay the applicable sales or use tax on any tangible personal property transferred to the customer in connection with the exempt service. In addition, the hardware and supplies used to develop the exempt software are not eligible for any sales tax exemptions.

(1) An exempt application program sold in machine readable form as keypunched cards, magnetic tape (with or without charts and instructions on its use) or discs is deemed to be intangible personal property, except as may be provided for in paragraph 4 above. As intangible personal property, its sale, including lease or license to use, is not subject to New Jersey State tax.

(2) A computer manufacturer sells or leases a computer containing exempt system programs. The sales invoice rendered to the purchaser separately states a reasonable charge for the system programs. The separately stated charge for such computer software is exempt from tax.

(3) A company leases a computer with exempt application programs. The monthly billing shows one charge. The entire monthly charge is subject to tax.

(4) A manufacturer sells or leases equipment which, in addition to recording transactions and issuing receipts, is capable of transmitting inventory and sales information by use of an application program to a central computer. Sales of such equipment is a sale of tangible personal property except to the extent of the exempt applications program option which may be purchased as a separate item and is separately billed to the customer as a software addition to the tangible property. If the customer does not have this option, the application program will be viewed as part of the hardware and taxed accordingly.

(5) A software supplier manufactures prepackaged programs for use with home television games or other personal computer equipment. The programs are marketed through retail stores, and the programs are fully usable by customers without modifications. In selecting or preparing the program, the supplier does not perform a detailed analysis of the customer's requirements. The program is viewed as tangible personal property for sales tax purposes.]

[6.] 3. Examples of taxable transactions:

i. The sale of addressed labels purchased by a customer for use in soliciting business, mailing advertisements or any other similar purpose;

ii. Sales of computer-prepared mailing lists;

iii. The charges for additional copies of records, reports, tabulations, and the like which are prepared by rerunning the original program;

iv. Electronic data processing equipment manufacturers, service bureaus and data processing educational centers are deemed to be the consumers of tangible personal property which is used in training others. They are required to pay the tax on their purchases of such property; training aids which they purchase for resale, however, are taxable to the ultimate users.

(b) Rules concerning non-taxable transactions are as follows:

1. The processing of data by a service bureau constitutes a nontaxable service whether or not the customer supplies the medium. Data conversion services, whether by keyentry, keystroke verification or other entry procedure, are part of the processing of data, and whether or not forwarded to a customer, are nontaxable services.

2. Software which meets the criteria below is deemed to be intangible personal property and not subject to sales tax; software applies to instructions and routines (programs) which, after an analysis of the customer's specific data processing requirements, are determined necessary to program the customer's electronic data processing equipment to enable the customer to accomplish specific functions with his electronic data processing system. To be considered exempt "software" for purposes of this rule, one of the following elements must be present:

i. Preparation or selection of the customer's use requires an analysis of the program for the customer's requirements by the vendor; or

ii. The program requires adaptation, by the vendor, to be used in a specific environment that is, a particular make and model of computer utilizing a specified output device. For example, a software vendor offers for sale a prewritten sort program which can be used in several computer models. Prior to operation, instructions must be added by the vendor which specify the particular computer model in which the program will be utilized.

iii. The software may be in the form of:

(1) Systems programs (except for those instruction codes which are considered tangible personal property)—programs that control the hardware itself, and allow it to compile, assemble and process application programs. For purposes of this rule, instruction codes mean the internalized instruction code which controls the basic operations (that is, arithmetic and logical) of the computer causing it to execute instructions contained in application and system programs, and is an integral part of the computer. It is not normally accessible nor modifiable by the user. Such internal code system is considered part of the hardware and is taxable. The fact that the vendor does or does not charge separately for it is immaterial.

(2) Application programs—programs that are created to perform business functions or control or monitor processes.

(3) Pre-written programs (canned)—programs that are either systems programs or application programs and are not written specifically for one user.

(4) Custom programs—programs created specifically for one user.

iv. Software, whether placed on cards, tape, disc pack or other machine readable media, or entered into a computer directly, is deemed to be intangible personal property for sales tax purposes, and as such its sale is exempt from New Jersey State sales and use tax. Software or programs which do not meet the criteria are subject to tax. The person selling exempt software is required to pay the applicable sales or use tax on any tangible personal property transferred to the customer in connection with the exempt service. In addition, the hardware and supplies used to develop the exempt software are not eligible for any sales tax exemptions.

(1) An exempt application program sold in machine readable form as keypunched cards, magnetic tape (with or without charts and instructions on its use) or discs is deemed to be intangible personal property, except as may be provided for in paragraph 4 above. As intangible personal property, its sale, including lease or license to use, is not subject to New Jersey State tax.

(2) A computer manufacturer sells or leases a computer containing exempt system programs. The sales invoice rendered to the purchaser separately states a reasonable charge for the system programs. The separately stated charge for such computer software is exempt from tax.

(3) A company leases a computer with exempt application programs. The monthly billing shows one charge. The entire monthly charge is subject to tax.

(4) A manufacturer sells or leases equipment which, in addition to recording transactions and issuing receipts, is capable of transmitting inventory and sales information by use of an application program to a central computer. Sales of such equipment is a sale of tangible personal property except to the extent of the exempt applications program option which may be purchased as a separate item and is separately billed to the customer as a software addition to the tangible property. If the customer does not have this option, the application program will be viewed as part of the hardware and taxed accordingly.

(5) A software supplier manufactures prepackaged programs for use with home television games or other personal computer equipment. The programs are marketed through retail stores, and the programs are fully usable by customers without modifications. In selecting or preparing the program, the supplier does not perform a detailed analysis of the customer's requirements. The program is viewed as tangible personal property for sales tax purposes.

[1.] 3. The following are deemed to be professional services and are, therefore, not subject to sales and/or use tax:

i. Feasibility studies;

ii. Consulting services;

iii. Technical instruction;

iv. Professional services, such as accounting services, where the service bureau initially receives the raw material and studies, alters, analyzes, interprets and adjusts such raw material which by the use of a data processing machine are sorted, classified and rearranged.

[2.] 4. Where the output resulting from data processing services is received by an out-of-State client through the medium of a telephone or telegraph transmission device at an out-of-State location, the charges for such data processing services are not taxable to the out-of-State client.

[3.] 5. The sales and/or use tax is not applicable to the fabrication of a program by a non-service bureau company's employees for the exclusive use of their employer in connection with the employer's business.

[4.] 6. When the tangible personal property is incidental to the professional or personal services and for which no separate charges are made.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
West State and Willow Sts.
Trenton, N.J. 08646

The Department of the Treasury may thereafter adopt rules concerning this subject without further notice.

Sidney Glaser
Director, Division of Taxation
Department of the Treasury

(a)

TREASURY

DIVISION OF TAXATION

Amendments on Pre-Audit Payment of Inheritance Tax

On August 2, 1979, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:33-38 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 18:26-8.7 concerning pre-audit payment of inheritance tax as proposed in the Notice published July 5, 1979, at 11 N.J.R. 358(a).

An order adopting these amendments was filed and became effective on August 2, 1979, as R.1979 d.295.

Howard H. Kestin
Director
Office of Administrative Law

(b)

TREASURY

STATE INVESTMENT COUNCIL

Amendments to Trust Group and Classification of Funds

On August 1, 1979, David T. Beale, Acting State Treasurer, pursuant to authority of N.J.S.A. 52:18A-89, on behalf of the State Investment Council and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 17:16-5.6 concerning the trust group and classification of funds.

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

17:16-5.6 Trust group

(a) The trust group shall include:

1. College of Medicine and Dentistry of New Jersey Funds
 - (1) Endowment Funds;
 2. College of Medicine and Dentistry of New Jersey—Endowment Fund B;
- [3. New Jersey Federal-State Rural Rehabilitation Fund;]
3. [4.] Supplemental Annuity Collective Trust;
4. [5.] Tischler Memorial Fund.

An order adopting these amendments was filed and became effective on August 9, 1979 as R.1979 d.305 (Exempt, Procedure Rule).

Howard H. Kestin
Director
Office of Administrative Law

(c)

TREASURY

STATE INVESTMENT COUNCIL

Rules on Covered Call Options

On August 1, 1979, David T. Beale, Acting State Treas-

urer, pursuant to authority of N.J.S.A. 52:18A-89, on behalf of the State Investment Council and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules concerning covered call options.

Full text of the adoption follows:

SUBCHAPTER 42. COVERED CALL OPTIONS

17:16-42.1 Definition

As used in this Subchapter, "covered call options" shall mean options on common stocks held in the pertinent portfolio.

17:16-42.2 Permissible transactions

(a) Options may be written only on stocks held in the pertinent portfolio.

(b) Any option purchased or sold shall be listed on the Chicago Board Option Exchange or the American Stock Exchange.

(c) Purchases and sales of options shall be effected only on common stocks selected from a list of stocks approved by the Director, Division of Investment.

17:16-42.3 Applicable funds

Applicable funds include Common Pension Fund A.

17:16-42.4 Limitations

Sales of covered call options shall not exceed five per cent of any one common stock holding.

An order adopting these rules was filed and became effective on August 9, 1979 as R.1979 d.306 (Exempt, Procedure Rule).

Howard H. Kestin
Director
Office of Administrative Law

(d)

TREASURY

STATE INVESTMENT COUNCIL

Rules on Mortgage Backed Pass-Through Certificates

On August 1, 1979, David T. Beale, Acting State Treasurer, pursuant to authority of N.J.S.A. 52:18A-89, on behalf of the State Investment Council and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules concerning mortgage backed pass-through certificates.

Full text of the adoption follows:

SUBCHAPTER 43. MORTGAGE BACKED PASS- THROUGH CERTIFICATES

17:16-43.1 Permissible investments

(a) Subject to the limitations contained in this Subchapter, the director may invest or reinvest the moneys of any pension and annuity group fund and any trust group fund in securities which are fully collateralized by mortgage securities provided:

1. Regarding the issuer:

i. It is incorporated or chartered under the laws of the United States or any State thereof or the District of Columbia; and

ii. The delinquency rate on the mortgage portfolio managed by the issuer for each of the five preceding years should not have exceeded three per cent.

2. Regarding the collateral:

- i. The par value of the mortgage collateral must be at least equal the size of the issue;
 - ii. The individual mortgage loans must have a loan-to-value ratio of 80 per cent or less.
 - iii. The mortgages must be secured by single-family residential properties, and such properties should be geographically dispersed within the State or States served by the issuer; and
 - iv. The mortgages collateralizing the security must not be under the direct control of the issuer of the security but under the control of a trustee incorporated in the United States.
3. The issue has been registered with the Securities and Exchange Commission except that this requirement may be waived by the State Investment Council; and
4. No amount in excess of 20 per cent of any one issue may be purchased; and
5. Not more than two per cent of the assets of any one fund at the time of purchase shall be invested in the obligations of any one issuer; and
6. The issue must be rated at least AA by Standard & Poor's Corporation and Aa by Moody's Investor Service Inc., excepting that one rating is sufficient if only one rating is available.

17:16-43.2 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this article, the director shall have obtained:

1. A prospectus or offering circular describing the issue; and
2. A certification signed by two members of the Division's staff and endorsed by the director stating that each proviso enumerated under Section 1. of this Subchapter had been checked by them and that in their opinion the security under consideration qualified as a satisfactory investment as outlined by Section 1 of this Subchapter; and
3. In the case of an issue not registered with the Securities and Exchange Commission, the director shall obtain, in addition to the above:
 - i. Such other documents or opinions which the Attorney General may require; and
 - ii. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the director are satisfactory as to form and substance.

An order adopting these rules was filed and became effective on August 9, 1979 as R.1979 d.307 (Exempt, Procedure Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

TREASURY

DIVISION OF PENSIONS

PRISON OFFICERS' PENSION FUND

Amendments Concerning the Suspension of Pension Checks

On July 30, 1979, Anthony P. Ferrazza, Secretary of the Prison Officers' Pension Fund Commission in the Division of Pensions in the Department of the Treasury, pursuant to authority of N.J.S.A. 43:7-19 and in accordance with applicable provisions of the Administrative Procedure

Act, adopted amendments to N.J.A.C. 17:7-1.8(a)2. concerning the suspension of pension checks as proposed in the Notice published March 8, 1979, at 11 N.J.R. 149(c). An order adopting these amendments was filed and became effective on August 13, 1979 as R.1979 d.308.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

Proposed Rezoning of Property in IR-1 Specially Planned Area in Secaucus

The Hackensack Meadowlands Development Commission, pursuant to authority of N.J.S.A. 13:17-1 et seq., proposes to rezone certain property in the IR-1 specially planned area located in Secaucus, New Jersey. Such proposed action will be reflected, if adopted, by a reference note in N.J.A.C. 19:4-6.28, Official zoning map.

Full text of the proposal follows:

1. The zoning amendment, in map and text, be constituted as follows:

a. 7.7 acres in the Research Distribution Park Zone is to be changed to SPA IR-1, as shown on the attached sheet marked Addendum 1, "Recommended HMDC Zoning Change To Official Zoning Map".

b. SPA IR-1 is to be enlarged by 7.7 acres and shall contain no more than 1213 additional dwelling units, with 825 of these 1213 to be located in the now existing boundaries of SPA IR-1 as shown on the attached sheet marked Addendum 2, "Location of Dwelling Units in Recommended HMDC Zoning Change To Official Zoning Map", these to be constructed such that the ecological integrity of the Anderson Creek Marsh is protected and retained; and with the remaining 388 of the 1213 to be located within the 7.7 acre tract rezoned by this resolution from RDP to SPA IR-1. The total housing in SPA IR-1, as described in the zoning amendment, is to include the 626 townhouses already constructed, the 1480 units approved by the Commission on March 15, 1978, and the 1213 units specified in this zoning amendment—a total of 3319 dwelling units;

2. That the frame for a future school building be designed for incorporation into the multi-use structure. In addition, the necessary school playfields are to be located as shown on the attached sheet marked Addendum 1, "Recommended HMDC Zoning Change To Official Zoning Map". At such time as these playfields are needed for this purpose, the HMDC will convey these lands to the municipality and/or School Board for this purpose. Should the School Board and the Mayor and Council, in their forthcoming discussions with the Town and Hartz Mountain Industries, prefer that the school be re-located within the 7.7 acre tract, or to the area marked School Playfields on the attached Addendum 1, this change, as long as it remains consistent with the ecological integrity of the Anderson Creek Marsh, is to be accommodated under this zoning change after consultation with the HMDC:

3. That the HMDC agrees to effect the re-conveyance to the developer of sufficient acreage to accomplish this agreement, which is understood to be 4.8 acres, more or less, for the footprint of the 825 dwelling units shown on Addendum 1;

4. That the existing rail station at Harmon Cove, this lying within existing SPA IR-1, to be designed, relocated and constructed by Hartz Mountain Industries, Inc., at the location as shown on the attached Addendum 1, and in such a way to serve both the SPA IR-1 housing and the offices in the modified Research Distribution Park Zone adjacent;

5. That transportation facilities be designed to sufficiently serve both the approved housing and expanded SPA IR-1 and the anticipated office development in the reduced RDP Zone adjacent;

6. That Hartz Mountain Industries, Inc., formally consent to a reduction to 750,000 square feet of offices to appear in the reduced RDP Zone adjacent;

7. That Hartz Mountain formally consent to build no housing in Block 16A, Lot 9, this known as the water area lying west of Riverside Hospital;

8. That the anticipated parking decks in the reduced RDP Zone be designed, as necessary, to accommodate the open space requirements of RDP;

9. That, regarding the 825 dwelling units, as located on Addendum 1 (these to be constructed parallel and adjacent to the Conrail Bergen Line) that their footprint is not to absorb more than 4.8 acres, and that any temporary damage, during construction, to the wetlands of the Anderson Creek Marsh is to be rectified by environmental restoration steps satisfactory to the HMDC;

10. That the 1213 dwelling units (388 in 7.7 acre addition to SPA IR-1 as hereby amended, and 825 additional dwelling units within the present SPA IR-1) may be submitted to the Chief Engineer of the HMDC as one Development Plan.

11. That, upon the adoption of this zoning amendment and execution of a Consent Judgment, the Chief Engineer is to review the submitted Development Plan to determine if the submission meets all the criteria of this zoning amendment and Consent Judgment. The Chief Engineer shall also certify that the requirements herein stipulated for the Research Distribution Park Zone have been or are being met.

A public hearing respecting this proposed action will be held on September 26, 1979, at 7:00 P.M. in the Clarendon Elementary School, Fifth Street, Secaucus, New Jersey.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before September 26, 1979 to:

Patricia Q. Sheehan
Executive Director
Hackensack Meadowlands Development
Commission
100 Meadowland Parkway
Secaucus, N.J. 07094

The Hackensack Meadowlands Development Commission may thereafter adopt rules concerning this subject without further notice.

Joseph A. LeFante
Chairman
Hackensack Meadowlands
Development Commission

(a)

CASINO CONTROL COMMISSION

Proposed Rules on Minimum Training and Experiential Requirements for Licensure as a Casino Employee and Casino Key Employee

Joseph P. Lordi, Chairman of the Casino Control Com-

mission, pursuant to authority of N.J.S.A. 5:12-1 et seq., proposes to adopt new rules concerning minimum training and experiential requirements for licensure as a casino employee and casino key employee.

Full text of the proposal follows:

19:41-7.17 Minimum training and experiential requirements for licensure as a casino employee and casino key employee

(a) No license as a casino employee or casino key employee shall issue unless the applicant for that license shall have first:

1. Established that he possesses a thorough knowledge of the Act and regulations of the Commission relevant to the position for which licensure is sought; and

2. Demonstrated the sufficiency of his business ability and casino experience so as to adequately establish the likelihood of his success and efficiency in the particular position for which licensure is sought.

(b) No person shall be licensed as a dealer unless he shall have first established that, within the five-year period immediately prior to the filing of an application for such licensure, he either:

1. Received from a gaming school licensed by the Commission a certificate evidencing successful completion of an approved course of study in the game for which licensure is sought; or

2. Was continually employed for at least twelve months or 1500 hours in the game for which licensure is sought by a legally operated casino in any other state or foreign jurisdiction.

(c) No person shall be licensed as a boxperson unless he first establishes that he satisfies the requirements for licensure as a dealer in the game of craps and, in addition, that within the five-year period immediately prior to the filing of an application for such licensure, he was continually employed for at least 1500 hours or twelve months as a dealer, boxperson or floorperson in craps by a casino licensed in this State or in any other state or foreign jurisdiction.

(d) No person shall receive licensure as a floorperson in their first game unless the following requirements are satisfied:

1. Blackjack, roulette, baccarat: When blackjack, roulette or baccarat is the first game in which licensure as a floorperson is sought, an applicant shall demonstrate that he satisfies the requirements for licensure as a dealer in that game, and, in addition, shall establish that, within the five-year period immediately prior to the filing of an application for such licensure, he was continuously employed as a dealer or floorperson in that game for at least 1500 hours or twelve months by a legally operated casino in this State or any other state or foreign jurisdiction.

2. Craps: When craps is the first game in which licensure as a floorperson is sought, an applicant shall demonstrate that he satisfies the requirements for licensure as a boxperson in the game of craps and, in addition, shall establish that, within the five-year period immediately prior to the filing of an application for such licensure, he was continually employed as a boxperson or floorperson in the game of craps for at least 1000 hours or 8 months by a legally operated casino in this State or in any other state or jurisdiction.

3. Big Six: When Big Six is the first game in which licensure as a floorperson is sought, an applicant shall demonstrate that he satisfies the requirements for licensure as a dealer in any authorized game and, in addition, shall

establish that, within the five-year period immediately prior to the filing of an application for such licensure, he was continually employed as a dealer or floormen in any authorized game for at least 1500 hours or one year by a legally operated casino in this State or in any other state or jurisdiction.

(e) No person shall receive licensure as a floormen in their second or subsequent game unless the following requirements are satisfied:

1. Blackjack, roulette, baccarat: When blackjack, roulette or baccarat is the second or subsequent game in which licensure as a floormen is sought, an applicant shall demonstrate that he satisfies the requirements for licensure as a floormen in an authorized game in accordance with subsection (d) of this section, that he satisfies the requirements for licensure as a dealer in the game for which licensure is sought as a floormen and, in addition, that within the five-year period immediately prior to the filing of an application for floormen licensure in his second or subsequent game, he was employed as a dealer in such game for at least 750 hours or six months by a legally operated casino in this State or any other state or jurisdiction.

2. Craps: When craps is the second or subsequent game in which licensure as a floormen is sought, an applicant shall demonstrate that he satisfies the requirements for floormen licensure set forth in paragraph 2 of subsection (d) of this section.

3. Big Six: When Big Six is the second or subsequent game in which licensure as a floor person is sought, an applicant shall demonstrate that he satisfies the requirements for licensure as a floormen in any authorized game pursuant to paragraph 1 of subsection (d) of this section.

(f) No person shall receive licensure as a pit boss unless the following requirements are satisfied:

1. Blackjack, roulette, baccarat: When blackjack, roulette or baccarat is the game in which licensure as a pit boss is sought, an applicant shall establish he was employed by a legally operated casino in this State or any other state or foreign jurisdiction for at least 24 months supervising any authorized game and, in addition, was employed for at least 12 months dealing or supervising the particular game in which licensure as a pit boss is sought.

2. Craps: When craps is the game in which licensure as a pit boss is sought, an applicant shall establish he was employed by a legally operated casino in this State or any other state or foreign jurisdiction for at least 12 months supervising any authorized game and, in addition, was employed for at least 24 months dealing or supervising the game of craps.

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 26, 1979 to:

Joseph P. Lordi, Chairman
Casino Control Commission
379 West State Street
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Joseph P. Lordi
Chairman
Casino Control Commission

(a)

CASINO CONTROL COMMISSION

Proposed Amendments to Rules On Big Six Wheel Game

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq., proposes to amend a portion of the rules concerning the Big Six Wheel game.

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

19:46-1.13 Big Six Wheel; physical characteristics

(a) Gaming at Big Six shall be conducted at a wheel circular in shape and no less than five feet in diameter. The rim of the wheel shall be divided into 54 equally spaced sections with [24] 23 sections containing a \$1.00 bill; 15 sections containing a \$2.00 bill; [seven] eight sections containing a \$5.00 bill; four sections containing a \$10.00 bill; two sections containing a \$20.00 bill; one section containing a picture of a flag; and one section containing a picture of a joker, each of which sections shall be covered with glass. The sections shall be arranged around the rim of the wheel as depicted in the following diagram:

Editor's Note: The diagram currently appearing in this rule is proposed to be replaced with a new diagram which is not reproduced herein. Further information concerning this proposed new diagram may be obtained from the Casino Control Commission at the address listed below.

19:47-5.5 Big Six Wheel; payout odds

(a) No casino licensee, his employees or agents shall pay off winning wagers made at Big Six at less than the odds listed below.

BET ON	PAYOUT ODDS
\$ 1 Insignia	1 to 1
\$ 2 Insignia	2 to 1
\$ 5 Insignia	5 to 1
\$10 Insignia	10 to 1
\$20 Insignia	20 to 1
Joker	[40] 45 to 1
Flag	[40] 45 to 1

Interested persons may present statements or arguments in writing relevant to the proposal on or before September 26, 1979, to:

Joseph P. Lordi, Chairman
Casino Control Commission
379 West State Street
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Joseph P. Lordi
Chairman
Casino Control Commission

(a)

OFFICE OF ADMINISTRATIVE LAW

Proposed Amendments to Rules Of Administrative Hearings

Howard H. Kestin, Director, Office of Administrative Law, pursuant to authority of N.J.S.A. 52:14F-1 et seq., proposes to repeal N.J.A.C. 15:15-9.1 et seq. and 15:15-10.1 et seq. and adopt new uniform administrative procedure rules of practice which will be cited as N.J.A.C. 19:65-1.1 et seq. and a new rule on contested cases which will be cited as N.J.A.C. 19:66-1.1 et seq.

Full text of the proposal follows:

CHAPTER 65

UNIFORM ADMINISTRATIVE PROCEDURE RULES OF PRACTICE

SUBCHAPTER 1. APPLICABILITY, SCOPE, CITATION OF RULES, CONSTRUCTION AND RELAXATION

19:65-1.1 Applicability; Scope

These uniform rules shall govern the conduct of all contested cases in the Executive Branch of the State Government,¹ whether conducted by the Office of Administrative Law or by the agencies themselves pursuant to statute.² Procedural rules formerly adopted by the agencies shall continue to apply to the types of contested cases originally contemplated but only to the extent they are not inconsistent with these uniform rules, with statutory requirements or with constitutional standards.

¹See L. 1978, c. 67, §5 (N.J.S.A. 52:14F-5).

²L. 1978, c. 67 §10 (N.J.S.A. 52:14F-8) or L. 1968, c. 410, §2(a) (N.J.S.A. 52:14B-2(a)).

19:65-1.2 Citation of Rules

These rules shall be referred to as the "New Jersey Uniform Administrative Procedure Rules, 1979" and may be cited as, e.g., N.J.A.C. 19:65-1.2.

19:65-1.3 Construction and Relaxation; Parties Appearing Pro Se

(a) These rules shall be construed to secure just determinations, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any procedural rule may be relaxed or dispensed with by a judge if adherence to it would result in unfairness or injustice. In the absence of rule, a judge may proceed in any manner compatible with these purposes.

(b) These rules shall be applied so as not to impose excessive burdens upon pro se parties. Formal requirements, particularly, shall be relaxed for the benefit of pro se parties. Time requirements shall not be relaxed unless the interests of justice manifestly require. Ultimate standards of proof shall not be relaxed.

19:65-1.4 Definitions and Applications

As used in this chapter, the term

(a) "Agency head" means the person or body authorized by law to render final decisions in contested cases.

(b) "Clerk" means the Clerk of the Office of Administrative Law or any such scheduling or docketing officer designated by the head of an agency, pursuant to N.J.S.A. 52:14F-8 or N.J.S.A. 52:14B-2(a), to oversee the administration of contested cases.

(c) "Judge" means an administrative law judge of the State of New Jersey or, pursuant to N.J.S.A. 52:14F-8 or N.J.S.A. 52:14B-2(a), any other person presiding over a hearing in a contested case or, depending on the context, authorized by law to do so.

(d) "Party" means any person or entity directly involved in a contested case, including a petitioner, respondent, intervenor, or a state agency proceeding in any such capacity.

SUBCHAPTER 2. COMMENCEMENT OF CONTESTED CASES, JURISDICTION OF THE OFFICE OF ADMINISTRATIVE LAW

19:65-2.1 Commencement of Contested Cases in the State Agencies; Form

A contested case shall be commenced in the State agency with appropriate subject matter jurisdiction. A contested case may be commenced by the agency itself or by an individual or entity as provided in the rules and regulations of the agency adopted in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and subject to the requirements of subchapter 6 of this chapter.

19:65-2.2 Jurisdiction of the Office of Administrative Law

(a) The Office of Administrative Law shall acquire jurisdiction over a matter only after it has been determined to be a contested case by an agency head and has been filed in the Office of Administrative Law.

(b) The Office of Administrative Law shall not receive, hear or consider any pleadings, motion papers, or documents of any kind relating to any matter until it has acquired jurisdiction over that matter, except as provided by subchapter 14 of this chapter.

SUBCHAPTER 3. CONDUCT OF CONTESTED CASES GENERALLY

19:65-3.1 Public Hearings; Records as Public; Exceptions

(a) All evidentiary hearings, proceedings on motions and other applications shall be conducted as public hearings unless otherwise provided by statute, rule or regulation, or on order of a judge for good cause shown. Pre-hearing conferences and settlement conferences may be conducted in public or in closed session at the judge's discretion. The record of all hearings shall be open to public inspection, but the judge may, for good cause shown, order the sealing of the record or any part thereof.

(b) In considering whether to make an exception to the public hearing and public record standards of subsection (a) of this section, the judge shall consider the requirements of due process of law principles, other constitutional and statutory standards and matters of public policy. The judge shall also consider the need to protect against unwarranted disclosure of sensitive financial information or trade secrets, to protect parties or witnesses from undue embarrassment or invasions of privacy, or to promote or protect other equally important rights or interests. The treatment of testimony or exhibits shall be on such terms as are appropriate to balance public and private rights or interests and to preserve the record for purposes of review.

19:65-3.2 Expedition

(a) Hearings and other proceedings in contested cases shall proceed with all reasonable expedition and, to the greatest extent possible, shall be held at one place and shall continue, except for brief intervals of the sort

normally involved in judicial proceedings, without suspension until concluded.

(b) The parties shall confer prior to the hearing to reach agreement upon as many matters as possible.

19:65-3.3 Verbatim Record of Proceedings; Requesting Transcript; Cost

(a) All proceedings in the presence of a judge, except settlement conferences, shall be recorded verbatim either by a stenographic reporter or by sound recording devices, or both.

(b) Any party may obtain a transcript of any proceeding which has been recorded by filing a request with the clerk. Unless the requesting party is a State agency, the request shall be accompanied by a deposit of \$100 for each day or fraction thereof if the proceeding was recorded by a sound recording device, or \$200 for each day or fraction thereof if it was recorded by a stenographic reporter. The clerk shall promptly prepare or arrange for the preparation of the transcript with a copy for the case file. Upon delivery of the transcript to the requesting party, the clerk shall bill the requesting party for any sum due for the preparation of the transcript and copy or shall reimburse the requesting party for any overpayment made therefore.

19:65-3.4 Exhibits

(a) The verbatim record of the proceedings shall include references to all exhibits and, as to each, the offering party, a brief description of the exhibit stated by the offering party or the judge, and the marking directed by the judge. The verbatim record shall also include a record of the exhibits retained by the judge at the end of the action and of the disposition then made of the other exhibits.

(b) Parties should, whenever practicable, submit exhibits with a copy of each. Copies shall subsequently be conformed as to marking and shall be deposited in the clerk's file of the case. Original exhibits shall be retained in the judge's file until certified to the agency head pursuant to N.J.A.C. 19:65-16.3(d). or returned to the parties.

(c) The standard marking mode for exhibits shall be:

- (1) P = petitioner's exhibit
- (2) R = respondent's exhibit
- (3) A = agency's exhibit
- (4) J = joint exhibit
- (5) C = judge's exhibit
- (6) Such other additional markings required for clarity as the judge may direct.

19:65-3.5 Sanctions: Failure to Appear; Motions and Briefs

(a) If, without just excuse or because of failure to give reasonable attention to the matter, either no appearance is made by or on behalf of a party on the return of a motion, at a pre-hearing conference, at a settlement conference, or on the date of hearing, or an untimely application is made for an adjournment, a judge may order any one or more of the following:

1. The payment by the delinquent attorney or party or by the party applying for the adjournment of costs, in such amount as the judge shall fix, to the State of New Jersey or to the adverse party;

2. The payment by the delinquent attorney or party, or the party applying for the adjournment, of the reasonable expenses, including attorney's fees, to the aggrieved party;

3. The dismissal of the petition, any claim or motion, the filing of decision by default, or the granting of the motion; or

4. Such other action as the judge deems appropriate.

(b) For failure to comply with the requirements of these rules for filing motion papers and briefs, or for failure to submit a required brief, the judge may dismiss or grant the motion or application, continue the proceeding, or take other appropriate action. If the proceeding is continued, the judge may impose sanctions as provided by subsection (a) of this section.

19:65-3.6 Reading Papers and Briefs in Advance

In advance of any pre-hearing conference, settlement conference, hearing on a motion or evidentiary hearing the judges shall have read and be fully familiar with all papers and briefs filed in the case. To this end, when papers or briefs are filed, they shall be transmitted by the clerk to the judge as quickly as possible and as far in advance of scheduled proceedings as possible. The parties shall promptly advise the clerk and the judge of the disposition of a case by settlement or of the happening of any event which might delay the proceedings.

19:65-3.7 Appearances and Representation

Any natural person may appear pro se, or may be represented by an attorney at law authorized to practice in the State of New Jersey. A corporation shall be represented by an attorney at law authorized to practice in the State of New Jersey. A State agency may be represented by a regular employee formally designated to so function, or by an attorney at law authorized to practice in the State of New Jersey. Lay representation is permitted only if required by law or governing federal regulation, or if authorized by R. 1:21-3(c) of the New Jersey Court Rules. Any attorney or counselor from any other jurisdiction, of good-standing there, may, at the discretion of the judge, be admitted pro haec vice to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them and who shall be present at all times during the proceedings unless excused by the judge.

19:65-3.8 Conduct of Lawyers, Judges and Agency Personnel

Unless otherwise provided in these rules or clearly inapplicable in context, the rules and standards contained in the New Jersey Court Rules governing the conduct of lawyers, judges and court personnel shall govern the conduct of lawyers, judges and agency personnel appearing in or processing contested cases in the Executive Branch of Government.

SUBCHAPTER 4. TIME: COMPUTATION AND ENLARGEMENT

19:65-4.1 Computation of Time

In computing any period of time fixed by rule or judicial order, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday. In computing a period of time of less than seven days, Saturday, Sunday and legal holidays shall be excluded.

19:65-4.2 Enlargement of Time by Order

A period of time fixed by rule or order for the doing of an act may be enlarged before or after its expiration by a judge's order for good cause shown.

SUBCHAPTER 5. FILING AND TRANSMISSION OF CONTESTED CASES IN THE OFFICE OF ADMINISTRATIVE LAW: FORMAT OF PAPERS

19:65-5.1 Filing

(a) After a proceeding has been commenced in an agency and has been determined to be a contested case, the agency shall:

1. File it forthwith with the Clerk of the Office of Administrative Law using a transmittal form furnished by the Clerk which contains the information set out in N.J.A.C. 19:65-5.2; or
2. Retain it under the provisions of N.J.S.A. 52:14B-2(a) or N.J.S.A. 52:14F-8.

19:65-5.2 Transmission of Contested Cases to the Office of Administrative Law; Receipt by the Office of Administrative Law

(a) In every proceeding to be filed in the Office of Administrative Law, the agency shall affix to the initial papers a completed transmittal form, furnished by the Clerk of the Office of Administrative Law, containing the following information:

1. The name of the agency transmitting the case;
2. The name, address and telephone number of the agency's transmitting officer;
3. The name or title of the proceeding;
4. The agency docket or reference number;
5. A brief statement or description of the nature of the case including the agency's role as a party or forum;
6. Whether the agency's staff will participate as a party;
7. An estimate of the total time required for the hearing;
8. Whether there are any special legal requirements (State or Federal) mandating a date for agency decision;
9. Whether there are any special legal requirements or requests governing notice or the location of the hearing;
10. Whether there are any special legal requirements or requests concerning stenographic recording of proceedings;
11. An estimate of the time needed by the agency and the parties to prepare for hearing;
12. Anticipated special features or requirements including the need for emergent or interim relief, the need for a pre-hearing conference, discovery needs, and motions;
13. The names and addresses of all parties and their attorneys to the fullest extent known.

(b) A copy of the completed transmittal form and initial papers shall be served upon the parties at the time the proceeding is filed in the Office of Administrative Law.

(c) The clerk shall mark each contested case transmitted as having been received and filed and shall assign a docket number forthwith.

19:65-5.3 Format of Papers; Copies

(a) Every paper filed after the initial papers shall contain:

1. The Office of Administrative Law docket number of the proceeding in the upper right hand portion;
2. The name, address and telephone number of the person who prepared the paper in the upper left hand portion; and
3. A caption setting forth the title of the proceeding and a brief designation describing the paper filed.

(b) All papers shall be on 8½" x 11" stock of customary weight and quality insofar as is practicable.

(c) All papers filed with the Office of Administrative Law shall be in duplicate.

(d) Unless otherwise required by these rules, the requirements of R. 1:4-1 through R. 1:4-9 of the New Jersey Court Rules (Form and Execution of Papers) shall apply. Format rules may be relaxed as is reasonable and necessary for the benefit of parties appearing pro se.

SUBCHAPTER 6. FIRST PLEADING

19:65-6.1 Form of First Pleading; Contents

(a) The first pleading in a contested case may be in the form of a petition, complaint, an order to show cause, a notice of action or proposed action, or in any other form permitted by the agency's rules and regulations.

(b) The first pleading shall be addressed to a specific party or parties and shall contain:

1. A statement of the legal authority and jurisdiction under which the hearing is to be held;
2. A reference to the particular sections of the statutes and rules involved;
3. A short and plain statement of the matters of fact and law asserted; and
4. Any other information required by concepts of fairness and justice before a party can be bound.

(c) The first pleading in a contested case shall be considered to be the paper in a proceeding which conforms with the requirements of N.J.A.C. 19:65-6.1(b) 1. and 2. irrespective of when it was served upon the party or parties to be bound, when, under the rules of the agency, the matter became a contested case, or when it was filed with the Office of Administrative Law.

SUBCHAPTER 7. SERVICE AND FILING OF PAPERS

19:65-7.1 Service; When Required; Manner; Proof

(a) Service of the first pleading in a contested case shall be made in person or by certified mail, return receipt requested, or in any manner which provides actual notice to the party or parties to be substantially, specifically and directly affected thereby, and to any other person or persons provided in the rules and regulations of the agency.

(b) All subsequent papers filed shall be served upon all attorneys of record in a proceeding and upon all parties appearing pro se.

(c) Service upon an attorney of papers referred to in subsection (b) of this section shall be made by mailing a copy to the attorney's office by ordinary mail, or in person to the attorney, or by leaving it at the attorney's office with an employee. Service upon a party, or upon an attorney who has no office or whose office is closed, shall be made in person or by registered or certified mail, return receipt requested, to the last known address of the party or attorney, or if delivery is refused or unclaimed, by ordinary mail to the last known address, or if no address is known, by ordinary mail to the Office of Administrative Law or the agency conducting the contested case.

(d) Where necessary to prove service, proof may be made by an acknowledgement of service signed by the attorney or party, or by an affidavit of the person making service, or by a certificate of service appended to the paper to be filed and signed by the attorney for the party making service. Where appropriate, other competent proof that actual and timely notice existed of the contents of the paper may be considered as a substitute for service.

(e) Where, under any rule, provision is made for service by certified or registered mail, and the addressee fails or refuses to claim or to accept delivery of the same, service may be made by ordinary mail.

(f) Service by mail of any paper referred to in subsection (b) of this section, when authorized by rule or order, shall be complete upon mailing.

(g) The standards of personal service contained in R. 4:4-4 of the New Jersey Court Rules shall apply to contested cases.

19:65-7.2 Filing; Time; What Constitutes

(a) All papers required to be served by N.J.A.C. 19:65-7.1(b) shall be filed either before service or promptly thereafter unless otherwise provided by order. Whenever these rules or the applicable rules of any agency provide for publication, mailing or posting of public notices in contested cases, proofs thereof shall be filed within 20 days after the publication, mailing or posting.

(b) A paper is filed if the original or a clear copy is filed with the clerk or with the judge assigned to the case. Evidence of filing shall be a notation showing the date, time and place of filing. Where filed with a judge, the notation shall also identify the judge; such papers shall be forwarded to the clerk forthwith.

(c) Subject to the requirements of N.J.A.C. 19:65-2.2, the clerk shall file all papers presented to him for filing and may notify the person filing if such papers do not conform to these rules.

SUBCHAPTER 8. SCHEDULING AND CONDUCT OF PROCEEDINGS GENERALLY; FIRST NOTICE OF HEARING OR PRE-HEARING CONFERENCE

19:65-8.1 Scheduling of Proceedings; Clerk's Function; Judge's Function

(a) Contested cases shall be disposed of as expeditiously as possible. To this end, when a contested case is filed, the clerk shall mark the papers accordingly and shall determine whether the matter should be set down for a pre-hearing conference, an evidentiary hearing or another type of proceeding. The clerk may consult with a judge in making this determination. The case shall then be assigned to a judge who shall review the file and determine how the matter can best be conducted on the scheduled date or dates, communicating further with the parties if necessary. Except in cases of genuine, emergent need, the scheduled date or dates shall not be adjourned. If additional days are needed to conclude the proceeding, the judge shall establish an expedited schedule and peremptory dates.

(b) Applications for adjournments, whether consented to or not, shall be made to the clerk until such time as the parties shall have personally appeared before a judge. Thereafter, applications for adjournments shall be made to the judge.

19:65-8.2 Notice of Proceeding

(a) After filing, the clerk shall prepare a notice of hearing, pre-hearing conference, or other proceeding and shall serve the same in a manner authorized by N.J.A.C. 19:65-7.1(c) to all parties. The notice shall fairly apprise the parties of the date, time, place and nature of the proceeding.

(b) All parties shall be afforded timely and adequate notice of any hearing or other proceeding, consistent with the requirements of due process of law principles. In emergent circumstances, where the public interest is endangered or the need is great, five days notice or a shorter period established by statute, or order, shall be deemed to be timely and adequate.

(c) All parties shall receive subsequent notices of all proceedings in any contested case. Subsequent notices shall fairly apprise the parties of the date, time, place

and nature of a proceeding and may be made on the record or as required by N.J.A.C. 19:65-7.1(b) and (c).

SUBCHAPTER 9. MOTIONS

19:65-9.1 When and How Made; Generally

(a) An application for an order shall be by motion or, in special cases, by order to show cause. A motion other than one made by a party during a hearing, shall be in writing unless a judge permits it to be made orally. No technical forms of motion are required. A motion shall state the grounds upon which the motion is made and the relief or order sought. A motion shall be accompanied by a proposed form of order unless waived by the judge.

(b) All motions shall be filed with the clerk except motions made during a hearing, other motions permitted by a judge to be made orally, and emergency motions. Motions made during a hearing and other motions permitted by a judge to be made orally shall be subject to the verbatim record requirements of N.J.A.C. 19:65-3.3. Emergency motions made in writing may be filed with the clerk or with the judge assigned to the case. When a motion is filed with the clerk it shall be transmitted forthwith to the judge assigned to the case. When a motion is filed in a case which has not yet been assigned to a judge, the case shall be immediately assigned and the motion transmitted to the judge along with the case file.

(c) Motions filed in advance of a scheduled hearing date shall be scheduled for decision before that hearing date unless otherwise directed by the judge.

19:65-9.2 Motions in Writing

(a) With the exception of motions made pursuant to N.J.A.C. 19:65-9.3(b) and (d), when a motion is in writing no action shall be taken thereon until at least 20 days have expired from the date of service upon the opposing party unless an expedited schedule is ordered for the purpose of complying with N.J.A.C. 19:65-9.1(c) or for other good cause shown.

(b) The moving papers shall establish a submission date which shall be at least 20 days from the date of service upon the opposing party. The moving papers shall be accompanied by all necessary supporting affidavits and briefs or supporting statements. Proof of service shall be filed with the moving papers or promptly thereafter.

(c) The opposing parties shall file and serve responsive papers with all necessary supporting affidavits and briefs or supporting statements no later than 10 days before the submission date.

(d) The moving party may file and serve further papers responding to any matter raised by the opposing party and shall do so no later than five days before the submission date.

(e) All motions in writing shall be submitted for disposition on the papers unless an oral argument is directed by the judge.

(f) The time requirements of this rule may be modified in the discretion of the judge.

19:65-9.3 Motions for Emergency Relief; Motions for Interim Relief

(a) Opposing parties shall be given ample opportunity in the circumstances to respond to a motion for emergency relief.

(b) A party may apply for emergency relief under circumstances which do not permit an opposing party to be fully heard. A grant of relief pursuant to such a motion shall be based upon:

(1) a showing of specific facts by affidavit or oral testimony that the moving party has made an adequate, good

faith effort to provide notice to the opposing party, or that notice would defeat the purpose of the application for relief; and

(2) a finding that immediate and irreparable harm will probably result before adequate notice can be given; and

(3) a likelihood that the moving party will prevail when the motion is fully argued by all parties.

(c) Any relief granted pursuant to subsection (b) of this section shall be temporary for as brief a duration as is possible to allow the opposing party to be given notice and to be fully heard on the motion.

(d) When a contested case is the result of ex parte agency action, or when a judge has granted emergency relief pursuant to subsection (b) of this section, adversely affected parties shall have an opportunity to move before the judge for dissolution or modification of the ex parte action or grant of emergency relief on two days notice to the adverse party or parties.

(e) During the pendency of a contested case, interim relief, including temporary restraints and interlocutory injunctions may be applied for by motion.

(f) A motion for substantially the same relief as that previously denied shall specifically identify the previous proceeding and its disposition.

19:65-9.4 Procedure When Oral Argument is Directed

When oral argument is directed on a motion the clerk or the judge shall serve upon the parties a notice complying with the requirements of N.J.A.C. 19:65-8.2.

19:65-9.5 Affidavits; Briefs and Supporting Statements

(a) All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall be made on personal knowledge, setting forth only facts which are admissible in evidence under subchapter 15 of this chapter to which the affiants are competent to testify and which may have annexed thereto properly verified copies of all papers or parts thereof referred to therein.

(b) The judge may direct an affiant to submit to cross-examination, or hear the matter wholly or partly on oral testimony or depositions.

(c) A motion and answering papers may be accompanied by a brief or supporting statement. In the discretion of the judge, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 19:65-9.2 or as ordered by the judge.

19:65-9.6 Disposition of Motions

When a motion has been made in writing, the judge shall render a decision on the motion by a written order served upon the parties. When a motion has been made orally, the judge may render a decision either orally on the record or by a written order served upon the parties.

19:65-9.7 Application to Agency Head for Relief from Order; When Permitted; When Not Permitted

(a) When an interim or emergency order substantially affects substantive rights or interests, any party so affected may, unless prohibited by an agency's rules or regulations, within 10 days from the entry of the order and upon notice to all opposing parties and the Office of Administrative Law, file a motion with the agency head seeking relief from the order. No such motion shall be permitted when a judge's order or ruling deals primarily with procedural matters.

(b) When a motion to an agency head for relief from an order is permitted, the entire record in the case to the date of order, including a written memorandum by the

judge setting forth the basis of the order, shall be certified to the agency head.

(c) A motion to an agency head for relief from an order shall not cause a delay in scheduling hearing dates or result in a postponement of any scheduled hearing dates unless so ordered by the judge assigned to the case because of the special requirements of the case or possible prejudice to the rights of any party.

SUBCHAPTER 10. PRE-HEARING PROCEDURES AND CONFERENCES

19:65-10.1 Pre-hearing Procedures and Conferences

(a) When a pre-hearing conference is scheduled, the parties or their attorneys shall be advised that it will cover those matters listed in subsection (c) of this section as appropriate in the circumstances. In advance of the conference, upon no less than three days notice, the parties may be advised by the judge that other special matters will be discussed at the pre-hearing conference.

(b) In the judge's discretion in an appropriate case, and upon no less than 10 days notice, the parties may be required to file with the judge and serve upon all other parties no later than three days before the scheduled pre-hearing conference, pre-hearing memoranda stating their respective positions on any or all of the matters specified in subsection (c) of this section or on other special matters specifically designated.

(c) Within 10 days after the conclusion of the pre-hearing conference, the judge shall enter a written order in the following sequence and with corresponding numbers, concisely setting out the matters determined at the conference:

1. The nature of the proceeding and the issues to be resolved including special evidence problems;
2. The parties and their status, e.g., petitioner, respondent, intervenor, etc.;
3. Any special legal requirements as to notice of hearing;
4. The schedule of hearing dates and the time and place of hearing;
5. Stipulations as to facts and issues;
6. Any settlement agreements and their terms and conditions;
7. Special provisions for discovery;
8. Order of proofs and witnesses;
9. A list of the exhibits marked for identification at the time;
10. A list of the exhibits marked in evidence by consent;
11. Any limitation on the number of expert witnesses;
12. Motions pending and granted;
13. Requests for emergency or interim relief;
14. Any direction with respect to the filing of briefs;
15. Any statutory requirements mandating date of agency head decision;
16. Other special matters determined at the conference;
17. The name of the particular attorney who will try the case for each party.

(d) The parties shall be deemed to have consented to any of the terms or procedures established in the order if they do not file objection to the form of the order within five days after receiving it.

SUBCHAPTER 11. PRE-HEARING DISCOVERY

19:65-11.1 Policy Considerations Governing Discovery

Discovery methods shall be viewed as means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of

other parties and persons affected. To this end, discovery shall be at the discretion of the parties with the opportunity for any party or person affected to apply on motion for relief from a request for discovery, for an order enforcing a request for discovery, for a shortening or enlargement of time to discover or to respond to requests for discovery, or for any other remedy as the circumstances may require. In considering any such motion the judge shall weigh the specific need for the information, its relevance and materiality, the extent to which the information is within the control of the party, the ability to respond, undue hardship, and matters of expense, privilege or oppressiveness. It is not ground for denial of a request for discovery that the information to be produced may be inadmissible in evidence at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence; nor is it ground for objection that the examining party has knowledge of the matters as to which discovery is sought.

19:65-11.2 Methods Available

(a) Any party in a contested case may obtain discovery by one or more of the following methods:

1. depositions upon oral examination or written questions;
2. written interrogatories;
3. production of documents or things;
4. permission to enter upon land or other property for inspection and other purposes;
5. physical and mental examinations; and
6. requests for admissions.

1:11-3 Time for Discovery

(a) The parties may commence discovery at any time after a matter is determined by an agency head to be a contested case, but not later than 30 days prior to the first hearing date or 5 days after the notice of hearing is received, whichever is later.

(b) The parties must complete discovery no later than 10 days before the first date of hearing established by the clerk or a judge pursuant to subchapter 8 of this chapter.

(c) In the judge's discretion, upon the motion of any party and for good cause, the time for discovery may be shortened or enlarged, and hearing dates adjusted accordingly. Discovery may be permitted during the pendency of a hearing if, in the discretion of the judge, such a method would aid and expedite the hearings process.

19:65-11.4 Standards Generally Governing Discovery

Unless otherwise provided in these rules, and subject to the discretion of the judge, the standards governing the permissibility and appropriateness of discovery and motions pertaining thereto shall be those embodied in R. 4:10 through R. 4:19, R. 4:22 and R. 4:23 of the New Jersey Court Rules and developed thereunder.

19:65-11.5 Filing of Requests for Discovery and Responses

In the discretion of the judge, the parties may be required to file copies of requests for discovery and responses thereto.

SUBCHAPTER 12. INTERVENTION AND PARTICIPATION

19:65-12.1 Who May Apply to Intervene

Any person or entity not initially a party, who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

19:65-12.2 Time of Motion

(a) A motion for leave to intervene may be filed at any time after a contested case is initiated.

(b) If made before a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the head of the agency having jurisdiction over the case. The agency head may rule upon the motion to intervene or may reserve decision for action by a judge after the case has been filed with the Office of Administrative Law.

(c) If made after a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the Clerk of the Office of Administrative Law.

19:65-12.3 Standards for Intervention

In ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the contested case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the contested case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters.

19:65-12.4 Status of Intervenor

When a motion for leave to intervene is granted, the Intervenor shall, from the date of entry of the order, have all the rights and obligations of a party to the proceeding.

19:65-12.5 Alternative Treatment of Motions to Intervene

Every motion for leave to intervene shall be treated, in the alternative, as a motion for permission to participate.

19:65-12.6 Participation

(a) Any person or entity with a significant interest in the outcome of a contested case may move for permission to participate.

(b) A motion to participate may be made at such time and in such manner as is appropriate for a motion for leave to intervene pursuant to N.J.A.C. 19:65-12.2.

(c) The judge shall determine the nature and extent of participation in the individual case. Participation shall be limited to:

1. The right to argue orally at the close of a hearing, or
2. The right to file a statement or brief, or
3. Both of the foregoing.

SUBCHAPTER 13. SUMMARY DECISION

19:65-13.1 Time of Motion

At any time after a case is determined to be contested, a party may move for summary decision upon all or any of the issues therein.

19:65-13.2 Motion and Proceedings Thereon

The motion for summary decision shall be served with briefs and with or without supporting affidavits. The decision sought shall be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. The judge shall find the facts and state the conclusions in accordance with N.J.A.C. 19:65-16.3. A summary decision, interlocutory in character, may be rendered on any issue in the contested case although there is a genuine factual dispute as to any other issue.

19:65-13.3 Contested Case Not Fully Adjudicated on Motion

If on motion under this rule, a decision is not rendered upon all the issues in the contested case and a hearing is necessary, the judge at the time of ruling on the motion, by examining the papers on file in the case as well as

the motion papers, and by interrogating counsel, if necessary, shall, if practicable, ascertain what material facts exist without substantial controversy and shall thereupon enter an order specifying those facts and directing such further proceedings in the contested case as are appropriate. At the hearing in the contested case, the facts so specified shall be deemed established.

19:65-13.4 Affidavits

(a) When a motion for summary decision is made and supported as provided by section 1 and 2 of this subchapter, an adverse party must set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. If the adverse party does not so respond, a summary decision, if appropriate, shall be entered against him unless it appears from the affidavits submitted by him that he cannot, for reasons therein stated, present by affidavit facts essential to justify his opposition, in which case the judge may deny the motion, may order a continuance to permit additional affidavits to be obtained, depositions to be taken or discovery to be had, or may enter such other order as may be appropriate.

(b) If the judge is satisfied, at any time, that any party submitting an affidavit pursuant to this rule is proceeding in bad faith or solely for the purpose of delay, the judge shall forthwith order that party to pay to any other party the amount of the reasonable expenses which the filing of the affidavits caused to be incurred, including reasonable attorney's fees.

SUBCHAPTER 14. CONSOLIDATION OF TWO OR MORE CONTESTED CASES

19:65-14.1 Motion to Consolidate

(a) At any time after a contested case has been filed with the Office of Administrative Law, subject to an agency head's determination that such matters are not contested cases, any party or the judge sua sponte may move to consolidate other pending administrative matters involving common questions of fact or law:

1. Between identical parties; or
2. Between the moving party and a state agency which has not filed its matter with the Office of Administrative Law; or
3. Already filed with the Office of Administrative Law.

19:65-14.2 Form of Motion; Who May Appear

(a) A motion to consolidate shall be in the form of an order addressed to all the parties and the non-party agency or agencies to show cause why the matters should not be consolidated.

(b) All parties and non-party agencies may appear or be represented on the return of the order to show cause and, if oral argument is scheduled, shall be given a full opportunity to be heard.

19:65-14.3 Standards for Consolidation

(a) In ruling upon a motion to consolidate, the judge shall take into consideration:

1. The identity of parties in each of the matters;
2. The nature of all the questions of fact and law respectively involved;
3. To the extent that common questions of fact or law are involved, the saving in time, expense, duplication and inconsistency which can be realized from hearing the matters together;
4. To the extent that some dissimilar questions of fact or law are present, the danger of confusion, delay or undue prejudice to any party;

5. The advisability generally of disposing of all aspects of the controversy in a single proceeding; and
6. Other appropriate matters.

19:65-14.4 Disposition of Consolidation Order

(a) When an order of consolidation is entered which concerns matters theretofore transmitted to the Office of Administrative Law pursuant to subchapter 5 of this chapter, the order shall be filed with the clerk and the Director of the Office of Administrative Law shall assign a judge to preside over the consolidated contested cases.

(b) When an order of consolidation is entered which concerns matters not theretofore transmitted to the Office of Administrative Law pursuant to subchapter 5 of this chapter, the order shall be filed with the clerk and the Director of the Office of Administrative Law shall advise the agency or agencies involved of their obligations under N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1, et seq.

19:65-14.5 Conduct of Consolidated Cases; Judge's Responsibility

After an order of consolidation has been entered, the judge shall consider all the issues and arguments in all the cases and shall issue a single initial decision disposing of all the issues in controversy and in the form prescribed in N.J.A.C. 19:65-16.3. The initial decision shall thereafter be filed with the heads of all concerned agencies and served upon the parties as prescribed in N.J.A.C. 19:65-16.3.

SUBCHAPTER 15. EVIDENCE

19:65-15.1 Definitions

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

"Burden of proof" means the obligation of a party to prove a fact either by a preponderance of the evidence or by clear and convincing evidence, as the case may be. Burden of proof is synonymous with burden of persuasion.

"Burden of producing evidence" means the obligation of a party to introduce evidence when necessary to avoid the risk of a decision or peremptory finding against him on a material issue of fact.

"Conduct" includes all active and passive behavior, both verbal and non-verbal.

"Evidence" is the means from which inferences may be drawn as a basis of proof in the conduct of contested cases, and includes testimony in the form of opinion, and hearsay.

"Finding of fact" means the determination from proof or official notice of the existence of a fact.

"The hearing" unless some other is indicated by the context of the rule where the term is used, means the evidentiary proceeding at which the question under a rule is raised, and not some earlier or later proceeding.

"Proof" is all of the evidence before the judge relevant to a fact in issue which tends to prove the existence or non-existence of such fact.

"Perceive" means acquire knowledge through one's own senses.

"Relevant evidence" means evidence having any tendency in reason to prove any material fact.

"Verbal" includes both oral and written words.

19:65-15.2 General Rules

(a) Parties in contested cases shall not be bound by statutory or common law rules of evidence formally adopted in the Rules of Court. All relevant evidence is admissible except as otherwise provided herein. A judge may, in his or her discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will either:

1. Necessitate undue consumption of time;
2. Create substantial danger of undue prejudice or confusion;
3. Result in manifest unfairness.

(b) Any party in a contested case may present his case or defense by oral and documentary evidence, submit rebuttal evidence and conduct such cross-examination as may be required, in the discretion of the judge, for a full and true disclosure of the facts.

(c) If the judge finds at the hearing that there is no bona fide dispute between the parties as to a material fact, and that fact has not been stipulated, such fact may be proved by any relevant evidence, and exclusionary rules shall not apply, except for N.J.A.C. 19:65-15.2(a) or a valid claim of privilege.

(d) These rules shall be applied to promote fundamental principles of fairness and justice and to aid in the ascertainment of truth.

(e) Except as otherwise provided in this chapter or by law:

1. Every person is qualified to be a witness; and
2. No person has a privilege to refuse to be a witness; and
3. No person is disqualified to testify to any matter; and
4. No person has a privilege to refuse to disclose any matter or to produce any object or writing; and
5. No person has a privilege that another shall not be a witness or shall not disclose any matter or shall not produce any object or writing.

(f) Only evidence under oath or evidence admissible pursuant to N.J.A.C. 19:65-15.3 shall be admitted or considered by a judge.

(g) When the qualification of a person to be a witness, or the admissibility of evidence, or the existence of a privilege is stated in these rules to be subject to a condition, and the fulfillment of the condition is in issue, the judge shall hold a preliminary inquiry to determine the issue. The judge shall indicate to the parties which one has the burden of producing evidence and the burden of proof on such issue as implied by the rule under which the question arises. No evidence may be excluded in determining such issue except pursuant to the judge's discretion under N.J.A.C. 19:65-15.2(a) or a valid claim of privilege. This provision shall not be construed to limit the right of a party to introduce evidence subsequently which is relevant to weight or credibility.

(h) The judge presiding at the hearing in a contested case may not testify as a witness.

19:65-15.3 Official Notice

(a) Notice may be taken of judicially noticeable facts as provided in Rules 9, 10, 11(b) and (c), and 12(1) and (3) of the New Jersey Rules of Evidence.

(b) Notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the agency or the judge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The experience, technical competence, and specialized knowledge of the agency or the judge may be utilized in the evaluation of the evidence, provided this is disclosed of record.

19:65-15.4 Presumptions

(a) A presumption is a rebuttable assumption of fact resulting from a rule of law which requires such fact to be assumed from another fact or group of facts found or otherwise established in the contested case.

(b) No evidence offered to rebut a presumption may be excluded except pursuant to the judge's discretion under N.J.A.C. 19:65-15.2(a) or a valid claim of privilege.

19:65-15.5 Witnesses

(a) A person is disqualified to be a witness if the judge finds the proposed witness is incapable of expression concerning the matter so as to be understood by the judge directly or through interpretation by one who can understand the witness, or the proposed witness is manifestly incapable of understanding the duty of a witness to tell the truth. An interpreter is subject to all the provisions of these rules relating to witnesses.

(b) A witness before testifying shall be required to take an oath or make an affirmation or declaration to tell the truth under the penalty provided by law. No witness may be barred from testifying because of religion or lack of it.

(c) As a prerequisite for the testimony of a witness there must be evidence that the witness has personal knowledge of the matter, or experience, training or education, if such be required. Such evidence may be provided by the testimony of the witness. The judge may exclude the testimony of a witness that he or she perceived a matter if the judge finds no reasonable basis for believing that the witness did perceive the matter. In exceptional circumstances the judge may receive the testimony of the witness conditionally, subject to the evidence of knowledge, experience, training or education being later supplied in the course of the proceedings.

19:65-15.6 Privileges

The rules of privilege recognized by law or contained in Rules 23, 24, 25, 26, 26A-1, 26A-2, 26A-3, 27, 28, 29, 30, 31, 32, 34, 36, 37, 38, 39, 40 of the New Jersey Rules of Evidence shall apply in hearings in contested cases to the extent permitted by the context and similarity of circumstances.

19:65-15.7 Expert and Other Opinion Testimony

(a) If a witness is not testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds:

1. May be rationally based on the perception of the witness; and
2. Are helpful to a clear understanding of the witness' testimony or to the fact in issue.

(b) If a witness is testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds are 1. Based primarily on facts, data or other expert opinion established by evidence in the contested case and 2. Within the scope of the special knowledge, skill, experience or training possessed by the witness.

(c) Testimony in the form of opinions or inferences which is otherwise admissible is not objectionable because it embraces the ultimate issue or issues to be decided by the judge.

(d) A witness may be required, before testifying in terms of opinion or inference, to be first examined concerning the data upon which the opinion or inference is based.

(e) Questions calling for the opinion of an expert witness need not be hypothetical in form unless, in the discretion of the judge, such form is required.

19:65-15.8 Hearsay Evidence; Residuum Rule

(a) Subject to the judge's discretion to exclude evidence under N.J.A.C. 19:65-15.2(a) or a valid claim of privilege, hearsay evidence shall be admissible in the trial of contested cases. Hearsay evidence which is admitted

shall be accorded whatever weight the judge deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability.

(b) Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact, to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness.

19:65-15.9 Authentication and Content of Writings

Rules 67, 68, 69, 70 and 71 of the New Jersey Rules of Evidence shall apply to the trial of contested cases, within the discretion of the judge, to the extent necessary to assure the authenticity and reliability of writings.

SUBCHAPTER 16. CONCLUSION OF HEARING; PROPOSED FINDINGS; CONCLUSIONS AND ORDER; INITIAL DECISION; EXCEPTIONS; FINAL DECISION

19:65-16.1 Conclusion of Hearing

A hearing shall be deemed concluded when a judge declares it, on the verbatim record, to have been concluded; or, if a schedule has been established for the subsequent filing of briefs, statements, proposed findings of fact, conclusions of law, forms of order or other disposition, or other supplemental material, when the time established for the filing of such items has expired or when the last such item has been received by the judge, whichever is earlier. In establishing any such schedule, the judge shall be mindful of the need for reasonable expedition, shall require the parties to conform to the schedule, and shall thereafter advise the parties in writing when the hearing has been concluded.

19:65-16.2 Proposed Findings; Conclusions and Order

(a) When no schedule has been established, pursuant to section 1 of this subchapter, for the filing of proposed findings of fact, conclusions of law, forms of order or other disposition, a party may submit such papers by filing them with the judge within 10 days after a hearing has concluded or at such earlier time as the judge may for good cause order.

(b) All proposed findings of fact, conclusions of law, forms of order or other disposition, whether filed pursuant to section 1 of this subchapter or subsection (a) of this section, shall:

1. Be accompanied by a supporting statement or brief;
2. Be in writing and served upon all other parties; and
3. Contain adequate references, in the circumstances, to the record and to authorities relied on.

19:65-16.3 Initial Decision

(a) As soon as is practicable after the hearing is concluded, but in no event later than 45 days thereafter, the judge shall issue and the clerk shall file with the agency head and immediately serve upon the parties an initial decision based exclusively on:

1. The competent evidence and arguments presented during the course of the proceedings and made a part of the record;
2. Stipulations of fact; and
3. Matters officially noticed.

(b) The initial decision shall contain:

1. An appropriate caption;
2. The appearances of the parties;
3. A short statement of the nature of the proceedings;
4. Complete references to the specific statutes or regulations at issue;

5. An analysis of the facts adduced at the hearing in relation to the applicable law and covering all issues of fact and law raised in the proceedings;
6. Specific findings of fact which shall be designated as such and which shall not be set forth in statutory or conclusionary language;
7. Specific conclusions based upon the findings of fact and applicable constitutional principles, statutes, and rules or regulations;
8. An appropriate order or other disposition of the entire contested case based upon the findings and conclusions;
9. A statement that the initial decision and the record in the proceedings is forwarded to the agency head for consideration;
10. A statement that the initial decision shall become final 45 days after receipt by the agency head unless accepted, rejected, or modified by the agency head within the 45 days.

(c) No substantive finding of fact or conclusion of law, nor any concluding order or other disposition shall be binding upon the agency head, but rather shall be considered recommendatory in nature.

(d) Within 10 days from after the initial decision is filed with the agency head, the clerk shall certify the entire record with original exhibits to the agency head and shall serve upon the parties an inventory describing the items certified in the record.

19:65-16.4 Exceptions

(a) Within 10 days from the receipt of the judge's initial decision, any party may file exceptions thereto in writing, with the agency head and with the clerk of the Office of Administrative Law, serving a copy thereof on all other parties.

(b) The exceptions shall specify the particular portions of the initial decision to which exception is taken; shall designate, when appropriate, the portions of the record relied upon in support of such exceptions; and shall set out specific findings of facts, conclusions of law or dispositions proposed in lieu thereof or in addition thereto. Exceptions to conclusions of law shall be specific, shall briefly cite the statutory provisions or principal authorities relied upon, shall set forth conclusions suggested in lieu thereof, and shall include any proposed additional conclusions. Exceptions to the judge's order or other disposition shall set forth a form of order suggested in lieu thereof. Supporting reasons for exceptions shall be submitted in the same document or in an accompanying brief. Where briefs or statements have been filed at any time during the hearings, the written exceptions may incorporate by reference relevant portions of such papers.

19:65-16.5 Final Decision

(a) Within 45 days after the receipt of the initial decision, the agency head may enter an order or a final decision accepting, rejecting or modifying the initial decision. Such an order or final decision shall be served upon the parties forthwith.

(b) An order or final decision rejecting or modifying the findings of fact in the initial decision shall be based upon substantial evidence in the record and matters officially noticed. Any order or final decision rejecting or modifying the initial decision shall specify in clear and sufficient detail the nature of the rejection or modification, the reasons for it and, precisely, the changes in result or disposition caused by the rejection or modification.

(c) An agency head may enter an order remanding a contested case to the Office of Administrative Law for further action on issues or arguments not previously

raised or incompletely considered. The order of remand shall specifically state the issues or arguments to be considered, their scope and their relationship to the issues and arguments already considered.

(d) When an agency head enters an order or final decision accepting an initial decision, the initial decision shall immediately become the final decision in the contested case.

(e) If an agency head does not enter an order or final decision accepting, rejecting, modifying or remanding the initial decision in a contested case within 45 days after its receipt, the initial decision shall be deemed adopted as the order or final decision of the agency head.

19:65-16.6 Extensions of Time Limits

Upon certification by both the Director of the Office of Administrative Law and the agency head that good cause exists, the time limits for preparation of the initial decision, for filing exceptions and for issuing an order or final decision may be extended.

SUBCHAPTER 17. SETTLEMENTS

19:65-17.1 Settlements

When the parties to a contested case have settled the matter, the judge assigned to the case shall cause to be entered a consent order, signed by both parties as to form and entry, which shall state the fact of settlement and the terms thereof, if any. The order shall, in its terms, dismiss the matter with prejudice. The order shall then be filed with the agency head in the manner of an initial decision as provided in N.J.A.C. 19:65-16.3.

CHAPTER 66

ADMINISTRATIVE PROCEDURE SUBSTANSIVE RULES

SUBCHAPTER 1: CONTESTED CASES

19:66-1.1 Statutory Basis

The Administrative Procedure Act of 1968 defines a contested case as follows:

"Contested case" means a proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or order, addressed to them by disposing of their interests, after opportunity for an agency hearing. N.J.S.A. 52:14B-2.

L.1978, c.67, amending the Administrative Procedure Act and establishing the Office of Administrative Law to conduct hearings in contested cases provides, in section 9 (N.J.S.A. 52:14F-7), that it is the prerogative of the agency heads "to determine whether a case is contested . . ." It is the statutory obligation of the Director of the Office of Administrative Law, inter alia, to "develop uniform standards . . . (regulating) the conduct of contested cases and the rendering of administrative adjudications" (N.J.S.A. 52:14F-5e) and to "advise agencies concerning their obligations under the Administrative Procedure Act . . ." (N.J.S.A. 52:14F-5h).

19:66-1.2 The Nature of a Contested Case

(a) Pursuant to the statutory definition, a matter is a contested case where by virtue of statute or constitutional requirement, a hearing is required before a state agency to determine the legal rights of specific parties. The statute also limits the definition of "contested case" to disputes concerning the rights, duties, etc., of specific parties. The

required hearing, therefore, must be pre-eminently adjudicatory and judicial in nature. Thus a required hearing which is informational or intended to provide a forum for the expression of public sentiment on proposed agency action is not a contested case within the statutory definition. Neither is a matter which is susceptible to administrative resolution avoiding factual or legal dispute. Therefore, in order for a matter to be a contested case which must be heard by an administrative law judge:

1. A hearing must be required by statute or constitutional provision; and
2. the matter must not be susceptible of informal resolution on the administrative level; and
3. the required hearing must be designed to result in an adjudication concerning the rights, duties, etc., of specific parties over which there exist disputed questions of fact, law, or disposition.
4. Where specific parties and the general public are involved in one proceeding, both the constitutional/statutory basis and the adjudicatory character requirements of contested cases are satisfied only by the specific parties who will be affected by the outcome substantially, specifically, and directly.

19:66-1.3 The Characteristics of Contested Cases

(a) Within the scope of the four controlling requirements in section 2 of this subchapter, the following qualities of contested cases, characteristic of contested case situations, are offered to assist the agency heads in determining, pursuant to §9 (N.J.S.A. 52:14F-7), whether specific matters are contested cases:

1. Contested cases involve genuinely disputed questions of fact, law, or result requiring findings, interpretations, or applications to be made.
2. Contested cases deal with: i) Particular individuals, or ii) Specific businesses or other entities, including governmental agencies, or iii) Finite groups of individuals businesses, or other entities with related interests.
3. Contested cases resolve questions relating to the rights, entitlements, and obligations of specific parties even in large, but defined, groups. They do not deal with broad policy issues affecting entire industries or large and undefined classes of people. In some instances an agency's matters may be contested cases (judicial) in part and uncontested cases (legislative or regulatory) in part. It is necessary in each such matter to determine whether the issues can be fruitfully separated or whether the needs of fairness, efficiency, and thoroughness require the issues to be handled in a single, integrated proceeding.
4. Contested cases deal with factual, legal, or dispositional issues relating to past, current, or proposed activities or interests of particular parties.
5. Contested cases are adversary proceedings involving particular parties. An agency itself may be an adversary party.
6. Contested cases involve subject matter susceptible to the receipt of evidence or particularized legal argument, i.e., concerning the rights or interests of particular parties as opposed to the community at large or a loosely-defined segment thereof.
7. In a contested case, the final action in the matter will tend to be particular and immediate in effect, though possibly long range. It will relate to specific parties. The final action will not be general and in futuro affecting broad, undefined groups of people or entities.
8. A case is contested if the factual issues to be determined are such that fairness requires a particular

party: i) To know fully the factual bases upon which the agency decision will rest, ii) To meet those facts with evidence of its own which characterizes them or rebuts them, or iii) To cross-examine to test the validity and solidity of those factual bases.

9. A case is contested if the legal issues in the matter are such that the personal or property rights of a particular party will be adversely affected in a special way by an interpretation or application of law or agency rule or regulation.

19:66-1.4 The Characteristics of Matters Which Are Not Contested Cases

(a) Matters are not contested cases when they fall into the following categories:

1. Where adjudicatory hearings are not required by constitutional rule but are required by statute for the purpose of affording, e.g., "interested parties the opportunity to present their positions," where the case will not result in a direct disposition of the rights, duties, etc., of the "interested parties."
2. In objector or general public hearings, where there is no statutory or constitutional right to an adjudicatory hearing and the hearing which is held will not result in a direct or specific disposition of the rights, duties, etc., of the "objector" or "public parties" as individuals.
3. Matters which will affect the rights of a specific party, but where there is neither a statutory nor a constitutional right to an adjudicatory hearing.
4. Hearings, whether required by statute or not, which are legislative in nature; i.e., designed to make known a proposed rule, regulation, or general policy and to receive views from the general public; and where the proceeding will not result in a disposition of specific rights of specific parties for whose benefit the hearing is held.
5. Hearings, whether required by statute or not, involving inquiry which is general in respect of a policy decision and is designed to determine whether a contemplated standard should or should not apply to the public generally or to everyone in a field of activity which the agency is authorized to regulate, rather than to individual parties only.

19:66-1.5 Conclusion

This subchapter should be viewed as requiring agencies to transmit contested case matters to the Office of Administrative Law before the cases are perfected and issue is joined. Matters will continue to commence and terminate in the agencies themselves. Agencies should attempt to resolve or adjust matters administratively by explaining fully to the parties affected the proposed agency action and the factual information and legal authority upon which it is based. Where it would be fruitful, agencies should also continue to apply or develop procedures for resolving particular types of contested matters informally on the administrative level.

19:66-1.6 The Attorney General's Function

This subchapter is intended to set forth general guidelines. When a question arises whether a particular matter is a contested case, legal advice should be obtained from the Attorney General's Office.

Public hearings will be held according to the following schedule:

Morris County Court House
Freeholders' Public Meeting Room
Morristown, N.J.
Monday, September 17, 1979 9 a.m. - 12 p.m.

Bergen County Court House
Rotunda Building, Room 332, 3rd floor
Hackensack, N.J.
Monday, September 17, 1979 1:30 p.m. - 4:30 p.m.

Monmouth College
Wilson Auditorium
West Long Branch, N.J.
Thursday, September 20, 1979 9 a.m. - 12 p.m.

Stockton State College
Room CC103
Pomona, N.J.
Thursday, September 20, 1979 1:30 p.m.-4:30 p.m.

Camden County Court House
Court Room #4A, 4th floor
6th & Market Sts.
Camden, N.J.
Monday, September 24, 1979 9 a.m. - 12 p.m.

Cumberland County College
A/H Classroom I (New Agri./Hort. Bldg.)
Vineland, N.J.
Monday, September 24, 1979 2 p.m. - 5 p.m.

Office of Administrative Law
185 Washington Street
Newark, N.J.
Friday, September 28, 1979 9 a.m. - 12 p.m.

Middlesex County Court House
Court Room #504, 5th Floor
New Brunswick, N.J.
Thursday, October 4, 1979 9 a.m. - 12 p.m.

Office of Administrative Law
88 East State Street
Trenton, N.J.
Thursday, October 4, 1979 1:30 p.m. - 4:30 p.m.

Written and/or oral testimony concerning the proposal will be received at each of the public hearings. Individuals who wish to testify, will be scheduled at the location(s) of their choice by:

Ray P. Sullivan
Office of Administrative Law
185 Washington Street
Newark, N.J. 07102

Written comments may be submitted by mail to the above address until October 5, 1979.

The Office of Administrative Law may thereafter adopt rules concerning this subject without further notice.

Howard H. Kestin
Director
Office of Administrative Law

(a)

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Amendments to Schedule of
Charges for Air Terminals
at Kennedy International,
LaGuardia and Newark
International Airports

On June 27, 1979, the Committee on Operations of the Port Authority of New York and New Jersey adopted

amendments to the schedule of charges for air terminals at Kennedy International, LaGuardia and Newark International Airports.

Full text of the adoption follows:

RESOLVED, that the Schedule of Charges for the use of the Public Landing Area, Public Passenger Ramp and Apron Area, Public Cargo Ramp and Apron Area and Public Aircraft Parking and Storage Area at LaGuardia Airport, adopted by the Committee at its meeting on October 5, 1970, as amended; at Kennedy International Airport, adopted by the Committee at its meeting on January 5, 1950, as amended; and at Newark International Airport, adopted by the Committee at its meeting on January 5, 1950, as amended, be and the same are hereby amended, effective July 1, 1979, as follows:

1. By revising Section V of the LaGuardia Schedule to read:

V. Special Terminal Charge

For each eight-hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service \$265

The Executive Director may revise the rate at his discretion.

2. By revising Section VIII of the Kennedy Schedule to read:

VIII. Special Terminal Charge

For each eight-hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service \$245

The Executive Director may revise the rate at his discretion.

3. By revising Section VIII of the Newark Schedule to read:

VIII. Special Terminal Charge

For each eight-hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service \$265

The Executive Director may revise the rate at his discretion.

An order adopting these amendments was filed on August 13, 1979 as R.1979 d.309 (Exempt, Exempt Agency).

Howard H. Kestin
Director
Office of Administrative Law

(a)

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Amendments to Schedule of Charges for Public Vehicular Parking at Kennedy International, LaGuardia and Newark International Airports

On June 27, 1979, the Committee on Operations of the

Port Authority of New York and New Jersey adopted amendments to the schedule of charges for public vehicular parking at Kennedy International, LaGuardia and Newark International Airports.

Full text of the adoption follows:

RESOLVED, that the resolution establishing fees for parking vehicles on Public Vehicular Parking Areas at Port Authority Air Terminals, adopted by the Board, at its meeting on March 11, 1948, as subsequently amended, be and the same is hereby amended, effective August 15, 1979, as follows:

1. By revising the rates relative to LaGuardia Airport as follows:

Parking Garage:

- \$1.00 for 1st hr. or part
- \$1.00 per 2 hrs. or part thereafter
- \$8.00 max. to 24 hrs.
- \$1.00 per 3 hrs. or part thereafter
- \$8.00 max. each 24 hrs.

All Other Lots except Premium Metered Area in Garage:

- \$1.00 for 1st hr. or part
- \$1.00 per 2 hrs. or part thereafter
- \$6.00 max. to 24 hrs.
- \$1.00 per 4 hrs. or part thereafter
- \$6.00 max. each 24 hrs.

Premium Metered Area in Garage:

- \$.25 per ¼ hr. (interim rate)
- \$1.00 per hr. or part (permanent rate)

2. By revising the rates relative to Kennedy International Airport as follows:

Premium Pan Am Rooftop: (Lot 6)

- \$1.00 per hr. or part
- \$24.00 max. for 24 hrs.

Intermediate Central Terminal Area: (Except Lot 6)

- \$1.00 for 1st hr. or part
- \$1.00 per 2 hrs. or part thereafter
- \$7.00 max. to 24 hrs.
- \$1.00 per 3 hrs. or part thereafter
- \$7.00 max. each 24 hrs.

Remote Reduced Rate Long Term: (Lots 8 & 9)

- \$3.00 for 1st 24 hrs. or part
- \$1.50 per 12 hrs. or part thereafter

3. By revising the rates relative to Newark International Airport as follows:

Premium "Hourly" Lots:

- \$1.00 per hr. or part
- \$16.00 max. each 24 hours

Intermediate "Daily" Lots:

- \$1.00 for 1st hr. or part
- \$1.00 per 2 hrs. or part thereafter
- \$7.00 max. to 24 hrs.
- \$1.00 per 3 hrs. or part thereafter
- \$7.00 max. each 24 hrs.

Remote Reduced Rate Long Term: (Lots D, 1 & 3)

- \$1.00 for 1st hr. or part
- \$1.00 per 2 hrs. or part thereafter
- \$3.00 max. to 24 hrs.
- \$1.00 per 8 hrs. or part thereafter
- \$3.00 max. each 24 hrs.

All rates include tax on parking.

An order adopting these amendments was filed on August 13, 1979 as R.1979 d.310 (Exempt, Exempt Agency).

Howard H. Kestin
Director
Office of Administrative Law

The New Jersey Administrative Code

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ALL RULES AND REGULATIONS
OF THE STATE OF NEW JERSEY**

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the New Jersey Administrative Code was
in 1972, to bring together for the first time
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4 CODE TITLES UPDATED

Mailing was completed last month for the March 15, 1979 and March 29, 1979 update for four Titles of the New Jersey Administrative Code.

Titles included were 5—Community Affairs, 8—Health, 9—Higher Education and 17—Treasury-General.

If subscribers have not received this update within two weeks, they should contact the Division of Administrative Procedure, 10 North Stockton Street, Trenton, New Jersey 08608 or phone: (609) 292-6060.