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## THE NEW JERSEY REGISTER

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Leon S. Wilson, Director of Administrative Procedure

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THURSDAY, SEPTEMBER 25, 1969

## MESSAGE FROM THE GOVERNOR

The publication of this first issue of the NEW JERSEY REGISTER marks the official implementation of the ADMINISTRATIVE PROCEDURE ACT OF 1968, and constitutes the implementation of a program officially conceived more than 20 years ago. New Jersey's 1947 Constitution provided: "The Legislature shall provide for the prompt publication of (all administrative) rules and regulations." Now, with the publication of this Register, New Jersey can provide an official, continuing and comprehensive source of information about the activities of its State agencies. This capability is a crucial ingredient in the program I have urged to assure public confidence in the activities of its governmental agencies.

Public participation in the making of the rules which affect us all will be encouraged and simplified by the availability of this periodical. Until now, only the Federal Government and one state, among all the jurisdictions of this country have attempted a single official publication, gathering together all the information necessary to an informed public. I am pleased New Jersey has now taken this progressive step and I urge all those who deal with government to accept this challenge of involvement.

It is with great pride that I join in taking special note of this occasion and in commending those who have participated in this significant program.

RICHARD J. HUGHES

## INTRODUCTION

The Division of Administrative Procedure is pleased to publish the first issue of the New Jersey Register a periodic bulletin of administrative activity by New Jersey State agencies. On September 1, 1969, the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) took effect. This Act completes the intention of the 1947 Constitution calling for the publication of the quasi-legislative pronouncements of New Jersey's administrative agencies.

Primarily, the Act provides for the compilation, codification and systematic updating of existing rules in a publication to be entitled the New Jersey Administrative Code. Public participation in the rule-making process is encouraged by the requirement of the Act that advance notice of rule-making activity be published in the Register.

To implement and enforce the provisions of the Act, the new Division of Administrative Procedure was created within the Department of State. Inquiries and correspondence concerning the provisions of the Administrative Procedure Act and the work of the Division of Administrative Procedure may be directed to:

Director  
Division of Administrative Procedure  
10 North Stockton Street  
Trenton, New Jersey, 08608  
Telephone: (Area Code 609) 292-8060

Included in this first issue of the Register is the Administrative Procedure Act, as approved by Governor Hughes on January 14, 1969 (which became effective September 1), the Rules of Administrative Procedure of the newly created Division (interim), and notices of proposed rules submitted by the Departments of Conservation and Economic Development, Education, Health, Higher Education and Treasury (Division of Tax Appeals and Racing Commission).

LEON S. WILSON  
Director of Administrative Procedure

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## ADMINISTRATIVE PROCEDURE ACT

The following is the text of the Administrative Procedure Act which became Chapter 410 of the Laws of 1968 on January 14, 1969:

An Act concerning practice and procedure of administrative agencies of the State.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

### C.52:14B-1 Short Title

1. This act shall be known and may be cited as the "Administrative Procedure Act."

### C.52:14B-2 Definitions

2. As used in this act:  
(a) "State agency" or "agency" shall include each of the principal departments in the executive branch of the State Government, and all boards, divisions, commissions, agencies, departments, councils, authorities, offices or officers within any such departments now existing or hereafter established and authorized by statute to make, adopt or promulgate rules or adjudicate contested cases, except the office of the Governor, the Division of Workmen's Compensation in the Department of Labor and Industry, the Department of Defense, and any boards, divisions, commissions, councils, agencies, departments, authorities, offices or officers therein, and all agencies the primary responsibility of which is the management or operation of a State educational, medical, mental, rehabilitative, custodial, penal or correctional institution or program insofar as the acts of such agency relate to the internal affairs of such institution or program.

(b) "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 orders, addressed to them or disposing of their interests, after opportunity for an agency hearing.

(c) "Administrative adjudication" or "adjudication" includes any and every final determination, decision or order made or rendered in any contested case.

(d) "The head of the agency" means and includes the individual or group of individuals constituting the highest authority within any agency authorized or required by law to render an adjudication in a contested case.

(e) "Administrative rule" or "rule," when not otherwise modified, means each agency statement of general applicability and continuing effect that implements or interprets law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of any rule, but does not include: (1) statements concerning the internal management or discipline of any agency; (2) intraagency and interagency statements; and (3) agency decisions and findings in contested cases.

(f) "License" includes the whole or part of any agency license, permit, certificate, approval, chapter, registration or other form of permission required by law.

(g) "Secretary" means the Secretary of State.

(h) "Director" shall mean the Director of the Division of Administrative Procedure, unless otherwise indicated by context.

### C.52:14B-3 Additional responsibilities of each State agency

3. In addition to other rule-making requirements imposed by law, each agency shall:  
(1) adopt as a rule a description of its organization, stating the general course and method of its operations and methods whereby the public may obtain information or make submissions or requests;  
(2) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency;  
(3) make available for public inspection all final orders, decisions, and opinion, in accordance with the provisions of chapter 73 of the laws of 1963 as amended and supplemented (C. 47:1A-1 et seq.).

### C.52:14B-4 Adoption, amendment or repeal of agency rules

4. (a) Prior to the adoption, amendment, or repeal of any rule, except as may be otherwise provided the agency shall:

(1) Give at least 20 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely request of the agency for advance notice of its rule-making proceedings and in addition to other public notice required by law shall be published in the New Jersey Register;

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule.

(3) A rule prescribing the organization or procedure of an agency may be adopted at any time without prior notice or hearing. Such rule shall be effective upon filing in accordance with section 5 of this act or upon any later date specified by the agency.

(c) If any agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 20 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt the rule.

(d) No rule hereafter adopted is valid unless adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within 1 year from the effective date of the rule.

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### Administrative Procedure Act—continued

#### C.52:14B-5 Filing and publication of rules

5. (a) Each agency shall file in the office of the Secretary of State a certified copy of each rule adopted by it.

(b) Each rule hereafter adopted is effective upon filing with the Secretary of State.

(c) The Secretary of State shall: (1) accept for filing or publication any rule duly adopted and submitted by any agency pursuant to this act; (2) endorse upon the certified copy of each rule accepted for filing pursuant to this act the date and time upon which such rule was filed; and (3) maintain the certified copy of each rule so filed in a permanent register open to public inspection.

(d) The filing of a certified copy of any rule shall be deemed to establish the rebuttable presumptions that: (1) it was duly adopted; (2) it was duly submitted for pre-publication and made available for public inspection at the hour and date endorsed upon it; (3) all requirements of this act and of interagency rules of the Secretary of State relative to such rule have been complied with; (4) its text is the text of the rule as adopted. Judicial notice shall be taken of the text of each rule, duly filed.

(e) The publication of a rule in the New Jersey Administrative Code or the New Jersey Register shall be deemed to establish the rebuttable presumption that the rule was duly filed and that the text of the rule as so published is the text of the rule adopted. Judicial notice shall be taken of the text of each rule published in the New Jersey Administrative Code or the New Jersey Register.

#### C.52:14B-6 Division of Administrative Procedure; Creation; personnel; appointment and duties of director.

6. (a) There is hereby created in the Department of State a Division of Administrative Procedure.

(b) The secretary shall employ and assign to the division such personnel as shall enable the division to discharge its responsibilities effectively and efficiently. The Department of State shall furnish such funds, equipment, and personnel as is necessary to implement the work of the division within the limits of appropriations for the purpose.

(c) The division shall be under the immediate supervision of a director who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the secretary without regard to the provisions of the Civil Service Law, Title 11, New Jersey Statutes, and shall serve at the pleasure of the secretary and until the director's successor is appointed and has qualified. He shall receive such salary as is provided by law. The director: (1) shall administer the work of the division under the direction and supervision of the secretary; (2) shall perform such functions, in addition to the work of the division, as the secretary may prescribe; (3) shall organize and reorganize the division; (4) shall assign and reassign personnel to employment within the division; (5) shall perform or cause to be performed the work of the division in such manner and pursuant to such program as he may deem necessary and appropriate; (6) shall employ as necessary the services of the several departments and agencies of State Government and of the employees of such departments and agencies, in such manner and to such extent as may be agreed upon by the chief executive officer of such department or agency and the secretary.

(d) The secretary shall oversee the implementation of this act by each agency and is empowered to do all things necessary and appropriate to that end. The secretary shall delegate to the director his responsibility and authority pursuant to this act, or such of that responsibility and authority as he may deem desirable, which shall be exercised under his supervision and direction.

(e) The division: (1) shall advise agencies concerning their obligations under this act, subject to the provisions of section 4(b) and 4(e) of chapter 20, laws of 1944, as amended and supplemented (C. 52:17A-4b and 4e); (2) shall advise agencies in connection with the preparation, consideration, publication and interpretation of rules required or appropriate pursuant to this act; (3) shall, to the extent and in such manner as the director may deem appropriate, assist agencies in the preparation of rules to the end that such rules be uniform and consistent to the extent practicable; (4) shall secure, compile, and maintain as reference material rules and supporting information appropriate to the exercise of its responsibilities; (5) shall effect and maintain liaison with agencies to assure compliance with this act; (6) shall formulate interdepartmental rules for the prompt, proper and co-ordinated promulgation of all rules required or appropriate pursuant to this act; (7) shall have access to information concerning each agency to assure the proper promulgation of all rules required by law; (8) shall advise each agency and, to such extent as the director may deem appropriate, shall establish standards regarding the conduct of hearings.

**Administrative Procedure Act—continued**

**C.52:14B-7 New Jersey Administrative Code; New Jersey Register; publication; contents; standards for form; director's authority.**

7. (a) The director shall compile, index, and publish a publication to be known as the "New Jersey Administrative Code," containing all effective rules adopted by each agency. The code shall be periodically supplemented or revised.

(b) The director shall publish a monthly bulletin to be known as the "New Jersey Register" setting forth: (1) the text of all rules filed during the preceding month, and (2) such notices as shall have been submitted pursuant to this act.

(c) The director may omit from the New Jersey Register or compilation any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available by the adopting agency on application thereto, and if the register or code contains a notice stating the general subject matter of the omitted rule and stating the manner in which a copy thereof may be obtained. He may include within the New Jersey Register and the New Jersey Administrative Code any document, material or information which he in his discretion may deem appropriate and convenient.

(d) Copies of the New Jersey Register and compilations shall be made available upon request to agencies and officials of this State and such other public officials as the director may designate free of charge and to other persons at prices fixed by the director to cover mailing and publication costs.

(e) To facilitate uniformity in the compilation and indexing of all agency rules, the director, in collaboration with the Director of the Division of the State Library, Archives and History, shall formulate and distribute to all agencies standards for the form, arrangement, numbering and indexing of agency rules and shall consult with each agency in the preparation of compilations of its rules.

(f) The director may determine the order in which such rules or any parts thereof are to be presented in the New Jersey Register and the New Jersey Administrative Code; he may number or renumber the parts, paragraphs and sections into which such rules may be divided; he may further divide or combine existing parts, paragraphs and sections and he may provide for appropriate digests, indices and other related material. He shall not, however, change the language of any existing rule, excepting a title or explanatory caption; but he shall recommend any such changes as he may deem advisable to the administrative agency authorized to adopt such rule.

(g) The director is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this act.

**C.52:14B-8 Declaratory rulings of agencies**

8. Declaratory rulings. Subject to the provisions of section 4(b) and 4(e) of chapter 20, laws of 1944, as amended and supplemented (C. 52:17A-4b and 4e), an agency upon the request of any interested person may in its discretion make a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or rule enforced or administered by that agency. A declaratory ruling shall bind the agency and all parties to the proceedings on the state of facts alleged. Full opportunity for hearing shall be afforded to the interested parties. Such ruling shall be deemed a final decision or action subject to review in the Appellate Division of the Superior Court. Nothing herein shall affect the right or practice of every agency in its sole discretion to render advisory opinions.

**C.52:14B-9 Notice and conduct of hearings**

9. (a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include in addition to such other information as may be deemed appropriate:

(1) A statement of the time, place, and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved;

(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

(c) Opportunity shall be afforded all parties to respond, appear and present evidence and argument on all issues involved.

(d) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, or consent order.

(e) Oral proceedings or any part thereof shall be transcribed on request of any party at the expense of such party.

(f) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(g) Unless otherwise provided by any law, agencies may place on any party the responsibility of requesting a hearing if the agency notifies him in writing of his right to a hearing and of his responsibility to request the hearing.

**C.52:14B-10 Admissible evidence; Certain notice authorized; presiding officer's report; form, contents and effective date of final decision**

10. In contested cases:

(a) The parties shall not be bound by rules of evidence whether statutory, common law, or adopted by the Rules of Court. All relevant evidence is admissible, except as otherwise provided herein. The presiding officer may in his discretion exclude any evidence if he finds that his probative value is substantially outweighed by the risk that its admission will either (i) necessitate undue consumption of time or (ii) create substantial danger of undue prejudice or confusion. The presiding officer shall give

effect to the rules of privilege recognized by law. Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) Notice may be taken of judicially noticeable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notice, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) When a person not empowered to render an administrative adjudication is designated by the head of the agency as the presiding officer, his recommended report and decision containing recommended findings of fact and conclusions of law shall be filed with the agency and delivered or mailed to the parties of record; and an opportunity shall be afforded each party of record to file exceptions, objections and replies thereto, and to present argument to the head of the agency or a majority thereof, either orally or in writing, as the agency may order. The head of the agency shall adopt, reject or modify the recommended report and decision. The recommended report and decision shall be a part of the record in the case.

(d) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party and to his attorney of record.

(e) Except where otherwise provided by law, the administrative adjudication of the agency shall be effective on the date of delivery or on the date of mailing, of the final decision to the parties of record, whichever shall occur first, or shall be effective on any date after the date of delivery or mailing, as the agency may provide by general rule or by order in the case. The date of delivery or mailing shall be stamped on the face of the decision.

**C.52:14B-11 Hearings authorized for certain licensees.**

11. No agency shall revoke or refuse to renew any license unless it has first afforded the licensee an opportunity for hearing in conformity with the provisions of this act applicable to contested cases. If a licensee has, in accordance with law and agency rules, made timely and sufficient application for a renewal, his license shall not expire until his application has been finally determined by the agency. Any agency that has authority to suspend a license without first holding a hearing shall promptly upon exercising such authority afford the licensee an opportunity for hearing in conformity with the provisions of this act.

This section shall not apply (1) where a statute provides that an agency is not required to grant a hearing in regard to revocation, suspension or refusal to renew a license, as the case made be; or (2) where the agency is required by any law to revoke, suspend or refuse to renew a license, as the case may be, without exercising any discretion in the matter, on the basis of a judgment of a court of competent jurisdiction; or (3) where the suspension or refusal to renew is based solely upon failure of the licensee to maintain insurance coverage as required by any law or regulation.

**C.52:14B-12 Administrative or judicial review**

12. Whenever under statute or agency rule there is a mode of administrative review within an agency, such review shall remain unimpaired and any judicial review shall be from the final action of the agency. The administrative review within the agency need not comply with the requirements for the conduct of contested cases.

**C.52:14B-13 Affect of act on prior proceedings**

13. Nothing in this act shall be deemed to affect any agency proceeding initiated prior to the effective date hereof.

**C.52:14B-14 Severability of act**

14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

**C.52:14B-15 Repealer**

15. All acts and parts of acts which are inconsistent with the provisions of this act are, to the extent of such inconsistency, hereby repealed; but such repeal shall not affect pending proceedings.

16. There is hereby appropriated out of the General Treasury the sum of \$300,000.00 to the Department of State for use to the extent and in the manner that the secretary may deem necessary in connection with the action authorized by section 17 of this act for the fiscal year ending June 30, 1969.

17. This act shall take effect September 1, 1969; provided, however, that any agency upon which responsibility or duty is imposed by this act may immediately take such action as may be necessary in preparation for the discharge of such responsibility or duty.

Approved January 14, 1969

**RULES OF ADMINISTRATIVE PROCEDURE**

Notice is hereby given that the Director, Division of Administrative Procedure, pursuant to authority delegated at N.J.S.A. 52:14B-7(g), the Administrative Procedure Act, has adopted the following Rules Of Administrative Procedure, which Rules constitute Chapter 5, Title 15, of the New Jersey Administrative Code. These rules were filed and became effective September 2, 1969, as R. 1969, d.1, (Exempt, interagency rules).

**TITLE 15 - DEPARTMENT OF STATE**

**SUBTITLE B - DIVISION OF ADMINISTRATIVE PROCEDURE**

**CHAPTER 5 - ADMINISTRATIVE PROCEDURE**

**AUTHORITY NOTE**

Unless otherwise expressly noted, all provisions of this Chapter 5 were adopted by the Director, Division of Administrative Procedure pursuant to authority delegated at N.J.S.A. 52:14B-7(g), The Administrative Procedure Act, and were filed and became effective September 2, 1969, as R. 1969, d.1, (Exempt, Interagency Rules).

**TITLE 15  
DEPARTMENT OF STATE**

**SUBTITLE B. DIVISION OF ADMINISTRATIVE PROCEDURE**

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SUBCHAPTER 1  
GENERAL PROVISIONS

## 15:5-1.1 SHORT TITLE

The provisions of this Chapter 5 may be known as the "Rules of Administrative Procedure."

## 15:5-1.2 DEFINITIONS

As used in this chapter, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the adopting agency:

"Act" means the Administrative Procedure Act of 1968 (c. 410, Laws of 1968; N.J.S.A. 52:14B-1 et seq.).

"Administrative agency" includes all agencies except those established within either the Legislative Branch or the Judicial Branch of the State Government for purposes of N. J. Const. Art. III, para. 1.

"Adopt" means the formal act by which a rule is established by an authorized adopting agency or officer. The act of adoption alone shall not be legally sufficient to invest a rule with the status of law.

"Adopting agency" or "authorized adopting agency" means that agency or officer designated by statute as authorized to establish rules. "Adopting officer" or "authorized adopting officer" means that person either designated by statute as authorized to establish rules or the principal executive officer of an authorized adopting agency.

"Agency" includes each instrumentality, body, institution or organization through which the government of the State exercises its power or prerogative and which is authorized by law to adopt rules or adjudicate contested cases. For purposes of these rules, "agency" when not otherwise modified means all agencies except exempt agencies.

To "amend" means to modify, alter or revise a previously codified rule.

"Autonomous agency" includes any administrative agency not subject to the policy control of one of the principal departments, which is authorized, explicitly or implicitly, by statute to establish rules. Any agency attached to or located within a principal department for administrative purposes only may be considered a constituent part of such principal department for purposes of determinations regarding the allocation of its rules within the Code without prejudice to its status as an autonomous agency.

The "Code" means the New Jersey Administrative Code, published pursuant to N.J.S.A. 52:14B-7(a).

To "Codify" means to revise the form in which rules are published to achieve a more logical and consistent arrangement of their provisions. A codification shall not affect the substantive provisions of any rule.

"Director" means the Director of the Division of Administrative Procedure.

"Division" means the Division of Administrative Procedure of the Department of State, established pursuant to N.J.S.A. 52:14B-6(a).

"Document" means any writing submitted to the Division by an agency for the purpose of filing pursuant to law. The singular of this term refers to the entirety of each discrete writing though such writing establishes or affects more than one rule or subject matter or consists of more than one page or part.

"Exempt agency" means any legislative, judicial or autonomous agency and the Office of the Governor, the Division of Workmen's Compensation, the Department of Defense and any constituent part thereof and any agency the primary responsibility of which is the management or operation of a State educational, medical, mental, rehabilitative, custodial, penal or correctional institution or program as shall be designated by the Division.

"Exempt rule" means any rule of an exempt agency, any emergency rule, any internal rule, interagency statement or intraagency statement, and any rule the adoption of which is required or specifically authorized by judicial decision, opinion or order, by legislative act, or by order of the Governor.

"Formal hearing" means that proceeding of an administrative agency conducted only after general publication of its time and date and during which the participants are subject to previously established rules of practice of general applicability.

"Informal hearing" means that proceeding conducted by an administrative agency without prior general publication of its time and date and at which participants are not subject to the rules of practice applicable to formal hearings.

"Internal rule" means any agency statement the principal objective of which is the description or governance of an agency's internal organization, procedure or practice. No internal rule shall be deemed a public rule by reason merely of the fact that as an incidental consequence of an internal rule, a private person is, in fact (i.e., without official act or process of the agency), subjected to sanction or loss of benefit.

"Person" includes any natural individual, association, joint venture, partnership, corporation, organization, institution and governmental instrumentality recognized by law for any purpose whatsoever. "Private person" means any person except the State Government and any officer, agent, employee or agency thereof.

"Quasi-judicial hearing" means that proceeding conducted by an administrative agency the objective of which is to determine the status, rights or obligations of a known person in accordance with the law and rules administered by the agency or to resolve a dispute among known persons pursuant to the law or rules administered by the agency.

"Quasi-legislative hearing" means that proceeding conducted by an administrative agency the principal objective of which is the eliciting of information deemed by the agency to be of assistance in the establishment of a rule.

The "Register" means the "New Jersey Register" published pursuant to N.J.S.A. 52:14B-7(b).

"Registry" means the serial list of documents which are accepted for filing by the Division.

To "repeal" means to declare void a previously codified rule, the effect of which is to terminate the legal effect of such rule prospectively only. Any rule so terminated shall continue thereafter to be enforced in and applied to all proceedings, formal or otherwise, initiated pursuant to rule or to law, prior to the effective date of such repeal.

To "rescind" means to declare void a previously codified rule, the effect of which is to terminate the legal effect of a rule both prospectively and retroactively as if the rule had never existed for any purpose.

"Rule," when not otherwise modified, or "public rule," means any agency statement of general applicability and continuing effect which is adopted by an agency to implement or interpret legislative or executive policy and which is adopted pursuant to legislative grant of authority, express or implied. The singular of this term refers to the provisions of a single and entire section of the Code, as provided in Section 5.10 of this chapter. This term does not include statements concerning the internal management or discipline of any agency, intraagency and interagency statements, and agency decisions and findings in contested cases.

"Secretary" means the Secretary of State of New Jersey.

## 15:5-1.3 CONDITIONS OF VALIDITY OF RULES

No rule, except an exempt rule, shall be enforced by any agency, nor shall any person be bound thereby, without public notice, opportunity to be heard and filing having first been accomplished pursuant to this Chapter 5 of Title 15, N.J.A.C.

## 15:5-1.4 OFFICIAL NOTICE

Public Notice of every rule, except an exempt rule, prior to its adoption and filing, shall be published in the New Jersey Register pursuant to Subchapters 2, 4 and 8 of this Chapter. The Register shall constitute the official instrument of the State for distribution of Public Notice regarding rules.

## 15:5-1.5 OFFICIAL CODIFICATION

Every rule, subsequent to adoption and filing, shall be published in the New Jersey Administrative Code pursuant to Subchapters 2, 4, 5, 6 and 8 of this Chapter. The Code shall constitute the official instrument of the State for codification of its rules.

[Cross Reference Note: See "Right to Know Law," N.J.S.A. 47:1A-1 et seq.; Act, "Code . . . Contents" N.J.S.A. 52:14B-7(c).]

## 15:5-1.6 CONSTRUCTION

Public rules shall be construed according to generally accepted principles of statutory construction, including those set forth in N.J.S.A. 1:1-1 et seq., except where provided otherwise or where the language or sense of the rule renders inappropriate the application of the general principle. These Rules of Administrative Procedure (this Chapter 5 of Title 15) shall be construed to provide the greatest flexibility to administrative agencies consistent with reasonable predictability and the assurance of even-handed justice in the administration of the law.

## 15:5-1.7 TENSE, GENDER AND NUMBER

Except as otherwise provided in any rule, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural and the plural the singular.

[Cross Reference Note: "Number; Gender," see N.J.S.A. 1:1-1.]

## 15:5-1.8 HEADING, ETC. NOT TO BE USED IN CONSTRUING

Title, subtitle, chapter, subchapter, section, article, group, part and division headings contained in the Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of the Code.

## 15:5-1.9 CORRESPONDENCE

The business of the Division shall be conducted at, and correspondence with it may be addressed to, the "Division of Administrative Procedure, Department of State, 10 North Stockton Street, Trenton, New Jersey, 08608," telephone Area Code 609-292-6080. Business hours of the Division shall be 9 a.m. to 5 p.m. Monday through Friday, holidays and abbreviated summer business hours excepted.

SUBCHAPTER 2  
PUBLICATION OF CODE AND REGISTER

## 15:5-2.1 CONTENTS OF NEW JERSEY ADMINISTRATIVE CODE

The New Jersey Administrative Code shall contain in logical sequence the current rules of all administrative agencies of the State as well as information of interest or assistance to the general public not constituting a rule. Material other than rules may be included in the Code by order of the Director. Such material shall be limited to that which is explanatory of codified rules or that which is of general and continuing interest and assistance to persons dealing with administrative agencies.

## 15:5-2.2 PERIODIC SUPPLEMENTATION OF THE CODE

(a) At least once each calendar year all documents to be codified which have been filed with the Division during the previous year shall be permanently integrated into the Code by the publication and distribution of loose-leaf pages incorporating such documents, or by the publication or re-publication of an appropriate title of the Code or designated portion thereof.

(b) There shall be published with the Code a topical index which shall be supplemented or revised to reflect the presence in the Code of documents codified during the calendar year previous.

## 15:5-2.3 CONTENTS OF NEW JERSEY REGISTER

The New Jersey Register shall contain the text, or a synopsis or a description, of every public rule intended to be adopted by any agency in advance of its adoption. The Register shall also contain a formal notice of all rules actually adopted by any agency, which notice shall not restate the text of any rule previously published in the Register. The Register shall constitute the official vehicle for publication of the following official administrative notices:

- Notice of Intention to adopt or change a rule;
- Notice of quasi-legislative hearing;
- Notice of adoption of a rule;
- Notice of adoption of a procedural rule;
- Notice of adoption of an emergency rule;
- Notice of administrative reorganization;
- Notice of availability of official reports of administrative agencies;
- Notice of information of interest or assistance to persons dealing with an agency;

(i) Notices regarding the availability of the Administrative Code, its distribution and supplementation;

In addition to these notices, there may be included in the New Jersey Register information providing explanation or background of administrative activity and of New Jersey State Government generally.

## 15:5-2.4 FREQUENCY OF PUBLICATION OF REGISTER; INDEX

(a) The New Jersey Register shall be published the last Thursday in each month or more frequently as circumstances may require. Distribution of the Register will be made by mail to subscribers submitting request to any agency or directly to the Division. Distribution of the Register will be made through the facilities of the State House Post Office to any agency submitting request for such distribution in writing to the Division. The Register will be printed through the facilities of the New Jersey Law Journal, a professional newspaper of this State, and will be distributed directly to subscribers of that newspaper.

(b) At least once each year there will be prepared indices by subject matter, by adopting agency, and by Code section affected, of all notices published in the Register during the preceding year.

## 15:5-2.5 CITATIONS TO THE CODE

(a) The New Jersey Administrative Code may be referred to as: N.J.A.C.

(b) Citation to a particular section in the Code shall include the numerical designations of the title, chapter, subchapter and section referred to, preceded by the initials N.J.A.C. Thus, this section should be cited: N.J.A.C. 15:5-2.5.

## 15:5-2.6 CITATIONS TO THE REGISTER

(a) The New Jersey Register may be referred to as: N.J.R.

(b) Citation to material appearing in the New Jersey Register shall include the numerical designation of the volume, page number and item letter, the volume and page number being separated by the initials "N.J.R." Thus, the third item on page 27 of the first volume of the New Jersey Register would be cited: 1 N.J.R. 27(c).

SUBCHAPTER 3  
EFFECT OF PUBLICATION

## 15:5-3.1 PUBLICATION REQUIRED

Notice of every rule adopted after September 1, 1969, shall be published in the New Jersey Register. Notice of the adoption of any rule shall be published in the Register only after a certified copy of the text of such rule has been accepted for filing, has been entered in the registry and has been filed by the Division.

## 15:5-3.2 PRESUMPTIONS UPON FILING

The filing of any rule shall be deemed to establish the rebuttable presumptions that:

- it was duly adopted;
- it was made available for public inspection at the hour and date endorsed upon it;
- all requirements of the Act and of the Rules of Administrative Procedure have been complied with; and
- its text is the text of the rule as adopted.

[Cross Reference Note: Presumptions; see N.J.S.A. 52:14B-5(d).]

## 15:5-3.3 PRESUMPTIONS UPON PUBLICATION

The publication of a rule in the Code or Register shall be deemed to establish the rebuttable presumptions that the rule was duly filed and that the text of the rule as so published is the text of the rule adopted. No substantive change in the text of any rule shall be enforceable by any agency except after formal adoption, filing and publication of such change.

## 15:5-3.4 EFFECTIVE DATE OF RULE

No rule, except an exempt rule, shall be effective earlier than 20 days after publication in the New Jersey Register of a Notice of Intention to Adopt such rule. Publication of the New Jersey Register shall be deemed to occur at the time of deposit of the Register containing the notice in the United States mail for distribution; the issue date of the Register and of the notice effecting publication of the document, is the day of such deposit.

## 15:5-3.5 CONSTRUCTIVE NOTICE

Publication in the New Jersey Register of a Notice regarding a rule or publication of a codified rule in the New Jersey Administrative Code shall be sufficient to provide notice of the contents of such document to any person subject thereto or affected thereby.

## 15:5-3.6 NOTICE OF HEARING

For the purpose of any act heretofore or hereinafter enacted by the Legislature requiring of any administrative agency the publication of notice of hearing or of opportunity to be heard, wherein the form of such notice or its manner of publication is not specifically prescribed, publication of notice of hearing pursuant to this chapter shall be deemed to provide to all persons residing in this State, and to all persons owning or having any interest in property situate within this State, notice of hearing or opportunity to be heard in satisfaction of such statutory requirement.

**Rules of Administrative Procedure—continued**

**15:5-3.7 JUDICIAL NOTICE**

The text of any rule published in the Code or the Register will be judicially noticed by the courts of this State. Any information, document or certificate requested directly or indirectly by any court of this State shall be provided by the Division without charge, except as provided by Section 4.17 of this Chapter.

**SUBCHAPTER 4**

**PROCEDURE FOR ADOPTION OR CHANGE OF RULES**

**15:5-4.1 ADOPTION AND ENFORCEMENT OF RULES**

No rule shall be adopted except upon written order of an authorized adopting officer or agency. No rule, except an exempt rule, shall be adopted until at least 20 days after public notice of the intention to adopt the rule be given pursuant to this chapter; nor shall any rule, except an exempt rule, be enforced by any agency before it has been filed pursuant to this chapter.

**15:5-4.2 NOTICE OF INTENTION**

Each agency shall, prior to the adoption or change of any rule, request publication of a notice of its intention to so act in the New Jersey Register. Such request shall be prepared and presented by the adopting agency to the Division of Administrative Procedure in the form prescribed at Section 4.4 of this Chapter. The Division shall publish such Notice of Intention in the Register within 35 days of its receipt of request therefor.

**15:5-4.3A NOTICE OF INTENTION; SPECIAL DISTRIBUTION**

Each agency shall prepare and maintain a record of all persons making timely request of it for advance notice of its rule-making proceedings. Prior to the adoption or change of any rule, each agency shall distribute its Notice of Intention to so act directly to each person who shall have made request for such notice. Request for such notice shall be submitted to the adopting agency and shall be accompanied by payment of a reasonable fee for postage and handling. The notice specially distributed may be in the form of a copy of the issue of the Register in which such notice appears.

**15:5-4.3B SUPPLEMENTARY NOTICE**

At the election of any agency, notice to the public regarding any rule may be published, in addition to publication in the Register, in any newspaper of general or limited circulation, by other mass media distribution, by direct mail, or by such other means as the agency may deem appropriate. Supplementary notice will not be required, however, except upon finding of the Director that publication in the New Jersey Register is insufficient to assure the dissemination of the subject information to all appropriate persons. Supplementary publication voluntarily undertaken by any agency may be in such form as the agency may elect. Supplementary publication undertaken at the order of the Director shall be in such form as may be provided in such order.

**15:5-4.4 CONTENTS OF NOTICE**

A Notice of Intention to adopt or change a rule shall be prepared by the adopting agency and shall include:

- (a) The name of the adopting officer and agency;
- (b) A statement of the statutory or other authority pursuant to which the proposed rule is to be adopted;
- (c) A brief description or explanation of the proposed rule including a statement of its subject matter, its principal objective, the proposed Code citation to be assigned the rule (or the Code citation of any rule affected by the proposed rule) and the agency through which it will be implemented;
- (d) Either:
  - (1) The text of the proposed rule including the adopting agency's recommended explanatory documentation;
  - (2) The text of the rule proposed to be changed as previously published, including explanatory documentation, indicating proposed additions and deletions by under-lineation (or italics as appropriate) and brackets respectively; or
  - (3) A synopsis or summary of the text of the rule, reasonably alerting the public to proposed changes in established practice and to any controversial matter which may reasonably be anticipated by the adopting agency, and a statement advising the manner in which and the place and person from which the full text of any synopsized or summarized document may be obtained.
- (e) A notice of the opportunity to be heard regarding the proposed rule which is to be accorded any person, including:
  - (1) The name and address of the person to whom written comments may be directed and the date prior to which such comments must be received in order to assure consideration prior to adoption of the proposed rule;
  - (2) The date and place of any informal proceeding and reference to or brief description of the rules of practice to be followed in the conduct of such informal hearing;
  - (3) The date and place of any formal hearing and a reference to or description of the rules of practice to be followed in the conduct of such formal hearing;
  - (4) The person and place, including telephone number if any, provided by the adopting agency for the receipt of oral presentations, in private or in public.
  - (f) A description of the formal proceeding, if any, to be conducted by the agency for the purpose of adopting the proposed rule including indication of the manner and conditions under which the public may attend, if at all.

**15:5-4.5 OPPORTUNITY TO BE HEARD**

No rule, except an exempt rule, shall be adopted without first according to the public an opportunity to be heard. The nature and manner of such opportunity shall be at the election of the adopting agency. It must in any case, however, be preceded by Notice in the Register pursuant to Section 4.4 of this Chapter and shall not be concluded before 20 days from the publication date of such notice has elapsed. A failure of opportunity to be heard

may be declared by the Director on finding of insufficient or misleading notice, of inadequate time to prepare for hearing, or of similar circumstances having the effect of denying any interested person the opportunity to have his views considered prior to the adoption of the proposed rule. The fact that any agency limits opportunity to be heard to written submission, or, in addition to written submission by any person, permits oral presentation by only a limited or designated number or type of person, shall not be deemed a failure of opportunity to be heard.

**15:5-4.6 RECORD OF OPPORTUNITY TO BE HEARD**

Following termination of any proceeding according to the public opportunity to be heard, and prior to adoption of the rule considered in such proceeding, the agency shall prepare a Record of Proceeding. Such record shall include information sufficient to establish the fact of the proceeding, such as:

- (a) A description of the type of proceeding conducted;
- (b) The date, time and place at which, and the officer or agency before whom the proceeding was conducted;
- (c) A description of the public response to such proceeding including, if possible, the number or an estimate of the number, of the persons responding to the Notice of Intention by letter, telephone, personal visit, attendance at any hearing, or oral presentation;
- (d) The name, and if considered appropriate, the estimated membership, of any trade, craft or professional organization or association participating in or represented at the proceeding.
- (e) Written submissions of any person submitted in response to the Notice of Intention, including any written answer of the agency, if feasible; and if not feasible, a statement to the effect that retention of written submissions is impractical and a suggestion of the reason therefor, and either a listing of the names of persons submitting views with some description of the view of each, or a statement estimating the number and sentiment of persons submitting views;
- (f) The certificate of the adopting officer attesting that all submissions were examined and that due consideration was given their merits prior to the adoption of the proposed rule;
- (g) A description of the principal points of controversy revealed during the proceeding;
- (h) If practicable and at the election of the agency, a statement of the reasons for adoption of the public views accepted, or for rejection of the public views rejected.

**15:5-4.7 RETENTION OF RECORD OF PROCEEDING**

Each agency shall maintain for each rule adopted by it the Record of Proceeding, including any attachments or exhibits thereto, for a period of not less than one year from the effective date of the subject rule. The Record of Proceeding constitutes an official document of the administrative agency and is evidence of its compliance with legislative mandate to provide opportunity to be heard (N.J.S.A. 52:14B-4(a)).

Cross Reference Note: See N.J.S.A. 52:14B-4 (d); Time for Review

**15:5-4.8A DUE CONSIDERATION; REPUBLICATION**

Following any proceeding according to the public opportunity to be heard, the adopting agency shall consider fully all written and oral submissions respecting the proposed rule. If upon such consideration, the agency shall determine to leave the text of the proposed rule, as previously published, unchanged or to effect inconsequential or non-substantive changes in such text, it shall proceed to adopt the rule. If, however, the agency shall determine to revise the text of a rule previously published, which revision has the effect of enlarging its original purpose or of increasing the burden upon any person, the adopting agency shall request publication of a new Notice of Intention to adopt or change a rule and shall accord to the public further opportunity to be heard. If, however, the substantive change effected by such revisions shall not have the effect as described in this section, it shall not be republished pursuant to this subchapter, but the agency may proceed to adopt the rule as modified.

**15:5-4.8 [RESERVED]**

**15:5-4.9 ORDER OF ADOPTION**

A rule is adopted upon execution by an authorized agency of an Order of Adoption pursuant to such formalities as may be prescribed for the adoption of rules by the adopting agency. An Order of Adoption shall be prepared by an adopting agency and shall include:

- (a) The name of the adopting agency;
- (b) A reference to the statutory or other authority delegating to the authorized agency authority to adopt a rule;
- (c) A reference to the Register citation identifying the Notice of Intention; or if no Notice of Intention be given, then a statement establishing the exemption of such rule from the requirement for such notice;
- (d) A reference to or description of the opportunity to be heard accorded the public in connection with the adoption of the proposed rule;
- (e) A statement of the effect of such rule in terms such as the following:
  - "interpreting" [a legislative or executive policy]
  - "implementing" [a legislative or executive program]
  - "incorporating" [a judicial or quasi-judicial decision]
  - "adopting," "repealing," "rescinding," "codifying," "re-designating," "correcting" [a designated portion of the Code];
- (f) Either:
  - (1) The text of the rule being adopted;
  - (2) The text of the rule being changed, indicating effected insertions and deletions by under-lineation (or italics, as appropriate) and brackets respectively; or
  - (3) A statement of repealer, rescission or renumeration.
- (g) The effective date of the rule, if other than the date of filing; and
- (h) The original signature of the adopting officer, and the place and date of adoption, in the following form:

ORDERED, at Trenton, this ..... day of ..... 19.....  
 /S/ Signature .....  
 Name and title of adopting officer

A suggested form of order incorporating the above information in standard format is presented at Section 4.5 of this Chapter. This order constitutes an official document of the adopting agency and is evidence of the occurrence of an administrative act. The order should conform to the manner in which the business of an administrative agency is conducted (e.g., its recitation in the minutes of an official meeting of a board or commission would necessarily be in a form different from that suggested here); the information itemized in this section is deemed to be the minimum information sufficient to render the act effective.

**15:5-4.10 IDENTIFICATION OF ADOPTING AGENCY**

(a) The adopting agency shall be described in the language of the statute submitted as authority for adoption of the rule. Deviation from statutory description, resulting from, for example, a transfer of authority from one to another agency or official change in the name of an agency, shall be noted by parenthetical reference to the statutory title in the following form:

"Division of Administrative Procedure [successor to the Office of Secretary of State, see N.J.S.A. 52:14B-1, et seq.]"

or  
 "Division of Administrative Procedure [formerly Division of Administration]."

Similarly, changes in the title of administrative officers nominated ex officio as authorized to adopt rules shall be noted parenthetically in a similar manner.

(b) In the event the adopting agency is different from the operating or executing agency, it is presumed the latter reports and is responsible to the former. The operating agency should be described essentially as follows:

"The Division of Administrative Procedure within the Department of State," where a rule of the Secretary of State is to be executed by the Division.

(c) In the event a rule is prepared and preliminary proceedings conducted by an agency other than the adopting agency, the order of adoption should so indicate.

**15:5-4.11 PRESENTATION FOR FILING**

Upon execution of an order adopting a rule, the text of such rule shall be presented to the Division in the form of a Document for Filing prepared in the manner prescribed at Section 4.5 of this Chapter.

**15:5-4.12 TIME OF FILING**

Any document submitted for filing shall be filed by the Division or, in lieu thereof, notice of refusal to file shall be delivered by the Division to the adopting agency, not more than three business days following the receipt of the presented document by the Division.

**15:5-4.13 [RESERVED]**

**15:5-4.14 FILING OF DOCUMENT**

Upon acceptance of a document for filing, it shall be endorsed on its face by a statement including:

- (a) the hour and date of acceptance for filing;
  - (b) the word "filed";
  - (c) the facsimile signature of the Secretary.
- In addition, a document number assigned by the Division shall be endorsed on the face of the document and the document number and title shall be entered in a registry maintained by the Division for that purpose.

**15:5-4.15 CERTIFICATE OF FILING**

Following publication of a Notice of Intention in the Register, the Division shall initiate a Certificate of Filing. Such certificate shall be in the form prescribed at Section 4.5 of this Chapter. Such certificate shall be in three parts: Publication of Notice; Opportunity to be Heard and Formal Adoption; and Acceptance for Filing.

- (a) Publication of Notice  
 The Division shall insert the name of the adopting agency or officer, the brief description of the rule, the section or sections of the Code affected by the Rule, the citation of the Notice of Intention as published in the Register, the date after which the rule may be formally adopted and the certificate of an officer of the Division attesting to proper publication and distribution.
- (b) Opportunity to be Heard and Formal Adoption  
 The adopting agency or officer shall insert as appropriate upon receipt from the Division of the Certificate of Filing the following information:
  - (1) nature and format of the opportunity to be heard accorded the public;
  - (2) date, time and place of any formal hearing;
  - (3) the fact of the preparation of a Record of Proceeding and report of proceedings and the fact of formal adoption pursuant to law and the rules of the adopting agency.
 The section of the Certificate shall bear the certification of an officer of the adopting agency attesting to the facts set forth.

- (c) Acceptance for Filing  
 The Division, upon receipt of the Order of Adoption (as provided in Section 4.5 of this Chapter), the partially completed Certificate of Filing, and the Document for Filing (as provided in Section 4.5 of this Chapter) shall insert the following information in the Certificate of Filing:
  - (1) the time and date of filing;
  - (2) the document number assigned the document;
  - (3) the Code citation assigned the document (if different from the recommendation of the agency);
  - (4) the expected publication date for inclusion in the Code;
  - (5) the Register citation of the Notice of Adoption;
 and
  - (6) the certificate of an officer of the Division attesting to the foregoing facts.
 The Division shall also note the assigned document number on the face of the order and shall return both the order and one copy of the certificate to the adopting agency.

**15:5-4.16 ACCESS TO DOCUMENTS**

Every document accepted for filing by the Division shall be secured in a file maintained for the purpose in the order of its filing by the Division. Any person shall, upon request, be afforded opportunity to examine any document so maintained.

**Rules of Administrative Procedure—continued****15:5-4.17 COPIES OF DOCUMENTS; FEES**

Except as provided at Section 3.7 of this Chapter (Judicial Notice), any person shall be provided, not less than 12 hours after receipt of written request therefor, an electrostatic copy of any filed document at a cost of one dollar per page. Such copy will be certified upon payment of a fee of \$2 per document. Under no circumstances will any filed document be released from the custody of the Division except upon direct court order or at the direction of higher executive authority.

Cross reference note: "Fees and Costs,"  
See N.J.S.A. 22A:4-1.

**15:5-4.18 UNFILED RULES**

Any purported rule not incorporated in a filed document shall, on and after September 1, 1969, be deemed unenforceable and of no legal effect. On and after March 15, 1970, the Division, upon written request therefor, shall issue its certificate attesting to the presence or absence in its file of a document incorporating a purported rule.

**15:5-4.19 PRE-FILED RULES**

The rules of any agency which were accepted for filing by the Office of the Secretary of State prior to September 1, 1969, shall continue in full force and legal effect until the effective date of an order of the adopting agency providing otherwise. Pre-filed rules shall be permanently maintained in a file separate from documents accepted for filing after September 1, 1969, until such time as the provisions of such rules are codified, except that upon incorporation into the official codification a copy of the rule so codified shall be substituted for the copy of the rule originally filed. The copy of the rule as originally filed shall be initially assigned to an archives file maintained for the purpose and, not less than six months after substitution of the codified rules, shall be transferred to the State Library for inclusion in the official archives.

**15:5-4.20 EMERGENCY RULES**

In the event an agency finds that an imminent peril to the public health, safety or welfare requires adoption and enforcement of a rule upon fewer than 20 days' notice, it may proceed to adopt the rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable. The Division will accept for filing any document reporting the adoption of an emergency rule, waiving and without regard to the provisions of Sections 4.2 (Notice of Intention), 4.8 (Opportunity to be Heard), 4.7 (Record of Opportunity) and 4.15 (Certificate of Filing) of this Chapter; however, the provisions of Section 4.5 (Order of Adoption) to the extent not inconsistent with this section, will in no event be waived.

**15:5-4.21 CERTIFICATE OF EMERGENCY**

Any agency adopting an emergency rule pursuant to Section 4.20 of this Chapter shall prepare and present to the Division at the time of presentation of the rule for filing, a Certificate of Emergency which shall include the following information:

- The order adopting or changing the rule;
- A written statement describing the imminent peril necessitating emergent proceeding;
- A certificate of the adopting officer attesting to the facts set forth in the statement.

**15:5-4.22 RATIFICATION OF EMERGENCY RULE**

Any rule, adopted and filed as an emergency rule, is a permanent rule of the adopting agency without difference or distinction from non-emergent rules. To the extent feasible, however, it is requested that in the event an emergency rule is not designed to be of general applicability and continuing effect or that in the event the emergency condition to which it responds is transient or correctable, that such rule be repealed at the earliest possible moment. In the event, however, the rule is intended to have continuing legal effect, it is urged the adopting agency, as soon as possible after adoption and filing of the rule, proceed to publish its notice of adoption and to afford to the public an opportunity to be heard regarding the emergency rule. Upon completion of such proceedings, the provisions of the waived sections may be complied with and the rule accepted for re-filing with appropriate documentation without in anywise disturbing its effective date.

**15:5-4.23 EXEMPT RULES**

Any exempt rule, except an emergency rule, may be adopted, filed and enforced at any time without prior public notice or opportunity to be heard.

**15:5-4.24 FILING OF EXEMPT RULES**

Any agency adopting an exempt rule may submit to the Division for filing an order adopting such rule, prepared to the extent appropriate pursuant to Section 4.5 of this Chapter, accompanied by a brief statement describing the exemption claimed for the rule and the reasons therefor.

### SUBCHAPTER 5 CODIFICATION OF DOCUMENTS

**15:5-5.1 DOCUMENTS SUBJECT TO CODIFICATION**

No document shall be codified by incorporation in the Code except by direction of the Director. No document shall be refused codification except:

- Any document not prepared, processed or filed pursuant to the provisions of this Chapter;
- Any document incorporated by reference pursuant to Section 5.3 of this Chapter;
- Any document the publication of which is prohibited by judicial order or by directive of higher authority;
- Any document the filing of which is contested before a court of this State, and concerning which no final adjudication has been rendered;
- Any document reporting the adoption of an exempt rule, the codification of which is deemed by the Director, in consultation with the adopting agency, to be unnecessary or inappropriate;

(f) Any document the publication of which is deemed by the Division to be unduly cumbersome, expensive or otherwise inexpedient, provided, however, such document is made available by the adopting agency on application thereto, without charge or otherwise, and provided further that there be published in the Code in lieu of such document, a notice stating the general subject matter of the omitted document and stating the manner in which a copy thereof may be obtained.

**15:5-5.2 DOCUMENTS REQUIRING CODIFICATION**

Every document reporting the adoption of a public rule shall be subject to codification. All such documents shall be drafted as amendments to the Code and shall be prepared in accordance with the provisions of this Chapter before presentation to the Division for filing. Each such document shall contain, in addition to information required pursuant to Section 4.5 of this Chapter, a statement precisely describing the effect of such document upon existing provisions of the Code.

**15:5-5.3 INCORPORATION BY REFERENCE**

(a) No document shall be incorporated into the Code by reference except by order of the Director. Any agency will be authorized to incorporate by reference, as an official rule adopted pursuant to statute, which rule shall be binding on every person and enforceable without recitation of the text in the Register or the Code, text adopted from any of the following kinds of publications:

- New Jersey Statutes Annotated
- United States Code
- New Jersey Session Laws
- Code of Federal Regulations
- Federal Register
- Any uniform system of accounts published by the National Association of Regulatory Utility Commissioners

(7) Any generally available standard published by any of the standardizing organizations listed in the United States Department of Commerce Miscellaneous Publication 288, issued August 1, 1967, or supplements thereto or reissues thereof, or

(8) Any other generally available publication approved by the Division.

(b) Any document incorporated by reference must be made available for public inspection by the adopting agency and must, in addition, be available in printed or processed form either from the adopting agency or from the original source or both, either without charge or for a reasonable fee.

(c) Any agency requesting the incorporation of any document by reference shall prepare and submit at the time of such request the text of a notice to appear in the Code in lieu of the text of the document pursuant to Subsection 5.1(f) of this chapter (Documents Subject to Codification).

**15:5-5.4 ASSISTANCE IN PREPARATION**

To assure the most expeditious processing of documents, the Division shall, upon request of any adopting agency, consult with and advise the agency regarding the preparation of documents for filing. It is requested the Division be notified of the necessity or intention to prepare a document at the earliest practicable moment. The Division will maintain no official record of consultation with any agency regarding the preparation of documents nor will it release to any person not specifically authorized by the adopting agency any information regarding the proposed document. Consultation with and advice to any adopting agency pursuant to this section shall be strictly confidential and shall in no way prejudice any determination of the Division in connection with the eventual presentation for filing of the document.

**15:5-5.5 STRUCTURE OF THE CODE**

The text of all rules shall be published in the Code in sections and chapters, serially numbered, in the manner of their adoption, or in such order as prescribed by the Director in accordance with the provisions of this subchapter. The Director may number or renumber any material published in the Code, may further divide or combine existing material, and he may provide for appropriate digests, indices and other related material. The Director will not change the language of any rule, except that of a title, heading, or explanatory notation.

**15:5-5.6 TITLE**

The Code is divided into a series of titles consecutively numbered by Arabic numbers. Each of the 16 principal departments [see Department of State, Directory of State Officers, Judges, etc., August 1969, page 2, "Members of Governor's Cabinet"] is assigned a title number. Additional titles are provided as follows:

- Title 1 - Chief Executive
- Title 17 - Treasury -- Taxation
- Title 19 - Miscellaneous
- Appendix - Organization Manual of New Jersey State Government

**15:5-5.7 SUBTITLE**

Each title is divided into a series of subtitles consecutively lettered by capital letters and each reflecting a principal constituent suborganization of the principal department, empowered by statute or by authority of the Commissioner (in writing and filed with the Division) to issue or to enforce administrative rules. Subtitles will reflect the enforcement or operating agencies of the department rather than its adopting agencies.

**15:5-5.8 CHAPTER**

Each title (n.b., not subtitle) is divided into a series of chapters consecutively numbered by Arabic number. Each chapter should be identified with and comprehensive of the rules pertaining to a single program or policy project of the State Government.

**15:5-5.9 SUBCHAPTER**

Chapters may be divided into two or more subchapters consecutively numbered by Arabic numbers. A subchapter should group rules immediately related one to the other.

**15:5-5.10 SECTION**

Each subchapter will be divided into a series of sections consecutively numbered by Arabic numbers. Each section should constitute a single proscription or admonition binding upon the public or item of information of assistance or information to the public. The provisions of each section may be either substantive or procedural or a combination of both.

**15:5-5.11 SUBDIVISION OF SECTIONS**

(a) At the discretion of the adopting agency and with the concurrence of the Division, sections may be subdivided into subsections (lower case letter in parentheses), paragraphs (Arabic number followed by period) and subparagraphs (Roman number followed by period).

(b) Where subdivisions of a section constitute part of a single sentence and it is desired the parts be numbered (e.g., list of items), they should appear consecutively numbered by Arabic numbers followed by a period.

(c) In the interest of assuring each section contains an indivisible rule no section should contain an indented paragraph. However, where indents are unavoidable, these should be numbered as subsections.

**15:5-5.12 PARTS, DIVISIONS, ARTICLES, GROUPS, ETC.**

At the discretion of any adopting agency and with the concurrence of the Division, any title, subtitle, chapter or subchapter may be divided into designated "parts," "articles," "groups" or "divisions" consecutively lettered by capital letters. Such special lettering shall reflect a peculiar organization or program distribution within the adopting agency. Such special segregation is inconsistent with the normal presentation of material in the Code and is discouraged. In any event, such unusual separations of the Code will not interrupt the sequence of chapter, subchapter and section numbers of the units they combine.

**15:5-5.13 UNDESIGNATED CENTERED DESCRIPTIVE HEADINGS**

Undesignated descriptive headings may be inserted to group related sections as required. Such headings, to the extent they promote greater utility of the Code, are encouraged.

**15:5-5.14 SECTION DESIGNATION IN THE CODE**

Each section of the Code shall be preceded by the complete section designation, including the title number followed by a colon, the chapter number followed by a dash, the subchapter number followed by a period, and the section number.

**15:5-5.15 RESERVATION OF UNITS**

In the event an adopting agency, during the process of the codification of its pre-filed rules or during the process of the drafting of new rules, can anticipate the addition in the future of new or transferred program responsibilities, an appropriate number of chapter numbers should be reserved. Similarly, in the event the addition of a series of related rules within a chapter can be anticipated, appropriate subchapter numbers could be reserved. Reserved chapter and subchapter numbers shall be designated in the text of the document as follows:

"Chapter 25. [Reserved]"

or

"Subchapter 6. [Reserved]"

Any adopting agency may request reservation of unit numbers in advance of publication of the affected material. A list of reserved chapter and subchapter numbers should be prepared setting forth the descriptive heading anticipated for each. Concurrence of the Division in the request of the adopting agency may be expected provided only there is demonstrated realistically possible future need.

**15:5-5.16 INSERTION OF NEW UNITS BETWEEN EXISTING UNITS**

Where the introduction of any new chapter, subchapter or section becomes necessary, the newly introduced unit shall be designated by the addition of a capital letter suffix to the preceding unit number. For example, a chapter introduced between chapters 5 and 6 of Title 2 should be designated Chapter "2.5A"; a subchapter introduced between subchapters 10 and 11 should be designated Subchapter "2.5-10A"; and a section introduced between sections 4 and 5 should be designated Section "2.5-10.4A." When a number of such new chapter, subchapter, or section numbers have been introduced, the entire portion of the title, chapter or subchapter shall be recodified.

**15:5-5.17 VACATED NUMBERS**

Whenever a number is vacated by a repeal or rescission, its text shall be removed from the Code and there shall be substituted an explanatory note in brackets such as the following:

15:5-4.14 Private Hearing [Repealed, R.1973, d.45, effective July 1, 1973.]

### SUBCHAPTER 6

#### EXPLANATORY DOCUMENTATION

**15:5-6.1 MATTER OTHER THAN TEXT**

In addition to the text of any rule, there shall appear in the Code explanatory documentation as provided in this subchapter. Explanatory documentation should be prepared by the adopting agency, inserted in the text of the rule and incorporated in the document presented for filing. Explanatory documentation is the primary responsibility of the Division; however, no changes in documentation recommended in the filed document will be effected without consultation with the adopting agency. In the event such documentation is not included in a filed document, the Division reserves the authority to prepare and introduce such documentation without consultation with the adopting agency.

**15:5-6.2 STRUCTURE**

(a) Following the title page of each title, there shall be included a listing of subtitles and chapters by citation and heading. Where appropriate, subtitle designations and headings should be centered and chapter designations and headings should be presented in two columns beneath such subtitle designations.

**Rules of Administrative Procedure—continued**

(b) Following the designation and heading of each chapter, there shall be included a listing of subchapters and sections by designation and heading. Where appropriate, subchapter designations and headings should be centered and section designations and headings should be presented in two columns beneath such subchapter designations.

**15-5-6.3 FORWARD**

It may be appropriate to introduce the regulatory system of a chapter with a description of its scope, general purpose or history. Such information shall be designated "Forward" and shall be printed in indented italics preceding the heading of the first subchapter of the chapter.

**15-5-6.4 HEADING**

(a) Each section of the Code shall be introduced by a brief descriptive heading. The section heading shall follow the section number in the same line and shall precede the text on a separate line.

(b) Each title, part, chapter, subchapter and similar additional division of the Code shall bear a brief descriptive caption which shall appear in full on a separate line or lines preceding the text of the respective unit.

(c) A subtitle heading should be designated simply the official name of the agency responsible for the enforcement of its constituent rules. For example, Subtitle B of Title 15 should bear the caption:

"Subtitle B. Division of Administrative Procedure."

(d) A chapter heading should be designated by the abbreviated or common name of the program its provisions implement. For example, this chapter of the Code is designated:

"Chapter 5. Administrative Procedure."

(e) A subchapter caption should be designated by the subject matter common to the several rules constituting the subchapter. For example, this subchapter is designated:

"Subchapter 6. Explanatory Documentation."

**15-5-6.5 AUTHORITY NOTE**

Each section shall be followed by an indented authority note designating the statutory provision (by N.J.S.A. citation) pursuant to which the rule comprising the section was adopted. The authority note should specifically cite the section and, if appropriate, the subsection of the statute to which reference is made. Thus, this section, were it not for the exemption established in Section 6.6 of this chapter, would appear as follows:

"Authority: N.J.S.A. 52:14B-7(g)."

**15-5-6.6 BLANKET AUTHORITY NOTE**

In the event an entire subchapter, chapter or subtitle is adopted pursuant to a single statutory delegation of authority (though not necessarily as a single time or by a single document), the authority note to be appended to each section shall be omitted and there shall appear immediately following the appropriate subtitle, chapter or subchapter heading a Blanket Authority Note including, in addition to the information required in Section 6.5 of this chapter a description of the scope of such note. Thus, the authority note pertaining to this chapter appears as follows:

**Authority Note**

Unless otherwise expressly noted, all provisions of this Chapter 5 were adopted by the Director, Division of Administrative Procedure, pursuant to authority delegated at N.J.S.A. 52:14B-7(g), the Administrative Procedure Act, and were filed and became effective September 2, 1969, d.1, (Exempt, Interagency Rules).

**15-5-6.7 FILING NOTE**

Immediately following the text of each section (and as an added sentence in the text) a statement shall be inserted indicating the document number assigned by the Division to the document containing such section, the date upon which the document was filed, and the effective date of the section if other than the date of filing, subject to the following provisions:

(a) Where a rule is in effect on September 1, 1969, no statement will appear;

(b) Where a rule is filed after September 1, 1969, its text will appear in the Code followed by the statement:

R.1970, d.23, eff. February 29, 1970.

which statement indicates the section was adopted by the 23rd document filed with the Division during the calendar year 1970; or

(c) Where a rule is changed after September 1, 1969, the changed version will appear in the Code followed by the statement:

"As amended, R.1971, d.82, eff. March 15, 1971."

or

"R.1970, d.73; As amended, R.1971, d.82, eff. March 15, 1971."

which statement indicates the section was amended by the 82nd document filed with the Division during the calendar year 1971.

**15-5-6.8 HISTORICAL NOTE**

(a) Where an early version of a rule has had general currency and is widely known by either a common name or its former numerical designation, it may be appropriate to reflect renumberation of the rule resulting from codification and the pattern or development of substantive revision or amendment effected during a reasonably lengthy historical period (generally encompassing not more than a decade). A historical note might appear substantially as follows:

**Historical Note**

The last sentence extending authority to non-residents was added by the 1971 amendment.

(b) Historical notes might also reflect transfers of program responsibility from one enforcing agency to another, or a change in official agency name.

(c) Historical notes might also reflect the source of the substantive rule. Although administrative history is not

of the same importance as legislative history, it may be helpful to inform the public of the derivative history of the substantive rule. Prior existing rule systems, model or standard rules, rules of other agencies, or institutional or agency sources (interest groups, non-profit agencies, etc.) may well deserve credit for a substantive rule and, in the process, add to the meaning of the rule.

**15-5-6.9 NOTE OF DECISION**

Following the text of any rule to which such information is pertinent, there should be included whenever possible reference to judicial or quasi-judicial decisions interpreting or affecting the section.

(a) Judicial decisions: Since it is preferable to incorporate the thrust of a judicial decision within the text of an affected rule by amendment of the text itself, reference should be made in a note of decision only to the most significant of judicial decisions.

(b) Administrative adjudication: The decisions rendered by administrative agencies in quasi-judicial proceedings arising out of enforcement of their rules have neither general applicability nor continuing effect. Nevertheless, the reasoning and precedent value of such decision should be preserved and cited whenever possible. In the event a significant quasi-judicial decision is not compiled or available to the public in complete text, a note of decision should advise the manner in which a full text copy of the decision can be obtained.

**15-5-6.10 CROSS-REFERENCE NOTES**

Because the Code is structured according to governmental organization and because that organization does not necessarily group within a single agency activities of interest to a given class of user, it will be necessary to advise the user that other chapters, subchapters or sections will be of interest to him, that such other units affect the same subject matter as the noted section or that terms or phrases used in the noted section derive from similar usage in another section or are defined elsewhere in the Code.

**15-5-6.11 TABLES**

(a) Cross-reference tables: Agencies which have previously published codified rules may find it helpful to prepare cross reference tables during the drafting and before filing of new rules systems. These tables should list the old section designation, identifying for each the new designation, and (in a separate table) list the new section designation, identifying for each the comparable old designation.

(b) Other tabular material: In addition to cross-reference tables, it may be of assistance to present additional tabular material concerning the rules in the Code. All tables will appear following the numbered sections in each chapter under the designation "table" or "tables" and will be cited as follows:

"N.J.A.C. 15-5-table"

**15-5-6.12 INTERNAL REFERENCES**

All references to codified documents shall be in terms of the specific title, chapter, subchapter and section intended. Non-specific references such as "herein," "above," "below," and the like shall not be used except as provided in this section. All documents referring to material published in the Code shall include the formal Code citation in such reference.

(a) References between titles of the Code: Unless the intended reference is precisely expressed and undue or awkward repetition would result, references between titles, that is, a reference in one title made to material codified within another, shall be set forth as a formal citation. Following such citation, a descriptive reference to the section intended, usually based on the heading of the section referenced, should be inserted parenthetically.

(b) References within titles: Reference made to material codified in the same title but in a different chapter shall identify the unit and its number followed by "of this Title." Immediately following the reference a brief description of the intended material, usually based on its heading, should be inserted parenthetically.

**SUBCHAPTER 7**

**PREPARATION OF DOCUMENTS**

**15-5-7.1 GENERAL REQUIREMENTS**

All documents submitted to the Division for publication or filing shall conform to the requirements of this subchapter. Request for deviation will be honored only upon demonstration of undue expense or delay occasioned by adherence to the requirements.

**15-5-7.2 NUMBER OF COPIES**

Each agency shall prepare and present to the Division one original and one legible copy (electrostatic or equivalent) of each document submitted for publication in the Register or the Code. Each agency shall prepare and submit to the Division two certified copies of each rule submitted for filing.

**15-5-7.3 LETTERS OF TRANSMITTAL**

Letters of transmittal are not required in connection with the submission of documents for publication or filing. Such letters will be accepted, however, and should be used whenever special processing is desired. A letter of transmittal does not constitute a document nor shall its contents be considered accepted, approved or filed by the Division merely by reason of its receipt thereof.

**15-5-7.4 STANDARD REQUIREMENTS**

Each document submitted for filing or publication shall conform to the following requirements:

- (a) Paper — 20 lb. bond or heavier;
- (b) Size — 8 1/2 inches by 13 inches;
- (c) Typewritten — on one side only;
- (d) Margins —
  - (1) Top and bottom — 1 1/2 inches
  - (2) Left side — 2 inches
  - (3) Right side — 1 inch

(e) Pagination — each page to be numbered consecutively at bottom-center. Indicate total number of pages in parenthesis at bottom left of the first page as follows: "On 12."

(f) Binding — pages must be securely fastened. It is suggested:

- (1) 2 to 10 pages — single staple, upper left hand corner;
- (2) 11 to 25 pages — two staples spaced evenly in left margin;
- (3) 26 to 50 pages — two or three heavy staples, or equivalent, evenly spaced in left margin;
- (4) 50 to 100 pages — Acco fastened (without binder), or equivalent, in left margin;
- (5) More than 100 pages — either multiple volumes of not more than 100 pages each, or suitable permanent binding.

**15-5-7.5 PRINTED MATTER**

Printed matter submitted to the Division for publication or filing shall be trimmed or mounted to the standard size established for documents at Section 7.4 of this Chapter. If of sufficient brevity, printed matter should be retyped; otherwise, mounted permanently (glue or paste) on appropriate paper.

**15-5-7.6 SIGNATURES**

Every document submitted to the Division for filing pursuant to this Chapter, must bear the original signature of the authorized adopting officer, or, must be certified according to law as an identical copy of an original document executed by an authorized adopting officer. Every notice, order or report submitted to the Division pursuant to this Chapter, otherwise required to be filed, must bear an original or facsimile signature of the authorized adopting officer or an agent or representative authorized previously and in writing to act for such officer.

**15-5-7.7 STYLE; PUNCTUATION; CAPITALIZATION; ORTHOGRAPHY**

Agencies should be guided in the preparation of documents in matters relating to style, spelling, punctuation, etc. by the following reference works:

Federal Register, Handbook on Document Drafting  
United States Government Printing Office Style Manual  
Webster's Third New International Dictionary, Unabridged.

**NOTICE OF PROPOSED CHANGES  
IN STATE AGENCY RULES**

The following digests, notices, and texts of rules, regulations and codes filed by Administrative Agencies during the preceding month have been prepared by the Office of the Director of the Division of Administrative Procedure, Department of State, pursuant to Section 4 (a) (1) and Section 7 (b) of Chapter 410 of the Laws of 1968.

**NOTICE OF ADOPTION OF AN EMERGENCY  
RULE OF THE DEPARTMENT OF  
CONSERVATION AND ECONOMIC  
DEVELOPMENT**

Notice is hereby given that pursuant to N.J.S.A. 13:1B-45, the Commissioner of Conservation and Economic Development has adopted the following emergency rule without hearing or prior notice pursuant to Section 4(c) [N.J.S.A. 52:14B-4(c)] of the Administrative Procedure Act:

STATE OF NEW JERSEY  
DEPARTMENT OF CONSERVATION AND  
ECONOMIC DEVELOPMENT  
TRENTON, NEW JERSEY

**CONSERVATION ORDER DATED SEPTEMBER 1, 1969  
I. CLOSING CERTAIN BEDS**

WHEREAS the Maurice River Cove Section of the Shell Fisheries Council and the Oyster Research Laboratory have stated that certain of the shellfish beds in the tidal waters of the Delaware River, Delaware Bay and tributaries are in a depleted condition and have recommended that they be closed, and

PURSUANT to the recommendations of the aforementioned, which I have examined and feel to be correct and in the best interests of conservation, and

PURSUANT to the powers vested in me by the statutes in such case made and provided,

IT IS HEREBY ORDERED that the following beds be closed to the taking of shellfish on September 1, 1969 and shall remain closed until further notice:

Maurice River from its source up to a point commonly known as the Summer Line, better described in N.J.S.A. 50:3-14.

**II. OPENING CERTAIN BEDS**

WHEREAS the Maurice River Cove Section of the Shell Fisheries Council and the Oyster Research Laboratory have recommended that certain oyster beds in Delaware Bay below what is commonly known as the Southwest Line (described in 50:3-7 R.S.) that are now closed be opened, and

WHEREAS, the Maurice River Cove Section of the Shell Fisheries Council and the Oyster Research Laboratory have recommended that certain oyster beds in the said waters that are now closed be opened, and

WHEREAS, I am satisfied that the recommendations of the aforementioned are accurate and correct and that it would be in the best interests of conservation to open the same, and

PURSUANT to the powers vested in me by the statutes in such case made and provided

IT IS HEREBY ORDERED that all creeks above and below the Southwest Line be opened on September 1, 1969 for the taking of three inch oysters by tonge, except those creeks which have been condemned by the New Jersey

**Department of Conservation and Economic Development—continued**

State Department of Health (see N.J.A.C. 9:40-284\*) and shall remain open until further notice. Each working day shall begin at 7 A.M. and close at 3 P.M. Eastern Daylight Time or Eastern Standard Time, whichever prevails.

Robert A. Roe, Commissioner  
Department of Conservation  
and Economic Development

DATED: September 1, 1969

\*Copies of N.J.A.C. 9:40-284 are available upon request to the Division of Administrative Procedure, 10 North Stockton Street, Trenton, New Jersey 08608. (609) 292-6060.

**(a)**

**NOTICES OF PROPOSED CHANGES IN THE RULES OF THE NEW JERSEY STATE BOARD OF EDUCATION**

Notice is hereby given that the Commissioner of Education, pursuant to the authority delegated him in N.J.S.A. 18A:70-3, proposes to amend his rules relating to the transportation of children cared for in any Child Care Center (N.J.A.C. 8:26-8, Transportation) as follows:

8:26-8 Transportation of Children to and from Child Care Centers (formerly Rules 1611 through 1615, Rules of the Commissioner).

(Pursuant to N.J.S.A. Title 18A:70-3)

(See Also: N.J.A.C. 8:21-1 et seq., Rules and Regulations of State Board of Education, Transportation of Pupils in Small Vehicles)

(a) Qualification of Drivers (formerly Rule 1611, Rules of the Commissioner)

[The person responsible for transportation of children] A driver transporting pupils to and from any child care center shall [make certain that each driver possess an appropriate license.] possess a valid School Bus Driver's License issued by the Division of Motor Vehicles. [is] He shall be a reliable person of good moral character and [is] not less than 21 years of age.

**NOTE:**

A parent transporting only his own child or children on a for-hire basis will not be required to possess a School Bus Driver's License. If, however, the parent in this case utilizes a vehicle which has a capacity greater than 6, the Division of Motor Vehicles will require the driver to possess a Special Bus Driver's License as required by N.J.S. 39:3-10.1.

(b) Vehicle Specifications (formerly Rule 1612, Rules of the Commissioner)

- (1) No small vehicle, as defined in N.J.A.C. 8:21-90, shall carry more than [11] 16 children; there shall be no standees.
- (2) When [12] 17 or more children are transported, the vehicle shall comply with all the bus specifications prescribed by rules [1401-1489] 8:21-90 - 8:21-106 N.J.A.C.
- (3) The body and equipment of every small vehicle shall conform to the following:
  - (i) Minimum seat width - 12 inches for each child; 15 inches for each adult,
  - (ii) Seats and back rests - securely fastened (no "jump-type" or folding seat will be approved), [front] forward facing, [and] spring or foam rubber upholstered. Exit from any seat in the vehicle must be clear of all obstruction. No vehicle will be approved where exit requires the folding of any seat ahead.
  - (iii) Heater capacity - 50 degrees F minimum,
  - (iv) Windshield wipers - dual,
  - (v) Rear-view mirrors - approved inside and outside. Outside mirror must be mounted on driver's side of vehicle.
  - (vi) Minimum emergency equipment - spare tire, [and] jack and at least three red reflector warning devices.
  - (vii) Chains and snow tires - [Chains or snow tires, unless the] as required by the county superintendent [determines they are not needed in that county.] of schools - must be used for safe operation in areas of snow and/or ice.
  - (viii) Fire Extinguisher - fully charged, with minimum underwriters rating of B-2, C-2, (or ½ B.C.), located at the front and to the right of the driver.
  - (ix) First-aid kit - dust proof metal unit without a lock, with the words First Aid printed on the cover and with contents to be maintained as hereinafter provided:
    - 6 - single units sterile pads 3 x 3 inches
    - 2 - 1 inch x 10 yds. bandage
    - 1 - 1 inch x 2-½ yds. adhesive
    - 12 - bandaid plastic strips
    - 1 - triangular bandage
    - 2 - paper cups
    - 1 - scissors
    - 1 - First Aid guide booklet
  - (x) Sun visor adjustable
  - (xi) Floor covering - must be non-skid material securely attached.

(c) Insurance (formerly Rule 1613, Rules of the Commissioner)

Each [center] contractor shall [keep on file a policy or certificate of] furnish liability insurance [covering children; such policy or certificate shall have been issued by a company authorized to insure in New Jersey which policy shall provide coverage of not less

than] for bodily injury or death in the following minimum amounts: \$300,000 for one person, [and not less than] \$500,000 for one accident.

Such insurance shall be through a company authorized to insure in New Jersey.

In lieu of the policy or certificate of insurance hereinbefore prescribed, self-insuring corporations may file the certificate prescribed in N.J.S. 48:4-12 and 13.

Photostat of the policy or certificate of insurance shall be attached to the Application for Certificate of Approval. The original or certified copy shall be retained on file in the child care center.

(d) Safety Practices (formerly Rule 1614, Rules of the Commissioner)

- (1) When more than six children are transported in one vehicle, there shall be another adult in the vehicle in addition to the driver.
- (2) At no time shall children be unattended in a vehicle.
- (3) All small vehicles shall be inspected semi-annually by the Division of Motor Vehicles, in cooperation with the County Superintendent, who shall notify each center of the schedule of inspections; the responsibility for notifying the county superintendent of vehicles to be inspected shall be that of each center.
- (4) Children shall be loaded and unloaded from the curb side of the vehicle and on the right side of the street, except one-way streets.
- (5) When unloading, the driver shall make certain that a responsible person is present to take care of the child.
- (6) Each vehicle shall be uncluttered and thoroughly clean at all times.
- (7) Doors shall be opened and closed by the driver or by the attendant, and no obstacle shall obstruct clear passage to doors.
- (8) Windows shall not be more than 50 per cent open at any time.
- (9) When a tire is worn smooth or is otherwise in poor condition, the tire shall be replaced with an approvable tire.

(e) Transportation Records (formerly Rule 1615, Rules of the Commissioner)

- (1) Each center shall keep on file a list of the children transported, the distance each child is transported, the name of each driver, and the year, make and model of each vehicle used.
- (2) These records shall be available to the Commissioner of Education or his representative.

Notice is also given that any interested person may present statements or arguments in writing, orally in person or by telephone, relevant to the action proposed to Hon. Clyde E. Leib, Office of the Commissioner, New Jersey State Department of Education, 225 West State Street, Trenton, N. J., Telephone (609) 292-4040, on or before 4 p.m. on October 31, 1969.

The State Board of Education, upon its own motion or at the instance of any interested party, may thereafter adopt the above rule substantially as above set forth without further notice.

Carl L. Marburger, Commissioner of Education  
Secretary, State Board of Education

**(b)**

**NOTICE OF PROPOSED CHANGES IN THE RULES OF DEPARTMENT OF HEALTH**

Notice is hereby given that the New Jersey State Department of Health, pursuant to the authority delegated in N.J.S.A. 26:2C-8, proposes to adopt Chapter 13 of the New Jersey Air Pollution Control Code.

The proposed Chapter 13, entitled "Air Quality Standards," establishes a general ambient air quality standard and numerical air quality standards for ambient total suspended particulates and sulfur dioxide. Such standards have been formulated by the State Department of Health in order to comply with the requirements of the Federal Air Quality Act of 1967, P.L.90-148 (81 Stat. 485).

Copies of the proposed Chapter 13 may be obtained by writing to:

Hon. Richard J. Sullivan  
Director  
Division of Clean Air and Water  
Department of Health  
John Fitch Plaza  
Trenton, New Jersey 08625

At 10 a.m. on September 22, 1969, a duly announced public hearing was held in accordance with the provisions of the New Jersey Air Pollution Control Act (N.J.S.A. 26:2C-1, et seq.).

To further comply with the notice requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1, et seq.), notice is hereby given that any interested person may present or mail statements or arguments in writing relevant to the action proposed to Mr. Richard J. Sullivan at the above address on or before October 15, 1969.

After full consideration of any statement or argument presented, the State Department of Health, upon its own motion or at the instance of any interested party, may thereafter adopt the rule substantially as proposed without further notice.

Roscoe P. Kandle, M.D.  
State Commissioner of Health

**(c)**

**NOTICE OF PROPOSED CHANGES IN THE RULES OF THE NEW JERSEY DEPARTMENT OF HIGHER EDUCATION**

Notice is hereby given that the New Jersey Board of Higher Education, pursuant to the authority delegated in N.J.S.A. 18A:3-15, proposes:

1. To revise, amend, and repeal certain of its existing regulations governing county community colleges;
2. To adopt certain new regulations governing county community colleges; and
3. To codify all of its regulations governing county community colleges into a single text, thereafter to be cited as N.J.A.C.

The Board of Higher Education proposes to make the aforesaid changes in its regulations governing county community colleges in order to bring these regulations up to date and to provide the public and colleges with a single text containing all the Board's regulations governing county community colleges. The proposed single text contains all such regulations with respect to the following subjects: authorization; establishment; governance; degrees; certificates and diplomas; curriculum; instruction; evaluation; personnel; admissions and student personnel services; finance; physical facilities; library-learning resources; and off-campus facilities.

Interested persons may obtain a copy of the proposed regulations governing county community colleges by writing or calling Mr. Terrence Tollefson, Director, Community Colleges, Department of Higher Education, 225 West State Street - 4th Floor, Trenton, New Jersey 08623, telephone (609) 292-4470. Copy of the proposed regulations is available for public inspection at the offices of the Division of Administrative Procedure, 10 North Stockton St., Trenton, New Jersey 08608.

Notice is also given that persons who wish to present statements or arguments concerning the proposed regulations may present their views in writing, orally in person or by telephone to Mr. Tollefson, at the address or telephone given above, on or before 5:00 p.m., Wednesday, October 15, 1969.

After full consideration of all written and oral submissions respecting the proposed regulations, the New Jersey Board of Higher Education, upon its own motion, may thereafter adopt the regulations substantially as proposed above and without further notice.

Ralph A. Dungan, Chancellor  
New Jersey Department of  
Higher Education

**(d)**

**NOTICE OF PROPOSED CHANGES IN THE RULES OF THE NEW JERSEY RACING COMMISSION, DEPARTMENT OF THE TREASURY**

Notice is hereby given that the New Jersey Racing Commission, pursuant to authority delegated to it by N.J.S.A. 5:5-30, is considering the amendment of Rule 278 of the Rules and Regulations adopted April 18, 1968 of the Division of Racing Commission regarding Jockey Mount Fees, such that upon amendment the rule would provide as follows (additions indicated in bold face thus; deletions indicated within brackets [thus]:

278. Jockeys' riding fees in the absence of a contract shall be as follows:

In each race on the flat, for purses \$2,000.00 [and over] to \$3400.00:

- Rider of winning mount [\$50.00] 10 per cent.
- Rider of second mount [\$40.00] \$45.00
- Rider of third mount [\$30.00] \$35.00
- All losing mounts [\$25.00] \$30.00

For purses \$3400.00 to \$4900.00

- Rider of winning mount 10 per cent
- Rider of second mount \$50.00
- Rider of third mount \$40.00
- All losing mounts \$30.00

For purses \$5000.00 and up

- Rider of winning mount 10 per cent
- Rider of second mount \$55.00
- Rider of third mount \$45.00
- All losing mounts \$35.00

Notice is also given that the New Jersey Racing Commission will conduct a public hearing to receive written and oral statements regarding the amendment under consideration.

Interested persons are invited to attend the hearing at the offices of the Division of Racing Commission at 28 West State Street, Trenton, N.J. 08625 on Tuesday, October 7, 1969 at 1:00 P.M.

Persons desiring to present all statements at this hearing must request such opportunity in writing on or before Friday, October 3, 1969, in order that such statements may be included in an agenda.

Written statements received at any time prior to October 15, 1969 as well as all statements presented at the public hearing will be given full consideration in connection with the above proposal.

After full consideration of all written and oral submissions respecting the proposed amendment, the New Jersey Racing Commission, upon its own motion, may thereafter adopt the amendment substantially as set forth above and without further notice.

John J. Reilly, Secretary,  
New Jersey Racing Commission,  
for the Commission.

**NOTICE OF CHANGES IN THE PRACTICE  
OF RULES OF THE DIVISION OF TAX  
APPEALS, DEPARTMENT OF THE  
TREASURY**

Notice is hereby given that the Division of Tax Appeals, Department of the Treasury, pursuant to authority delegated it in N.J.S.A. 54:2-14, has amended its Rules of Practice (N.J.A.C. 17:18-13(d)).

This amendment was filed and became effective September 4, 1969, (Exempt, Practice Rules), as R.1969, d.3.

**17:18-13 Petitions of Appeal**

**(a) Signing and Verification; In General**

The petition may be signed and verified by the petitioner, by an attorney-at-law of New Jersey, or, in certain cases, by the petitioner's authorized agent. A petition of appeal of a corporation or an association shall be executed and verified by an officer thereof or by an attorney-at-law of New Jersey.

**(b) Signing and Verification; Appeal by Taxing District**

Where the appeal is taken by a taxing district it shall be in the name of said district and the petition shall be executed by an officer duly authorized by the governing body thereof or by the attorney for the taxing district.

**(c) Petition of Appeal; Two or More Parcels**

Where two or more parcels of real estate are included in one petition, the Division may require a separate petition in the case of each parcel. Where such is the case, the petitioner may file substituted petitions, which shall be deemed to have been filed in time if the original petition was so filed.

**(d) Petition of Appeal; Contents**

The petition of appeal shall set forth the full name of the petitioner and recite in clear and concise fashion the matter in controversy, and the action, determination or judgment appealed from. It shall likewise contain a description of the subject matter involved, stating the valuation made by the taxing authority, the year for which the assessment was levied, the block, lot number and street number where the property was assessed; also full and complete information as to the land, including the size of the lot, the square foot area of the lot, a description of the buildings and structures thereon, if any, and the use thereof; and in case of income producing property, shall detail the income and expense of operation. No petition shall fix any sum as the value of the property in question but shall contain a general prayer that the assessment be "increased" or "decreased" to the true value thereof. The petition, or its endorsement, shall further set forth the name and address of appellant and of respondent and the name and address of appellant's agent or attorney, where the appeal is instituted through an agent or attorney, for the purpose of service of papers in connection with the appeal. Where appellant appears pro se, his address shall appear in the petition, or its endorsement, for the same purpose.

In any appeal before the Division, pursuant to R.S. 54:1-35.4 (involving the State School Aid Table or pursuant to R.S. 54:2-37 (the County Equalization Table), the party making the appeal shall in its petition of appeal state clearly and fully the nature of its case and the legal issues involved. If the exclusion or inclusion of a specific sale or sales in the table appealed from is sought in the appeal, the party appealing should specifically describe the sale or sales, the classification of the sale or sales, and its reason or reasons as to why the sale or sales should have been excluded or included in the table.

**(e) Petition of Appeal; Execution**

Any petition may be executed and verified by the taxpayer or an attorney-at-law of New Jersey. In case the taxpayer is unable to sign and verify the petition by reason of illness, incapacity or absence from the State, or for any other reasonable cause, it may be executed and verified by his duly authorized agent, which agent shall attach his affidavit, specifying that he is authorized to take the appeal and giving the reasons for the inability or failure of the taxpayer to sign and verify the petition.

**(f) Petition of Appeal; Discrimination**

Whenever an appeal shall be based upon discrimination, the Petition of Appeal shall contain, in addition to the information hereinabove set forth, the following:

(1) The ratio (common level) alleged to exist between assessments in the municipality and the true values thereof.

(2) The Petition of Appeal shall further contain a general prayer that the assessment be increased or decreased (as the case may be) to the same level and standard of value used in levying assessments on other properties in the taxing district.

Kenneth D. McPherson, Secretary  
Division of Tax Appeals