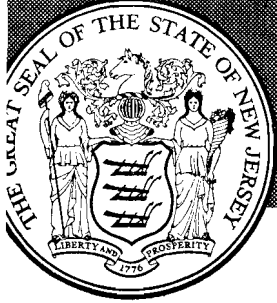


NEW JERSEY REGISTER



THE STATE'S OFFICIAL MONTHLY RULES PUBLICATION

BRENDAN T. BYRNE, Governor

Howard H. Kestin, Director, Office of Administrative Law

G. Duncan Fletcher, Director of Administrative Procedure

Peter J. Gorman, Rules Analyst

VOLUME 12 • NUMBER 5

May 8, 1980 • Indexed 12 N.J.R. 233-296

(Includes rules filed through April 17, 1980)

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NOTICES OF RULE-MAKING ACTIVITIES OF STATE AGENCIES

(a)

OFFICE OF ADMINISTRATIVE LAW

Proposed Amendments to Rules of Administrative Hearings

Howard H. Kestin, Director, Office of Administrative Law, pursuant to authority of N.J.S.A. 52:14F-1 et seq., proposes to repeal N.J.A.C. 15:15-10 and adopt new Uniform Administrative Procedure Rules which will be cited as N.J.A.C. 1:1.

Title 1, which is now reserved for Chief Executive, will be retitled Uniform Administrative Procedure Rules of Practice.

The proposed rules have been modified in response to numerous comments received after the initial announcement to adopt that was published on September 6, 1979 at 11 N.J.R. 479(a).

Full text of the proposed rules follow.

TITLE 1

UNIFORM ADMINISTRATIVE PROCEDURE RULES OF PRACTICE

CHAPTER 1

RULES OF GENERAL APPLICATION

SUBCHAPTER 1. APPLICABILITY, SCOPE, CITATION OF RULES, CONSTRUCTION AND RELAXATION

1:1-1.1 Applicability; scope

(a) This chapter shall govern the conduct of all contested cases in the Executive Branch of the State Government,¹ whether conducted by the Office of Administrative Law or by the agencies themselves pursuant to statute.² In the event of conflict between this chapter and any other agency rule, this chapter shall prevail. Procedural rules formerly adopted by the agencies shall continue to apply to the extent they are not inconsistent with this chapter, with statutory requirements or with constitutional standards. Under N.J.S.A. 52:14F-5(e) no agency other than the Office of Administrative Law may hereafter adopt any rules to regulate the conduct of contested cases and the rendering of administrative adjudications.

(b) The following Uniform Administrative Procedure

rules are not intended to apply to contested cases heard in agencies exempt under N.J.S.A. 52:14F-8:

1. N.J.A.C. 1:1-5.2
2. N.J.A.C. 1:1-5.5
3. N.J.A.C. 1:1-9.7

¹See L. 1978, c. 67, §5 (N.J.S.A. 52:14F-5).

²L. 1978, c. 67 §10 (N.J.S.A. 52:14F-8) or L. 1968, c. 410, §2(a) (N.J.S.A. 52:14B-2(a)).

1:1-1.2 Citation of rules

This chapter shall be referred to as the "New Jersey Uniform Administrative Procedure Rules, 1980" and may be cited as, e.g. N.J.A.C. 1:1-1.2.

1:1-1.3 Construction and relaxation; parties appearing without attorneys (pro se)

(a) This chapter shall be construed to secure just determinations, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any procedural rule may be relaxed or dispensed with by a judge if adherence to it would result in unfairness or injustice. In the absence of rule, a judge may proceed in any manner compatible with these purposes.

(b) This chapter shall not be applied to impose excessive burdens upon pro se parties; formal requirements, particularly, shall be relaxed for their benefit. Time requirements shall not be relaxed unless the interests of justice manifestly require. Ultimate standards of proof and the burdens of production and persuasion shall not be relaxed.

1:1-1.4 Definitions and applications

As used in this chapter, the term

"Agency head" means the person or body authorized by law to render final decisions in contested cases.

"Clerk" means the Clerk of the Office of Administrative Law or any such scheduling or docketing officer designated by the head of an agency, pursuant to N.J.S.A. 52:14F-8 or N.J.S.A. 52:14B-2(a), to oversee the administration of contested cases.

"Judge" means an administrative law judge of the State of New Jersey or, pursuant to N.J.S.A. 52:14F-8 or N.J.S.A. 52:14B-2(a), any other person presiding over a hearing in a contested case or, depending on the context, authorized by law to do so.

"Party" means any person or entity directly involved in a contested case, including a petitioner, respondent, intervenor, or State agency proceeding in any such capacity.

NEW JERSEY REGISTER

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

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The New Jersey Register (USPS 442-950) is published the first Thursday after the first Monday of each month by the Division of Administrative Procedure of the Office of Administrative Law, 10 North Stockton Street, Trenton, New Jersey 08608. Telephone: (609) 292-6060. Subscriptions, payable in advance, are one year, \$15.00, monthly back issues when available, \$1.50. Make checks payable to: Division of Administrative Procedure.

POSTMASTER: Send address changes to: New Jersey Register, 10 North Stockton Street, Trenton, New Jersey 08608. Controlled Circulation Postage paid at Trenton, New Jersey.

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"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. N.J.S.A. 52:14B-2.1

1L.1978, c.67, amending the Administrative Procedure Act and establishing the Office of Administrative Law to conduct hearings in contested cases provides, in § 9 (N.J.S.A. 52:14F-7), that it is the prerogative of the agency heads "to determine whether a case is contested. . . ." It is the statutory obligation of the Director of the Office of Administrative Law, *inter alia*, to "develop uniform standards . . . (regulating) the conduct of contested cases and the rendering of administrative adjudications" (N.J.S.A. 52:14F-5e) and to "advise agencies concerning their obligations under the Administrative Procedure Act. . ." (N.J.S.A. 52:14F-5h).

1:1-1.5 The nature of a contested case

(a) Pursuant to the statutory definition, a matter is a contested case where, by virtue of statute or constitutional requirement, a hearing is required before a State agency to determine rights, duties, obligations, privileges, benefits or other legal relations of specific parties. The required hearing must be pre-eminently adjudicatory and judicial in nature and not informational or intended to provide a forum for the expression of public sentiment on proposed agency action. A matter which is susceptible to administrative resolution avoiding factual or legal dispute is not a contested case. Therefore, in order for a matter to be a contested case which must be heard by an administrative law judge:

1. A hearing must be required by statute or constitutional provision; and
2. The matter must not be susceptible of informal resolution on the administrative level (See N.J.A.C. 1:1-5.4); and
3. The required hearing must be designed to result in an adjudication concerning the rights, duties, obligations, privileges, benefits or other legal relations of specific parties over which there exist disputed questions of fact, law, or disposition.

(b) Where specific parties and the general public are involved in one proceeding, both the constitutional/statutory basis and the adjudicatory character requirements of contested cases are satisfied only by the specific parties who will be affected by the outcome substantially, specifically, and directly.

1:1-1.6 The characteristics of contested cases

(a) Within the scope of the controlling requirements in N.J.A.C. 1:1-1.5, the following are some of the qualities of contested cases:

1. Contested cases involve genuinely disputed questions of fact, law, or result, requiring findings, interpretations, or applications to be made.
2. Parties in contested cases may include:
 - i. Particular individuals; or
 - ii. Specific businesses or other entities, including governmental agencies; or
 - iii. Finite groups of individuals, businesses, or other entities with related interests.
3. Contested cases resolve questions relating to the rights, entitlements, and obligations of specific parties even in large, but defined, groups. They do not deal with broad policy issues affecting entire industries or large and undefined classes of people. In some instances an agency's matters may be contested cases (judicial) in part and uncontested cases (legislative or regulatory) in part. It is

necessary in each such matter to determine whether the issues can be fruitfully separated or whether the needs of fairness, efficiency, and thoroughness require the issues to be handled in a single, integrated proceeding.

4. Contested cases deal with factual, legal, or dispositional issues relating to past, current, or proposed activities or interests of particular parties.

5. Contested cases are adversary proceedings involving particular parties. An agency itself may be an adversary party.

6. Contested cases involve subject matter susceptible to the receipt of evidence or particularized legal argument, i.e., concerning the rights or interests of particular parties as opposed to the community at large or loosely defined segments thereof.

7. In a contested case, the final action in the matter will tend to be particular and immediate in effect, though possibly long range. It will relate to specific parties. The final action will not be general and in futuro affecting broad, undefined groups of people or entities.

8. A case is contested if the factual issues to be determined are such that fairness requires a particular party:

- i. To know fully the factual bases upon which the agency decision will rest;
- ii. To meet those facts with evidence of its own which characterizes them or rebuts them; or
- iii. To cross-examine to test the validity and solidity of those factual bases.

9. A case is contested if the legal issues in the matter are such that the personal or property rights of a particular party will be adversely affected in a special way by an interpretation or application of law or agency rule or regulation.

1:1-1.7 The characteristics of matters which are not contested cases

(a) Matters are not contested cases when they may be categorized as follows:

1. Adjudicatory hearings not required by constitutional rule but required by statute for the purpose of affording, e.g., "interested parties the opportunity to present their positions," where the case will not result in a direct disposition of the rights, duties, obligations, privileges, benefits or other legal relations of the "interested parties."

2. Objector or general public hearings, where there is no statutory or constitutional right to an adjudicatory hearing and the hearing which is held will not result in a direct or specific disposition of the rights, duties, etc., of the "objector" or "public parties" as individuals.

3. Matters which will affect the rights of a specific party, but where there is neither a statutory nor a constitutional right to an adjudicatory hearing.

4. Hearings, whether required by statute or not, which are legislative in nature; i.e., designed to make known a proposed rule, regulation, or general policy and to receive views from the general public; and where the proceeding will not result in a disposition of specific rights of specific parties for whose benefit the hearing is held.

5. Hearings, whether required by statute or not, involving inquiry which is general in respect of a policy decision and is designed to determine whether a contemplated standard should or should not apply to the public generally or to everyone in a field of activity which the agency is authorized to regulate, rather than to individual parties.

1:1-1.8 Agency responsibility before transmission to the Office of Administrative Law

Agencies should not transmit uncontested cases to the Office of Administrative Law before the cases are perfected and issue is joined. Matters will continue to commence and terminate in the agencies themselves. Agencies

should attempt to resolve or adjust matters administratively by explaining fully to the parties affected the proposed agency action and the factual information and legal authority upon which it is based. Where it would be fruitful, agencies should also continue to apply or develop procedures for resolving particular types of contested matters informally on the administrative level. (See N.J.A.C. 1:1-5.4.)

1:1-1.9 The Attorney General's function

When a question arises whether a particular matter is a contested case, legal advice should be obtained from the Attorney General's Office.

SUBCHAPTER 2. COMMENCEMENT OF CONTESTED CASES; JURISDICTION OF THE OFFICE OF ADMINISTRATIVE LAW

1:1-2.1 Commencement of contested cases in the State agencies; form

A contested case shall be commenced in the State agency with appropriate subject matter jurisdiction. A contested case may be commenced by the agency itself or by an individual or entity as provided in the rules and regulations of the agency adopted in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and subject to the requirements of subchapter 6 of this chapter.

1:1-2.2 Jurisdiction of the Office of Administrative Law

(a) The Office of Administrative Law shall acquire jurisdiction over a matter only after it has been determined to be a contested case by an agency head and has been filed in the Office of Administrative Law or as otherwise authorized by law, except as provided by subchapter 14 of this chapter.

(b) The Office of Administrative Law shall not receive, hear or consider any pleadings, motion papers, or documents of any kind relating to any matter until it has acquired jurisdiction over that matter, except as provided by subchapter 14 of this chapter.

(c) Matters referred to the Office of Administrative Law that are more appropriately handled by administrative resolution without a contested case hearing shall be returned to the agency by the clerk or judge unless the Director, Office of Administrative Law has approved a request for administrative assistance under N.J.S.A. 52:14F-5o, or N.J.A.C. 1:1-5.4(d). That a statute or constitutional principle may provide for a hearing shall not be dispositive of whether efforts at administrative resolution may be more appropriate than a contested case hearing in the particular circumstances.

SUBCHAPTER 3. CONDUCT OF CONTESTED CASES GENERALLY

1:1-3.1 Public hearings; records as public; exceptions

(a) All evidentiary hearings, proceedings on motions and other applications shall be conducted as public hearings unless otherwise provided by statute, rule or regulation, or on order of a judge for good cause shown. Pre-hearing conferences and settlement conferences may be conducted in public or in closed session at the judge's discretion. The record of all hearings shall be open to public inspection, but the judge may, for good cause shown, order the sealing of the record or any part thereof.

(b) In considering whether to make an exception to the public hearing and public record standards of subsection (a) of this section, the judge shall consider the requirements of due process of law, other constitutional and statutory standards and matters of public policy. The judge shall also consider the need to protect against unwarranted disclosure of sensitive financial information or

trade secrets, to protect parties or witnesses from undue embarrassment or deprivations of privacy, or to promote or protect other equally important rights or interests. The treatment of testimony or exhibits shall be on such terms as are appropriate to balance public and private rights or interests and to preserve the record for purposes of review.

1:1-3.2 Expedition; settlement conferences; special time requirements; inactive list

(a) Hearings and other proceedings in contested cases shall proceed with all reasonable expedition and, to the greatest extent possible, shall be held at one place and shall continue, except for brief intervals of the sort normally involved in judicial proceedings, without suspension until concluded.

(b) The judge may schedule conferences prior to the hearing to reach agreement upon as many matters as possible.

(c) The clerk or judge may establish a specially accelerated or decelerated schedule of proceedings or time limits to meet statutory requirements or the special needs of the parties or the particular case.

(d) The parties shall promptly advise the clerk and the judge of the happening of any event which might delay the conduct of the case.

(e) If the judge determines by affidavit or other competent proof that a party to a pending case is unable to prosecute or defend without substantial inconvenience, the case may be placed on an inactive list established for this purpose for a period not to exceed six months. The clerk shall return this case to an active status after six months have expired unless by affidavit or other competent proof a party indicates that the party's inability to proceed continues. The clerk shall notify all parties and the agency of any action taken under this section.

1:1-3.3 Verbatim record of proceedings; sound and stenographic recordings; requesting transcript; cost

(a) All proceedings in the presence of a judge, except settlement discussions, shall be recorded verbatim either by a stenographic reporter or by sound recording devices, or both.

(b) Any party, or person with a legitimate need may obtain a transcript of any proceeding which has been sound recorded by filing a request with the clerk and by notifying all parties. Unless the requesting party is a State agency, the request shall be accompanied by a \$100 security deposit for each day or fraction thereof of the proceeding. The clerk shall promptly arrange for the preparation of the transcript with a copy for the case file. Upon completion of the transcript, the clerk shall bill the requesting party for the preparation of the transcript and the copy. Upon receipt of payment, the clerk shall forward the original transcript to the requesting party and shall return the deposit.

(c) Any party may obtain an unofficial copy of a sound recorded proceeding by making a request to the clerk accompanied by a blank standard cassette of appropriate length.

(d) Any party, or person with a legitimate need may request the appropriate stenographic firm to prepare a transcript of any stenographically recorded proceeding and shall provide notice of the request to the clerk and to all other parties. Unless the requesting party is a State agency, the stenographic firm may require a deposit. The reporter shall promptly prepare the transcript in accordance with standards established by the Office of Administrative Law and shall file a copy with the clerk at the time the original is delivered to the requesting party. The requesting party shall be charged for the copy filed with the clerk at a rate not to exceed State contract rates.

(e) Any party or person entitled by Federal statute or regulation to copy and inspect the verbatim transcript may arrange with the clerk to review any transcript filed under N.J.A.C. 1:1-3.3(b) or (d) and shall also be permitted to hear and receive a copy of any sound recorded proceeding pursuant to N.J.A.C. 1:1-3.3(c).

(f) State agencies requesting official transcripts shall make provision for payment or shall pay the cost of production at rates established under the prevailing State contract rates.

1:1-3.4 Exhibits

(a) The verbatim record of the proceedings shall include references to all exhibits and, as to each, the offering party, a brief description of the exhibit stated by the offering party or the judge, and the marking directed by the judge. The verbatim record shall also include a record of the exhibits retained by the judge at the end of the proceedings and of the disposition then made of the other exhibits.

(b) Parties should, whenever practicable, submit exhibits with a copy of each. Copies shall subsequently be conformed as to marking by the judge and shall be deposited in the clerk's file of the case. Original exhibits shall be retained in the judge's file until certified to the agency head pursuant to N.J.A.C. 1:1-16.3(d) or returned to the parties.

(c) The standard marking mode for exhibits shall be:

1. P = petitioner
2. R = respondent
3. A = agency
4. J = joint
5. C = judge
6. Such other additional markings required for clarity as the judge may direct.

1:1-3.5 Sanctions: Failure to appear; failure to comply with requirements of this chapter; obstructing the orderly conduct of proceedings

(a) If, without just excuse or because of failure to give reasonable attention to the matter, no appearance is made by or on behalf of a party on the return of a motion, at a pre-hearing conference, at a settlement conference, or on the date of hearing, or an untimely application is made for an adjournment, a judge may order any one or more of the following:

1. The payment by the delinquent attorney or party of costs, in such amount as the judge shall fix, to the State of New Jersey or an aggrieved party;
2. The payment by the delinquent attorney or party of reasonable expenses, including attorney's fees to an aggrieved party;
3. The dismissal of the petition, any claim or motion, the filing of decision by default, or the granting of the motion; or
4. Such other action as the judge deems appropriate.

(b) For failure to comply with any requirements of this chapter including but not limited to the rules requiring filing of proposed orders, affidavits, prehearing memoranda or briefs, the judge may:

1. Dismiss or grant the motion or application;
2. Suppress a defense or claim;
3. Exclude evidence;
4. Continue the proceeding and consider sanctions under subsection (a) of this section; or
5. Take other appropriate action.

(c) Any party who engages in behavior that obstructs the orderly conduct of proceedings, shall be served by the clerk with a motion for sanctions. This motion shall be argued orally before a judge other than the one presiding

over the case in which the alleged obstructive behavior occurred. On the return date, if it is determined that obstructive behavior occurred, the judge shall decide whether the matter should be referred to:

1. The courts for enforcement;
2. The New Jersey Supreme Court for disciplinary action;
3. An appropriate Ethics Committee.

1:1-3.6 Reading papers and briefs in advance

In advance of any pre-hearing conference, settlement conference, hearing on a motion, evidentiary hearing, or other proceeding, the judge shall have read and be fully familiar with all papers and briefs filed in the case.

1:1-3.7 Appearances and representation

All attorneys, pro se parties, or others permitted by law, by governing Federal regulations, or by Rule 1:21 et seq. of the New Jersey Court Rules shall be permitted to appear in a contested case and shall be subject to this chapter. Any attorney or counselor from any other jurisdiction, of good-standing there, may, at the discretion of the judge, be admitted for the one occasion to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them and who shall be present at all times during the proceedings unless excused by the judge.

1:1-3.3 Conduct of lawyers, judges and agency personnel

(a) Neither a judge nor an agency head in any contested case in the Executive Branch of State Government, except as specifically authorized by law or this chapter, may initiate or consider, ex parte, any evidence or communications concerning a pending or impending proceeding. Where ex parte communications are unavoidable, the judge or agency head shall advise all parties of the communications as soon as possible thereafter. Unless otherwise provided in this chapter or clearly inapplicable in context, the rules and standards contained in the New Jersey Court Rules governing the conduct of lawyers, judges and court personnel shall govern the conduct of lawyers, judges and agency personnel appearing in or processing contested cases in the Executive Branch of State Government.

1:1-3.9 Judge's powers

A judge shall have full power, jurisdiction, and authority to issue all orders necessary for the proper and expeditious handling of contested cases assigned for disposition.

1:1-3.10 Interpreters; payment

Any party at his or her own cost may obtain an interpreter when needed to present evidence.

SUBCHAPTER 4. TIME: COMPUTATION AND ENLARGEMENT

1:1-4.1 Computation of time

In computing any period of time fixed by rule or judicial order, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday. In computing a period of time of less than seven days, Saturday, Sunday and legal holidays shall be excluded.

1:1-4.2 Enlargement of time by order

A period of time fixed by rule or order for the doing of an act may be enlarged before or after its expiration by a judge's order for good cause shown.

SUBCHAPTER 5. FILING AND TRANSMISSION OF CONTESTED CASES IN THE OFFICE OF ADMINISTRATIVE LAW: FORMAT OF PAPERS

1:1-5.1 Determination of contest; filing

(a) After an agency proceeding has been commenced and issue has been joined, the agency head shall forthwith determine whether the matter is contested. If, after issue has been joined, any party petitions the agency to decide whether the matter is contested, the agency shall make such a determination within 10 days from receipt of the petition.

(b) When the agency determines that the case is contested, it shall either file it forthwith with the Clerk of the Office of Administrative Law in the manner provided by N.J.A.C. 1:1-5.2 or retain it under the provisions of N.J.S.A. 42:14F-8 or N.J.A.C. 1:1-5.4 and notify all parties of the decision to retain.

1:1-5.2 Transmission of contested cases to the Office of Administrative Law; service on parties; receipt by the Office of Administrative Law

(a) In every proceeding to be filed in the Office of Administrative Law, the agency shall affix to the initial papers a completed transmittal form, furnished by the Clerk of the Office of Administrative Law, containing the following information:

1. The name of the agency transmitting the case;
2. The name, address and telephone number of the agency's transmitting officer;
3. The name or title of the proceeding;
4. The agency docket or reference number;
5. A brief statement or description of the nature of the case;
6. A statement that the case is transmitted either before or after attempting administrative resolution;
7. An estimate of the total time required for the hearing;
8. Whether there are special legal requirements (State or Federal) mandating deviations from any Uniform Administrative Procedure Rule, such as the date for final decision;
9. Whether there are any special legal requirements or requests governing notice or the location of hearing;
10. Whether there are any special legal requirements or requests concerning stenographic recording of proceedings;
11. An estimate of the time needed by the agency and the parties to prepare for hearing;
12. Anticipated special features or requirements including the need for emergent or interim relief, the need for a pre-hearing conference, discovery needs, and motions;
13. The names and addresses of all parties and their attorneys to the fullest extent known, including the agency representative if the agency is a party.

(b) The completed transmittal form and all initial papers as defined in N.J.A.C. 1:1-5.3 shall be filed with the Office of Administrative Law.

(c) The clerk shall mark each transmitted contested case as having been received and filed; a docket number shall be assigned forthwith.

(d) The clerk shall notify the transmitting office and all parties of the case's filing date and the docket number assigned by the Office of Administrative Law.

1:1-5.3 Definition of initial papers

Initial papers include all documents similar to pleadings, notices and motions exchanged between the parties prior to transmission of the case to the Office of Administrative Law. They shall not include papers such as investigative reports and other evidentiary matters, review of which would be improper for an impartial and independent trier of fact prior to hearing.

1:1-5.4 Administrative resolution; Office of Administrative Law participation; time limit

(a) After a proceeding has been commenced in an agency, the agency shall make a prompt settlement attempt by applying administrative procedures including informal or summary proceedings, meetings, and conferences unless such attempts would be inappropriate or unproductive.

(b) In no event shall administrative resolution efforts continue beyond 30 days from the date the proceeding commenced in the agency, unless this time limit is extended by agreement of all the parties.

(c) After completing administrative resolution efforts in a contested case or after expiration of the time provided in subsection (b) of this section, whichever occurs first, the matter shall be filed forthwith with the clerk of the Office of Administrative Law.

(d) The agency head may request that the Director of the Office of Administrative Law assign a judge or other personnel to conduct or assist in any administrative resolution proceedings.

1:1-5.5 Format of papers; copies

(a) Every paper filed after the transmittal form and the initial papers shall contain:

1. The Office of Administrative Law docket number of the proceeding in the upper right hand portion;
2. The name, address and telephone number of the person who prepared the paper in the upper left hand portion; and
3. A caption setting forth the title of the proceeding and a brief designation describing the paper filed.

(b) All papers shall be on 8½" x 11" stock of customary weight and quality insofar as is practicable.

(c) All papers filed with the Office of Administrative Law shall be in duplicate.

(d) Unless otherwise required by this chapter, the requirements of R. 1:4-1 through R. 1:4-9 of the New Jersey Court Rules (Form and Execution of Papers) shall apply. Format rules may be relaxed as is reasonable and necessary for the benefit of parties appearing pro se.

SUBCHAPTER 6. FIRST PLEADING

1:1-6.1 Form of first pleading; contents

(a) The first pleading in a contested case may be in the form of a petition, complaint, an order to show cause, a notice of action or proposed action, or in any other form permitted by the agency's rules and regulations. The first pleading shall be one of the initial papers provided in N.J.A.C. 1:1-5.3.

(b) The first pleading shall be addressed to a specific party or parties, shall satisfy the service requirements of N.J.A.C. 1:1-7.1, and shall contain:

1. A statement of the legal authority and jurisdiction under which the hearing or action to be taken is to be held;
2. A reference to the particular sections of the statutes and rules involved;
3. A short and plain statement of the matters of fact and law asserted; and
4. Any other information required by concepts of fairness and justice before a party can be bound.

1:1-6.2 First pleading requirement

Every contested case must have a paper that conforms with the first pleading requirements of N.J.A.C. 1:1-6.1, however, the paper need not have been the first document prepared or served in the case or the document that generates the proceedings.

1:1-6.3 Amendment of first pleading

The first pleading may be amended at any time, either

before or after the presentation of proofs when, in the judge's discretion, an amendment neither imposes an unreasonable burden nor is precluded by statute or constitutional principle. A judge in granting first pleading amendments may permit a brief continuance to allow an opposing party additional preparation time.

SUBCHAPTER 7. SERVICE AND FILING OF PAPERS

1:1-7.1 Service; when required; manner; proof

(a) Service of the first pleading in a contested case shall be made in person; or by certified mail, return receipt requested; or by ordinary mail; or in any manner which is designed to provide actual notice to the party or parties to be substantially, specifically and directly affected thereby, and to any other person or persons provided in the rules and regulations of the agency.

(b) All subsequent papers filed shall be served in the manner provided by this section upon all attorneys of record in a proceeding and upon all parties appearing pro se.

(c) Where necessary to prove service, proof may be made by an acknowledgement of service signed by the attorney or party, or by an affidavit of the person making service, or by a certificate of service appended to the paper to be filed and signed by the attorney for the party making service. Where appropriate, other competent proof that actual and timely notice existed of the contents of the paper may be considered as a substitute for service.

(d) Service by mail of any paper referred to in subsection (b) of this section, shall be complete upon mailing.

(e) The standards of personal service contained in R. 4:4-4 of the New Jersey Court Rules shall apply to contested cases when personal service is required and this section is inapplicable.

1:1-7.2 Filing; proof of publication and service; what constitutes filing

(a) All papers required to be served by N.J.A.C. 1:1-7.1 (b) shall be filed either before service or promptly thereafter unless otherwise provided by order. Whenever these rules or the applicable rules of any agency provide for publication, mailing or posting of public notices in contested cases, proofs thereof shall be filed within 20 days after the publication, mailing or posting.

(b) A paper shall be considered filed if the original or a clear copy is filed with the clerk or with the judge assigned to the case. Evidence of filing shall be a notation showing the date, time and place of filing. When a paper is filed with a judge, the notation shall also identify the judge; and such papers shall be forwarded to the clerk forthwith.

(c) Except for service by publication or as otherwise required in this chapter, proof of service shall not be necessary unless a question of notice arises.

(d) Subject to the requirements of N.J.A.C. 1:1-2.2, the clerk shall file all papers presented for filing, and may notify the person filing if such papers do not conform to this chapter.

SUBCHAPTER 8. SCHEDULING AND CONDUCT OF PROCEEDINGS GENERALLY; FIRST NOTICE OF HEARING OR PREHEARING CONFERENCE; SUBPOENAS

1:1-8.1 Scheduling of proceedings: clerk's function; judge's function

(a) When a contested case is filed, the clerk shall mark the papers accordingly and shall expeditiously determine whether the matter should be set down for a pre-hearing conference, an evidentiary hearing or another type of proceeding. The clerk may consult with a judge in making this determination. The case shall then be assigned to a

judge who shall review the file and determine how the matter can best be conducted on the scheduled date or dates, communicating further with the parties if necessary. Except in cases of genuine, emergent need, the scheduled date or dates shall not be adjourned. If additional days are needed to conclude the proceeding, the judge shall establish an expedited schedule and peremptory dates.

(b) Applications for adjournments, whether consented to or not, shall be made to the clerk until such time as the parties shall have personally appeared before a judge. Thereafter, applications for adjournments shall be made to the judge.

1:1-8.2 Notice of proceeding; abandonment

(a) After filing, the clerk shall prepare a notice of hearing, pre-hearing conference, or other proceeding and shall serve the same in a manner authorized by N.J.A.C. 1:1-7.1(a) to all parties. The notice shall fairly apprise the parties of the date, time, place, and nature of the proceeding.

(b) All parties shall be afforded timely and adequate notice of any hearing or other proceeding, consistent with the requirements of statutes, regulations and due process of law. In emergent circumstances, where the public interest is endangered or the need is great, five days notice or a shorter period established by statute, order, or agreement of the parties shall be deemed to be timely and adequate.

(c) All parties shall receive subsequent notices of all proceedings in any contested case. Subsequent notices shall fairly apprise the parties of the date, time, place and nature of a proceeding and may be either written or effected by a statement made on the record.

(d) In all contested cases initiated by a person's request for a hearing, if neither the person requesting the hearing nor a representative appears at the time and place established for the hearing, a reasonable effort shall be made to determine whether the hearing request has been abandoned. Unless precluded by statute or regulation, the judge in the event of an abandonment shall prepare an order of dismissal explaining the failure to appear, which order shall be processed as an initial decision in the manner authorized by N.J.A.C. 1:1-16.3.

1:1-8.3 Subpoenas: Service; motion to quash

(a) Subpoenas may be issued either by the clerk or any judge. A subpoena shall state the title of the case, the party who has requested the subpoena and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein.

(b) A subpoena shall be served by the requesting party at a reasonable time in advance of hearing either in person or by certified mail return receipt requested.

(c) The judge on motion made promptly may quash or modify any subpoena for good cause shown.

1:1-8.4 Subpoenas for production of documentary evidence; motions to quash

A subpoena may require production of books, papers, documents or other objects designated therein, but a subpoena shall not be used as a discovery device in place of discovery procedures otherwise available under this chapter, nor as a means of avoiding discovery deadlines established by this chapter or by the judge in a particular case. The judge on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive and may condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the objects subpoenaed. The judge may direct that the objects designated in the subpoena be produced before the

judge at a time prior to the hearing or prior to the time when they are to be offered in evidence and may upon their production permit them or portions of them to be inspected by the parties and their attorneys.

1:1-8.5 Subpoena fees; forms; enforcement

(a) The fees for witnesses required to attend shall be at the same rates as are prescribed by law for attendance under subpoena in the Superior Court of the State and shall be paid by the requesting party.

(b) Subpoena forms shall be available free of charge at the Office of Administrative Law.

(c) Any subpoena may be enforced by an action in the Superior Court in aid of the jurisdiction of the Office of Administrative Law and the agency which generated the contested case.

(d) A party who refuses to obey a subpoena after having been ordered to do so by a judge may be subject to sanction under N.J.A.C. 1:1-8.5 or may suffer an inference that the documentary or physical evidence or testimony that the party fails to produce is unfavorable.

SUBCHAPTER 9. MOTIONS

1:1-9.1 When and how made; generally

(a) An application for an order shall be by motion or, in special cases, by order to show cause. A motion other than one made by a party during a hearing, shall be in writing unless a judge permits it to be made orally. No technical forms of motion are required. A motion shall state the grounds upon which the motion is made and the relief or order sought.

(b) All motions shall be accompanied by a proposed form of order unless waived by the judge.

(c) All motions shall be filed with the clerk except motions made during a hearing, other motions permitted by a judge to be made orally, and emergency motions. If an extra copy of the motion and a self addressed stamped envelope, is provided, the clerk shall mark the copy filed and return it to the movant. Motions made during a hearing and other motions permitted by a judge to be made orally shall be subject to the verbatim record requirements of N.J.A.C. 1:1-3.3. Emergency motions made in writing may be filed with the clerk or with the judge assigned to the case. When a motion is filed with the clerk it shall be transmitted forthwith to the judge assigned to the case. When a motion is filed in a case which has not yet been assigned to a judge, the case shall be immediately assigned and the motion transmitted to the judge along with the case file.

(d) Motions filed in advance of a scheduled hearing date shall be scheduled for decision before that hearing date unless otherwise directed by the judge.

(e) During the pendency of a contested case, interim relief, including temporary restraints and interlocutory injunctions, may be applied for by motion.

(f) A motion for substantially the same relief as that previously denied shall specifically identify the previous proceeding and its disposition.

1:1-9.2 Motions in writing; generally, no oral argument; time limits

(a) With the exception of motions made pursuant to N.J.A.C. 1:1-9.6(b) and (d), when a motion is in writing no action shall be taken thereon until at least 20 days have expired from the date of service upon the opposing party unless an expedited schedule is ordered for the purpose of complying with N.J.A.C. 1:1-9.1(d) or for other good cause shown.

(b) The moving papers shall establish a submission date at least 20 days from the date of service upon the opposing

party, when the matter will be submitted to a judge for disposition. Proof of service shall be filed with the moving papers or promptly thereafter.

(c) The opposing parties shall file and serve responsive papers no later than 10 days after receiving the moving papers.

(d) The moving party may file and serve further papers responding to any matter raised by the opposing party and shall do so no later than five days after receiving the responsive papers.

(e) All motions in writing shall be submitted for disposition on the papers unless an oral argument is directed by the judge. When oral argument is directed by the judge, a motion shall be considered submitted for disposition at the close of argument. All motions shall be decided within ten days after they are submitted for disposition.

(f) The time requirements of this rule may be modified in the discretion of the judge for good cause.

1:1-9.3 Procedure when oral argument is directed

(a) When oral argument is directed on a motion the clerk or the judge shall serve upon the parties a notice complying with the requirements of N.J.A.C. 1:1-8.2(c).

(b) The judge may hear the matter wholly or partly on oral testimony or on depositions, and may direct any affiant to submit to cross examination.

(c) Provided that all parties consent to the method and appropriate terms as shall be established by the judge, including provision for sound recording, the matter may be orally argued by conference telephone call.

1:1-9.4 Affidavits; briefs and supporting statements

(a) Motions and answering papers shall be accompanied by all necessary supporting affidavits and briefs or supporting statements. All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall set forth only facts which are admissible in evidence under subchapter 15 of this chapter and to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in such affidavits may be annexed thereto.

(b) In the discretion of the judge, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 1:1-9.2 or as ordered by the judge.

1:1-9.5 Disposition of motions; drafting the order

(a) When a motion has been made in writing, the judge shall render a decision on the motion by signing or modifying and signing the proposed order filed with the motion and shall have the order served forthwith upon the parties. When a motion has been made orally, the judge may render a decision either orally on the record or by a written order served forthwith upon the parties.

(b) The prevailing party on oral motion shall draft an appropriate order, unless waived by the judge. This order shall be submitted to the judge on five days notice to all parties who may, within that time period, submit to the judge on notice to the parties alternative forms of order.

1:1-9.6 Motions for emergency relief

(a) Opposing parties shall be given ample opportunity in the circumstances to respond to a motion for emergency relief.

(b) A party may apply for emergency relief under circumstances which do not permit an opposing party to be fully heard. A grant of relief pursuant to such a motion shall be based upon:

1. A showing of specific facts by affidavit or oral testimony that the moving party has made an adequate, good

faith effort to provide notice to the opposing party, or that notice would defeat the purpose of the application for relief; and

2. A finding that immediate and irreparable harm will probably result before adequate notice can be given; and

3. A likelihood that the moving party will prevail when the motion is fully argued by all parties.

(c) Any relief granted pursuant to subsection (b) of this section shall be limited in scope and temporary for as brief a duration as is possible to allow the opposing party to be given notice and to be fully heard on the motion.

(d) When a contested case is the result of ex parte agency action, or when a judge has granted emergency relief pursuant to subsection (b) of this section, adversely affected parties shall have an opportunity to move before the judge for dissolution or modification of the ex parte action or grant of emergency relief on two days notice to the adverse party or parties.

1:1-9.7 Interim or emergency orders; review by agency head; when permitted; when not permitted

(a) On any substantive issue, an interim or emergency order that changes the status quo shall by its terms, not be effective for ten days from the entry of the order. On the day such an order is entered, the clerk shall forward a copy to the agency head who shall indicate in writing to the clerk and all parties within the specified ten day period whether the order will be reviewed. If the order will be reviewed by the agency head, its effective date shall be stayed pending such review subject to the provisions of subsections (c) and (d) of this section. If the agency head elects not to review the order it shall be effective on the eleventh day after its entry.

(b) On any substantive issue, an interim or emergency order that preserves the status quo shall, by its terms, be effective immediately. On the day such an order is entered, the clerk shall forward a copy to all parties and the agency head who shall indicate in writing to the clerk and all parties within ten days from the entry of the order whether the order will be reviewed. Within 10 days from the entry of the order and upon notice to all other parties and the clerk, any party may file a motion with the agency head seeking relief from the order unless such a motion is prohibited by the agency's rules or regulations.

(c) When an agency head indicates that an order dealing with a substantive issue will be reviewed, the entire record in the case to the date of order, including a written memorandum setting forth the basis of the order, shall be certified to the agency head. Within thirty days after receiving the record and memorandum, the agency head shall affirm, reject or modify the judge's interim or emergency order. This time limit may be extended by the Director of the Office of Administrative Law and the agency head for good cause shown.

(d) Review by the agency head of any interim or emergency order shall not cause a delay in scheduling hearing dates or result in a postponement of any scheduled hearing dates unless the judge assigned to the case determines that a postponement is necessary because of special requirements of the case, possible prejudice, or for other good cause.

(e) An agency head may not review any administrative law judge's order dealing primarily with procedural matters, appeals therefrom being governed by the provisions of New Jersey Court Rule 2:4-1(b) and (c).

SUBCHAPTER 10. PRE-HEARING PROCEDURES AND CONFERENCES

1:1-10.1 Pre-hearing procedures and conferences

(a) In appropriate cases, the clerk shall advise the par-

ties or their attorneys that a pre-hearing conference will cover those matters listed in subsection (c) of this section. In advance of the conference, upon no less than three days notice, the parties may be advised by the judge that other special matters will be discussed at the pre-hearing conference.

(b) In the judge's discretion in an appropriate case, and upon no less than 10 days' notice, the parties may be required to file with the judge and serve upon all other parties no later than three days before the scheduled pre-hearing conference, pre-hearing memoranda stating their respective positions on any or all of the matters specified in subsection (c) of this section or on other special matters specifically designated.

(c) Within 10 days after the conclusion of the pre-hearing conference, the judge shall enter a written order in the following sequence and with corresponding numbers, concisely setting out the matters determined at the conference.

1. The nature of the proceeding and the issues to be resolved including special evidence problems;
 2. The parties and their status, e.g., petitioner, respondent, intervenor, etc.;
 3. Any special legal requirements as to notice of hearing;
 4. The schedule of hearing dates and the time and place of hearing;
 5. Stipulations as to facts and issues;
 6. Any partial settlement agreements and their terms and conditions;
 7. Special provisions for discovery;
 8. Order of proofs and witnesses;
 9. A list of exhibits marked for identification;
 10. A list of exhibits marked in evidence by consent;
 11. Any limitation on the number of expert witnesses;
 12. Motions pending and granted;
 13. Requests for emergency or interim relief;
 14. Any direction with respect to the filing of briefs;
 15. Any statutory requirements mandating the date of agency head decision;
 16. Other special matters determined at the conference;
 17. In the event that a particular member or associate of a firm is to try a case, or if outside trial counsel is to try the case, the name must be specifically set forth. No change in such designated trial counsel shall be made without leave of the judge if such change will interfere with the date for hearing. If the name of trial counsel is not specifically set forth, the judge and opposing parties shall have the right to expect any partner or associate to proceed with the trial on the day of hearing.
- (d) The parties shall be deemed to have consented to any of the terms or procedures established in the order if they do not file and serve objection to the form of the order within five days after receiving it.

SUBCHAPTER 11. DISCOVERY

1:1-11.1 Policy considerations governing discovery

(a) Discovery methods are means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of other parties and persons affected. Accordingly, parties are obliged to exhaust all less formal opportunities to obtain discoverable material before utilizing this subchapter.

(b) Public documents accessible under legislative authorization shall not be discoverable under this subchapter, except for good cause shown. A party need only exhaust administrative remedies to obtain public documents before seeking discovery under this subchapter for good cause.

(c) Discovery shall generally not be available against a

State agency that is not a party to the proceeding, i.e., not asserting a position in respect of the outcome but is rather providing the forum for the dispute's resolution.

(d) It is not ground for denial of a request for discovery that the information to be produced may be inadmissible in evidence at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(e) When discovery by notice is permitted, the notice seeking discovery need not be filed with the clerk, but shall be served upon all parties.

1:1-11.2 Methods available on notice; relief from discovery; enforcement of discovery notices

(a) Subject to the limitations of N.J.A.C. 1:1-11.1(a), (b) and (c), any party in a contested case by notice may obtain discovery by one or more of the following methods:

1. Written interrogatories;
2. Production of documents or things;
3. Permission to enter upon land or other property for inspection and other purposes;
4. Physical and mental examinations; and
5. Requests for admissions.

(b) Any party or person affected by a notice for discovery pursuant to N.J.A.C. 1:1-11.2(a) may apply on motion for relief from such request, or for an order enforcing such request. In considering a discovery motion the judge shall weigh the specific need for the information; its relevance and materiality; the extent to which the information is within the control of the party; undue hardship; and matters of expense, privilege and oppressiveness.

(c) All discovery motions under this section when decided by an administrative law judge are procedural and therefore not subject to review by an agency head.

1:1-11.3 Depositions limited; no agency review

(a) Depositions upon oral examination or written questions are available only on motion for good cause shown. In deciding any such motion, the judge shall consider the policy governing discovery (N.J.A.C. 1:1-11.1) and shall weigh the specific need for the deposition; the extent to which the information sought cannot be obtained in other ways; the requested location and time for the deposition; undue hardship; and matters of expense, privilege or oppressiveness.

(b) Any deposition motion when decided by an administrative law judge is procedural and therefore not subject to review by an agency head.

1:1-11.4 Costs of discovery

(a) The proponent of any notice or motion for discovery shall pay for all reasonable expenses and costs caused by the discovery request.

(b) A party taking a deposition shall pay for the proceeding and shall at his or her expense promptly furnish a copy of the transcript to the witnesses deposed, if an adverse party, and if not, to any adverse party. The copy so furnished shall be made available to all other parties for their inspection and copying.

1:1-11.5 Time for discovery

(a) The parties may commence at any time to exchange voluntarily, to seek discovery through legislation that provides access to public documents or to exhaust other less formal means of obtaining discoverable material.

(b) The parties must complete all discovery no later than 10 days before the first date of hearing established by the clerk or a judge pursuant to N.J.A.C. 1:1-8.1 or 8.2.

(c) In the judge's discretion, upon the motion of any party, for good cause, the time for discovery may be shortened or enlarged, and hearing dates adjusted accord-

ingly. Discovery may be permitted during the pendency of a hearing if, in the discretion of the judge, such a method would aid and expedite the hearing process.

1:1-11.6 Sanctions for discovery abuses

(a) If a motion compelling discovery is granted and the circumstances warrant sanctions, the judge shall, after providing an opportunity to be heard, consider sanctions under N.J.A.C. 1:1-3.5 against the person whose conduct necessitated the motion.

If the motion is denied and circumstances warrant sanctions, the judge shall, after providing an opportunity to be heard, consider sanctions under N.J.A.C. 1:1-3.5 against the movant.

If the motion is granted in part and denied in part the judge may apportion sanctions as the circumstances may warrant.

(b) Refusal, without just cause, to obey an order compelling discovery shall be considered obstructive behavior under N.J.A.C. 1:1-3.5(c).

1:1-11.7 Other standards governing discovery

Unless in conflict with this subchapter and subject to the discretion of the judge, the standards governing discovery and motions pertaining thereto shall be those embodied in R. 4:10 through R. 4:19, R. 4:22 and R. 4:23 of the New Jersey Court Rules.

SUBCHAPTER 12. INTERVENTION AND PARTICIPATION

1:1-12.1 Who may apply to intervene

Any person or entity not initially a party, who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

1:1-12.2 Time of motion

(a) A motion for leave to intervene may be filed at any time after a contested case is initiated.

(b) If made before a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the head of the agency having jurisdiction over the case. The agency head may rule upon the motion to intervene or may reserve decision for action by a judge after the case has been filed with the Office of Administrative Law.

(c) If made after a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the Clerk of the Office of Administrative Law.

1:1-12.3 Standards for intervention

In ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the contested case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the contested case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters.

1:1-12.4 No agency review; status of intervenor

(a) Intervention motions decided by an administrative law judge are procedural and therefore not subject to review by an agency head.

(b) Persons or entities permitted to intervene shall have all the rights and obligations of a party to the proceeding.

1:1-12.5 Alternative treatment of motions to intervene

Every motion for leave to intervene shall be treated, in the alternative, as a motion for permission to participate.

1:1-12.6 Participation; standards for participation; no agency review

(a) Any person or entity with a significant interest in the outcome of a contested case may move for permission to participate.

(b) A motion to participate may be made at such time and in such manner as is appropriate for a motion for leave to intervene pursuant to N.J.A.C. 1:1-12.2. In deciding whether to permit participation, the judge shall consider whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion.

(c) The judge shall determine the nature and extent of participation in the individual case. Participation shall be limited to:

1. The right to argue orally; or
2. The right to file a statement or brief; or
3. Both of the foregoing.

(d) Participation motions decided by an administrative law judge are procedural and therefore not subject to review by an agency head.

SUBCHAPTER 13. SUMMARY DECISION

1:1-13.1 Time of motion

At any time after a case is determined to be contested, a party may move for summary decision upon all or any of the substantive issues therein.

1:1-13.2 Motion and proceedings thereon; reviewable by agency

(a) The motion for summary decision shall be served with briefs and with or without supporting affidavits. The decision sought shall be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. The judge shall find the facts and state the conclusions in accordance with N.J.A.C. 1:1-16.3. A summary decision may be rendered on any substantive issue in the contested case although there is a genuine factual dispute as to other issues.

(b) Any summary decision on a substantive issue rendered by an administrative law judge, whether or not fully dispositive of all issues shall be treated as an initial decision under N.J.A.C. 1:1-16.3. Denials of motions for summary decision shall be treated as required by N.J.A.C. 1:1-9.5 and N.J.A.C. 1:1-9.7(b).

(c) When an agency retains a case pursuant to N.J.S.A. 52:14F-8, summary decision motions may be submitted directly to the agency head.

1:1-13.3 Contested case not fully adjudicated on motion

(a) If on motion under this section, a decision is not rendered upon all the substantive issues in the contested case and a hearing is necessary, the judge at the time of ruling on the motion, by examining the papers on file in the case as well as the motion papers, and by interrogating counsel, if necessary, shall, if practicable, ascertain what material facts exist without substantial controversy and shall thereupon enter an order specifying those facts and directing such further proceedings in the contested case as are appropriate. At the hearing in the contested case, the facts so specified shall be deemed established.

(b) Review by the agency head of any partial summary decision shall not cause delay in scheduling hearing dates or result in a postponement of any scheduled hearing dates unless the judge assigned to the case orders that a postponement is necessary because of special requirements, possible prejudice, unproductive effort or other good cause.

1:1-13.4 Opposing affidavits

(a) When a motion for summary decision is made and supported as provided by N.J.A.C. 1:1-13.2, an adverse party in order to prevail must set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. If the adverse party does not so respond, a summary decision, if appropriate, shall be entered. If it appears from the affidavits that a party is then unable to establish the existence of a genuine issue of material fact, the judge may deny the motion, may order a continuance to permit additional affidavits or discovery to be obtained, or may enter such other order as may be appropriate.

(b) If the judge is satisfied, at any time, that any party submitting an affidavit pursuant to this rule is proceeding in bad faith or solely for the purpose of delay, the judge shall consider sanctions as permitted in N.J.A.C. 1:1-3.5.

SUBCHAPTER 14. CONSOLIDATION OF TWO OR MORE CONTESTED CASES

1:1-14.1. Motion to consolidate

(a) At any time after a contested case has been filed with the Office of Administrative Law, an agency head, any party or the judge may move to consolidate other contested cases involving common questions of fact or law between identical parties or between any party to the contested case and a state agency.

(b) This section shall apply to contested cases:

1. Already filed with the Office of Administrative Law;
2. Commenced in an agency but not yet filed with the Office of Administrative Law; and
3. Commenced in an agency and not required to be filed with the Office of Administrative Law under N.J.S.A. 52:14F-8.

1:1-14.2 Form of motion; submission date; who may appear

(a) A motion to consolidate shall require the parties and the non-party agency or agencies to show cause why the matters should not be consolidated. The provisions of N.J.A.C. 1:1-9.1—9.6, shall govern such motions.

(b) If oral argument is scheduled, all parties and non-party agencies may appear or be represented on the return date of the motion to consolidate and shall be given a full opportunity to be heard.

1:1-14.3 Standards for consolidation; order to consolidate as procedural

(a) In ruling upon a motion to consolidate, the judge shall consider:

1. The identity of parties in each of the matters;
2. The nature of all the questions of fact and law respectively involved;
3. To the extent that common questions of fact or law are involved, the saving in time, expense, duplication and inconsistency which will be realized from hearing the matters together and whether such issues can be thoroughly, competently, and fully tried and adjudicated together with and as a constituent part of all other issues in the two cases;
4. To the extent that dissimilar questions of fact or law are present, the danger of confusion, delay or undue prejudice to any party;
5. The advisability generally of disposing of all aspects of the controversy in a single proceeding; and
6. Other appropriate matters.

(b) The grant or denial of consolidation by an administrative law judge is procedural and shall not be subject to review by the agency head.

1:1-14.4 Determining the predominant agency; a substantive order

(a) When a decision to consolidate is rendered, the administrative law judge shall also determine by separate order which issue or issues are common before the two or more agencies, whether one of the agencies has a predominant interest and therefore should render the final decision, or whether each agency may render its separate final decision. To determine this question, the following factors shall be weighed:

1. Whether the common issue before the two agencies is, for either agency, the sole, major or dominant issue in dispute and whether its determination would either serve to moot the remaining questions or to affect substantially their resolution;

2. Whether the allegations involve issues and interests which extend beyond the immediate parties and are of particular concern to one or the other agency;

3. Whether the claims, if ultimately vindicated, would require specialized or particularized remedial relief available in one agency but not the other;

4. Whether the common issue is clearly severable from the balance of the controversy and thus will permit non-duplicative factual and legal determinations by each agency.

(b) A decision by an administrative law judge under N.J.A.C. 1:1-14.4(a) shall be forwarded to each concerned agency and shall be considered a substantive order subject to the provisions of N.J.A.C. 1:1-9.7(a), (c) and (d).

1:1-14.5 Disposition of consolidation orders

(a) After an order of consolidation is entered, the order shall be filed with the clerk, and the Director of the Office of Administrative Law shall assign a judge to preside over the consolidated contested cases.

(b) When an order of consolidation is entered which concerns matters not theretofore transmitted to the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.2, the order shall be filed with the clerk and the Director of the Office of Administrative Law shall advise the agency or agencies involved of their obligations under N.J.S.A. 52:14B-1, et seq. and N.J.S.A. 52:14F-1, et seq.

1:1-14.6 Conduct of consolidated cases; judge's responsibility

(a) Subject to subsection (b) of this section, the judge in a consolidated case shall consider all the issues and arguments in the case and shall render a single initial decision, in the form prescribed by N.J.A.C. 1:1-16.3, disposing of all the issues in controversy and specifying the issues of concern to each agency involved. The initial decision shall thereafter be filed with the heads of all concerned agencies and served upon the parties as prescribed in N.J.A.C. 1:1-16.3. Each agency head shall then discharge the responsibilities established in N.J.S.A. 52:14B-10 in respect of that agency's subject matter jurisdiction.

(b) If one agency has been determined to have a predominant interest, the initial decision shall specify the issues subject to the predominant interest and the agency having the authority to issue a final decision on those issues.

(c) In all consolidated cases, the administrative law judge shall clearly delineate the administrative law principles upon which all legal conclusions are based and, wherever possible, should seek to harmonize conflicting theories.

SUBCHAPTER 15. EVIDENCE

1:1-15.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the

context clearly indicates otherwise.

"Burden of proof" means the obligation of a party to prove a fact either by a preponderance of the evidence or by clear and convincing evidence, as the case may be. Burden of proof is synonymous with burden of persuasion.

"Burden of producing evidence" means the obligation of a party to introduce evidence when necessary to avoid the risk of a contrary decision or peremptory finding on a material issue of fact.

"Conduct" includes all active and passive behavior, both verbal and non-verbal.

"Evidence" is the means from which inferences may be drawn as a basis of proof in the conduct of contested cases, and includes testimony in the form of opinion, and hearsay.

"Finding of fact" means the determination from proof or official notice of the existence of a fact.

"The hearing" unless some other is indicated by the context of the rule where the term is used, means the evidentiary proceeding at which the question under a rule is raised, and not some earlier or later proceeding.

"Proof" is all of the evidence before the judge relevant to a fact in issue which tends to prove the existence or non-existence of such fact.

"Perceive" means acquire knowledge through one's own senses.

"Relevant evidence" means evidence having any tendency in reason to prove any material fact.

"Verbal" includes both oral and written words.

"Material fact" means a fact legally consequential to a determination of an issue in the case.

1:1-15.2 General rules

(a) Parties in contested cases shall not be bound by statutory or common law rules of evidence or any formally adopted in the Rules of Court except as specifically provided in these rules. All relevant evidence is admissible except as otherwise provided herein. A judge may, in his or her discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will either:

1. Necessitate undue consumption of time; or

2. Create substantial danger of undue prejudice or confusion.

(b) Any party in a contested case may present his case or defense by oral and documentary evidence, submit rebuttal evidence and conduct such cross-examination as may be required, in the discretion of the judge, for a full and true disclosure of the facts.

(c) If the judge finds at the hearing that there is no bona fide dispute between the parties as to a material fact, and that fact has not been stipulated, such fact may be proved by any relevant evidence, and exclusionary rules shall not apply, except for N.J.A.C. 1:1-15.2(a) or a valid claim of privilege.

(d) These rules shall be applied to promote fundamental principles of fairness and justice and to aid in the ascertainment of truth.

(e) Except as otherwise provided in this subchapter or by law:

1. Every person is qualified to be a witness; and

2. No person has a privilege to refuse to be a witness; and

3. No person is disqualified to testify to any matter; and

4. No person has a privilege to refuse to disclose any matter or to produce any object or writing; and

5. No person has a privilege that another shall not be a witness or shall not disclose any matter or shall not produce any object or writing.

(f) Only evidence under oath or evidence subject to official notice (see N.J.A.C. 1:1-15.3) shall be admitted or considered by a judge.

(g) When the qualification of a person to be a witness, or the admissibility of evidence, or the existence of a privilege is stated in these rules to be subject to a condition, and the fulfillment of the condition is in issue, the judge shall hold a preliminary inquiry to determine the issue. The judge shall indicate to the parties which one has the burden of producing evidence and the burden of proof on such issue as implied by the rule under which the question arises. No evidence may be excluded in determining such issue except pursuant to the judge's discretion under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege. This provision shall not be construed to restrict or limit the right of a party to introduce evidence subsequently which is relevant to weight or credibility.

(h) The judge presiding at the hearing in a contested case may not testify as a witness.

1:1-15.3 Official notice

(a) Notice may be taken of judicially noticeable facts as provided in the following New Jersey Rules of Evidence: Rule 9 (Facts and Law Which Must or May be Judicially Noticed); Rule 10 (Determination as to Propriety of Judicial Notice and Tenor of Matter Noticed); Rule 11(b) and (c) (Recording and Indicating Source of Matter Judicially Noticed) and Rule 12(1) and (3) (Judicial Notice in Proceedings Subsequent to Trial).

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

1:1-15.4 Presumptions

(a) A presumption is a rebuttable assumption of fact resulting from a rule of law which requires such fact to be assumed from another fact or group of facts found or otherwise established in the contested case.

(b) No evidence offered to rebut a presumption may be excluded except pursuant to the judge's discretion under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege.

1:1-15.5 Witnesses

(a) A person is disqualified to be a witness if the judge finds the proposed witness is incapable of expression concerning the matter so as to be understood by the judge directly or through interpretation by one who can understand the witness, or the proposed witness is manifestly incapable of understanding the duty of a witness to tell the truth. An interpreter is subject to all the provisions of these rules relating to witnesses.

(b) A witness before testifying shall be required to take an oath or make an affirmation or declaration to tell the truth under the penalty provided by law. No witness may be barred from testifying because of religion or lack of it.

(c) As a prerequisite for the testimony of a witness there must be evidence that the witness has personal knowledge of the matter, or experience, training or education, if such be required. Such evidence may be provided by the testimony of the witness. The judge may exclude the testimony of a witness that he or she perceived a matter if the judge finds no reasonable basis for believing that the witness did perceive the matter. In exceptional circumstances the judge may receive the testimony of the witness conditionally, subject to the evidence of knowledge, experience,

training or education being later supplied in the course of the proceedings.

1:1-15.6 Privileges

The rules of privilege recognized by law or contained in the following New Jersey Rules of Evidence shall apply in contested cases to the extent permitted by the context and similarity of circumstances: Rule 23 (Privilege of Accused); Rule 24 (Definition of Incrimination); Rule 25 (Self-incrimination); Rule 26 (Lawyer-Client Privilege); Rule 26A-1 (Psychologist's Privilege); Rule 26A-2 (Patient and Physician Privilege); Rule 26A-3 (Information and Data of Utilization Review Committees of Hospitals and Extended Care Facilities); Rule 27 (Newspaperman's Privilege); Rule 28 (Marital Privilege-Confidential Communications); Rule 29 (Priest-Penitent Privilege); Rule 30 (Religious Belief); Rule 31 (Political Vote); Rule 32 (Trade Secret); Rule 34 (Official Information); Rule 36 (Identity of Informer); Rule 37 (Waiver of Privilege by Contract or Previous Disclosure; Limitations); Rule 38 (Admissibility of Disclosure Wrongfully Compelled); Rule 39 (Reference to Exercise of Privilege); and Rule 40 (Effect of Error in Overruling Claim of Privilege).

1:1-15.7 Expert and other opinion testimony

(a) If a witness is not testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds:

1. May be rationally based on the perception of the witness; and

2. Are helpful to a clear understanding of the witness' testimony or to the fact in issue.

(b) If a witness is testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds are:

1. Based primarily on facts, data or other expert opinion established by evidence in the contested case; and

2. Within the scope of the special knowledge, skill, experience or training possessed by the witness.

(c) Testimony in the form of opinions or inferences which is otherwise admissible is not objectionable because it embraces the ultimate issue or issues to be decided by the judge.

(d) A witness may be required, before testifying in terms of opinion or inference, to be first examined concerning the data upon which the opinion or inference is based.

(e) Questions calling for the opinion of an expert witness need not be hypothetical in form unless, in the discretion of the judge, such form is required.

1:1-15.8 Hearsay evidence; residuum rule

(a) Subject to the judge's discretion to exclude evidence under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege, hearsay evidence shall be admissible in the trial of contested cases. Hearsay evidence which is admitted shall be accorded whatever weight the judge deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability.

(b) Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness.

1:1-15.9 Authentication and content of writings

The following New Jersey Rules of Evidence shall apply to the trial of contested cases, within the discretion of the judge, to the extent necessary to assure the authenticity and reliability of writings: Rule 67 (Authentication Required); Rule 68 (Authentication of Copies of Records);

Rule 69 (Certificate of Lack of Record); Rule 70 (Original Writings as the Best Evidence; and Rule 71 (Proof of Attested Writings).

SUBCHAPTER 16. CONCLUSIONS OF HEARING: PROPOSED FINDINGS; CONCLUSIONS AND ORDER; INITIAL DECISION; EXCEPTIONS; FINAL DECISION

1:1-16.1 Conclusion of hearing

A hearing shall be deemed concluded when a consent order or withdrawal is filed or, when a judge declares it, on the verbatim record, to have been concluded; or if a schedule has been established for the subsequent filing of briefs, statements, proposed findings of fact, conclusions of law, forms of order or other disposition, or other supplemental material, when the time established for the filing of such items has expired or when the last such item has been received by the judge, whichever is earlier.

1:1-16.2 Proposed findings; briefs, conclusions and order

(a) A judge may establish a schedule for the filing of proposed findings of fact, conclusions of law, forms of order or other disposition after evidentiary proceedings have concluded or at such earlier time as the judge may for good cause order.

(b) All proposed findings of fact, conclusions of law, forms of order or other disposition shall:

1. Be accompanied by a supporting statement or belief;
2. Be in writing and served upon all other parties; and
3. Contain adequate references, in the circumstances, to the record and to authorities relied on.

(c) In establishing a schedule, the judge shall be mindful of the need for reasonable expedition and shall require the parties to conform to a schedule that may not exceed 30 days after testimony or oral argument has ended.

1:1-16.3 Initial decision

(a) As soon as is practicable after the hearing is concluded, but in no event later than 45 days thereafter, the judge shall issue and the clerk shall file with the agency head and immediately serve upon the parties an initial decision based exclusively on:

1. The competent evidence and arguments presented during the course of the hearing and made a part of the record;
2. Stipulations of fact; and
3. Matters officially noticed.

(b) The initial decision shall be final in form and fully dispositive of all issues in the case.

(c) The initial decision shall contain:

1. An appropriate caption;
2. The appearances of the parties;
3. A short statement of the nature of the proceedings;
4. Complete references to the specific statutes or regulations at issue;
5. A list of exhibits admitted in evidence which may be part of the initial decision or attached as an appendix.
6. An analysis of the facts adduced at the hearing in relation to the applicable law and covering all issues of fact and law raised in the proceedings;
7. Specific findings of fact which shall be designated as such and which shall not be set forth in statutory or conclusory language;
8. Specific conclusions of law based upon the findings of fact and applicable constitutional principles, statutes, and rules or regulations;
9. An appropriate order or other disposition of the entire contested case based upon the findings and conclusions;
10. A statement that the initial decision and the record in the proceedings is forwarded to the agency head for consideration;

11. The following statement: "This recommended decision may be affirmed, modified or rejected by (the head of the agency), who by law is empowered to make a final decision in this matter. However, if (the head of the agency) does not so act in forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10."

(c) No substantive finding of fact or conclusion of law, nor any concluding order or other disposition shall be binding upon the agency head, but rather all shall be considered recommendatory in nature unless otherwise provided by statute, these rules, or agreement between the agency head and the Director of the Office of Administrative Law.

(d) Within 10 days after the initial decision is filed with the agency head, the clerk shall certify the entire record with original exhibits to the agency head and shall serve upon the parties an inventory describing the items certified in the record.

1:1-16.4 Exceptions; replies; no motions to reconsider; motions to reopen

(a) Within 10 days from the receipt of the judge's initial decision, any party may file exceptions thereto in writing with the agency head and with the clerk of the Office of Administrative Law, serving a copy thereof on all other parties.

(b) The exceptions shall specify the particular portions of the initial decision to which exception is taken; shall designate the portions of the record relied upon in support of such exceptions; and shall set out specific findings of facts, conclusions of law or dispositions proposed in lieu of those reached by the judge or in addition thereto. Exceptions to conclusions of law shall be specific, shall briefly cite the statutory provisions or principal authorities relied upon, shall set forth conclusions suggested in lieu thereof, and shall include any proposed additional conclusions. Exceptions to the judge's order or other disposition shall set forth a form of order suggested in lieu thereof. Supporting reasons for exceptions shall be submitted in the same document or in an accompanying brief. Where briefs or statements have been filed at any time during the hearings, the written exceptions may incorporate by reference relevant portions of such papers.

(c) Within 5 days from receipt of exceptions, any party may file a reply with the agency head and with the clerk of the Office of Administrative Law, serving a copy thereof on all other parties. Such replies may include cross exceptions or submissions in support of the initial decision.

(d) Motions to reconsider an initial decision are not permitted.

(e) Motions to reopen a hearing after an initial decision has been filed, must be addressed to the agency head.

1:1-16.5 Final decision

(a) Within 45 days after the receipt of the initial decision, the agency head may enter an order or a final decision accepting, rejecting or modifying the initial decision. Such an order or final decision shall be served upon the parties and the clerk forthwith.

(b) An order or final decision rejecting or modifying the findings of fact in the initial decision shall be based upon substantial evidence in the record and matters officially noticed pursuant to N.J.A.C. 1:1-15.3. Any order or final decision rejecting or modifying the initial decision shall specify in clear and sufficient detail the nature of the rejection or modification, the reasons for it and, precisely, the changes in result or disposition caused by the rejection or modification.

(c) An agency head may enter an order remanding a

contested case to the Office of Administrative Law for further action on issues or arguments not previously raised or incompletely considered. The order of remand shall specifically state the issues or arguments to be considered, their scope and their relationship to the issues and arguments already considered. Where the agency is a party to the case, however, the agency head may not remand to the Office of Administrative Law to develop proof that, in the exercise of reasonable diligence, could have been presented by the agency at the original hearing.

(d) When an agency head enters an order or final decision accepting an initial decision, the initial decision shall immediately become the final decision in the contested case.

(e) If an agency head does not reject or modify the initial decision within 45 days and unless the period is extended as provided by statute, the initial decision shall become a final decision.

1:1-16.6 Extensions of time limits

(a) Upon certification by both the Director of the Office of Administrative Law and the agency head that good cause exists, the time limits for preparation of the initial decision, for filing exceptions and replies, and for issuing an order or final decision may be extended.

(b) Requests for extension of any period must be submitted prior to the expiration of the period.

(c) A copy of any Form of Order or request for extension of any period must be served upon each party in the case.

(d) Extensions shall not be granted if inattention or procrastination cause delay, but shall be granted if the delay is attributable to honest mistake, accident, or any cause compatible with proper diligence.

SUBCHAPTER 17. SETTLEMENTS

1:1-17.1 Form of settlements; withdrawal; motions to reopen after withdrawal

(a) When the parties to a contested case wish to settle the matter by consent, the judge assigned to the case shall prepare and enter an order, signed by both parties as to form and entry, which shall state the fact of settlement and the terms of settlement, if any. If the judge determines that the settlement is fair and fully dispositive of all issues in controversy, the order shall dismiss the matter with prejudice and may be conditioned on terms. Unless the agency is a party and has consented to the settlement, the order shall be filed with the agency head in the manner of an initial decision as provided in N.J.A.C. 1:1-16.3. When the agency as a party consents to the settlement, the consent order shall be a Final Order of Dismissal with Prejudice and shall be filed by the clerk with the agency.

(b) A party may withdraw a request for a hearing at any time until testimony at the evidentiary hearing by notifying the clerk. Upon receipt of the withdrawal notification, the clerk shall return the matter to the agency marked "withdrawn."

(c) Motions to reopen after the clerk has returned a withdrawn matter, must be addressed to the agency head.

Written comments concerning these proposed Uniform Administrative Procedure Rules may be submitted by mail to Steven Lefelt, Deputy Director, Office of Administrative Law, 185 Washington Street, Newark, New Jersey 07102 until June 1, 1980.

The Office of Administrative Law may thereafter adopt rules concerning this subject without further notice.

Howard H. Kestin
Director
Office of Administrative Law

(a)

AGRICULTURE

DIVISION OF ANIMAL HEALTH

Proposed Amendment Concerning Conformity Of Brucellosis Tests with Federal Standards

The State Board of Agriculture, pursuant to authority of N.J.S.A. 4:5-93.22, proposes to amend N.J.A.C. 2:2-2.4 concerning conformity of brucellosis tests with federal standards.

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

2:2-2.4 Conformity of brucellosis tests with Federal methods

The official brucellosis tests shall be conducted in conformity with the uniform methods and rules of the bovine brucellosis eradicate program as published by the United States Department of Agriculture APHIS-91-1, as revised [July, 1977].¹

¹Copies are filed with and may be received by writing to, Director, Division of Animal Health, New Jersey Department of Agriculture, Health-Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 28, 1980 to:

Dr. Robert E. Horton
Director
Division of Animal Health
P.O. Box 1888
Trenton, New Jersey 08625

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

Phillip Alampi
Secretary of Agriculture
Secretary, State Board of Agriculture
Department of Agriculture

(b)

AGRICULTURE

DIVISION OF REGULATORY SERVICES

Proposed Amendment Concerning Commercial Values of Primary Plant Nutrients

The State Board of Agriculture, pursuant to authority of N.J.S.A. 4:9-15.26, proposes to amend N.J.A.C. 2:69-1.11 concerning commercial values of primary plant nutrients.

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

2:69-1.11 Commercial values

(a) The State Board of Agriculture, pursuant to N.J.S.A. 4:9-15.26, determines the commercial values of primary plant nutrients to be:

1. Nitrogen: [\$3.00] \$3.30 per unit;
2. Water insoluble nitrogen: \$7.50 per unit;
3. Available phosphoric acid: [\$2.50] \$2.65 per unit;
4. Soluble potash: [\$1.50] \$1.60 per unit.

(b) These values shall be effective from July 1, [1979] 1980, through June 30, [1980] 1981.

Interested persons may present statements or arguments

in writing relevant to the proposal on or before May 28, 1980 to:

Robert C. Fringer
Director
Division of Regulatory Services
P.O. Box 1888
Trenton, New Jersey 08625

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

Phillip Alampi
Secretary of Agriculture
Secretary, State Board of Agriculture
Department of Agriculture

(a)

AGRICULTURE

DIVISION OF REGULATORY SERVICES

Proposed Amendments Concerning Agricultural Liming Materials

The State Board of Agriculture, pursuant to authority of N.J.S.A. 4:9-21.11, proposes to amend N.J.A.C. 2:70-1.1 and 2:70-1.8 concerning agricultural liming materials.

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

2:70-1.1 Limestone classified "pulverized"

Limestone shall be classified as "pulverized" when at least 98 per cent passes through a number [60] 20 sieve, 70 per cent through a number 60 sieve and 55 per cent through a number 100 sieve.

2:70-1.8 Slurries and suspensions

Agricultural liming materials when offered for sale in slurry or suspension form shall be derived from agricultural liming materials whose composition meets the requirements of the act and must be additionally labeled so as to disclose the composition (calcium oxide and magnesium oxide) of the slurry. The minimum total oxide content of the slurry that may be offered for sale is 15 per cent total oxides.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 28, 1980 to:

Robert C. Fringer
Director
Division of Regulatory Services
P.O. Box 1888
Trenton, New Jersey 08625

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

Phillip Alampi
Secretary of Agriculture
Secretary, State Board of Agriculture
Department of Agriculture

(b)

AGRICULTURE

STATE BOARD OF AGRICULTURE

Amendments Concerning Fruit and Vegetable Inspection and Grading

On March 27, 1980, Phillip Alampi, Secretary of Agricul-

ture and Secretary of the State Board of Agriculture, pursuant to authority of N.J.S.A. 4:10-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 2:71-2.28 through 2:21-2.31 concerning fruit and vegetable inspection and grading as proposed in the Notice published March 6, 1980 at 12 N.J.R. 102(a).

An order adopting these amendments was filed and became effective on April 3, 1980 as R.1980 d.140.

Howard H. Kestin
Director
Office of Administrative Law

(c)

BANKING

THE COMMISSIONER

Proposed Amendments Concerning Approved Subsidiaries

Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-60, proposes to amend N.J.A.C. 3:11-2.1 concerning approved subsidiaries which may be excluded from the liabilities of controlling corporations.

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

3:11-2.1 Exclusion from liabilities of controlling corporation

(a) A list of subsidiaries which have capital, surplus and undivided profits aggregating \$5,000,000.00 or more, and are approved as subsidiaries whose total liabilities to a bank shall be excluded from the total liabilities to the bank of the corporation which owns or controls a majority of the outstanding capital stock entitled to vote for the election of directors of such subsidiaries shall be kept on file in the office of the Commissioner of Banking. The total liabilities of such controlling corporation may also be excluded from the total liabilities of such subsidiaries when considering limitations on liability to the bank.

(b) List of subsidiaries approved under the above provision follows:

1. Bell Telephone Company of Pennsylvania, The
2. Chesapeake & Potomac Telephone Company of Maryland
3. C.I.T. Financial Corporation
- [3] 4. Creole Petroleum Corporation
- [4] 5. Duluth, Missabe & Iron Range Railroad Company
- [5] 6. General Motors Acceptance Corporation
- [6] 7. Illinois Bell Telephone Company
- [7] 8. Motors Insurance Corporation
- [8] 9. New England Telephone & Telegraph Company
- [9] 10. New Jersey Bell Telephone Company
- [10] 11. New York Telephone Company
- [11] 12. Pennsylvania Company
- [12] 13. Remington Arms Company, Inc.
- [13] 14. Transport of New Jersey
- [14] 15. Union Railroad Company
- [15] 16. Wagner Electric Corporation
- [16] 17. Western Electric Company, Inc.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Roger F. Wagner
Deputy Commissioner
Division of Banking
Department of Banking
P.O. Box CN040
Trenton, N.J. 08625

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

Angelo R. Bianchi
Commissioner
Department of Banking

(a)

BANKING

DIVISION OF BANKING

Rules Concerning Savings Banks' Deposits

On April 7, 1980, Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-184C(e) and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 3:6-8.1, concerning savings banks' deposits as proposed in the Notice published March 6, 1980 at 12 N.J.R. 103(b).

An order adopting these rules was filed and became effective on April 9, 1980 as R.1980 d.144.

Howard H. Kestin
Director
Office of Administrative Law

(b)

BANKING

THE COMMISSIONER

Emergency Amendments Concerning Interest Rates

On April 9, 1980, Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 31:1-1, as amended, and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 3:1-1.1 concerning interest rates.

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

3:1-1.1 Interest rates

(a) The maximum rate of interest to be charged, taken or received, upon a loan of any money, wares, merchandise goods and chattels, made on or after [May 11, 1979] April 10, 1980, shall be eight per cent per annum, except as herein or otherwise provided by law. Such interest shall be calculated in accordance with N.J.S.A. 31:1-1, as amended.

(b) The maximum rate of interest to be charged on loans secured by a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, consummated on or after [May 11, 1979] April 10, 1980, shall be [eight] 14½ per cent per annum. Such interest shall be calculated in accordance with N.J.S.A. 31:1-1, as amended. Any provision in a mortgage commitment contracted prior to the effective date of this section providing for an increase in interest rates to be charged

based on the highest lawful interest rate shall be null and void.

(c) (No change)

(d) Nothing herein shall be construed as being applicable to loans which are subject to the federal preemption of State usury laws contained in the Depository Institutions Deregulation and Monetary Control Act of 1980, H.R. 4986, Title V.

[(d)] (e) The rates established herein shall be effective at 12:01 A.M., [May 11, 1979] April 10, 1980, and shall remain in force until such time as this regulation is rescinded or until said rate or rates are revised by a subsequent regulation.

An order adopting these amendments was filed on April 9, 1980 as R.1980 d.151 (Exempt, Emergency Rule) to become effective on April 10, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(c)

COMMUNITY AFFAIRS

THE COMMISSIONER

Proposed Readoption of Rules Concerning Tax Exemption for Solar Facilities

Joseph A. LeFante, Commissioner of Community Affairs, pursuant to authority of N.J.S.A. 52:27D-119 et seq., proposes to readopt N.J.A.C. 5:23-6 concerning the tax exemption for solar facilities.

The current text of N.J.A.C. 5:23-6 is scheduled to expire on July 1, 1980, pursuant to action taken under the sunset provisions under Executive Order No. 66 (1978). The proposed readoption does not reflect any changes to the current text of N.J.A.C. 5:23-6.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before June 1, 1980 to:

Paul A. Massaro, Esq.
Bureau of Construction Code Enforcement
Division of Housing
P.O. Box 2768
Trenton, N.J. 08625

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

Joseph A. LeFante
Commissioner
Department of Community Affairs

(d)

COMMUNITY AFFAIRS

THE COMMISSIONER

Amendments Concerning Rules Regarding New Home Warranties And Builders Registration

On April 3, 1980, Joseph A. LeFante, Commissioner of Community Affairs, pursuant to authority of N.J.S.A.

46:3B-10, a hearing decision of the Office of Administrative Law in the matter of Building Inspection Underwriters, Inc. v. Division of Housing and Urban Renewal (OAL Docket No. CAF-1942-79) and App. Docket No. A-3363-78 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 5:25-1.3, 5:25-4.2 and 5:25-5.5 concerning the new home warranties and builders registration.

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

5:25-1.3 Definitions

“Warranty guarantor” means that person responsible for securing the warranty, required to be offered pursuant to these regulations, on behalf of a private plan. The term shall mean and include warranty administrator where a separate administrator is not established. [Such person shall be licensed by the Department of Insurance and meet at least those standards of financial responsibility applicable to companies doing business pursuant to N.J.S.A. 17:17-1(g), and shall be subject to participation in the insurance guarantee fund established by the Commissioner of Insurance pursuant to law.]

5:25-4.2(j) The private plan shall have a warranty guarantor which shall conform to all of the following requirements:

1. The Warranty Guarantor shall either possess a Certificate of Authority issued by the New Jersey Department of Insurance to write the kind of insurance specified in N.J.S.A. 17:17-1.1(g) or be designed by the Department of Insurance as an eligible surplus lines carrier under N.J.S.A. 17:22-6.45.

2. The Warranty Guarantor shall furnish to the Department satisfactory evidence that the form of any insurance policy to be used to provide coverage for the private plan has been approved by the New Jersey Department of Insurance with respect to its compliance with the provisions of State insurance law.

3. The Warranty Guarantor shall have and shall maintain an A.M. Best and Company, Inc. rating of “A” or “A+” and shall otherwise be and remain in a financial condition adequate, considering all circumstances including reinsurance arrangements, to cover the risk assumed under the private plan.

4. The terms and conditions of any insurance agreement insuring the private plan shall be subject to approval by the Department as providing the coverage with respect to the warranties required to be provided under said plan. Such terms and conditions shall not be modified or altered without the prior consent of the Department.

5. The Warranty Guarantor shall agree to provide to the Department such information concerning the settlement of claims and its financial condition as may reasonably be required to demonstrate its initial qualifications to act as a Warranty Guarantor, the performance of its obligations under the terms of its insurance agreement and its continued satisfaction of the requirements as to financial condition expressed herein.

N.J.A.C. 5:25-5.5(c)3.ii.(3) is hereby deleted.

An order adopting these amendments was filed and became effective on April 15, 1980 as R.1980 d.158 (Exempt; Procedural, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

COMMUNITY AFFAIRS

OFFICE OF THE OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY

Proposed Amendments to Rules of Practice and Procedure Concerning Subpoenas

The Office of the Ombudsman for the Institutionalized Elderly in the Department of Community Affairs, pursuant to authority of N.J.S.A. 52:27G-1 et seq., proposes to amend portions of N.J.A.C. 5:100-1.6 concerning rules of practice and procedure regarding subpoenas.

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

5:100-1.6(c)5.iii. **If, at any time during the course of an investigation a representative of this office has reason to believe that the appearance and testimony of any person, or the production of any books, documents or records is necessary in furtherance of said investigation, and the presence and testimony of such person or the production of such books, documents or records is relevant to the matter under investigation, the representative may draft a subpoena to be submitted to the Ombudsman, or his authorized designee for approval.**

5:100-1.6(d)2. Any employee of the Office of the Ombudsman [prior] may, during the course of an investigation or prior to a hearing, [may] compel at a specific time and place by subpoena the appearance of any person or [for] the production of any books, records, objects or other evidence which the Office of the Ombudsman reasonably believes may relate to the matter under investigation and which is needed for completion of said investigation. The authority for the employee to compel said appearance or documentation is pursuant to N.J.S.A. 52:27(g)(8)(d)(4)(5).

i. Prior to the compelling of production of any person and/or documentation, the representative of the Office of the Ombudsman shall discuss and communicate to either the Ombudsman or his designatee the reason for the production of either person or documentation and the belief and/or expectation of what will be obtained and the relationship to the ongoing investigation(.), and the scope of the testimony or documentation sought.

ii. Pursuant to N.J.S.A. 52:275(a), the Ombudsman may delegate his authority to approve and sign subpoenas to such of his subordinates as he sees fit. Such documentation shall be in writing and signed by the Ombudsman, and shall serve as a standing delegation of authority, to be exercised by the named delegatee only in the Ombudsman's absence, and in the manner required by these regulations.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

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

(a)

EDUCATION

STATE BOARD OF EDUCATION

Amendments on Purchase And Loan of Textbooks

On April 9, 1980, Fred G. Burke, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:58-37.1, as amended, and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 6:20-6.2 and 6:20-6.8 concerning the purchase and loan of textbooks as proposed in the Notice published March 6, 1980 at 12 N.J.R. 105(a).

An order adopting these amendments was filed and became effective on April 17, 1980 as R.1980 d.163.

Howard H. Kestin
Director
Office of Administrative Law

(b)

EDUCATION

STATE BOARD OF EDUCATION

Rules on Family Life Education

On April 8, 1980, Fred G. Burke, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:4-15, 18A:33-1, 18A:35-5, 18A:35-6, 18A:35-7 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 6:29-7.1, concerning family life education substantially as proposed in the Notice published March 6, 1980 at 12 N.J.R. 105(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Education.

An order adopting these rules was filed and became effective on April 17, 1980 or as otherwise set forth in the rules as R.1980 d.164.

Howard H. Kestin
Director
Office of Administrative Law

(c)

EDUCATION

STATE BOARD OF EDUCATION

Emergency Amendments Concerning Tuition in Public Schools

On April 9, 1980, Fred G. Burke, Commissioner of Education and Secretary of the State Board of Education, pursuant to authority of N.J.S.A. 18A:38-19 and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 6:20-3.1 and 6:20-3.4 concerning tuition in public schools.

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

6:20-3.1 Method of determining tuition rates

(a) The term "actual cost per pupil" for determining the tuition rate or rates for a given year referred to in

N.J.S.A. 18A:38-19 shall mean the cost per pupil in average daily enrollment, based upon total operating expenditures for that year for the purpose or purposes for which the tuition rate is being determined that is, four year high school, senior high school, junior high school, elementary, educable, and so forth [except maintenance and debt service, in lieu of which a rental charge of five per cent of the total original cost of the plant or plants used for the purpose or purposes for which the tuition rate is being determined, including land and equipment, and subsequent additions thereto shall be made. In any year in which the receiving district can prove to the satisfaction of the commissioner that the five per cent rental will not be adequate because of high interest rates or other just cause the commissioner may approve a higher rental allowance:].

1. - 2. (No change)

(b) (No change)

(c) Whenever it shall be impracticable to charge the actual amount expended for a particular item in the program or programs for which the tuition rate is being determined then the share of such expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

1. - 4. (No change)

6. Maintenance [shall be excluded]; salaries and all other costs: Ratio of square feet of floor space used by each program.

7. - 11. (No change)

(d) A tentative tuition rate may be set by agreement between the receiving district and the sending district, and such tentative rate shall be based upon the estimated cost per pupil for the ensuing school year, as to be reflected in the proposed budget of the receiving district:

1. - 3. (No change)

4. If the Commissioner later determines that the tentative rate was less than the actual cost per pupil during the school year for which the tentative rate was charged, the receiving district may charge the sending district all or part of the amount by which the actual cost per pupil exceeded the tentative rate, to be paid not later than during the second school year following the school year for which the tentative rate was paid. For the school year 1979-80, the additional charge is to be paid not later than during the 1982-83 school year.

(e) (No change)

6:20-3.4 Method of determining tuition rates for educable mentally retarded children

(a) The term "actual cost per pupil" for determining the tuition rate of educable mentally retarded children for a given year, referred to in N.J.S.A. 18A:46-21 as mentally retarded children, shall mean the cost per pupil in average daily enrollment based on the total operating expenditures for the year for which tuition is charged for all pupils so classified [exclusive of maintenance and debt service, in lieu of which a rental charge of five per cent of the total original cost of the plant including land and equipment and subsequent additions thereto shall be made].

1. - 2. (No change)

(b) - (c) (No change)

3. (No change)

4. Maintenance:

i. Salaries and contracted services. Ratio of square feet of floor space used for educable mentally retarded classes to square feet of floor space used for all schools;

ii. Replacement of equipment and other expenses. Ratio of square feet of floor space used for educable mentally retarded classes to square feet of floor space used for all schools.

[4.] 5. (No change in text.)

[5.] 6. Fixed charges. Ratio of average daily enrollment of educable pupils to average daily enrollment of all pupils of the school system. Tuition shall be excluded;

[i. Rental. Ratio of square footage used for educable classes to the total square footage of the building.]

An order adopting these amendments was filed and became effective on April 17, 1980 as R.1980 d.165 (Exempt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Proposed Rules on Waterfront Development and Amendments Concerning CAFRA

Jerry Fitzgerald English, Commissioner of the Department of Environmental Protection, pursuant to the authority of N.J.S.A. 13:1D-9, 13:19-16 and 17, 13:9A-2, and 12:5-3, proposes to adopt new rules and to amend existing rules concerning the regulation of coastal development.

The first proposed action is to amend the Department's Rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E). This proposal is known within the Department as Docket No. DEP 021-80-04.

The second proposed action is to adopt new rules concerning requirements for Waterfront Development permits under the Waterfront Development Law (N.J.S.A. 12:5-3). The proposed rules will be cited as N.J.A.C. 7:7-2 and are known within the Department as Docket No. DEP. 022-80-04.

Both set of proposals will be submitted to the U.S. Department of Commerce-National Oceanic and Atmospheric Administration (NOAA) as part of the Proposed New Jersey Coastal Management Program and Draft Environmental Impact Statement.

The existing Rules on Coastal Resource and Development Policies define the substantive policies of the Department of Environmental Protection regarding the use and development of coastal resources. They are used by the Division of Coastal Resources in reviewing permit applications under the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-1 et seq.), the Wetlands Act (N.J.S.A. 13:9A-1 et seq.). The Rules also provide a basis for recommendations by the Division of Coastal Resources to the Tidelands Resource Council in the Department of Environmental Protection on applications for grants, leases or licenses for State-owned tidelands.

The Waterfront Development Law, as presently administered, applies to all proposed development at or below the mean high water line on navigable waterways throughout the State. These proposed rules will expand the permit requirement in certain areas of the State to include development between the mean high water line and the first inland cultural feature or property line (in no case will the boundary be less than 100 feet or more than 500 feet from the waterway). Only that portion of the State outside the coastal area defined by section 4 of the Coastal Area Facility Review Act (N.J.S.A. 13:19-4) is affected.

The Rules on Coastal Resource and Development Policies already serve as the substantive basis for decisions of the Division of Coastal Resources on Waterfront Development permits in the State's Bay and Ocean Shore area. The proposed amendments to those Rules will apply to the

Waterfront Development Permit Program throughout the State following adoption.

The full text of the proposed amendments to the Rules on Coastal Resource and Development Policies appear as Chapter Four of the Proposed New Jersey Coastal Management Program and Draft Environmental Impact Statement, prepared jointly by the Department of Environmental Protection and the National Oceanic and Atmospheric Administration.

Full text of the proposed Waterfront Development Rules only follows.

SUBCHAPTER 2. WATERFRONT DEVELOPMENT PERMITS

7:7-2.1 Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 12:5-1 et seq.

7:7-2.1 Purpose and scope

This subchapter is intended to implement N.J.S.A. 12:5-3 by defining a boundary for "waterfront" areas and by defining "waterfront development."

7:7-2.2 Definitions

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

"Navigable" means those waters of the State which are subject to the ebb and flow of the tide shoreward to the mean high water line.

7:7-2.3 Waterfront area described

(a) The waterfront area to be regulated under this subchapter shall consist of:

1. A "water area," which shall include any navigable waterway or stream of this State and all lands lying there-under up to the mean high water line; and

2. An "upland area," which shall include all lands extending landward from the mean high water line of such water area to the first surveyable property line existing on the effective date of this subchapter, public road, railroad right-of-way, or other cultural feature generally parallel to the waterway; provided that the landward boundary of such area shall be at least 100 feet and no greater than 500 feet from the waterway except where lands formerly flowed by the tide (i.e. tidelands) extend more than 500 feet from the mean high water line. In such cases the boundary of the upland fringe area shall be the upland boundary of such tidelands.

7:7-2.4 Applicability in man-made waterways

This subchapter shall apply to all man-made waterways and lagoons connected to tidal waters.

7:7-2.5 Inapplicability in coastal area and Hackensack Meadowlands Development District

The upland area described by this rule shall not include any part of the Coastal Area as defined by the Coastal Area Facility Review Act at N.J.S.A. 13:19-4, or any part of the Hackensack Meadowlands Development District as delineated at N.J.S.A. 13:17-4.1.

7:7-2.6 Activities requiring permits

(a) The following activities will require a permit in the waterfront:

1. The removal or deposition of sub-aqueous materials (dredging);

2. The construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or other similar structure or;

3. The construction, reconstruction, enlargement, or conversion to a different use of any building or other structure, or of any excavation or landfill.

7:7-2.7 Exemptions for development in progress on effective date

(a) This subchapter shall not apply to any development in the Upland Area for which on-site construction, including site preparation, was in progress on or prior to the effective date of this subchapter.

(b) Any person who believes that a proposed facility is exempt from the requirements of this subchapter due to on-site construction may request in writing a determination of exemption from the Division of Coastal Resources. Exemptions shall be applied for and considered according to the rules and regulations under the Coastal Area Facility Review Act concerning exemptions, N.J.A.C. 7:7D-2.6.

7:7-2.8 Permits

(a) Any person proposing to undertake or cause to be undertaken any development in the Waterfront Area shall first obtain a permit from the Division of Coastal Resources. Permit application forms may be obtained upon request from the Division of Coastal Resources, Department of Environmental Protection, Box 1889, Trenton, New Jersey 08625.

(b) Permit applications shall be reviewed by the Division in accordance with the 90 Day Construction Permit Rules, N.J.A.C. 7:1C-1.1 et seq.

7:7-2.9 Exemptions; request for finding on geographic applicability

(a) Any person proposing to undertake or cause to be undertaken any development in or near the Waterfront Area may request in writing a determination that the proposal is exempt from the requirements of this subchapter on the basis that the proposed facility's site is located outside the Waterfront Area.

(b) The requesting party shall provide the Division with a map depicting the project site in a scale of not less than 1:2,400 (one inch equals 200 feet) and a project description.

(c) When the exemption request is based on a proposed facility's location landward of the first surveyable property line more than 100 feet from the waterway, the map shall depict that property line exactly as it is depicted on the official local tax map as of the effective date of these rules.

(d) The Division shall, within 30 days of receipt, return the map to the requesting party, indicating on the map the waterfront area boundary and its relationship to the project site.

7:7-2.10 Stream encroachment permit not required in Waterfront Area

(a) No additional permit for a structure or alteration within the natural and ordinary high water mark of any stream pursuant to the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq. as amended by P.L. 1979, c. 359) shall be required in the Waterfront Area.

(b) The Division of Coastal Resources shall forward a copy of all permit applications for development on the tidal portion of any stream to the Bureau of Water Supply and Flood Plain Management, Division of Water Resources for review.

7:7-2.11 Procedure for development entirely within regulated wetlands

No waterfront development permit shall be required for a proposed development located entirely within a wetland area regulated under the Wetlands Act (N.J.S.A. 13:9A-1 et seq.).

7:7-2.12 Criteria for permit decisions

Waterfront development permit applications shall be approved, modified or denied on the basis of the Rules on Coastal Resource and Development Policies, N.J.A.C. 7:7E-1.1 et seq.

7:7-2.13 Appeals

Appeals of permit decisions shall be taken to the Commissioner of Environmental Protection in accordance with the 90 day construction permit rules, N.J.A.C. 7:1C-1.9.

Public hearings on the proposed rules will be held at the following locations:

June 11, 1980, 10:00 A.M.
State Museum Auditorium
204 West State Street
Trenton, New Jersey

June 11, 1980, 7:30 P.M.
Five Corners Library
678 Newark Avenue
Jersey City, New Jersey

June 12, 1980, 10:00 A.M.
Rutgers University Law School
Room 207, 5th and Penn Sts.
Camden, New Jersey

June 12, 1980, 7:30 P.M.
Ocean County Courthouse
Courtroom No. 1
Washington St.
Toms River, New Jersey

These hearings are jointly sponsored by the Department of Environmental Protection and Atmospheric Administration. Interested persons may present statements or arguments relevant to the proposed amendments at the hearings, or in writing on or before July 7, 1980, to:

John R. Weingart, Chief
Bureau of Coastal Planning and Development
Division of Coastal Resources
Box 1889
Department of Environmental Protection
Trenton, New Jersey 08625

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

Jerry Fitzgerald English
Commissioner
Department of Environmental Protection

(a)

ENVIRONMENTAL PROTECTION HEALTH

THE COMMISSIONERS

Proposed New Rules Concerning the Establishment of a Hard Clam Depuration Pilot Plant Program

Jerry Fitzgerald English, Commissioner of Environmental Protection and Dr. Joanne E. Finley, Commissioner of Health, pursuant to N.J.S.A. 13:1B-1 et seq., N.J.S.A. 13:1D-9, N.J.S.A. 24:2-1 et seq., N.J.S.A. 24:15-13 and N.J.S.A. 58:24-1 et seq. (P.L. 1979, c. 321), jointly propose to adopt new rules to be cited as N.J.A.C. 7:17, concerning the establishment of a hard clam depuration pilot plant

program. Such proposal is known within the Department of Environmental Protection as Docket No. DEP 018-80-03.

The proposed rules establish a program for the construction and operation of a pilot depuration plant. This program includes provisions concerning the application procedure for State certification of the pilot plant, special permits necessary for the harvesting and purchasing of shellfish, and the specifications for the depuration of hard shell clams.

No person shall be allowed to construct a depuration plant unless plans have been submitted to and written approval obtained from the Task Force on Hard Clam Depuration appointed by the Commissioners of Health and Environmental Protection. Such a plant must be constructed in accordance with the specifications for the depuration of hard clams. The Task Force will evaluate all application proposals submitted and will select the proposal(s) which meets all the specifications and incorporates the best design features. The Department of Health will issue a provisional depuration certificate after final approval is granted by the Task Force.

Full text of the proposal follows.

CHAPTER 17. HARD SHELL CLAM DEPURATION PILOT PLANT PROGRAM

SUBCHAPTER 1. PILOT PROGRAM

7:17-1.1 Scope and purpose

The provisions of this chapter prescribe the requirements for the establishment of a pilot hard clam (species *Mercenaria mercenaria*) depuration plant to determine whether hard clams taken from waters restricted by the Department of Environmental Protection can be depurated so as to reduce microbial contamination to acceptable levels.

7:17-1.2 Construction

These rules shall be liberally construed to permit the Department of Health and the Department of Environmental Protection to discharge their respective statutory functions.

7:17-1.3 Authority

These rules are promulgated pursuant to N.J.S.A. 13:1D-9, N.J.S.A. 13:1B et seq., N.J.S.A. 24:2-1 et seq., N.J.S.A. 58:24-1 et seq. (P.L. 1979, c. 321) and N.J.S.A. 24:15-13.

7:17-1.4 Initial Pilot Program

(a) Commencing and for the three month period thereafter, the interagency Task Force heretofore appointed by the Commissioners of Health and Environmental Protection will accept proposals for the construction and operation of an initial pilot program hard clam depuration plant. Proposals should be sent to:

Hard Clam Depuration Task Force
State Department of Health
Consumer Health Services
Shellfish Program
1911 Princeton Avenue
Trenton, New Jersey 08648

(b) Proposals for the construction and operation of a pilot program hard clam depuration plant must conform to all of the specifications for hard clam depuration set forth in subchapter 2 of this chapter as well as the special permit requirements set forth in subchapter 3 of this chapter.

(c) All proposals must be submitted on applications provided by the Task Force. All information requested on the application must be submitted with the proposal.

(d) All proposals must plan for an extended period of experimental operation which will cover all seasonal

environmental fluctuations. The actual period of experimental operation shall be established by the Task Force which will also select the specific sites from which hard clams may be harvested for depuration.

(e) No proposal will be accepted which does not aver that all local requirements, including zoning approval, have been met.

(f) The Task Force will formally respond to all proposals within two weeks of the last day upon which proposals may be accepted. Each response shall state the reason for acceptance (in the case of the program(s) chosen by the Task Force) or denials. Only the chosen pilot program(s) shall be announced publicly.

(g) If the chosen pilot program does not initiate construction within six months of its approval, the Task Force may withdraw its approval and publish public notice inviting submission of new proposals.

(h) The cost of construction, and operation of any pilot program shall be the responsibility of the individuals proposing same.

(i) The Task Force will consider the overland transportation of clams from State waters to the depuration plant site. The pilot plant applicants will be required to submit a detailed plan outlining the means of transportation and the distance to the depuration plant from the landing site(s). The overland transportation system and site selection must be approved by the Task Force and the New Jersey Marine Police. The criteria to be considered include but are not limited to:

1. Security;
2. Pilferage;
3. Travel time;
4. Environmental stress and contamination.

(j) Site selection and means of transportation will be considered in the evaluation of proposals submitted to the Task Force. If an overland transportation plan is approved, the Task Force in conjunction with the Marine Police, will issue a permit containing specific guidelines which shall be followed. Violation of the conditions of this permit may subject the holder to prosecution under N.J.S.A. 58:24-3 and N.J.A.C. 8:13-2.3. The permittee shall be responsible for the cost of any such enforcement action. The need for such enforcement shall be determined solely by the Task Force and the New Jersey Marine Police. Those persons involved in the handling and/or transportation of the clams shall be bonded. If security personnel other than State officials are utilized, such security personnel shall be bonded, in accordance with section 4 of subchapter 3 of this chapter.

(k) The Task Force shall prepare operational guidelines for the studying of the pilot plant program. The results of said study shall be made public at the conclusion of the pilot program.

(l) Once the pilot program is actually constructed and in operation, the Department of Health shall issue a provisional depuration certificate upon the approval of the Task Force.

(m) Notwithstanding any subsequent provision in this chapter, no clams depurated pursuant to a pilot program may be sold for human consumption without the prior written approval of the Department of Health.

(n) Upon completion of hard clam depuration pilot plant program, the Task Force will submit their evaluation and recommendations to the respective Commissioners. The report will advise the Commissioners regarding the sanctioning of additional hard clam depuration plants.

SUBCHAPTER 2. SPECIFICATIONS FOR HARD CLAM DEPURATION

7:17-2.1 Specifications for hard clam depuration; generally

(a) The specifications for the construction and operation

of a hard clam (species *Mercenaria mercenaria*) depuration plant shall be the same as those regulations governing the depuration of soft shell clams (N.J.A.C. 8:13-2.1, et seq.), which regulations are hereby adopted by reference as if set forth in this subchapter at length with the following exceptions:

1. The temperature range of source seawater for hard shell clam depuration shall be a minimum 50°F (10°C) to a maximum of 68°F (20°C). (See N.J.A.C. 8:13-2.8(b) 5);

2. A water heating system shall be installed in hard shell clam depuration systems to raise and maintain the water temperature above 50°F (10°C). The Task Force will evaluate the temperature requirements based on the data obtained during the pilot plant studies. (See N.J.A.C. 8:13-2.8(b)5i);

3. The tank(s) shall have the capacity to supply at least eight cubic feet of seawater per U.S. bushel of clams at the overflow level (See N.J.A.C. 8:13-2.9(b)7.i); and

4. The bacteriological quality of depurated hard shell clams will be established by the Task Force based on evaluation of data obtained during the pilot plant study. (See N.J.A.C. 8:13-2.12.)

7:17-2.2 (Reserved)

SUBCHAPTER 3. SPECIAL PERMITS

7:17-3.1 General

(a) The State Department of Environmental Protection may issue permits to take or harvest shellfish from waters condemned or otherwise restricted by regulations, as set forth in chapter 12 (Shellfish-Growing Water Classification) of this title.

(b) Said permits may be issued to persons making application for purposes of transplanting, relaying, depletion, bait harvesting, depuration/controlled purification, research or other purposes approved by the Department of Environmental Protection.

(c) Each application shall be accompanied by a fee in the amount of \$25.00 (check or money order made payable to N.J. State Department of Environmental Protection). Forms may be obtained from the Bureau of Shellfish Control, Division of Water Resources, Department of Environmental Protection.

(d) Said permits may contain special conditions relating to their purpose, duration, area limitations, time limitations, methods of handling, identification and disposition of the shellfish limitation on species and/or size of shellfish, and any other conditions deemed necessary by the Department of Environmental Protection to protect the health, safety and welfare of the public.

7:12-3.2 Applications

(a) Applications for the special permits required under this subchapter shall be submitted on forms supplied by the Department of Environmental Protection as follows:

1. Harvest of hard clams from special restricted waters for further processing; permit application (WR 009); and

2. Possession of hard clams from special restricted waters for further processing; permit application (WR 010).

7:17-3.3 Special permit programs

(a) A special permit is required to harvest hard clams from special restricted waters for further processing at a state permitted and certified depuration/controlled purification facility. This permit shall be numbered Special Permit No. 009. The permittee shall be known as the "harvester."

(b) Special Permit No. 009 shall be valid only under the following conditions:

1. Species are limited to hard clams (*Mercenaria mercenaria*);

2. Areas of harvest are limited to those designated by the Department of Environmental Protection as a condition of the Special Permit;

3. This permit shall apply only to the water areas specified in subsection (b)2 of this section;

4. The inclusive dates of the permit shall be specified by the Department of Environmental Protection unless revoked or suspended prior to that date for cause;

5. The harvester shall possess a valid shellfish harvesting license issued by the New Jersey Division of Fish, Game and Shellfisheries;

6. Harvesting from the specified special restricted waters shall be subject to all State laws and regulations applicable to the harvesting of oysters, clams or mussels from approved waters;

7. Harvesting from the special restricted waters specified above shall be permitted Monday through Saturday of each week between the hours of sunrise and one hour before sunset, as listed in Trenton, except as allowed for under N.J.S.A. 50:2-11;

8. The harvester shall have this permit in his or her possession while working in the specified waters;

9. Harvesting shall be done only from the boat identified on the face of this permit. Said boat shall be required to fly the rectangular yellow flag with black numbers, provided with the permit, at least six feet above the highest structural point of the harvest boat. This flag shall be flown during all phases of the clamming operation;

10. The harvester boats shall be under the direct supervision of the depuration/controlled purification facility's "mother craft" or "buy-boat," which will anchor in the designated area. The harvester's boat shall remain within one-half nautical mile and in sight of the designated "mother craft" or "buy-boat";

11. Upon completion of the day's harvesting, all hard clams shall be transferred to the "mother craft" or "buy-boat." No clams are to remain in the harvester's boat or to be transferred to other boats;

12. Dredging and similar illegal methods of harvesting are prohibited except as provided for in N.J.S.A. 50:2-10.1 and 11;

13. All hard clams shall be immediately sold to or sent to the depuration/controlled purification facility(s) for further processing. No other species of shellfish shall be removed from the harvest site;

14. The State Department of Environmental Protection reserves the right to suspend or revoke Special Permit No. 009 at any time that its continued use may imperil the public health. Conviction of a shellfish violation as provided in N.J.S.A. 58 and N.J.S.A. 50 shall be adequate cause for forfeiture of the bond required under section 4 of this subchapter and the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvest of shellfish from the waters of this State;

15. Under adverse conditions of weather (e.g. bay and river icing) as determined by the New Jersey State Department of Environmental Protection, alternative methods of harvest and transportation of clams may be developed jointly between that segment of the shellfish industry associated with the depuration program and the various State agencies involved in the program's control. Said alternative methods shall insure that the health, safety and welfare of the public are not compromised;

16. Permittees shall comply with the written instructions of the Department of Environmental Protection regarding certain waters where shellfish harvesting may be prohibited to protect the public health.

(c) Violation of subsection (b) of this section may sub-

ject the holder of Special Permit No. 009 to prosecution under N.J.S.A. 58:24-3.

(d) A special permit is required for a certified depuration/controlled purification facility to possess hard clams from special restricted waters for further processing. This permit shall be numbered Special Permit No. 010. The permittee shall be known as the "possessor."

(e) Special Permit No. 010 shall be valid only under the following conditions:

1. Species are limited under said permit to hard clams (*Mercenaria mercenaria*);

2. This permit shall apply only to clams taken from water areas specified in subsection (b)2 of this section;

3. The inclusive dates of this permit shall be as specified by the Department of Environmental Protection unless revoked or suspended prior to that date for cause;

4. No hard clams shall be procured from a harvester unless the harvester shall possess:

i. A valid shellfish harvesting license issued by the New Jersey Division of Fish, Game and Shellfisheries; and

ii. A valid SPECIAL PERMIT TO HARVEST HARD CLAMS (*Mercenaria mercenaria*) FROM SPECIAL RESTRICTED WATERS OF NEW JERSEY, FOR FURTHER PROCESSING AT A STATE PERMITTED AND CERTIFIED DEPURATION/CONTROLLED PURIFICATION FACILITY issued by the Bureau of Shellfish Control of the Division of Water Resources;

5. Compliance shall be maintained with all laws, rules and regulations promulgated by the Department of Environmental Protection and other agencies of the State of New Jersey;

6. Purchases of clams from the specified Special Restricted waters shall be subject to all State laws and regulations applicable to the purchaser of oysters, clams or mussels from approved waters;

7. Records of purchases including the harvester's name, date, quantity of purchase and harvest site, shall be maintained for a period of not less than one year, and shall be available for inspection by any authorized agent of the State;

8. The State Department of Environmental Protection reserves the right to suspend or revoke this permit at any time that its continued use may imperil the public health. Conviction of a violation of any of the conditions of Special Permits 009 and 010 or of a shellfish violation as provided in N.J.S.A. 58 and N.J.S.A. 50 shall be adequate cause for forfeiture of the bond required under section 4 of this subchapter, and the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the purchase of shellfish from the waters of the State;

9. This permit shall not supersede current laws, regulations and rules promulgated by other agencies of the State of New Jersey;

10. It shall be the responsibility of the depuration/controlled purification facility to provide a "mother craft" or "buy-boat" to be used for the direct supervision of clamming operations, and a central point for the collection of the day's harvest of hard clams. The identification of said boat shall be reported to the New Jersey Marine Police on a daily basis, if necessary. The maximum number of boats so designated as a "mother craft" or "buy-boat" shall be limited to two each, (one regular and one alternate). Said boats shall be registered at the area New Jersey Marine Police Station. To permit ready identification of same while harvesting operations are underway, a yellow pennant visible at a one nautical mile distance shall be flown;

11. The "mother craft" or "buy-boat" shall be of ade-

quate size to permit the collection and transport of the day's harvest in a single load;

12. Upon completion of the day's harvesting, all hard clams transferred to the "mother craft" or "buy-boat" shall be immediately transported by the "mother craft" or "buy-boat" to the respective depuration/controlled purification facility for storage and/or processing;

13. Should overland transportation be utilized on a regular basis for the movement of clams from State waters to the depuration plant site the operational plan for such a movement shall be approved by the Task Force on Hard Clam Depuration and the New Jersey Marine Police;

14. Under adverse conditions of weather (e.g. bay and river icing) as determined by the New Jersey State Department of Environmental Protection, alternate methods of harvest and transportation of clams may be developed jointly between the segment of the shellfish industry associated with the depuration/controlled purification program and the various State agencies involved in the program's control. Said alternative methods shall insure that the health, safety and welfare of the public are not compromised. When such conditions occur, they will be noted in the log of the area Marine Police Station at the request of the respective depuration/controlled purification facility;

15. This permit shall apply only to clams procured from specified Special Restricted Waters and further specified on a day-to-day basis by the New Jersey Marine Police;

(f) Violation of special conditions 1-15 may subject the holder to prosecution under N.J.S.A. 58:24-1 et seq., (P.L. 1979, c. 321).

7:17-3.4 Bonding requirements

(a) An applicant for a special permit for a certified depuration/controlled purification facility to possess hard clams from special restricted waters for further processing shall file with the Department of Treasury at the time of application a bond in the sum of \$50,000.00. (This bond shall satisfy the requirements of subsection (d) of this section.)

(b) An applicant for a special permit to harvest hard clams from special restricted waters for further processing shall file with the Department of Treasury at the time of application a bond in the sum of \$5,000.00. This bond shall satisfy the requirements of subsection (d) of this section.

(c) Any person(s) involved in the overland handling, transportation and security of the clams shall file with the Department of Treasury, at the time such position is assumed, a bond in the sum of \$5,000.00. This bond shall satisfy the requirements of subsection (d) of this section.

(d) The bond required by subsections (a), (b) and (c) of this section shall be approved as to form and sufficiency by the Commissioner of Environmental Protection or his or her designee, shall be given to the Commissioner in his or her official capacity and shall be conditioned for the faithful compliance by the permittee with the provisions of this chapter and all other statutes and regulations relating to shellfish sanitation and control. Said bond shall be a good and sufficient bond, executed by a bonding company duly authorized to transact business in the State of New Jersey.

(e) Conviction of any violation of Special Permit 009 or 010 issued by Department of Environmental Protection or conviction of any shellfish violation under State statutes and/or regulations shall be adequate cause for forfeiture of the bond required under this section.

(f) It is the express intent of both the Department of Health and Environmental Protection that the bond required by subsections (a), (b) and (c) of this section is established in order to protect and promote the public health, safety and welfare of the people of the State of

New Jersey. The purpose of these bonds is to insure that the purchaser and harvester are held to the highest standard of care in the harvesting, transportation and depuration of hard clams taken from special restricted waters for further processing at a State permitted and certified depuration/controlled purification facility. Each bond filed by a purchaser or harvester provides assurance that the purchaser or harvester is financially able to maintain the highest standard of care.

SUBCHAPTER 4. ENFORCEMENT

7:17-4.1 Enforcement

Violations of subchapter 2 of this chapter shall be enforced by the Department of Health pursuant to its authority under N.J.S.A. 24:2-1 et seq., N.J.S.A. 24:15-13 and N.J.S.A. 24:17.1 et seq. Violations of subchapter 3 of this chapter shall be enforced by the Department of Environmental Protection pursuant to its authority under N.J.S.A. 13:1D-9 and N.J.S.A. 58:24-1 et seq. (P.L. 1979, c. 321).

SUBCHAPTER 5. PERMIT CONDITIONS

7:17-5.1 Permit conditions

No person shall violate any requirement or provision of any permit.

SUBCHAPTER 6. DEFINITIONS

7:17-6.1 Definitions

The definitions of words and terms used in this chapter shall be the same as the definitions of those words and terms set forth in subchapter 1 of chapter 12 of this title.

Editor's Note: In addition to the text above, 15 pages of forms are proposed to be adopted but are not reproduced herein. Further information concerning these forms may be obtained from the address listed below.

A public hearing concerning the proposed rules will be held on May 15, 1980, at the Mercer County Extension Service, 930 Spruce Street, Trenton, New Jersey 08648. The hearing will begin at 2:00 P.M. and will continue until 5:00 P.M. or until the end of testimony.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Hard Clam Depuration Task Force
Department of Environmental Protection
Division of Water Resources
Bureau of Shellfish Control
P.O. Box CN-029
Trenton, New Jersey 08625

or
Hard Clam Depuration Task Force
State Department of Health
Consumer Health Services
Shellfish Program
1911 Princeton Avenue
Trenton, New Jersey 08648

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

Dr. Joanne E. Finley
Commissioner
Department of Health
Jerry Fitzgerald English
Commissioner
Department of Environmental Protection

(a)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Proposed Amendments Concerning Flood Control Bond Grants

Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to the authority of N.J.S.A. 13:1D-1 et seq., and P.L. 1978, c. 78, proposes to amend the rules governing the Flood Control Bond Grants, N.J. A.C. 7:23. The purpose of this amendment is to streamline the grant procedures and to change two formulas used in awarding priority points to make the program more equitable.

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

7:23-1.8(a)2. Arrange for a preapplication conference as [required by] suggested in N.J.A.C. 7:23-2.4, if such a conference is desired.

7:23-2.3(a)9. The [application] applicant shall not request a grant in excess of \$1,000,000 [except an application for a flood control project located in and funded by more than one local unit may be increased by \$100,000 for each additional local unit wherein the project is located and which funds the project.] if the flood control project benefits only one municipality. The grant request for a flood control project providing 100-year flood protection to more than one municipality may be increased by an amount equal to the contribution made by each additional benefiting municipality but in no case exceeding \$100,000 per additional municipality.

7:23-2.4(a) Every applicant [shall] should request an informal conference prior to making formal application for a grant. [The Department may waive the preapplication conference requirement when it determines it will not serve a useful purpose.] During the conference the Department shall identify and explain all grant application documents and review the requirements of the environmental assessment specified in section 5 of this subchapter. It shall also identify and answer questions concerning other Departmental permits the applicant must obtain prior to being awarded a grant. This conference is not part of the application procedure and neither written nor verbal statements made during the conference shall bind the Department.

7:23-2.5(b)6. Evidence that all Federal, State, regional and local agencies with jurisdiction over the area have been notified of the project. Such notification shall include a site plan and brief description of the project.

7:23-2.5(c)2. Construction plans, specifications and cost estimates prepared by a New Jersey licensed engineer.

7:23-2.5(c)4. Evidence that all Federal, State, regional and local agencies with jurisdiction over the area have been notified of the project. Such notification shall include a site plan and brief description of the project.

7:23-2.5(g) Applications should be submitted well in advance of the application closing date for the year in which the applicant wishes to be awarded a grant. [The application closing date for 1979 shall be 60 days from the effective date of these rules. For all subsequent application years the application closing date shall be the same date as the 1979 application closing date.] The application closing date for 1980 and 1981 shall be August 20 of each re-

spective year. Generally, processing of a complete application by the Division will be completed 90 calendar days after the application closing date for that year. No grant shall be made until a State appropriation is made.

7:23-2.10 State share

The State share shall be set forth in the grant agreement expressed both as a dollar amount and as a percentage of allowable project costs. The dollar amount shall represent the grant ceiling. The State share shall not exceed the lesser of [\$1,000,000] the amount determined by N.J.A.C. 7:23-2.3(a)9 or 50 per cent of the allowable project costs not funded by Federal or other State programs.

7:23-2.11 Grant agreement

[Upon execution of the grant agreement by the Department, the Department shall transmit the grant agreement (certified mail, return receipt requested) to the applicant for execution.] The Division of Water Resources of the Department shall prepare and transmit four copies of the grant agreement to the applicant. The applicant shall execute the agreement and return it within 30 calendar days after receipt. The Department may, in its discretion, extend the time for execution. The grant agreement shall set forth the approved project scope, budget, approved projection costs, and the approved commencement and completion dates for the project or major phases thereof. The grant agreement shall be deemed to incorporate all requirements, provisions, and information in documents or papers submitted to the Department in the application process. After the Department has completed its internal processing of the grant agreement it will transmit a copy of the executed grant agreement to the grantee.

7:23-2.13(b)2.iii. For those projects where the [amount of the grant requested is less than \$1,000,000] estimated project cost is less than \$2,000,000 the points awarded shall be increased proportionately using the following formula:

[(1) Final points under this paragraph = points for actual number of people x 1,000,000

Dollar Amount of Grant]

(1) Final points awarded by this paragraph = points for actual number of people multiplied by 2,000,000 and the result divided by the estimated project cost in dollars.

7:23-2.13(b)3.iii. For those projects where the [amount of the grant requested is less than \$1,000,000,] estimated project cost is less than \$2,000,000, the property value for the award of points shall be proportionately increased by using the following formula:

(1) Dollar value of property to be used in determining number of points awarded equals:

[(true value or property x 1,000,000
Dollar Amount of Grant)]

true value of property multiplied by 2,000,000 and the result divided by the estimated project cost in dollars.

7:23-2.13(d) The Department shall [establish, publish and adopt] establish and maintain a priority list in accordance with the number of priority points awarded each project pursuant to this section.

7:23-2.13(g) [The priority list adopted shall terminate upon the adoption of a new priority list.] A priority list shall be established for each year of the program.

7:23-2.20 Access

The grantee and its contractor and subcontractors shall provide access to the Department personnel and any authorized representative of the Department to the facilities, premises and records related to the project. The grantee shall submit to the Department such documents and infor-

mation as requested by the Department. All grantees, contractors and subcontractors may be subject to a financial audit. Records shall be retained and available to the Department for a minimum of three years after submission of the final request for payment.

7:23-2.21 State payment

State funds shall be released to the grantee upon completion of the entire project to the satisfaction of the Department, or, on an interim basis. If interim payments are made, they will be equal to the State's share of the per cent of the total project completed. Ten per cent of all payments shall be withheld until the whole project has been completed to the satisfaction of the Department. No payments shall be made until the Department receives satisfactory cost documentation which shall include all forms required by the Department and completed in a manner satisfactory to the Department.

7:23-2.24(c) Bid specifications prepared by the grantee shall require bidders to submit a sworn statement of the bidder, or an officer or partner of the bidder, indicating whether or not the bidder is, at the time of the bid, included on the State Treasurer's List of Debarred, Suspended and Disqualified bidders as a result of action by any state agency other than the Department of Environmental Protection. Bid specifications shall also state that the grantee will immediately notify the Department whenever it appears that a bidder is on the Treasurer's List and that the Department reserves the right, in such circumstances, to immediately suspend such bidder from Department contracting, and to take such other action pursuant to N.J.A.C. 7:1-5.1 et seq. as is appropriate.

(d) Whenever a bidder is debarred, suspended or disqualified from Department Contracting pursuant to N.J.A.C. 7:1-5.1 et seq., the grantee may take into account the loss of Department grant funds under these regulations which would result from awarding a contract to such bidder, in determining whether such bidder is the lowest responsible bidder pursuant to law; and the grantee may advise prospective bidders that this procedure will be followed.

(e) Any person included on the Treasurer's list as a result of action by a state agency other than the Department, who is or may become a bidder on any contract which is or will be funded by a grant under these regulations may present information to the Department why this section should not apply to such person. If the Commissioner of the Department determines that it is essential to the public interest and files a finding thereof with the Attorney General, the Commissioner may grant an exception from the application of this section with respect to a particular contract, in keeping with N.J.A.C. 7:1-5.9. In the alternative the Department may suspend or debar any such person, or take such other action as may be appropriate, pursuant to N.J.A.C. 7:1-5.1.

Copies of the proposed amendment and the Flood Control Bond Grants rules now in force may be obtained from, and interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Clark D. Gilman, Acting Chief
Bureau of Flood Plain Management
Division of Water Resources
Department of Environmental Protection
P.O. Box CN-029
Trenton, New Jersey 08625

The Department of Environmental Protection may there-

after adopt rules concerning this subject without further notice.

Jerry Fitzgerald English
Commissioner
Department of Environmental Protection

(a)

ENVIRONMENTAL PROTECTION

DIVISION OF FISH, GAME AND WILDLIFE

Proposed 1980-81 Game Code

The Fish and Game Council of the Division of Fish, Game and Wildlife in the Department of Environmental Protection, pursuant to authority delegated in N.J.S.A. 13:1B-30 et seq., proposes to adopt the Game Code for 1980-81 hunting and trapping seasons.

Copies of the proposed Game Code have been prepared and a summary supplied to newspapers throughout the state. The proposed code states when, under what circumstances, in what localities, by what means and in what amounts and numbers game birds, game animals and furbearing animals may be pursued, taken, killed or had in possession.

Copies of the full text of the proposed Game Code may be obtained from:

Division of Fish, Game and Wildlife
P.O. Box 1809
Trenton, N.J. 08625

Interested persons may present statements orally or in writing relevant to the proposed action at a public hearing in the State Museum Cultural Center Auditorium, West State Street, Trenton, N.J. on Tuesday, June 10, 1980 at 8:00 P.M.

Written comments regarding the proposed code may be filed on or before June 10, 1980 with the New Jersey Fish and Game Council, Division of Fish, Game and Wildlife at the above address.

After full consideration of all submissions respecting the proposed code, the New Jersey Fish and Game Council, upon its own motion or at the instance of any interested party may thereafter adopt the Game Code substantially as proposed without further action.

Russell A. Cookingham
Director, Division of Fish,
Game and Wildlife
Department of Environmental Protection

(b)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Notice of Public Hearing on Division of Water Resources Project Priority List For Fiscal Year 1981

Take notice that, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to the authority of N.J.S.A. 1D-1 et seq., and in accordance with the provisions of 40 CFR 35, proposed to adopt and file with the United States Environmental Protection Agency by August 1, 1980 the annual Project Priority List, which is known within

the Department of Environmental Protection as Docket No. DEP 019-80-04.

The Construction Grant Priority System and Project List describes the methodology and establishes a list, in order of priority, of municipal water pollution control projects which may be eligible to receive financial assistance for planning and construction.

On or before June 9, 1980, copies of the preliminary project documents will be mailed for review and comment to units of local and county governments, sewerage authorities, environmental and conservation groups, members of the Legislature, and other organizations having an interest in water pollution control in the State.

Copies of the project document may be obtained by writing to:

Richard Salkie, Administrator
Construction Grants Administration
Division of Water Resources
N.J. Department of Environmental Protection
P.O. Box CN-029
Trenton, New Jersey 08625

In accordance with the provisions of 40 CFR 35.915, public hearings on the priority list will be held July 14, 1980 at 1:00 P.M. and 7:00 P.M. in the Archives Exhibit Room of the State Library, 185 West State Street, Trenton, New Jersey.

Interested persons or organizations may make oral presentations at the hearing, or provide written statements relevant to the proposed action prior to or up to eight days after the hearing to the Division of Water Resources at the above address. There will be given due consideration in preparing the final document.

This document will be adopted by the Department of Environmental Protection subsequent to approval by the United States Environmental Protection Agency, Region II, New York.

This Notice is published as a matter of public information.
Howard H. Kestin
Director
Office of Administrative Law

(c)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Rules Concerning Industrial Survey Project

On March 26, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-9, 58:10A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 7:1F, concerning the industrial survey project substantially as proposed in the Notices published March 8, 1979, at 11 N.J.R. 120(c) and May 10, 1979, at 11 N.J.R. 224(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Environmental Protection.

An order adopting these rules was filed and became effective on March 27, 1980 as R.1980 d.129.

Howard H. Kestin
Director
Office of Administrative Law

(a)

ENVIRONMENTAL PROTECTION

THE COMMISSIONER

Amendments Concerning the Relay of Hard Clams

On April 15, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 50:1-31, 50:24-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:25-15.1 concerning relay of hard clams substantially as proposed in the Notice published January 10, 1980 at 12 N.J.R. 8(c), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Environmental Protection.

An order adopting these amendments was filed and became effective on April 16, 1980 as R.1980 d.161.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HEALTH

THE COMMISSIONER

Proposed Amendments Concerning Plan Review Fee

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend N.J.A.C. 8:31-30.1 concerning plan review fee.

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

8:31-30.1 Architectural and mechanical plan review fee

(a) (No change)

[(b) In order to provide for the training and certification and technical support programs required by the act, the enforcing agency, including the department when acting as the local agency, shall collect a surcharge fee to be based upon the volume of new construction within the municipality. Said fee shall be accounted for and forwarded to the Bureau of Housing Inspection in the DCA manner herein provided:

1. Amount: This fee will be in the amount of 0.0006 dollars per cubic foot volume of new construction. Volume shall be computed in accordance with N.J.A.C. 5:23-2.8(d).]

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

[(d)] (c) If a municipality has not passed an ordinance establishing fees, the Department of Health will utilize the fee schedule outlined in N.J.A.C. 5:23-4.8, subsection (d)3. of the Uniform Construction Code [(See Attachment "A").]

(d) In each instance, whether or not the municipality has established a fee schedule, the Department's plan review fee shall be computed on the basis of the volume or cost of construction, the number of plumbing fixtures and stacks, and the number of electrical fixtures and devices, plus other special fees, in accordance with the provisions of N.J.A.C. 5:23-4.8(d), using a multiplier of 3.0.

(e) (No change)

Interested persons may present statements or arguments

in writing relevant to the proposed action on or before May 28, 1980 to:

Vincent J. Martucci
Executive Assistant
Office of the Assistant Commissioner
N.J. Department of Health
John Fitch Plaza
Trenton, N.J. 08625

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

Dr. Joanne E. Finley
Commissioner
Department of Health

(c)

HEALTH

THE COMMISSIONER

Proposed Amendment Concerning Hospital Cost Reporting Procedures

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of 26:2H-1 and with the approval of the Health Care Administration Board proposes to amend N.J.A.C. 8:31A-5.5 concerning reporting procedures by substituting new text therefor.

Full text of the proposal follows.

8:31A-5.5 Statement of purpose; reporting procedures

(a) This establishes the cost reporting forms for Hospital Rate Review. The Rule on Hospital Rate Review, N.J.A.C. 8:31A-7.1 et seq., known as Standard Hospital Accounting and Rate Evaluation (SHARE) includes the reporting forms referred to as SHARE Actual Reporting. In order to implement Chapter 83, P.L. 1978 (S.446), the Rule concerning Temporary Reporting Procedures, N.J.A.C. 8:31A-5.5 was adopted on September 18, 1979. The proposed rule on Hospital Cost Reporting replaces the Temporary Reporting Procedures and combines the SHARE Actual Reporting Forms with the S.446 cost reporting forms into one convenient format. The S.446 reporting forms will be entitled SHARE Forms B, C-1, C-2, C-5, C-7, D-1, D-2, D-3, E, E-3 and E-4.

(b) By April 30 of each year, all New Jersey Hospitals are required to file the preceding year's actual costs on the SHARE Actual Reporting Forms. The requirements for the cost reporting are detailed in the SHARE Manual and the Financial Elements and Reporting Regulation, N.J.A.C. 8:31B-4 as amended.

(c) In addition to the completed SHARE Actual Reporting Forms, hospitals shall submit to the Commissioner a copy of the Medicare Cost Filing (Form SSA 2552) for the same reporting period and a copy of the hospital's audited financial statements. The Medicare Cost Filing and the audited financial statements must be received by the Commissioner no later than May 31st of each year.

(d) Should individual hospitals be unable to submit the above data in a timely and suitable manner, individual preliminary cost bases may be developed without those financial elements not documented by the required reporting. Furthermore, in order to develop standards and preliminary cost bases in a timely manner, the Commissioner shall use such appropriate data as is available and may eliminate hospitals from the sample which fail to submit suitable data in a timely manner.

(e) The Commissioner may waive the reporting requirements for certain SHARE Forms for any non-acute care hospitals.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

James R. Hub
 Director, Health Economics Services
 N.J. Department of Health
 Room 600
 John Fitch Plaza
 Health-Agriculture Building
 Trenton, N.J. 08625

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

Dr. Joanne E. Finley
 Commissioner
 Department of Health

(a)

HEALTH

THE COMMISSIONER

**Proposed Amendments
 Concerning the Economic Factor
 For New Jersey Hospitals**

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend N.J.A.C. 8:31A-9.1 concerning the economic factor for New Jersey hospitals.

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

8:31A-9.1 Economic factor

Repeal Foreword and subsection (a).

(a) [(b)] The industry-wide economic factor shall be comprised of the percentage changes in the following proxies for their relevant cost components weighted by their percentage of reported costs on SHARE Actuals for all hospitals combined. The factor is determined exclusive of depreciation and facilities interest, lease, [malpractice] and utilities costs.

1. Labor 1:
 - i. — ii. (No change)
 - iii. Proxies:
 - [(1) (1976) Employment Cost Index (ECI), Northeast with an imputed value of 98.6 for 1975;
 - (2) (1977, 1978, 1979)] Employment Cost Index (ECI), Northeast.
 - iv. (No change)
2. Labor 2 [(1976, 1977, 1978, 1979)]:
 - i. (No change)
 - ii. SHARE Cost Center: Physicians' salaries [and other expenses] in RSD cost center;
 - iii. — iv. (No change)
3. Labor 3 [(1976, 1977, 1978, 1979)]:
 - i. — viii. (No change)
4. Supplies 1:
 - i. (No change)
 - ii. SHARE Cost Center:
 - [(1) (1976, 1977) Supply costs reported in PHY, RSD, A&G, FIS, NAD, PCC, EDR, and MRD cost centers;
 - (2) (1978, 1979)] (1) Supply costs reported in PHY, RSD, A&G, FIS, PCC, EDR and MRD Cost Centers.
 - iii. — iv. (No change)
5. Supplies 2 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)

6. Supplies 3 [(1976, 1977, 1978, 1979)]:
 - i. (No change)
 - ii. SHARE Cost Center: **Proportion of s[S]upply costs reported in DTY Cost Center;**
 - iii. Proxies:
 - (1) PPI: 0915-0109.05 Paper goods, household napkins [(10) 15 per cent];
 - [(2) PPI: 0915-0335.02 Paper goods, paper plates (10 per cent);]
 - (2) [(3)] PPI: 0915-0333.03 Paper goods, hot cups [(10) 15 per cent];
 - (3) — (6) [(4) — (7)] (No change in text)
7. Supplies H [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
8. Supplies 5:
 - i. — ii. (No change)
 - iii. Proxies:
 - [(1) (1976, 1977)]
 - (A) PPI: 0671 Soap and synthetic detergents (60 per cent);
 - (B) CPI: Sheets, percale or muslin (40 per cent);
 - (2) (1978, 1979)]
 - (1) [(A)] PPI: Soap and synthetic detergents (60 per cent);
 - (2) [(B)] Household linens (40 per cent);
2. Supplies 6 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
10. Supplies 7 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
11. Supplies 8 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
12. Supplies 9:
 - i. (No change)
 - ii. SHARE Cost Center:
 - [(1) (1976, 1977) Supply costs reported in ACU, ICU, NBN, SAC, SNF, EMR, CLN, OHS, ANS, CSS, DEL, DIA, NMD, OAS, ORR, OPM, PHT, RSP, THR, EDG, and CCA cost centers;
 - (2) (1978, 1979)] Supply costs reported in ACU, ICU, NBN, SAC, SNF, EMR, CLN, OHS, ANS, CSS, DEL, DIA, EDG, NMD, ORR, OPM, PHT, RSP, THR, and CCA Cost Centers.
 - iii. Proxies:
 - [(1) (1976, 1977)]

Source	Proxy	Weight
CPI	Adhesive Bandages	.097
WPI 07	Plastic and Rubber	.309
WPI 067 less 0679	Other Chemicals	.033
WPI 1135.02	Precision Measuring Tools	.016
WPI 061	Industrial Chemicals	.037
WPI 063 less 0636	Drugs	.188
WPI 0915.01	Sanitary Paper	.050
WPI 0361	Cotton	.104
WPI 0327.03	Synthetic Threads	.076
WPI 1132	Power Driven Hand Tools	.007
WPI 1135.01	Small Cutting Tools	.083
		1.000

- (2) (1978, 1979)] (1) CPI: Non-Prescription Medical Equipment and Supplies.
- iv. (No change)
13. Supplies 10 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
14. Other 1 [(1976, 1977, 1978, 1979)]:
 - i. — iv. (No change)
15. Other 2:
 - i. — ii. (No change)
 - iii. Proxies:

- [(1) (1976, 1977):
 (A) CPI: Laundry; Flatwork Finished (80 per cent);
 (B) CPI: Sheets; percale or muslin (20 per cent).
 (2) (1978, 1979):]
 (i) [(A)] CPI: Laundry and dry cleaning other than coin operated (80 per cent);
 (2) [(B)] CPI: Household linens (20 per cent).
 iv. (No change)
 [16. Other 3 (1976, 1977, 1978, 1979):
 i. Cost Component: Telephone;
 ii. SHARE Cost Center: Other expense reported in A and G Cost Center;
 iii. Proxy: PUC rate change;
 iv. Source: Public Utilities Commission of New Jersey.
 17. Other 4 (1976, 1977, 1978, 1979):
 i. Cost Component: Postage;
 ii. SHARE Cost Center: Other expense reported in A and G and FSI Cost Centers;
 iii. Proxy: CPI: Postage;
 iv. Source: BLS, Consumer Price Index.
 18. Other 5 (1976, 1977, 1978, 1979):
 i. Cost Component: Travel and conference;
 ii. SHARE Cost Center: Other expense reported in A and G and FIS Cost Centers;
 iii. Proxies: CPI: Transportation;
 iv. Source: BLS, Consumer Price Index.]
 16. [19.] Other [6] 3:
 i. (No change)
 ii. SHARE Cost Center:

[(1) (1976, 1977) Other expense reported in all cost centers except INT, PLT, OGS, MAL, UTC, LFB, PFB, and PEN; Other expenses in A and G Cost Center not classified above; contracted service costs in Ancillaries, DTY, HKP, MRD, PCC, EDR, A and G and FIS Cost Centers;

[(1) (1976, 1977) Other expense reported in all Cost Centers except INT, PLT, OGS, MAC, UTC, LFB, PFB, and PEN; [Other expenses in A and G Cost Center not classified above,] contracted service costs in Ancillaries, DTY, HKP, MRD, PCC, EDR, A and G and FIS Cost Centers.

iii. — iv. (No change)

(b) This factor will be based on a projection of the various proxies for the following calendar year using the best available techniques. As annual actual data for both labor and non-labor portions of the factor become available, differences between the year's overall projected and actual values will be reconciled. The labor portion of the factor will be reconciled by adjusting the labor projection for the succeeding year and a retroactive adjustment will be made for the non-labor portion.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

James R. Hub
 Director
 Health Economic Services
 N.J. Department of Health
 Room 600
 Health-Agriculture Building
 John Fitch Plaza
 Trenton, N.J. 08625

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

Dr. Joanne E. Finley
 Commissioner
 Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Amendments Concerning Utilization Review Under S.446

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to replace N.J.A.C. 8:31B-3.48 with new rules, to be cited as N.J.A.C. 8:31B-5, concerning utilization review under S.446.

The proposed new rules concern introduction; definitions; criteria for qualification; use of findings; qualification procedure; payment for utilization review services; and performance standards for maintenance of qualification.

Copies of the 16 pages of the full text of the proposal may be obtained from or made available for review by contacting:

James R. Hub, Director
 Health Economic Services
 N.J. Department of Health
 Room 600 - Health-Agriculture Building
 John Fitch Plaza
 Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to the Department of Health at the above address.

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

Dr. Joanne E. Finley
 Commissioner
 Department of Health

(b)

HEALTH

THE COMMISSIONER

Proposed Amendments on Effective Dates of Portion of Standards For Long Term Care Facilities

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to delay the effective date from July 1, 1980, to July 1, 1981, of N.J.A.C. 8:39-1.14(f)15.i., 8:39-1.14(f)15.v., 8:39-1.16(c), (e) and (l), 8:39-1.18(g) and 8:39-1.35(c) and to delay the expiration date of N.J.A.C. 8:30 and 8:37 from July 1, 1980 to July 1, 1981.

References to these effective dates appear in the Foreword to Subchapter 1, Chapter 39, Title 8 of the New Jersey Administrative Code.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

(Continued on Page 271)

INTERIM INDEX FOR NEW JERSEY ADMINISTRATIVE CODE

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

It includes all rules adopted from receipt of the last individual transmittals as indicated through April 17, 1980.

RULES NOT YET IN PRINT IN CODE (May be found in N.J. Register beginning with July 5, 1979):
(Full text (in proposal form), if published, may be found in N.J. Register beginning with Sept. 6, 1978.)

N.J.A.C. CITATION

DOCUMENT CITATION ADOPTION NOTICE (N.J.R. CITATION)

AGRICULTURE — TITLE 2

2:3-2.12	Amend exemption from pseudorabies test	R.1979 d.304	11 N.J.R. 426(a)
2:54-3.7	Amend concurrent suspension to Federal Order No. 4 concerning milk handling in various New Jersey milk marketing areas	R.1980 d.10	12 N.J.R. 62(a)
2:71-2.28—2.31	Amend fruit and vegetable inspection and grading	R.1980 d.140	12 N.J.R. 248(b)
2:72-1.1	Amend bond requirements	R.1980 d.57	12 N.J.R. 103(a)

(Title 2, Transmittal 15 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

BANKING — TITLE 3

3:1-1.1	Amend interest rates	R.1980 d.151	12 N.J.R. 249(b)
3:1-1.2	Interest rates on other loans	R.1979 d.290	11 N.J.R. 429(b)
3:1-9	Amend red-lining	R.1979 d.415	11 N.J.R. 534(b)
3:2	Advertising by financial institutions	R.1980 d.125	12 N.J.R. 170(a)
3:6-7.1	Amend class II installment loan rates	R.1980 d.16	12 N.J.R. 62(c)
3:6-8.1	Savings banks' deposits	R.1980 d.144	12 N.J.R. 249(a)
3:8-3.2, 3.3	Amend reserves by banks not members of the Federal Reserve System	R.1979 d.501	12 N.J.R. 62(b)
3:11-1.1	Amend approval to exceed ten per cent limitation	R.1979 d.298	11 N.J.R. 429(c)
3:18-9.1, 9.5	Amend secondary mortgage loan act rules	R.1980 d.17	12 N.J.R. 63(a)
3:31-2.2	Maximum interest rate; repair and improvement loans	R.1980 d.18	12 N.J.R. 63(b)

(Title 3, Transmittal 14 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

CIVIL SERVICE — TITLE 4

4:1-2.1	Amend definition of immediate family	R.1980 d.60	12 N.J.R. 104(a)
4:1-9.5, 20.3	Amend performance evaluations	R.1980 d.61	12 N.J.R. 104(b)

(Title 4, Transmittal 13 dated June 1, 1979 includes all rules through February 7, 1980 N.J. Register.)

COMMUNITY AFFAIRS — TITLE 5

5:25-1.3, 4.2, 5.5	Amend new home warranties and builders registration	R.1980 d.158	12 N.J.R. 250(a)
5:26-1.3, 2.2, 2.17, 3.1, 4.2, 6.5, 8.4, 11.7, 11.9	Amend planned real estate development full disclosure	R.1979 d.439	11 N.J.R. 610(b)
5:30-17	Co-operative pricing and joint purchasing systems	R.1980 d.104	12 N.J.R. 172(a)

(Title 5, Transmittal 13 dated October 1, 1979 includes all rules through November 8, 1979 N.J. Register.)

EDUCATION — TITLE 6

6:3-1.22	Evaluation of tenured chief school administrators	R.1979 d.480	12 N.J.R. 7(a)
6:8-1.1	Amend evaluation and classification process	R.1980 d.107	12 N.J.R. 178(a)
6:8-1.1, 3.8, 4.2	Amend high school graduation requirements	R.1980 d.106	12 N.J.R. 177(b)
6:8-6.2, 7.1	Amend evaluation and classification process	R.1980 d.107	12 N.J.R. 178(a)
6:11-4.7	Amend county substitute certificate	R.1980 d.105	12 N.J.R. 177(a)

6:20-3.1, 3.4	Amend tuition public schools	R.1980 d.165	12 N.J.R. 251(c)
6:20-5.4	Additional State school building aid	R.1979 d.479	12 N.J.R. 6(b)
6:20-6.2, 6.8	Amend purchase and loan of textbooks	R.1980 d.163	12 N.J.R. 251(a)
6:20-7	Amend qualifications, debarment, suspension and disqualification of person(s) concerning contract administration	R.1979 d.478	12 N.J.R. 6(a)
6:20-8	Rules on public school contracts	R.1980 d.69	12 N.J.R. 107(a)
6:26-3.1	Amend operation of summer schools	R.1980 d.68	12 N.J.R. 106(a)
6:27-1.4	Amend high school graduation requirements	R.1980 d.106	12 N.J.R. 177(b)
6:27-3.1	Amend operation of summer schools	R.1980 d.68	12 N.J.R. 106(a)
6:29-7.1	Family life education	R.1980 d.164	12 N.J.R. 251(b)
6:31	Amend bilingual education	R.1980 d.70	12 N.J.R. 107(b)

(Title 6, Transmittal 15 dated Nov. 13, 1979 includes all rules through Dec. 6, 1979 N.J. Register.)

ENVIRONMENTAL PROTECTION — TITLE 7

7:1C-1.2, 1.6—1.10	Amend 90-day construction permits	R.1980 d.75	12 N.J.R. 113(d)
7:1F	Industrial survey project	R.1980 d.129	12 N.J.R. 259(c)
7:1G-1	Interim rules for review and approval of applications for development or construction	R.1979 d.333	11 N.J.R. 502(b)
7:1G-1.11	Amend review and approval of applications for development or construction	R.1979 d.458	12 N.J.R. 10(c)
7:1G-1.11(a)2	Amend water quality standards	R.1979 d.395	11 N.J.R. 543(b)
7:1G-2	Procedures for processing applications for development	R.1979 d.332	11 N.J.R. 504(a)
7:1G-2.1(d)	Amend procedures for processing applications for development	R.1979 d.394	11 N.J.R. 543(a)
7:4	Rules on the New Jersey Register of Historic Places	R.1979 d.328	11 N.J.R. 434(a)
7:6-8	Motor vehicles using ice-covered waters	R.1980 d.88	12 N.J.R. 114(b)
7:12-1.4	Condemnation of certain waters in the Atlantic Ocean for shellfish harvesting	R.1980 d.12	12 N.J.R. 71(c)
7:12-1.4	Delete rule on condemnation of certain Atlantic Ocean waters for shellfish harvesting	R.1980 d.48	12 N.J.R. 112(b)
7:13-1.11(c)	Amend flood plain delineation of the Delaware River	R.1980 d.65	12 N.J.R. 113(b)
7:13-1.11(c)	Amend flood plain delineations; North Branch Rancocas Creek and Rancocas Creek; Burlington County	R.1980 d.76	12 N.J.R. 113(e)
7:13-1.11(d)	Amend floodway delineations of streams within the Passaic River Basin	R.1979 d.430	11 N.J.R. 545(a)
7:13-1.11(d)	Amend floodway delineation of streams within the Raritan and Rahway River Basin	R.1979 d.418	11 N.J.R. 544(d)
7:13-1.11(d)	Amend flood plain delineation of Raritan River, South River, Manalapan Brook, Matchaponix Brook and various tributaries within Raritan River Basin	R.1980 d.23	12 N.J.R. 72(d)
7:13-1.11(d)	Amend floodway delineation of Elizabeth River and various streams within Roselle Park Borough	R.1980 d.24	12 N.J.R. 73(a)
7:13-1.11(d)	Amend flood plain delineation of portions of Hackensack River Basin in Bergen County	R.1980 d.26	12 N.J.R. 73(c)
7:15-1.11(d)	Amend delineated floodways in the Raritan Basin	R.1980 d.99	12 N.J.R. 181(b)
7:13-1.11(d)	Amend flood plain delineation of parts of the Rockaway River and Passaic River	R.1980 d.66	12 N.J.R. 113(c)
7:13-1.11(e)	Flood plain delineation of Passaic River from Dundee Dam upstream to Beatties Dam	R.1980 d.21	12 N.J.R. 72(b)
7:13-1.11(f)	Amend flood plain delineation of streams within New Milford Township, Ringwood and Wanague Boroughs in Passaic County	R.1980 d.22	12 N.J.R. 72(c)
7:13-1.11(g)	Amend flood plain delineation of part of Saddle River and portions of its various tributaries	R.1980 d.25	12 N.J.R. 73(b)
7:14-2.5	Amend water pollution control act regulations	R.1980 d.49	12 N.J.R. 112(c)
7:14-2.26	Wastewater treatment report	R.1980 d.58	12 N.J.R. 113(a)
7:14-4	Sludge quality assurances	R.1979 d.419	11 N.J.R. 544(e)
7:25-5	Amend 1979-80 Game Code	R.1979 d.329	11 N.J.R. 434(b)
7:25-5	Amend 1979-80 Game Code	R.1979 d.404	11 N.J.R. 544(a)
7:25-6	1980 Fish Code	R.1979 d.403	11 N.J.R. 543(c)
7:25-12.1, 12.4	Amend sea clams	R.1979 d.472	12 N.J.R. 10(b)
7:25-15.1	Amend relay of hard clams	R.1980 d.161	12 N.J.R. 260(a)
7:25-16.1	Amend upstream lines requiring licenses	R.1979 d.405	11 N.J.R. 544(c)
7:26-6	Interdistrict and intergroup solid waste flow	R.1979 d.502	12 N.J.R. 71(b)
7:27-16-17	Amend control and prohibition of air pollution by volatile organic and toxic substances	R.1979 d.414	11 N.J.R. 544(b)
7:28-24.15	Amend certification fees for nuclear medicine technology	R.1980 d.87	12 N.J.R. 114(a)
7:45	Delineating review zone within Delaware and Raritan Canal State Park	R.1980 d.15	12 N.J.R. 72(a)

(Title 7, Transmittal 13 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

HEALTH — TITLE 8

8:7-1.9(a)	Amend health officer qualifications	R.1980 d.168	12 N.J.R. 272(c)
8:15	Amend effective date	R.1980 d.32	12 N.J.R. 75(b)
8:15	Correction to printed text	—	12 N.J.R. 74(b)
8:15	Repeal rules on smoking in certain public places	R.1980 d.124	12 N.J.R. 187(a)
8:19	Newborn hearing screening program	R.1980 d.173	12 N.J.R. 273(d)
8:21-3.14	Delete rules	R.1979 d.454	11 N.J.R. 622(d)
8:21-3.15—3.18	Repeal of certain rules concerning Uniform Narcotic Act	R.1979 d.451	11 N.J.R. 622(a)
8:21-10.12(f)	Amend expiration date requirement for containers of white whole milk	R.1980 d.96	12 N.J.R. 186(a)
8:21A	Rules on good drug manufacturing	R.1979 d.453	11 N.J.R. 622(c)
8:25-3.2(a)	Amend physical examinations regarding Youth Camp Safety Act standards	R.1980 d.169	12 N.J.R. 272(d)
8:31-8 App. B	Amend standards and general criteria for the planning, certification of need and designation of perinatal services	R.1979 d.369	11 N.J.R. 549(c)
8:31-25.1(a)23	Add dexamethasone to list of therapeutic agents	R.1979 d.409	11 N.J.R. 550(c)
8:31A-5.5	Temporary reporting procedures; implementation of S446	R.1979 d.368	11 N.J.R. 549(b)
8:31B-2	Rules on hospital reporting of uniform bill-patient summaries (in-patient)	R.1979 d.450	11 N.J.R. 621(a)
8:31B-3	Procedural and methodological regulations to implement Chapter 83, P.L. 1978	R.1979 d.408	11 N.J.R. 550(b)
8:31B-3.8(b)	Amend procedural and methodological rules for implementing Chapter 83, P.L. 1978	R.1979 d.484	12 N.J.R. 15(b)
8:31B-4	Financial elements and reporting	R.1979 d.407	11 N.J.R. 550(a)
8:32	Amend 1976-77 (Interim) N.J. State Medical Facilities Plan Long-term care bed need methodology and formula	R.1980 d.110	12 N.J.R. 186(b)
8:33-1.4, Exhibit 2	Amendments to guidelines and criteria for submission of applications for certificates of need	R.1980 d.36	12 N.J.R. 75(e)
8:33-1.4, 2.7, 2.8	Amend guidelines and criteria for submission of applications for certificate of need	R.1980 d.123	12 N.J.R. 186(c)
8:34-1.29, 1.30	Administrative experience regarding nursing home administrators	R.1980 d.170	12 N.J.R. 273(a)
8:35-1.3(g)	Amend antibiotic use	R.1980 d.85	12 N.J.R. 117(a)
8:36	Delete current text	R.1980 d.39	12 N.J.R. 76(c)
8:36A	Amend certificate of need for end stage renal disease service	R.1980 d.34	12 N.J.R. 75(c)
8:39-1.1	Amend definition of ancillary nursing personnel	R.1980 d.171	12 N.J.R. 273(b)
8:39-1.33	Amend standards for licensure of long term care facilities	R.1979 d.492	12 N.J.R. 16(e)
8:42-1.1	Amend definition of governing authority	R.1979 d.485	12 N.J.R. 15(c)
8:42-3	Extend expiration date of standards to June 30, 1980	R.1979 d.486	12 N.J.R. 15(d)
8:43-4.1(a)	Amendments to standards for licensure of new boarding homes for sheltered care	R.1980 d.172	12 N.J.R. 273(c)
8:43A-1.21(b)	Amend emergency medical care and defibrillators	R.1979 d.488	12 N.J.R. 16(a)
8:43A-1.52, 1.59, 1.63	Amend hours of counseling and availability of hours	R.1979 d.406	11 N.J.R. 549(e)
8:43A-1.66	Amend construction standards	R.1979 d.493	12 N.J.R. 17(a)
8:43A-1.71	Amend computerized axial tomography services	R.1979 d.487	12 N.J.R. 15(e)
8:43A-1.72	Extend expiration date for standards to June 30, 1980	R.1979 d.489	12 N.J.R. 16(b)
8:43A-1.74	Amendments on intermediate renal dialysis services	R.1980 d.39	12 N.J.R. 76(c)
8:43B-1.11(q)7	Amend waiver of emergency room services	R.1979 d.410	11 N.J.R. 550(d)
8:43B-7.2(c)	Amend respiratory therapists	R.1979 d.491	12 N.J.R. 16(d)
8:43B-17.12, 17.13, 17.16	Amend number of physicians and cardiac diagnostic and surgical services	R.1979 d.490	12 N.J.R. 16(c)
8:43B-17.17	Amend construction standards and cardiac diagnostic and surgical services	R.1979 d.494	12 N.J.R. 17(b)
8:43F	Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities	R.1979 d.452	11 N.J.R. 622(b)
8:45-1.3	Amend clinical laboratories licensure fees	R.1979 d.398	11 N.J.R. 549(d)
8:45-2.1, 2.2	Amendments increasing certain laboratory fees	R.1979 d.411	11 N.J.R. 550(e)
8:65-1.1—1.3	Use of controlled dangerous substances by animal care facilities	R.1980 d.86	12 N.J.R. 117(b)
8:65-2	Delete rules	R.1979 d.453	11 N.J.R. 622(c)
8:65-2.5, 5.3, 5.4, 5.11, 5.17, 6.6	Use of controlled dangerous substances by animal care facilities	R.1980 d.86	12 N.J.R. 117(b)
8:65-10.2(b)5.	Add immediate precursors to Schedule II of Controlled Dangerous Substances	R.1980 d.37	12 N.J.R. 76(a)
8:65-10.2(b)5.	Add immediate precursor to phencyclidine (PCP)	R.1980 d.38	12 N.J.R. 76(b)
8:70-1.1(c)	Amend drug evaluation and acceptance criteria	R.1979 d.412	11 N.J.R. 551(a)
8:70-1.1(d)	Amend manufacturer's name on drug labels	R.1979 d.483	12 N.J.R. 15(a)
8:71	Amend interchangeable drug products	R.1979 d.498	12 N.J.R. 75(a)
8:71	Amend list of interchangeable drug products	R.1980 d.35	12 N.J.R. 75(d)

(Title 8, Transmittal 12 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

HIGHER EDUCATION — TITLE 9

9:1-6.1, 6.4	Amend petitions from out-of-State institutions	R.1979 d.441	11 N.J.R. 623(a)
9:2-2.7, 2.10, 2.12, 9.7—9.10	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:3-1.3	Amend personnel policies for State colleges; contracts for nonfaculty professional staff	R.1980 d.50	12 N.J.R. 118(b)
9:3-2.14	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:6-1.1—1.4	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:6-1.2	Amend personnel policies for State colleges; contracts for nonfaculty professional staff	R.1980 d.50	12 N.J.R. 118(b)
9:7-2.2	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:7-2.6	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:7-2.10	Amend verification of enrollment and academic performance	R.1980 d.74	12 N.J.R. 119(a)
9:7-3.3	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:9-1.12(a), 5.3	Amend loan amounts and eligibility requirements	R.1979 d.401	11 N.J.R. 551(c)
9:11-1.1(c)6.	Amend student eligibility	R.1980 d.1	12 N.J.R. 76(d)
9:14	Amend implementing Independent Colleges and Universities Assistance Act	R.1980 d.98	12 N.J.R. 186(b)

(Title 9, Transmittal 13 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

HUMAN SERVICES — TITLE 10

10:44B	Standards on regulating adult foster homes, skill development homes and supervised apartments	R.1980 d.157	12 N.J.R. 278(e)
10:49-1.3	Amend disclosure of information	R.1980 d.90	12 N.J.R. 193(b)
10:49-5.5	Amend fair hearing	R.1980 d.33	12 N.J.R. 86(f)
10:50-1.2—1.4, 2.2, 2.5, 2.6	Amend transportation services	R.1980 d.93	12 N.J.R. 193(e)
10:52-1.6(c)	Amend out-patient hospital services	R.1980 d.45	12 N.J.R. 125(c)
10:52-1.7, 1.13	Amend Hospital Services Manual	R.1980 d.139	12 N.J.R. 278(a)
10:52-1.16	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:52-2.12	Assessment of interest on overpayments	R.1980 d.47	12 N.J.R. 126(a)
10:53-1.14	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:54-1.5(b)	Amend Physician's Services Manual	R.1980 d.138	12 N.J.R. 277(c)
10:54-1.9	Amend Physicians Services Manual	R.1980 d.91	12 N.J.R. 193(c)
10:54-1.23	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:55-1.5(b)3.	Amend Prosthetic and Orthotic Services Manual	R.1980 d.89	12 N.J.R. 193(a)
10:60-2.5	Assessment of interest on overpayments	R.1980 d.46	12 N.J.R. 125(d)
10:63-3	Amend longterm care facilities rate review guidelines	R.1979 d.482	12 N.J.R. 42(b)
10:63-3.5	Amend long-term care manual rate review guidelines	R.1980 d.42	12 N.J.R. 125(b)
10:66-4.18	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
19:67-1.8	Amend Psychologists Service Manual regarding prior authorization	R.1980 d.137	12 N.J.R. 277(b)
10:81-2.7	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-3.2, 3.3	Amend determination of presumptive eligibility	R.1980 d.77	12 N.J.R. 126(b)
10:81-3.8	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-3.21	Amend residence requirement and support rights	R.1980 d.119	12 N.J.R. 194(d)
10:81-3.27, 3.28	Amend transfer of cases from one county to another	R.1980 d.41	12 N.J.R. 87(a)
10:81-3.32, 3.33, 3.34	Amend temporary absence from home by a parent, parent-person or child	R.1980 d.78	12 N.J.R. 126(c)
10:81-3.38	Amend temporary absence from home by a parent, parent-person or child	R.1980 d.78	12 N.J.R. 126(c)
10:81-3.38, 3.40	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-3.41(a)	Amend recovery of assistance granted on behalf of a child pending settlement of a claim	R.1980 d.80	12 N.J.R. 126(e)
10:81-3.42	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-7.1	Amend transfer of cases from one county to another	R.1980 d.41	12 N.J.R. 87(a)
10:81-7.13	Amend retention and destruction of case records	R.1980 d.81	12 N.J.R. 127(a)
10:81-App.D.	Amend residence requirements and assignment of support rights	R.1980 d.119	12 N.J.R. 194(d)
10:82-1.4	Amend cross-references to Public Assistance Manual and incorporation of existing policy into the manual	R.1980 d.120	12 N.J.R. 194(e)
10:82-1.6	Amend Assistance Standards Handbook	R.1980 d.79	12 N.J.R. 126(d)

10:82-2.6	Amend institutionalized child, homemaker service, travel expenses and emergency assistance	R.1980 d.28	12 N.J.R. 86(c)
10:82-2.9	Amend Assistance Standards Handbook	R.1980 d.79	12 N.J.R. 126(d)
10:82-2.14(f)	Amend the determination of monthly income of AFDC clients employed on a contractual basis	R.1980 d.82	12 N.J.R. 127(b)
10:82-3.7	Amend cross-references to Public Assistance Manual and incorporation of existing policy into the manual	R.1980 d.120	12 N.J.R. 194(e)
10:82-4.9(c)	Amend increase in monthly rates for foster care as established by DYFS	R.1980 d.83	12 N.J.R. 127(c)
10:82-5.4, 5.5	Amend Assistance Standards Handbook	R.1980 d.28	12 N.J.R. 86(c)
10:82-5.10	Amend Assistance Standards Handbook	R.1980 d.28	12 N.J.R. 86(c)
10:82-5.10(d)	Amend emergency assistance and victims of domestic violence	R.1980 d.166	12 N.J.R. 278(f)
10:85	Amend forms and references to forms in the general assistance program	R.1980 d.11	12 N.J.R. 86(a)
10:85-3.1, 3.2	Amend general assistance procedures for persons released from State psychiatric institutions	R.1980 d.116	12 N.J.R. 194(a)
10:85-3.2	Amendments on fair hearings and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-3.2	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-3.2	Amend work registration procedures in general assistance program	R.1980 d.122	12 N.J.R. 195(b)
10:85-3.2	Amend application on behalf of a critically ill or hospitalized client by an authorized agent	R.1980 d.152	12 N.J.R. 278(b)
10:85-3.2	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-3.3(c)	Amend determination of monthly income for persons employed on a contractual basis	R.1980 d.84	12 N.J.R. 127(d)
10:85-3.3(g)	Amend allowance schedules and medically needy individuals	R.1980 d.29	12 N.J.R. 86(d)
10:85-3.5	Amend work registration procedures in general assistance program	R.1980 d.122	12 N.J.R. 195(b)
10:85-4.6(b)	Amend emergency assistance and victims of domestic violence	R.1980 d.167	12 N.J.R. 279(a)
10:85-5.2	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-5.3	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-5.3, 5.5	Amendments on medical payments	R.1979 d.495	12 N.J.R. 43(a)
10:85-6.3	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-7.1—7.3	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-7.3	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-7.6	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-10	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-App. C	Amend allowance schedules and medically needy individuals	R.1980 d.29	12 N.J.R. 86(d)
10:87-2.1	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-2.21, 2.29	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-3.18(b)	Amend criteria for student exemption from work registration	R.1980 d.30	12 N.J.R. 86(e)
10:87-3.18	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-4.7, 5.8	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-5.10, 6.9, 6.11, 6.13, 6.15	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-6.16	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-7.18, 9.1	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-9.7	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-10	Amend Food Stamp Manual	R.1980 d.121	12 N.J.R. 195(a)
10:87-10.1	Amend retention period for source documents	R.1980 d.117	12 N.J.R. 194(b)
10:87-11.15, 11.20	Amend Food Stamp Manual	R.1979 d.422	12 N.J.R. 559(d)
10:87-12	Amend Tables in Food Stamp Manual	R.1979 d.477	12 N.J.R. 42(a)
10:87-12.1	Amend income deduction table	R.1980 d.154	12 N.J.R. 278(d)
10:94-5.8(a)2.	Amendments concerning living allowance deductions	R.1980 d.27	12 N.J.R. 86(b)
10:104-1.19	Pre-adoption home studies in cases of foreign born children	R.1979 d.457	12 N.J.R. 40(b)

(Title 10, Transmittal 13 dated Nov. 13, 1979 includes all rules through Dec. 6, 1979 N.J. Register.)

CORRECTIONS — TITLE 10A

10A:32	Manual of standards for juvenile detention facilities	R.1980 d.14	12 N.J.R. 87(b)
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(Title 10, Transmittal 4 dated Nov. 13, 1979 includes all rules through Jan. 10, 1980 N.J. Register.)

INSURANCE — TITLE 11

11:1-5.8	Taxes paid to Firemen's Relief Associations	R.1979 d.356	11 N.J.R. 520(c)
11:4-20.1, 20.2	Unfair discrimination on basis of impairment	R.1979 d.434	11 N.J.R. 627(f)
11:5-1.15—1.17.	Amend advertising, contracts and obligations	R.1979 d.461	12 N.J.R. 44(b)
11:5-1.15(1)	Amend advertising	R.1980 d.52	12 N.J.R. 128(a)
11:5-1.16(c)	Amend advertising	R.1980 d.51	12 N.J.R. 127(e)
11:5-1.23	Amend advertising, contracts and obligation	R.1979 d.461	12 N.J.R. 44(b)

(Title 11, Transmittal 13 dated July 19, 1979 includes all rules through September 6, 1969 N.J. Register.)

LABOR AND INDUSTRY — TITLE 12

12:15-1.3	Amend maximum weekly benefit rates; unemployment compensation and temporary disability benefits	R.1979 d.321	11 N.J.R. 449(d)
12:15-1.4	Amend taxable wage base under unemployment compensation law	R.1979 d.320	11 N.J.R. 449(c)
12:15-1.5	Amend contribution rate of governmental entities and instrumentalities	R.1979 d.327	11 N.J.R. 450(a)
12:35	Assignment of employable general assistance recipients to worksites	R.1980 d.162	12 N.J.R. 280(b)
12:175	Amendments ski lifts	R.1979 d.360	11 N.J.R. 521(a)
12:200	Amend liquefied petroleum gases	R.1980 d.143	12 N.J.R. 280(a)
12:235-1.5	Amend worker's compensation rate	R.1979 d.319	11 N.J.R. 449(b)

(Title 12, Transmittal 11 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

LAW AND PUBLIC SAFETY — TITLE 13

13:2-17.14, 19.6	Amend elimination of requirement for oral argument	R.1979 d.393	11 N.J.R. 580(f)
13:2-24.5, 24.9, 25.1, 25.2, 25.3, 26.1	Amend Division rules	R.1980 d.72	12 N.J.R. 156(a)
13:2-31.4	Amend elimination of requirement for oral argument	R.1979 d.393	11 N.J.R. 580(f)
13:2-36.1	Amend Division rules	R.1980 d.72	12 N.J.R. 156(a)
13:2-41.5	Amend collection of sales and use tax	R.1980 d.73	12 N.J.R. 156(b)
13:19-4	Amend cardiovascular disorders	R.1979 d.367	11 N.J.R. 579(b)
13:20-12.2	Amend driver reexamination	R.1979 d.435	11 N.J.R. 628(c)
13:21-4.1	Amend statements of origin	R.1980 d.112	12 N.J.R. 209(c)
13:21-5.10	Surrender of registration plates	R.1979 d.315	11 N.J.R. 466(b)
13:21-8.2	Amend proof of identity and date of birth	R.1979 d.382	11 N.J.R. 580(d)
13:21-14	Amend bus drivers	R.1980 d.114	12 N.J.R. 209(e)
13:21-15.3	Amend motor vehicle dealers	R.1979 d.371	11 N.J.R. 580(a)
13:24-2.5, 2.7, 4.1, 4.2, 5.1	Amend emergency vehicle equipment	R.1979 d.372	11 N.J.R. 580(b)
13:25-8.5	Amend motorized bicycles	R.1980 d.113	12 N.J.R. 209(d)
13:25-8.5, 8.6	Rules on motorized bicycles	R.1979 d.481	12 N.J.R. 48(d)
13:26	Amend transportation of bulk commodities	R.1980 d.9	12 N.J.R. 91(c)
13:28-1.54	Amend beauty culture notice requirements	R.1980 d.94	12 N.J.R. 208(b)
13:28-2.11	Amend non-English speaking student enrollment	R.1980 d.109	12 N.J.R. 209(a)
13:28-2.33	Amend beauty culture curriculum	R.1980 d.94	12 N.J.R. 208(b)
13:29-3.10, 3.11	Amend advertising and solicitations	R.1980 d.31	12 N.J.R. 92(a)
13:33-4.1	Contact lenses dispensing	R.1979 d.462	12 N.J.R. 47(a)
13:35-5.2	Amend contact lenses	R.1979 d.463	12 N.J.R. 48(a)
13:35-6.6	Amend requirements for issuing a prescription	R.1979 d.421	11 N.J.R. 582(a)
13:36-8.11	Multiple burials	R.1979 d.420	11 N.J.R. 582(b)
13:37-3.9	Foreign nursing applicants	R.1979 d.464	12 N.J.R. 48(b)
13:38-6.1(b)	Amend release of patient record of contact lens specifications	R.1979 d.465	12 N.J.R. 48(c)
13:45A-6	Automotive sales practices	R.1979 d.392	11 N.J.R. 580(e)
13:45A-7.2	Amend repair of automobiles	R.1979 d.402	11 N.J.R. 581(a)
13:45A-16	Home improvement practices	R.1980 d.111	12 N.J.R. 209(b)
13:47A-25.3	Amend disclosure of material terms to wire services	R.1980 d.155	12 N.J.R. 284(a)
13:47B-1.23	Amend half-price sales of gasoline	R.1979 d.335	11 N.J.R. 522(a)
13:47C-4	Rules on the industry standard for New Jersey Atlantic White Cedar	R.1979 d.373	11 N.J.R. 580(c)
13:48	Rules concerning Charitable Fund Raising Act of 1971	R.1979 d.311	11 N.J.R. 466(a)
13:51-3.5(d)	Chemical breath testing	R.1980 d.8	12 N.J.R. 91(c)
13:70-2.1	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:70-12	Amend claiming requirements	R.1980 d.95	12 N.J.R. 208(c)
13:70-14	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:71-4.1	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:71-17.3	Amend vacancy in a tier	R.1979 d.349	11 N.J.R. 522(b)
13:71-23	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)

(Title 13, Transmittal 14 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

PUBLIC UTILITIES — TITLE 14

ENERGY — TITLE 14A

14:3-7.5(c)	Amend interest paid by utility on customer accounts	R.1979 d.289	11 N.J.R. 467(a)
14:3-7.9(b)	Estimated bills for residential customers	R.1979 d.474	12 N.J.R. 49(b)
14:3-7.9(b)	Amend estimated bills for residential customers	R.1980 d.44	12 N.J.R. 156(d)

14:3-7.15	Notification to municipalities; discontinuance of service to residential customers	R.1979 d.352	11 N.J.R. 522(c)
14:5-3.2(c)	Amend periodic testing of commercial and industrial electric meters	R.1979 d.374	11 N.J.R. 585(c)

14A:2-3.4, 3.15	Amend regulation and control of motor gasoline sales	R.1979 d.468	12 N.J.R. 48(e)
14A:8	Energy Facility Review Board	R.1979 d.473	12 N.J.R. 49(a)
14A:11-1.3	Amend periodic reporting of energy information by suppliers of motor gasoline	R.1980 d.20	12 N.J.R. 94(c)
14A:11-2	Periodic reporting of energy information by suppliers of home heating oil	R.1980 d.19	12 N.J.R. 93(b)
14A:11-3	Rules on bulk terminal operating companies	R.1979 d.417	11 N.J.R. 585(d)
	(Title 14, Transmittal 12 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)		
	(Title 14A, Transmittal 4 dated July 19, 1979 includes all rules through October 4, 1979 N.J. Register.)		

STATE — TITLE 15

(Title 15, Transmittal 11 dated May 17, 1979 includes all rules to date.)

PUBLIC ADVOCATE — TITLE 15A

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

TRANSPORTATION — TITLE 16

16:16-4.3	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:21	State aid to counties and municipalities	R.1980 d.127	12 N.J.R. 215(a)
16:26-3.4	Amend reimbursed highway safety lighting	R.1979 d.466	12 N.J.R. 52(a)
16:17-43	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:28-1.11	Speed limits: Terrill Road	R.1980 d.145	12 N.J.R. 289(c)
16:28-1.18	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-1.41	Amend speed zones on parts of Route U.S. 9	R.1980 d.55	12 N.J.R. 157(c)
16:28-1.57(a)	Amend speed zones on parts of Route U.S. 30 in Atlantic County	R.1980 d.3	12 N.J.R. 95(a)
16:28-1.69	Amend speed zones on parts of Route U.S. 130	R.1980 d.56	12 N.J.R. 157(d)
16:28-1.81	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-3.1	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.38(d)	No-parking zones on part of Route U.S. 9	R.1980 d.126	12 N.J.R. 214(b)
16:28-3.39	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.44, 3.46, 3.47	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.48	Amend restricted parking on parts of Routes 44, 52, 152 and 35	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.51, 3.53	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.61	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.62	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.66	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.75	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.94	Amend restricted parking	R.1980 d.53	12 N.J.R. 157(a)
16:28-3.95	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.97	Amend restricted parking	R.1979 d.265	11 N.J.R. 410(c)
16:28-3.107	Amend restricted parking: Routes 94 and 3	R.1979 d.345	11 N.J.R. 524(a)
16:28-3.107	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.107	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.112	Amend restricted parking	R.1979 d.345	11 N.J.R. 524(a)
16:28-3.113	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.121	Amend restricted parking	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.194	Restricted parking on Route 7	R.1979 d.265	11 N.J.R. 410(c)
16:28-3.198, 3.199	Amend restricted parking	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.199	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.201, 3.202	Restricted parking on parts of Routes 29 and 179	R.1979 d.390	11 N.J.R. 589(b)
16:28-7.6	Lane usage on parts of Route 35	R.1979 d.296	11 N.J.R. 471(a)
16:28-12.7, 12.21, 12.22, 12.25, 12.33, 12.34, 12.36, 12.37, 12.48, 12.59, 12.71	Amend right turns on red signals	R.1979 d.470	12 N.J.R. 52(b)
16:29-1.8	Amend no passing zones on parts of Route U.S. 46	R.1979 d.346	11 N.J.R. 524(b)
16:29-1.20	No-passing zones on parts of Route U.S. 40	R.1979 d.264	11 N.J.R. 410(b)
16:29-1.21	No passing zones on parts of Route 27 in Mercer County	R.1980 d.2	12 N.J.R. 94(c)

16:30-1.7	One-way traffic on parts of Eisenhower Avenue in Dover Township	R.1979 d.347	11 N.J.R. 524(c)
16:30-3.1, 3.4	Amend lane usage on parts of Routes 35 and U.S. 9	R.1979 d.471	12 N.J.R. 52(c)
16:30-3.5, 3.6	High occupancy vehicle lanes on parts of Routes I-95 and 444	R.1979 d.312	11 N.J.R. 471(c)
16:30-5.1	Amendments on parking at Metro Park train station	R.1980 d.13	12 N.J.R. 95(d)
16:30-5.1	Amend traffic and parking at Metro Park Train Station	R.1980 d.128	12 N.J.R. 289(b)
16:31-1.13	Amend no left turns on parts of Route 71	R.1979 d.348	11 N.J.R. 524(d)
16:31-1.14	Rules on no-left turns on parts of Route 35	R.1979 d.389	11 N.J.R. 589(a)
16:41-16	Permits allowing use or occupancy of State-owned railroad property	R.1979 d.331	11 N.J.R. 523(a)
16:43	Junkyards adjacent to the interstate and primary highway systems	R.1979 d.499	12 N.J.R. 94(b)
16:53A	Rules on financial and accounting conditions and criteria for bus operating assistance program	R.1979 d.302	11 N.J.R. 471(b)
16:53B	Delegation of authority by Computer Operating Agency	R.1979 d.334	11 N.J.R. 523(b)
16:65-1.4	Amend effective date of classification	R.1980 d.108	12 N.J.R. 214(a)
16:65-3.1, 3.2	Amend distribution and sale of construction plans and supplementary specifications	R.1979 d.388	11 N.J.R. 588(b)

(Title 16, Transmittal 13 dated June 14, 1979 includes all rules through June 7, 1979 N.J. Register.)

TREASURY-GENERAL — TITLE 17

17:1 foreword,	Amend general administration	R.1980 d.63	12 N.J.R. 163(a)
17:1-4.21			
17:1-4.31	Rules on normal retirement age	R.1980 d.64	12 N.J.R. 163(b)
17:1-9.1-9.6,	Amend general administration	R.1980 d.63	12 N.J.R. 163(a)
-10 foreword,			
-11 foreword, 11.9			
17:2-1.8, 2.2, 2.4,	Amend Public Employees' Retirement System	R.1979 d.399	11 N.J.R. 596(b)
3.1, 3.6, 4.11,			
4.14, 5.7, 6.2,			
6.19, 7.1, 7.2			
17:3-1.8, 1.11,	Amend Teachers' Pension and Annuity Fund	R.1980 d.103	12 N.J.R. 224(e)
2.1, 2.7, 3.1,			
5.2, 6.7, 6.11,			
6.13, 6.14			
17:3-6.15	Amend compulsory retirement	R.1979 d.397	11 N.J.R. 596(a)
17:4-1.8, 1.11,	Amend Police and Firemen's Retirement System	R.1980 d.135	12 N.J.R. 290(a)
3.3, 4.10, 6.7,			
6.8, 6.12, 6.14			
17:5-1.7, 2.3, 3.8	Amend State Police Retirement System	R.1980 d.101	12 N.J.R. 224(c)
17:6-1.8	Amend the suspension of pension checks	R.1979 d.476	12 N.J.R. 57(a)
17:9-5.5	Amend State Health Benefits Program	R.1979 d.396	11 N.J.R. 595(c)
17:10-1.7	Amend Judicial Retirement System	R.1979 d.431	11 N.J.R. 649(b)
17:10-1.8, 2.2	Amend Judicial Retirement System	R.1980 d.97	12 N.J.R. 224(a)
17:10-3.6	Amend Judicial Retirement System	R.1979 d.431	12 N.J.R. 649(b)
17:10-5.4	Amend Judicial Retirement System	R.1980 d.97	12 N.J.R. 224(a)
17:12-1.1, 2.4,	Amend administrative procedures of Purchase Bureau	R.1980 d.142	12 N.J.R. 293(a)
2.5, 2.7, 2.8, 3.3			
17:12-7.2(a)	Amendments concerning debarment, suspension and disqualification of a person	R.1980 d.141	12 N.J.R. 292(a)
17:16-27	Amend certificates of deposit	R.1979 d.436	11 N.J.R. 650(c)
17:16-31.9	Amend calculation of daily income per participating unit	R.1979 d.437	11 N.J.R. 651(a)
17:19-10	Architect/engineer selection procedures	R.1980 d.100	12 N.J.R. 224(b)
17:20	Amend concerning Lottery Bingo game	R.1980 d.67	12 N.J.R. 163(c)
17:21	Amend concerning Lottery Bingo game	R.1980 d.67	12 N.J.R. 163(c)
	Meadowlands Sports Lottery	R.1979 d.381	11 N.J.R. 594(b)
17:21-15	Pick-6 (Lotto) Lottery	R.1980 d.136	12 N.J.R. 290(b)

(Title 17, Transmittal 13 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

TREASURY-TAXATION — TITLE 18

18:6-1.1	Amend Unfair Cigarette Sales Act	R.1979 d.416	11 N.J.R. 596(c)
18:7-3.6	Amend Corporation Business Tax Act and method of company tax and net income base	R.1980 d.146	12 N.J.R. 293(b)
18:12-1.1	Amend categories of nonusable deed transactions	R.1980 d.62	12 N.J.R. 162(a)
18:12-7.1(d)	Amendments concerning homestead tax rebate	R.1979 d.432	11 N.J.R. 650(a)
18:12-7.12(c)	Extend filing date for 1980 homestead tax rebate claims	R.1979 d.467	12 N.J.R. 56(b)
18:12-9	Moratorium on taxation of mobile homes as real property	R.1980 d.147	12 N.J.R. 293(c)
18:12A-1.7(c)	Amend filing fees and county boards of taxation	R.1980 d.148	12 N.J.R. 293(d)
18:12A-1.12	Amend determination and judgments	R.1979 d.385	11 N.J.R. 595(b)

(Continued from Page 262)

Solomon Goldberg
Director
Licensing, Certification and Standards
N.J. Department of Health
P.O. Box 1540
Trenton, N.J. 08625

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

Dr. Joanne E. Finley
Commissioner
Department of Health

(a)

HEALTH

THE COMMISSIONER

Proposed Amendments to Manual of Standards for Licensure of Long Term Care Facilities

Dr. Joanne E. Finley, Commissioner of Health, pursuant

to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend a portion of the Manual of Standards for Licensure of Long Term Care Facilities requiring that a patient's weight be included as a part of a physical examination and recorded in the medical record.

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

8:39-1.15(i)1. A signed, dated admission and medical history, and a report of physical examination, including patient's weight, results of chest x-ray (at the discretion of the physician), medical findings, diagnoses and rehabilitation potential. Patients under age 35 shall also have an intradermal tuberculin test (and follow-up if necessary), with the exception of positive tuberculin reactors, who shall have a chest x-ray given within a period of time specified and documented by a physician in the patient's medical record. These shall be provided by the attending physician within 48 hours before or after the patient's admission to the facility, unless such history and examination were performed within five days prior to admission and documented in the patient's medical record;

18:12A-1.12(b)	Amend County boards of taxation regarding determination and judgments	R.1980 d.40	12 N.J.R. 97(b)
18:24-7.19	Taxation of mobile homes	R.1980 d.149	12 N.J.R. 293(e)
18:24-16.1, 16.2 16.5-16.7	Amend coin-operated vending machines and appropriate sales tax	R.1980 d.150	12 N.J.R. 293(f)
18:24-22.1, 22.3	Amend floor covering and the Sales and Use Tax Act	R.1980 d.102	12 N.J.R. 224(d)
18:24-25.2	Amend electronic data processing transactions; Sales and Use Tax Act	R.1979 d.384	11 N.J.R. 595(a)
18:26-8.7	Amend payment of inheritance tax	R.1979 d.295	11 N.J.R. 475(a)
18:35-1.12	Computation of tax credit under the gross income tax	R.1979 d.433	11 N.J.R. 650(b)
18:35-1.13	One-time election to exclude up to \$100,000 of gain on sale of principal residence: rollover	R.1979 d.475	12 N.J.R. 56(c)
18:36	Savings Institution Tax Act	R.1980 d.6	12 N.J.R. 97(a)

(Title 18, Transmittal 13 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

OTHER AGENCIES — TITLE 19

19:4-6.28	Amend district zoning regulations	R.1980 d.43	12 N.J.R. 164(a)
19:8-1.2	Amend speed limits on the Garden State Parkway	R.1979 d.339	11 N.J.R. 530(a)
19:8-1.9(b), 3.1(b)	Amend use of Garden State Parkway and tolls	R.1979 d.469	12 N.J.R. 57(c)
19:8-7.3(b)	Amendments concerning inspection and obtaining authority records regarding State Police reports	R.1980 d.131	12 N.J.R. 294(a)
19:9-2.1	Amend pre-qualification of bidders and award of contracts	R.1979 d.500	12 N.J.R. 97(c)
19:25-4.8	Political action committees	R.1979 d.391	11 N.J.R. 597(b)
19:30-3	Payment of prevailing wages	R.1979 d.337	11 N.J.R. 530(b)
19:30-4	Targeting authority assistance	R.1979 d.338	11 N.J.R. 530(c)
19:40-2.1, 2.2	Rules on child labor laws	R.1979 d.378	11 N.J.R. 599(d)
19:41-1.3	Amend employee licenses applications	R.1979 d.379	11 N.J.R. 559(e)
19:41-7.16	Amend applications and additional copies	R.1979 d.357	11 N.J.R. 530(e)
19:41-8.6	Amend withdrawal of applications	R.1980 d.159	12 N.J.R. 295(a)
19:41-8.8	Reapplication by natural persons	R.1980 d.160	12 N.J.R. 295(b)
19:43-1.14	Rules on Casino service industry licenses	R.1979 d.376	11 N.J.R. 599(b)
19:45	Amend internal and accounting controls	R.1979 d.336	11 N.J.R. 530(d)
19:46-1.1	Amend chip specifications	R.1979 d.358	11 N.J.R. 531(a)
19:46-1.13	Amend Big Six Wheel Game rules	R.1979 d.429	11 N.J.R. 600(b)
19:47-2.6-2.9	Amend Blackjack and peek rules	R.1979 d.380	11 N.J.R. 600(a)
19:47-5.5	Amend Big Six Wheel Game	R.1979 d.429	11 N.J.R. 600(b)
19:47-5.7	Amend rules on minimum and maximum wagers	R.1979 d.377	11 N.J.R. 599(c)
19:47	Amend rules of the games	R.1980 d.132	12 N.J.R. 294(c)
19:47-5.7(d)	Amend minimum wagers on Big-Six Wheel	R.1980 d.133	12 N.J.R. 294(d)
19:54	Amendments concerning the gross revenue tax	R.1980 d.134	12 N.J.R. 294(e)

(Title 19, Transmittal 13 dated July 19, 1979 includes all rules through September 6, 1979 N.J. Register.)

8:39-1.25(c)4. A physician's signed and dated admission history, report of physical examination including patient's weight upon admission, and medical care plan;

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Dr. Joanne E. Finley
Commissioner
Department of Health

(a)

HEALTH

PUBLIC HEALTH COUNCIL

Proposed Amendments Concerning Definitions of Local Board of Health and Secretary

The Public Health Council in the Department of Health, pursuant to authority of N.J.S.A. 26:1A-15, proposes to amend the definitions of local board of health and secretary in N.J.A.C. 8:51-1.2(a).

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

8:51-1.2(a) Definitions and requirements

“Local Board of Health” means [the board of health of a municipality, county, or regional health commission organized for the purpose of providing health services and with the power to regulate by ordinance public health or sanitation, or the boards, bodies or officers in such municipalities lawfully exercising any of the powers of a local board of health.] the local board of health, as defined in N.J.S.A. 26:1A-1 and N.J.S.A. 26:3-1, and shall be the enforcement, policy and rule-making body with respect to Local Health Services provided by local health agencies under N.J.S.A. 26:3A2-1 et seq.

“Secretary” means every local board of health shall appoint a secretary who shall keep accurate records of all official actions of said board and perform such other duties as may be assigned by that board. A full-time health officer or other person in the employ of any jurisdiction may be appointed as the secretary of the local board of health.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Ronald S. Ulinsky
Acting Director
Local Health and Regional Operations
N.J. Department of Health
P.O. Box 1540
Trenton, N.J. 08625

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

Dr. Joanne E. Finley
Commissioner
Department of Health

(b)

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

Notice of Error and Hearing Notice Concerning Amendments to New Jersey List of Interchangeable Drug Products

Take notice that, in the Notice of Proposal concerning proposed amendments to the New Jersey list of interchangeable drug products that appeared in the April 10, 1980, issue of the New Jersey Register at 12 N.J.R. 184(b), it was erroneously stated that the Public Health Council rather than the Drug Utilization Review Council was proposing such amendment.

The Drug Utilization Review Council also submitted a notice of hearing which was omitted from the Notice of Proposal. This hearing has been rescheduled for May 29, 1980, at 10:00 A.M. in Room 103 of the Health-Agriculture Building, John Fitch Plaza, Trenton, N.J.

This Notice is published as a matter of public information.
Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

THE COMMISSIONER

Amendments Concerning Health Officer Qualifications

On April 16, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:1A-38 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:7-1.9(a)2.i. concerning health officer qualifications as proposed in the Notice published March 6, 1980 at 12 N.J.R. 114(c).

An order adopting these amendments was filed and became effective on April 17, 1980 as R.1980 d.168.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HEALTH

THE COMMISSIONER

Amendments Concerning Physical Examinations Regarding Youth Camp Safety Act Standards

On April 11, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:25-3.2(a) concerning physical examinations regarding Youth Camp Safety Act Standards as proposed in the Notice published March 6, 1980 at 12 N.J.R. 114(d).

An order adopting these amendments was filed and became effective on April 17, 1980 as R.1980 d.169.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HEALTH

THE COMMISSIONER

Rules Concerning Administrative Experience Regarding Nursing Home Administrators

On April 17, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-27, 26:2H-28 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 8:34-1.29 and 8:34-1.30, concerning administrative experience regarding nursing home administrators as proposed in the Notice published March 6, 1980 at 12 N.J.R. 115(b).

An order adopting these rules was filed and became effective on April 17, 1980 as R.1980 d.170.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HEALTH

THE COMMISSIONER

Amendment to Definition of Ancillary Nursing Personnel

On April 11, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted an amendment to N.J.A.C. 8:39-1.1 concerning the definition of ancillary nursing personnel as proposed in the Notice published March 6, 1980 at 12 N.J.R. 115(c).

An order adopting this amendment was filed on April 17, 1980 as R.1980 d.171 to become effective on July 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HEALTH

THE COMMISSIONER

Amendments to Standards for Licensure Of New Boarding Homes For Sheltered Care

On April 11, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:43-4.1(a)3 concerning standards for licensure of new boarding homes for sheltered care substantially as proposed in the Notice published March 6, 1980 at 12 N.J.R. 116(a) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed on April 17, 1980 as R.1980 d.172 to become effective on May 8, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HEALTH

THE COMMISSIONER

Rules Concerning Newborn Hearing Screening Program

On April 17, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2-101 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 8:19, concerning the newborn hearing screening program as proposed in the Notice published January 10, 1980 at 12 N.J.R. 10(d).

An order adopting these rules was filed on April 17, 1980 as R.1980 d.173 to become effective on July 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(e)

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Proposed Amendments Concerning Graduate Fellowships

The Student Assistance Board in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:71-26.8, proposes to delete the current text of N.J.A.C. 9:7-4.4 and adopt new rules, to be cited as N.J.A.C. 9:7-5.1 et seq. if adopted, concerning graduate fellowships and the requirements of the fellowship program.

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

9:7-4.4 [Graduate fellowships] (Reserved)

[(a) The prime objective of these awards is to attract and retain the very best academically talented students in New Jersey graduate institutions. Fellowships shall be awarded for one academic year, renewable upon the recommendation of the institution, the continued eligibility of the student, and the availability of appropriated funds. Fellowships shall be awarded only for attendance at institutions in New Jersey offering graduate programs approved by the State Board of Higher Education, except in the case of exempt institutions pursuant to N.J.S. 18A:68-6. In no case shall graduate students hold these fellowships for longer than four academic years. To be eligible a student must be matriculated full-time for a graduate degree during the year of the fellowship award. All other provisions of the Student Assistance Board regulations pertaining to residency, verification of enrollment, payments, and appeals remain in effect.

(b) A committee of graduate faculty members shall select the award holders on the basis of academic achievement and evidence of further academic promise; degree of financial need may also be considered by the committee. Application requirements and criteria for selection shall be reviewed and approved by the Student Assistance Board.]

SUBCHAPTER 5. GARDEN STATE GRADUATE FELLOWSHIP PROGRAM

9:7-5.1 Purpose

The prime objective of these awards is to attract and retain the very best academically talented students in New Jersey graduate institutions.

9:7-5.2 General provisions

General provisions for all programs administered by the Student Assistance Board (Title 9, Subtitle B, chapter 7, subchapter 2) which pertain to residency (2.2), foreign nationals (2.3), verification of enrollment and academic performance (2.10), payments to students (2.11), check endorsements (2.14), appeals (2.15), and fiscal responsibilities (2.16) shall be in effect for the Garden State Graduate Fellowship Program.

9:7-5.3 Eligibility

Consonant with the primary purpose of the Fellowship Program to attract beginning high ability graduate students to New Jersey institutions, applicants shall not be enrolled for more than six graduate credits during the fall term preceding the application deadline and shall not have completed more than 16 graduate credits prior to the application deadline. Graduate credits earned while enrolled as an undergraduate student shall not be considered in determining the above totals.

9:7-5.4 Approved programs

Fellowships shall be awarded only for attendance at institutions in New Jersey offering graduate programs approved by the State Board of Higher Education, except in the case of exempt institutions pursuant to N.J.S. 18A:68-6. Approved programs are graduate programs in recognized fields in the humanities, social sciences, and natural and physical sciences. Professional studies in such areas as law, medicine, and theology shall not be approved programs for Graduate Fellowship support. Degrees related to excluded professional studies are: M.D., D.D.S., D.M.D., O.D., D.O., D.Pharm., Pod. D., D.P., D.P.M., D.V.M., D.C., D.C.M., LL.B., J.D., B.D., M.Div.

9:7-5.5 Duration

Fellowships shall be awarded for one academic year, renewable upon the recommendation of the institution, the continued eligibility of the student, and the availability of appropriated funds. An award holder shall not be eligible for payment for a second masters degree unless such degree progresses directly towards a doctoral degree. In no case shall a graduate student be paid for more than four years of study.

9:7-5.6 Attendance

A recipient of a Fellowship award must matriculate in an approved program of study no later than the fall term immediately succeeding the notification of award and continue in regular full-time attendance. After payment has been received by the recipient, a request for a leave of absence may be made to the Office of Student Assistance, Department of Higher Education for a period not to exceed one year. In accord with the continuous attendance requirement, the Office shall approve leaves only for documented personal or educational reasons.

9:7-5.7 Number of recipients

The number of Fellowship recipients for an academic year shall be determined annually by the Student Assistance Board.

9:7-5.8 Amount of the award

Graduate Fellowships may be awarded up to an annual maximum of \$4,000.

9:7-5.9 Selection

A committee of graduate faculty members shall select the award holders primarily on the basis of academic achievement and evidence of further academic promise; degree of financial need may also be considered by the committee. Application requirements, criteria for selection, and the application deadline shall be reviewed and approved by the Student Assistance Board. Awards shall be announced prior to May 1.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Lynn Goldthwaite
Chairman, Student Assistance Board
Department of Higher Education

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Proposed Amendments
Establishing Recipient Controls**

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:49-1.2 and 10:49-1.5 concerning establishment recipient controls by adopting new additions thereto.

Full text of the proposed new rules follows.

10:49-1.2(j) A recipient whose Medicaid validation stub has been used by an unauthorized person will be issued a goldenrod Special Status Card as notice to providers to check carefully the identity of the recipient.

(k) A recipient whose overutilization or misutilization of covered services is definitely confirmed and who has failed to cooperate in changing patterns of utilization will be issued a red Special Status Card restricting that recipient to one pharmacy and/or one primary provider. Recipients will be permitted to change designated providers every three months, or sooner upon demonstration of good cause.

10:49-1.5(a)13. Any claim submitted by a provider not listed on the red Special Status Card issued pursuant to N.J.A.C. 10:49-1.2(k) to the recipient signing the claim.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Ann Klein
Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendments to Long Term Care Services Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend N.J.A.C. 10:63-1.4(k) in the Long Term Care Services Manual concerning requirements for obtaining consultations in long term care facilities.

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

10:63-1.4(k) When dental, podiatry, vision care, psychological or chiropractic services are ordered, as well as any medical or surgical speciality consultation, such services must be prescribed under the attending physician's signature [and appear] on the order sheet and on a consultation sheet, indicating the reason for the consultation. In view of patient's rights (see section 9 of this subchapter), if these services were to arise as a result of a patient's request and be consistent with medical necessity, then the attending physician must note knowledge of the request on the order sheet and on the consultation sheet, affixing a signature thereto.

1. Example: "Optometric consultation by Dr. R. L. Smith at patient's request/A. B. Turner, M.D."

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
Department of Human Services
P.O. Box 2486
Trenton, N.J. 08625

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

Ann Klein
Commissioner
Department of Human Services

(b)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

OFFICE OF MEDICAL CARE ADMINISTRATION

Proposed Amendments to Independent Clinic Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to delete the current text of N.J.A.C. 10:66 and insert the new text therein concerning the Independent Clinic Manual.

A summary of the changes includes standardized reimbursement policies and procedures and improved mechanisms for utilization control.

A copy of the full text (30 pages) may be obtained from

or made available for review by contacting the following individual:

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

Interested persons may send written comments on or before May 28, 1980 to the above address.

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

Ann Klein
Commissioner
Department of Human Services

(c)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Proposed Amendments Concerning General Assistance Clients In Certain Municipalities

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111, proposes to amend a portion of the General Assistance Manual concerning authorization, processing and payment of pharmaceutical services on behalf of General Assistance clients in certain municipalities.

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

10:85-3.2(f)1.i. For a person in such a facility who is a resident elsewhere in New Jersey, the MWD in the municipality in which the facility is located will process all parts of the application except the making of payments. The local MWD will send the results of such eligibility determinations to the MWD of the responsible municipality for payment and/or other appropriate action. (Exception: Municipalities to which N.J.A.C. 10:85-5.8 applies will be charged for prescriptions for all patients in residential medical facilities and will bill the municipality responsible for the charge when appropriate. See N.J.A.C. 10:85-6.8(b)2 regarding chargebacks.)

10:85-5.3(b)i. Municipalities to which N.J.A.C. 10:85-5.8 applies will be charged for prescriptions at the Medicaid rate for the product. (N.J.A.C. 10:85-5.8(e) and 6.8(d).)

10:85-5.4(a) Rules concerning determination of Medicaid rate are: (Note: This section does not apply to prescription bills, except for medical supplies and equipment, in those municipalities to which N.J.A.C. 10:85-5.8 applies.):

...

10:85-5.8 PHARMACEUTICAL PAYMENTS BY DMAHS

(a) Prescription bills, except for medical supplies and equipment, incurred on behalf of recipients in certain municipalities will be processed by the New Jersey Division of Medical Assistance and Health Services (DMAHS). The municipalities involved (and 4 digit codes for each) are listed in section 9 of this subchapter.

(b) A General Assistance recipient who requires a pharmaceutical product will take his/her prescription to a Medicaid participating pharmacy. The pharmacist will procure an authorization number (see subsection (d) of this section), complete Form MC-24, and supply the product. Payment will be as provided in subsection (e) of this section.

(c) Each MWD will maintain in a secure location a supply of Form MC-24. Forms are available from the Bureau of Management Services, Division of Public Welfare. The MWD will enter its 4 digit municipality code in the first four of the ten blocks over "Patient's First Name" on each form upon receipt and record the receipt of the serially numbered forms in a MC-24 Control Log (Form GA-20). The MWD will supply forms without charge to pharmacies which provide services to GA recipients, recording on a separate Form GA-20, the serial numbers of forms supplied to each pharmacy.

(d) Participating pharmacies have been instructed to obtain an authorization number before dispensing a product to a GA recipient. This is a ten digit number, the first four of which were entered by the MWD. The last six digits are those of the agency-assigned case number preceded by zeroes, if necessary, to fill all spaces. Pharmacies may obtain the last part of the number through either one or a combination of the following two ways at the option of the agency:

1. Telephone: The pharmacy will contact a MWD representative by telephone prior to dispensing the prescription. The person providing the authorization shall record the date of authorization, the recipient's name and case number, and his/her own name as the official authorizing service next to the applicable MC-24 serial number on the Form GA-20 maintained for that pharmacy. Agencies using this method only must maintain procedures whereby pharmacies can obtain authorizations outside of agency business hours.

2. Validation cards: The recipient presents a current validation card to the pharmacist who completes the transaction without additional contact with the agency. Agencies using this method must supply a card to each recipient at each opening or reopening of a case and at least monthly thereafter with dates such as to ensure validity throughout all periods of assistance eligibility. With this method, the agency will complete the GA-20 record, except for the name of the official authorizing service and date authorization was provided, upon receipt of the detailed statement provided by Blue Cross (see Section 681). The size and layout of the validation card are optional with the agency. Each card must contain as a minimum:

- i. Name, address, and phone number of the agency.
- ii. First and last name(s) of client(s) for whom card applies.

iii. Six digit (maximum) case number.

iv. Expiration date.

v. Notice to client as follows: This validation form indicates eligibility for General Assistance benefits and is to be presented to the pharmacist when having a prescription filled.

vi. Notice to pharmacist as follows: Please complete MC-24 (blue) claim form according to Medicaid policies and procedures and forward to Blue Cross for payment.

(e) The MWD will make no payment directly to a pharmacy for any prescription charge other than those for medical supplies or equipment. Payment at the Medicaid rate will be made by Blue Cross and reported and charged as described in N.J.A.C. 10:85-6.8(d).

10:85-5.9 Participating MWD's

The following is a list of MWD's (and four digit codes) participating in the processing of pharmaceutical payments by DMAHS.

Municipality	County
Newark	Essex
Jersey City	Hudson
Trenton	Mercer
Camden	Camden

East Orange
Hoboken
Paterson
Elizabeth
Atlantic City
Bayonne
Orange City
Lakewood
New Brunswick
Plainfield
Union City
Perth Amboy
Passaic City
Montclair
Hamilton Twp.
Bridgeton
Irvington
Vineland
Englewood
Asbury Park
Millville
Woodbridge
Deptford
Dover
Edison
Burlington City
Franklin Twp.
Kearny
North Bergen
Neptune Twp.
Long Branch
Rahway
Linden
Old Bridge
Red Bank
Harrison
Jackson
Howell
Burlington Twp.
Hazlet Twp.
Lincoln Park
Piscataway Twp.
Willingboro
Keansburg
Barnegat
Lindenwold

Essex
Hudson
Passaic
Union
Atlantic
Hudson
Essex
Ocean
Middlesex
Union
Hudson
Middlesex
Passaic
Essex
Mercer
Cumberland
Essex
Cumberland
Bergen
Monmouth
Cumberland
Middlesex
Gloucester
Ocean
Middlesex
Burlington
Somerset
Hudson
Hudson
Monmouth
Monmouth
Union
Union
Middlesex
Monmouth
Hudson
Ocean
Monmouth
Burlington
Monmouth
Morris
Middlesex
Burlington
Monmouth
Ocean
Camden

10:85-6.8 Pharmaceutical payments

(a) The provisions of this section apply only to those municipalities in which certain pharmacy charges are paid by Blue Cross as described in N.J.A.C. 10:85-5.8.

(b) Each month Blue Cross will provide to DPW, through DMAHS, a detailed statement of pharmacy bills paid for General Assistance recipients. The DPW will forward this report to the respective municipal welfare departments. The monthly statement will show:

Municipal Code Provided (Medicaid I.D. #) Sequential claim # Recipient # National Drug Code Name of Drug Metric quantity	Amount dispensed Number of days supply Prescription (Rx) # Individual Medicaid Practitioner (IMP) # Date of Service Amount Paid
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1. Action Upon Receipt of Statement - Upon receipt of its statement each month the MWD will reconcile it with the GA-20 forms maintained for the various pharmacies. Payments may be recorded in individual case records if desired.

i. MWDs giving authorizations via telephone only, will have completed all columns of Form GA-20 at the time authorization is given.

ii. MWDs using an identification card system only, will at this time complete each GA-20, except the columns for "Official Authorizing Service" and "Authorization Date."

iii. MWDs using a combination of these systems will have completed all columns on the GA-20 for prescriptions authorized via telephone, but must at this time complete the GA-20 as in subparagraph ii of this paragraph for all authorizations made via identification card.

2. Chargebacks: For any charges shown on the MWD statement which are the payment responsibility of another municipality, as for certain medical institution patients, the MWD will bill the responsible municipality noting this action on the GA-20.

i. A responsible municipality will, upon receipt of a bill for an item appearing on the monthly statement of a servicing municipality, make prompt payment. This transaction must be reported on Form GA-6 by the responsible municipality.

ii. A servicing municipality will, upon receipt of payment from a responsible municipality, deposit the funds in the Public Assistance Trust Fund Account and include the amount on Form GA-12, Statement of Refunds.

3. Retention: Monthly statements shall be retained for the same periods applicable to form GA-6.

(c) Form GA-6 - The monthly statement will serve as a supplementary Form GA-6. It will therefore be unnecessary to transfer the statement listings to a regular Form GA-6. However, because the Bureau of Business Services will have retained a copy for charging purposes, it will be necessary to notify that bureau of any adjustments made in the reconciliation process.

(d) Periodically, the municipal share of costs up to that time will be deducted from payments of State aid to the respective municipalities.

1. Assistance costs: Deductions from the State aid payments for prescription costs as listed on the monthly statements will represent the same municipal share (currently 25%) as is applicable to other assistance costs.

2. Administrative costs: In addition to the assistance costs deduction discussed above, a separately identified administrative cost will also be deducted. This will represent the cost of processing the MC-24 forms. Since this deduction will result in a reduction in available funds, a check must be drawn from the account used for administrative expenses payable to the Public Assistance Trust Fund Account for the total amount of the administrative cost of processing the forms.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Ann Klein
Commissioner
Department of Human Services

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments Concerning Medicaid Reimbursement for Abortions

On March 26, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:52-1.16, 10:53-1.14, 10:54-1.23 and 10:66-1.18 concerning Medicaid reimbursement for abortions as proposed in the Notice published March 6, 1980 at 12 N.J.R. 119(c).

An order adopting these amendments was filed on March 31, 1980 as R.1980 d.130 to become effective on April 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments to Psychologists Services Manual

On March 10, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:67-1.8 concerning the Psychologists Services Manual substantially as proposed in the Notice published September 6, 1979, at 11 N.J.R. 445(c) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed and became effective on April 1, 1980 as R.1980 d.137.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments to Physician's Services Manual

On March 11, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:54-1.5(b)2. concerning the Physician's Services Manual substantially as proposed in the Notice published September 6, 1979, at 11 N.J.R. 444(a) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed and became effective on April 1, 1980 as R.1980 d.138.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Amendments to Hospital Services Manual

On March 11, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:52-1.7 and 10:52-1.13 in the Hospital Services Manual substantially as proposed in the Notice published September 6, 1979, at 11 N.J.R. 443(c) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed and became effective on April 1, 1980 as R.1980 d.139.

Howard H. Kestin
Director
Office of Administrative Law

(b)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments Concerning Application on Behalf Of a Critically Ill or Hospitalized Client By an Authorized Agent

On April 10, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-3.2 concerning the application on behalf of a critically ill or hospitalized client by an authorized agent as proposed in the Notice published March 6, 1980 at 12 N.J.R. 121(a).

An order adopting these amendments was filed and became effective on April 11, 1980 as R.1980 d.152.

Howard H. Kestin
Director
Office of Administrative Law

(c)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments Concerning Workfare

On April 10, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-3.2, 10:85-7.3 and 10:85-10 concerning workfare substantially as proposed in the Notice published March 6, 1980 at 12 N.J.R. 121(b), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed on April 11, 1980 as R.1980 d.153 to become effective on May 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(d)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Emergency Amendments to Income Deduction Table in Food Stamp Manual

On April 10, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4B-2 and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 10:87-12.1 concerning the income deduction table in the Food Stamp Manual.

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

10:87-12.1 Income deduction table

INCOME DEDUCTIONS

Standard deduction	\$ 75
Child care shelter deduction	\$ 90
Uniform telephone allowance	\$ 7.96
Standard utility allowance	[\$189] \$154

An order adopting these amendments was filed on April 11, 1980 as R.1980 d.154 (Exempt, Emergency Rule) to become effective on May 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(e)

HUMAN SERVICES

DIVISION OF MENTAL RETARDATION

Standards on Regulating Adult Foster Homes, Skill Development Homes and Supervised Apartments

On April 11, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:11B-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 10:44B, concerning standards on regulating adult foster homes, skill development homes and supervised apartments substantially as proposed in the Notice published October 4, 1979 at 11 N.J.R. 505(c) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these rules was filed on April 14, 1980 as R.1980 d.157 to become effective on April 17, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(f)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments Concerning Emergency Assistance And Victims of Domestic Violence

On April 17, 1980, Ann Klein, Commissioner of Human

Services, pursuant to authority of N.J.S.A. 44:7-6, 44:10-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:82-5.10(d)4 concerning emergency assistance and victims of domestic violence as proposed in the Notice published March 6, 1980 at 12 N.J.R. 120(b).

An order adopting these amendments was filed on April 17, 1980 as R.1980 d.166 to become effective on May 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

Amendments Concerning Emergency Assistance And Victims of Domestic Violence

On April 17, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-4.6(b) concerning emergency assistance and victims of domestic violence as proposed in the Notice published March 6, 1980 at 12 N.J.R. 124(a).

An order adopting these amendments was filed on April 17, 1980 as R.1980 d.167 to become effective on May 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(b)

INSURANCE

THE COMMISSIONER

Proposed Rules on Life Insurance Policies that Provide a Limited Death Benefit in the Early Years as an Alternative to Underwriting

James J. Sheeran, Commissioner of Insurance, pursuant to the authority of N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17B:25-18, proposes to adopt new rules on limited death benefits forms.

Full text of the proposal follows.

SUBCHAPTER 21. LIMITED DEATH BENEFITS FORMS

11:4-21.1 Purpose

(a) This department has for the past several years been disapproving life insurance policy forms that limit benefits at early durations as an alternative to underwriting. These policy forms have been disapproved pursuant to N.J.S.A. 17B:25-18h on the ground that they are misleading, unfair and inequitable.

(b) The areas of concern have been:

1. The likelihood of misunderstanding arises where the sales presentation emphasizes the non-underwritten feature while minimizing or ignoring the limitation on death benefits at early durations.

2. Where the policy is sold to an applicant who can qualify for an underwritten policy, the insurable person may be deprived of benefits while paying higher than necessary premiums.

(c) In spite of these areas of concern, these policies may

make life insurance available to people who would not otherwise be eligible. Hence the department will consider for filing Limited Death Benefit policy forms that comply with N.J.S.A. 17B:25, any applicable regulations, and the additional requirements stated herein.

11:4-21.2 Applicability and scope

This subchapter shall apply to all individual life insurance policies delivered or issued for delivery after the effective date hereof that limit death benefits at early durations as an alternative to underwriting. Furthermore, the previous filing by the commissioner of any policy forms which do not meet all the requirements of this regulation is withdrawn as of the effective date.

11:4-21.3 Requirements

(a) The policy must prominently display on its face page the amount of any death benefit smaller than the face amount of the policy together with the years during which each of the reduced amounts applies. The brief description on the face page shall refer to the limited benefits and specify the period of limitation.

(b) All advertising materials and sales presentations shall clearly advise the prospect of the limited nature of the early death benefits.

(c) For companies that offer similar full-coverage, underwritten policies to some or all of those eligible for the limited benefit policies, the advertising materials and sales presentations must inform the prospect that an underwritten policy with full benefits and, if such is the case, lower premium rates may be available from the company. Any difference in the premium rates between the limited benefit policy and the underwritten policy must be shown. Instructions in the procedure to be followed if the prospect is interested in applying for the underwritten policy must also be included.

(d) A narrative statement of the method by which the policy will be sold, including any instructions to agents, any standardized presentation, and any advertising or direct mail material shall be submitted to the department.

(e) When sold by agents, the commission must be significantly lower on the limited benefit policies to insure that full-coverage, equivalent, underwritten policies will be sold in preference to the limited benefit forms.

(f) The limited death benefit shall not be less than the amount of premiums paid with interest at the rate used to determine nonforfeiture values under the policy.

(g) The period during which a limited benefit applies shall not exceed 25 per cent of expectation of life at the issue age determined by the mortality table used for nonforfeiture values under the policy.

(h) The face, or ultimate, amount of insurance shall not exceed \$5,000.

(i) The issue age shall not be less than 50.

(j) The policy shall include a provision allowing for the return of the policy for a full refund of premiums within at least 30 days after delivery.

Interested persons may present statements or arguments in writing concerning this rule on or before May 28, 1980 to:

Barbara R. Diamond
Special Assistant to the Commissioner
New Jersey Insurance Department
P.O. Box 1510
201 East State Street
Trenton, New Jersey 08625

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

James J. Sheeran
Commissioner
Department of Insurance

(a)

LABOR AND INDUSTRY

THE COMMISSIONER

DIVISION OF WORKPLACE STANDARDS

Amended Rules on Liquefied Petroleum Gases

On April 7, 1980, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 21:1B-2c and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 12:200 concerning liquefied petroleum gases substantially as proposed in the Notice published November 8, 1979, at 11 N.J.R. 560(f) with only inconsequential structural or language changes in the opinion of the Department of Labor and Industry.

Such inconsequential changes affected N.J.A.C. 12:200-1.3, 1.7, 1.8, 3.3, 4.1(a) and 5.1(b).

An order adopting these amendments was filed on April 9, 1980 as R.1980 d.143 to become effective on May 15, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(b)

LABOR AND INDUSTRY

THE COMMISSIONER

DIVISION OF EMPLOYMENT SERVICES

Rules for Assignment of Employable General Assistance Recipients to Worksites

On April 17, 1980, John J. Horn, Commissioner of Labor and Industry, pursuant to authority of P.L. 1979, c. 267, and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 12:35, concerning the assignment of employable general assistance recipients to worksites as proposed in the Notice published March 6, 1980 at 12 N.J.R. 128(b).

An order adopting these rules was filed on April 17, 1980 as R.1980 d.162 to become effective on May 1, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(c)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposed Amendments Concerning Inspection Of New Passenger Vehicles

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:8-2 proposes to amend N.J.A.C. 13:20-28 concerning inspection of new passenger vehicles.

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

SUBCHAPTER 28. INSPECTION OF NEW PASSENGER VEHICLES AND NEW MOTORCYCLES

13:20-28.1 Purpose

(a) The purpose of this [Subchapter] subchapter is to effect increased equipment and vehicular safety by requiring new car dealers to inspect new passenger vehicles and approved new motorcycle dealers to inspect new motorcycles prior to delivery to an ultimate purchaser in New Jersey.

(b) Such inspection shall be deemed, when performed in conformity with this [Subchapter] subchapter, to satisfy the requirements of N.J.S.A. 39:8-1.

13:20-28.2 Applicability

The provisions of this [Subchapter] subchapter shall be applicable to all new car dealers and new motorcycle dealers licensed by the Director.

13:20-28.3 Definitions

The following words and terms, when used in this [Subchapter] subchapter, shall have the following meanings[,] unless the context clearly indicates otherwise. (Note: Any other [terms] term used in this [Subchapter] subchapter and not defined within this [Section] section shall have the meaning as defined in [Title 39 of the Laws of New Jersey] N.J.S.A. 39:1-1 et seq.)

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Mileage recording instrument" means an instrument mounted in the passenger compartment of a vehicle which will accurately measure and record [visibly,] the mileage traversed by the vehicle.

"New car dealer" or "new motorcycle dealer" means a dealer licensed pursuant to N.J.S.A. 39:10-19, to sell new passenger vehicles or new motorcycles, his employees and/or agents.

"New passenger vehicle" means every new vehicle, regardless of registration class, used and designed for the transportation of passengers, except motorcycles, omnibuses, school buses and vehicles that run upon rails or tracks.

"Predelivery check list" means a list of items and procedures which a new car dealer or new motorcycle dealer is required or recommended by a manufacturer to check or follow prior to delivery of a new vehicle to a purchaser.

"Ultimate purchaser" means any person, other than a motor vehicle dealer purchasing in his capacity as a motor vehicle dealer, who in good faith purchases a motor vehicle for purposes other than for resale as a motor vehicle dealer.

13:20-28.4 Manufacturers' new vehicle inspection procedure

(a) Every new car dealer shall and every new motorcycle dealer may, prior to delivery to an ultimate purchaser of any new passenger vehicle or new motorcycle, inspect the safety devices on such vehicle and perform such services as may be necessary so that such vehicle conforms to certain specifications established by the manufacturer and contained in its predelivery check list.

(b) Completion of the predelivery inspection procedure required or recommended by a manufacturer shall be deemed [,] by the Director, unless and until otherwise stated, to render that vehicle safe for operation on the highways, roadways and other quasipublic areas of New Jersey.

(c) Any new motorcycle dealer which inspects new motorcycles under the provisions of this subchapter must be licensed as a motorcycle reinspection center pursuant to N.J.A.C. 13:20-32.1 et seq.

13:20-28.5 U.S. Transportation Department standards

(a) All new passenger vehicles and new motorcycles subject to inspection shall meet the standards now or hereafter prescribed by the manufacturer or by statute or by regulation of the Director or by the standards prescribed by the U.S. Department of Transportation.

(b) In the event of any inconsistency or conflict between the manufacturer's specifications and any standard or rule adopted by the U.S. Department of Transportation or by statute or by regulation of the Director, the standard or rule adopted by the U.S. Department of Transportation or by statute or by regulation of the Director shall take precedence.

13:20-28.6 Decal

(a) Every new car dealer or new motorcycle dealer shall, after satisfactory completion of inspection, affix a decal or other indication of successful inspection as the Director may prescribe, upon [the windshield of] such vehicle.

(b) Any new passenger vehicle or new motorcycle receiving a decal or other indication of successful inspection shall next be inspected two years from the date of initial registration of that vehicle.

(c) In the event that the ultimate purchaser of any new passenger vehicle or new motorcycle transfers registration from a previously owned vehicle registered in his name to a new passenger vehicle or motorcycle, the new car dealer or new motorcycle dealer shall affix a decal or other indication of inspection to [the windshield of] such vehicle, which shall indicate that such vehicle shall next be inspected at the conclusion of the period represented by the unexpired period of time of the transferred registration plus [one year] two years.

(d) In the event that the ultimate purchaser of any new passenger vehicle or new motorcycle registers that vehicle with a fixed registration expiration date, the new dealer or new motorcycle dealer shall affix a decal or other indication of inspection to [the windshield of] such vehicle, which shall indicate that such vehicle shall next be inspected at the conclusion of the period represented by the expiration date of the registration plus two years.

13:20-28.7 Compliance

No new car dealer or new motorcycle dealer may deliver a new passenger vehicle to an ultimate purchaser until such vehicle has been found to be in safe operating condition as determined by compliance with the inspection [and inspection] standards established by the provisions of this [Subchapter] subchapter.

13:20-28.8 Evidence of compliance

(a) Completion by a new car dealer or new motorcycle dealer of a manufacturer's predelivery check list or report shall be evidence of compliance with the provisions of this [Subchapter] subchapter.

(b) Such predelivery check list or report shall be retained by the new car dealer or new motorcycle dealer for a period of at least three years from the date of inspection.

13:20-28.9 Recommended practices and forms

The predelivery check list used by a new car dealer or new motorcycle dealer shall indicate the place and date of inspection, the person or persons performing such inspection, and compliance with the standards of safety established by this [Subchapter] subchapter.

13:20-28.10 Additional inspection

Nothing in this [Subchapter] subchapter shall be construed to limit or deny the Director to require any additional inspection, including an inspection to assure the proper functioning of emission control devices or systems of new passenger vehicles, nor shall this [Subchapter]

subchapter be construed to abridge any code, rule or regulation now or hereafter promulgated pursuant to Title 26, Chapter 2C of the New Jersey Statutes Annotated, "Air Pollution Control Act of 1954."

13:20-28.11 Determination of compliance by Director

The Director or any of his designees may enter upon the premises of any new car dealer or new motorcycle dealer to determine compliance with any [Section or Sections] section of this [Subchapter] subchapter.

13:20-28.12 Violation

Any new car dealer or new motorcycle dealer electing to inspect new motorcycles, who violates any provision of this [Subchapter] subchapter shall be subject, after notice and hearing, to the suspension or revocation of his New Jersey dealer license.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 28, 1980 to:

John A. Waddington, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, New Jersey 08666

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

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

(a)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Proposed Amendments Concerning Proof of Identity and Date of Birth

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13 and 39:3-13.1 proposes to amend N.J.A.C. 13:21-8.2 concerning proof of identity and date of birth.

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

13:21-8.2 Age requirements; proof of identity and date of birth

(a) All applicants must have reached the age of 17 years, except applicants making application under the provisions of N.J.S.A. 39:3-11.1 and 39:3-13.1.

(b) All applicants will be required to furnish proof of identity and date of birth. Proof of identity and date of birth may be established in the following manner:

1. Submission of the original or certified copy of a [civil] birth certificate showing the name and date of birth of the applicant and bearing the registrar's signature and seal of office.

2. Submission of one or more of the following documents when the original or certified copy of a [civil] birth certificate [cannot be obtained] is unavailable or when the applicant is not a citizen of the United States.

i. [Hospital birth certificates] Government identification card issued to persons serving in the military services;

ii. [Identification card issued by the United States to a person serving in the military services;

iii.] Military discharge papers;

- iii. [iv.] Alien registration card issued by the United States Department of Immigration and Naturalization;
 - iv. [v.] Passport issued by the United States or passport issued by a foreign country [may be used by an alien provided that an I-94] with form I-94 [is] attached;
 - v. [vi.] Citizenship papers;
 - vi. [vii.] Valid driver license issued by another state or country bearing the applicant's signature;
 - vii. [viii.] Baptismal certificate when accompanied by a census record, if possible;
 - viii. [ix.] Birth record contained in family bible when accompanied by a census record, if possible.
3. Court order or judgment authorizing legal name change when accompanied by satisfactory proof of birth.
4. A photostatic copy of a document will not be accepted as proof of identity and date of birth unless the signature and seal of the official in custody of the original document appears on the copy.

Interested persons may present statements or arguments in writing relevant to the proposal on or before April 30, 1980 to:

John A. Waddington, Director
 Division of Motor Vehicles
 Department of Law and Public Safety
 25 South Montgomery Street
 Trenton, New Jersey 08666

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

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

(a)

LAW AND PUBLIC SAFETY
DIVISION OF MOTOR VEHICLES

**Proposed Amendments Concerning
 Motor Vehicle Race Tracks**

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 5:7-14, proposes to amend N.J.A.C. 13:22 concerning motor vehicle race tracks.

The proposed amendments concern definitions; license application procedure; restrictions upon licensee; infield pit areas; alcoholic beverages and drugs; pit credentials; announcements; hubrails; red and amber lights; flagmen; maximum protection; safety belts; inspection of vehicles; number of persons in vehicle; bumpers; seats; nerfing bars; exhaust system; tires; fuel supply; repairs; helmets and head cushions; goggles; fire fighting equipment, wreckers; acceleration and performance tests; motorcycle events; snowmobile events; go-cart events; accident reports and impounding of certain vehicles; and special age provisions.

Copies of the 26 pages of the full text of this proposal may be obtained from or made available for review by contacting the Division of Motor Vehicles at the below address.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 28, 1980 to:

John A. Waddington, Director
 Division of Motor Vehicles
 Department of Law and Public Safety
 25 South Montgomery Street
 Trenton, New Jersey 08666

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

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

(b)

LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF BARBER EXAMINERS
Proposed Rules on Posting of Prices

Vito J. Micele, Secretary-Treasurer, Board of Barber Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4-1 et seq., proposes to adopt new rules concerning notice to be posted in barber shops requiring the mandatory posting of prices for the specified tonorial services.

Full text of the proposed new rules follows.

CHAPTER 27A. BOARD OF BARBER EXAMINERS
SUBCHAPTER 3. BARBER SHOPS

13:27A-3.1 Posting of prices

(a) It shall be mandatory for all licensed barber shops to post a list of prices for all services rendered. The list of prices shall be posted in a conspicuous location easily readable by all consumers in the licensed barber shop.

(b) It shall be the responsibility of the barber shop owner(s) in whose name(s) the shop license is issued to insure that this mandatory list of prices is posted in the licensed barber shop.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Vito Micele
 Secretary-Treasurer
 Board of Barber Examiners
 Room 512
 1100 Raymond Blvd.
 Newark, N.J. 07102

The Board of Barber Examiners may thereafter adopt the above rule substantially as proposed without further notice.

Vito J. Micele
 Secretary-Treasurer
 Board of Barber Examiners
 Department of Law and Public Safety

(c)

LAW AND PUBLIC SAFETY
NEW JERSEY RACING COMMISSION
Proposed Rules Concerning Pick-Six

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

Full text of the proposed new rules follows.

13:70-29.56 Pick-Six

(a) The Pick-Six (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the Pick-Six races by the association. The principle of a Pick-Six is in effect a contract by the purchaser of a Pick-Six ticket to select the winners of each of the six races designated as the Pick-Six.

(b) The Pick-Six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The Pick-Six pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) Pick-Six tickets shall be sold in not less than \$2.00 denominations and only from machines capable of issuing six numbers.

(d) Races in which Pick-Six pools shall be conducted shall be approved by the Commission and clearly designated in the program.

(e) The design of Pick-Six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) The Pick-Six pari-mutuel pool shall be calculated as follows:

1. The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six consecutive races comprising the Pick-Six.

2. In the event there is no pari-mutuel ticket held which correctly designates the winner of all six races comprising the Pick-Six, 50 per cent of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the most consecutive winning selections starting with the first designated race of the six races comprising the Pick-Six, and the remaining undistributed 50 per cent of said pool shall be carried over and included in the Pick-Six Pool for the next racing date.

3. In the event any Pick-Six ticket holder or holders correctly designate all six race winners on any date for which there has been a carry over, all net monies carried over as well as 50 per cent of the net amount for that individual racing date in the Pick-Six Pool, shall be distributed among such ticket holders. The remaining 50 per cent of the net amount available for distribution from the Pick-Six Pool for that racing date shall be distributed among those ticket holders who have designated the most consecutive winning selections starting with the first Pick-Six race less than the six consecutive winning selections herebefore described.

4. On any racing date where there is a carry over pursuant to paragraph (f)(2) of this section and no distribution can be made pursuant to paragraph (f)(3) of this section then distribution shall be made pursuant to paragraph (f)(2) of this section. There shall be no carry over in any instance for more than four consecutive racing dates and should no distribution be made pursuant to paragraph (f)(3) of this section on the last available carry over date, then distribution of all Pick-Six pool monies so accumulated shall be made on that date to such ticket holder correctly designating the most consecutive winning selections starting with the first designated Pick-Six race as though they had in fact selected all six winning selections pursuant to paragraph (f)(3) of this section and distribution shall further be made of 50 per cent of the net Pick-Six pool generated on the fifth racing date only to those ticket holders correctly designating the next most consecutive winning selections from that date's Pick-Six program starting with

the first Pick-Six race.

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Pick-Six race as a single wagering interest for the purpose of the Pick-Six pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(h) If a horse in the first race of a Pick-Six program is excused by the Stewards before off-time, all monies wagered on any horse or horses as excused shall be deducted from the Pick-Six pool and be refunded to the purchaser or purchasers of tickets on the horse or horses so excused.

(i) In the event a horse is excused in the second designated Pick-Six race or any Pick-Six race thereafter, any Pick-Six ticket correctly designating consecutive winning selections which is interrupted by said excused horse shall be paid a consolation price. All consolation tickets shall receive a price per dollar denomination calculated as follows: the net Pick-Six pool shall be divided by the total purchase price of all tickets combining the winner or consecutive winners of all Pick-Six pool races to the race wherein the first selection eligible for a consolation price is excused. The quotient thus obtained shall be the price paid for all consolation tickets regardless of in which race eligibility occurred. The total pay-off of all consolation tickets as determined by the foregoing shall be deducted from the net Pick-Six pool. No ticket holder shall receive such a consolation price in the event said ticket holder is a recipient of monies pursuant to paragraphs (f)(2), (3) or (4) of this section.

(j) After off-time, there shall be no refund in either of the above cases, provided for in subsections (h) and (i) of this section.

(k) For the purpose of this rule, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the Stewards.

(l) If, for any reason, the first race of a designated Pick-Six program is cancelled and declared "No Race," full and complete refund will be made of the Pick-Six pool. If, for any reason, the second race of a Pick-Six program or any Pick-Six race thereafter is cancelled and declared "No Race," the Pick-Six pool shall be distributed to the holders of the most consecutive winning selections starting with the first designated Pick-Six race pursuant to paragraph (f)(2) of this section.

(m) In the event of a dead heat for win between two or more horses in any Pick-Six race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Pick-Six pari-mutuel pool.

(n) No person shall disclose the number of tickets sold in the Pick-Six pool or the number or amount of tickets selecting winners of Pick-Six races prior to the time the Stewards have declared the last Pick-Six race on any given date official.

(o) No pari-mutuel ticket for the Pick-Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Pick-Six, except for refunds as required by this section.

(p) This section shall be prominently displayed throughout the betting area of each association conducting a Pick-Six program.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 30, 1980 to:

John J. Reilly, Executive Director
c/o New Jersey Racing Commission
404 Abbington Drive
E. Windsor, N.J. 08520

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

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

(a)

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

Notice Concerning Bulk Commodities Applicants

Take notice that John A. Waddington, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E-11, hereby list the names and addresses of applicants who have filed an application for a common carrier's certificate of public convenience and necessity and/or a contract carrier permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (GRANDFATHER RIGHTS)

Charles Kurtz
225 Columbia Ave.
Cranford, NJ 07016

Marin Motor Oil, Inc.
285 W. Route #46
Elmwood Park, NJ 07407

Myers Trucking, Inc.
250 Chew Rd.
Waterford, NJ

N. James Paolini
R.D.
Stewartsville, NJ 08886

R. C. K. Trucking
R.D. 1, Box 554, Wyckoff Mill Rd.
Hightstown, NJ

Trap Rock Hauling Co., Inc.
141 Central Ave.
Westfield, NJ 07090

United Excavating Co., Inc.
634 E. St. George Ave.
Linden, NJ 07036

William Cavill & Son, Inc.
45 Hudson Ave.
Port Monmouth, NJ

William Manning Trkg. Co., Inc.
506D Cordelia St.
No. Brunswick, NJ 08902

COMMON CARRIER (NON GRANDFATHER)

F. L. B. Trucking
P.O. Box 244
Pompton Lakes, NJ 07442

Lumber Distributors, Inc.
Bldg. 149 Marsh St.
Port Newark, NJ 07114

Vitelli Trucking
909-B Cranbury Cross Rd.
No. Brunswick, NJ 08902

Any or all the above applications may be inspected in full by interested parties at the office of the Division of Motor Vehicles, Bureau of Motor Carriers, 137 E. State Street, Trenton, New Jersey 08666 on business days between 9 A.M. and 4 P.M.

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

This Notice is published as a matter of public information.

Howard H. Kestin
Director
Office of Administrative Law

(b)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BUREAU OF SECURITIES

Emergency Amendments Concerning Disclosure of Material Terms to Wire Services

On April 10, 1980, James McLelland Smith, Chief of the Bureau of Securities in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 49:5-11a and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 13:47A-25.3 concerning disclosure of material terms to wire services.

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

13:47A-25.3 Disclosure of material terms to wire services

(a) The public disclosure to the leading wire services for the financial press required by N.J.S.A. 49:5-3.a shall be made before or simultaneously with the filing of the Disclosure Statement with the Bureau of Securities. Such disclosure shall be deemed made when the requisite information is received by the above wire services.

(b) The material terms of the proposed offer shall include but not be limited to the following:

[1. The name and state of incorporation of the offeror, the location of its executive offices, and a brief description of the offeror's business.

2. The name and state of incorporation of the target company.

3. A description of the securities for which the proposed offer will be made.

4. The number of securities the offeror proposes to accept.

5. The consideration to be paid upon tender.

6. The name and address of any person engaged as dealer-manager.

7. The state and federal agencies with which a filing has or will be made and the statute which requires such filing.]

1. The identity of the offeror;

2. The identity of the target company; and

3. A statement that the offeror intends to make a take-over bid in the future for a class of equity securities of the target company which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

An order adopting these amendments was filed and became effective on April 11, 1980 as R.1980 d.155 (Ex-empt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

ENERGY

OFFICE OF CABLE TELEVISION

Proposed Amendments Concerning Certificate Of Approval and Stock Transfers

John P. Cleary, Director of the Office of Cable Television in the Department of Energy, pursuant to authority of N.J.S.A. 48:5A-1 et seq., proposes to amend N.J.A.C. 14:17-6.8 and 14:17-6.14 concerning certificates of approval and stock transfers.

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

14:17-6.8(a)10. Proof of service of notice of the proposed transfer on [the petition upon] all current subscribers by way of bill insert or by publication in newspapers published and circulated in the cable television company's service area, all cable television companies referred to in paragraph 4 of this subsection, the municipalities being served by the cable television company, and the electric and telephone utilities serving in the area, pursuant to N.J.A.C. 14:17-5.7.

14:17-6.14(a)8. Proof of service of notice of the proposed transfer to the municipalities being served by the cable television company.

Interested persons may present statements or arguments, in writing, relevant to the proposed action on or before June 15, 1980 to:

Office of Cable Television
1100 Raymond Boulevard
Newark, New Jersey 07102

The Office of Cable Television may thereafter adopt rules concerning this subject without further notice.

John P. Cleary, Director
Office of Cable Television
Department of Energy

(b)

ENERGY

THE COMMISSIONER

Proposed Rules on Collection, Storage, Recycling, Use and Disposal of Used Oil

Joel R. Jacobson, Commissioner of Energy, pursuant to authority of N.J.S.A. 52:27F-1 et seq., proposes to adopt new rules concerning the collection, storage, recycling, use and disposal of used oil.

Full text of the proposal follows.

SUBCHAPTER 11. COLLECTION, STORAGE, RECYCLING, USE AND DISPOSAL OF USED OIL

14A:3-11.1 Short title

This subchapter shall be known and may be cited as the "Used Oil Recycling Regulations."

14A:3-11.2 Scope and purpose

(a) Unless otherwise provided by statute or rule, this subchapter shall govern the collection, storage, recycling, use and disposal of used oil.

(b) The purpose of this subchapter is to conserve irreplaceable petroleum resources, to preserve and enhance the quality of the environment, and to protect the public health and welfare.

14A:3-11.3 Definitions

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

"Department" means the New Jersey Department of Energy.

"Oil retailer" means any person who sells to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the retailer's premises.

"Recycle" means to prepare used oil for reuse as a petroleum product or petroleum product substitute by refining, re-refining, reclaiming, reprocessing, or other means, or to use used oil in a manner that substitutes for a petroleum product made from new oil.

"Used oil" means a petroleum based or synthetic oil which is used in an internal combustion engine as an engine lubricant, or as a product used for lubricating transmissions, gears or axles, which through use, storage or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities or loss of original properties.

"Used oil collection site" means any Division of Motor Vehicles reinspection station, oil retailer, or retail service station, which has a used oil collection tank(s) existing on the premises, or any site which accepts used oil for recycling.

"Used oil collection tank" means any tank, whether above or below ground, into which used oil is drained.

"Used oil hauler" means any person who collects and transports more than 500 gallons of used oil annually over public highways.

"Used oil recycler" means any person who recycles more than 5,000 gallons of used oil annually.

"Used oil storage facility" means any place that receives more than 10,000 gallons of used oil annually, but does not include a used oil collection site.

14A:3-11.4 Standard

(a) No person shall dispose of used oil except to a used oil collection site.

(b) No person shall discharge water, antifreeze, industrial waste or any other contaminant into a used oil collection tank.

14A:3-11.5 Posting requirements

(a) All oil retailers shall post and maintain, at or near the point of sale, a durable and legible sign, not less than 11" x 15" in size, informing the public of the importance of the proper collection and disposal of used oil, how and where used oil may be properly disposed of, and listing at least one conveniently located used oil collection site.

(b) All operators of used oil collection sites shall post and maintain a durable and legible sign not less than 11" x 15"

in size, so that it is easily visible to the public, informing the public that it is a collection site for the disposal of used oil.

14A:3-11.6 Used oil collection sites

(a) All used oil collection sites shall accept no more than five gallons of used oil per day from any person without charge.

(b) The operator of a used oil collection site shall collect used oil in a manner which is safe for users of the site and shall observe all applicable safety requirements.

(c) The operator of a used oil collection site shall dispose of used oil only to a used oil hauler who complies with N.J.S.A. 7:26-7, et seq.

14A:3-11.7 Used oil haulers

(a) All used oil haulers shall comply with N.J.A.C. 7:26-7, et seq. Compliance with N.J.A.C. 7:26-7, et seq., shall include the total amount collected, and an itemization of the amounts transferred to other used oil haulers, used oil storage facilities, used oil recyclers, including those facilities not located in the State of New Jersey.

(b) Used oil haulers shall transfer used oil only to other used oil haulers, used oil storage facilities or used oil recyclers who comply with N.J.A.C. 7:26-7, et seq.

14A:3-11.8 Used oil products

(a) Any product made in whole or in part from used oil may be represented as substantially equivalent to a product made from new oil for a particular use if substantial equivalency has been determined in accordance with rules prescribed by the Federal Trade Commission under section 383(d)(1)(A) of the Energy Policy and Conservation Act (P.L. 94-163) or if the product conforms fully with specifications applicable to that product made from new oil. Otherwise the product shall be represented as made from used oil.

(b) To assure conformance with the minimum standards for lubricating oil, the Department may require oil recyclers to conduct, or may cause to be conducted, appropriate laboratory analysis of samples of recycled oil.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

Gerard Burke, Administrator
Office of Regulatory and Governmental Affairs
N.J. Department of Energy
101 Commerce St.
Newark, N.J. 07102

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

Joel R. Jacobson
Commissioner
Department of Energy

(a)

TRANSPORTATION

THE COMMISSIONER

Proposed Rules on Urban Revitalization, Special Demonstration And Emergency Projects

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-5, proposes to adopt new rules concerning urban revitalization, special demonstration and emergency projects.

Full text of the proposal follows.

CHAPTER 22. URBAN REVITALIZATION, SPECIAL DEMONSTRATION AND EMERGENCY PROJECT REGULATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

16:22-1.1 Appropriation of funds

(a) 1979 Transportation Bond Issue Funds are appropriated by the Legislature for urban revitalization, special demonstration and emergency projects.

(b) These funds will be used to implement projects that will significantly improve economic and social conditions, particularly in older cities (Part I), demonstrate innovative transportation techniques that could benefit other municipalities in New Jersey (Part II) and permit the rapid construction, reconstruction or rehabilitation of emergency projects that would reduce undue hardship to the traveling public or correct unsafe conditions in a timely fashion (Part III).

(c) Shortly after September, 1980, it is the Department's intention to allocate \$3 million to support urban revitalization projects, \$1.5 million to support special demonstration projects and \$1.5 million for projects of an emergency nature. Following September, 1981, an additional \$3 million is proposed for allocation to support the urban revitalization projects and an additional \$1.5 million for projects of an emergency nature. The final allocation for the Urban Revitalization Program (Part I) will be made following September, 1982 and include \$1.5 million plus any excess funds remaining under the special demonstration and emergency projects. The accumulative total of this three-year program is \$12 million.

16:22-1.2 Objectives

(a) For Part I - Urban revitalization projects:

1. Eligible municipalities are those which were qualified by the Department of Community Affairs for Urban Aid Funding under P.L. 1978 Chapter 14 in Fiscal Year 1980.

2. Projects submitted for funding under this program will be ranked based upon how well they satisfy the objectives outlined in these guidelines. A project need not fulfill all of the program objectives to be considered for funding. Municipalities are encouraged to submit for consideration projects which satisfy some or all of the following objectives:

i. Stimulate urban central business district and/or neighborhood revitalization;

ii. Provide incentives to attract new or expanded private investment;

iii. Maximize the development potential of public investment especially those of a state and local nature; (Municipalities are encouraged to utilize potential highway funds to complement, but not to be dependent upon other revitalization programs, such as, Safe and Clean Neighborhoods, Neighborhood Preservation, etc.)

iv. Provide positive tax revenue benefits;

v. Minimize adverse impact on housing stock;

vi. Significantly improve air quality in congested urban centers.

(b) For Part II - Special demonstrations:

1. New Jersey Department of Transportation will evaluate applications received from municipalities and counties throughout the State for special projects which provide an opportunity to demonstrate energy savings or low capital intensive multi-use projects uniquely related to revitalization efforts. Examples of possible eligible special demonstrations may include, but are not limited to:

- i. Auto-free zones;
- ii. Pedestrian or transit malls;
- iii. Limited auto access residential districts;
- iv. Innovative signal systems.

2. Municipalities submitting projects which may be eligible will be required to document the innovative elements as well as the fulfillment of appropriate program objectives, outlined above.

3. Excess funds remaining as of October 1, 1982 will be made available to the urban revitalization program.

(c) For Part III - Emergency projects:

1. New Jersey Department of Transportation will evaluate applications received from municipalities and counties throughout the State for projects of an emergency nature. The rapid construction, reconstruction or rehabilitation of these type projects would reduce undue hardships to the traveling public or correct unsafe conditions in a timely fashion.

2. Excess funds remaining as of October 1, 1982 will be made available to the Urban Revitalization Program.

16:22-1.3 Standards

(a) The proposed road and bridge improvement projects shall conform to the design criteria of the appropriate American Association of State Highway and Transportation Officials publications listed below:

1. Geometric Design Guide for Resurfacing, Restoration and Rehabilitation (R-R-R) of Streets;
2. A Policy on Geometric Design of Rural Highways;
3. A Policy of Arterial Highways in Urban Areas;
4. Geometric Design Guide for Local Roads and Streets;
5. Standard Specifications for Highway Bridges.

Note: Any exceptions to the above design criteria must be justified by the local engineer to be in the public interest.

(b) All workmanship and materials shall conform with the current New Jersey State Department of Transportation standard specifications for road and bridge construction as amended for county and municipal projects (State Aid).

16:22-1.4 Applications and agreements

(a) For Part I - Urban revitalization projects:

1. Projects must be submitted annually by September 1 for consideration. Applications should include project descriptions, cost estimates and otherwise meet the general criteria for local aid bond issue projects.

2. Narrative statements should be prepared addressing program objectives as stated in N.J.A.C. 16:22-1.2.

3. New Jersey Department of Transportation encourages projects to be part of an urban development funding "package" but street and highway project implementation should not be solely dependent on the timely completion of other non-transportation related programs.

4. Initial reviews will be made by the Department of Transportation to determine relationships to current or future Department of Community Affairs projects.

5. Submittals will be evaluated by the county/municipal screening committee and a task force from the Department of Community Affairs and the New Jersey Department of Transportation. Recommendations will be presented to the Commissioner of Transportation for consideration.

(b) For Part II - Special Demonstrations:

1. Projects must be submitted annually by September 1 for consideration. Applications should include project descriptions, cost estimates and otherwise meet the general criteria for local aid bond issue projects.

2. Submittals will be evaluated by the County/Municipal Screening Committee and a Task Force from the Department of Community Affairs and the New Jersey

Department of Transportation. Recommendations will be presented to the Commissioner of Transportation for consideration.

(c) For Part III - Emergency projects, applications may be submitted at any time. Applications shall include project descriptions, cost estimates and substantiate the fact that an emergency exists.

16:22-1.5 Procedure

The application and agreement provides for an engineering description of the existing road or bridge and the description of the proposed road improvement indicating the right-of-way width, paved and graded widths, shoulder widths, type and depth of proposed pavement and an estimate of the cost of the proposed work. The district offices shall make a field investigation of all projects for which applications have been received. The Commissioner of Transportation determines the applications considered essential.

16:22-1.6 Contracts

All work must be performed by the contract method unless otherwise approved by the State.

SUBCHAPTER 2. PLANS AND SPECIFICATIONS

16:22-2.1 Local government responsibility

(a) The local government shall be responsible for engaging a professional engineer licensed in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and materials testing as required.

(b) The local government will provide such maps, reports, construction plans and specifications and contract documents as may be required by the State.

SUBCHAPTER 3. CONTRACTS

16:22-3.1 Award of contract

(a) The local government will advertise and award the contract, subject to the approval of the State, in accordance with the provisions of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Within 10 days following the receipt of construction bids, the local government shall submit the following to the district office of the Bureau of Local Aid:

1. Two copies of the contract plans and specifications;
2. Two copies of the engineer's estimate of cost;
3. Two copies of the summary of construction bids;
4. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department.

(c) When all information relative to the bidding has been approved by the State, the local government shall be advised of the approval of the award of contract.

16:22-3.2 Contract completion and payment

(a) When all work has been completed satisfactorily, the local government will prepare and submit to the district office, Bureau of Local Aid, the following:

1. A statement of the work performed, certified by the municipal/county engineer, for acceptance and approval of the computed work;
2. A certification by the county/municipal auditor that the project's records have been examined and all expenditures are supported by valid documentation;
3. A request for reimbursement by the State, on vouchers to be supplied by the State.

(b) After a final inspection of the completed work by the State and a determination has been made by audit that all documents are in proper order, action shall be taken to reimburse the county/municipality.

(c) The county/municipality shall maintain complete

documentation of the project for a period of three years after receiving reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof will be based on an inspection of the completed project and a review of the documentation maintained by the county/municipality.

SUBCHAPTER 4. STATE PARTICIPATION IN COST

16:22-4.1 State participation in cost

(a) Unless otherwise approved by the Department, State participation shall not exceed the lesser of either 90 per cent of the eligible cost of the completed construction work or the original allocation.

(b) Unless otherwise approved by the Department, design costs, the costs of acquisition of all necessary right-of-way, easements, slope rights and permits as required by governmental agencies and costs associated with construction supervision and inspection and material testing will be totally borne by the county/municipality and not be considered as eligible project cost.

Interested persons may, in writing, present relevant statements or arguments to the proposed action on or before May 28, 1980, to Mr. Charles L. Meyers, Administrative Practice Officer, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625.

The New Jersey Department of Transportation may thereafter adopt these regulations substantially as proposed without further notice.

Louis J. Gambaccini
Commissioner
Department of Transportation

(a)

TRANSPORTATION

THE COMMISSIONER

Proposed Amendments Concerning Outdoor Advertising on Limited Access and Unlimited Access Highways in the Federal Aid Primary System

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-5, proposes to amend certain rules concerning outdoor advertising on limited and nonlimited access highways in the federal aid primary system.

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

16:41-8.1 Definitions

...
"Non-conforming signs" means a sign, display or device which was lawfully erected and maintained prior to the enactment of N.J.S.A. 27:7A-11 et seq., on December 15, 1971, Chapter 353, Laws of 1971, and its pursuant regulations in order to implement 23 U.S.C. 131, Title 1. of the Highway Beautification Act of 1965, as Amended.
...

16:41-8.4(a)13. No outdoor advertising structure will be permitted which is abandoned, [or] disused, or destroyed for a fixed period of one year after originally reported by outdoor advertising staff. The permittee shall be officially notified by letter of said classification of disuse or aban-

donment in order that appropriate remedial action may be taken.

i. A sign shall be considered abandoned or destroyed when it is determined to be structurally unsound by a professional engineer, or it is in an aesthetically blighted condition, when 25 percent of the surface requires a re-conditioning of the protective or decorative coating as evidenced by, but not limited to, peeling or flaking paint.

16:41-8.5(a)4. Off-premise advertising signs within the protected area of limited access (other than the interstate system) and non-limited access highways may be permitted in the following areas [.]:

16:41-8.5(a)4.iii. Signs located in areas not classified as industrial or commercial but which were lawfully erected and maintained and classified as nonconforming.

16:41-8.6(a)2.iii.(2) The signs must contain safety slogans or messages, which shall occupy not less than [60] 50 per cent of the area of the sign. No other message is allowed:

16:41-8.6(a)3.ii.(9) When the advertised activity is a business, commercial, or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business. It shall not be measured from driveways, fences, or similar facilities.

16:41-8.6(a)9. Non-conforming signs structure:

i. A lawfully categorized non-conforming sign structure shall be permitted to remain if it meets the following criteria:

(1) It must continue to be lawfully erected and maintained.

(2) It has not been destroyed, abandoned, or its message used discontinued for a period of one year or more.

(3) Its basic structure remains substantially the same as on the date of adoption of these regulations, April 9, 1973.

(4) It has not been changed in size, lighting, or its basic structural components replaced by new materials.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Russell H. Mullen
Assistant Commissioner
Department of Transportation

(b)

TRANSPORTATION

THE COMMISSIONER

Proposed Amendments Concerning Outdoor Advertising Tax Act

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-5, proposes to amend N.J.A.C. 16:41A-7.1(a)4. concerning the Outdoor Advertising Tax Act.

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

16:41A-7.1(a)4. For the display of a name, symbol, mark, product, service, or advertisement of any industry, commerce, business, occupation, trade, or service on any premises where the same is conducted or on any equipment on such premises provided that such sign, structure, object or device is not owned by a licensee. [and is not maintained more than 200 feet from the point on the premises where the business is conducted, except a home, or industrial development or a farm;]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to:

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

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

Russell H. Mullen
Assistant Commissioner
Department of Transportation

(a)

TRANSPORTATION

THE COMMISSIONER

Proposed Amendments Concerning Licensing of Aeronautical Facilities

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-5, proposes to amend N.J.A.C. 16:54 concerning the licensing of aeronautical facilities.

The proposed amendments concern scope; applicability; definitions; general requirements for licensing; airports, landing strips and seaplane bases; heliports/helistops; balloonports/balloonspots; drop zone, sport parachuting center; liability and penalty; and petitions for exemption.

Copies of the 28 pages of the full text of the proposed amendments may be obtained from or made available for review by contacting:

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

Interested persons may present statements or arguments in writing relevant to the proposed action on or before May 28, 1980 to the Department of Transportation at the above address.

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

Louis J. Gambaccini
Commissioner
Department of Transportation

(b)

TRANSPORTATION

THE COMMISSIONER

Emergency Amendments Concerning Traffic and Parking at the Metro Park Train Station

On March 26, 1980, Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-208 and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 16:30-5.1 concerning traffic and parking regulations at the Metro Park Train Station.

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

16:30-5.1(a)1. The operator of a vehicle shall not stop or stand the vehicle in the driveways [of] or roadways marked with signs or any of the parking areas so as to interfere with the free and orderly movement of vehicles entering or leaving the areas.

2. The area fronting the railroad station (approximately 290 feet in length) shall be designated as a Bus Stop[,] and Taxi Stand [and time limit parking] as follows:

[i. Bus stop: Beginning at the most northerly point of the sidewalk and extending 105 feet south thereof].

i. Bus stop:

(1) Beginning at the most northerly point of the sidewalk and extending 105 feet south thereof.

(2) Beginning 140 feet south of the most northerly point of the sidewalk and extending 135 feet south thereof.

ii. Taxi stands:

(1) Beginning 105 feet south of the most northerly point of the sidewalk and extending 35 feet south thereof.

[ii. Taxi stands (four): Beginning 105 feet south of the most northerly point of the sidewalk and extending 100 feet south thereof.]

[iii. Time limit parking: No person shall park a vehicle for a period longer than 15 minutes beginning 205 feet south of the most northerly point of the sidewalk and extending 85 feet south thereof.]

16:30-5.1(a)5. The roadway fronting the railroad station is hereby designated a one-way roadway in a southbound direction between the two main driveways cited in paragraph 4 of this subsection.

An order adopting these amendments was filed and became effective on March 26, 1980, as R.1980 d.128 (Exempt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(c)

TRANSPORTATION

THE COMMISSIONER

Emergency Rules Concerning Speed Limits on Bridge Over Conrail Track, Raritan Valley Line, Fanwood Borough and City of Plainfield, Union County

On April 9, 1980, Louis J. Gambaccini, Commissioner of

Transportation, pursuant to authority of N.J.S.A. 39:4-98 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new, emergency rules concerning speed limits on the bridge over the Conrail track, Raritan Valley Line in Fanwood Borough and the City of Plainfield in Union County.

Full text of the adoption follows.

16:28-1.11 Terrill Road

(a) The rate of speed designated for the Bridge described herein below shall be and hereby is established and adopted as the maximum legal rate of speed thereat for both directions of traffic.

1. 15 mph on bridge which is located between South Avenue and North Avenue on Terrill Road in Fanwood Borough and City of Plainfield.

An order adopting these rules was filed and became effective on April 9, 1980 as R.1980 d.145 (Exempt, Emergency Rule).

Howard H. Kestin
Director
Office of Administrative Law

(a)

TREASURY

DIVISION OF PENSIONS

POLICE AND FIREMEN'S RETIREMENT SYSTEM Amendments and New Rules Concerning The Police and Firemen's Retirement System

On March 25, 1980, Elmer G. Baggaley, Secretary of the Police and Firemen's Retirement System in the Division of Pensions in the Department of the Treasury, pursuant to authority of N.J.S.A. 43:16A-13 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 17:4-1.8, 17:4-4.10, 17:4-6.7, 17:4-6.8, 17:4-6.12 and 17:4-6.14 and adopted new rules, to be cited as N.J.A.C. 17:4-1.11 and 17:4-3.3, concerning rules regarding the Police and Firemen's Retirement System as proposed in the Notice published February 7, 1980 at 12 N.J.R. 96(a).

An order adopting these amendments and new rules were filed and became effective on April 1, 1980 as R.1980 d.135.

Howard H. Kestin
Director
Office of Administrative Law

(b)

TREASURY

STATE LOTTERY COMMISSION

Rules Concerning Pick-6 (Lotto) Lottery

On March 27, 1980, Gloria A. Decker, Executive Director of the New Jersey State Lottery Commission in the Department of the Treasury, pursuant to authority of N.J.S.A. 5:9-7 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules concerning the Pick-6 (Lotto) Lottery.

Full text of the adoption follows:

SUBCHAPTER 15. PICK-6 (LOTTO)

FOREWORD

The following rules have been adopted by the State Lottery Commission pursuant to the authorization contained in N.J.A.C. 17:21-1.4 and N.J.S.A. 5:9-1 et seq. and shall govern the operation of the Pick-6 (Lotto) select your own number lottery game. The rules are as follows.

17:21-15.1 Name of lottery

The select your own number, 6 out of 36, lottery shall be called "Pick-6" (Lotto), and all lottery tickets issued for this game shall be clearly identified with the name of the game.

17:21-15.2 Sales and sales period

Pick-6 (Lotto) tickets will be sold every day during the normal business hours of the agents authorized to sell said tickets. The sale period for any given Pick-6 (Lotto) lottery date will terminate at 7:55 P.M., the date of the drawing.

17:21-15.3 Agents

(a) Lottery tickets for Pick-6 (Lotto) will be available only from certain designated lottery agents who have been selected by the Executive Director of the State Lottery Commission.

(b) The selected agents will have on their business premises an agent operated on-line vending machine and shall prominently display the machine and a poster or other advertisement stating that they sell tickets for the Pick-6 (Lotto) Lottery.

(c) The agent operated on-line vending machines will sell tickets for the "Pick-6" (Lotto), the "Pick-4," and the "Pick-It" lottery. The agents having this type of machine will be required to operate the machine for purposes of the issuance of all lottery tickets and shall be required to provide certain specified services relating to the upkeep of the machine and the reporting of lottery sales. Agents will receive a commission equal to five per cent of gross sales dollars. The agent operated on-line vending machines will have the capacity to:

1. Handle advance sales up to one week for all three types of lotteries.
2. Issue Pick-6 (Lotto) tickets for \$1.00.
3. Issue Pick-It and Pick-4 tickets for \$.50 and in multiples of .50 up to \$5.00.
4. Issue Pick-6 (Lotto) tickets for the duration of the game.
5. Validate all Pick-6 (Lotto) tickets for a period of 45 days from date of drawing. All claims not made in this 45 day period must be submitted to Trenton on a Pick-6 (Lotto) claim form.
6. Cancel Pick-6 (Lotto) ticket issued in error.

17:21-15.4 Drawing

(a) The drawing to select the winning six numbers for the Pick-6 (Lotto) lottery will be held at approximately 7:57 P.M. each Thursday evening, except when Christmas day falls on a Thursday, at which time the drawing will take place on Wednesday, one day earlier. The drawings will take place at a location prescribed by the Executive Director of the New Jersey Lottery and all drawings will be open to the public.

(b) The winning six numbers and a winning 5 digit bonus number will be randomly generated by mechanical means. The precise drawing procedure will be determined by the Executive Director of the Lottery Commission.

17:21-15.5 Types of bets and amount of prizes

(a) The type of bets and the amount of prizes for the Pick-6 (Lotto) lottery shall be determined as follows:

1. The purchaser shall select any six numbers (in any order) from a range of consecutive numbers of 01 through 36 inclusive. Additionally, a weekly "bonus" prize is offered by matching, in exact order, a five digit system-generated randomized number. Any bet selection of less than six number selections will be impermissible.

17:21-15.6 Prize pool

(a) The total prize pool will be equal to 50 per cent of the gross dollars wagered for said lottery drawing.

(b) The amount of money in the prize pool shall be divided among the winners in accordance with a pari-mutuel formula so that 6/6 winners will equally share five per cent of the total prize pool, 5/6 winners will equally share 10 per cent of the total prize pool, 4/6 winners will equally share 40 per cent of the total prize pool. Forty-two (42) per cent of the total prize pool will be allotted for prizes in the 3/6 category, with the prizes in this category being fixed at \$5.00 per \$1.00 bet. The remaining three per cent shall be allotted to the awarding of prizes for the five digit bonus number. Bonus prize winners shall gain eligibility to a Grand Prize Drawing and shall receive a guaranteed minimum prize of \$250.

(c) The prize unit will be rounded down to the \$1.00.

(d) Each \$1.00 bet shall be considered to be a single unit equal to one share of the total pool.

(e) There will be total "roll forward" of each prize pool

tier if no winner is determined in the 6/6, 5/6 or 4/6 categories. All prize money for each of the above stipulated prize tiers will be added to the prize payout pool for the succeeding week(s) until a winner is determined.

(f) The amount of breakage (amount received as a result of rounding down to \$1.00) will be set aside in a separate reserve fund which will be used to augment the 3/6 prize pool whenever fixed prize liabilities exceed prize allocation dollars.

(g) Any amounts in the Bonus Pool (three per cent of total prize pool) in excess of the amounts required to hold grand prize bonus drawings, may be used to cover prize liabilities in the 3/6 fixed prize portion of the pool.

(h) When deemed appropriate by the Executive Director, New Jersey State Lottery, a Grand Prize Bonus Drawing will be conducted. Eligibility for entry into a particular Grand Prize Bonus Drawing shall be governed by the specified number of claims received by the announced cut off date and the availability of bonus drawing prize reserves.

(i) The following finalist prizes will be awarded at each Grand Prize Bonus Drawing:

(All qualifiers remaining after such selection shall receive the guaranteed prize of \$250.00 each.)

- 1. Grand prize: \$100,000.00;
- 2. Second prize: 10,000.00;
- 3. Third through tenth prizes: 1,000.00.

EXAMPLE
6/36 LOTTO GAME
BASIC PRIZE PAYOUT CALCULATION BY
PERCENTAGE⁽¹⁾

No. of Winning Nos. In Customer's Selection	Probability of Winning	Distribution of the Payout Pool (%)	Distribution of \$1,000,000 Weekly Payout Pool in \$	Avg. No. of Winning Selections Per Week	Avg. No. of Winning Selections Per Year	Avg. Prize Amt. in \$ Per Customer Selection 2
6/6	1 out of 1,947,792	5.0	50,000	1.03	53.56	48,543.00
5/6	1 out of 10,821	10.0	100,000	185	9,620	540.00
4/6	1 out of 298	40.0	400,000	6,700	348,400	59.00
3/6	1 out of 24	42.0	420,000	83,333	4,333,316	5.00
						(Fixed)
Bonus	1 out of 100,000	3.0	30,000 ⁽⁴⁾	20 ⁽⁵⁾	1,040 ⁽⁵⁾ 12 ⁽⁶⁾	250.00 100,000.00

(1) Based on 2,000,000 selections, \$2.0 million sales, and a 50 per cent distribution of the sales to the payout pool per week; or 104 million selections, \$104 million sales per year.

(2) Dollar breakage assumed.

(3) If no top winner is selected in a drawing, the entire prize is added to succeeding 6/6 pools, with no maximum.

(4) Plus breakage from other prize classes.

(5) Weekly winners.

(6) Special Bonus winners (chosen from eligible group of weekly bonus prize winners).

SAMPLE LIABILITIES CALCULATION
(based on assumptions in Figure #1)

Total Pool - State Takeout (50%)	=	Payout Distribution Pool (PDP)
\$2,000,000 - \$1,000,000	=	\$1,000,000
Bonus Pool (A)	=	3% of the PDP
	=	\$30,000
6/6 Pool	=	5% of the PDP
	=	\$50,000
5/6 Pool	=	10% of the PDP
	=	\$100,000
4/6 Pool	=	40% of the PDP
	=	\$400,000
3/6 Pool	=	42% of the PDP
	=	\$420,000
6/6 Prize	=	6/6 Pool divided by No. 6/6 winners
	=	\$50,000 divided by 1* = \$50,000

Breakage 6/6	=	\$50,000 - \$50,000 = \$0
5/6 Price	=	5/6 Pool divided by No. 5/6 Winners
	=	\$100,000 divided by 185 = \$540
Breakage 5/6	=	5/6 Pool - 5/6 Liability (185 x 540)
	=	\$100,000 - 99,900 = \$100
4/6 Price	=	4/6 Pool divided by No. 4/6 Winners
	=	\$400,000 divided by 6,700 = \$59
Breakage 4/6	=	4/6 Pool - 4/6 Liability (6,700 x \$59)
	=	\$400,000 - 395,300 = \$4,700
Interim Reserve Pool	=	Previous Reserve Pool
	=	+ sum of 6/6, 5/6, 4/6 Breakage
	=	0 + \$100 + \$4,700 = \$4,800
3/6 Price	=	fixed at \$5.00
3/6 Liability	=	\$416,665 (83,333 Winners x \$5)
3/6 Pool - 3/6 Liability	=	\$420,000 - \$416,665
	=	\$3,335 excess to Reserve Pool
Automatic transfer from State Takeout to cover 3/6 Liability	=	\$0 (See Note A below)
New Reserve Pool	=	Interim Reserve Pool
	=	+ (3/6 Pool - 3/6 Liability)
	=	\$4,800 + \$3,335 = \$8,135
Bonus Pool (A)	=	\$30,000
Bonus Pool (B)	=	Excess of Reserve Pool Over \$20,000
Weekly Bonus Prize	=	Fixed at \$250.00
Weekly Bonus Prize Liability	=	\$5,000 (20 winners x \$250)
Bonus Pool (C)	=	Automatic transfer of funds from
	=	Reserve Pool to cover Weekly Bonus Prize Liability
	=	\$0
Total Bonus Pool	=	Bonus Pools (A) + (B) + (C)
	=	\$30,000 + \$0 + \$0
Remainder of Bonus Pool transferred to state for Special Bonus Prizes	=	Total Bonus Pool
	=	- Weekly Bonus Prize Liability
	=	\$30,000 - \$5,000 = \$25,000

Note A:

*If 3/6 liability is less than 3/6 Pool, then the difference goes into the Reserve Pool.

*If 3/6 liability exceeds 3/6 Pool, the difference is drawn from the Reserve Pool.

*In the event that the Reserve Pool does not cover the 3/6 liability, the Lottery must add money to the Reserve Pool until it can be re-established.

17:21-15.7 Ticket holders

(a) The holder of a winning ticket for the Pick-6 (Lotto) Lottery can take said ticket to any claim center for validation. All agents having an agent-operated on-line vending machine are claim centers. If said winning ticket entitles the holder to a prize of \$599.00 or less, said prize will be paid by the agent upon presentation and validation of the ticket. If the winning ticket entitles the holder to a prize that is more than \$599.00, then the holder shall fill out a claim form and the prize will be sent to the holder by check from the Lottery Commission. Once a ticket is validated, it will not be returned to the winner, but will be forwarded to the New Jersey State Lottery. The winner will receive the cash prize or a copy of the claim form as herein provided.

(b) The holder of any ticket whose five-digit Bonus drawing number exactly matches the number selected is guaranteed a cash prize of at least \$250.00 and qualifies as a finalist in the Grand Prize Bonus Drawing. Such a person must present his lottery ticket to any authorized New Jersey State Lottery claim center and fill out the appropriate claim within one year from the date of drawing of the qualifier number as provided in this section.

17:21-15.8 Determination of winners; time for filing

All persons holding winning tickets must file for a prize within one year after the date of the drawing. Except as

herein provided, all rules and regulations of the Lottery Commission shall govern the operation of the Pick-6 (Lotto) Lottery. All determinations of winners shall be made by the Executive Director of the Lottery Commission whose judgment shall be final.

An order adopting these rules was filed on April 1, 1980, as R.1980 d.136 (Exempt, Procedure Rule) to become effective on May 8, 1980.

Howard H. Kestin
Director
Office of Administrative Law

(a)

TREASURY

DIVISION OF PURCHASE AND PROPERTY

Amendments Concerning Debarment, Suspension And Disqualification of a Person

On March 27, 1980, Clifford A. Goldman, State Treasurer, pursuant to authority of N.J.S.A. 52:34-12, Executive Order No. 34 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 17:12-7.2(a)12 concerning debarment, suspension and disqualification of a person as proposed in the Notice published March 6, 1980 at 12 N.J.R. 159(a).

An order adopting these amendments was filed and became effective on April 7, 1980 as R.1980 d.141.

Howard H. Kestin
Director
Office of Administrative Law

(a)

TREASURY

DIVISION OF PURCHASE AND PROPERTY

Amendments to the Administrative Procedures of Purchase Bureau

On March 27, 1980, Clifford A. Goldman, State Treasurer, pursuant to authority of N.J.S.A. 52:34-12, Executive Order No. 34 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 17:12-1.1, 17:12-2.4, 17:12-2.5, 17:12-2.7, 17:12-2.8 and 17:12-3.3 concerning administrative procedures of the Purchase Bureau as proposed in the Notice published March 6, 1980 at 12 N.J.R. 158(a).

An order adopting these amendments was filed and became effective on April 7, 1980 as R.1980 d.142.

Howard H. Kestin
Director
Office of Administrative Law

(b)

TREASURY

DIVISION OF TAXATION

Amendments Concerning Corporation Business Tax Act and the Method Of Computing Tax and Net Income Base

On April 8, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:10A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 18:7-3.6 concerning the Corporation Business Tax Act and the method of computing tax and net income base as proposed in the Notice published March 6, 1980 at 12 N.J.R. 159(b).

An order adopting these amendments was filed and became effective on April 9, 1980 as R.1980 d.146.

Howard H. Kestin
Director
Office of Administrative Law

(c)

TREASURY

DIVISION OF TAXATION

Rules Concerning Moratorium on Taxation Of Mobile Homes as Real Property

On April 8, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:4-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 18:12-9, concerning the moratorium on taxation of mobile homes as real property as proposed in the Notice published March 6, 1980 at 12 N.J.R. 160(a).

An order adopting these rules was filed and became effective on April 9, 1980 as R.1980 d.147.

Howard H. Kestin
Director
Office of Administrative Law

(d)

TREASURY

DIVISION OF TAXATION

Amendments Concerning Filing Fees and County Boards of Taxation

On April 8, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of P.L. 1973, c. 119, and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 18:12A-1.7(c) concerning filing fees and county boards of taxation as proposed in the Notice published March 6, 1980 at 12 N.J.R. 161(a).

An order adopting these amendments was filed and became effective on April 9, 1980 as R.1980 d.148.

Howard H. Kestin
Director
Office of Administrative Law

(e)

TREASURY

DIVISION OF TAXATION

Rules on Taxation of Mobile Homes

On April 8, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:32B-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 18:24-7.19, concerning the taxation of mobile homes as proposed in the Notice published March 6, 1980 at 12 N.J.R. 161(b).

An order adopting these rules was filed and became effective on April 9, 1980 as R.1980 d.149.

Howard H. Kestin
Director
Office of Administrative Law

(f)

TREASURY

DIVISION OF TAXATION

Amendments Concerning Coin-Operated Vending Machines and Appropriate Sales Tax

On April 8, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:32B-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 18:24-16.1, 18:24-16.2 and 18:24-16.5 through 18:24-16.7 concerning coin-operated vending machines and appropriate sales tax as proposed in the Notice published March 6, 1980 at 12 N.J.R. 161(c).

An order adopting these amendments was filed and became effective on April 9, 1980 as R.1980 d.150.

Howard H. Kestin
Director
Office of Administrative Law

(a)

HIGHWAY AUTHORITY GARDEN STATE PARKWAY

Mandatory Amendments Concerning Inspection And Obtaining of Authority Records Regarding New Jersey State Police Reports

On March 27, 1980, F. Joseph Carragher, Executive Director of the New Jersey Highway Authority, pursuant to authority of N.J.S.A. 27:12B-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted mandatory amendments concerning the inspection and obtaining of Authority records regarding New Jersey State Police reports.

Chapter 412, Laws of 1979, which was enacted into law on February 8, 1980, superseded the prior rules on this subject.

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

- 19:8-7.3(b)1. [One- to three-page report ...\$10.00]
First page to tenth page\$ 0.50 per page;
 2. [Each additional page\$ 2.00]
11th page to 20th page\$ 0.25 per page;
 3. [Over six pagesNo additional fee]
All pages over 20\$ 0.10 per page.

An order adopting these amendments was filed and became effective on March 31, 1980 as R.1980 d.131 (Ex-empt, Mandatory Rule).

Howard H. Kestin
Director
Office of Administrative Law

(b)

CASINO CONTROL COMMISSION

Proposed Amendments Concerning Registration Renewal Regarding Labor Organizations

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq., proposes to amend N.J.A.C. 19:41-12.5 concerning registration renewal regarding labor organizations.

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

19:41-12.5 Registration renewal

A labor organization registration shall be effective for one year. Any such registration may be renewed upon filing of an updated "Labor Organization Registration Statement" no later than (90) 120 days prior to the expiration of the current registration, and the payment of any fee on or before the date of expiration of the current registration. The Commission shall act upon such application for renewal no later than 30 days prior to the date of expiration of the current registration.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 28, 1980 to:

Joseph P. Lordi, Chairman
Casino Control Commission
379 West State Street
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Casino Control Commission
Joseph P. Lordi
Chairman

(c)

CASINO CONTROL COMMISSION

Amendments to Rules of the Games

On March 31, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to various sections in Chapter 47 in Title 19 of the New Jersey Administrative Code concerning the rules of the games as proposed in the Notice published December 6, 1979 at 11 N.J.R. 653(a).

An order adopting these amendments was filed and became effective on March 31, 1980 as R.1980 d.132.

Howard H. Kestin
Director
Office of Administrative Law

(d)

CASINO CONTROL COMMISSION

Amendments on Minimum Wagers on the Big Six Wheel

On March 31, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 19:47-5.7(d) concerning minimum wagers on the Big Six Wheel as proposed in the Notice published January 10, 1980 at 12 N.J.R. 57(b).

An order adopting these amendments was filed and became effective on March 31, 1980 as R.1980 d.133.

Howard H. Kestin
Director
Office of Administrative Law

(e)

CASINO CONTROL COMMISSION

Amendments Concerning the Gross Revenue Tax

On March 31, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 19:54 concerning the gross revenue tax as proposed in the Notice published December 6, 1979, at 11 N.J.R. 656(a).

An order adopting these amendments was filed and became effective on March 31, 1980, as R.1980 d.134.

Howard H. Kestin
Director
Office of Administrative Law

(a)

CASINO CONTROL COMMISSION

Amendments Concerning Withdrawal of Applications

On April 15, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 19:41-8.6 concerning withdrawal of applications as proposed in the Notice published March 6, 1980 at 12 N.J.R. 164(b).

An order adopting these amendments was filed and became effective on April 15, 1980 as R.1980 d.159.

Howard H. Kestin
Director
Office of Administrative Law

(b)

CASINO CONTROL COMMISSION

Rules on Reapplication By Natural Persons

On April 15, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 19:41-8.8, concerning reapplication by natural persons as proposed in the Notice published March 6, 1980 at 12 N.J.R. 165(a).

An order adopting these rules was filed and became effective on April 15, 1980 as R.1980 d.160.

Howard H. Kestin
Director
Office of Administrative Law

(c)

STATE LAW ENFORCEMENT PLANNING AGENCY

Proposed New Rules Concerning Institution of Appeal Procedures for Entitlement Jurisdictions As Required by the Justice Systems Improvement Act of 1979 (P.L. 96-157)

John J. Mullaney, Executive Director of the State Law Enforcement Planning Agency, pursuant to authority of N.J.S.A. 52:17B-142 to 150 proposes to adopt a new rule to be cited as N.J.A.C. 19:75-1.1 et seq. concerning appeal procedures applied to applications or amendments submitted by entitlement jurisdictions which have been denied after formal consideration by the Board.

Full text of the proposal follows.

CHAPTER 75. STATE LAW ENFORCEMENT PLANNING AGENCY

SUBCHAPTER 1. ENTITLEMENT APPEAL PROCEDURES

19:75-1.1 Scope

The following procedures shall apply to entitlement ap-

plications which have been denied after formal consideration by the Board.

19:75-1.2 Review of applications or amendments

(a) Technically complete applications or amendments received from entitlement jurisdictions shall be initially reviewed by staff to ensure that they conform to the provisions of this subsection.

(b) Applications or amendments submitted by entitlement jurisdictions shall conform to the uniform administrative requirements adopted by the Board for submission of applications. These requirements shall be consistent with the guidelines issued by the LEAA Administration. Such application or amendment shall be deemed approved unless the Board, within 90 days of the receipt of such application or amendment, finds that the application or amendment:

1. Does not comply with Federal requirements or with State law or regulations;

2. Is inconsistent with priorities and fails to establish under guidelines issued by the LEAA Administration, good cause for such inconsistency;

3. Conflicts with or duplicates programs or projects of another applicant or other Federal, State, or locally supported programs or applications; or

4. Proposes a program or project that is substantially identical to or is a continuation of a program or project which has been evaluated and found to be ineffective under section 404(c)(4), of the Justice System Improvement Act of 1979 (P.L. 96-157).

(c) When the Board finds such noncompliance, inconsistency, conflict or duplication, it shall notify the entitlement in writing and set forth its reasons for the finding.

(d) The entitlement may, within 30 days of receipt of written findings of the Board issued pursuant to subsection (c) of this section, submit to the Board a revised application or amendment or state in writing the entitlement's reasons for disagreeing with the Board's findings.

(e) The revised application submitted under subsection (d) of this section shall be treated as an original application except that the Board shall act on such applications within 30 days.

(f) If after review the Board determines that the revised application, amendment, or reasons submitted fail to cure the noted findings, it shall notify the entitlement in writing and set forth the reasons for the finding. If an applicant states in writing a disagreement with the Board's written findings as specified in subsection (e) of this section, the findings shall be considered appealed.

19:75-1.3 Appeals; procedures

(a) The following procedures shall be followed to institute and decide appeals of entitlement jurisdictions.

1. To initiate a formal appeal of the Board's decision the entitlement jurisdiction must, within 30 days of receipt of notice of the Board's action taken as specified in section 1.2(f) of this subchapter, file a written appeal in the following manner, noting its disagreement.

2. SLEPA Form 104 (Notice of Appeal) shall be completely filled out and be signed by the Chief Executive Officer or the individual authorized to enter the entitlement into a binding contractual agreement with the Board. The entitlement shall submit two copies to the Board of the Form 104 along with all written correspondence and findings concerning the matter being appealed. The entitlement may include any other written justification it shall desire.

3. The Board Chairman or any authorized officer will convene the Board to hold a hearing at the next regularly scheduled Board meeting, providing at least 30 days have elapsed after the SLEPA Form 104 has been returned to

the SLEPA offices. Such hearings or investigations will be held at such times and places as designated following appropriate written notice to such entitlement jurisdiction.

4. The hearing shall not be bound by the rules of evidence whether statutory, common law, or adopted by Rules of Court. The Board may in its discretion exclude any evidence if it finds that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time, or create substantial danger or undue prejudice or confusion. In that event, the Board will accept for filing a written offer of proof which may also argue relevancy to the issue at hand.

5. The Board shall render its decision and so inform the appellant immediately following the hearing. The decision shall be arrived at by majority vote of those duly appointed members of the Board (or their authorized representatives) who are present and voting on this issue. There shall be 10 days after the hearing to file written exceptions, objections and replies to the findings of the Board.

6. The Board may follow procedures contained in the State's Administration Procedures Act (N.J.S.A. 52:14B-1, et seq., as amended) or may establish its own procedures concerning the conduct of the hearing.

7. The findings of fact made by the Board must be supported by clear and convincing evidence submitted or officially noticed during the hearing. The findings of fact so supported and decisions made by the Board unless found to be of an arbitrary or capricious nature, shall be final and conclusive on all parties and reviewing agencies or officials.

Interested persons may present statements or arguments in writing relevant to the proposal on or before May 23, 1980 to:

John J. Mullaney
Executive Director
State Law Enforcement Planning Agency
3535 Quaker Bridge Road
Trenton, New Jersey 08625

The State Law Enforcement Planning Agency may thereafter adopt rules concerning this subject without further notice.

John J. Mullaney
Executive Director
State Law Enforcement Planning Agency

3 CODE TITLES UPDATED

Mailing was completed last month for the November 13, 1979 update for three Titles of the New Jersey Administrative Code.

Titles included were 6—Education, 10—Human Services and 10A—Corrections.

If subscribers have not received this update they should contact the Division of Administrative Procedure, 10 North Stockton Street, Trenton, New Jersey 08608 or phone: (609) 292-6060.

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NEW JERSEY REGISTER



THE STATE'S OFFICIAL MONTHLY RULES PUBLICATION

BRENDAN T. BYRNE, Governor
Howard H. Kestin, Director, Office of Administrative Law
G. Duncan Fletcher, Director of Administrative Procedure
Peter J. Gorman, Rules Analyst

SUPPLEMENT TO
VOLUME 12 • NUMBER 5
May 8, 1980

(a)

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Proposed Amendment to Outpatient Hospital Services

Ann Klein, Commissioner of Human Services, pursuant to N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:52-1.6 concerning reimbursement of outpatient hospital services.

This proposal is being submitted in compliance with federal regulations cited at 42 CFR 447.205 relative to changes in methods and standards of reimbursement and in accordance with the Order of the U.S. District Court entered in *N.J. Hospital Association et al. v. Klein*, Civil No. 80-594. Based on the methodology cited in the revised regulation below, this action would allow the Department of Human Services to reduce expenditures up to an estimated \$12 million annually in order to remain within budgetary appropriation.

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

10:52-1.6(c) Reimbursement for covered services in the outpatient department of the hospital shall be determined by the Commissioner of the Department of Human Services. The rates of reimbursement are established by the Commissioner at [a percentage] **60%** of the lower of costs or charges defined and determined by Medicare principles of reimbursement. [and shall not exceed 100% of the lesser of costs or charges.]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before June 15, 1980 to:

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

The Department of Human Services may thereafter adopt rules concerning this subject without further notices. It is proposed that this regulation shall become effective on the 61st day following publication.

Ann Klein
Commissioner
Department of Human Services

NEW JERSEY REGISTER, THURSDAY, MAY 8, 1980

(Cite N.J.R. 264A)