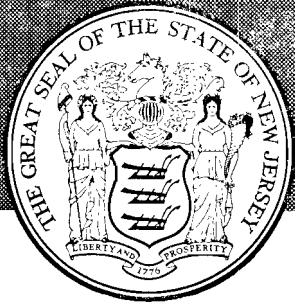


# NEW JERSEY REGISTER



*The State's Official Monthly Rules Publication*

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Donald Lan, Secretary of State

G. Duncan Fletcher, Director of Administrative Procedure

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(a)

## AGRICULTURE

### SOIL CONSERVATION COMMITTEE

#### Proposed Amendments and New Rule Concerning State Soil Conservation Committee

Phillip Alampi, Secretary of the Department of Agriculture, pursuant to authority of N.J.S.A. 4:24-39 et seq. proposes to amend N.J.A.C. 2:90-1.3, 2:90-1.7(a), (c), (e), and 2:90-1.12 and to adopt a new rule to be cited as N.J.A.C. 2:90-1.7(g), concerning the Soil Conservation Committee.

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

#### 2:90-1.3 Standards

(a) The State Soil Conservation Committee adopts as standards for soil erosion and sediment control those standards presently published in the "Standards for Soil Erosion and Sediment Control in New Jersey", specifically pages 3.11 to 3.94 (vegetative standards) and 4.11 to 4.101 (Engineering standards) as adopted September 9, 1974, by the New Jersey State Soil Conservation Committee. Copies are available [at the following locations:

#### 1. Conservation districts in New Jersey:

Name	Address	Telephone
i. Burlington SCD	Cramer Building Rt. 38, Mt. Holly 08060	609-267-7410
ii. Camden SCD	152 Ohio Avenue Clementon 08021	609-767-3977 or 784-1001
iii. Cape-Atlantic SCD	Atlantic County Office Bldg. 1200 W. Harding Hgy. Mays Landing 08330	609-625-2203 or 625-9400
iv. Cumberland SCD	P.O. Box 148, Rt. 77 Seabrook 08302	609-451-2144
v. Freehold SCD (Monmouth- Middlesex Counties)	20 Court St. Freehold 07728	201-462-1079
vi. Gloucester SCD	Gloucester County Office Bldg. Clayton 08312	609-881-0240
vii. Hunterdon SCD	Route 6, Box 49 Flemington 08822	201-782-3915 or 782-6701

viii. Mercer SCD	930 Spruce St. Trenton 08638	609-695-5415 or 989-3000 ex 353
ix. Morris SCD	Court House Morristown 07960	201-538-1552 or 538-1810
x. Northeast SCD (Bergen, Essex, Hudson and Passaic Counties)	355 Main St. Hackensack 07601	201-646-2979 201-538-1552
xi. Ocean SCD	Ocean County Agric. Ctr. Whitesville Road Toms River 08753	201-349-1007 or 244-7048
xii. Salem SCD	1000 East, Rt. 40, Box 37 Woodstown 08098	609-769-1124
xiii. Somerset-Union SCD	308 Milltown Rd. Somerset County 4-H Center Somerville 08876	201-725-3848 or 526-2701
xiv. Sussex SCD	R.D. 1, Box 13 Newton 07860	201-383-3800 or 852-5450
xv. Warren SCD	Stiger St. Hackettstown 07840	201-852-5450 or 852-2579

2. State Soil Conservation Committee, P.O. Box 1888, Trenton, New Jersey 08625, 609-292-5540.] through the State Soil Conservation Committee and each Soil Conservation District, as follows:

1. Bergen County Soil Conservation District;
2. Burlington County Soil Conservation District;
3. Camden County Soil Conservation District;
4. Cape-Atlantic Soil Conservation District  
(Cape May and Atlantic Counties);
5. Cumberland County Soil Conservation District;
6. Freehold Soil Conservation District  
(Middlesex and Monmouth Counties);
7. Gloucester County Soil Conservation District;
8. Hudson, Essex and Passaic Soil Conservation District  
(Hudson, Essex and Passaic Counties);
9. Hunterdon County Soil Conservation District;
10. Mercer County Soil Conservation District;
11. Morris County Soil Conservation District;
12. Ocean County Soil Conservation District;
13. Salem County Soil Conservation District;
14. Somerset-Union Soil Conservation District  
(Somerset and Union Counties);
15. Sussex County Soil Conservation District;
16. Warren County Soil Conservation District.

Note: The location, address and telephone number of each soil conservation district may be obtained from the

## NEW JERSEY REGISTER

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The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by the same Division. Subscription rates for this 30-volume, regularly-updated set of all State administrative rules are available on request, based on Departmental coverage desired.

Soil Conservation Committee, P.O. Box 1888, Trenton, New Jersey 08625, 609-292-5540.

(a)

## AGRICULTURE

### DIVISION OF DAIRY INDUSTRY

#### Amendments to Schedule 69-1N For North Jersey

2:90-1.7(a) Municipalities may adopt soil erosion and sediment control ordinances conforming to the standards promulgated by the committee [within 12 months of the promulgation]. Adoption by the municipality of such ordinances must be completed by May 31, 1978, in order to qualify for an exemption from sections 5 through 9 of the act.

2:90-1.7(c) Municipalities shall obtain the approval of such ordinances by the committee before being exempt from the provisions of this Act. The Committee may continue after May 31, 1978, to review municipal ordinances enacted before May 31, 1978, and, if it so determines, grant approval to such ordinances.

2:90-1.7(e) Municipalities having a soil erosion and sediment control ordinance presently in effect who wish to be exempt from sections 5 through 9 of this Act shall submit such ordinances to the committee for approval before May 31, 1978. Upon written notification of approval, which may be given after May 31, 1978, the municipality shall be exempt from sections 5 through 9 of this Act.

2:90-1.7(g) Any proposed changes to a municipal ordinance which has received the approval of the committee, and is therefore exempt from sections 5 through 9 of the act, must be submitted to the committee for review and approval prior to enactment of the revised ordinance. For the municipality's exempt status to continue, all such changes must be found to be in accordance with the act and approved as such by the committee. Failure of the municipality to secure written notification of approval will result in discontinuance of municipal exemption from sections 5 through 9 of the act.

2:90-1.12 Municipal ordinances for soil erosion and sedimentation control

(a) In order to protect the public interest and welfare and to enable the orderly continuance of municipal government in this State, the New Jersey State Soil Conservation Committee [hereby approves] gave temporary approval to all municipal ordinances for soil erosion and sediment control adopted before January 1, 1976 [, until the Committee adopts permanent regulations to implement Chapter 251, Laws of 1975, which shall be after the public comment on the regulations procedurally adopted and published in the January 8, 1976, issue of the New Jersey Register].

(b) Such temporary approval will be terminated on May 31, 1978.

Interested persons may present statements or arguments in writing or by telephone relevant to these proposals on or before December 29, 1977, to:

Phillip Alampi  
Secretary of Agriculture  
Chairman, Soil Conservation Committee  
P.O. Box 1888  
Trenton, New Jersey 08625  
(609) 292-3976

The State Soil Conservation Committee may thereafter adopt rules concerning this subject without further notice.

Phillip Alampi  
Secretary  
Department of Agriculture

On November 1, 1977, Phillip Alampi, Secretary of Agriculture, pursuant to authority of N.J.S.A. 4:12A-1 and in accordance with applicable provisions of the Administrative Procedure Act, amended N.J.A.C. 2:53-1.2(a) concerning Schedule 69-1N for North Jersey, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 450(a).

An order adopting these amendments was filed and became effective on November 1, 1977, as R.1977 d.414.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## BANKING

### DIVISION OF BANKING

#### CONSUMER CREDIT BUREAU

##### Proposed New Rule Concerning Secondary Mortgage Loan Act

Virginia Long, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:11A-54a, proposes to adopt a new rule to be cited as N.J.S.A. 3:18-6.1 concerning implementation of the Secondary Mortgage Loan Act.

Full text of the proposal follows:

#### SUBCHAPTER 6. PLEDGING OF RECEIVABLES

3:18-6.1 Pledged receivables as collateral security for commercial loan

A licensee may pledge any portion or all of its secondary mortgage loan receivables as collateral security for a bona fide commercial loan provided the licensee continues to service all such pledged accounts in its own licensed name at its own licensed location and in so doing maintains the individual borrower's documents, accounts, books and records as required by N.J.S.A. 17:11A-45e.

Interested persons may present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Roger F. Wagner, Deputy Commissioner  
Department of Banking  
Division of Banking  
36 West State Street  
Trenton, New Jersey 08625

The Department of Banking may thereafter adopt this rule without further notice.

Virginia Long  
Commissioner  
Department of Banking

(a)

## BANKING

### DIVISION OF BANKING

#### Deletion of Portion of Rule on Verification Of Payment of Real Estate Taxes

On November 18, 1977, Virginia Long, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-311 and in accordance with applicable provisions of the Administrative Procedure Act, deleted a portion of N.J.A.C. 3:7-2.3 concerning the verification of payment of real estate taxes, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 452(a).

An order deleting this text was filed and became effective on November 18, 1977, as R.1977 d.428.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## BANKING

### DIVISION OF BANKING

#### Amendments Concerning Private Mortgage Insurance or Guaranty And Parity Provisions

On November 18, 1977, Virginia Long, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-65 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 3:10-3.3 concerning private mortgage insurance or guaranty and parity provisions, substantially as proposed in the Notice published October 6, 1977, at 9 N.J.R. 452(b), with only inconsequential structural or language changes, in the opinion of the Department of Banking.

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

#### 3:10-3.2 Private mortgage insurance or guaranty

Banks are authorized to make mortgage loans in excess of the ratio between the appraised value and the amount of the loan as limited by Section 65(1) of the Banking Act of 1948, as amended, provided that in making such excess loans substantial reliance is placed upon private company mortgage insurance or guaranty. However, in no event may the total loan exceed 100 per cent of the appraised value of the property. Appropriate evidence to demonstrate justification for such reliance should be maintained in the bank's files.

#### 3:10-3. [2] 3 Parity provisions

This subchapter is directed toward the creation and maintenance of a substantial parity between banks and national banks in accordance with section 65C of the act.

An order adopting these amendments was filed and became effective on November 18, 1977, as R.1977 d.429.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(c)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Proposed Amendment on Military Leave

The Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1(a), proposes to amend N.J.A.C. 4:1-17.3(c) concerning military leave.

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

4:1-17.3(c) An employee with provisional or temporary status who enters upon active duty with the armed forces or who, pursuant to the Reserve Forces Act of 1955 (Reserve Enlistment Program) either enlists in a reserve component of the armed forces of the United States or is otherwise required to perform an initial period of active duty for training, shall [be recorded as having resigned.] **be retained until being called to duty for a significant period of time unless the provisional or temporary employee is replaced by a permanent employee or the position is abolished.**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Joseph Lavery  
Director of Hearings and Regulations  
Department of Civil Service  
215 East State Street  
Trenton, N.J. 08618

The Civil Service Commission may thereafter adopt these amendments substantially as proposed without further notice.

S. Howard Woodson  
President, Civil Service Commission  
Department of Civil Service

(d)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Proposed Amendment on Administration of Payments to State Employees for Unused Sick Leave

The Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1(a), proposes to amend N.J.A.C. 4:1-17.24(k) concerning the administration of payments to State employees for unused sick leave.

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

4:1-17.24(k) Supplement 1 and Supplement 2 of the joint regulations concerning the administration of payment to State employees for unused sick leave [provided options of certain nonclassified employees. For purposes of this program, nonclassified employees to whom this option is available are defined as:

1. Those employees who have earned sick leave under terms and conditions similar to those in the classified service but who received a different vacation leave allocation and whose records of sick leave and vacation leave

usage were recorded in a manner similar to those in the classified services.] are hereby rescinded.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Joseph Lavery  
Director of Hearings and Regulations  
Department of Civil Service  
215 East State Street  
Trenton, N.J. 08618

The Civil Service Commission may thereafter adopt this amendment substantially as proposed without further notice.

S. Howard Woodson  
President, Civil Service Commission  
Department of Civil Service

(a)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Proposed Amendment to Definition Of Veteran Regarding Vietnam Conflict

The Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1(a), proposes to amend the definition of veteran for the purposes of the Vietnam conflict appearing in N.J.A.C. 4:1-2.1.

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

#### 4:1-2.1 Definitions

"Veteran" means . . .

1. vi. Vietnam conflict, at least 90 days active service commencing after December 31, 1960, and on or before the date of termination as proclaimed by the Governor and conditioned as follows:

(1) Such minimum 90-day period shall not include any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of his civilian course, nor shall it include any time spent as a cadet or midshipman at one of the service academies[,] and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Joseph Lavery  
Director of Hearings and Regulations  
Department of Civil Service  
215 East State Street  
Trenton, N.J. 08618

The Civil Service Commission may thereafter adopt these amendments substantially as proposed without further notice.

S. Howard Woodson  
President, Civil Service Commission  
Department of Civil Service

(b)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Amended Personnel Manual (State Service) On Professional Qualification Substitution and Journeyman Level Qualification Program

On October 24, 1977, the Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to subpart 8-6.103 of the Civil Service Personnel Manual (State Service) concerning the professional qualification substitution and journeyman level qualification program.

Full text of the amended rule follows:

#### Subpart 8-6.103 Professional Qualification Substitution and Journeyman Level Qualification Program

##### 8-6.103a Subject:

This subpart describes the professional qualification substitution program whereby nonprofessional career employees and competent persons, through a combination of education and/or requisite experience, may qualify to take open competitive examinations for journeyman level positions and/or promotional examinations for journeyman level positions which normally require a baccalaureate degree and one year of experience.

##### 8-6.103b Eligibility:

Interested persons shall be considered eligible to take open competitive examinations for journeyman level titles and non-professional career employees shall be considered eligible to take open competitive and/or promotional examinations for journeyman level titles if they meet the following requirements:

1. The accumulation of appropriate professional-level experience and/or college credits (30 credits shall equal one year) totaling five years. A score of 425 or higher on the five-part CLEP general examination may be substituted for up to 30 college credits.

2. For those class titles requiring specific course work or major fields of study, an additional requirement shall be the successful completion of that course work. A score of 425 or above in the appropriate CLEP subject examination, if one exists, may be substituted for three to six semester hours of the required course work.

3. Non-professional career employees must have permanent status as State employees to be considered eligible to take promotional examinations.

##### 8-6.103c Examination procedure:

1. The Department of Civil Service will announce open competitive and promotional examinations as required.

2. Announcement of open competitive examinations will be made in the regular, monthly Job Opportunities bulletins. The announcement shall include information on eligibility requirements and how prospective applicants may utilize the experience/college substitution procedures outlined above.

3. Three months prior to the Civil Service examination announcement, the operating agencies shall post notices indicating the upcoming journeyman level professional promotional announcements. These notices shall include information on the eligibility requirements and how employees may use the substitution procedures outlined above.

The Division of Equal Employment Opportunity and Affirmative Action will be responsible for informing all personnel officers of employees who have achieved this college level proficiency. Additionally, the Division of Equal Employment Opportunity and Affirmative Action will provide open competitive examination information to such employees as appropriate examinations are announced.

4. Open competitive announcements shall be on a State-wide, or if justified, on a nationwide basis. Two employment lists will result with the Statewide lists taking precedence over the nationwide lists.

5. The Department of Civil Service shall receive applications, check for proper status showing salary range and dates of service in class titles at the required salary range.

6. The Department of Civil Service shall hold both open competitive and promotional examinations and shall produce appropriate eligible lists.

#### 8-6.103d Salary administration:

Salary adjustments for nonprofessional career employees shall be in accordance with procedures established for promotional salary adjustments except that, where an employee is at a higher salary rate than the maximum of the salary range or the highest rate authorized for the class to which he/she is being appointed, he/she shall remain at the current salary rate until future within grade adjustments, range revisions or other adjustments arising out of the salary program will entitle the employee to a rate of pay that is equivalent to the current rate or the next higher rate for the latter classification.

An order adopting these amended rules was filed and became effective on November 1, 1977, as R.1977 d.415 (Exempt, Procedure Rule). Take notice that these amendments are not subject to codification and will not appear in Title 4 of the New Jersey Administrative Code.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## COMMUNITY AFFAIRS

### THE COMMISSIONER

#### Amendments on Conflicts of Interest

On November 7, 1977, Patricia Q. Sheehan, Commissioner of Community Affairs, pursuant to authority of N.J.S.A. 52:27D-119 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 5:23-4.3(c)6. concerning conflicts of interest, as proposed in the Notice published August 4, 1977, at 9 N.J.R. 357(a).

An order adopting these amendments was filed on November 21, 1977, as R.1977 d.434 to become effective on December 15, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## COMMUNITY AFFAIRS

### DIVISION OF HOUSING AND URBAN RENEWAL

#### Amendments Concerning Effective Dates

On November 7, 1977, Patricia Q. Sheehan, Commissioner of Community Affairs, pursuant to authority of N.J.S.A. 52:27D-119 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 5:23-4.9(a)2.ii. and 5:23-5.3(a)4. concerning certain effective dates, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 456(c).

An order adopting these amendments was filed on November 21, 1977, as R.1977 d.435 to become effective on December 15, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(c)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Proposed Amendments on Superintendency

The State Board of Education, pursuant to authority of N.J.S.A. 18A:4-15, 18A:16-1, 18A:17-15, 18A:17-17, 18A:17-20 and the commissioner's decision in the case of Chester N. Stephens v. the Board of Education of the Township of Mount Olive, Morris County, 1963 S.L.D. 215, proposes to amend N.J.A.C. 6:3-1.11 concerning superintendency.

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

#### 6:3-1.11 Superintendency

(a) Any superintendency hereafter approved shall meet the following conditions:

1. The district or districts shall have a staff of at least 25 full-time teachers;

2. The superintendent shall hold an appropriate certificate prescribed by the State Board of Education;

[3. The salary shall be not less than \$6,000.00 per annum;]

[4.]3. The county superintendent shall certify the necessity for the [appointment] position and the Commissioner of Education and State Board [shall] may approve it. This certification to the Commissioner of Education and State Board by the county superintendent of schools shall be accompanied by an application for such approval from the employing board or boards of education.

(b) Any application from a board of education for the abolishment of the position of superintendent of schools shall be recommended by the county superintendent of schools, and approved by the Commissioner of Education and the State Board of Education. Such requests shall be accompanied by a resolution of the board of education citing reasons for the request.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Lorraine L. Colavita  
Executive Assistant for Administrative  
Practice and Procedure  
Department of Education  
225 West State Street  
Trenton, N.J. 08625

The State Board of Education may thereafter adopt these amendments substantially as proposed without further notice.

Fred G. Burke  
Commissioner of Education  
Secretary, State Board of Education

(a)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Emergency Rule on Appeals from Decisions of Commissioner on School Budget Cap Waiver Applications

On November 9, 1977, 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:7A-25 and in accordance with applicable provisions of the Administrative Procedure Act, adopted an emergency rule concerning appeals from decisions of the commissioner on school budget cap waiver applications.

Full text of the adopted rule follows:

#### 6:2-1.7 Appeals from decisions of commissioner on school budget cap waiver applications

(a) An appeal to the State Board of Education from a decision of the Commissioner of Education, made pursuant to N.J.S.A. 18A:7A-25 on a cap waiver application, shall be taken within seven days of the date of service of such decision. The appeal shall be taken by filing with the commissioner a notice identifying the decision and stating that an appeal is taken to the State board from it or from such part of it as may be specified.

(b) The commissioner shall certify the record of the cap waiver determination to the State board within three days after the filing of the notice of appeal, and remit the record, so certified, together with the notice of appeal with two extra copies of his/her decision to the chairperson of the legal committee of the State board.

(c) Within three days of the filing of the notice of appeal, the appellant may submit to the secretary of the State board 15 copies of the legal arguments upon which the appellant will rely. If no legal arguments are submitted within the three-day period, the State board will determine the appeal solely on the basis of the record certified to it by the commissioner.

An order adopting this rule was filed and became effective on November 10, 1977, as R.1977 d.420 (Exempt, Emergency Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Amendments on Acting Administrators And Extension of Approval

On November 9, 1977, 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 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 6:3-1.1, Acting administrators; extension of approval and a new rule cited as 6:5-2.1, Acting administrators, substantially as proposed in the Notice published October 6, 1977, at 9 N.J.R. 458(b), with only inconsequential structural or language changes being made to N.J.A.C. 6:5-2.1, in the opinion of the Department of Education.

An order adopting these amendments was filed and became effective on November 10, 1977, as R.1977 d.421.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(c)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Amendments on Assignment of Titles

On November 9, 1977, 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:6-38 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 6:11-3.6 concerning the assignment of titles, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 458(a).

An order adopting these amendments was filed and became effective on November 10, 1977, as R.1977 d.422.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(d)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Deletion of Rule on Special Regulations

On November 9, 1977, 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:6-38 and in accordance with applicable provisions of the Administrative Procedure Act, deleted in its entirety the current text of N.J.A.C. 6:11-10.5 concerning special regulations, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 457(b).

The purpose of this deletion was to eliminate duplication in Title 6 of the New Jersey Administrative Code.

An order deleting this rule was filed and became effective on November 10, 1977, as R.1977 d.423.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

# ENVIRONMENTAL PROTECTION

## THE COMMISSIONER

### Proposed Rules on Radiation Laboratory Fee Schedule

Rocco D. Ricci, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-1 et seq. and 26:2D-1 et seq., proposes to adopt new rules concerning the radiation laboratory fee schedule for monitoring radioactivity of public water supplies.

Such proposed rules are known within the Department of Environmental Protection as Docket No. DEP 060-77-11.

Full text of the proposed rules follows:

#### SUBCHAPTER 25. RADIATION LABORATORY FEE SCHEDULE

##### 7:28-25.1 Definitions

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

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Person" includes an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, municipality, any state, or other legal entity; and any legal successor, representative agent or agency of the foregoing.

"Public water supply system" means a municipally or privately owned system comprising structures which, operating alone or with other structures, result in the derivation, conveyance (or transmission) or distribution of water for potable or domestic purposes to consumers in 20 or more dwellings or properties; this definition does not include a public water treatment plant.

##### 7:28-25.2 Fee schedule for monitoring public water systems for radioactivity

(a) The fee schedule for the monitoring for radioactivity is as follows:

Analysis	Fee/Analysis
Gross alpha particle activity	\$25.00
Gross beta particle activity	25.00
Gross alpha and beta particle activity	35.00
Radium 226 or 228	40.00
Strontium	40.00
Tritium	40.00
Iodine 131	40.00
Cesium 134 and 137	40.00

##### 7:28-25.3 Terms and conditions of radiation monitoring by the State radiation protection laboratory

(a) Any person wishing to utilize the State radiation protection laboratory for the purpose of monitoring a public water supply system should apply, in writing, to that laboratory for permission to have samples delivered in accordance with a time schedule established by the laboratory. No samples shall be delivered without prior approval from the laboratory.

(b) Fees shall be determined in accordance with the fee schedule set forth in section 2 of this subchapter. Payment by certified check, made payable to the Bureau of Radiation, shall become due immediately upon the receipt of an invoice from the State radiation protection laboratory.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 30, 1977, to:

Eugene Fisher, Chief  
Bureau of Radiation Protection  
Department of Environmental Protection  
380 Scotch Road  
Trenton, N.J. 08628

The Department of Environmental Protection may thereafter adopt these rules substantially as proposed without further notice.

Rocco D. Ricci  
Commissioner  
Department of Environmental Protection

(b)

# ENVIRONMENTAL PROTECTION

## THE COMMISSIONER

### Notice of Public Hearing on Issuance of Temporary Variances

Take notice that the Department of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-1 et seq., will hold a public hearing concerning the issuance of temporary variances from the provisions of N.J.A.C. 7:27-9.1 et seq., sulfur in fuel.

Purpose of this public hearing is to afford interested parties the opportunity to comment on the proposed extension of certain variances issued pursuant to N.J.A.C. 7:27-9.5, Temporary Variances, for an additional six-month period from January 12, 1978 to July 12, 1978.

The variances under consideration were first issued as an interim step in a comprehensive review of the sulfur in fuel oil requirements in effect for southern New Jersey. Major technical analysis of ambient air quality in the nine-county region have been completed. New Jersey is currently seeking to establish final standards for sources of sulfur dioxide (SO2) located within this State as well as for those operating in nearby states which affect air quality in New Jersey. The purpose of this six-month extension is to permit the completion of that process.

This document is known within the department as Docket No. DEP 059-77-11.

Written and/or oral testimony concerning this proposal will be received at a public hearing to be held January 9, 1978, from 10:00 A.M. to conclusion of testimony at:

Salem County Court House  
Market Street  
Salem, New Jersey

Copies of the applicable regulations and the variances issued thereunder may be obtained from, and written testimony relating thereto will be accepted prior to January 9, 1978, by:

Herbert Wortreich, Chief  
Bureau of Air Pollution Control  
Department of Environmental Protection  
P.O. Box 2807  
Trenton, New Jersey 08625

Copies of this notice, of the applicable regulations, as well as the variances and background documents have been deposited and will be available for inspection during normal office hours until the closing of the hearing record at:

Bureau of Air Pollution Control  
Room 1108, Labor and Industry Building  
John Fitch Plaza  
Trenton, New Jersey 08625

Department of Health  
Cape May Court House, New Jersey 08210

Cumberland County Health Department  
County Complex  
800 East Commerce Avenue  
Bridgeton, New Jersey 08302

Office of County Clerk  
Market Street  
Salem, New Jersey 08079

This hearing is being held in accordance with the provisions of Air Pollution Control Act (1954) as amended by Chapter 106, P.L. 1967, N.J.S.A. 26:2C-1 et seq., and Title 40, Section 51.4 of the Code of Federal Regulations as a revision to the State Implementation Plan to meet National Ambient Air Quality Standards.

This Notice is published as a matter of public information, is not subject to codification and will not appear in Title 7 of the New Jersey Administrative Code.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## ENVIRONMENTAL PROTECTION

### DIVISION OF ENVIRONMENTAL QUALITY

#### BUREAU OF RADIATION PROTECTION

##### Notice on Transportation of Radioactive Materials

Take notice that, the Department of Environmental Protection has issued the following notice, known within the Department of Environmental Protection as Docket No. DEP 061-77-11, concerning the transportation of radioactive materials.

Take notice that on September 26, 1977, Assembly Bill No. 1953 (P.L. 1977, c. 233) was approved amending the New Jersey Radiation Protection Act (P.L. 1958, Chapter 116). This new law concerns the handling of radioactive materials in New Jersey and provides for the regulation of the storage and transportation of radioactive materials which exceed 20 curies.

Pending the formulation and adoption of rules and regulations by the Commission on Radiation Protection (CORP), the Department of Environmental Protection (DEP) has, on November 11, 1977, adopted an interim compliance procedure to implement those portions of the law presently in effect.

Prior to the consideration of any formal rules and regulations to be promulgated pursuant to the new law, the CORP and DEP will hold a fact-finding hearing (date to be announced) to provide an opportunity for all interested parties to present facts and views regarding the nature of these regulations.

Additionally, the Department invites and encourages comments pertaining to this issue, such as those regarding the nature and extent of shipments of such material and any specific problems that must be addressed.

Such information may be submitted in writing to and copies of the interim compliance procedure may be obtained from:

Eugene Fisher, Chief  
Bureau of Radiation Protection  
380 Scotch Road  
Trenton, N.J. 08628

This Notice is published as a matter of public information.  
G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## ENVIRONMENTAL PROTECTION

### THE COMMISSIONER

#### Emergency Amendments Concerning Shellfish Beds in Great Egg Harbor Bay

On November 17, 1977, Rocco D. Ricci, Commissioner of Environmental Protection, pursuant to authority of N.J. S.A. 24:2-1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 7:12-1.1 and 7:12-1.3 opening certain shellfish beds in Great Egg Harbor Bay.

These amendments are known within the Department of Environmental Protection as Docket No. DEP 057-77-11.

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

##### 7:12-1.1 Definitions

"Seasonal area" means waters condemned for the harvest of oysters, clams and mussels from May 1 through December 31 of each year and approved for harvest from January 1 through April 30 of each year, except in Great Egg Harbor Bay as described in 7:12-1.3(a) 28.viii. and in Delaware Bay where the waters are condemned for the harvest of shellfish from May 1 through October 31 of each year and approved for the harvest from November 1 through April 30 of each year.

7:12-1.3(a) 28 vii. Delete this paragraph as currently described and insert the following:

Seasonal: Condemned May 1 through December 31 yearly, approved January 1 through April 30 yearly: All that portion of ship channel contained within a line beginning at the northern end of the Somers Point - Ocean City Bridge at Somers Point, then along the northern shore of ship channel to Anchorage Point, then bearing approximately 210°T to the southeasternmost point of an unnamed Islands, then along the western shore of that island to the northwesternmost point, then bearing approximately 190°T to the easternmost point of the largest of the Rainbow Islands, then along the western shore of that island to the Somers Point - Ocean City causeway (Route 52), then along northern side of the causeway in a northerly direction to its point of origin.

viii. Seasonal: Condemned May 1 through October 31 yearly, approved November 1 through April 30 yearly: All that portion of Great Egg Harbor Bay contained within a line beginning at the northern end of the Somers Point -

Ocean City Bridge at Somers Point, then along the northeastern side of the causeway in a southeasterly direction to first island after crossing Rainbow Channel, then along the shoreline to its westernmost point, then to flashing red light #4 (Fl R "4"), then to flashing red light #16 (Fl R "16"), then along the north shore of that island to the eastern tip of Shooting Island, then along the northern shore of Shooting Island to the range markers (department-maintained), then bearing approximately 335°T to flashing light #1 (Fl "1"), then bearing approximately 319°T to its intersection with the Garden State Parkway Bridge on the southern side of Drag Island, then across Drag Island following northbound lane of the parkway across Drag Channel to the mainland, then along the mainland shore in a northeasterly direction to and terminating at the northernmost point of the Somers Point - Ocean City Bridge.

ix. Seasonal: Condemned May 1 through December 31 yearly, approved January 1 through April 30 yearly: All that portion of Great Egg Harbor Bay, Great Egg Harbor River and Middle River contained within a line beginning at the southwest tip of Drag Island and bearing approximately 266°T through the south side base of the second electric tower (uncharted) to the northern point at the mouth of the Tuckahoe River, then along the western shoreline of Great Egg Harbor River in a northwesterly direction to Middle River, then along the south shore of Middle River to the tributary leading to Swan Pond, then directly across Middle River and along that shore to Great Egg Harbor River, then continuing along the shore of Great Egg Harbor River to the point of land across Great Egg Harbor River from the mouth of English Creek, then bearing approximately 329°T across Great Egg Harbor River to the mouth of English Creek, then along the eastern shore of Great Egg Harbor River in a downstream direction to the mouth of Patcong Creek, then across the line marking the mouth of Patcong Creek described in subparagraph of this paragraph, then along the north shore of Great Egg Harbor Bay and Drag Channel to the Garden State Parkway, then south along the eastern side of the Garden State Parkway to the northern shore of Drag Island, then along the shoreline in a westerly direction to its origin at the southwest tip and terminating.

Note: 7:12-1.3(a)28.viii through xiii become x. through xv.

An order adopting these amendments was filed and became effective on November 17, 1977, as R.1977 d.427 (Exempt, Emergency Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## HEALTH

### THE COMMISSIONER

#### Proposed Amendments to Standards and Criteria For Planning of Need of Perinatal Services

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board proposes to amend N.J.A.C. 8:31-8.1 et seq., the standards and general criteria for the planning and certification of need of

perinatal services, by requiring that health systems agencies adopt and submit to the Department of Health a perinatal service plan for its health services area as a condition to the processing of certificate of need applications submitted by applicants from the respective health services area.

Amendments are offered to clarify the conditions under which waivers from utilization requirements for level I and level II perinatal units will be considered and to specify general criteria which must be met by applicants for designation as a perinatal I or II unit or III center. The proposal would revise the format in which N.J.A.C. 8:31-8.1 et seq. was adopted and became effective on May 23, 1977.

Copies of the 25 pages of full text of the proposed amendments may be obtained from or made available for review by contacting:

John C. Scioli, Acting Coordinator  
Health Plan Development Services  
Department of Health  
P.O. Box 1540, Room 802  
Trenton, New Jersey 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to the Department of Health at the above address.

The Department of Health may thereafter adopt these amendments substantially as proposed without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(b)

## HEALTH

### THE COMMISSIONER

#### Proposed Addition of Lorazepam to Schedule IV Of List of Controlled Dangerous Substances

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:21-1 et seq., proposes to add Lorazepam to Schedule IV of the list of Controlled Dangerous Substances. Schedule IV is now cited as N.J.A.C. 8:65-10.4.

Full text of the proposal follows:

The Commissioner of Health raises no objection to an order placing Lorazepam in Schedule IV—Depressants and subject to the provisions of the Controlled Dangerous Substance Act of 1970. Such an order was published in the Federal Register, Volume 42, Page 54547, effective October 7, 1977.

Now, therefore, the Commissioner of Health orders that Lorazepam, CDS 2885 be placed in Schedule IV—Depressants of the New Jersey Controlled Dangerous Substance Act and be subject to the provisions of N.J.S.A. 24:21-1 et seq. Said order to be effective 30 days from publication of the order in the Federal Register.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Donald J. Foley  
 Chief, Drugs, Devices and Cosmetics  
 Department of Health  
 1911 Princeton Ave.  
 Trenton, N.J. 08648

The Department of Health may thereafter adopt this new text substantially as proposed without further notice.

Dr. Joanne E. Finley  
 Commissioner  
 Department of Health

**(a)**

**HEALTH**

**THE COMMISSIONER**

**Notice of Republication and Recodification  
 Of Controlled Dangerous Substances Schedules**

Take notice that, the following is a republication and recodification of schedules I through V listing the controlled dangerous substances in effect November 22, 1977, pursuant to N.J.S.A. 24:21-3d. Notice that schedules I through V are now cited as N.J.A.C. 8:65-10.1 through 8:65-10.5.

Full text of the listings follows:

**SUBCHAPTER 10. CONTROLLED DANGEROUS  
 SUBSTANCES SCHEDULES**

8:65-10.1 Controlled dangerous substances; schedule I  
 (a) The following are criteria for inclusion in schedule I of controlled dangerous substances:

1. The drug or other substance has high potential for abuse.
2. The drug or other substance has no currently accepted medical use in treatment in the United States.
3. There is lack of accepted safety for use of the drug or other substance under medical supervision.

(b) The following is schedule I listing of the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code number:

1. Opiates: Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Acetylmethadol	9601
Allylprodine	9602
Alphacetylmethadol	9603
Alphameprodine	9604
Alphamethadol	9605
Benzethidine	9606
Betacetylmethadol	9607
Betameprodine	9608
Betamethadol	9609
Betaprodine	9611
Clonitazene	9612
Dextromeramide	9613
Dextrorphan	9614
Diampromide	9615

Diethylthiambutene	9616
Difenoxin	9168
Dimenoxadol	9617
Dimepheptanol	9618
Dimethylthiambutene	9619
Dioxaphetylbutyrate	9621
Dipipanone	9622
Ethylmethylthiambutene	9623
Etonitazene	9624
Etoxidine	9625
Furethidine	9626
Hydroxypethidine	9627
Ketobemidone	9628
Levomoramide	9629
Levophenacetylmorphan	9631
Morpheridine	9632
Noracymethadol	9633
Norlevorphanol	9634
Normethadone	9635
Norpipanone	9636
Phenadoxone	9637
Phenampromide	9638
Phenoperidine	9641
Piritramide	9642
Proheptazine	9643
Propерidine	9644
Propiram	9649
Racemoramide	9645
Trimeperidine	9646
Phenomorphan	9647

2. Opium derivatives: Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Acetorphine	9313
Acetyldihydrocodeine (Acetylcodeine)	9051
Benzylmorphine	9502
Codeine Methylbromide	9070
Codeine-N-Oxide	9053
Cyprenorphine	9054
Desomorphine	9055
Dihydromorphine	9145
Drotebanol	9335
Etorphine (Except Hydrochloride Salt)	9056
Heroin	9200
Hydromorphanol	9301
Methyldesorphine	9302
Methyldihydromorphine	9404
Morphine Methylbromide	9305
Morphine Methylsulfonate	9306
Morphine-N-Oxide	9307
Myrephine	9308
Nicocodeine	9309
Nicomorphine	9312
Normorphine	9313
Pholcodine	9314
Thebacon	9315

3. Hallucinogenic substances: Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the

term "isomer" includes the optical, positions, and geometric isomers):

Generic/Established or Chemical Name	CDS Code
i. 4-bromo-2,5-dimethoxy-amphetamine Some trade or other names: 4-bromo-2,5-dimethoxy-methylphenethylamine; 4-bromo-2,5-DMA.	7391
ii. 2,5-dimethoxyamphetamine some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.	7396
iii. 4-methoxyamphetamine Some trade or other names: 4-methoxymethylphenethylamine; paramethoxyamphetamine, PMA.	7411
iv. 5-methoxy-3,4-methylenedioxy-amphetamine	7401
v. 4-methyl-2,5-dimethoxy-amphetamine Some trade and other names: 4-methyl-2,5-dimethoxy- -methylphenethylamine; "DOM"; and "STP".	7395
vi. 3,4-methylenedioxy amphetamine	7400
vii. 3,4,5-trimethoxy amphetamine	7390
viii. Bufoteine Some trade and other names: 3 - (- Dimethylaminoethyl)- 5 - hydroxyindole; 3-(2-dimethylaminoethyl) -5 indolol; N, N - dimethylserotonin; 5 - hydroxy - N, N - dimethyltryptamine; mappine.	7433
ix. Diethyltryptamine Some trade and other names: N, N-Diethyltryptamine DET.	7434
x. Dimethyltryptamine Some trade or other names: DMT.	7435
xi. Ibogaine Some trade and other names: 7 - Ethyl - 6,7,8,9,10,12,13 - octahydro - 2 - methoxy-6,9-methano-5H-pyrido 1', 2:1,2 axepino 5,4-b indole; tabernanthe iboga.	7260
xii. Lysergic acid diethylamide	7315
xiii. Marihuana	7360
xiv. Mescaline	7381
xv. Peyote Meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts. (Interprets 21 USC 812(c), schedule I(c) (12))	7415
xvi. N-ethyl-3-piperidyl benzilate	7482
xvii. N-methyl-3-piperidyl benzilate	7484
xviii. Psilocybin	7437
xix. Psilocyn	7438
xx. Tetrahydrocannabinols Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers. 6 cis or trans tetrahydrocannabinol, and their optical isomers.	7370

3,4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

xxi. Thiopene Analog of Phencyclidine 7470  
Some trade or other names: 1-1-(2-thienyl)cyclohexyl piperidine; 2-Thienyl Analog of Phencyclidine; TPCP.

4. Depressants: Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Mecloqualone	2572

8:65-10.2 Controlled dangerous substances; schedule II

(a) The following are criteria for inclusion in schedule II of controlled dangerous substances:

1. The drug or other substance has a high potential for abuse.

2. The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

3. Abuse of the drug or other substance may lead to severe psychological or physical dependence.

(b) The following is schedule II listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:

1. Substances, vegetable origin or chemical synthesis: Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

i. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

Generic/Established or Chemical Name	CDS Code
Raw opium	9600
Opium extracts	9610
Opium fluid extracts	9620
Powdered opium	9639
Granulated opium	9640
Tincture of opium	9630
Apomorphine	9030
Codeine	9050
Ethylmorphine	9190
Etorphine HCL <sup>4</sup>	9059
Hydrocodone	9133
Hydromorphone	9194
Metopon	9620
Morphine	9300
Oxycodone	9143
Oxymorphone	9652
Thebaine	9333

ii. Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph i of this paragraph except that these substances shall not include the isoquinoline alkaloids of opium.

iii. Opium poppy and poppy straw, CDS number 9650.

iv. Coca leaves (9040) and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine (9041) or ecgonine (9180).

v. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy), 9670.

2. Opiates: Unless specifically excepted or unless in another schedule any of the following opiates, including salts isomers, esters, ethers, salts and salts of isomers, salts, isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, chemical designation, dextrorphan<sup>4</sup> excepted:

Generic/Established or Chemical Name	CDS Code
Alpharprodine	9010
Anileridine	9020
Bezitramide	9800
Dihydrocodeine	9120
Diphenoxylate	9170
Fentanyl	9801
Isomethadone	9226
Levomethorphan	9210
Metazocine	9240
Methadone	9250
Methadone-Intermediate, 4-cyano-2-dimethylamino- 4,4-diphenyl butane	9254
Moramide-Intermediate, 2- methyl-3-morpholino-1, 1-diphenylpropane- carboxylic acid	9802
Pethidine	9230
Pethidine-Intermediate-A, 4-cyano-1-methyl-4- phenylpiperidine	9232
Perthidine-Intermediate-B, ethyl-4-phenylpiperidine-4- carboxylate	9233
Perthidine-Intermediate-C, 1-methyl-4-phenylpiperidine- 4-Carboxylic acid	9234
Phenazocine	9715
Piminodine	9730
Racemethorphan	9732
Racemorphan	9733

3. Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers and salts of its optical isomers	1100
Methamphetamine, its salts, isomers and salts of its isomers	1105
Phenmetrazine and its salts	1630
Methylphenidate	1726

4. Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Methaqualone	2565
Amobarbital	2125
Secobarbital	2315
Pentobarbital	2270

8:65-10.3 Controlled dangerous substances; schedule III

(a) The following are criteria for inclusion in schedule III of controlled dangerous substances:

1. The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

2. The drug or other substance has a currently accepted medical use in the United States.

3. Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The following is schedule III listing of the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:

1. Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

i. Those compounds, mixtures, or preparation in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under section 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances 1405.

Generic/Established or Chemical Name	CDS Code
ii. Benzphetamine	1228
iii. Chlorphentermine	1645
iv. Clortermine	1647
v. Mazindol	1605
vi. Phendimetrazine	1615

2. Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

i. Any compound, mixture or preparation containing:

Generic/Established or Chemical Name	CDS Code
Amobarbital	2125
Secobarbital	2315
Pentobarbital	2270

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

ii. Any suppository dosage form containing:

Generic/Established or Chemical Name	CDS Code
Amobarbital	2125
Secobarbital	2315
Pentobarbital	2270

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

iii. Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof C.D.S. 2100.

Generic/Established or Chemical Name	CDS Code
iv. Chlorhexadol	2510
v. Glutethimide	2550
vi. Lysergic acid	7300
vii. Lysergic acid amide	7310
viii. Methypylon	2575
ix. Phencyclidine	7471
x. Sulfondiethylmethane	2600
xi. Sulfonethylmethane	2605
xii. Sulfonmethane	2610
xiii. Nalorphine	9400

5. Narcotic drugs: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

Item	CDS Code
i. Not more than 1.8 grams of codeine per 100 millimeters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium	9803
ii. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9804
iii. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium	9805
iv. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9806
v. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9807
or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9808
vii. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9809
viii. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts	9810

8:65-10.4 Controlled dangerous substances; schedule IV

(a) The following are criteria for inclusion in schedule IV of controlled dangerous substances:

1. The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

2. The drug or other substance has a currently accepted medical use in treatment in the United States.

3. Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(b) The following is schedule IV listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:

1. Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Diethylpropion	1608
Phentermine	1640
Pemoline (including organometallic complexes and chelates thereof)	1530

2. Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Generic/Established or Chemical Name	CDS Code
Barbital	2145
Chloral betaine	2460
Chloral hydrate	2465
Chlordiazepoxide	2744
Clonazepam	2737
Clorazepate	2768
Diazepam	2765
Ethchlorvynol	2540
Ethinamate	2545
Flurazepam	2767
Mebutamate	2800
Meprobamate	2820
Methylphenobarbital (mephobarbital)	2250
Oxazepam	2835
Paraldehyde	2585
Petricloral	2591
Phenobarbital	2285
Prazepam	2764

Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

Generic/Established or Chemical Name	CDS Code
Fenfluramine	1670

3. Other substances: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

Generic/Established or Chemical Name	CDS Code
Dextropropoxyphene <sup>41</sup> (alpha - (+) - 4 - dimethylamino-1, 2 - diphenyl - 3 - methyl - 2 - propionoxybutane)	8121

8:65-10.5 Controlled dangerous substances; schedule V  
 (a) The following are criteria for inclusion in schedule V of controlled dangerous substances:  
 1. The substance has a low potential for abuse relative to the substances listed in schedule IV.  
 2. The substance has currently accepted medical use in treatment in the United States.  
 3. The substance has limited physical dependence or psychological dependence liability relative to the substances listed in schedule IV.

(b) The following is schedule V listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:

1. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug along:
  - i. Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.
  - ii. Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.
  - iii. Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.
  - iv. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
  - v. Not more than 100 milligrams of opium or any of its salts per 100 milliliters or per 100 grams.

Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

Generic/Established or Chemical Name	CDS Code
Loperamide	8125

This Notice is published as a matter of public information. This recodification will appear in Title 8 of the New Jersey Administrative Code in the next updating of that Title.

G. Duncan Fletcher  
 Director of Administrative Procedure  
 Department of State

**(a)**

## HEALTH

### THE COMMISSIONER

#### Amendment Concerning Loperamide As a Controlled Dangerous Substance

On November 21, 1977, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:21-1 et seq. and in accordance with applicable provisions of

the Administrative Procedure Act, adopted an amendment concerning the addition of Loperamide to the list of controlled dangerous substances, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 465(c).

Take notice that, schedule V of the lists of controlled dangerous substances, to which Loperamide will be added, is now cited as N.J.A.C. 8:65-10.5.

An order adopting this amendment was filed and became effective on November 21, 1977, as R.1977 d.440.

G. Duncan Fletcher  
 Director of Administrative Procedure  
 Department of State

**(b)**

## HEALTH

### THE COMMISSIONER

#### Amendment on Thiophene Analog of Phencyclidine As a Controlled Dangerous Substance

On November 21, 1977, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 24:21-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, amended N.J.A.C. 8:65-10.1(a)1. by adding the thiophene analog of phencyclidine to the list of controlled dangerous substances, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 466(a).

An order adopting this amendment was filed and became effective on November 22, 1977, as R.1977 d.441.

G. Duncan Fletcher  
 Director of Administrative Procedure  
 Department of State

**(c)**

## HIGHER EDUCATION

### THE CHANCELLOR

#### Proposed Amendments on Appeals to Chancellor Under the Higher Education Laws

T. Edward Hollander, Chancellor of Higher Education, pursuant to authority of N.J.S.A. 18A:6-26, proposes to amend N.J.A.C. 9:2-6.1 et seq. concerning the rules of appeal to the chancellor under the higher education laws of New Jersey.

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

#### SUBCHAPTER 6. RULES FOR APPEAL TO THE CHANCELLOR OF HIGHER EDUCATION

##### FOREWORD

The following rules prescribed by the Chancellor of Higher Education and approved by the Board of Higher Education govern the hearing of appeals and the adjudication of controversies and disputes arising under higher education laws by the Chancellor of Higher Education pursuant to N.J.S.A. 18A:6-26, 18A:6-27 and 18A:60-2. It is the firm policy of the chancellor and the board that the hearing of appeals and the adjudication of controversies and disputes will take place as expeditiously as possible, consistent with due process.

9:2-6.1 ["Chancellor" defined] Definitions

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

[As used in this subchapter, unless a different meaning appears from the context,] "Chancellor" [shall] means the Chancellor of Higher Education, [or] the Vice Chancellor of Higher Education or an Assistant Chancellor of Higher Education assigned to hear and determine controversies and disputes, or a duly appointed hearing officer assigned to conduct the proceedings in any [case] appeal.

"Days" means calendar days.

9:2-6.2 Appointment of hearing officer

When the chancellor appoints a vice chancellor or other hearing officer to hear an appeal, he shall inform all parties of the appointment within 20 days of the receipt of respondent(s) answer.]

9:2-6.3 9:2-6.2 Filing and service of petition of appeal

To initiate a proceeding before the chancellor to adjudicate an appeal, controversy or dispute arising under the higher education laws, a petitioner shall file with the chancellor the original copy of the petition, together with proof of service or a copy thereof on the respondent or respondents.

9:2-6.4 9:2-6.3 Format of petition of appeal

(a) The petition must be verified and must state the name and address of each petitioner, the name and address of or a description sufficient to identify each party respondent, and a statement of the essential facts giving rise to a dispute under the higher education laws [, and must be verified].

(b) The petition should [also cite] contain a citation, if known to petitioner, of the section or sections of the higher education laws under which the controversy has arisen, should indicate that the appeal is from a final decision of the college, where possible should enclose as an exhibit to the petition a copy of the final decision of the college, and should be presented in substantially the following form:

BEFORE THE CHANCELLOR OF HIGHER EDUCATION OF THE STATE OF NEW JERSEY

JOHN DOE, :
PETITIONER, :
v. : PETITION OF APPEAL
RICHARD ROE, :
RESPONDENT. :

Petitioner, John Doe, residing at ..... hereby requests the Chancellor of Higher Education to hear and determine a controversy which has arisen between petitioner and respondent, whose address is ..... (or other information), under section ..... of the New Jersey Statutes, by reason of the following facts:

1. (Here set forth in appropriate paragraphs the facts constituting the basis of the controversy.)

Wherefore, petitioner requests that (here set forth prayer for the relief desired).

Signature of Petitioner or his/her Attorney

Date.....

9:2-6.5 9:2-6.4 Filing, [and] service of answer and extensions of time to answer

(a) [Upon receipt] Within 20 days of service of a petition, the respondent(s) [will be directed by the chancellor to file and serve an answer, within a specified number of

days] must serve and file with the chancellor an answer, together with proof of service of a copy thereof upon the petitioner. [Such time may be extended by consent of the parties or by the chancellor.]

(b) The answer shall contain a denial as to each allegation of the petition controverted by the respondent, or a denial of any knowledge or information thereof sufficient to form a belief as to such allegation.

(c) Allegations which are not denied shall be deemed to be admitted.

(d) The answer shall also set forth [the] separate defenses, including defenses to jurisdiction, to be interposed by respondent.

(e) [The original copy of the answer shall be filed with the chancellor, together with proof of service of a copy thereof upon the petitioner(s).]

Extension of the time in which to answer will be granted in the discretion of the chancellor only if exceptional reasons are presented to justify such request. Requests for an extension of the time in which to answer shall be submitted in writing to the chancellor at least five days before the 20 day answering period has expired. At the same time a request is made to the chancellor, a copy of such request shall be served on the other party or parties. The chancellor will notify all parties of the decision with respect to the request. In no event shall an extension be granted for more than 10 days.

(f) Upon failure of the respondent(s) to answer within the answering period, the chancellor may, upon application of the petitioner or upon his or her own initiative, assume that the allegations contained in the petition are admitted, and render an appropriate order disposing of the matter.

9:2-6.6 9:2-6.5 Amendment of petition and answer

[The chancellor may order the amendment of any petition or answer, or any petitioner may amend his petition, and any respondent may amend his answer, at any time and in any manner which the chancellor deems fair and reasonable.]

(a) A petition may be amended to include additional parties or issues at any time before service of the answer on the petitioner or within 10 days after service of the answer. Thereafter amendment of the petition may be made only in the chancellor's discretion and then only upon showing of exceptional circumstances.

(b) An answer may be amended within 10 days after service of the original answer on the petitioner or within 10 days after service of amended petition. Thereafter amendment of the answer may be made only in the chancellor's discretion and then only upon showing of exceptional circumstances.

9:2-6.7 9:2-6.6 Permission to intervene

[The chancellor may allow any person upon showing that he may be substantially and specifically affected by the proceeding, to intervene as a party in the whole or any portion of the proceeding, and may allow any other interested person to participate by presentation of argument, orally or in writing, or for any other limited purpose, as the chancellor may order.]

Intervention by any person or organization in the whole or any portion of the proceeding will be granted at the discretion of the chancellor only if the chancellor is convinced that such person or organization may be substantially and specifically affected by the proceeding. Such request for intervention must be presented in writing to the chancellor within 15 days of the filing of respondent's final answer to the chancellor.

#### 9:2-6.7 Appointment of hearing officer

When the chancellor appoints a vice chancellor, assistant chancellor or other hearing officer to hear an appeal, he or she shall inform all parties of the appointment within 20 days of the receipt of respondent's final answer.

#### 9:2-6.8 Appearance pro se

Any person may appear pro se or may be represented by an attorney at law authorized to practice in this State.

#### 9:2-6.9 Conference of parties

(a) After an answer has been filed or the time for doing so has expired, the chancellor may summon the parties to appear before him or her at a conference for the purpose of eliminating or simplifying issues, obtaining admissions of fact or of documents that will avoid unnecessary proof, arriving, if possible, at an agreement of facts, and otherwise expediting the determination of the controversy.

(b) The chancellor may require the parties to submit written verified statements [, verified,] as to the facts involved in any controversy or dispute, and may further require the submission of certified copies of all documents necessary to a full understanding of the [question] matter or matters in controversy.

(c) For failure to appear at such conference or to participate therein to take action required by the chancellor by authority of this rule, the chancellor in his or her discretion may make such order with respect to the continued prosecution of the matter, including dismissal of a petition or of an objection thereto, with or without prejudice, as [he] the chancellor deems just and proper.

#### 9:2-6.10 Dismissal of appeal

At any time after an answer is filed the chancellor, in his or her discretion, may dismiss the appeal, with or without prejudice, on the grounds that no sufficient cause for determination has been advanced, for lack of jurisdiction, or for other good reason.

#### 9:2-6.11 Hearing

If the parties and the chancellor are unable to agree upon a statement of the material facts, the chancellor shall schedule a hearing in the matter upon reasonable notice to all parties of the date, time and place thereof. At such a hearing the parties shall be afforded opportunity [for submission of] to submit oral testimony and documentary evidence.

#### 9:2-6.12 Authority of chancellor

The chancellor shall have authority to administer oaths and affirmations; examine witnesses and receive evidence; issue subpoenas (pursuant to N.J.S.A. 18A:6-20); rule upon offers of proof; take or cause depositions to be taken whenever the ends of justice would be served thereby; regulate the course and conduct of the hearing; and dispose of all issues raised therein.

#### 9:2-6.13 Subpoenas

(a) Subpoenas, including subpoenas duces tecum, may be issued, pursuant to N.J.S.A. 18A:6-20, in the discretion of the [issuing authority] chancellor.

(b) Any witness summoned may request the [issuing authority] chancellor to vacate or modify a subpoena, whereupon the [issuing authority] chancellor shall give notice of such request to the party in whose interest the subpoena was issued. After such investigation as the [issuing authority] chancellor considers appropriate, [it] he or she may grant the request in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any

matter in question or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive, or has [not been issued a reasonable period in advance of the time when the evidence is requested.] been issued without reasonable time to produce the evidence requested.

#### 9:2-6.14 Evidence

(a) All evidence, including any records, investigations, reports and documents in the possession of the chancellor of which he or she desires to utilize [avail himself] as evidence in making a decision, shall be offered and made a part of the record in the proceeding[.]. [and no] No other factual information or evidence shall be considered except that the chancellor may take official notice of any fact which may be judicially noticed by the courts[.]. [and in] In addition[,] the chancellor may take official notice of general, technical, or scientific facts within his or her specialized knowledge. Parties shall be notified of the material so noticed, and they shall be afforded a fair opportunity to refute the facts so noticed.

(b) The requirements of this section shall not apply to cases in which the truth of the particular fact or matter is admitted, or to a determination of appropriate relief.

#### 9:2-6.15 Stenographic transcript

(a) Oral arguments shall be recorded either by a stenographer or by means of a tape. A copy of the transcript shall be ordered by the hearing officer and shall become part of the record in the appeal. Copies of the entire transcript or any part may be provided to any party at the request and expense of such party.

(b) Where there is available a stenographic transcript of proceedings before a board of trustees of a public institution of higher education or before any other official or body whose action is called in question before the chancellor, either party may, [if at least ten days notice of intention so to do has been given to opposing parties or counsel therefor] upon 10 days notice to opposing party or parties, offer the transcript of testimony of any witness or witnesses named in said notice in lieu of producing said witness or witnesses at the hearing. In such event, any opposing party may subpoena such witness or witnesses to appear personally and any party may produce any additional relevant or material evidence, oral or documentary, at the hearing. Subject to the approval of the chancellor, the parties may agree to present the controversy solely upon such stenographic transcript.

#### 9:2-6.16 Briefs [and oral arguments]

(a) [The chancellor shall afford to all parties the opportunity to submit briefs on the issues, and to present oral argument if requested.]

Briefs as to points of law may be submitted only if either party has, at the time of filing his or her petition or answer, stated an intention to submit a brief, or any time at the direction of the chancellor. Such briefs as to points of law must be filed with the chancellor no later than 10 days after the filing of the answer or the conclusion of the hearing, whichever is later.

(b) [Oral argument shall be limited to 30 minutes for each party, unless the chancellor shall otherwise order.]

Immediately after the conclusion of a hearing, the chancellor may request the parties to submit written proposed findings of fact. Such proposed findings of fact shall be filed with the chancellor within 20 days of the closing of the hearing.

(c) [Briefs, if any, shall be submitted within the time fixed by the hearer.]

Extensions of time for filing by the parties of briefs or proposed findings of fact will not be granted unless exceptional reasons are presented by the parties to justify such request. A request for an extension of time shall be submitted in writing to the chancellor, with a copy of the decision with respect to the request.

[9:2-6.17 Transcripts of oral proceedings]

[Oral proceedings or any part thereof shall be transcribed on request of any party at the expense of such party.]

[9:2-6.18] 9:2-6.17 Decisions generally

Every determination of a controversy or dispute under the higher education law, shall be rendered in accordance with Administrative Procedure Act, N.J.S.A. 52:14B-10(c-e).

[9:2-6.19] 9:2-6.18 [Determination] Report of hearing officer

(a) When a hearing officer is designated by the chancellor as the presiding officer, his or her [recommended report] report [and decision] containing recommended findings of fact and conclusions of law shall be filed with the chancellor within 45 days of the hearing or 45 days from receipt of transcript whichever is later and delivered or mailed to the parties of record. [; and an opportunity shall be afforded to each party of record to file exceptions, objections and replies thereto, and to present argument to the chancellor, either orally or in writing, as the chancellor may order.] A party of record shall have 15 days to file exceptions, objections and replies thereto, and to present oral or written argument as the chancellor may order.

(b) The chancellor shall adopt, reject or modify the [recommended] recommendations contained in the [report] report [and decision] of the hearing officer within 20 days of the report.

(c) The [recommended report] report [and decision] shall be a part of the record [in the case] of the appeal.

[9:2-6.20] 9:2-6.19 Written decision of chancellor

(a) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and orders of appropriate action to be taken in the matter.

[(b) A final decision shall include findings of fact and conclusions of law, separately stated.]

[c] (b) Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

[d] (c) If, in accordance with the chancellor's ruling, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding and the party shall be notified personally or by mail or any decision of order.

[e] (d) [Upon request a] A copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party and to his or her attorney of record.

[9:2-6.21] 9:2-6.20 Effective date of chancellor's decision

(a) Except where otherwise provided by law, the administrative adjudication of the chancellor shall be effective on the date of delivery or on the date of mailing of the final decision to the parties of record, whichever shall occur first or shall be effective on any date after the date of delivery or mailing, as the [agency] Board of Higher Education or the chancellor may provide by general rule or by order in the [case] appeal.

(b) The date of delivery or mailing shall be stamped on the face of the decision.

[9:2-6.22] 9:2-6.21 Waiving of rules

Any of the provisions of these rules relating to the presentation of [his] a case or argument may be waived by any party or his or her attorney either by affirmatively so doing or by failing to comply with said rules.

[9:2-6.23] 9:2-6.22 Relaxing of rules

The rules contained in this subchapter shall be considered as general rules of practice to govern, expedite and effectuate the procedure before, and the actions of, the chancellor in connection with the hearing and determination of controversies and disputes under the higher education laws. [They] The rules may be relaxed or dispensed with by the chancellor, in his or her sole discretion, in any case where a strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

T. Edward Hollander, Chancellor  
Department of Higher Education  
225 West State Street  
Trenton, N.J. 08625

The Chancellor of Higher Education, with the approval of the State Board of Higher Education, may thereafter adopt these amendments substantially as proposed without further notice.

T. Edward Hollander  
Chancellor  
Department of Higher Education

(a)

## HIGHER EDUCATION

### EDUCATIONAL OPPORTUNITY FUND

#### Proposed Rules Concerning Academic Year Program Support Funds

The Board of Directors of the Educational Opportunity Fund in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:71-34, proposes to delete N.J.A.C. 9:11-2.1 et seq. in its entirety and adopt new rules to be cited as N.J.A.C. 9:12-1.1 et seq. concerning the provision of funds for the support of programs for Educational Opportunity Fund students at institutions of higher education in New Jersey.

Main objective of the proposed new regulations is to provide uniform standards for the application, eligibility, award, utilization and administration of Educational Opportunity Fund monies granted to institutions for the support of Educational Opportunity Fund students.

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

Interested persons may present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Frederick D. Wilkes, Director  
Educational Opportunity Fund  
P.O. Box 1417  
Trenton, N.J. 08625

The Board of Directors of the Educational Opportunity Fund may thereafter adopt these proposed rules without further notice.

Frederick D. Wilkes, Director  
Educational Opportunity Fund  
Department of Higher Education

(a)

## HIGHER EDUCATION

### BOARD OF HIGHER EDUCATION

#### Amendments to SPUR Rules

On November 21, 1977, James M. Rosser, Vice Chancellor of Higher Education, pursuant to authority of N.J.S.A. 18A:72B-12 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 9:14-3.1 et seq. concerning the State Program to Utilize Resources (SPUR) under the Independent Colleges and Universities Utilization Act, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 467(d).

An order adopting these amendments was filed and became effective on November 21, 1977, as R.1977 d.439.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Adoption by Reference Of Federal Standards for Intermediate Care Facilities for the Mentally Retarded

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to adopt by reference the Federal standards for intermediate care facilities for the mentally retarded. Such new rule, if adopted, will be cited as a part of N.J.A.C. 10:49-1.3.

Full text of the proposed adoption follows:

The Department of Human Services hereby adopts Federal standards 45 CFR 249.13, standards for intermediate care facility services in institutions for the mentally retarded or persons with related conditions, as amended, to include as a provider of services eligible for Title XIX (Medicaid) reimbursement intermediate care facilities for the mentally retarded (ICF-MR). Publicly and privately operated facilities in New Jersey seeking Medicaid provider status under the ICF-MR classification may apply to the New Jersey Health Services Program under the Federal standards.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

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

The Department of Human Services, upon its own motion or at the instance of any interested party, may thereafter adopt these amendments substantially as proposed without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(c)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### BUREAU OF PROFESSIONAL AND TECHNICAL SERVICES—PHARMACY SECTION

#### Proposed New Rules Concerning Pharmaceutical Assistance to the Aged in the Pharmacy Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to adopt a new rule, to be cited as 10:51-5.1 et seq., concerning the Pharmaceutical Assistance to the Aged program.

The proposed new rules concern an introduction, covered pharmaceutical services, definitions, general policies, drug policies, prescription refills, pharmaceutical services not eligible for payment, payment regulations for prescribed drugs, basis of payment, billing procedures, P.A.A. patient identification, imprinter, pharmacy provider identification plate, instructions for completion of form MC-6, codes, Medicaid pharmacy missing claims investigation/adjustment request form, resubmission of claims and tape-to-tape claims and computer-generated hard-copy claims.

Copies of the 30 pages of full text of the proposal may be obtained or made available for review by contacting:

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

Interested persons may present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

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

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

Ann Klein  
Commissioner  
Department of Human Services

(d)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### BUREAU OF PROFESSIONAL AND TECHNICAL SERVICES—PHARMACY SECTION

#### Proposed Amendments on Basis of Payment for Legend Drugs

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to delete

the text of N.J.A.C. 10:51-1.10(c) of the Pharmacy Manual and insert new language as follows:

10:51-1.10(c) Regarding pharmacies with retail permits, the dispensing fee for legend drugs provided under the New Jersey Medicaid Program as outlined in this chapter shall be \$2.20.

1. The pharmacy provider may receive additional increments for providing certain services and meeting certain criteria as follows:

- i. 24-hour emergency service: \$0.05;
- ii. Regular delivery service: \$0.08;
- iii. Patient consultation: \$0.08;
- iv. Impact area location: \$0.09.

2. Definitions:

i. "24-hour emergency service" means if provider has an available 24-hour, 365-days-per-year prescription service and has made this service known to the public.

ii. "Regular delivery service" means provider makes available prescription delivery service on a regular daily basis to all Medicaid recipients.

iii. "Patient consultation" means the provider routinely monitors the patient's profile for drug interactions, contraindications, and adverse reactions and attempts to discuss, with the patient, his/her course of therapy, with emphasis on compliance with doctors orders and alerting the patient to improper utilization of drugs. The pharmacist shall exercise good professional judgment in all encounters.

iv. "Impact area location" means the provider is located in a high Medicaid population area (such as but not limited to an inner city area, such as, Newark, Camden, Paterson and so forth), and has a non-long-term-care facility Medicaid prescription volume which is in excess of 50 per cent of his total prescription volume.

2. In order to receive any or all of the above increments, the provider must certify to the Division that he or she is providing the service(s) claimed and/or is located in the defined impact area on Form FD-70.

Interested persons may present statements or arguments in writing relevant to the proposals on or before December 28, 1977, to:

Sanford Luger, Chief  
Pharmaceutical Services  
Division of Medical Assistance and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt these amendments substantially as proposed without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### BUREAU OF CLAIMS AND ACCOUNTS

#### Proposed Amendments Concerning Pharmaceutical Assistance To The Aged Program

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. 10:69A-1.1 et seq. and rescind 10:69A-7.1 through 7.6., concerning the Pharmaceutical Assistance to the Aged Manual.

A summary of substantive and pertinent revisions follows with additions indicated in boldface thus; deletions indicated in brackets [thus]:

Within the text all references to the Department of Institutions and Agencies are changed to Department of Human Services; all references to "claimant(s) are changed to applicant(s) and "claim(s)" to application(s), where not otherwise indicated below. In addition, all references to application/claim form (AP-1) are changed to eligibility application, pharmaceutical assistance to the aged form, where not otherwise indicated below.

10:69A-1.1 (a) . . . "insulin needles and insulin syringes"

10:69A-1.1 (b) . . . [Sample forms with instructions, and other reference material have been incorporated as Exhibits at the back of the manual.]

10:69A-1.2 The New Jersey Program of Pharmaceutical Assistance to the Aged (PAA) was established by Chapter 194, Laws of 1975, and amended by Chapter 312, Laws of 1975, with an effective date of August 21, 1975, and further amended by Chapter 268, Laws of 1977, with an effective date of January 1, 1978. This statute supplements the New Jersey Medical Assistance and Health Services Act (P.L. 1968, c. 413).

10:69A-2.1 Definitions

"Annual Income" means

5. The income reported as received [or anticipated] must be for the calendar year prior to that for which [the claim is submitted] eligibility is being determined. The ceilings on annual income for PAA eligibility are less than \$9,000 for a single resident and, for a married resident, less than \$12,000, when combined with income of his/her spouse.

"Anticipated income" means [when claims are submitted during the calendar year] the amounts of income as described above, which the [claimant] applicant can reasonably be expected to receive during the calendar year. In the event an applicant would be determined ineligible based upon the prior year's income but would be eligible based upon anticipated income for the current year, the applicant may utilize the current year's anticipated income.

DELETE THE FOLLOWING DEFINITION IN THEIR ENTIRETY:

[ "Assistance level"

"One and one-third of assistance level"

"PAA deductible"

"Adjusted deductible"

"Payment receipt"

"Claim period"

"Claimant"

"PAA co-pay" means [the 20 per cent of the cost of prescription drugs and/or insulin over and above the statutory deductibles, and is not reimbursable under the PAA Program. EXAMPLE: If an eligible person has already met the deductible and submits Payment Receipts to the PAA Program for \$100.00 worth of prescription drugs and/or insulin, the PAA Program will reimburse the eligible person for 80 per cent of the \$100.00, or \$80.00; the claimant is not reimbursed for the other 20 per cent or \$20.00, which is the co-pay.] The \$1.00 of the cost of each prescribed legend drug and/or insulin, insulin syringes and insulin needles which must be paid by each

eligible person, for each prescription. The co-pay is not reimbursable by the PAA Program.

"Prescription drugs [(legend)" means:] (legend drugs, insulin, insulin syringes and insulin needles)" means:

3. Insulin, insulin syringes and insulin needles, while not legend drugs are covered by this program when prescribed.

"Recipient" means [a claimant] an individual who has been found eligible for PAA benefits.

"Pharmaceutical Assistance" means the payment of money amount(s) authorized by the Division of Medical Assistance and Health Services in the form of a check to [an eligible PAA recipient as the result of a valid claim] a participating pharmacy on behalf of a PAA recipient.

#### 10:69A-3.2 Division of Medical Assistance and Health Services

The Division of Medical Assistance and Health Services is the administrative unit of the Department of [Institutions and Agencies] Human Services responsible for the administration of the PAA Program. [This division also provides administrative liaison with other departmental divisions as necessary.]

#### 10:69A-3.3 Bureau of Claims and Accounts

The Bureau of Claims and Accounts is the unit of the Division of Medical Assistance and Health Services which has direct responsibility for the processing of [applications and claims from PAA eligibles and PAA claimants.] Eligibility Applications, Pharmaceutical Assistance to the Aged. Additionally, the bureau is responsible for implementing the statutory provisions and policies established by the Department of [Institutions and Agencies] Human Services and the Division of Medical Assistance and Health Services.

#### 10:69A-4.1 Statutory limitations

By statute, the Pharmaceutical Assistance to the Aged Program is limited to payment or reimbursements for [80 per cent of the costs of prescription drugs and/or insulin of eligible persons which exceed a variable deductible amount which is based upon Annual Income.] the reasonable cost of prescription drugs for eligible persons to pharmacies which exceed a \$1.00 copayment per prescription or purchase of insulin, insulin syringes and insulin needles which is to be paid by each eligible person.

#### 10:69A-4.2 Principles of Reimbursement [(Reimbursement Only to PAA Eligible)] (Reimbursement Only to Participating Pharmacies)

Reimbursement [will be made under the PAA Act directly to the eligible (or his or her representative) only after the deductible (determined by the eligible's Annual Income as defined) has been satisfied by the eligible, and will be for 80 per cent of reasonable costs of prescribed drugs and/or insulin in excess of the deductible.] on behalf of PAA eligibles will be made directly to the participating pharmacies and will be for the reasonable cost of prescription drugs of recipients as determined by the Commissioner, Department of Human Services which exceeds the \$1.00 copayment per prescription.

#### 10:69A-4.3 Pharmacy

(a) [Prescribed] Prescription drugs [and/or insulin] must have been provided by a [licensed] pharmacy [(retail or institutional)] in [the State of] New Jersey and operating under a valid Retail Permit from the Board of Pharmacy of the State of New Jersey, which has filed an application and agreement to participate in the New Jersey Medicaid Program and which was accepted by the Department of Human Services.

[(b) The Division of Medical Assistance and Health Services may verify the licensure status of any pharmacy.]

(b) No reimbursement will be made to an unlicensed pharmacy, to a pharmacy located in another state or country, or to a pharmacy with an institutional permit.

DELETE (c) . . .

#### 10:69A-4.4 [Reimbursement to Pharmacy Provider] Recipient copayment

No direct payments to [pharmacy providers] recipients will be made under the PAA Program. The [provider] recipient must [collect from the individual, who, if PAA eligible, may be reimbursed by the Division of Medical Assistance and Health Services for 80 per cent of reasonable costs after satisfying the variable deductible.] pay the pharmacy a non-refundable \$1.00 copayment per prescription per purchase of insulin, insulin syringes or insulin needles.

#### 10:69A-5.3 Exceptions from Normal Standards

(a) It is recognized that there will be exceptional cases where the processing of an application cannot be completed within a normal 30-day period where substantially reliable evidence either of eligibility or ineligibility is still lacking. [Where there is no immediate need for payment, and where substantially reliable evidence either of eligibility or ineligibility is still lacking, the claim shall be continued in pending status.] In each such case, however, the Division of Medical Assistance and Health Services shall be prepared to demonstrate that the delay resulted in one of the following:

#### 10:69A-5.5 Responsibilities in the Application Process

(a) Pursuant to statutory authority, the Department of [Institutions and Agencies] Human Services through the Division of Medical Assistance and Health Services, [and] Bureau of Claims and Accounts establishes [policy and] procedures on the application process consistent with law and supervised the operation [of and compliance] with the policy and procedures so established.

(b) The Bureau of Claims and Accounts has responsibility in the application process to:

1. Explain the purpose and eligibility requirements of the program and indicate the [claimant's] applicant's rights and responsibilities under its provisions.

2. Receive [application/claims (form AP-1)] Applications.

3. Assure the prompt issuance of [payments] plastic identification cards to eligible persons and prompt notification to ineligible persons.

4. Issue temporary eligibility cards.

5. Automatically mail reapplication forms 90 days prior to the eligibility termination date.

6. Microfilm eligibility applications and supporting documents and retain microfilm for audit purposes.

(c) As a participant in the application process, the [claimant] applicant has the responsibility to:

1. Complete the [AP-1 application/claim] Eligibility Application form to the best of his ability, answering all questions and presenting all necessary evidentiary documents;

2. Assist Division of Medical Assistance and Health Services in securing evidence that corroborates his statements when necessary;

[3. Submit only those payment receipts which represent paid receipts for prescription drugs and/or insulin which were purchased for the claimant which represent the actual amounts paid to the New Jersey pharmacy (institution) for prescription(s) and/or insulin;]

[4. The claimant must make a good faith effort to purchase prescription drugs and/or insulin at a reasonable price.]

3. Reapply for eligibility in forms mailed by the division 60 days prior to eligibility termination date.

(d) The recipient has the responsibility to notify the Bureau of Claims and Accounts when any of the following occur:

1. He/she moves out of the State of New Jersey.

2. He/she becomes eligible for Medicaid or any other plan of assistance or insurance that fully covers pharmaceutical services.

3. His/her or their annual income increases to an amount which would make recipient ineligible.

4. His/her marital status changes.

5. He/she moves anywhere within the State of New Jersey.

(e) Return PAA eligibility card under any condition covered in (d) above except 4. in which case the recipient must submit a reapplication and 5. in which case recipient must submit written notice of address change.

#### 10:69A-6.1 Age requirement

To be eligible for PAA, the [claimant] applicant must be 65 years of age or older [Payment Receipts will not be accepted for dispensing dates prior to the actual date of the 65th birthday.] The [claimant] applicant must be able to document his or her age upon request by the Division of Medical Assistance and Health Services. The division may require that the [claimant] applicant submit a photocopy of his or her birth certificate or other acceptable proof of age.

#### 10:69A-6.2 Income

Any single resident of New Jersey 65 years of age and over whose annual income is less than \$9,000 or any married resident 65 years of age and over whose annual income combined with that of his/her spouse totals less than \$12,000 may be eligible if he/she is not eligible for Medicaid or does not have another plan of assistance or insurance that fully covers the cost of pharmaceutical services. The law prohibits payment of pharmaceutical assistance for persons under 65, however, the income of such a person MUST be included when determining eligibility for his/her spouse who is 65. The [claimant] applicant must be able to document the amounts reported upon request by the Division of Medical Assistance and Health Services, and may be required to submit photocopies of his or her Federal and/or State Income Tax return or other acceptable evidence.

#### 10:69A-6.4 Residence

(a) 1. Interpretation: The term "resident" shall be interpreted to mean a person having his customary place of abode in New Jersey, [with no durational requirement] . . .

2. Absence from the State.

iii. In reaching a decision as to continuing New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction, [as evidenced by the total circumstances. Although not a sole determinant, consideration may be given to the fact that a person has been absent from New Jersey for a period exceeding three months.] If a recipient leaves New Jersey with the intent to establish a place of abode elsewhere or for a consecutive 90-day period, he ceases to be a resident of New Jersey and becomes ineligible under the PAA Program and must notify the Bureau of Claims and Accounts of the

change of address and return the PAA plastic eligibility card.

DELETE iv.

#### 10:69A-6.5 Recipient of other assistance

(a) The State statute provides that any [single resident of the State 65 years of age and over whose annual income is less than \$9,000 or any married resident 65 years of age and over whose annual income combined with that of his/her spouse totals less than \$12,000] person shall be [eligible] ineligible for PAA if he/she is [not] otherwise qualified for assistance under the act of which this act is a supplement (chapter 413, laws of 1968).

(b) This is interpreted to mean that a State resident over age 65 cannot be eligible for PAA [during any month in which he was] when receiving Medicaid benefits.

#### 10:69A-6.6 Process of determining PAA eligibility

DELETE section beginning "A single form" and ending "throughout the State".

REPLACE with (a) The Eligibility Application, Pharmaceutical Assistance to the Aged form will be utilized in determining the applicant's initial eligibility for PAA. Forms will be available for applicants in the Division of Medical Assistance and Health Services central and local offices and other convenient locations throughout the State.

(b) The only acceptable form to be utilized in determining the recipient's continuation of eligibility will be the reapplication form automatically mailed to the recipient 90 days prior to the eligibility termination date.

### SUBCHAPTER 7

Rescind 10:69A-7.1 to 7.6 inclusive

#### 10:69A-6.7 Social Security account number

Each [claimant] applicant for PAA benefits must include his or her Social Security account number (SSAN) on the application form, [form AP-1] as this is a unique and verifiable number which can be utilized to differentiate between persons with the same name. Married persons [who have filed joint Federal Income Tax forms] must also indicate the SSAN of their spouse.

#### 10:69A-6.8 Certification

The [claimant] applicant for PAA benefits must certify that all the answers to questions and items on the application [Claim] form [AP-1] are true and accurate to the best [knowledge of the claimant] of his/her knowledge [and that he or she has not been reimbursed by any other assistance program, insurance carrier or other organization for the expenditures for which PAA reimbursement is being claimed.] This certification must be signed by the [claimant] applicant or authorized agent, [legally designated administrator or executor] before the application [Claim] can be processed.

#### 10:69A-6.9 Authorization

Part of the certification which requires the signature on the [AP-1] Application form will be an authorization allowing the New Jersey Division of Medical Assistance and Health Services to verify any information on the form by contacting the Social Security Administration, Internal Revenue Service, [insurance companies, pharmaceutical providers, hospitals, physicians,] and others as the need arises.

#### 10:69A-6.10 Eligibility period

(a) PAA eligibility is [redetermined each time] determined annually when an [AP-1] application form is filed [with the Division] and is based upon actual or anticipated annual income of the [claimant] applicant reported at the time the [AP-1] application form is filed.

[(b) A claimant's PAA deductible will change as claims are filed during a calendar year when there are significant differences between previously anticipated annual income and/or established actual annual income.]

(b) PAA eligibility will be redetermined annually. Re-application forms will automatically be mailed to a recipient 90 days prior to termination of his/her eligibility and must be submitted by a recipient 60 days prior to termination of his/her eligibility.

Copies of the 11 pages of the full text of the proposal may be obtained or made available for review by contacting:

Herbert Glover, Chief  
Bureau of Claims and Accounts  
Division of Medical Assistance and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

Interested persons may present statements or arguments in writing relevant to the proposal on or before December 28, 1977, 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 these rules without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Proposed Amendments on Identification Of Exempt Assets in Food Stamp Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4B-2, proposes to amend N.J. A.C. 10:87-4.13(a) in the Food Stamp Manual concerning resources claimed to be irrevocable and/or inaccessible to be so verified.

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

10:87-4.13(a)7. The cash value of assets which are not accessible to the household, such as, but not limited to, [irrevocable] trust funds, property in probate, and notes receivable [which cannot be liquidated;], only when they have been verified as inaccessible and/or irrevocable by the certification worker;

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

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

The Department of Human Services may thereafter adopt these amendments substantially as proposed without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(b)

## HUMAN SERVICES

### COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

#### Proposed Fiscal Year 1978 State Plan For Vocational Rehabilitation Services

The Commission for the Blind and Visually Impaired in the Department of Human Services, pursuant to authority of N.J.S.A. 30:1-12, proposes to adopt the fiscal year 1978 State Plan for Vocational Rehabilitation Services under Title I of the Rehabilitation Act of 1973, as amended by Rehabilitation Act amendments of 1974.

The 1978 State Plan is considered to be a temporary rule and will not be published in Title 10 of the Administrative Code. A reference regarding the subsequent adoption, if later adopted, will be made in the authority note in Chapter 98 of Title 10 in the Code.

Copies of the full text of approximately 82 pages of the proposed plan may be obtained from or made available for review by contacting:

Commission for the Blind and Visually Impaired  
1100 Raymond Boulevard  
Newark, New Jersey 07102

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to the Commission for the Blind and Visually Impaired at the above address.

The Department of Human Services may thereafter adopt this plan substantially as proposed without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(c)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Amendments to Public Assistance Manual Concerning Lawful Strikes

On October 31, 1977, 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 the rules concerning lawful strikes in the Public Assistance Manual, substantially as proposed in the Notice published August 4, 1977, at 9 N.J.R. 368(a), but with subsequent, substantive changes not detrimental to the public, in the opinion of the Department of Human Services.

Full text of the adopted amendment follows:

10:81-3.18(1) An individual participating in a lawful strike has the same right to apply for public assistance for him/herself and dependents as any other needy individual. Participation in such lawful strike shall not be considered as refusing to work without good cause.

(Continued on Page 30)

# 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.

The index is current, covering all rules adopted through Nov. 21. It is adjusted in the month following a mailing of update pages.

An update mailing last month affects the contents of the index below (see story in this issue).

Since these most recent updates, the various State Departments have adopted the following rules—which have been printed in the Register but are not yet included in the Code:

## RULES NOT YET PRINTED IN CODE

N.J.A.C. CITATION		DOCUMENT CITATION	ADOPTION NOTICE (N.J.R. CITATION)
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### AGRICULTURE — TITLE 2

2:2-4.40	Rule on pseudorabies vaccination	R.1977 d.367	9 N.J.R. 502(b)
2:48-4.1	Confidentiality of certain reports	R.1977 d.366	9 N.J.R. 502(a)
2:48 through 2:53	Revised rules of Division of Dairy Industry	R.1976 d.359	8 N.J.R. 542(c)
2:52-1.6(a)	Revisions on required reports	R.1977 d.310	9 N.J.R. 404(a)
2:52-7.1 et seq.	Rules on application of minimum price regulations in sale of milk	R.1977 d.303	9 N.J.R. 403(c)
2:53-1.1(b)	Revised minimum milk prices	R.1977 d.294	9 N.J.R. 403(b)
2:53-1.2(a)	Amend schedule 69-1N for North Jersey	R.1977 d.414	9 N.J.R. 555(c)
2:54-3.10	Amend Federal milk handling order	R.1977 d.407	9 N.J.R. 502(c)
2:69-1.11	Revisions on commercial values	R.1977 d.266	9 N.J.R. 403(a)
2:71-1.30	Revisions on certificates on grade for eggs	R.1977 d.339	9 N.J.R. 451(b)

(Rules in the Administrative Code for Title 2 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 11.)

### BANKING — TITLE 3

3:1-9.1 et seq.	Rules on home mortgage disclosures	R.1977 d.308	9 N.J.R. 405(c)
3:7-2.3	Deletion on verification of real estate taxes	R.1977 d.428	9 N.J.R. 556(a)
3:10-3.2, 3.3	Amendments on private mortgage insurance	R.1977 d.429	9 N.J.R. 556(b)
3:17-6.4	Repeal rule on husband and wife as one borrower	R.1977 d.330	9 N.J.R. 452(c)

(Rules in the Administrative Code for Title 3 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 10.)

### CIVIL SERVICE — TITLE 4

4:1-1.6	Amendments on application of rules	R.1977 d.314	9 N.J.R. 452(d)
4:1-2.1	Revised definitions of demotion	R.1977 d.317	9 N.J.R. 453(c)
4:1-5.16	Awarding counsel fees	R.1977 d.315	9 N.J.R. 453(a)
4:1-9.10	Revisions on correction of errors	R.1977-d.316	9 N.J.R. 453(b)
4:1-12.2	Amendment on certification from eligible lists	R.1977 d.322	9 N.J.R. 455(b)
4:1-12.15	Amendment on appointment of eligible certified	R.1977 d.323	9 N.J.R. 455(c)
4:1-16.3	Revisions on order of layoff or demotion	R.1977 d.344	9 N.J.R. 456(b)
4:1-16.7(a)1.	Amendments on suspensions, fines and demotions	R.1977 d.321	9 N.J.R. 455(a)
4:1-16.13(d)	Amendment on requests for reemployment	R.1977 d.324	9 N.J.R. 455(d)
4:1-17.13	Revisions on verification of sick leave	R.1977 d.343	9 N.J.R. 456(a)

(Rules in the Administrative Code for Title 4 include all adoptions prior to March 23, 1977—Transmittal Sheet No. 10.)

### COMMUNITY AFFAIRS — TITLE 5

5:10-2.1 et seq.	Revisions on construction and maintenance of hotels and multiple dwellings	R.1977 d.305	9 N.J.R. 414(a)
5:23-1.1 et seq.	Revisions to Uniform Construction Code	R.1977 d.256	9 N.J.R. 358(a)
5:23-2.6	Revisions to energy subcode	R.1977 d.381	9 N.J.R. 506(b)
3.3, 3.8, 4.3 and 4.8			
5:23-3.4(a)21	Revisions to building subcode	R.1977 d.380	9 N.J.R. 506(a)
5:23-4.3(c)6.	Amendments on conflicts of interest	R.1977 d.434	9 N.J.R. 558(a)
5:23-4-9(a)	Amendments on plan reviews	R.1977 d.306	9 N.J.R. 414(b)
5:23-4.9, 5.3	Amendments on effective dates	R.1977 d.435	9 N.J.R. 558(b)
5:23-5.1 et seq.	Licensing of code enforcement officials	R.1977 d.304	9 N.J.R. 413(b)
5:30-1.12	Detail in support of current budget appropriation	R.1977 d.346	9 N.J.R. 456(d)
5:30-1.13	Federal antirecession fiscal assistance program	R.1977 d.347	9 N.J.R. 457(a)
5:30-14.1 to 14.3	Rules on local public contracts	R.1977 d.128	9 N.J.R. 212(a)
5:30-14.5	Certification of funds and accounting for contracts	R.1977 d.127	9 N.J.R. 211(a)
5:30-16.1 et seq.	Tenants' property tax rebate program	R.1977 d.241	9 N.J.R. 357(b)
5:90-1.1 et seq.	Urban Loan Authority's procedure manual	R.1977 d.244	9 N.J.R. 357(c)

(Rules in the Administrative Code for Title 5 include all adoptions prior to March 23, 1977—Transmittal Sheet No. 8.)

## EDUCATION — TITLE 6

6:2-1.17	Appeals from commissioner on budget cap waivers	R.1977 d.420	9 N.J.R. 559(a)
6:3-1.1, 6:5-2.1	Amendments on acting administrators	R.1977 d.421	9 N.J.R. 559(b)
6:4-1.5	Revisions on school and classroom practices	R.1977 d.274	9 N.J.R. 416(a)
6:8-1.1, 3.4, 3.8	Revisions on thorough and efficient system of public schools	R.1977 d.199	9 N.J.R. 310(a)
6:11-3.6	Amendments on assignment of titles	R.1977 d.422	9 N.J.R. 559(c)
6:11-10.5	Delete current text on special regulations	R.1977 d.423	9 N.J.R. 559(d)
6:11-10.11	Revisions on assistant superintendent for business	R.1977 d.341	9 N.J.R. 459(b)
6:21-7.1	Revisions on limit of apportionment of State aid	R.1977 d.277	9 N.J.R. 416(d)
6:22-2.5(e), 7.6 3.27, 3.28	Revisions on final plans approvals	R.1977 d.275	9 N.J.R. 416(b)
6:22-2.9	Revisions on master plans	R.1977 d.236	9 N.J.R. 359(b)
6:27-2.1	Revisions on approval of private secondary schools, independent and parochial	R.1977 d.385	9 N.J.R. 511(b)
6:27-7.1	Approval of secondary schools operated by other state, county or local agencies	R.1977 d.386	9 N.J.R. 511(c)
6:29-4.2	Revisions on testing for tuberculosis	R.1977 d.276	9 N.J.R. 416(c)
6:39-1.4	Minimum levels of pupil proficiency	R.1977 d.198	9 N.J.R. 309(a)
6:43-1.2(e)	Revisions on program requirements	R.1977 d.278	9 N.J.R. 417(a)
6:53-1.1 et seq.	Vocational education safety standards	R.1977 d.279	9 N.J.R. 417(b)
6:66-1.12, 1.19	Revisions on archives and history and records management	R.1977 d.340	9 N.J.R. 459(a)

(Rules in the Administrative Code for Title 6 include all adoptions prior to May 25, 1977—Transmittal Sheet No. 10.)

## ENVIRONMENTAL PROTECTION — TITLE 7

7:1C-1.1 et seq.	Revisions on 90-day construction permits	R.1977 d.390	9 N.J.R. 513(c)
7:7A-1.13(a)	Extend Wetlands Order for parts of Salem, Cape May and Ocean	R.1977 d.267	9 N.J.R. 418(b)
7:12-1.1, 1.3	Amendments on shellfish in Great Egg Harbor Bay	R.1977 d.427	9 N.J.R. 561(b)
7:12-1.3(a) 14.	Revisions on condemnation of certain shellfish beds	R.1977 d.300	9 N.J.R. 420(b)
7:12-1.3(a)39.i.	Revisions on condemnation of certain shellfish beds	R.1977 d.301	9 N.J.R. 420(c)
7:12-1.3(a)39i.(1)	Amendments on condemnation of certain shellfish harvesting waters	R.1977 d.283	9 N.J.R. 419(a)
7:14-1.1 et seq.	Rules on the Water Pollution Control Act	R.1977 d.268	9 N.J.R. 418(c)
7:22-1.1 et seq.	Award of grants for the planning, design and construction of wastewater treatment facilities	R.1977 d.356	9 N.J.R. 465(b)
7:25-9.5	Rules on crab dredging	R.1977 d.269	9 N.J.R. 418(d)
7:25-9.6	Relaying hard clams; Manasquan River	R.1977 d.338	9 N.J.R. 464(b)
7:25-9.6(g), (h)	Revision on relaying hard clams in Manasquan River	R.1977 d.363	9 N.J.R. 512(b)
7:26-1.10(c)	Revisions to effective dates of categories of solid waste districts	R.1977 d.311	9 N.J.R. 421(a)
7:27-3.1 et seq.	Revisions on control and prohibition of smoke from combustion of fuel	R.1977 d.284	9 N.J.R. 420(a)
7:27-4.1 et seq.	Revisions on control and prohibition of particles from combustion	R.1977 d.284	9 N.J.R. 420(a)
7:27-5.1 et seq.	Revisions on prohibition of air pollution	R.1977 d.284	9 N.J.R. 420(a)
7:36-1.1 et seq.	Rules on Green Acres land grant program	R.1977 d.395	9 N.J.R. 514(a)
Temporary rule	Revisions on sea clam harvest area openings	R.1977 d.337	9 N.J.R. 464(a)
Temporary rule	Special rule on limiting use of shotgun shells	R.1977 d.355	9 N.J.R. 465(a)
Temporary rule	1978 Fish Code	R.1977 d.384	9 N.J.R. 513(a)
Temporary rule	Crab dredging season for Atlantic Coast	R.1977 d.387	9 N.J.R. 513(b)

(Rules in the Administrative Code for Title 7 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

## HEALTH — TITLE 8

8:21-1.19	Revisions on cosmetic labels	R.1977 d.357	9 N.J.R. 467(a)
8:21-1.27	Cosmetic package principal display panel	R.1977 d.192	9 N.J.R. 269(b)
8:21-1.28	Cosmetic product identity labeling	R.1977 d.193	9 N.J.R. 269(c)
8:21-2.31	Amendments on sterilization of cooking and utensils	R.1977 d.404	9 N.J.R. 519(e)
8:31-8.1 et seq.	Standards for planning and certification of perinatal services	R.1977 d.182	9 N.J.R. 269(a)
8:31-13.1 et seq.	Revisions on standard hospital accounting and rate evaluation system	R.1977 d.360	9 N.J.R. 467(b)
8:31-16.17	Rule on reports to relate ancillary services with hospital case-mix	R.1977 d.361	9 N.J.R. 467(c)
8:31-25.1(a)	Amend list of therapeutic agents on mobile units	R.1977 d.403	9 N.J.R. 519(d)
8:31-26.1	Amendment on licensure standards for health care facilities	R.1977 d.181	9 N.J.R. 268(e)
8:31-27.1 et seq.	Rules on megavoltage radiation oncology units	R.1977 d.397	9 N.J.R. 518(b)
8:31A-10.5	Implementation of economic factor for SHARE	R.1977 d.396	9 N.J.R. 518(a)
8:31A-10.6	Time-phased plan	R.1977 d.312	9 N.J.R. 429(a)
8:33-1.5, 2.5	Revised guidelines and criteria for submissions of applications for certificates of need	R.1977 d.223	9 N.J.R. 322(d)
8:33-1.5(i), 3.11	Amendments on submission of certificate of need	R.1977 d.399	9 N.J.R. 518(d)
8:33-4.1	Standards and criteria; regional hemophilia care centers	R.1977 d.139	9 N.J.R. 221(c)

8:34-1.1 et seq.	Revisions on licensing of nursing home administrators	R.1977 d.172	9 N.J.R. 268(b)
8:36A-1.1 et seq.	Rules on regional end-stage renal disease services	R.1977 d.398	9 N.J.R. 518(c)
8:39-1.1 et seq.	Manual of standards for licensure of nursing homes	R.1977 d.222	9 N.J.R. 322(c)
8:41-1.1 et seq.	Rules on planning and application for designation of cardiac diagnostic facilities	R.1977 d.179	9 N.J.R. 268(c)
8:41-2.1 et seq.	Rules on planning and certification of need of regional cardiac centers	R.1977 d.180	9 N.J.R. 268(d)
8:42-1.18(f)	Amendments on licensure of home health agencies	R.1977 d.400	9 N.J.R. 519(a)
8:43-4.7(c)	Amendments on records for new boarding homes	R.1977 d.401	9 N.J.R. 519(b)
8:43A-1.15, 1.35, 1.43	Revisions for licensure of ambulatory care facilities	R.1977 d.253	9 N.J.R. 366(c)
8:43A-1.68	Standards for licensure of ambulatory care facilities and health maintenance organizations	R.1977 d.140	9 N.J.R. 222(a)
8:43E-1.1 et seq.	Policy manual for planning and certificate of need reviews of health care facilities	R.1977 d.138	9 N.J.R. 221(b)
8:51-7.1 et seq.	Rules on childhood lead poisoning	R.1977 d.402	9 N.J.R. 519(c)
8:53-1.1	Revisions in implementation of Local Health Services Act	R.1977 d.141	9 N.J.R. 222(b)
8:53-1.3(b)	Revisions on implementing local Health Services Act	R.1977 d.239	9 N.J.R. 366(b)
8:65-10.1(a)1.	Add thiophene analog of phencyclidine as dangerous	R.1977 d.441	9 N.J.R. 567(b)
8:65-10.1(a)4	Control of dextropropoxyphene	R.1977 d.151	9 N.J.R. 268(a)
8:65-10.5	Add Loperamide as dangerous	R.1977 d.440	9 N.J.R. 567(a)

(Rules in the Administrative Code for Title 8 include all adoptions prior to March 23, 1977—Transmittal Sheet No. 7.)

### HIGHER EDUCATION — TITLE 9

9:2-11.1 et seq.	Veterans tuition credit program	R.1977 d.376	9 N.J.R. 521(a)
9:9-1.1, 1.2, 1.3, 4.2, 4.3, 5.1, 5.3	Revisions on guaranteed student loan program	R.1977 d.353	9 N.J.R. 468(a)
9:9-1.3(b)	Revisions on loan amounts	R.1976 d.249	9 N.J.R. 366(d)
9:9-1.10	Amendments on change of lenders	R.1977 d.216	9 N.J.R. 331(a)
9:9-1.21 et seq.	Revisions to policies and procedures concerning student loans	R.1977 d.104	9 N.J.R. 173(c)
9:9-7.1 et seq.	Policy governing educational institutions	R.1977 d.354	9 N.J.R. 469(a)
9:9-8.1 et seq.	Policy governing institution of higher education loan act	R.1977 d.217	9 N.J.R. 331(b)
9:14-1.3	Revised definition of institution or eligible institution	R.1977 d.255	9 N.J.R. 367(a)
9:14-3	Amendments to SPUR rules	R.1977 d.439	9 N.J.R. 571(a)

(Rules in the Administrative Code for Title 9 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

### HUMAN SERVICES — TITLE 10

#### CORRECTIONS

10:49-1.1 through 10:49-6.1 et seq.	Revisions on administration and general information; Health Services Program	R.1977 d.213	9 N.J.R. 342(c)
10:49-1.5(a)12.	Amendments on general exclusions	R.1977 d.408	9 N.J.R. 534(b)
10:49-1.25	Medicaid reimbursement for abortions	R.1977 d.243	9 N.J.R. 370(e)
10:49-11.1	Medicaid management information system	R.1977 d.409	9 N.J.R. 534(c)
10:50-1.1 et seq.	Revised transportation services manual	R.1977 d.374	9 N.J.R. 533(b)
10:50-2.1 et seq.	Revised transportation billing	R.1977 d.375	9 N.J.R. 534(a)
10:51-1.1 et seq.	Revisions concerning pharmaceutical services	R.1977 d.215	9 N.J.R. 343(b)
10:51-2.1 et seq.	Revised pharmacy billing procedures	R.1977 d.313	9 N.J.R. 435(c)
10:51-4.1 et seq.	Consultant pharmacist services	R.1977 d.214	9 N.J.R. 343(a)
10:54-1.2(b)	Medicaid childhood immunization policy	R.1977 d.424	9 N.J.R. 582(c)
10:56-1.48,	Revisions on injectables policy for podiatrists and dentists	R.1977 d.302	9 N.J.R. 435(a)
10:57-1.4, 1.22			
10:57-1.1	Amended definition of podiatry services	R.1977 d.417	9 N.J.R. 582(b)
10:63-1.16	Involuntary transfer of patients	R.1977 d.425	9 N.J.R. 583(a)
10:65-3.12	Involuntary transfer of patients	R.1977 d.425	9 N.J.R. 583(a)
10:81-2.8, 3.18, 5.9	Revisions on WIN registration program	R.1977 d.226	9 N.J.R. 370(a)
10:81-3.12, 7.46	Revisions on suspected child abuse or neglect	R.1977 d.332	9 N.J.R. 479(a)
10:81-3.15	Delete rule on noncontributing person(s) in household	R.1977 d.212	9 N.J.R. 342(b)
10:81-3.18(1)	Amendments on lawful strikes in public assistance	R.1977 d.411	9 N.J.R. 575(c)
10:81-4.14	Revisions on recipient's right to a fair hearing	R.1977 d.290	9 N.J.R. 434(b)
10:81-6.5	Revisions on clients' right during pendency of fair hearing	R.1977 d.289	9 N.J.R. 434(a)
10:81-6.10, 6.12, 6.13, 6.14	Amendments to Public Assistance Manual	R.1977 d.412	9 N.J.R. 582(a)
10:81-6.13(d)	Revisions on fair hearing decisions	R.1977 d.227	9 N.J.R. 370(b)
10:81-7.44	Revisions on cases involving fraudulent receipt of assistance	R.1977 d.230	9 N.J.R. 370(d)
10:81 Appendix D	Revisions on child support and paternity program	R.1977 d.307	9 N.J.R. 435(b)
10:82-1.1 et seq.	Revised Assistance Standards Handbook	R.1977 d.211	9 N.J.R. 342(a)

10:82-3.2(b)7.viii.	Exemption on experimental housing assistance	R.1977 d.431	9 N.J.R. 584(b)
10:82-3.2(b) 10.	Revisions on personal loan exemptions	R.1977 d.229	9 N.J.R. 370(c)
10:82-5.12(a)	Amendments on emergency assistance	R.1977 d.299	9 N.J.R. 434(e)
10:85-3.1(a),			
10:85-3.1(b)2.	Amendments on eligibility for general assistance	R.1977 d.410	9 N.J.R. 535(a)
10:85-3.3(e)5.v.	Amendments on personal loans as exempt income	R.1977 d.291	9 N.J.R. 434(c)
10:87-5.7(a)6., 8.	Amendments on countable income for food stamps	R.1977 d.430	9 N.J.R. 584(a)
10:87-5.8(c)	Amendments on medical expenses deductible for food stamp income	R.1977 d.335	9 N.J.R. 479(d)
10:87-6.9, 6.10, 7.24	Revise food stamp manual on notification	R.1977 d.373	9 N.J.R. 533(a)
10:87-8.1 et seq.	Fiscal procedures in food stamp program	R.1977 d.288	9 N.J.R. 433(c)
10:94-3.13(b)	Revisions on optometrists as qualified to examine visually impaired	R.1977 d.334	9 N.J.R. 479(c)
10:94-4.4(d)	Amendments on ownership of resources; Medicaid Only Manual	R.1977 d.336	9 N.J.R. 479(e)
10:94-4.42	Maximum resources for institutionalized individuals	R.1977 d.333	9 N.J.R. 479(b)
10:109-1.1 et seq.	Revisions to Ruling 11	R.1977 d.293	9 N.J.R. 434(d)
10:122-2.4, 2.5, 2.6	Revisions on child care licensing	R.1977 d.225	9 N.J.R. 369(a)
10:128-1.1 et seq.	Manual of Standards for Group Homes	R.1977 d.287	9 N.J.R. 433(b)

(Rules in the Administrative Code for Title 10 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

### INSURANCE — TITLE 11

11:1-5.2(f)	Assumption of insolvent N.Y. insurers' obligations	R.1977 d.389	9 N.J.R. 535(d)
11:1-5.2(g)	Policies of Empire Mutual Insurance Co. and Allcity Insurance Co.	R.1977 d.413	9 N.J.R. 586(a)
11:1-10.1 et seq.	Amendments on licensing of financial institutions	R.1977 d.405	9 N.J.R. 536(c)
11:2-1.5	Educational program requirements for title agents	R.1977 d.438	9 N.J.R. 586(a)
11:3-3.1	Amendment on nonrenewal of auto insurance	R.1977 d.437	9 N.J.R. 586(b)
11:4-10.2	Required notice concerning expenses exhibits	R.1977 d.358	9 N.J.R. 481(b)
11:4-13.1 et seq.	Group student health insurance	R.1977 d.309	9 N.J.R. 438(d)
11:5-1.1	Revisions on disciplinary action	R.1977 d.392	9 N.J.R. 536(b)
11:5-1.16(d)	Amendments on prohibited advertising	R.1977 d.391	9 N.J.R. 536(a)
11:5-1.25(h)	Revisions on sale of interstate properties	R.1977 d.292	9 N.J.R. 438(c)

(Rules in the Administrative Code for Title 11 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

### LABOR AND INDUSTRY — TITLE 12

12:15-1.3	Revised 1978 maximum weekly benefit rates	R.1977 d.297	9 N.J.R. 439(b)
12:15-1.4	Revised 1978 taxable wage base under unemployment compensation	R.1977 d.298	9 N.J.R. 439(c)
12:235-4.8	Amendments on certificates of readiness	R.1977 d.406	9 N.J.R. 537(b)
Temporary	Revised 1978 workers' compensation benefit rates	R.1977 d.296	9 N.J.R. 439(a)
Temporary rule	Listing of wage rates for construction workers	R.1977 d.383	9 N.J.R. 537(a)

(Rules in the Administrative Code for Title 12 include all adoptions prior to Jan. 26, 1977—Transmittal Sheet No. 7.)

### LAW AND PUBLIC SAFETY — TITLE 13

13:2-1.1 et seq.	Revised rules of Division of Alcoholic Beverage Control	R.1977 d.342	9 N.J.R. 487(b)
13:2-3.11	Alcoholic Beverage Licenses in Atlantic City	R.1977 d.348	9 N.J.R. 487(c)
13:19-10.1 et seq.	Revisions on point system and driving during suspension	R.1977 d.352	9 N.J.R. 488(b)
13:35-7.2	Termination of pregnancy	R.1977 d.351	9 N.J.R. 488(a)
13:37-8.1 et seq.	Revisions on schools of practical nursing	R.1977 d.273	9 N.J.R. 440(b)
13:44-2.9	Temporary permits	R.1977 d.285	9 N.J.R. 441(a)
13:70-1.17, 1.27,	Amend harness and thoroughbred racing rules	R.1977 d.331	9 N.J.R. 487(a)
14:29, 16.34			
13:71-5.1, 5.20,			
8.38, 23.22			

(Rules in the Administrative Code for Title 13 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 10.)

### ENERGY — TITLE 14A (Including Public Utility Commissioners - 14)

14:1-1.7, 4.3, 6.5,	Revisions on communications	R.1977 d.263	9 N.J.R. 442(a)
8.4, 8.5, 9.4, 10.1			
14:18-11.19, 11.21	Revisions on required information	R.1977 d.295	9 N.J.R. 443(a)
14A:1.1 et seq.	Adopt P.U.C. rules of practice by reference	R.1977 d.264	9 N.J.R. 442(b)
14A:1-1 et seq.	Rules of practice for Department of Energy	R.1977 d.433	9 N.J.R. 593(a)
14A:2-1.1 et seq.	Energy emergency allocation	R.1977 d.432	9 N.J.R. 592(b)

(Rules in the Administrative Code for Title 14 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 8.)

### STATE — TITLE 15

15:10-1.4(b), 1.11	Amend mail voter registration rules	R.1977 d.271	9 N.J.R. 443(b)
15:10-4.1	Printing absentee ballot applications	R.1977 d.205	9 N.J.R. 346(c)

(Rules in the Administrative Code for Title 15 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 10.)

## PUBLIC ADVOCATE — TITLE 15A

15A:1-1.1 et seq.	Rules of practice; Public Interest Advocacy	R.1977 d.362	9 N.J.R. 541(b)
	(No rules yet available in the Code.)		

## TRANSPORTATION — TITLE 16

16:1-2.1 et seq.	Revisions on issuance and sale of DOT public records	R.1977 d.345	9 N.J.R. 493(d)
16:28-3.103	Revisions on restricted parking on parts of Route 49	R.1977 d.327	9 N.J.R. 493(a)
16:28-3.151, 152	Restricted parking on parts of Routes 31 and 28	R.1977 d.327	9 N.J.R. 493(a)
16:28-3.153, 3.154	Restricted parking on parts of Routes 88 and 28	R.1977 d.329	9 N.J.R. 493(c)
16:28-3.155	Restricted parking on parts of Route 57	R.1977 d.328	9 N.J.R. 493(b)
16:28-5.3	Stop intersection on part of Route 208	R.1977 d.326	9 N.J.R. 492(c)
16:28-6.16	No left turn on parts of Route 23	R.1977 d.325	9 N.J.R. 492(b)
16:41-8	Amend rules on outdoor advertising on access highways	R.1977 d.426	9 N.J.R. 593(d)
16:41-10.9	Violations relating to permits	R.1977 d.418	9 N.J.R. 593(c)
16:65-1.1, 1.2, 4.2, 5.1, 5.5, 6.2	Revisions on classification of contractors	R.1977 d.388	9 N.J.R. 543(b)

(Rules in the Administrative Code for Title 16 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

## TREASURY-GENERAL — TITLE 17

17:1-4.30	Optional settlements for group life	R.1977 d.416	9 N.J.R. 601(a)
17:1-10.1 et seq.	Rules on the State prescription drug program	R.1977 d.117	9 N.J.R. 243(a)
17:2-1.1(a), 17:2-6.15, 17:2-6.26	Revisions on board meetings, compulsory retirement and medical examinations	R.1977 d.148	9 N.J.R. 295(a)
17:4-2.1, 2.6	Revisions on enrollment dates	R.1977 d.377	9 N.J.R. 544(b)
17:4-4.1, 6.1, 6.2, 6.3, 6.13	Revisions on police, firemen's retirement system	R.1977 d.378	9 N.J.R. 544(c)
17:5-3.1, 5.1 5.2, 5.3, 5.15	Revisions to State Police Retirement System rules	R.1977 d.359	9 N.J.R. 496(a)
17:7-2.1, 3.3, 3.10	Revisions to Prison Officers' Pension Fund rules	R.1977 d.250	9 N.J.R. 392(b)
17:10-5.2	Revisions on effective dates; Judicial Retirement System	R.1977 d.228	9 N.J.R. 392(a)
17:12-2.4 through 17:12-2.7	Rules on term contract bidding procedures	R.1977 d.170	9 N.J.R. 295(e)
17:12-6.1	Revised definition for bid security	R.1977 d.169	9 N.J.R. 295(d)
17:13-1.1 through 17:13-7.1	Repeal current text in its entirety	R.1977 d.122	9 N.J.R. 244(a)
17:16-5.4	Revised demand group; classification of funds	R.1977 d.124	9 N.J.R. 244(b)
17:16-9.1	Amend permissible investments	R.1977 d.393	9 N.J.R. 544(d)
17:16-31.1 et seq.	Revised rules on State Cash Management Fund	R.1977 d.173	9 N.J.R. 296(a)
17:16-32.8(b)5.	Revisions on valuation of units; Common Pension Fund A	R.1977 d.125	9 N.J.R. 244(c)
17:16-36.8(b)	Revisions on valuation of units; Common Pension Fund B	R.1977 d.126	9 N.J.R. 244(d)
17:16-41.1 et seq.	Cash management fund	R.1977 d.436	9 N.J.R. 601(b)
17:19A-1.1 et seq.	Revised rules on barrier free designs; facilities for the physically handicapped in public buildings	R.1977 d.286	9 N.J.R. 447(a)
17:21-2.3 et seq.	Revised rules on weekly lottery game	R.1977 d.320	9 N.J.R. 494(b)
17:26-1.1 et seq.	Interim rules for processing damage claims under the Spill Compensation and Control Act	R.1977 d.116	9 N.J.R. 241(d)
17:27-1.1 et seq.	Affirmative action requirements for public works	R.1977 d.364	9 N.J.R. 543(c)

(Rules in the Administrative Code for Title 17 include all adoptions prior to March 23, 1977—Transmittal Sheet No. 8.)

## TREASURY-TAXATION — TITLE 18

18:24-4.1, 4.4, 4.7	Revisions on exemptions from sales and use tax	R.1977 d.365	9 N.J.R. 544(a)
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(Rules in the Administrative Code for Title 18 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

## OTHER AGENCIES — TITLE 19

19:8-1.1, 3.1(b)	Amendments on use of Parkway by trucks	R.1977 d.419	9 N.J.R. 603(d)
19:8-1.8	Revisions on Garden State Parkway commuter parking	R.1977 d.270	9 N.J.R. 448(b)
19:9-4.1 et seq.	Rules on inspection and obtaining of Turnpike Authority records	R.1977 d.265	9 N.J.R. 448(d)
19:10-1.1 et seq.	Revised rules on PERC	R.1977 d.272	9 N.J.R. 448(a)
19:16-1.1 et seq.	Rules on negotiations, public fire and police departments	R.1977 d.349	9 N.J.R. 497(a)
19:25-12.1(b)	Revisions on reporting of expenditures	R.1977 d.379	9 N.J.R. 548(a)
19:25-15.38-15.41	Rules on election travel, political action committees and valuation	R.1977 d.350	9 N.J.R. 496(b)
19:40-1.1 et seq.	Practices and procedures; Casino Control Commission	R.1977 d.394	9 N.J.R. 546(a)

(Rules in the Administrative Code for Title 19 include all adoptions prior to July 20, 1977—Transmittal Sheet No. 9.)

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1. Participation in unlawful or "sympathy" strikes or walk-outs shall not be considered good cause for refusal to work. Under such conditions, a parent's refusal to work or accept employment shall render both parents ineligible for assistance.

An order adopting these amendments was filed on October 31, 1977, as R.1977 d.411 to become effective on December 1, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Amendments to Public Assistance Manual

On October 31, 1977, 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. 10:81-6.10, 10:81-6.12(d), 10:81-6.13(e) and (f) and 10:81-6.14 in the Public Assistance Manual concerning hearings involving medical issues, exceptions to hearing officer's report, execution of hearing decision and responsibilities of county welfare agencies in processing hearing requests, as proposed in the Notice published September 8, 1977, at 9 N.J.R. 432(b).

An order adopting these amendments was filed on October 31, 1977, as R.1977 d.412 to become effective on November 1, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Amendments Concerning Definition Of Podiatry Services

On October 31, 1977, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J. A.C. 10:57-1.1 concerning the definition of podiatry services, as proposed in the Notice published September 8, 1977, at 9 N.J.R. 431(a).

An order adopting these amendments was filed and became effective on November 3, 1977, as R.1977 d.417.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(c)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Emergency Amendment on Medicaid Childhood Immunization Policy

On November 2, 1977, 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 an emergency amendment concerning Medicaid childhood immunization policy.

This amendment concerns the transfer of N.J.A.C. 10:49-1.32, which was effective on July 1, 1976, as R.1976 d.189 (See: 8 N.J.R. 335(b)) and which was inadvertently deleted by R.1977 d.213, effective on July 1, 1977 (See: 9 N.J.R. 123(b), 9 N.J.R. 342(c) to the new citation of N.J.A.C. 10:54-1.2(b)) in the Physicians Manual.

Full text of this amendment follows:

10:54-1.2(b) Effective July 1, 1976, the following childhood immunizations will have individual procedure code numbers with individual fees which have been based on the cost of the vaccine plus a service charge. The fee is all inclusive for the cost of the vaccine and cost of its administration. No prior authorization is required. The new procedure codes and fees are listed below:

Procedure Codes	Maximum Fee
9450—(Immunization - Measles):	\$4.50;
9451—(Immunization - Rubella):	4.50;
9452—(Immunization - Mumps):	5.20;
9453—(Immunization - Measles and Rubella combined vaccine):	6.85;
9454—(Immunization - Measles, Mumps, Rubella combined vaccine):	9.60;
9455—(Immunization - Diphtheria, Pertussis, Tetanus combined vaccine):	2.50;
9456—(Immunization - Diphtheria, Tetanus Toxoid combined vaccine):	2.50;
9457—(Immunization - Diphtheria Toxoid):	2.50;
9458—(Immunization - Pertussis vaccine):	2.50;
9459—(Immunization - Tetanus Toxoid):	2.50;
9460—(Immunization - Oral polio vaccine):	2.50.

1. Accordingly, the Medicaid injection policy (procedure code 9072) is amended to exclude all references to immunization including measles, mumps, rubella (combined vaccines MMR) which are now reimbursable under code 9054 without a prior authorization. In addition, the restriction limiting one injection per visit (non-immunization) has been removed from procedure code 9072, although the other guidelines remain.

An order adopting this amendment was filed and became effective on November 15, 1977, as R.1977 d.424 (Exempt, Emergency Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Emergency Amendments on Involuntary Transfer of Patients

On November 2, 1977, 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 emergency amendments on involuntary transfers of patients.

These amendments concern the transfer of N.J.A.C. 10:49-1.31, which was effective on March 1, 1977, as R.1977 d.62 (See: 8 N.J.R. 120(c), 9 N.J.R. 126(e)) and which was inadvertently deleted by R.1977 d.213, effective on July 1, 1977 (See: 9 N.J.R. 123(b), 9 N.J.R. 342(c)) to two new sections (N.J.A.C. 10:63-1.16 and 10:65-3.12) in the Long-Term-Care Services Manual and the Intermediate Care Facilities Manual.

Full text of these amendments follows:

10:63-1.16 Involuntary transfer of patients

10:65-3.12 Involuntary transfer of patients

(a) The Division of Medical Assistance and Health Services will implement, effective upon adoption on March 1, 1977, the following procedural guidelines which affect the involuntary transfer of Medicaid patients from a long-term-care facility.

(b) The purposes are:

1. The Division of Medical Assistance and Health Services recognizes that there may be problems in relocating infirm aged persons from a long-term-care facility. The purpose of these regulations is to specify the circumstances in which the involuntary transfer of a Medicaid patient in a long-term-care facility is authorized and to establish conditions and procedures designed to minimize the risks, trauma and discomfort which may accompany the involuntary transfer of a Medicaid patient from a long-term-care facility.

2. These regulations shall be interpreted consistent with the Federal requirement that care and services under the Medicaid program be provided in a manner consistent with the best interests of the patient.

(c) Applicability rules are:

1. These regulations shall apply to the involuntary transfer of a Medicaid patient at the request of a long-term-care facility and not as part of the division's utilization review process, except as indicated in subsection (d) of this section.

2. Definitions:

i. An involuntary transfer is any transfer of a Medicaid patient which was not consented to or requested by the patient or by the patient's family or authorized representative.

ii. Medicaid patient includes a Medicaid patient residing in a long-term-care facility which has a Medicaid provider agreement in effect, including patients over the minimum number stipulated in the agreement, and a patient who had entered the facility as a non-Medicaid patient and becomes a Medicaid patient or is awaiting resolution of Medicaid eligibility, except for a patient who enters the facility under a signed admission agreement for private payment and then converts to Medicaid within six months from the date of admission.

iii. Division means the Division of Medical Assistance and Health Services.

3. Internal relocation: These regulations shall not apply to the internal relocation of a Medicaid patient within a facility.

(d) Grounds for involuntary transfer are:

1. A Medicaid patient may be transferred involuntarily only for the following reasons:

i. The transfer is required by medical necessity;

ii. The transfer is necessary to protect the physical welfare or safety of the patient or other patients;

iii. The transfer is required because of non-payment for the patient's stay in the facility; or

iv. The transfer is required by the State Department of Health pursuant to licensure action or if the facility is suspended or terminated as a Medicaid provider by the division.

2. A Medicaid patient shall only be involuntarily transferred when adequate alternative facilities acceptable to the division are available.

(e) Criteria for determination are:

1. In any determination as to whether a transfer is authorized by these regulations, the burden of proof by a preponderance of the evidence shall rest with the party requesting the transfer, who shall be required to appear at a hearing if one is requested and scheduled.

2. Where a transfer is proposed, in addition to any other relevant factors, the following factors shall be taken into account:

i. The effect of relocation trauma on the patient;

ii. The proximity of the proposed facility to the present facility and to the family and friends of the patient;

iii. The availability of necessary medical and social services at the proposed facility;

iv. Compliance by the proposed facility with all Federal and State regulations.

(f) Procedures for involuntary transfer are:

1. The facility shall submit to the division a written notice with documentation of its intention to and reason for the involuntary transfer of a Medicaid patient from the facility.

2. If the division's medical evaluation team determines that an involuntary transfer is warranted, the patient and/or the patient's authorized representative, shall be given 30 days prior written notice by the division that a transfer is proposed by the facility and will take effect upon completion of the relocation program specified in subsection (g) of this section, unless the patient requests a hearing within 30 days of the date of the written notice, in which case the transfer is stayed pending the decision following the hearing, except in instances where the division determines that an acute situation or emergency exists.

3. The written notice to the patient and/or authorized representative will advise of the right to a hearing which shall include a simple form prepared by the division for requesting a hearing.

4. The division will endeavor to comply with the hearing time requirements in State and Federal regulations, unless an adjournment is requested by the appellant.

5. The hearings will be conducted at a time and place convenient to the patient. Notification shall be sent to all parties concerned.

6. All hearings shall be conducted in accordance with the fair hearing procedures adopted by the division.

(g) Relocation procedures are:

1. In the event the relocation of a patient is a final division determination, the division shall afford relocation counselling for all prospective transferees in order to reduce as much as possible the impact of transfer trauma.

2. The staff of the transferring and receiving long-term care facilities shall assist in the transfer process, although responsibility and authority for the coordination and transfer rests with the division and shall include:

i. Medical evaluation review by division medical, nursing and social service staff;

ii. Initial patient, family or authorized representative counselling;

iii. Involvement of the patient, family or authorized representative in the placement process with recognition of a patient's right to freedom of choice;

iv. Patient preparation and site visit for all patients able to do so within the capability of the transferring agent;

v. Unless the patient otherwise requests, the patient shall be accompanied on the transfer day by a family member, authorized representative or attendant;

vi. Follow-up counselling at the new location.

3. There shall be no administrative hearing on a claim of failure to implement the requirements of this section for relocation counselling.

(h) No owner, administrator or employee of a long-term-care facility shall attempt to have patients seek relocation by harassment or threats. Such action on behalf of the facility may be cause for the curtailment of future admission of Medicaid patients to the facility or for termination of the Medicaid provider agreement with the facility.

(i) Any complaints regarding the handling of patients relative to their transfer shall be referred to the division for investigation and corrective action.

An order adopting these amendments was filed and became effective on November 15, 1977, as R.1977 d.425 (Exempt, Emergency Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Amendments Concerning Countable Income in Food Stamp Program

On November 14, 1977, 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 amendments to N.J.A.C. 10:87-5.7(a)6.i. and 10:87-5.7(a)8.ii. concerning countable income in the food stamp program, as proposed in the Notice published July 7, 1977, at 9 N.J.R. 339(b).

An order adopting these amendments was filed and became effective on November 18, 1977, as R.1977 d.430.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Amendments on Exemption of Payments Received Under Experimental Housing Assistance Program

On November 18, 1977, 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. 10:82-3.2(b)7.viii. concerning the exemption of payments received under the experimental housing assistance program, as proposed in the Notice published September 8, 1977, at 9 N.J.R. 431(d).

An order adopting these amendments was filed on November 18, 1977, as R.1977 d.431 to become effective on December 1, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(c)

## INSURANCE

### THE COMMISSIONER

#### Proposed Amendments for Three-Year Policies Covered by Special Joint Underwriting Association (JUA)

James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 1C-6(e) and 30B-1 as amended by P.L. 1977, c.278, proposes to amend N.J.A.C. 11:1-5.2(g) concerning JUA obligations in administering unexpired three year policies of the New York carriers, Empire Mutual Insurance Company and Allcity Insurance Company.

Full text of the proposed addition to the rule follows:  
11:1-5.2(g)4. Policies written for more than one year, unless fully prepaid, will be cancelled upon the first anniversary date on or after February 1, 1978, after appropriate notice to insureds.

A public hearing will be held December 28, 1977, at 10:00 A.M. in the Department of Insurance hearing room, 201 East State Street, Trenton, New Jersey 08625.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 30, 1977, to Deputy Commissioner John G. Foley, at the above address.

The Department of Insurance may thereafter adopt these rules without further notice.

James J. Sheeran  
Commissioner  
Department of Insurance

(a)

# INSURANCE

## THE COMMISSIONER

### Proposed Amendment to Definition Of Financial Institutions

James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.6a and 17B:22-8, proposes to amend a portion of the definition of financial institution in N.J.A.C. 11:1-10.1. The proposed amendment concerns the deletion of the current definition of finance company and the adoption of new text therein.

Full text of the proposed new definition follows (new text indicated in boldface thus):

#### 11:1-10.1 Definitions

“Financial institution” means . . . As used in this definition, the term “finance company” includes premium finance companies **excepting those which issue no new financing contracts after November 1, 1977 and which have in effect on that date less than 200 contracts. Both conditions are necessary for an exception.**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Naomi LaBastille  
Special Assistant to the Commissioner  
Department of Insurance  
201 East State Street  
Trenton, N.J. 08625

The Department of Insurance may thereafter adopt these amendments substantially as proposed without further notice.

James J. Sheeran  
Commissioner  
Department of Insurance

(b)

# INSURANCE

## THE COMMISSIONER

### Proposed Rules on Disciplinary Action and Restitution

James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:108.1, 17:1C-6(e), 17:22-6 through 6.16a and 17B:22-1 through 28, proposes to adopt a new rule to be cited as N.J.A.C. 11:1-11.3, concerning licensee disciplinary actions and restitution.

Full text of the proposal follows:

#### 11:1-11.3 Disciplinary action; restitution

(a) Violation of any of the rules of the Department of Insurance, or of any insurance statute, shall be sufficient cause for any disciplinary action permitted by statute.

(b) In accordance with the provisions of N.J.S.A. 17:22-6 through 6.16a and 17B:22-1 through 28, the commissioner in appropriate circumstances will exercise his authority to impose restitution of monies owed to others as a condition to the issuance of a license or to the reinstatement of a license after revocation or suspension, including revocation or suspension in states other than New Jersey.

A public hearing will be held December 28, 1977, at 11:30 A.M. at the Department of Insurance hearing room, 201 East State Street, Trenton, New Jersey 08625.

Interested persons may present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Naomi LaBastille, Hearing Officer  
Department of Insurance  
P.O. Box 1510  
201 East State Street  
Trenton, New Jersey 08625

The Department of Insurance may thereafter adopt these rules without further notice.

James J. Sheeran  
Commissioner  
Department of Insurance

(c)

# INSURANCE

## THE COMMISSIONER

### Proposed Rules for Motorized Bicycles Insurance

James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 1C-6(e) and Chapter 267, Laws of 1977, proposes to adopt a new rule to be cited as N.J.A.C. 11:3-11.1 concerning required insurance for mopeds (motorized bicycles).

Full text of the proposal follows:

#### SUBCHAPTER 11. MOPED INSURANCE

##### 11:3-11.1 Required coverages for mopeds

(a) No policy insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, operation or use of a motorized bicycle as defined in N.J.S.A. 39:1-1, as amended, shall be issued in the State to the owner (or parent or guardian of an owner under 18 years of age) of any motorized bicycle principally garaged or operated in this State unless it includes coverage in the following minimum amounts or limits:

##### 1. Bodily injury:

i. An amount or limit of \$15,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and

ii. An amount or limit, subject to such limit for any one person so injured or killed, of \$30,000, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident.

2. Property damage: An amount or limit of \$5,000 in the aggregate for damage to property of others resulting from one accident.

(b) Every business entity or individual owner who rents motorized bicycles shall maintain liability insurance coverage pursuant to P.L. 1977, Chapter 267 in the minimum amounts or limits set forth in subsection (a)1.i. and ii. of this section.

(c) Any such coverages as described in subsection (a) and (b) of this section shall be issued under a separate contract of insurance or endorsement which shall describe the make and model, piston displacement, and serial number of each motorized bicycle insured.

(d) The policy period for the coverages described in subsection (a) of this section shall commence at 12:01 A.M. of the effective date shown in the policy declarations page

unless expressly set forth in the policy or in a binder or other contract for temporary insurance.

(e) Motorized bicycles shall be considered motor vehicles for purposes of classification of kinds of insurance under N.J.S.A. 17:17-1.

A public hearing will be held December 28, 1977, at 9:30 A.M. at the Department of Insurance hearing room, 201 East State Street, Trenton, New Jersey 08625.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Naomi LaBastille, Hearing Officer  
Department of Insurance  
P.O. Box 1510  
201 East State Street  
Trenton, New Jersey 08625

The Department of Insurance may thereafter adopt these rules without further notice.

James J. Sheeran  
Commissioner  
Department of Insurance

(a)

## INSURANCE

### THE COMMISSIONER

#### Emergency Rule on New Jersey Special Joint Underwriting Association

On November 1, 1977, James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:30B-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted an emergency rule concerning the New Jersey Special Joint Underwriting Association.

Full text of the adopted rule follows:

11:1-5.2(g) The association established pursuant to the foregoing provisions of this rule shall assume all unexpired policy obligations of the New York carriers, Empire Mutual Insurance Company and Allcity Insurance Company, except ocean or wet marine, life insurance, accident and health insurance, worker's compensation insurance, title insurance, annuities and surety bonds.

1. Assumption of obligations for unexpired policies shall run from 12:01 A.M., October 31, 1977.

2. Policyholders shall prove coverage by establishing ownership of a fully paid policy with an expiration date beyond 12:01 A.M., October 31, 1977, and an affidavit in prescribed form that the policy was not replaced by any other like policy.

3. The association shall keep separate accountings as to each insurer and allocate expenses of administration on the basis of time spent and payments made.

A public hearing for the purpose of normalizing the rule already adopted on an emergency basis will be held on December 28, 1977, at 10:00 A.M. in the Department of Insurance hearing room, 201 East State Street, Trenton, New Jersey.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

John G. Foley, Deputy Commissioner  
Department of Insurance  
201 East State Street  
Trenton, N.J. 08625

The Department of Insurance may thereafter readopt this rule as a normal rule substantially as adopted herein without further notice.

An order adopting this rule was filed and became effective on November 1, 1977, as R.1977 d.413 (Exempt, Emergency Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## INSURANCE

### THE COMMISSIONER

#### Amendments on Nonrenewal of Automobile Insurance for Private Passenger Cars

On November 21, 1977, James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 39:6A-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 11:3-8.1 concerning nonrenewal of automobile insurance for private passenger cars, substantially as proposed in the Notice published September 8, 1977, at 9 N.J.R. 435(d), but with subsequent, substantive changes not detrimental to the public, in the opinion of the Department of Insurance.

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

#### 11:3-8.1 General Provisions

##### Foreword

Scope: This rule applies to all private passenger automobiles as defined in N.J.S.A. 39:6A-2a which are required to have P.I.P. coverage [including] **excluding** those owned by business entities and fleets. (Effective [October 1, 1977] **January 1, 1978 but penalties for non-compliance will not be imposed before March 1, 1978.**)

(a) Every insurer shall make an offer to the insured named in a policy providing the coverage required by the New Jersey Automobile Reparation Reform Act to renew such policy upon its expiration date unless a valid notice of nonrenewal has been sent by the insurer to the insured in accordance with this regulation. Such renewal offer shall be in the usual form of either a renewal policy, a certificate, or a renewal bill and shall offer coverage at least as favorable to the insured as the expiring policy and at the same limits and terms including duration of contract of the policy as apply to the expiring policy subject to changes approved by the commissioner that had become effective since the commencement of the current policy period. Payment by the insured in accordance with their terms stated in the billing notice or in accordance with terms agreed to with the company or producer shall constitute acceptance of the offer by the insured. The words "same limits" shall not preclude the insurer from offering physical damage coverage with a higher deductible than that in the expiring policy provided the insured is informed that a lower deductible is available at an appropriate rate. **Insurers must permit insureds to return to their prior duration of policy term upon request.**

11:3-8.1(e)11: "N.J.S.A. 29C:7" is corrected to read "N.J. S.A. 17:29C-7".

An order adopting these amendments was filed on November 21, 1977, as R.1977 d.437 to become effective on January 1, 1978.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## INSURANCE

### THE COMMISSIONER

#### Rules on Educational Program Requirements For Title Insurance Agent Applicants

On November 21, 1977, James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:46B-30, 17:22-6.6 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 11:2-1.5, concerning the educational program requirements for title insurance agent applicants, as proposed in the Notice published September 8, 1977, at 9 N.J.R. 436(a).

An order adopting these rules was filed on November 21, 1977, as R.1977 d.438 to become effective on January 1, 1978.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF MEDICAL EXAMINERS

##### Proposed Rule Concerning Release of Patient Records

Edward Ornaf, Secretary of the Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J.S.A. 45:9-2 and N.J.S.A. 52:14B-1 et seq., proposes to adopt a new rule concerning release of patient records to be designated as N.J.A.C. 13:35-6.12.

Full text of the proposed new rule follows:

##### 13:35-6.12 Release of patient records

(a) "Physician" shall mean a physician possessing a plenary license to practice medicine and surgery, a podiatrist, or a chiropractor.

(b) A patient record prepared by a physician shall be maintained for seven years from date of last entry.

(c) Copies of a physician's record or a summary report of such record and/or copies of all pertinent objective data and papers pertaining to a given patient shall be furnished to the patient or designated physician or duly authorized representative within 30 days of a written request by the patient or duly authorized representative. A reasonable charge may be made for such service. A partial record may be supplied, however, where in the reasonable exercise of professional judgment, the physician believes

that furnishing to or review by the patient of such records would be deleterious to the patient's best interests.

(d) This rule applies to all licensed physicians. A failure to comply may subject the licensee to appropriate disciplinary action by the Board of Medical Examiners.

Interested persons may present statements or arguments in writing, orally in person or by telephone relevant to the proposed action on or before December 28, 1977, to:

I. Edward Ornaf, Secretary  
Board of Medical Examiners  
28 West State St.  
Trenton, N.J. 08625  
Telephone: (609) 292-4843

The Board of Medical Examiners may thereafter adopt this rule substantially as proposed without further notice.

I. Edward Ornaf, Secretary  
Board of Medical Examiners  
Department of Law and Public Safety

(c)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF MEDICAL EXAMINERS

##### Proposed Rule Concerning Advertising and Solicitation

Edward Ornaf, Secretary of the Board of Medical Examiners in the Division of Consumer Affairs of the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:5-1 et seq. and 45:9-1 et seq., proposes to adopt the following new regulation concerning advertising and solicitation.

Purpose of this regulation is to define and establish standards for licensees to provide information about their education and services to the public.

Full text of the proposed new rule follows:

##### 13:35-6.13 Advertising and solicitation

(a) "Licensee" for the purpose of this regulation means a person possessing a plenary license to practice medicine and surgery, a podiatrist, a chiropractor, a physical therapist or a director of a bioanalytical laboratory.

(b) A licensee in the State of New Jersey may provide information to the public, by publication in a dignified manner in newspapers or comparable written publications concerning: education, certification or appointments, location and availability of services, fees for routine professional services and other pertinent information about the licensee's practice. On any such publication, license degree must be designated. To the extent that information provided to the public by the licensee may be misleading, the licensee shall provide clarification, such as, but not limited to, whether additional charges may be incurred for related services when fees are stated.

(c) Information provided to the public in accordance with section (a) shall not by form, manner or content be such as to solicit patients. Solicitation is prohibited. Solicitation shall include, but is not limited to, public information which may be found by the New Jersey State Board of Medical Examiners as:

1. False, fraudulent, deceptive, misleading, or flamboyant;
2. Representing intimidation or undue pressure;
3. Using testimonials;

4. Guaranteeing any service or guaranteeing that satisfaction or cure will result from the professional services offered;

5. Offering gratuitous services or discounts in connection with published services, but this clause shall not be construed to relate to the negotiation of fees between licensees and patients or clients, or to prohibit the rendering of professional services for which no fee is charged;

6. Making claims of professional superiority;

7. Stating or including prices for professional services which are false, deceptive or misleading.

(d) The information which may be provided to the public is limited to the printed media and any such information provided by a licensee in any other form is expressly prohibited.

(e) Any violation of the foregoing rule may be considered as the basis for suspension or revocation proceedings being instituted against the licensee.

(f) This rule supersedes any prior rule to the extent inconsistent therewith.

Interested persons may present statements or arguments in writing, orally in person or by telephone relevant to the proposed action on or before February 8, 1978, to:

I. Edward Ornaf  
Secretary  
Board of Medical Examiners  
28 West State Street  
Trenton, New Jersey 08608  
Telephone: (609) 292-4843

The Board of Medical Examiners may thereafter adopt this rule substantially as proposed without further notice.

I. Edward Ornaf  
Secretary, Board of Medical Examiners  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### OFFICE OF WEIGHTS AND MEASURES

##### Proposed Amendments to Certain Rules on Weights and Measures

William J. Wolfe, Superintendent of Weights and Measures in the Division of Consumer Affairs, Department of Law and Public Safety, pursuant to the authority of N.J. S.A. 51:1-54, 51:1-61, 51:4-31, 51:8-4, 51:9-10 and 51:10-11, proposes to delete existing rules concerning lubricating oil bottles, liquid measuring devices, obsolete gasoline pumps, wobble disc meters, prescription scales, specifications and tolerances, pharmacy weights and farm milk tanks, and to amend a rule to adopt the National Bureau of Standards Handbook H-44, Fourth Edition.

The regulations to be deleted are:

- 13:47B-1.3 Lubricating oil bottles
- 13:47B-1.7 Liquid measuring devices
- 13:47B-1.11 Wobble disc meters
- 13:47B-1.13 Prescription scales
- 13:47B-1.15 Specifications and tolerances
- 13:47B-1.21 Pharmacy weights
- 13:47B-2. Farm milk tanks

Full text of the proposed amended regulation reads as follows: (additions indicated in boldface thus; deletions indicated in brackets [thus]):

13:47B-1.20 National Bureau of Standards Handbook 44

[a. Effective December 15, 1955] All specifications, tolerances, and regulations for weighing and measuring devices as contained in National Bureau of Standards Handbook H-44, [Second Edition] Fourth Edition together with all amendments and supplements thereto, are hereby adopted and promulgated as the legal requirements for all weighing and measuring devices used for commercial purposes and law enforcement in the State of New Jersey; provided, however, that the Superintendent of the Office of Weights and Measures of the Department of Law and Public Safety may from time to time further amend or supplement said specifications, tolerances and regulations for the purpose of conforming to the needs of any situation affecting the interests of the State and its people.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 31, 1977, to:

James R. Bird  
Deputy Superintendent of Weights and Measures  
187 West Hanover Street  
Trenton, N.J. 08625

The Office of Weights and Measures may thereafter adopt these amendments substantially as proposed without further notice.

William J. Wolfe, Sr.  
Superintendent, Weights and Measures  
Department of Law and Public Safety

(b)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF VETERINARY MEDICAL EXAMINERS

##### Notice of Hearing on Proposed Rescission Of Veterinary Rule on Emergency Cases

Take notice that, a public hearing will be held January 18, 1978, at 10:00 A.M. in Room 324, 1100 Raymond Boulevard, Newark, New Jersey, before the Board of Veterinary Medical Examiners relating to proposed rescission of rule on pending emergency cases which was published in the September 8, 1977, New Jersey Register at 9 N.J.R. 439(d).

Any person desiring to testify should request the executive secretary of the board to place his or her name on the agenda. Such request must reach the board no later than January 6, 1978, and should be addressed to:

Mrs. Ruth Weisman  
Executive Secretary  
Board of Veterinary Medical Examiners  
Room 503  
1100 Raymond Boulevard  
Newark, New Jersey 07102

Oral testimony will be limited to 15 minutes per speaker unless additional time is requested and granted prior to the date of the hearing.

This Notice is published as a matter of public information, is not subject to codification and will not appear in Title 13 of the New Jersey Administrative Code.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

# ENERGY

## THE COMMISSIONER

### Proposed Rules on Energy Conservation

Joel R. Jacobson, Commissioner of Energy, pursuant to authority of P.L. 1977, c. 146, proposes to adopt new rules concerning energy conservation.

Full text of the proposed rules follows:

#### CHAPTER 3. ENERGY CONSERVATION

##### SUBCHAPTER 1. GENERAL PROVISIONS

###### 14A:3-1.1 Scope and purpose

These rules shall apply uniformly to each member of the segment of society within the State to whom such rule is directed unless otherwise specified in writing by the commissioner or, at his direction, the director. Adherence to these regulations will result in substantial savings of one or more specific energy sources.

###### 14A:3-1.2 Construction and amendment

(a) These regulations shall be liberally construed to permit the commissioner effectively to carry out his statutory functions and to insure the maximum conservation of energy sources within the State.

(b) These regulations may be amended by the commissioner from time to time as the need arises.

###### 14A:3-1.3 Copies

Copies of all reports, correspondence, documents, data, analyses and whatever other information as required by the provisions of these regulations shall be filed in original plus three copies, and addressed to the Commissioner of Energy, Department of Energy, 101 Commerce Street, Newark, New Jersey 07102.

##### SUBCHAPTER 2. (RESERVED)

##### SUBCHAPTER 3. LARGE BOILER EFFICIENCY STANDARDS

###### 14A:3-3.1 Scope

Unless otherwise indicated, the provisions of this subchapter shall apply to all large boilers, as defined in N.J.A.C. 14A:3-3.2, operated within the State of New Jersey except those operated by electric public utilities subject to the jurisdiction of the New Jersey Board of Public Utilities.

###### 14A:3-3.2 Definitions

"Large boiler" means any fired steam boiler, steam generator or hot water boiler designed to be used at temperatures in excess of 250 degrees Fahrenheit, which requires the attention of a licensed operator pursuant to N.J.A.C. 12:90-1.1 et seq.

"Boiler efficiency" means the ratio of heat absorbed by the water and steam in the boiler per unit fuel to the heating value of the unit fuel.

"Department" means the New Jersey Department of Energy.

###### 14A:3-3.3 Standards

All large boilers subject to the provisions of this subchapter shall have an efficiency level computed pursuant to N.J.A.C. 14A:3-3.4 not more than two percentage points below the manufacturer's rated boiler efficiency level for that particular boiler.

###### 14A:3-3.4 Test procedure

(a) Test condition rules are:

1. Initiate operation of boiler and continue operation until boiler reaches a steady-state condition at the nameplate rating specified by the manufacturer.

(b) Test measurements are:

1. Upon obtaining a steady-state condition measure and record stack gas temperature (t/s) degrees Fahrenheit, boiler room temperature (t/r) degrees Fahrenheit, and with use of a flue gas analyzer measure and record the percentage of carbon dioxide (per cent CO<sub>2</sub>).

(c) Calculations are:

1. Calculate the difference in temperature (Delta t) between the stack gas temperature and the boiler room temperature as  $\Delta t = (t/s - t/r)$  degrees Fahrenheit.

2. Using the department's approved stack loss chart and the values obtained in (b) and (c)1, compute the stack loss percentage (per cent SL).

3. Using the department's approved general loss chart, calculate the percentage loss (per cent GL) due to radiation, convection and other unaccounted for losses.

4. Calculate the percentage boiler efficiency using the following formula:

1. Percentage boiler efficiency = 100 per cent — (per cent SL ÷ per cent GL).

###### 14A:3-3.5 Monthly inspections

(a) Every large boiler subject to the provisions of this subchapter shall be inspected and appropriate records made on approved inspection report forms by its operators at least once a month in accordance with the following procedure:

1. Where practical, measure the input to the boiler; otherwise, measure and compare manifold pressure at high fire against manifold pressure on initial start-up for gas fired units or against oil pressure for oil fired units.

2. Check prepurge timing and compare it with timing on initial start-up.

3. Make a test of the flue products for units with high-low or on-off firing and make necessary adjustments to the input or to the linkages. If readings indicate a need for cleaning, examine and clean the flue passage.

4. Indicate the set points on the linkages.

5. Check the flame sensor with a microammeter or with a D.C. voltmeter. Take all necessary steps to obtain a proper flame, such as cleaning the rod, cell, or pilot, correcting the gas pressure to the pilot, and replacing defective parts.

6. Determine whether proper tubes are being used in the electronic controls. Such tubes shall be changed annually.

7. Check the response of the safety control to pilot failure and/or main-flame and make corrections if necessary.

8. Check the adequacy of combustion and ventilating air and correct if necessary.

9. For gas units, test automatic gas valves for shut-off with U-gauge and bottle test.

10. Lubricate those motors that require periodic lubrication.

###### 14A:3-3.6 Efficiency and inspection reports

Efficiency and inspection reports on large boilers shall be maintained for a period of at least three years. Such reports shall be made available upon request for inspection by officials of the Department of Energy and the Department of Labor and Industry.

#### 14A:3-3.7 Certification

After July 1, 1979, no large boiler subject to the provisions of this subchapter shall be operated in New Jersey unless it is certified by the Department of Labor and Industry as meeting the requirements of N.J.A.C. 14A:3-3.3. The certification period shall extend for one year and applications for renewal of certificates shall be filed at least 60 days before the expiration date.

#### 14A:3-3.8 Enforcement

The Department of Labor and Industry shall co-enforce the provisions of this subchapter with the Department of Energy.

### SUBCHAPTER 4. ANNUAL OIL OR GAS FIRED HEATING MAINTENANCE STANDARD

#### 14A:3-4.1 Applicability

The provisions of this subchapter shall apply to all oil or gas fired heating systems in residential and commercial premises and schools which are served by a maintenance agreement or contract. Oil and gas fired heating systems involving large boilers defined in and covered by N.J.A.C. 14A:3-3 et seq. shall not be covered by this subchapter.

#### 14A:3-4.2 Definitions

"Maintenance" means any supplier or utility providing inspection, cleaning, lubrication and adjustment of a furnace or boiler and its controls.

"Maintenance agreement or contract" means any plan offered to a customer by a supplier or utility for inspection, cleaning, lubrication and adjustment of a furnace or boiler and its controls.

"Department" means the New Jersey Department of Energy.

#### 14A:3-4.3 Listing requirement

(a) The department shall maintain a list of all fuel oil suppliers and utilities who offer a heating system maintenance service to customers. This list shall be available to the public at the department's offices during business hours.

(b) All fuel oil suppliers and utilities who offer heating system maintenance shall furnish the following information to the department within 30 days:

1. Name of corporation, partnership or individual;
2. Business address; and
3. Business telephone number.

#### 14A:3-4.4 Standard

(a) All oil-fired heating systems which are provided under a maintenance contract or agreement shall be adjusted to achieve a minimum permissible efficiency rating of 72 per cent as determined in accordance with procedure set forth in N.J.A.C. 14A:3-4.5.

(b) All gas-fired heating systems which are provided under a maintenance contract or agreement shall be adjusted to achieve a minimum permissible efficiency rating of 75 per cent as determined in accordance with procedure set forth in N.J.A.C. 14A:3-4.5.

#### 14A:3-4.5 Test procedure

(a) Test conditions are:

1. Initiate operation of boiler or furnace and continue operation until boiler or furnace reaches a steady-state condition nameplate rating specified by the manufacturer.

(b) Test measurements are:

1. Upon obtaining a steady-state condition measure and record stack gas temperature (t/s) degrees Fahrenheit,

boiler or furnace room temperature (t/r) degrees Fahrenheit and with use of a flue gas analyzer measure and record the percentage of carbon dioxide (per cent CO<sub>2</sub>).

(c) Calculations are:

1. Calculate the difference in temperature (Delta t) between the stack gas temperature and the boiler or furnace room temperature as  $\Delta t = (t/s - t/r)$  degrees Fahrenheit.

2. Using the department's approved stack loss chart and the values obtained in (b) and (c)1., compute the stack loss percentage (per cent SL).

3. Calculate the percentage efficiency using the following formula:

i. Percentage efficiency = 100 per cent — per cent SL).

#### 14A:3-4.6 Adjustment requirement

Where the maintenance made is part of a service contract between the owner of the premises and the fuel supplier or utility, the adjustments shall be made by the supplier or utility and covered by the service contract.

#### 14A:3-4.7 Department inspections

(a) The owner of a premises may request the department to inspect a furnace or boiler that is maintained pursuant to a service agreement to insure that the minimum efficiency standard is being achieved.

(b) All inspection requests shall be made in writing to the Department of Energy, Office of Technical Assistance, 101 Commerce Street, Newark, New Jersey 07102.

(c) In the event the department cannot comply with all written requests, the department reserves the right to choose a random sample from the written requests submitted and make inspections of those boilers and/or furnaces.

#### 14A:3-4.8 Failure to comply

Upon the failure of a covered heating system to meet the efficiency requirements of this subchapter, the department may seek an injunction against the supplier or utility to prevent that supplier or utility from offering heating system maintenance service, pursuant to P.L. 1977, C.146, S19.

### SUBCHAPTER 5. INDIVIDUAL METERING IN RESIDENCES AND COMMERCIAL BUILDINGS

#### 14A:3-5.1 Scope

The requirements of this subchapter shall apply to all gas and electric meters installed after July 1, 1978, in all two family, multi-family and high-rise residences and to all multi-tenant commercial buildings or complexes. These requirements are intended to eliminate the furtherance of bulk rate utility service, commonly known as master metering, where the potential exists for service to be rendered to more than one customer.

#### 14A:3-5.2 Definitions

"Master metering" means the installation of a single master meter chargeable to one listed utility customer, where such listed customer redistributes the utility service to other users within the same building or complex of buildings, and the charge for that service is includable, but not necessarily identifiable, in some other fee paid by such other users to the listed utility customer.

"Submetering" means the installation of a single master meter chargeable to one listed utility customer, where such listed customer redistributes the utility service to other users within the same building or complex of buildings, and the charge for such service is not otherwise in-

cluded in any other fee paid by the ultimate user of the service, but rather is paid as a separate charge to the listed utility customer.

"Unit" means for the purposes of these regulations any residential or commercial space designed and constructed for occupancy by one family, business or corporate entity. Hotels, motels and dormitories, as such, as defined by the Building Subcode of the Uniform Construction Code (N.J.A.C. 5:23 et seq.) are excluded from this definition.

#### 14A:3-5.3 Standards

(a) After July 1, 1978, all newly constructed or renovated residential or commercial units requiring a construction permit pursuant to the Uniform Construction Code Act shall have installed and operative an individual meter for each such unit so constructed or renovated.

(b) After July 1, 1978, each existing residential or commercial building or complex of buildings having more than one unit where the option exists to install individual meters for each occupancy thereof, that is, where the utility can install individual meters by requiring the customers to provide a location for them, the units shall be so converted to individual meters.

(c) After July 1, 1978, no electric or gas utility shall provide service to any customer inconsistent with the provisions of subsection (a) or (b) of this section.

#### 14A:3-5.4 Implementation

(a) Nothing provided for herein shall prohibit the rendering of service via the methodology referred to as "check-metering" as such is defined by and provided for in the utility tariffs on file with the Board of Public Utilities.

(b) All electric and gas utilities to the extent not already provided shall immediately upon adoption hereof file service tariffs with the Board of Public Utilities to implement the provisions of the subchapter.

### SUBCHAPTER 6. THERMAL EFFICIENCY IN NEW AND RENOVATED BUILDINGS

#### 14A:3-6.1 Requirements

Effective one year after adoption of these regulations, all new and renovated buildings shall comply with the performance efficiency standards as required by N.J.A.C. 14A:3-6.4.

#### 14A:3-6.2 Applicability

The requirements of this subsection shall apply to all new and renovated buildings as such are defined in subchapter 5 of this chapter. Unheated buildings or those whose maximum energy consumption for heating or cooling purposes is less than one watt per square foot of floor space are not covered by these regulations.

#### 14A:3-6.3 Definitions

All definitions shall be as contained in the BOCA Basic Energy Conservation Code/1977.

#### 14A:3-6.4 Standards

All covered buildings as defined by N.J.A.C. 14A:3-6.2 shall comply with the standards of the Energy Subcode of the Uniform Construction Code Act as such is adopted by the Department of Community Affairs except where the energy efficiency standard for any particular appliance is established by the Department of Energy.

#### 14A:3-6.5 Enforcement

The Department of Community Affairs shall enforce this subchapter consistent with its enforcement of the Energy Subcode of the Uniform Construction Code Act.

### SUBCHAPTER 7. LIGHTING EFFICIENCY STANDARDS FOR PUBLIC BUILDINGS

#### 14A:3-7.1 Scope

The standards set forth in N.J.A.C. 14A:3-7.2 shall apply to all buildings in the following use groups as defined by the Building Subcode of the Uniform Construction Code Act: Use Groups A, B, F, H, I, M, and R. Use Groups R-3, the residential portion of R-2 and R-1 are specifically exempted from the standards provided for in this subchapter.

#### 14A:3-7.2 Standards

Effective immediately, all newly constructed or renovated buildings shall conform to the lighting standard as set forth in the Illuminating Engineering Society (IES) Standard EMS-1: Lighting Power Budget Determination Procedure.

#### 14A:3-7.3 Enforcement

The standards set forth in N.J.A.C. 14A:3-7.2 shall be the standards employed by the Department of Community Affairs pursuant to its authorities under the "Uniform Construction Code Act", (N.J.A.C. 5:23 et seq.) and said department shall have primary authority to enforce said standards.

### SUBCHAPTER 8. SEVEN-DAY, DAY-NIGHT THERMOSTATS IN PUBLIC BUILDINGS

#### 14A:3-8.1 Scope

The standards set forth in this subchapter shall apply to all buildings in the following use groups as defined by the Building Subcode of the Uniform Construction Code Act: Use Groups A, B, F, H, I, M, and R. Use Groups R-2 and R-3 are specifically exempted from the standards provided for in this subchapter.

#### 14A:3-8.2 Applicability

The requirements of this subchapter shall become effective for all covered buildings one year after adoption hereof.

#### 14A:3-8.3 Requirements

Each building subject to the requirements of this subchapter shall have installed a seven day, day-night thermostat(s) or other similar type control equipment which permits the operator thereof to set the thermostatic setting consistent with the standards of N.J.A.C. 14A:3-8.4. Said thermostat shall be equipped with an interlock device which prohibits the simultaneous operation of both the heating and cooling systems.

#### 14A:3-8.4 Standards

(a) Each building subject to the requirements of this subchapter shall set its thermostat according to the following standards:

1. During periods when the building is either occupied or otherwise open for public use and:

i. When heating equipment is in use, the maximum thermostatic setting for commercial retail space shall be 65 degrees Fahrenheit, and for all other spaces 68 degrees Fahrenheit; or

ii. When air conditioning or cooling equipment is in use, the minimum thermostatic setting shall be 78 degrees Fahrenheit.

2. During all other periods when the building is unoccupied or otherwise not open for public use; and

i. When heating equipment is in use, the maximum thermostatic setting shall be 55 degrees Fahrenheit, except where a higher temperature is necessary to protect property; or

ii. When air conditioning or cooling equipment is in use, such equipment shall be turned off if possible, and when not possible, the minimum thermostatic setting shall be 80 degrees Fahrenheit.

#### 14A:3-8.5 Enforcement

The standards set forth in N.J.A.C. 14A:3-8.4 shall be the standards employed by the Department of Community Affairs pursuant to its authorities under the Uniform Construction Code Act, (N.J.A.C. 5:23 et seq.) and said department shall have primary authority to enforce said standards.

### SUBCHAPTER 9. RETROFITTING OF GAS PILOT LIGHTS

#### 14A:3-9.1 Scope

The requirements of this subchapter shall apply to all gas fired residential heating systems.

#### 14A:3-9.2 Requirement

Each public utility which distributes natural gas as described in N.J.A.C. 14A:3-9.1 shall develop a program designed to replace continuously burning pilot lights with automatic electric ignition systems or an acceptable alternative program for residential home heating systems. Said utilities shall evaluate a retrofit program which categorizes other appliances according to energy efficiency, conservation, engineering and economic benefits.

#### 14A:3-9.3 Filing

Each gas utility shall file said program, along with its underlying study, upon the Commissioner of Energy. The commissioner shall approve or disapprove said program within 60 days of the filing date. Any program not approved by the commissioner shall be resubmitted within 30 days according to direction provided by the commissioner.

#### 14A:3-9.4 Commencement of study

Within 60 days of approval hereof, all gas distribution utilities shall initiate the program described in N.J.A.C. 14A:3-9.2. The utilities shall include in such study an evaluation of any off-setting engineering or economic liabilities for each separate type of appliance. The utilities shall coordinate their studies to insure that similar criteria are used by each utility.

#### 14A:3-9.5 Exemptions

Each program submitted pursuant to this subchapter may provide for exemptions therefrom in cases where a demonstrable hardship exists. The commissioner shall, in approving the retrofitting program, provide for criteria to be employed in granting exemptions.

A public hearing respecting this proposal will be held on December 28, 1977, at 10:00 A.M. in Room 208 at 101 Commerce Street in Newark, New Jersey 07102. Persons wishing to testify at this hearing should contact Ira Dorfman at (201) 648-6290, or the above address.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Mary Patricia Keefe  
Administrative Practice Officer  
Department of Energy  
101 Commerce Street  
Newark, N.J. 07102

The Department of Energy may thereafter adopt these rules substantially as proposed without further notice.

Joel R. Jacobson  
Commissioner  
Department of Energy

(a)

## ENERGY

### THE COMMISSIONER

#### Notice Concerning Administration Of State Set-Aside Program

Take notice that, Joel R. Jacobson, Commissioner of Energy, has issued the following notice concerning the administration of the State Set-Aside Program.

Take notice that, the Department of Energy shall administer the State Set-Aside program, as adopted by the Federal Energy Administration in Special Rule No. 5, pursuant to the authority granted by P.L. 1977, c.146, §9r. The program shall be administered under the administrative order of the former State Energy Office, pursuant to P.L. 1977, c.146, § 23(d) until such time as the Department amends same.

This Notice is published as a matter of public information, is not subject to codification and will not appear in Title 14A of the New Jersey Administrative Code.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## ENERGY

### THE COMMISSIONER

#### Rules on Energy Emergency Allocation

On November 18, 1977, Joel R. Jacobson, Commissioner of Energy, pursuant to authority of P.L. 1977, c. 146, and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 14A:2-1.1 et seq., concerning energy emergency allocation, substantially as proposed in the Notice published October 6, 1977, at 9 N.J.R. 488(d), but with subsequent, substantive changes not detrimental to the public, in the opinion of the Department of Energy.

The substantive changes concern the elimination of the State Set-Aside Program from these rules. The Set-Aside Program will be adopted separately. Also, the natural gas emergency provisions have been modified to allow temperature restrictions in lieu of hour restrictions on commercial and industrial operations. However, the Commissioner reserves the right to impose hour restrictions if temperature restrictions do not provide adequate relief.

Copies of the 21 pages of full text of the adopted rules may be obtained from or made available for review by contacting:

Mary Patricia Keefe  
Administrative Practice Officer  
Department of Energy  
101 Commerce Street  
Newark, New Jersey 07102

An order adopting these rules was filed and became effective on November 21, 1977, as R.1977 d.432.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## ENERGY

### THE COMMISSIONER

#### Rules of Practice and Procedure

On November 18, 1977, Joel R. Jacobson, Commissioner of Energy, pursuant to authority of P.L. 1977, c. 146 and in accordance with applicable provisions of the Administrative Procedure Act, adopted rules of practice and procedure for the Department of Energy, substantially as proposed in the Notice published September 8, 1977, at 9 N.J.R. 441(c), but with subsequent, substantive changes not detrimental to the public, in the opinion of the Department of Energy.

Such rules will be cited as N.J.A.C. 14A:1-1.1 et seq., rather than the previous citation of N.J.A.C. 14:20-1.1 et seq. which appeared in the Notice of Proposal.

An order adopting these rules was filed and became effective on November 21, 1977, as R.1977 d.433.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## TRANSPORTATION

### THE COMMISSIONER

#### Proposed Rules on Restricted Parking On Parts of Routes U.S. 22 and 57

Russell H. Mullen, Acting Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-138.1, proposes to adopt new rules concerning restricted parking on parts of Routes U.S. 22 and 57.

Full text of the proposal follows:

16:28-3.156 Route U.S. 22 in the Township of Clinton, Hunterdon County

(a) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route U.S. 22 described herein below shall be, and hereby are, designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing along both sides of Route U.S. 22 from the easterly curb line of Petticoat Lane to the Clinton Township-Lebanon Borough corporate line.

16:28-3.157 Route 57 in Washington Borough, Warren County

(a) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route 57 described herein below shall be, and hereby are, designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing:

i. Along the westbound side of Route 57 from a point 250 feet east of the center line of Route 31 to the center line of Jackson Street.

ii. Along the eastbound side of Route 57 from the center line of Vannatta Street, to a point 250 feet east of the center line of Route 31.

iii. Along both sides of Route 57 from the Washington Borough-Washington Township corporate line (just east of Brass Castle Rd.) to a point 350 feet east of Terrace Street.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Frank Bara  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, N.J. 08625

The Department of Transportation may thereafter adopt these rules substantially as proposed without further notice.

Russell H. Mullen  
Acting Commissioner  
Department of Transportation

(c)

## TRANSPORTATION

### THE COMMISSIONER

#### Rule on Violations Relating to Permits

On November 3, 1977, Russell H. Mullen, Acting Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted a new rule, to be cited as N.J.A.C. 16:41-10.9, concerning violations relating to permits, substantially as proposed in the Notice published September 8, 1977, at 9 N.J.R. 443(c), with only inconsequential structural or language changes, in the opinion of the Department of Transportation.

An order adopting this rule was filed and became effective on November 4, 1977, as R.1977 d.418.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(d)

## TRANSPORTATION

### THE COMMISSIONER

#### Amendments on Outdoor Advertising On Limited and Nonlimited Access Highways

On November 16, 1977, Russell Mullen, Acting Commissioner of Transportation, pursuant to authority of N.J.S.A. 27:1A-6 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to Subchapter 8, Chapter 4, Title 16 of the New Jersey Administrative Code concerning outdoor advertising on limited and nonlimited access highways, substantially as proposed in the Notice published April 7, 1977, at 9 N.J.R. 188(b), but with subsequent substantive changes not detrimental to the public, in the opinion of the Department of Transportation.

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

**SUBCHAPTER 8. OUTDOOR ADVERTISING ON LIMITED ACCESS HIGHWAYS AND NON-LIMITED ACCESS HIGHWAYS [ON THE FEDERAL AID PRIMARY SYSTEM]**

**16:41-8.1 Definitions**

“Protected areas” means all areas inside the boundaries of this State within 660 feet of the edge of the right-of-way of limited access and non-limited access highways. Protected areas also include all areas inside the boundaries of this State which are beyond 660 feet off the edge of the right-of-way of the interstate system or primary system outside urban areas.

“Urban areas” means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in this State, or an urban place as designated by the Bureau of Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary of Transportation of the United States. Such boundaries shall, as a minimum, encompass the entire place designated by the Bureau of Census.

16:41-8.4(a)13. No outdoor advertising structure will be permitted which is [obsolete, inactive or disused for a period of one year] abandoned or disused 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 abandonment in order that appropriate remedial action may be taken.

i. A sign shall be considered abandoned when it is determined to be structurally unsound by a professional engineer; or it is in an aesthetically blighted condition when 25 per cent of the surface requires a reconditioning of the protective or decorative coating as evidenced by, but not limited to, peeling or flaking paint.

ii. A sign which remains blank, void of advertising copy for a fixed period of one year shall be considered disused.

14. No outdoor advertising sign will be permitted which would injuriously affect any public interest. In determining whether the issuance of a permit would adversely affect any public interest the [State Supervisor] administrator of outdoor advertising shall consider public sentiment as expressed by the governing authorities and agencies of the United States, the state or the county or municipality within whose boundaries the application is made.

16:41-8.4(a)15. Adjustment, alteration, or removal of existing natural landscaping within the right-of-way in order to increase or enhance the visibility of an advertising structure will not be allowed, unless approval is obtained from the department.

16:41-8.6(a) A sign is subject to the requirements of its type as indicated below. In those cases where a sign is erected so that it is visible to two or more roadways the more stringent requirements shall be applicable.

16:41-8.7(a) Any person, group of persons, municipality or other jurisdictional authority who shall engage in the business of outdoor advertising for profit through rental . . . .

16:41-8.8(b) Rules concerning the application for permit are:

1. An application for a permit may be obtained from the Department, Outdoor Advertising Section, 1035 Park-

way Avenue, Trenton, New Jersey 08625. Completed applications should be returned to the New Jersey Department of Transportation, Outdoor Advertising Section [along with the appropriate fee if any].

16:41-8.8(e)2. Whenever a permittee finds it necessary to add one or more panels to an already existing advertising structure or object for which he has a valid permit, he is required to apply for an additional permit and pay the permit fee for each permit. Any additional panels must be of identical measurements with the existing panels.

16:41-8.8(j) Rules concerning the renewal of permit and late renewal charges are:

1. A permit, unless revoked or cancelled, may be renewed for the following year by application under the same terms and conditions of the original application and filed not later than March 15 preceding its expiration date. Application of renewal shall be in the form of an official invoice or similar official billing record of the outdoor advertising section which is to be submitted with the appropriate annual fee.

2. [An application for] The renewal of a permit shall not be approved if altered from the original application, except for a change of address of the permittee. The advertised display location is subject to reinspection as deemed necessary by the [State Supervisor of] administrator of outdoor advertising [section].

16:41-8.11(a) 8. Whenever the existing natural landscape of the right-of-way has been trimmed, altered or destroyed in any way by the permittee or agent thereof, without the approval of the department, in order to enhance and increase the visibility of the advertising structure.

16:41-8.12(a) When it shall appear to the [State Supervisor] administrator of outdoor advertising. . . .

16:41-8.12(b) If the licensee or permittee filed a protest but did not request a hearing, the [State Supervisor] administrator of outdoor advertising . . . .

16:41-8.13(a) An informal hearing before the [State Supervisor] administrator of outdoor advertising . . . .

16:41-8.13(c) After all parties have been given the opportunity of presenting all the evidence in support of the issues, the [State Supervisor] administrator of outdoor advertising . . . .

16:41-8.15(a) If within 30 days after mailing a notice of revocation of license or permit (see section 12 of this subchapter) or a notice of violation (see section 14(d) of this subchapter), the violation or offense cited has not been corrected to the satisfaction of the [State Supervisor] administrator of outdoor advertising, . . . .

An order adopting these amendments was filed and became effective on November 16, 1977, as R.1977 d.426.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## TREASURY

### DIVISION OF TAXATION

#### Proposed Amendments on Exemption of Certain Motor Vehicles from Sales and Use Tax

Sidney Glaser, Director of the Division of Taxation in

the Department of the Treasury, pursuant to authority of N.J.S.A. 54:32B-1 et seq., proposes to amend certain rules concerning exemption from the sales and use tax of motor vehicles registered in New Jersey for more than 18,000 pounds or which are operated pursuant to a certificate or permit issued by the Interstate Commerce Commission and repair and replacement parts therefor.

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

18:24-7.8 (d) The renting, leasing, licensing or interchanging of trucks, tractors, trailers or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public; provided, however, that such renting, leasing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles; and further provided, that in the case of any such motor vehicle acquired by the owner or first used by the owner in this State on or after July 1, 1966, any tax presumptively imposed by this Act on such acquisition or use shall have been paid at the time of such acquisition or use without claim for exemption, is exempt from tax. Provided, however, that on or after January 1, 1978, the following shall not apply; and further provided that in the case of any such motor vehicle acquired by the owner or first used by the owner in this State on or after July 1, 1966, any tax presumptively imposed by this Act on such acquisition or use shall have been paid at the time of such acquisition or use without claim for exemption.

(e) For purposes of subsection (d) above, "carriage of freight" means property transported by a common or public carrier, such as regular trucking companies, and does not include the type of business utilizing rented or leased vehicles to transport its own goods. For example, a vendor of welding supplies leases trucks from a person not engaged in the regular trade or business of leasing such vehicles to the public. The trucks are used to transport to the vendor's customers its own goods. The exemption from tax does not apply since the vendor is not engaged in the carriage of freight, unless the trucks qualify for exemption under subsection (ff) of Section 8 of the Sales and Use Tax Act (see N.J.A.C. 18:24-7.18).

18:24-7.18 Sales, renting or leasing of commercial motor vehicles and vehicles used in combination therewith exempt from tax

(a) The sale, renting or leasing of commercial motor vehicles and vehicles used in combination therewith, as defined in N.J.S.A. 39:1-1 and registered in New Jersey for more than 18,000 pounds; or which are operated pursuant to a certificate or permit issued by the Interstate Commerce Commission; and repair and replacement parts therefor are exempt from sales and use tax on or after January 1, 1978.

(b) For purposes of this section "commercial motor vehicle" means and includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be, as defined in N.J.S.A. 39:1-1.

(c) For purposes of this section "vehicle used in combination therewith" means and includes motor-drawn vehicles, such as, trailers, semi-trailers, pole trailers or any other type of vehicle drawn by a commercial motor vehicle as defined in N.J.S.A. 39:1-1.

(d) Repair and replacement parts purchased on or after January 1, 1978, for vehicles described in subsection (b) and (c) above and acquired on or after January 1, 1978, are exempt from tax. The exemption from sales and use tax provided for in this section does not apply to charges for repair services, which charges should be separately stated.

1. Example 1.: A purchaser contracts to buy a commercial motor vehicle and a vehicle used in combination therewith on November 1, 1977. The vehicles will be delivered and registered in New Jersey for more than 18,000 pounds or will operate pursuant to a certificate or permit issued by the Interstate Commerce Commission, as the case may be, on January 2, 1978. The vehicles qualify for exemption and are not subject to tax.

2. Example 2.: A commercial motor vehicle was registered in New Jersey for more than 18,000 pounds prior to January 1, 1978. The vehicle was repaired on April 1, 1978. The total invoice was for \$550. Repair and replacement parts were listed at \$300, and labor was listed at \$250. The tax should be imposed on the total charge of \$550.

(e) Under a written agreement entered into prior to January 1, 1978, for the rental or lease of vehicles described in subsections (a), (b) and (c) of this section, the periodic rental payments due on or after January 1, 1978 are exempt from tax. A lease is distinguishable from an executed or completed sale. The lease is not considered to be a single and completed transaction at the time that a vehicle was first leased to the lessee. It is, rather, an agreement for a series of transactions to be completed thereafter. The right to the continued use and possession of the vehicle is conditioned upon subsequent payment of rental charges and performance of other covenants. Each rental period relates to a period of possession and the tax becomes chargeable as each rental payment becomes due. Rent which is due before January 1, 1978, is subject to tax irrespective of the period of possession. The payments for each rental period are thus treated as severable portions of the contract. Such a lease agreement differs from an ordinary sale of property since it is not completely executed until the term expires and all of its conditions are fulfilled. For example, on January 1, 1976, a commercial motor vehicle was leased. The lease was for a term of five years (termination date, December 31, 1980) and rental payments are to be made in advance on the first day of each month. Each monthly rental payment for the rental period up to December 31, 1977, is subject to tax. The monthly rental payments due on and after January 1, 1978, are not subject to tax.

18:24-19.4(c)2. The purchase or use of tangible personal property by a person engaged in the business of farming is exempt from tax if such property is exclusively used by him directly in farming operations. However, purchases of automobiles, trucks, trailers and truck-trailer combinations as well as supplies and repair parts for such vehicles are subject to tax; provided, however, that trucks, trailers and truck-trailer combinations acquired on or after January 1, 1978 are exempt if used directly and exclusively in farming operations. If not used exclusively and directly in farming operations such vehicles are exempt from the sales tax only if acquired on or after January 1, 1978 and are registered in New Jersey for more than 18,000 pounds. See N.J.A.C. 18:24-7.18.

i. For example, a truck under 18,000 pounds purchased by a farmer on January 2, 1978, is used part of the time in the production for sales of tangible personal property on his farm. The truck is also used for transporting or conveying the farm product after the final farming operation.

The truck is not exempt from sales and use tax since it was not used directly and exclusively in the production for sale of tangible personal property on his farm. It would qualify for exemption under subsection (ff) of section 8 of the Sales and Use Tax Act, if registered in New Jersey for more than 18,000 pounds. (See N.J.A.C. 18:24-7.18.)

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Jack Silverstein  
Chief Tax Counselor  
Division of Taxation  
West State and Willow Street  
Trenton, N.J. 08625

The Department of the Treasury may thereafter adopt these amendments substantially as proposed without further notice.

Sidney Glaser  
Director, Division of Taxation  
Department of the Treasury

(a)

## TREASURY

### DIVISION OF TAXATION

#### Proposed Amendments to Homestead Tax Rebate Rules

Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of P.L. 1976, c.72, proposes to amend N.J.A.C. 18:12-7.1 et seq. concerning homestead tax rebates. The proposed amendments concern the deletion of the current text of that subchapter and the adoption of new text therein.

Full text of the proposed new rules follows:

#### SUBCHAPTER 7. HOMESTEAD TAX REBATE

18:12-7.1 General provisions; homestead tax rebate

(a) Pursuant to authority granted under P.L. 1976, c. 72, the following instructions are hereby issued governing the procedure to be used by local assessors and tax collectors and county tax board secretaries in administering claims for a homestead tax rebate.

(b) The application for a homestead tax rebate is designed so that one application shall be completed for each residential property containing not more than four units of which not more than one can be a commercial unit, irrespective of the number of owners of said residential property. The basic data is readily available from the claimant's total current tax bill. The application form should reflect the net tax, that is, after allowing for the veteran and property tax deductions. Special districts are not to be included in determining net property taxes, that is: special fire districts, and so forth. If there is an added or omitted assessment, the current tax should be increased by that prorated amount.

(c) In order to assure accuracy and efficiency in processing each application, and to aid in expediting the homestead tax rebate due each claimant, the following procedure should be followed:

1. For claimants who previously received and are still eligible for the homestead tax rebate on the same dwelling house

i. Distribution of forms:

(1) The homestead rebate application will be a computer-generated, four-ply, self-mailer type packet. Pre-printed on the form by the computer will be the ownership, property location, assessment data and net property taxes from the updated computer file. All forms will be assigned a control number, sequential within each municipality. At the time the packets are mailed, a face sheet of each will be delivered to the local assessor, providing an immediate record of the mailing in control number sequence.

(2) The packet sent to each claimant will contain a three-ply, precarboned form with the same information shown on the face sheet, an instruction sheet, as well as a return envelope addressed to the Division of Taxation. The claimant will complete the balance of the form, retain one copy as a record, and mail the remaining two copies, together with any required documentation, to the Division of Taxation.

(3) Upon receipt, the division will process one copy of the executed form and return the remaining copy to the local assessor with any required documentation attached for the assessor's review.

(4) The final approval (disapproval) process will be achieved by using computer lists and redlining procedures. There will also be provision for an intermediate system of approval (disapproval) for use by those assessors who wish to achieve that step as the forms are received.

2. For claimants who file a homestead tax rebate application for the first time:

i. Homestead tax rebate application packets will be available at all local tax assessor offices.

ii. Assessors should assist a claimant by providing him with the basic information required on the application, such as, the proper assessed value, net property tax and the identification of the location of the dwelling house. The claimant would then follow the same procedure in returning the packet to the Division of Taxation in the same manner as described in paragraph 1. of this subsection.

3. An application for a homestead tax rebate shall be filed on or before December 1 of the pretax year and shall reflect the prerequisites for the rebate as of October 1 of the pretax year. (For example, a claimant should file an application on or before December 1, 1977, which should reflect the prerequisites for the rebate as of October 1, 1977, in order to qualify for the rebate to be received in 1978.) All applications will be transmitted by the division to the respective tax assessors.

(d) Eligibility requirements are:

1. Domicile: The claimant must be a domiciliary of New Jersey. Citizenship of the United States is not required. If the property owner has his principal place of residence in New Jersey which is the State of his domicile then he meets the test of New Jersey domicile.

i. In case of doubt, the following are some of the tests that may be applied to determine domicile; motor vehicle registration address; driver's license address; Federal income tax return address; voting registration, and Social Security records.

2. Ownership of property: The claimant must be the owner of the property for which the homestead tax rebate is claimed on October 1, of the pretax year (October 1, 1977, in order to qualify for the rebate to be received in 1978). The assessor may require that the claimant show proof of his full legal title;

3. Where the title to the property is shared by the claimant with other owners, (for example, as tenants in common or as joint tenants) he is entitled to a homestead tax rebate up to 50 per cent of his share of the net pretax year taxes. Unless some other situation is shown to exist, each

participant in such arrangement is assumed to hold an equal share of the property. In no event, no more than the equivalent of one full homestead rebate in regard to such property shall be allowed in any year with respect to any dwelling house. A full homestead rebate shall be equivalent to the basic rebate plus no more than one additional rebate either for age, disability or a surviving spouse.

4. Property held by husband and wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but no more than one homestead rebate in regard to such property shall be allowed in any year.

5. Property owned by a partnership is entitled to a homestead rebate based on the qualifying partner's interest.

6. Property held by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim such rebate is entitled to a homestead rebate.

7. Property owned by a corporation is not entitled to a homestead tax rebate except where legal title is held by another for the benefit of a resident shareholder in a cooperative or a mutual housing corporation.

i. Resident shareholder in a cooperative means a tenant shareholder in a cooperative housing corporation who may deduct property taxes on his Federal tax return pursuant to the provisions of section 216 of the Internal Revenue Code of 1954.

ii. "Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the Lanham Act (National Defense Housing) P.L. 849, 76th Congress; 54 Stat. 1125, 42 U.S.C. 1521 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

8. Ownership prerequisites are also satisfied by:

i. Property held by a tenant for life;

ii. Property held by a tenant under lease for 99 years or more;

iii. Property held by a person who is entitled to and actually takes possession of the land and dwelling house under an executory contract for a sale thereof; or

iv. Property held by a person who is entitled to and actually takes possession of the land and dwelling house under an agreement with a lending institution which holds title as security for a loan.

9. Residence: The claimant must meet two aspects of residence requirements:

i. Residence within New Jersey; and

ii. Residence in the dwelling house for which the homestead tax rebate is claimed which constitutes the place of his domicile which is owned and used by him as his principal residence as of October 1 of the pre-tax year. (October 1, 1977, in order to qualify for the rebate to be received in 1978.)

10. Dwelling house: "Dwelling house" includes any residential property assessed as real property or assessed as real estate situated on land owned by another or others consisting of not more than four units of which not more than one may be used for business or commercial purposes.

i. Where the dwelling house as to which a homestead tax rebate is claimed is a residential property consisting of more than one unit, the claimant shall be allowed a rebate calculated on the basis of his proportionate share of equalized value of the residential unit occupied by him, as determined by the assessor. However, in no instance can there be more than one homestead rebate to a property; nor may more than one additional \$50.00 rebate, for a senior citizen or a totally and permanently disabled

citizen or a surviving spouse in certain cases, be allowed to a property.

ii. Example 1: A is an owner of a dwelling house having an equalized value of \$30,000 and which consists of two equal units one of which is occupied by A and the other unit is rented. A shall be entitled to a full rebate.

iii. Example 2: A and B are owners of a dwelling house having an equalized value of \$40,000 and which consists of two equal units occupied by A and B respectively. Each shall be entitled to one-half of a full rebate.

iv. Example 3: If the same dwelling house consisted of three equal units which is owned by A, B and C who separately occupy each of the three units, each owner would be entitled to one-third of a full rebate. In all cases, the total rebate, including the additional \$50.00 tax rebate, for any dwelling house cannot exceed 50 per cent of the net taxes for the pre-tax year.

11. Proof of age: The form calls for the furnishing of proof of age. In determining proof, assessors should be guided by the following: Where a taxpayer has furnished proof of age in conjunction with a property tax deduction, no further proof of age shall be required. In all other cases, a claimant shall furnish satisfactory proof of age. Wherever possible, a copy of such proof should be attached to the application. Where the property owners appear in person with proof, the assessor shall note the type of proof on the form and, in such case, no such proof of age need be attached.

i. The following types of records or documents are examples of proof which the assessor may accept: birth certificate, baptismal record, family bible, official census records, marriage certificate, court record, social security record, military record, immigration documents, military discharge, insurance policy, Blue Cross and Blue Shield identification card, driver's license, and any other proof which may help to establish claimant's age. Claimant must show that he became 65 years of age on or before December 31 of the pre-tax year.

12. Proof of permanent and total disability: In all cases where an additional rebate is claimed because of permanent and total disability, applicant must include a physician's certificate or Social Security Award Certificate Form SSA-30 verifying that the claimant is permanently and totally disabled and is, therefore, unable to engage in any substantial, gainful activity. In the claim by a person who is blind, he may additionally submit a certificate from the New Jersey Commission for the Blind certifying to blindness as defined by law.

13. Proof of surviving spouse: An applicant who claims an additional rebate as a surviving spouse must establish that the deceased spouse, during his lifetime, was entitled to and received a real property tax deduction or the additional homestead tax rebate. Claimant must remain unmarried and reside in the same dwelling house for which the original property tax deduction or original rebate to the deceased spouse was granted. The surviving spouse must also offer proof that at the time of the death of the spouse he or she was 55 years of age or older. Attached to the application, therefore, shall be included a copy of the death certificate of the deceased spouse. Additionally, the surviving spouse of a deceased totally and permanently disabled spouse shall attach proof of the deceased disability.

18:12-7.2 Review of application

(a) Assessors are required to review such application in order to assure that the claimant is entitled to the rebate.

(b) Reasons for disapproval shall include, but not be limited to, the following:

1. The rebate has been claimed for property classified as vacant land, qualified farm, commercial or industrial or any residential property containing more than four units or more than one unit used for business or commercial purposes.

2. Claimant did not meet ownership requirements to the property on October 1 of the pre-tax year as defined in the act.

3. Claimant did not occupy the property as his principal residence on October 1 of the pre-tax year.

Note: The assessor should keep all disapproved applications on file.

#### 18:12-7.3 Disallowance of claim

(a) If the application for the homestead tax rebate has been disapproved, a notice of such disallowance shall be forwarded to the claimant by regular mail within 10 days of disallowance and shall set forth the reason or reasons for the disallowance and shall also set forth a statement notifying the taxpayer of his right to appeal to the county board of taxation.

(b) An aggrieved taxpayer may appeal from the disapproval of a claim for a homestead tax rebate by filing a petition of appeal with the county board of taxation within 60 days from the date that such claim has been disapproved. If the property owner's claim for homestead tax rebate is disapproved by the county board of taxation, he may appeal therefrom to the State Division of Tax Appeals within 60 days from the date of such disapproval. The Division of Tax Appeals shall render its judgment within 90 days from the date the appeal was filed with it. In the event that the Director of the Division of Taxation refuses to certify the property owner's homestead tax rebate claim, the director shall indicate the reasons why such claim has not been certified and the claimant shall be permitted to file a petition of appeal with respect to such refusal with the State Division of Tax Appeals within 60 days of the date that a notice of refusal has been mailed to the claimant by the director.

(c) No appeal or review may be taken by any person or any municipality with respect to the determination or calculation of the effective tax rate or equalization ratios except in the case of an arithmetical or typographical error.

(d) A homestead tax rebate under this act shall not be affected by any change in the assessment of any property as a result of any tax appeal.

#### 18:12-7.4 General guidelines

(a) General guidelines include the following:

1. Ownership; life estate: The claimant who is in possession of a life estate shall be deemed to meet the requirement of ownership.

2. Executory contract of sale: The claimant occupying a dwelling house on October 1 of the pre-tax year under an executory contract of sale where the purchaser is actually in possession of the dwelling shall be deemed to meet the statutory requirements of ownership and residency. This applies although actual legal title may be in the name of a corporation.

3. Sale of property on October 1, of the pre-tax year: The owner as of the end of the day and who is in actual possession of the dwelling house and residing therein at such time shall be deemed to be the owner entitled to file a claim.

4. Ownership by will: Claimant owning and occupying property meets ownership requirement when copy of will or other document is attached to claim form.

5. Valuation; equalized value of property when added

assessment is involved: A homestead tax rebate may be applied to an added assessment provided that the dwelling house was owned and occupied by an eligible claimant on October 1 of the pre-tax year.

6. Valuation; equalized value of property when omitted assessment is involved: A homestead tax rebate may be applied to an omitted assessment if all requirements of the applicant and the omitted assessment laws are fulfilled.

7. Filing the application: An application for the homestead tax rebate may be filed on or before December 31 of the pre-tax year setting forth the prerequisites for the rebate as of October 1 of said pre-tax year by any property owner subject to tax for the ensuing year who has not previously filed a claim for the rebate or has previously filed a claim for rebate and there has taken place subsequent thereto with respect to said property an added or omitted assessment or a change in the status of the property owner.

i. Each assessor may at any time inquire into the right of a claimant to the continuance of a homestead tax rebate hereunder and for that purpose he may require the filing of a new application or the submission of such proof as he shall deem necessary to determine the right of the claimant to continuance of such rebate.

ii. It is the duty of every claimant to inform the assessor of any change in his status or property which may affect his right to continuance of such rebate.

iii. Property owned by military personnel, who are on duty in the armed forces of the United States, and are citizens and residents of this State shall be entitled to a homestead rebate provided that said property is not rented or leased to another.

iv. In the case of farm property classified as 3A on the tax list, the assessor shall establish the assessed value and net tax due for the residential dwelling and land for the fair enjoyment thereof for the purpose of a homestead rebate.

v. The following shall not be allowed a homestead rebate:  
(1) Mobile home not assessed as real property by the taxing district.

vi. "Net property tax" means the amount of property taxes levied on the property determined by multiplying the pre-tax year general tax rate for the municipality by the pre-tax year assessed value of the property less any veteran's deduction and/or property tax deduction allowed due to age, disability, or as a surviving spouse. Special districts are not to be included in determining net property taxes; for example special fire districts, and so forth.

#### 18:12-7.5 Change of title subsequent to October 1

Change of title subsequent to October 1 cannot affect right to the homestead tax rebate. The right to the homestead tax rebate shall be established as of October 1 of the pre-tax year. A rebate once established as of that date prevails for the whole of the ensuing tax year notwithstanding any change in title of the property which may occur either between October 1 and December 31 of the pre-tax year or at any time in the course of the tax year.

#### 18:12-7.6 Death of claimant

Where a claim for a homestead tax rebate has previously been filed and the claimant shall die after October 1 of the pre-tax year, the rebate shall be allowed for the whole of the ensuing year, if all other prerequisites for the rebate as of said October 1 shall have been fully met.

#### 18:12-7.7 Use of proper ratio

(a) The equalized value of a property shall be determined by using the equalization ratio appearing in the tables

of equalized valuation promulgated by the director on October 1 of the pre-tax year pursuant to P.L. 1954, c. 86 and applying such ratio to the assessed valuation of the property claimed for homestead tax rebate.

(b) The rebate is computed in two steps as follows:

1. \$1.50 per \$100.00 of equalized value or  $\frac{2}{3}$  of equalized value, whichever is less. The maximum amount that can be received under this provision is \$150.00. All qualifying residential properties having an equalized valuation of \$15,000 or more will qualify for the maximum. Properties under \$15,000 will receive less. Thus, property having an equalized value of \$12,000 will be entitled to \$120.00 ( $\frac{2}{3}$  of \$12,000 = \$8,000 x \$1.50 per \$100.00 = \$120.00).

2.  $12\frac{1}{2}$  per cent of the effective tax rate multiplied by \$10,000 of equalized value or  $\frac{2}{3}$  of equalized value, whichever is less. Thus, if equalized value exceeds \$15,000, in a municipality having an effective tax rate of \$4.00 per \$100.00 the additional exemption would amount to \$50.00 ( $12\frac{1}{2}$  per cent x \$4.00 per \$100.00 = \$0.50 x \$10,000 = \$50.00) If the equalized value is \$12,000, then the additional rebate would amount to \$40.00 ( $12\frac{1}{2}$  per cent x \$4.00 per \$100.00 = \$0.50 x \$8,000 = \$40.00).

3. If the applicant is a senior citizen, a disabled person or a certain surviving spouse, there is a further rebate of \$50.00.

4. In no event may the homestead rebate exceed 50 per cent of the tax of the pre-tax year.

(c) The homestead tax rebate for a residential unit of a mutual housing or cooperative corporation is computed as follows:

1. The "assumed assessed value" of the cooperative or the mutual housing residential unit is determined by dividing the amount of real property taxes which was allocated to the cooperative or mutual housing unit, which the resident shareholder would have been entitled to deduct, by the general local property tax rate for the same tax year.

2. Determination of assumed assessed value:

i. "A" is a resident and shareholder of a cooperative or a mutual housing corporation and the allocated annual 1977 property taxes for his residential unit was \$1,000 and the 1977 general tax rate was \$3.00 per hundred dollar assessed value.

ii. By dividing the \$1,000 by 0.03 an "assumed assessed value" is determined to be \$33,333 (\$1,000 divided by 0.03 equals \$33,333).

iii. After the "assumed assessed value" has been determined, the homestead tax rebate formula is applied as described in N.J.A.C. 18:12-7.7(b).

#### 18:12-7.8 Review schedule and disallowance letter

(a) As previously outlined in these regulations (N.J.A.C. 18:12-7.3) a notice of disallowance is required.

(b) The following is a suggested letter format for guidance.

(a) Your application for a New Jersey Homestead Tax Rebate has been disallowed for failure to meet the following prerequisites:

- Ownership of property as of October 1, of the pre-tax year.
- Citizen and resident of State as of October 1, of the pre-tax year.
- Residing in property as of October 1, of the pre-tax year.
- .....

(other)

(b) Your application for an additional Homestead Tax Rebate for 65 or over, totally and permanently disabled,

or surviving spouse has been disallowed for the following reason:

- Not 65 years of age as of December 31, of the pre-tax year.
- No supporting document received for total and permanent disability.
- Necessary document not received (death certificate, birth certificate) for surviving spouse and where applicable a total and permanent disability certificate of the deceased spouse.
- .....

(other)

An aggrieved taxpayer has the right to appeal an adverse ruling to the County Board of Taxation. In the event of appeal, all qualifications for a Homestead Tax Rebate will be reviewed. If you contemplate such appeal, it is suggested that you act immediately to obtain from the ..... County Board of Taxation, at ..... in ....., information regarding the proper procedure to be followed and the time in which to file the appeal.

Dated .....

Assessor

#### 18:12-7.9 Garnishment, attachment, execution or other legal process; anticipation

The homestead tax rebate authorized under the act shall not be subject to any garnishment, attachment, execution or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

#### 18:12-7.10 Delinquency

(a) For the purpose of the act, property which is on appeal and for which the statutory amount of the tax has been paid shall not be regarded as delinquent.

(b) Each tax collector shall, on or before February 1 and June 30, of each year furnish the director with a list of delinquent property tax owners in his district for taxes due and payable for the year immediately preceding and the amounts of such delinquencies.

(c) Where delinquencies remain on February 1, the Director of the Division of Taxation shall ascertain the amounts of homestead rebate withheld (otherwise due April 1, of the tax year) because of such delinquencies in each municipality in the State and shall certify such withheld amounts to the State Treasurer as soon thereafter as may be practicable.

(d) On or before June 1, the director shall notify each taxpayer, whose rebate has been withheld because of delinquency, that the amount of such rebate to which he would have been entitled will be sent to the tax collector in his municipality to be credited against such delinquency.

(e) Upon certification by the director as to the amount of rebates withheld because of such delinquency, the State will pay such amount on or before June 1 to the collector in each municipality.

(f) Where delinquencies remain on June 30, the Director of the Division of Taxation shall ascertain the amounts of homestead rebate withheld (otherwise due October 1, of the tax year) because of such delinquencies in each municipality in the State and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

(g) On or before November 1, the director shall notify each taxpayer, whose rebate has been withheld because of delinquency, that the amount of such rebate to which he would have been entitled will be sent to the tax collector in his municipality to be credited against such delinquency.

(h) Upon certification by the director as to the amount of rebates withheld because of such delinquency, the State

will pay such amount on or before November 1 to the collector in each municipality.

(i) The tax collector shall credit the tax delinquency of each property owner who appears on the delinquency list. In the event the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer, or credit such amount to the subsequent tax bill.

(j) However, in the event the taxpayer meets all of his delinquency payments by June 30 of the tax year the second one-half rebate due and payable on October 1, of the tax year, will be sent to him directly.

(k) In the event that the nonprofit cooperative or mutual housing corporation is delinquent in the payment of its property taxes, any rebate that may be due any individual resident shall be withheld until the tax delinquency has been satisfied. If such delinquency has not been satisfied by December 31, 1977, and thereafter by the dates prescribed in section 13 of P.L. 1976, c. 72 (C. 54:4-3.92), the State Treasurer shall pay over to the tax collector of the municipality within 30 days thereafter, the amount of all rebates due to the individual residents. The tax collector shall credit the property owner with such payments and the property owner shall, in turn, credit the individual unit owner to the extent of his rebate. The tax collector shall notify the property owner of the amount to be credited.

#### 18:12-7.11 Duplicate copy of property tax bill

Each municipal tax collector shall, upon request of a property owner, a person having an interest in the property, or the Director of the Division of Taxation, furnish to such person, without cost, a duplicate copy of a property tax bill for use under the Homestead Tax Rebate Act of the New Jersey Gross Income Tax Act.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Jack Silverstein  
Chief Tax Counselor  
Division of Taxation  
West State and Willow Streets  
Trenton, N.J. 08625

The Department of the Treasury may thereafter adopt these amendments substantially as proposed without further notice.

Sidney Glaser  
Director, Division of Taxation  
Department of the Treasury

(a)

## TREASURY

### HEALTH BENEFITS COMMISSION

#### Proposed Amendment Concerning Definition of Retired Employee

The Health Benefits Commission in the Division of Pensions in the Department of the Treasury, pursuant to authority of N.J.S.A. 52:14-17.27, proposes to amend its definition of retired employee.

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

17:9-6.1(a) "Retired employee" shall be defined as a covered employee, who immediately following the cessation of employment, applies for and receives a periodic retire-

ment allowance for life or duration of disability to which he is entitled by reason of age, years of service or disability[.] provided [S] such allowance is being paid by a State or locally administered retirement system or plan by which he was covered immediately prior to his retirement. An employee who continued his coverage while on an official leave of absence for illness without pay but whose coverage was terminated when his leave exceeded the period established by the statute for the continuation of coverage during such leave, will be permitted to elect to continue health benefits coverage into retirement provided such leave was in effect immediately preceding the date of his retirement.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before December 28, 1977, to:

Secretary  
Health Benefits Commission  
Division of Pensions  
Department of the Treasury  
20 West Front Street  
Trenton, N.J. 08625

The Department of the Treasury may thereafter adopt these amendments substantially as proposed without further notice.

Clifford A. Goldman  
State Treasurer  
Department of the Treasury

(b)

## TREASURY

### HEALTH BENEFITS COMMISSION

#### Notice on Health Maintenance Organization Criteria

Take notice that, William J. Joseph, Secretary of the Health Benefits Commission, has issued the following Notice concerning amendments to the Health Maintenance Organization criteria that was previously published on January 6, 1977, at 9 N.J.R. 45(a).

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

A Health Maintenance Organization can be accepted under the State Health Benefits Program, but subject to the following conditions:

1. It is qualified by the Federal government and certified by the State Health and Insurance Departments.

2. Its rates are approved by the State Health and Insurance Departments.

3. Coverage includes supplemental coverage providing for major medical benefits paralleling those of the traditional program.

4. The commission approves a waiver of the annual enrollment periods to give the organization full opportunity to contact all State and local government employers and eligible employees in the area covered by the HMO (and only such employers and employees) in order to present them with the information concerning the HMO alternative. It must be understood, however, the coverage will not be extended to any employee in any specific HMO area until such time as this educational program has been completed, so that all employees in the area will be enrolled on the same effective date. This will allow for the establishment of the necessary administrative machinery in order to certify the rates, the additional deductions from

salary, where necessary, and explain to employers, personnel officers, and payroll clerks the necessary administrative machinery to make the option available not only to all present employees but to new employees in the future.

After the initial educational program the annual enrollment period will again become the opportunity to alter coverage from the traditional program to the HMO option, or vice versa, and this will encompass the 30-day period during which an educational program can be activated for all eligible employees.

5. During the presentation to groups of employees, no management or union representative should appear in order to coerce or influence employees into or out of HMOs. Employees must be able to make an informed decision on their own.

6. The office of the secretary shall review and approve the material to be used in each HMO area and this will therefore require that the booklet be tailored to the particular HMO, as distinguished from groups of HMOs. We want the rates to become part of the booklet (and if a separate sheet is necessary, such sheet must accompany each booklet) so that it is clear what the employer, State or local, will be paying and what the employee will be required to pay based on the different types of coverage. The employee's deductions should be stipulated as bi-weekly (State) or monthly (local employers).

7. The rates will be subject to change only once a year and at the same time each year coincident with the change in rates for the traditional program.

8. Employees will be permitted to continue HMO participation into retirement.

9. All members of the family must have the same coverage so that the employee's decision pertains not only to his own coverage but to those of his family.

10. With respect to the Medicare problem, all employees, regardless of age or Medicare status, must have the opportunity to enroll in the designated HMO in their area. At present such individuals shall be permitted to pay on a fee-for-service basis covered by the traditional program, pending the issuance of final regulations by the Federal government which will permit the use of a capitation rate. The rate structure in this interim period will reflect capitation for other members of the family not covered by Medicare. The HMO must stipulate in its contract the intention to cover Medicare beneficiaries on the same basis as other individuals as soon as possible following necessary Federal action.

11. Maternity benefits are delimited to employees or spouses of employees but do not include other dependents for otherwise the result would be to consider the coverage of grandchildren and they are not specified in the statute as eligible dependents.

12. Where the Health Maintenance Organization electing to participate in the State Health Benefits Program could overlap an area previously covered by another HMO, already under contract with the State program, and where the nature of both HMOs are the same (group or individual practice plans) the overlapping area will be covered by both HMOs only if the area is truly a border zone and services can be properly delivered.

This Notice is published as a matter of public information, is not subject to codification and will not appear in Title 17 of the New Jersey Administrative Code.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## TREASURY

### DIVISION OF PENSIONS

#### Rule on Optional Settlements For Group Life Insurance

On October 26, 1977, William J. Joseph, Director of the Division of Pensions in the Department of the Treasury, pursuant to authority of N.J.S.A. 52:18A-95 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted a new rule, to be cited as N.J.A.C. 17:14.30, concerning optional settlements for group life insurance, as proposed in the Notice published October 6, 1977, at 9 N.J.R. 493(e).

An order adopting this rule was filed and became effective on November 1, 1977, as R.1977 d.416.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(b)

## TREASURY

### STATE INVESTMENT COUNCIL

#### Rules on the Cash Management Fund

On November 21, 1977, Clifford A. Goldman, State Treasurer, pursuant to authority of N.J.S.A. 52:18A-90.4, on behalf of the State Investment Council and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules concerning the State of New Jersey Cash Management Fund.

Full text of the adopted rules follows:

#### SUBCHAPTER 41. CASH MANAGEMENT FUND

##### 17:16-41.1 Definitions

"Treasurer" shall mean the Treasurer of the State of New Jersey.

"Participant" shall mean the individual funds or combined funds for which the Treasurer is custodian and the counties, municipalities and school districts in the State whose funds are accepted by the Treasurer for investment purposes in the State of New Jersey Cash Management Fund.

"Unit" or "unit of participation" is \$1.00.

"Net income" shall be computed daily and will consist of accrued interest, plus or minus any market gains or losses, less accrued fees and expenses.

"Fiscal year" shall mean the 12 month period ending June 30.

"Fund manager" shall be the Director, Division of Investment, Treasury Department.

##### 17:16-41.2 Eligibility

(a) All counties, municipalities, and school districts within the State may establish one or more accounts for the deposit of surplus public funds in the State of New Jersey Cash Management Fund.

(b) A governmental unit desiring to make deposits in the fund must file an application with the State Treasurer for each account which it wishes to establish, which shall state:

1. The name and address of the governmental unit;
2. The name or names and the signature(s) of person(s) authorized to purchase and sell participations in the Fund;

3. The name of a depository bank and the account number to which withdrawals from the fund shall be paid; and

4. Acceptance of the terms and conditions of the administration of the fund as outlined herein.

(c) Each application must be accompanied by a copy of the resolution passed by the governing body of the governmental unit designating the fund as a legal depository.

#### 17:16-41.3 Deposit and withdrawal of funds

(a) The financial officer of each governmental unit will be required to call a toll-free number at the custodian bank to obtain a wire order number and instructions for each deposit or withdrawal.

(b) Each deposit of principal shall be in multiples of \$1,000 with the minimum amount being \$10,000.

(c) Each participant may deposit with the fund, either by wiring money from his local bank or by mailing a check.

(d) Each participant may withdraw funds by depositing in his local bank a draft drawn against his fund balance, said draft being payable to the participant's account at the local bank depository. The participant may if so desired, request a wire transfer of funds to his local bank. A nominal charge for processing this outgoing wire may be made.

#### 17:16-41.4 Income

(a) Net income will be computed daily and reinvested in full and fractional units of the fund.

(b) Postings of net income will be made to each participant's account each time a statement is issued.

(c) Net income will be computed on balances from the date of receipt to the date of withdrawal as follows:

1. If Federal funds are wired, interest income will accrue from 12:00 noon on the day of arrival. Interest on all other funds, whether transferred by wire or by check, will accrue from 12:00 noon on the day the funds are fully available.

(d) Net income will consist of accrued interest, plus or minus any market gains or losses, less accrued fees and expenses.

(e) Interest will be computed on a 360 day basis.

#### 17:16-41.5 Investments

(a) The Director of the Division of Investment may invest monies in the fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury.

(b) All assets in the fund will be valued daily on the following basis:

1. Certificate of deposit—at cost.

2. Commercial paper—at cost after giving effect to the accrual of interest.

3. United States Treasury and United States government agencies obligations—at the bid prices in effect at the close of business each day.

4. Cash on deposit—at full value.

#### 17:16-41.6 Reserves and fees

(a) Participants, other than the trust funds for which the State Treasurer is custodian, will be charged at the rate of 1/10 of one per cent per annum until such time as a reserve for possible losses due to other causes than market fluctuations in the amount of \$1,000,000 has been created. In the event of such a loss all participants at the time other than the Treasurer will receive a pro rata distribution of the moneys in the reserve, but in no event more than the amount of the loss. The money in the reserve will be invested and the net income produced thereby will be added to and retained in the reserve account.

(b) Administrative costs will be charged participants other than the trust funds for which the State Treasurer is custodian, on the basis of 1/10 of one per cent per annum of the moneys on deposit in the fund.

(c) Both the charge to create a reserve and the charge for administration will be deducted daily in calculating net income.

#### 17:16-41.7 Reports

(a) Each participant will receive from the custodian bank a statement of account following each deposit or withdrawal during the month.

(b) At the end of the month each participant will receive a statement of account showing all transactions entered into that month and the end of the month balance.

(c) At the end of each fiscal year the Treasurer will provide an audited annual report of the fund's activities.

An order adopting these rules was filed and became effective on November 21, 1977, as R.1977 d.436 (Exempt, Procedure Rule).

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

## (Other Agencies)

### (a)

## CASINO CONTROL COMMISSION

### Proposed Rules on Alcoholic Beverage Control

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of the Casino Control Act, P.L. 1977, c.110, proposes to adopt a new rule to be cited as N.J.A.C. 19:50 concerning alcoholic beverage control under the Casino Control Act.

Topics covered in this proposal are as follows:

#### CHAPTER 50. ALCOHOLIC BEVERAGE CONTROL

- SECTION 1 Definitions
- SECTION 2 Saving regulations
- SECTION 3 License as condition precedent to operation
- SECTION 4 Licensure categories
- SECTION 5 The standards for qualification
- SECTION 6 General regulations concerning operating conditions of licenses
- SECTION 7 Class I—Casino license; conditions of operation
- SECTION 8 Class II—Caret-entertainment room license; conditions of operation
- SECTION 9 Class III—Restaurant-banquet room license; conditions of operation
- SECTION 10 Class IV—Pub area license; conditions of operation
- SECTION 11 Class V—Package license; conditions of operation
- SECTION 12 Class VI—Room service license; conditions of operation
- SECTION 13 Class VII—Storage license; conditions of operation
- SECTION 14 Investigation, hearing, disciplinary, forfeiture and appellate proceedings

Copies of the 29 pages of full text of the proposed rules may be obtained from or made available for review by contacting the person below.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
240 West State Street  
Trenton, N.J. 08625

The Casino Control Commission may thereafter adopt these rules without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(a)

## CASINO CONTROL COMMISSION

### Proposed Rules Concerning Advertising

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of the Casino Control Act, P.L. 1977, c.110, proposes to adopt new rules to be cited as N.J.A.C. 19:51 concerning advertising under the Casino Control Act.

Topics covered in this proposal are as follows:

#### CHAPTER 51. ADVERTISING

- SECTION 1 Applicability of advertising regulations
- SECTION 2 General criteria governing advertising
- SECTION 3 Prohibited advertising
- SECTION 4 Commission approval

Copies of the four pages of full text of the proposed rules may be obtained from or made available for review by contacting the person below.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
240 West State Street  
Trenton, N.J. 08625

The Casino Control Commission may thereafter adopt these rules without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(b)

## CASINO CONTROL COMMISSION

### Proposed Rules Concerning Entertainment

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of the Casino Control Act, P.L. 1977, c.110, proposes to adopt a new rule to be cited as N.J.A.C. 19:52 concerning entertainment under the Casino Control Act.

Topics covered in this proposal are as follows:

#### CHAPTER 52. ENTERTAINMENT

- SECTION 1 Applicability of entertainment regulations
- SECTION 2 General criteria governing casino entertainment
- SECTION 3 General requirements concerning entertainment
- SECTION 4 Prohibited entertainment activity

Copies of the five pages of full text of the proposed rules may be obtained from or made available for review by contacting the person below.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
240 West State Street  
Trenton, N.J. 08625

The Casino Control Commission may thereafter adopt these rules without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(c)

## CASINO CONTROL COMMISSION

### Proposed Rules Concerning Equal Employment Opportunity

Joseph P. Lordi, Chairman of the Casino Control Commission, pursuant to authority of the Casino Control Act, P.L. 1977, c.110, proposes to adopt a new rule to be cited as N.J.A.C. 19:53 concerning equal employment opportunity under the Casino Control Act.

Topics covered in this proposal are as follows:

#### CHAPTER 53. EQUAL EMPLOYMENT OPPORTUNITY

- SECTION 1. Policy
- SECTION 2. Definitions
- SECTION 3. Affirmative action requirement
- SECTION 4. Construction contracts
- SECTION 5. Affirmative action requirements for applicants and licensees
- SECTION 6. Additional affirmative action requirements for gaming schools
- SECTION 7. General provisions

Copies of the 47 pages of full text of the proposed rules may be obtained or made available for review by contacting the person below.

Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 28, 1977, to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
240 West State Street  
Trenton, N.J. 08625

The Casino Control Commission may thereafter adopt these rules without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(d)

## HIGHWAY AUTHORITY

### GARDEN STATE PARKWAY

#### Amendments on Use of Parkway By Certain Trucks and Vans

On October 27, 1977, 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 amendments to N.J.A.C. 19:8-1.1 and 19:8-3.1(b) concerning the use of the Garden State Parkway by certain trucks and vans, substantially as proposed in the Notice published October 6, 1977, at 9 N.J.R. 497(b), with only inconsequential structural or language changes, in the opinion of the New Jersey Highway Authority.

The change in the adoption involves the deletion of the word "trucks" in the definition of car in N.J.A.C. 19:8-1.1.

Full text of the adopted language follows:

"Car" means a passenger motor vehicle, including station wagons, hearses, funeral flower and funeral service vehicles for which issuance of passenger car plates is authorized, taxicabs, motorcycles and panel vans, pickup trucks and similar vehicles having a gross weight not exceeding 6,999 pounds.

An order adopting these amendments was filed on November 10, 1977, as R.1977 d.419 to become effective on November 27, 1977.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

(a)

## TURNPIKE AUTHORITY

### Notice of Public Hearing on Proposal Concerning Double Saddlemounts

Take notice that, the Turnpike Authority has issued the following notice of public hearing concerning the proposed amendments to N.J.A.C. 19:9-1.9(a)24. regarding double saddlemounts (See: 9 N.J.R. 497(c) in the October 6, 1977, issue of the New Jersey Register).

Full text of the Notice follows:

A public hearing will be held relevant to the proposed amendment to the Turnpike Authority's regulations prohibiting three-vehicle combinations, commonly known as "double-saddlemounts," on Friday, December 16, 1977, at 10:00 A.M. at the authority's administration building, State Highway No. 18, Turnpike Interchange No. 9, East Brunswick, New Jersey.

Persons wishing to testify should contact Paul M. Weckesser, director of operations, at (201) 247-0900. Interested persons may also present statements or arguments in writing relevant to the proposal on or before December 9, 1977, to:

Paul M. Wickesser, Director of Operations  
Turnpike Authority  
P.O. Box 1121  
New Brunswick, New Jersey 08903

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

This Notice is published as a matter of public information.

G. Duncan Fletcher  
Director of Administrative Procedure  
Department of State

## NINE MORE CODE TITLES WERE UPDATED LAST MONTH

A mailing was completed in late November of updated administrative rules covering nine Titles in the New Jersey Administrative Code, namely, Titles 2—Agriculture, 3—Banking, 7—Environmental Protection, 11—Insurance, 13—Law and Public Safety, 14—Energy, 16—Transportation, 18—Treasury-General and 19—Other Agencies.

The update covered rules for those nine Departments as adopted up to July 20 of this year.

If Code subscribers do not receive this mailing by December 15, please contact: Division of Administrative Procedure, 10 North Stockton Street, Trenton, New Jersey 08608, or phone (609) 292-6060.

The Administrative Code, like the Register, is published by the Division of Administrative Procedure on a subscription basis. All rules proposed or adopted since those now in print in the Code are reported each month in this Register.

A cumulative index of rules not yet distributed in the Code appears as a regular feature in the center pages. The index has been adjusted this issue to reflect this latest mailing.

A subscription form for the Administrative Code may be found on page 29 of this issue.

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